HOUSE BILL 270

P1, G2 4lr1244

By: **The Speaker (By Request – Department of Legislative Services – Code Revision)**
Introduced and read first time: January 20, 2014
Assigned to: Health and Government Operations

Committee Report: Favorable
House action: Adopted
Read second time: March 9, 2014

CHAPTER _____

AN ACT concerning

General Provisions Article

FOR the purpose of adding a new article to the Annotated Code of Maryland, to be designated and known as the "General Provisions Article", to revise, restate, and recodify the laws of the State relating to rules of interpretation, including definitions, interpretation of Code provisions, time, the age of majority, boundaries of counties, and citation of revised articles; revising, restating, and recodifying the laws of the State relating to the form and administration of official oaths, the Open Meetings Act, the Public Information Act, the Maryland Public Ethics Law, acquisition of land by the United States, jurisdiction of the State and United States over certain land, the State seal, the State flag, State emblems and designations, and commemorative days and months; repealing certain obsolete provisions; making certain conforming changes; 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 terms of certain officials; providing for the continuity of the status of certain transactions, employees, rights, duties, titles, interest, licenses, registrations, certifications, and permits; authorizing the publisher of the Annotated Code to make certain corrections in a certain manner; and generally relating to the revision, restatement, and recodification of certain general provisions of law.

BY repealing
Article 1 – Rules of Interpretation

EXPLANATION: **CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.**
[Brackets**]** indicate matter deleted from existing law.
Underlining indicates amendments to bill.
~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Section 2A, 3, 5 through 18, and 20 through 34 and the subheading "In General"; 35 though 37 and the subheading "Time"; and the article designation "Article 1 – Rules of Interpretation"
Annotated Code of Maryland
(2011 Replacement Volume and 2013 Supplement)

BY repealing
Article – State Government
Section 10–501, 10–502, 10–502.1, 10–502.2, 10–502.3, 10–502.4, 10–502.5, 10–502.6, 10–502.7, 10–503 through 10–507, 10–507.1, and 10–508 through 10–512 and the subtitle "Subtitle 5. Meetings"; 10–601 and 10–602 and the part "Part I. Definition; General Provision"; 10–611 through 10–628 and 10–630 and the part "Part III. Access to Public Records"; 13–101 through 13–105 and the subtitle "Subtitle 1. State Seal"; 13–201 through 13–206 and the subtitle "Subtitle 2. Flags"; 13–301 through 13–321 and the subtitle "Subtitle 3. Additional Emblems; Designations"; 13–401 through 13–412 and the subtitle "Subtitle 4. Commemorative Days"; 13–501 through 13–505 and the subtitle "Subtitle 5. Commemorative Months" and the title "Title 13. Emblems; Commemorative Days"; 14–101 through 14–105 and the subtitle "Subtitle 1. General Provisions"; 14–201 and 14–202 and the subtitle "Subtitle 2. Reversions" and the title "Title 14. United States"; 15–101 through 15–105 and the subtitle "Subtitle 1. Findings; Definitions; General Provisions"; 15–201 through 15–210 and the subtitle "Subtitle 2. State Ethics Commission"; 15–301 through 15–304 and the subtitle "Subtitle 3. Advisory Opinions"; 15–401 through 15–409 and the subtitle "Subtitle 4. Procedures for Complaint of Violation of Title"; 15–501 through 15–508 and the part "Part I. General Provisions"; 15–510 through 15–521 and the part "Part II. Special Legislative Provisions"; 15–523 and the part "Part III. Specific Governmental Entities" and the subtitle "Subtitle 5. Conflicts of Interest"; 15–601 through 15–611 and the subtitle "Subtitle 6. Financial Disclosure"; 15–701 through 15–715 and the subtitle "Subtitle 7. Lobbying"; 15–801 through 15–808 and the part "Part I. Public Ethics Laws for Counties and Municipal Corporations"; 15–811 through 15–815 and the part "Part II. Local Boards of Education"; 15–818 through 15–826 and the part "Part III. Public Ethics for Bicounty Commissions"; 15–829 through 15–835 and the part "Part IV. Regional District – Special Provisions for Prince George's County"; 15–838 through 15–841 and the part "Part V. Regional District – Special Provisions for Montgomery County"; 15–844 and 15–845 and the part "Part VI. Montgomery and Prince George's Counties – Special Provisions for Lobbying Disclosure"; 15–848 through 15–850 and the part "Part VII. Howard County – Special Provisions"; 15–853 through 15–858 and the part "Part VIII. Frederick County – Special Provisions" and the subtitle "Subtitle 8. Local Government Provision"; 15–901 through 15–904 and the subtitle "Subtitle 9. Enforcement"; 15–1001 and the subtitle "Subtitle 10. Short

Title" and the title "Title 15. Public Ethics"; and 16–101 through 16–108 and the title "Title 16. Official Oaths"
Annotated Code of Maryland
(2009 Replacement Volume and 2013 Supplement)

BY adding
New Article – General Provisions
Section 1–101 through 7–505, inclusive, and the various titles
Annotated Code of Maryland

BY repealing and reenacting, with amendments, and transferring to the Session Laws
Article 1 – Rules of Interpretation
Section 1, 2, and 4
Annotated Code of Maryland
(2011 Replacement Volume and 2013 Supplement)

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 1 – Rules of Interpretation
Section 2A, 3, 5 through 18, and 20 through 34 and the subheading "In General"; 35 though 37 and the subheading "Time"; and the article designation "Article 1 – Rules of Interpretation"

Article – State Government
Section 10–501, 10–502, 10–502.1, 10–502.2, 10–502.3, 10–502.4, 10–502.5, 10–502.6, 10–502.7, 10–503 through 10–507, 10–507.1, and 10–508 through 10–512 and the subtitle "Subtitle 5. Meetings"; 10–601 and 10–602 and the part "Part I. Definition; General Provision"; 10–611 through 10–628 and 10–630 and the part "Part III. Access to Public Records"; 13–101 through 13–105 and the subtitle "Subtitle 1. State Seal"; 13–201 through 13–206 and the subtitle "Subtitle 2. Flags"; 13–301 through 13–321 and the subtitle "Subtitle 3. Additional Emblems; Designations"; 13–401 through 13–412 and the subtitle "Subtitle 4. Commemorative Days"; 13–501 through 13–505 and the subtitle "Subtitle 5. Commemorative Months" and the title "Title 13. Emblems; Commemorative Days"; 14–101 through 14–105 and the subtitle "Subtitle 1. General Provisions"; 14–201 and 14–202 and the subtitle "Subtitle 2. Reversions" and the title "Title 14. United States"; 15–101 through 15–105 and the subtitle "Subtitle 1. Findings; Definitions; General Provisions"; 15–201 through 15–210 and the subtitle "Subtitle 2. State

Ethics Commission"; 15–301 through 15–304 and the subtitle "Subtitle 3. Advisory Opinions"; 15–401 through 15–409 and the subtitle "Subtitle 4. Procedures for Complaint of Violation of Title"; 15–501 through 15–508 and the part "Part I. General Provisions"; 15–510 through 15–521 and the part "Part II. Special Legislative Provisions"; and 15–523 and the part "Part III. Specific Governmental Entities" and the subtitle "Subtitle 5. Conflicts of Interest"; 15–601 through 15–611 and the subtitle "Subtitle 6. Financial Disclosure"; 15–701 through 15–715 and the subtitle "Subtitle 7. Lobbying"; 15–801 through 15–808 and the part "Part I. Public Ethics Laws for Counties and Municipal Corporations"; 15–811 through 15–815 and the part "Part II. Local Boards of Education"; 15–818 through 15–826 and the part "Part III. Public Ethics for Bicounty Commissions"; 15–829 through 15–835 and the part "Part IV. Regional District – Special Provisions for Prince George's County"; 15–838 through 15–841 and the part "Part V. Regional District – Special Provisions for Montgomery County"; 15–844 and 15–845 and the part "Part VI. Montgomery and Prince George's Counties – Special Provisions for Lobbying Disclosure"; 15–848 through 15–850 and the part "Part VII. Howard County – Special Provisions"; and 15–853 through 15–858 and the part "Part VIII. Frederick County – Special Provisions" and the subtitle "Subtitle 8. Local Government Provision"; 15–901 through 15–904 and the subtitle "Subtitle 9. Enforcement"; 15–1001 and the subtitle "Subtitle 10. Short Title" and the title "Title 15. Public Ethics"; and 16–101 through 16–108 and the title "Title 16. Official Oaths"

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

ARTICLE – GENERAL PROVISIONS

TITLE 1. RULES OF INTERPRETATION.

SUBTITLE 1. DEFINITIONS.

1–101. IN GENERAL.

EXCEPT AS OTHERWISE PROVIDED IN THIS CODE, IN THIS CODE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This section is new language added as the standard introductory language for defined terms.

1–102. ADMINISTRATOR; EXECUTOR; PERSONAL REPRESENTATIVE.

(A) ADMINISTRATOR.

"ADMINISTRATOR" INCLUDES AN EXECUTOR AND A PERSONAL REPRESENTATIVE.

(B) EXECUTOR.

"EXECUTOR" INCLUDES AN ADMINISTRATOR AND A PERSONAL REPRESENTATIVE.

(C) PERSONAL REPRESENTATIVE.

"PERSONAL REPRESENTATIVE" INCLUDES AN ADMINISTRATOR AND AN EXECUTOR.

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

In this section, the former references to the defined terms being "used in this Code" are deleted as unnecessary in light of § 1–101 of this subtitle.

Also in this section, the former phrase "unless such an application of such terms would be unreasonable" is deleted as a standard rule of statutory construction for defined terms. *See* General Revisor's Note to title.

Defined term: "Includes" § 1–110

1–103. ADULT; MINOR.

(A) ADULT.

"ADULT" MEANS AN INDIVIDUAL AT LEAST 18 YEARS OLD.

(B) MINOR.

EXCEPT AS PROVIDED IN § 1–401(B) OF THIS TITLE, AS IT PERTAINS TO LEGAL AGE AND CAPACITY, "MINOR" MEANS AN INDIVIDUAL UNDER THE AGE OF 18 YEARS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 1, § 24(b).

In subsection (a) of this section, the reference to "an individual at least 18 years old" is substituted for the former reference to "persons who have attained the age of eighteen years" for clarity and brevity. Similarly, in subsection (b) of this section, the reference to "an individual under the

age of 18 years" is substituted for the former reference to "persons who have not attained the age of eighteen years".

Also in subsection (a) of this section, the former phrases "of full age" and "of legal age" are deleted as unnecessary. Those phrases appear only in Article 2B of the Code, in provisions relating to the sale of alcoholic beverages to a person not "of legal age" or the purchase of alcoholic beverages by a person not "of legal age" or "of full age", which for purposes of Article 2B is 21 years of age. (*See* Art. 2B, §§ 12–109, 12–202, and 12–301.) Similarly, a reference to "legal age" appears in § 5–106(e) of the Courts Article, in a provision relating to the statute of limitations for a prosecution for selling alcoholic beverages to a person "under the legal age for drinking such alcoholic beverages".

For provisions establishing the responsibility of the parents of a minor child, as defined in this section, to provide for the child's support, care, nurture, welfare, and education, *see* § 5–203(b) of the Family Law Article.

1–104. ASSAULT.

EXCEPT AS USED IN TITLE 3, SUBTITLE 2 OF THE CRIMINAL LAW ARTICLE, "ASSAULT" MEANS ASSAULT IN ANY DEGREE UNLESS A SPECIFIC DEGREE OF ASSAULT IS SPECIFIED.

REVISOR'S NOTE: This section formerly was Art. 1, § 33.

The only changes are in style.

1–105. CERTIFIED MAIL; REGISTERED MAIL.

IN THIS CODE, A CODE OF PUBLIC LOCAL LAWS, A MUNICIPAL CHARTER, A RESOLUTION OR ORDINANCE OF A COUNTY OR MUNICIPAL CORPORATION, OR A RULE, REGULATION, OR DIRECTIVE OF A UNIT OF THE STATE OR A POLITICAL SUBDIVISION OF THE STATE:

(1) "CERTIFIED MAIL" AND "REGISTERED MAIL" INCLUDE THE USES, PROCEDURES, AND FEES OF THE UNITED STATES POSTAL SERVICE;

(2) "CERTIFIED MAIL" INCLUDES "REGISTERED MAIL"; AND

(3) "REGISTERED MAIL" INCLUDES "CERTIFIED MAIL".

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 1, § 20.

In the introductory language of this section, the reference to a "unit" is substituted for the former reference to a "department, board, commission, or other agency". The term "unit" is used as the general term for a government entity because it is inclusive enough to include all those entities. *See* General Revisor's Note to article.

Also in the introductory language of this section, the former references to a resolution or ordinance "of a board of county commissioners or county council" of a county or "of the mayor and council, by whatever name known" of a municipal corporation are deleted as surplusage.

In item (1) of this section, the reference to the "United States Postal Service" is substituted for the former obsolete reference to the "United States Post Office Department".

Also in item (1) of this section, the reference to the uses, procedures, and fees "of" the United States Postal Service is substituted for the former reference to the uses, procedures, and fees "provided and generally referred to by" the United States Postal Service for brevity.

Also in item (1) of this section, the word "include" is substituted for the former word "mean" for clarity.

In item (2) of this section, the reference to "'certified mail' includ[ing] 'registered mail'" is substituted for the former phrase "[a] provision … for the use of one type of such mail, may be interpreted and applied to authorize the use of the other type of such mail as an alternate" for brevity.

The General Provisions Article Review Committee notes, for consideration by the General Assembly, that county charters have not been included in the introductory language of this section while municipal charters are specifically included. The General Assembly may wish to add county charters to the introductory language of this section or, in the alternative, delete the reference to municipal charters if the intent is to treat the two charters the same.

Defined terms: "County" § 1–107
"Includes" § 1–110
"State" § 1–115

1–106. CHILD.

EXCEPT IN MATTERS OF INHERITANCE, DESCENT, OR DISTRIBUTION OF PROPERTY, "CHILD" OR AN EQUIVALENT WORD INCLUDES AN ILLEGITIMATE CHILD.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 1, § 16.

The former reference to the word child or its equivalent "[being] construed to" include an illegitimate child is deleted as surplusage.

The former reference to "real and personal" property is deleted as surplusage.

The former phrase "unless such a construction would be unreasonable" is deleted as a standard rule of statutory construction for defined terms. *See* General Revisor's Note to title.

For provisions on illegitimate children for purposes of construing the estates of decedents law and the terms of a will, *see* Title 1, Subtitle 2 of the Estates and Trusts Article.

Defined term: "Includes" § 1–110

1–107. COUNTY.

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

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 1, § 14(a).

The phrase "means a county of the State or" is substituted for the former word "includes" for consistency with other revised articles of the Code.

The former phrase "unless such construction would be unreasonable" is deleted as a standard rule of statutory construction for defined terms. *See* General Revisor's Note to title.

The former reference to the word county "[being] construed to" include Baltimore City is deleted as surplusage.

Defined term: "State" § 1–115

1–108. DE NOVO.

(A) SCOPE OF SECTION.

THIS SECTION DOES NOT APPLY TO THE REVIEW OF CASES FROM:

(1) THE WORKERS' COMPENSATION COMMISSION;

(2) THE HEALTH CARE ALTERNATIVE DISPUTE RESOLUTION OFFICE; OR

(3) THE MARYLAND INSURANCE ADMINISTRATION UNDER § 27–1001 OF THE INSURANCE ARTICLE.

(B) "DE NOVO" DEFINED.

IN A STATUTE PROVIDING FOR DE NOVO JUDICIAL REVIEW OR APPEAL OF A QUASI–JUDICIAL ADMINISTRATIVE AGENCY ACTION, "DE NOVO" MEANS JUDICIAL REVIEW BASED ON AN ADMINISTRATIVE RECORD AND ANY ADDITIONAL EVIDENCE THAT WOULD BE AUTHORIZED BY § 10–222(F) AND (G) OF THE STATE GOVERNMENT ARTICLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 1, § 32.

The General Provisions Article Review Committee notes, for consideration by the General Assembly, that the definition of "de novo" as provided under subsection (b) of this section does not coincide with the more commonly understood definition of "de novo". However, the committee notes that the reason for the placement of the definition of "de novo" in former Article 1 is stated in *Thompson v. State Farm Mutual Automobile Insurance Company*, 196 Md. App. 235 (2010), in which the Court of Special Appeals recognized that the Commission to Revise the Administrative Procedure Act in 1991–1992 addressed the issue in its substantive statutory revision (Chapter 59 of the Laws of 1993). Based on the Court of Appeals limitation on de novo review set forth in *DNR v. Linchester Sand and Gravel Corp.*, 274 Md. 211 (1975), the Commission recommended that "except in the very limited circumstances of the Workers' Compensation Commission and the Health Claims Arbitration Office, *de novo* evidence should generally not be allowed to be introduced before a Court reviewing a decision of a State agency. This change would be accomplished by adding § 32 to Article 1 of the Annotated Code, as proposed in the attached bill". In *Thompson,* the court further noted that the Commission's solution was to add to the Rules of Interpretation Article a possible "Humpty–Dumpty definition" in which "de novo" judicial review of agency action meant review upon an administrative record with the limited additional evidence mechanisms specified in § 10–222(f) and (g) of the State Government Article.

1–109. GIFT.

IN A STATUTE THAT AUTHORIZES A GIFT TO OR FOR THE USE OF THE STATE OR ANY OF ITS OFFICERS OR UNITS, "GIFT" INCLUDES AN INTER VIVOS GIFT, INTER VIVOS ENDOWMENT, BEQUEST, DEVISE, LEGACY, OR TESTAMENTARY ENDOWMENT OF ANY INTEREST IN REAL OR PERSONAL PROPERTY.

REVISOR'S NOTE: This section formerly was Art. 1, § 22.

The only changes are in style.

Defined terms: "Includes" § 1–110
"State" § 1–115

1–110. INCLUDES; INCLUDING.

"INCLUDES" OR "INCLUDING" MEANS INCLUDES OR INCLUDING BY WAY OF ILLUSTRATION AND NOT BY WAY OF LIMITATION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 1, § 30.

The former phrase "unless the context requires otherwise" is deleted as a standard rule of statutory construction for defined terms.

1–111. LEGAL HOLIDAY.

(A) IN GENERAL.

IN THIS CODE AND ANY REGULATION OR DIRECTIVE ADOPTED UNDER IT, "LEGAL HOLIDAY" MEANS:

(1) JANUARY 1, FOR NEW YEAR'S DAY;

(2) (I) JANUARY 15, FOR DR. MARTIN LUTHER KING, JR.'S BIRTHDAY; OR

(II) IF THE UNITED STATES CONGRESS DESIGNATES ANOTHER DAY FOR OBSERVANCE OF DR. MARTIN LUTHER KING, JR.'S BIRTHDAY, THE DAY DESIGNATED BY THE UNITED STATES CONGRESS;

(3) FEBRUARY 12, FOR LINCOLN'S BIRTHDAY;

(4) THE THIRD MONDAY IN FEBRUARY, FOR WASHINGTON'S BIRTHDAY;

(5) MARCH 25, FOR MARYLAND DAY;

(6) GOOD FRIDAY;

(7) (I) MAY 30, FOR MEMORIAL DAY; OR

(II) IF THE UNITED STATES CONGRESS DESIGNATES ANOTHER DAY FOR OBSERVANCE OF MEMORIAL DAY, THE DAY DESIGNATED BY THE UNITED STATES CONGRESS;

(8) JULY 4, FOR INDEPENDENCE DAY;

(9) THE FIRST MONDAY IN SEPTEMBER, FOR LABOR DAY;

(10) SEPTEMBER 12, FOR DEFENDERS' DAY;

(11) (I) OCTOBER 12, FOR COLUMBUS DAY; OR

(II) IF THE UNITED STATES CONGRESS DESIGNATES ANOTHER DAY FOR OBSERVANCE OF COLUMBUS DAY, THE DAY DESIGNATED BY THE UNITED STATES CONGRESS;

(12) NOVEMBER 11, FOR VETERANS' DAY;

(13) THE FOURTH THURSDAY IN NOVEMBER, FOR THANKSGIVING DAY;

(14) THE FRIDAY AFTER THANKSGIVING DAY, FOR AMERICAN INDIAN HERITAGE DAY;

(15) DECEMBER 25, FOR CHRISTMAS DAY;

(16) EACH STATEWIDE GENERAL ELECTION DAY IN THE STATE; AND

(17) EACH OTHER DAY THAT THE PRESIDENT OF THE UNITED STATES OR THE GOVERNOR DESIGNATES FOR GENERAL CESSATION OF BUSINESS.

(B) OBSERVATION OF LEGAL HOLIDAY.

EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THE CODE, A LEGAL HOLIDAY SHALL BE OBSERVED ON:

(1) THE DATE SPECIFIED IN SUBSECTION (A) OF THIS SECTION; OR

(2) IF THAT DATE FALLS ON A SUNDAY, ON THE NEXT MONDAY AFTER THAT DATE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 1, § 27.

In the introductory language of subsection (a) 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.

In subsection (b)(1) of this section, the word "or" is substituted for the former word "and" for clarity.

Also in subsection (b)(1) of this section, the former reference to the date specified "for the legal holiday" is deleted as surplusage.

The General Provisions Article Review Committee notes, for consideration by the General Assembly, that the definition of "legal holiday" in this section includes the following holidays that are not designated as federal legal holidays under 5 U.S.C.A. § 6103: Lincoln's birthday, Maryland Day, Good Friday, Defender's Day, American Indian Heritage Day, and each statewide general election day in the State. In addition, federal law designates the birthday of Martin Luther King, Jr. as the third Monday in January, Memorial Day as the last Monday in May, and Columbus Day as the second Monday in October.

Defined term: "State" § 1–115

1–112. LOCAL DEPARTMENT OF SOCIAL SERVICES.

"LOCAL DEPARTMENT OF SOCIAL SERVICES" INCLUDES THE MONTGOMERY COUNTY GOVERNMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 1, § 34.

The former phrase "[i]n this Code" is deleted as unnecessary in light of § 1–101 of this subtitle.

The former phrase "unless the context requires otherwise" is deleted as a standard rule of statutory construction for defined terms.

1–113. NEWSPAPER; NEWSPAPER IN GENERAL CIRCULATION.

(A) IN GENERAL.

UNLESS OTHERWISE PROVIDED, IN A LAW, RESOLUTION, OR COURT ORDER, JUDGMENT, OR DECREE THAT REFERS TO PUBLISHING A LEGAL ADVERTISEMENT OR LEGAL NOTICE, WORDS SUCH AS "NEWSPAPER" OR "NEWSPAPER IN GENERAL CIRCULATION" MEAN A PUBLICATION THAT:

(1) HAS AT LEAST FOUR PAGES;

(2) HABITUALLY CONTAINS NEWS ITEMS, REPORTS OF CURRENT EVENTS, EDITORIAL COMMENTS, ADVERTISING MATTER, AND OTHER MISCELLANEOUS INFORMATION THAT IS OF PUBLIC INTEREST AND IS FOUND GENERALLY IN AN ORDINARY NEWSPAPER;

(3) HAS BEEN PUBLISHED AND DISTRIBUTED, BY SALE, FROM AN ESTABLISHED PLACE OF BUSINESS AT LEAST ONCE A WEEK FOR 6 MONTHS OR MORE BEFORE PUBLICATION OF THE ADVERTISEMENT OR NOTICE;

(4) HAS GENERAL CIRCULATION THROUGHOUT THE COMMUNITY WHERE THE PUBLICATION IS PUBLISHED; AND

(5) QUALIFIES FOR PERIODICALS RATES FOR MAILING THROUGH THE UNITED STATES POSTAL SERVICE.

(B) PRINCE GEORGE'S COUNTY.

SUBJECT TO SUBSECTION (A) OF THIS SECTION AND FOR PURPOSES OF THE PUBLIC GENERAL LAWS OF THE STATE, IN PRINCE GEORGE'S COUNTY, "NEWSPAPER IN GENERAL CIRCULATION" INCLUDES A NEWSPAPER THAT:

(1) IS DESIGNATED BY THE COUNTY COUNCIL AS A NEWSPAPER OF RECORD; OR

(2) (I) QUALIFIES UNDER SUBSECTION (A) OF THIS SECTION WITH RESPECT TO PRINCE GEORGE'S COUNTY; AND

(II) IS PUBLISHED BY A SMALL BUSINESS AS DEFINED IN § 14–201 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 1, § 28.

In the introductory language of subsection (a) of this section, the reference to a "judgment" is added for accuracy.

Also in the introductory language of subsection (a) of this section, the former references to "paper" and "newspaper devoted to the dissemination of general news" are deleted as unnecessary because those terms are not used in the Code.

In subsection (a)(5) of this section, the reference to "qualif[ying] for Periodicals rates for mailing through the United States Postal Service" is substituted for the former, obsolete reference to "[being] entitled to be entered as second–class matter in the United States mail". "Second–class mail" was renamed "Periodicals" on July 1, 1996.

In subsection (b)(1) of this section, the word "or" is substituted for the former word "and" to clarify that a newspaper does not have to be both items (1) and (2) to qualify as the defined term.

The General Provisions Article Review Committee notes, for consideration by the General Assembly, that the definition of "newspaper" is more substantive than definitional in nature. However, this definition was placed in Article 1 through the code revision process, in particular through Chapter 284 of 1984, which established the State Government Article. The Revisor's Note to Chapter 284, which transferred the definition of "newspaper" from former Art. 76, § 8 to Art. 1, § 28 states "[i]n the introductory part of this section, the clause 'that refers to publishing a … legal notice' is added to reflect the title of Ch. 905, Acts of 1941, which added former Art. 76, § 8 to the Code for the limited purpose of 'defining the publications in which legal notices and legal advertising shall be inserted,' …".

Defined terms: "Includes" § 1–110
"State" § 1–115

1–114. PERSON.

"PERSON" INCLUDES AN INDIVIDUAL, RECEIVER, TRUSTEE, GUARDIAN, PERSONAL REPRESENTATIVE, FIDUCIARY, REPRESENTATIVE OF ANY KIND, CORPORATION, PARTNERSHIP, BUSINESS TRUST, STATUTORY TRUST, LIMITED LIABILITY COMPANY, FIRM, ASSOCIATION, OR OTHER NONGOVERNMENTAL ENTITY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 1, § 15.

The references to an "individual, receiver, trustee, guardian, personal representative, fiduciary, [or] representative of any kind" and a "firm, association, or other … entity" are added for consistency with the definition of the term in many recently revised articles. *See*, *e.g.*, CP § 1–101(l), CS § 1–101(l), EC § 1–101(d), HS § 1–101(h), IN § 1–101(dd), PS § 1–101(c), and PU § 1–101(u). No substantive change is intended.

The former phrase "[u]nless such a construction would be unreasonable" is deleted as a standard rule of statutory construction for defined terms. *See* General Revisor's Note to title.

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).

Defined term: "Includes" § 1–110

1–115. STATE.

(A) LOWER CASE.

EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, "STATE" MEANS:

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

(2) THE DISTRICT OF COLUMBIA.

(B) CAPITALIZED.

WHEN CAPITALIZED, "STATE" MEANS MARYLAND.

REVISOR'S NOTE: This section is standard language added to provide an express definition of the term "state". The term conforms to the same term defined in other recently revised articles of the Code. *See, e.g.,* EC § 1–101(g) and LU § 1–101(q).

1–116. UNIVERSITY OF MARYLAND.

"UNIVERSITY OF MARYLAND" MEANS THE UNIVERSITY SYSTEM OF MARYLAND ESTABLISHED UNDER TITLE 12 OF THE EDUCATION ARTICLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 1, § 31.

The former phrase "[i]n this Code" is deleted as unnecessary in light of § 1–101 of this subtitle.

The former phrase "unless the context requires otherwise" is deleted as a standard rule of statutory construction for defined terms.

1–117. VETERAN.

WITH RESPECT TO ANY STATE PROGRAM OF BENEFITS, RIGHTS, OR PRIVILEGES APPLICABLE TO A VETERAN UNDER THIS CODE, "VETERAN" INCLUDES, IF THE INDIVIDUAL IS ELIGIBLE UNDER 38 U.S.C. § 101, A MEMBER OF THE COMMISSIONED CORPS OF:

(1) THE PUBLIC HEALTH SERVICE; OR

(2) THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION OR ITS PREDECESSOR, THE COAST AND GEODETIC SURVEY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 1, § 29.

In the introductory language of this section, the reference to "the individual [being]" eligible under 38 U.S.C. § 101 is added for clarity.

Defined terms: "Includes" § 1–110
"State" § 1–115

GENERAL REVISOR'S NOTE TO SUBTITLE

Former Art. 1, § 6, which provided that "decedent" means a person dying testate or intestate, is deleted as unnecessary since every decedent would die with or without a will.

Former Art. 1, § 14(b), which provided that the circuit court for the county includes the Circuit Court for Baltimore City, is deleted as unnecessary in light of Article IV, § 20(a) of the Maryland Constitution, which states that "[t]here

shall be a Circuit Court for each County and for Baltimore City. The Circuit Courts shall have and exercise, in the respective counties, and Baltimore City, all the power, authority and jurisdiction, original and appellate, which the Circuit Courts of the counties exercised on the effective date of these amendments, and the greater or lesser jurisdiction hereafter prescribed by law".

The General Provisions Article Review Committee notes, for consideration by the General Assembly, that several of the definitions in this subtitle are substantive. The committee has decided not to transfer or alter the definitions in deference to the General Assembly and the legislative history related to the placement and drafting of these sections as definitions.

SUBTITLE 2. INTERPRETATION OF CODE PROVISIONS.

1–201. GENDER.

EXCEPT AS OTHERWISE PROVIDED, A REFERENCE TO ONE GENDER INCLUDES AND APPLIES TO THE OTHER GENDER.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 1, § 7.

The phrase "[e]xcept as otherwise provided" is substituted for the former phrase "[u]nless the General Assembly specifically provides otherwise in a particular statute" for brevity.

The phrase "a reference to" one gender is substituted for the former reference to "all words in this Code importing" one gender for brevity and clarity.

1–202. SINGULAR AND PLURAL.

THE SINGULAR INCLUDES THE PLURAL AND THE PLURAL INCLUDES THE SINGULAR.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 1, § 8.

The phrase "the plural includes the singular" is substituted for the former phrase "vice versa" for clarity.

The former phrase "except where such construction would be unreasonable" is deleted as a standard rule of statutory construction. *See* General Revisor's Note to title.

1–203. MAY NOT.

IN THIS CODE AND ANY REGULATION OR DIRECTIVE ADOPTED UNDER IT, THE PHRASE "MAY NOT" HAS A MANDATORY NEGATIVE EFFECT AND ESTABLISHES A PROHIBITION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 1, § 26.

The former reference to a "rule" is deleted as included in the reference to a "regulation". *See* General Revisor's Note to article.

The former reference to "phrases of like import" is deleted as unnecessary.

1–204. PUBLIC GENERAL LAWS.

A REFERENCE TO "THE ANNOTATED CODE OF MARYLAND", "THE ANNOTATED CODE", "THE MARYLAND CODE", "THE CODE", OR "THIS CODE" MEANS A CODE OF THE PUBLIC GENERAL LAWS OF THE STATE THAT HAS BEEN ADOPTED AND MADE EVIDENCE OF THE PUBLIC GENERAL LAWS OF THE STATE UNDER § 10–201 OF THE COURTS ARTICLE.

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

The former reference to "the State Code" is deleted as unnecessary because that phrase does not appear in the Code.

Defined term: "State" § 1–115

1–205. EFFECT OF REPEAL OR AMENDMENT OF STATUTE.

(A) EFFECT ON PENALTY, FORFEITURE, OR LIABILITY.

EXCEPT AS OTHERWISE EXPRESSLY PROVIDED, THE REPEAL, REPEAL AND REENACTMENT, OR AMENDMENT OF A STATUTE DOES NOT RELEASE, EXTINGUISH, OR ALTER A CRIMINAL OR CIVIL PENALTY, FORFEITURE, OR LIABILITY IMPOSED OR INCURRED UNDER THE STATUTE.

(B) PURPOSES FOR WHICH STATUTE SHALL REMAIN IN EFFECT.

A REPEALED, REPEALED AND REENACTED, OR AMENDED STATUTE SHALL REMAIN IN EFFECT FOR THE PURPOSE OF SUSTAINING ANY:

(1) CRIMINAL OR CIVIL ACTION, SUIT, PROCEEDING, OR PROSECUTION FOR THE ENFORCEMENT OF A PENALTY, FORFEITURE, OR LIABILITY; AND

(2) JUDGMENT, DECREE, OR ORDER THAT IMPOSES, INFLICTS, OR DECLARES THE PENALTY, FORFEITURE, OR LIABILITY.

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

In this section, the former references to "any section or part of a section of any statute" and "section or part thereof" are deleted as implicit in the reference to "a statute".

In subsection (a) of this section, the reference to a liability "imposed" is added for accuracy.

Also in subsection (a) of this section, the phrase "does not" is substituted for the former phrase "shall not have the effect to" for brevity and clarity.

Also in subsection (a) of this section, the former reference to "modify[ing] or chang[ing], in whole or in part" is deleted as included in the reference to "alter[ing]".

Also in subsection (a) of this section, the former references to the "revision" and "consolidation" of a statute are deleted as included in the reference to the "amendment" of a statute. Similarly, in the introductory language of subsection (b) of this section, the former references to a "revised" and a "consolidated" statute are deleted as included in the reference to an "amended" statute.

In the introductory language of subsection (b) of this section, the phrase "shall remain in effect" is substituted for the former phrase "shall be treated and held as still remaining in force" for brevity.

In subsection (b)(1) of this section, the former reference to "proper" actions is deleted as implicit.

In subsection (b)(2) of this section, the former reference to a judgment, decree, or order "which can or may be rendered, entered or made in such actions, suits, proceedings or prosecutions" is deleted as surplusage.

1–206. CONFLICT BETWEEN PUBLIC GENERAL AND PUBLIC LOCAL LAWS.

WHERE A PUBLIC GENERAL LAW AND A PUBLIC LOCAL LAW ENACTED BY THE GENERAL ASSEMBLY ARE IN CONFLICT, THE PUBLIC LOCAL LAW SHALL PREVAIL.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 1, § 13.

The reference to a public local law "enacted by the General Assembly" is added for clarity.

The former reference to a public local law "of any county, city, town or district" is deleted as implicit in the reference to a "public local law".

The General Provisions Article Review Committee notes that the determination of whether a law is a public general law or public local law is not simply based on the entity that enacted the law. In *Steimel v. Board of Election Supervisors of Prince George's County*, 278 Md. 1 (1976), the Court of Appeals used the test applied in *Cole v. Secretary of State*, 249 Md. 425 (1968), to determine whether a law is a public local law. In *Steimel*, the court stated that "the test applied is whether the law, in subject matter and substance, was confined in its operation to prescribed territorial limits and was equally applicable to all persons within such limits. We thus distinguished the enactment there from public general law, which deals with the general public welfare, a subject which is of significant interest not just to any one county, but rather to more than one geographical subdivision, or even to the entire state". The court held that an Act of the General Assembly which permitted businesses in Prince George's County to be open on Sunday was a public local law.

1–207. INCONSISTENT AMENDMENTS TO SAME PROVISION.

(A) AMENDMENTS TO BE CONSTRUED TOGETHER.

EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, IF TWO OR MORE AMENDMENTS TO THE SAME SECTION ARE ENACTED AT THE SAME OR DIFFERENT SESSIONS OF THE GENERAL ASSEMBLY, AND ONE OF THE AMENDMENTS MAKES NO REFERENCE TO AND TAKES NO ACCOUNT OF THE OTHER, THE AMENDMENTS SHALL BE CONSTRUED TOGETHER AND EACH SHALL BE GIVEN EFFECT, IF POSSIBLE, WITH DUE REGARD TO THE WORDING OF THEIR TITLES.

(B) WHEN AMENDMENTS ARE IRRECONCILABLE.

IF THE AMENDMENTS ARE IRRECONCILABLE AND IT IS NOT POSSIBLE TO CONSTRUE THEM TOGETHER, THE LATEST IN DATE OF FINAL ENACTMENT SHALL PREVAIL.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 1, § 17.

In subsection (a) of this section, the former reference to a section "or subsection of the Code" is deleted as implicit.

Also in subsection (a) of this section, the former reference to other "or others" is deleted as implicit.

The General Provisions Article Review Committee notes that "enactment" commonly refers to the final act that makes a measure law. In *Elgin v. Capitol Greyhound Lines*, 192 Md. 303 (1949), the Court of Appeals found that where two or more acts of the legislature are approved by the Governor on the same day, the latter act in numerical order of chapters is considered the last expression of legislative will.

1–208. CAPTIONS AND CATCHLINES.

THE CAPTION OR CATCHLINE OF A SECTION OR SUBSECTION THAT IS PRINTED IN BOLD TYPE, ITALICS, OR OTHERWISE:

(1) IS INTENDED AS A MERE CATCHWORD TO INDICATE THE CONTENTS OF THE SECTION OR SUBSECTION; AND

(2) (I) MAY NOT BE CONSIDERED AS A TITLE OF THE SECTION OR SUBSECTION; AND

(II) EXCEPT AS OTHERWISE PROVIDED, MAY NOT BE CONSIDERED AS A TITLE IF THE SECTION, SUBSECTION, CAPTION, OR CATCHLINE IS AMENDED OR REENACTED.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 1, § 18.

In this section, the references to a "catchline" are substituted for the former references to "headlines" to reflect modern terminology.

In the introductory language of this section, the former references to captions or catchlines "of the several sections of this Code" and "of the several subsections of this Code" are deleted as implicit.

In item (2)(i) of this section, the former reference to "any part thereof" is deleted as surplusage.

The General Provisions Article Review Committee notes that Maryland case law supports this section even when the language of the catchline contradicts the statute. In *State v. Holton*, 193 Md. App. 322, 365–66 (2010), *aff'd* 420 Md. 530 (2011), the Court of Special Appeals found that the caption to § 5–501 of the Courts and Judicial Proceedings Article, "Action for defamation against local government official", does not limit to actions for defamation the accompanying statutory language which states "[a] civil or criminal action may not be brought against a city or town councilman … for words spoken at a meeting …". In so finding, the Court of Appeals stated "[i]n determining the meaning of a statute, we look to the words of the statute itself, not a caption. *W. Corr. Inst. v. Geiger*, 371 Md. 125, 141 (2002) …. Captions and headings are mere catchwords and can never be taken to limit or expand the plain meaning of statutory language".

The General Provisions Article Review Committee also notes, for consideration by the General Assembly, that there are instances in the Code where section captions are made part of the law. Specifically, § 1–107 of the Commercial Law Article states "[s]ection captions are part of the Maryland Uniform Commercial Code". The General Assembly may wish to amend this section to clarify this exception.

1–209. REFERENCE TO LAW INCLUDES AMENDMENTS.

(A) APPLICATION OF SECTION.

THE RULE OF CONSTRUCTION ESTABLISHED BY THIS SECTION APPLIES TO AN AMENDMENT ADOPTED BEFORE, ON, OR AFTER JULY 1, 1973.

(B) IN GENERAL.

EXCEPT AS OTHERWISE PROVIDED, WHEN A PUBLIC GENERAL LAW OR PUBLIC LOCAL LAW REFERS TO A PORTION OF THE CODE OR TO ANY OTHER LAW, THE REFERENCE APPLIES TO ANY AMENDMENT TO THAT PORTION OF THE CODE OR OTHER LAW.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 1, § 21.

In subsection (a) of this section, the phrase "before, on, or after" is substituted for the former phrase "prior or subsequent to" for clarity.

In subsection (b) of this section, the former reference to a public general law or public local law "of this State" is deleted as surplusage.

Also in subsection (b) of this section, the former reference to any "subsequent" amendment is deleted as implicit.

1–210. SEVERABILITY.

(A) IN GENERAL.

EXCEPT AS OTHERWISE PROVIDED, THE PROVISIONS OF ALL STATUTES ENACTED AFTER JULY 1, 1973, ARE SEVERABLE.

(B) WHEN PART OF STATUTE FOUND TO BE UNCONSTITUTIONAL OR VOID.

THE FINDING BY A COURT THAT PART OF A STATUTE IS UNCONSTITUTIONAL OR VOID DOES NOT AFFECT THE VALIDITY OF THE REMAINING PORTIONS OF THE STATUTE, UNLESS THE COURT FINDS THAT THE REMAINING VALID PROVISIONS ALONE ARE INCOMPLETE AND INCAPABLE OF BEING EXECUTED IN ACCORDANCE WITH THE LEGISLATIVE INTENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 1, § 23.

In subsection (b) of this section, the reference to "part" of a statute is substituted for the former reference to "some provision of" a statute for brevity and clarity.

The General Provisions Article Review Committee notes that although courts sometimes ignore severability clauses and apply their own tests, the language in this section should be retained. Sutherland on Statutory Construction at § 44A:15 specifically discusses Maryland's statute: "The legislature can create a clear statement rule by enacting a general severability clause providing that all statutes should be treated as severable unless they contain a nonseverability clause specifically stating otherwise. Indeed, Maryland and Minnesota have provisions similar to this, although both statutes are conditioned in a manner that undercuts their force. Maryland's statute has the further virtue of explicitly stating that it applies only prospectively. Alas, general severability clauses have suffered from even greater neglect than severability clauses contained in specific statutes. For example, in *Muller v. Curran* [889 F2d 54 (4th Cir. 1989)], the court refused to believe that the legislature intended severance despite Maryland's clear statement rule and a specific severability clause in the statute. But if a general severability clause like Maryland's or Minnesota's were construed according to its plain meaning,

as advocated here, such a provision would operate as a legislatively established clear statement rule in favor of severability." *Id.* at § 44A:16. Only four other states, Indiana, Kentucky, Missouri, and Oregon, have the "incomplete and incapable of being executed" language. The language of the Maryland statute appears tougher than the test set forth in case law – also something probably deliberately intended. Given the praise heaped on the Maryland law by Sutherland, the provision should be left unchanged.

SUBTITLE 3. TIME.

1–301. STANDARD TIME.

(A) IN GENERAL.

THE STANDARD TIME IN THE STATE SHALL BE THAT OF THE 75TH MERIDIAN OF LONGITUDE WEST FROM GREENWICH.

(B) COURTS, BANKS, PUBLIC OFFICES, AND PROCEEDINGS.

THE STANDARD TIME DESCRIBED UNDER SUBSECTION (A) OF THIS SECTION SHALL REGULATE ALL COURTS, BANKING INSTITUTIONS, PUBLIC OFFICES, AND LEGAL OR OFFICIAL PROCEEDINGS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 1, § 35.

Defined term: "State" § 1–115

1–302. COMPUTATION OF PERIOD OF TIME.

(A) IN GENERAL.

IN COMPUTING A PERIOD OF TIME DESCRIBED IN A STATUTE, THE DAY OF THE ACT, EVENT, OR DEFAULT AFTER WHICH THE DESIGNATED PERIOD OF TIME BEGINS TO RUN MAY NOT BE INCLUDED.

(B) LAST DAY.

THE LAST DAY OF THE PERIOD OF TIME COMPUTED UNDER SUBSECTION (A) OF THIS SECTION SHALL BE INCLUDED UNLESS:

(1) IT IS A SUNDAY OR LEGAL HOLIDAY, IN WHICH CASE THE PERIOD RUNS UNTIL THE END OF THE NEXT DAY THAT IS NOT A SUNDAY OR LEGAL HOLIDAY; OR

(2) THE ACT TO BE DONE IS THE FILING OF A PAPER IN COURT AND THE OFFICE OF THE CLERK OF THE COURT IS NOT OPEN ON THE LAST DAY OF THE PERIOD OF TIME, OR IS CLOSED FOR A PART OF A DAY, IN WHICH CASE THE PERIOD RUNS UNTIL THE END OF THE NEXT DAY THAT IS NOT A SATURDAY, SUNDAY, LEGAL HOLIDAY, OR DAY ON WHICH THE OFFICE IS NOT OPEN THE ENTIRE DAY DURING ORDINARY BUSINESS HOURS.

(C) SUNDAYS AND LEGAL HOLIDAYS.

(1) WHEN THE PERIOD OF TIME EXCEEDS 7 DAYS, INTERMEDIATE SUNDAYS AND LEGAL HOLIDAYS SHALL BE COUNTED IN COMPUTING THE PERIOD OF TIME.

(2) WHEN THE PERIOD OF TIME IS 7 DAYS OR LESS, INTERMEDIATE SUNDAYS AND LEGAL HOLIDAYS MAY NOT BE COUNTED IN COMPUTING THE PERIOD OF TIME.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 1, § 36.

In subsection (a) of this section, the reference to a period of time "described" is substituted for the former reference to a period of time "prescribed or allowed" for brevity.

Also in subsection (a) of this section, the former reference to an "applicable" statute is deleted as unnecessary.

In the introductory language of subsection (b) of this section, the reference to the period of time computed "under subsection (a) of this section" is substituted for the former reference to the period of time "so" computed for clarity.

In subsection (c) of this section, the references to "legal" holidays are added for consistency with subsection (b) of this section.

In subsection (c)(1) of this section, the reference to certain days being "counted in computing the period of time" is substituted for the former reference to certain days being "considered as other days" for clarity and consistency with subsection (c)(2) of this section.

Also in subsection (c)(1) of this section, the former reference to the period of time "allowed" is deleted as surplusage.

The General Provisions Article Review Committee notes, for consideration by the General Assembly, that Maryland Rule 1–203 provides for the computation of time. Maryland Rule 1–203(a) states "[i]n computing any period of time prescribed by these rules, by rule or order of court, or by any applicable statute, the day of the act, event, or default after which the designated period of time begins to run is not included. If the period of time allowed is more than seven days, intermediate Saturdays, Sundays, and holidays are counted; but if the period of time allowed is seven days or less, intermediate Saturdays, Sundays, and holidays are not counted. The last day of the period so computed is included unless: 1) it is a Saturday, Sunday, or holiday, in which event the period runs until the end of the next day that is not a Saturday, Sunday, or holiday; or 2) the act to be done is the filing of a paper in court and the office of the clerk of that court on the last day of the period is not open, or is closed for a part of the day, in which event the period runs until the end of the next day that is not a Saturday, Sunday, holiday, or a day on which the office is not open during its regular hours". Maryland Rule 1–203(a) is inconsistent with subsection (b) of this section, as subsection (b) of this section includes Saturdays when computing the last day of the period of time, while Maryland Rule 1–203(a) specifically excludes Saturdays. Maryland Rule 1–202 defines a holiday as an employee holiday as set forth in § 9–201 of the State Personnel and Pensions Article. The list of holidays in § 9–201 of the State Personnel and Pensions Article is not consistent with the list of "legal holidays" provided in § 1–111 of this article. The committee note to Maryland Rule 1–203 states that "this section supersedes Code, [former] Article 1, § 36 to the extent of any inconsistency".

The General Provisions Article Review Committee also notes, for consideration by the General Assembly, that while there is no provision in the Annotated Code for filing before an event, there is such a provision in the Maryland Rules of Procedure. Specifically, Maryland Rule 1–203(b) provides "[i]n determining the latest day for performance of an act which is required by these rules, by rule or order of court, or by any applicable statute, to be performed a prescribed number of days before a certain day, act, or event, all days prior thereto, including intervening Saturdays, Sundays, and holidays, are counted in the number of days so prescribed. The latest day is included in the determination unless it is a Saturday, Sunday, or holiday, in which event the latest day is the first preceding day which is not a Saturday, Sunday, or holiday". The General Assembly may wish to add a similar provision to this section.

Defined term: "Legal holiday" § 1–111

1–303. COMPUTATION OF AGE.

(A) IN GENERAL.

EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, AN INDIVIDUAL ATTAINS A SPECIFIED AGE ON THE DAY OF THE ANNIVERSARY OF THE INDIVIDUAL'S BIRTH.

(B) INDIVIDUAL BORN ON FEBRUARY 29.

AN INDIVIDUAL BORN ON FEBRUARY 29 ATTAINS A SPECIFIED AGE ON MARCH 1 OF ANY YEAR THAT IS NOT A LEAP YEAR.

REVISOR'S NOTE: This section formerly was Art. 1, § 37.

No changes are made.

SUBTITLE 4. MISCELLANEOUS PROVISIONS.

1–401. AGE OF MAJORITY.

(A) IN GENERAL.

(1) THE AGE OF MAJORITY IS 18 YEARS.

(2) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION OR AS OTHERWISE SPECIFICALLY PROVIDED BY STATUTE, AN INDIVIDUAL AT LEAST 18 YEARS OLD IS AN ADULT FOR ALL PURPOSES AND HAS THE SAME LEGAL CAPACITY, RIGHTS, POWERS, PRIVILEGES, DUTIES, LIABILITIES, AND RESPONSIBILITIES THAT AN INDIVIDUAL AT LEAST 21 YEARS OLD HAD BEFORE JULY 1, 1973.

(B) CHILD SUPPORT.

AN INDIVIDUAL WHO HAS ATTAINED THE AGE OF 18 YEARS AND WHO IS ENROLLED IN SECONDARY SCHOOL HAS THE RIGHT TO RECEIVE SUPPORT AND MAINTENANCE FROM BOTH OF THE INDIVIDUAL'S PARENTS UNTIL THE FIRST TO OCCUR OF THE FOLLOWING EVENTS:

(1) THE INDIVIDUAL DIES;

(2) THE INDIVIDUAL MARRIES;

(3) THE INDIVIDUAL IS EMANCIPATED;

(4) THE INDIVIDUAL GRADUATES FROM OR IS NO LONGER ENROLLED IN SECONDARY SCHOOL; OR

(5) THE INDIVIDUAL ATTAINS THE AGE OF 19 YEARS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 1, § 24(a).

Throughout this section, the references to an "individual" are substituted for the former references to a "person" because only an individual and not the other entities included in the defined term "person" may attain the age of majority.

In subsection (a)(1) of this section, the former phrase "hereby declared to be" is deleted as surplusage.

The General Provisions Article Review Committee notes, for consideration by the General Assembly, that the more appropriate placement of the provision in subsection (b) of this section related to child support is under § 5–203 of the Family Law Article. However, the committee is aware that the General Assembly intended that this provision be drafted to former Art. 1, § 24 as a result of a compromise reached by legislative committees when adopting Chapter 180 of 2002. For this reason, the committee has decided not to transfer this provision to the Family Law Article.

Defined term: "Adult" § 1–103

1–402. BOUNDARIES OF COUNTIES.

THE BOUNDARIES AND LIMITS OF EACH COUNTY SHALL REMAIN AS ESTABLISHED UNLESS ALTERED BY LAW.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 1, § 12.

The reference to the boundaries remaining as "established unless altered by law" is substituted for the former reference to remaining as "now established" for clarity. The section was originally enacted as part of the Maryland Code of 1860 and was reenacted in the Code of 1888. Since 1888, there have been at least seven changes in the boundaries of the counties or Baltimore City. The latest was in 1994 (Ch. 636), when the boundary line between Montgomery County and Prince George's County was altered to include all of the City of Takoma Park in Montgomery County. Article XIII, § 1 of the Maryland Constitution provides that "[t]he General Assembly may provide, by law, for organizing new Counties, locating and removing county seats, and changing county lines … .".

The former reference to the counties "of this State" is deleted as implicit.

The former reference to the "City of Baltimore" is deleted as included in the defined term "county".

Defined term: "County" § 1–107

1–403. CITATION OF REVISED ARTICLES.

(A) IN GENERAL.

EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, UNNUMBERED REVISED ARTICLES OF THE ANNOTATED CODE OF MARYLAND MAY BE CITED AS: "§ ___ OF THE _____ ARTICLE".

(B) COURTS AND JUDICIAL PROCEEDINGS ARTICLE.

A SECTION OF THE COURTS AND JUDICIAL PROCEEDINGS ARTICLE MAY BE CITED AS: "§ ___ OF THE COURTS ARTICLE".

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 1, § 25.

In subsection (a) of this section, the phrase "[e]xcept as provided in subsection (b) of this section" is added for clarity.

Also in subsection (a) of this section, the reference to a section of "the _____ Article" is substituted for the former references to each specific article name, except for the Courts and Judicial Proceedings Article, which is shown in subsection (b) of this section, for brevity.

GENERAL REVISOR'S NOTE TO TITLE

Former Art. 1, §§ 1, 2, and 4, which provided for the effect of the adoption of the Code, were originally enacted as part of the Maryland Code of 1860 and reenacted in the Code of 1888. The parties to any then existing contracts or pending litigation would be long dead. These sections are being transferred to the Session Laws to conform to modern bill drafting conventions, under which such provisions would typically be uncodified. *See* § 3 of Ch. ___, Acts of 2014.

Throughout this subtitle, former language indicating that a definition applies unless such a construction would be "unreasonable" is deleted. The General Provisions Article Review Committee believes such a caveat is unnecessary because Maryland case law already factors the unreasonableness of a particular construction into a determination of legislative intent. *See Board of Trustees v. Hughes*, 340 Md. 1, 7 (1995) ("[W]e seek to avoid constructions that are illogical,

unreasonable, or inconsistent with common sense."); *Wagner v. Board of County Commissioners*, 263 Md. 560, 568 (1971) ("[W]e should prefer a construction which leads to a reasonable, rather than an unreasonable and absurd result."); and *Doswell v. State*, 53 Md. App. 647, 653 (1983) ("[T]he statute should be read in a commonsense manner to avoid an unreasonable or absurd result."). No substantive change is intended.

TITLE 2. OFFICIAL OATHS.

SUBTITLE 1. FORM OF OATH.

2–101. FORM OF OATH FOR POSITION NOT SUBJECT TO MARYLAND CONSTITUTION.

UNLESS A STATE OR LOCAL LAW REQUIRES A DIFFERENT FORM OF OATH, AN INDIVIDUAL APPOINTED TO A PUBLIC POSITION THAT REQUIRES THE INDIVIDUAL TO TAKE AN OATH, BUT NOT SUBJECT TO THE OATH REQUIRED BY ARTICLE I, § 9 OF THE MARYLAND CONSTITUTION, SHALL TAKE AN OATH TO PERFORM FAITHFULLY THE DUTIES OF THE OFFICE TO WHICH THE INDIVIDUAL IS APPOINTED.

REVISOR'S NOTE: This section is new language derived without substantive change from former SG § 16–106.

In this section and throughout this title, the references to a "State or local law" are substituted for the former references to a "law or ordinance" for clarity.

In this section and throughout this subtitle, the references to an "individual" are substituted for the former references to a "person" because only a human being and not the other entities included in the definition of "person" can take an oath.

In this section, the reference to a "public" position is added for accuracy.

The General Provisions Article Review Committee notes, for consideration by the General Assembly, that this section contains references to an "oath" but not an "affirmation". Section 2–103 of this subtitle indicates that an affirmation is sufficient if made by an individual conscientiously scrupulous of taking an oath. The General Assembly may wish to add references to an "affirmation" in this section for clarity and consistency.

The General Provisions Article Review Committee also notes, for consideration by the General Assembly, that this section, like age–old source law, recognizes that State or local law may require a different oath

than that required by Article I, § 9 of the Maryland Constitution for those "not subject" to this constitutional oath requirement. And, in fact, this section retains in the law a statutory oath for holders of such positions. Another place in the Code where a statutory oath is imposed on one not holding a public office under the Constitution or laws is § 2–104(b) (deputy sheriffs) of the Courts Article. Since 1867, Article 37 of the Maryland Declaration of Rights has provided, in relevant part, that the legislature may not "prescribe any other oath of office other than the oath prescribed by this Constitution". The Court of Appeals has concluded that under this constitutional provision the General Assembly may not require a different oath for the holder of an office, whether or not the office is constitutional or statutory. *Davidson v. Brice*, 91 Md. 681, 690 (1900). *See also* AG Bill Review Letter on HB 1473, dated May 6, 2009. The source law for this section, like that for § 2–104(b) of the Courts Article, predates Article 37 and these provisions were enacted at a time when the legislature had the authority to require an oath different than that contained in Article I, § 9. What remains unclear is whether Article 37 jeopardizes the constitutionality of the source law for this section. In the absence of more definitive case law, the committee is hesitant to alter or delete language regarding statutory oaths; however, the General Assembly may wish to amend this section to be consistent with Article 37.

Defined term: "State" § 1–115

2–102. LANGUAGE PROHIBITED IN OATH.

NO PRECATORY WORDS, INCLUDING "SO HELP ME GOD", MAY BE ADDED TO AN OATH NOT REQUIRED BY THE MARYLAND CONSTITUTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 1, § 10.

The word "precatory" is substituted for the former phrase "any imprecatory words whatever" for accuracy. "Imprecatory" relates to calling down evil, while "precatory" pertains to praying.

The former reference to the "form of judicial and all other" oaths is deleted as surplusage.

The former reference to an oath "to be taken or administered in this State" is deleted as surplusage.

The former requirement to include the phrase "[i]n the presence of Almighty God I do solemnly promise or declare" is deleted as unconstitutional under *Torcaso v. Watkins,* 367 U.S. 495, 81 S.Ct. 1683 and *White v. State,* 244 Md. 188 (1966).

The General Provisions Article Review Committee notes, for consideration by the General Assembly, that this section contains references to an "oath" but not an "affirmation". Section 2–103 of this subtitle indicates that an affirmation is sufficient if made by an individual conscientiously scrupulous of taking an oath. The General Assembly may wish to add references to an "affirmation" in this section for clarity and consistency.

The General Provisions Article Review Committee also notes that additional requirements related to oaths are found in the Maryland Rules. Maryland Rule 1–303 provides that "[e]xcept as provided in Rule 16–819(d)(3), whenever an oral oath is required by rule or law, the person making oath shall solemnly swear or affirm under the penalties of perjury that the responses given and statements made will be the whole truth and nothing but the truth". Maryland Rule 1–304 provides that the statement of the affiant may be made before an officer authorized to administer an oath or affirmation, who shall certify in writing to having administered the oath or taken the affirmation, or may be made by signing the statement in one of the following forms: Generally. "I solemnly affirm under the penalties of perjury that the contents of the foregoing paper are true to the best of my knowledge, information, and belief." Personal Knowledge. "I solemnly affirm under the penalties of perjury and upon personal knowledge that the contents of the foregoing paper are true.".

2–103. SUFFICIENCY OF AFFIRMATION INSTEAD OF OATH.

IF AN OATH IS REQUIRED BY THE CODE, AN AFFIRMATION IS SUFFICIENT IF MADE BY AN INDIVIDUAL CONSCIENTIOUSLY SCRUPULOUS OF TAKING AN OATH.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 1, § 9.

The reference to an "individual" is substituted for the former reference to a "person" because only a human being and not the other entities included in the definition of "person" is capable of making an oath or affirmation.

SUBTITLE 2. ADMINISTRATION OF OATH.

2–201. METHOD FOR ADMINISTRATION OF OATH.

AN INDIVIDUAL WHO ADMINISTERS AN OATH SHALL REQUIRE THE INDIVIDUAL TAKING AN OATH TO HOLD UP A HAND IN RECOGNITION OF THE SOLEMNITY OF THE ACT UNLESS:

(1) HOLDING UP A HAND IS NOT PRACTICABLE; OR

(2) IT APPEARS THAT ANOTHER METHOD WOULD BE MORE BINDING ON THE CONSCIENCE OF THE INDIVIDUAL TAKING THE OATH.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 1, § 11.

In the introductory language of this section, the reference to "[a]n individual who administers an oath" is substituted for the former reference to "[t]he manner of administering oaths" for clarity.

Also in the introductory language of this section, the reference to holding up a hand "in recognition" of the solemnity of the act is substituted for the former reference to holding up a hand "in token of his recognition" of the solemnity of the act for brevity.

In item (2) of this section, the reference to the "individual taking the oath" is substituted for the former reference to the "swearer" for clarity.

2–202. GOVERNOR AND LIEUTENANT GOVERNOR.

(A) IN GENERAL.

THE GOVERNOR AND THE LIEUTENANT GOVERNOR SHALL TAKE AND SUBSCRIBE THE OATH REQUIRED BY ARTICLE I, § 9 OF THE MARYLAND CONSTITUTION:

(1) ON THE THIRD WEDNESDAY OF JANUARY THAT NEXT FOLLOWS THE ELECTION OF THE GOVERNOR, OR AS SOON THEREAFTER AS IS PRACTICABLE, BETWEEN THE HOURS OF NOON AND 2:00 P.M. IN THE CHAMBER OF THE SENATE OF MARYLAND; AND

(2) (I) BEFORE THE CHIEF JUDGE OF THE COURT OF APPEALS; OR

(II) IF THE CHIEF JUDGE IS UNABLE TO ATTEND, BEFORE ONE OF THE ASSOCIATE JUDGES OF THE COURT OF APPEALS.

(B) RECORD OF OATHS.

THE CLERK OF THE COURT OF APPEALS SHALL MAINTAIN A BOOK THAT RECORDS THE OATHS TAKEN AND SUBSCRIBED UNDER THIS SECTION.

REVISOR'S NOTE: This section formerly was SG § 16–101.

The only changes are in style.

2–203. ADJUTANT GENERAL; ATTORNEY GENERAL; COMPTROLLER; JUDGES AND CLERKS OF COURT OF APPEALS AND COURT OF SPECIAL APPEALS; SECRETARY OF STATE; STATE REPORTER; STATE TREASURER.

(A) IN GENERAL.

THE OATH REQUIRED BY ARTICLE I, § 9 OF THE MARYLAND CONSTITUTION SHALL BE TAKEN AND SUBSCRIBED BEFORE THE GOVERNOR BY:

(1) THE ADJUTANT GENERAL;

(2) THE ATTORNEY GENERAL;

(3) THE COMPTROLLER;

(4) THE JUDGES OF THE COURT OF APPEALS;

(5) THE CLERK OF THE COURT OF APPEALS;

(6) THE JUDGES OF THE COURT OF SPECIAL APPEALS;

(7) THE CLERK OF THE COURT OF SPECIAL APPEALS;

(8) THE SECRETARY OF STATE;

(9) THE STATE REPORTER; AND

(10) THE STATE TREASURER.

(B) COMPTROLLER.

ON THE THIRD MONDAY OF JANUARY THAT NEXT FOLLOWS THE ELECTION OF THE COMPTROLLER, OR AS SOON THEREAFTER AS IS PRACTICABLE, THE SUCCESSFUL CANDIDATE FOR THAT OFFICE SHALL QUALIFY BY TAKING THE OATH REQUIRED BY ARTICLE I, § 9 OF THE MARYLAND CONSTITUTION.

(C) RECORD OF OATHS.

THE SECRETARY OF STATE SHALL MAINTAIN A BOOK THAT RECORDS THE OATHS TAKEN AND SUBSCRIBED UNDER THIS SECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former SG § 16–102.

In subsection (a)(5) and (7) of this section, the references to "the clerk of the Court of Appeals" and "the clerk of the Court of Special Appeals", respectively, are substituted for the former references to "their clerks" for clarity and to reflect that there is only one clerk for each court.

For provisions requiring the Secretary of State to maintain a book recording commissions issued by the Governor, *see* § 7–105 of the State Government Article.

Defined term: "State" § 1–115

2–204. MEMBERS OF GENERAL ASSEMBLY.

(A) SENATE.

(1) A MEMBER OF THE SENATE OF MARYLAND SHALL ADMINISTER THE OATH REQUIRED BY ARTICLE I, § 9 OF THE MARYLAND CONSTITUTION TO THE PRESIDENT OF THE SENATE.

(2) THE PRESIDENT OF THE SENATE SHALL ADMINISTER THE OATH REQUIRED BY ARTICLE I, § 9 OF THE MARYLAND CONSTITUTION TO THE OTHER MEMBERS AND OFFICERS OF THE SENATE OF MARYLAND.

(B) HOUSE OF DELEGATES.

(1) A MEMBER OF THE HOUSE OF DELEGATES SHALL ADMINISTER THE OATH REQUIRED BY ARTICLE I, § 9 OF THE MARYLAND CONSTITUTION TO THE SPEAKER OF THE HOUSE OF DELEGATES.

(2) THE SPEAKER OF THE HOUSE OF DELEGATES SHALL ADMINISTER THE OATH REQUIRED BY ARTICLE I, § 9 OF THE MARYLAND CONSTITUTION TO THE OTHER MEMBERS AND OFFICERS OF THE HOUSE OF DELEGATES.

(C) SUBSCRIPTION OF OATHS.

THE MEMBERS OF THE GENERAL ASSEMBLY SHALL SUBSCRIBE THE OATH THAT THE MEMBERS TAKE UNDER SUBSECTIONS (A) AND (B) OF THIS SECTION.

REVISOR'S NOTE: This section formerly was SG § 16–103.

No changes are made.

The General Provisions Article Review Committee notes, for consideration by the General Assembly, that the individual administering the oath to the President of the Senate and the Speaker of the House of Delegates in subsections (a) and (b) of this section has been elected but not yet sworn in. Rule 2 of the Rules of the Senate of Maryland provides that the President shall be elected by the Senate, which shall first elect a President Pro Tem, who shall preside over the Senate until the President is elected and assumes that office. The President Pro Tem is required to administer the oath of office to the President. Rule 2 of the Rules of the House of Delegates provides that the Speaker shall be elected by the House, which shall first elect a Speaker Pro Tem who shall administer the oath of office to the Speaker. The President, President Pro Tem, Speaker, and Speaker Pro Tem each hold office from the date of their election until the earlier of: (1) the beginning of the next regular session of the General Assembly; (2) the election of another person to hold the office; or (3) the occurrence of a vacancy in the office.

The General Provisions Article Review Committee also notes, for consideration by the General Assembly, that the federal process for swearing in members of Congress is similar to the process in the Maryland General Assembly. Members of the House of Representatives usually take their oath during the first day of a new Congress. After the Speaker is elected, the member with the longest continuous service administers the oath to the Speaker. This tradition originated in the British House of Commons and has been the practice in the House of Representatives since at least 1849. The Speaker then administers the oath to the rest of the members as a group. As for the Senate, the Congressional Research Services' *The First Day of a New Congress: A Guide to Proceedings on the Senate Floor*, states that the Vice President presides when the Senate first convenes. The first order of business in a new Senate is the swearing–in of senators elected or re–elected in the most recent general election. The Vice President then swears in senators, in alphabetical order in groups of four, to take the oath and to also "subscribe to the oath" in the official oath book. As provided by the U.S. Constitution, the President pro tempore is chosen by the Senate to preside during the absence of the Vice President. When there is a change in party control of the Senate, or when a vacancy in the office of President pro tempore occurs, a new President pro tempore is elected by resolution and then sworn in by the Vice President. Unlike the process for administering oaths in the Maryland General Assembly, which is set forth in the Rules for each chamber, the process for administering oaths in Congress is based primarily on tradition.

2–205. MUNICIPAL OFFICERS OTHER THAN MAYORS OR CHIEF EXECUTIVE OFFICERS.

EXCEPT FOR A MAYOR OR CHIEF EXECUTIVE OFFICER OF A MUNICIPAL CORPORATION, ALL OFFICERS OF A MUNICIPAL CORPORATION SHALL TAKE AN OATH BEFORE THE MAYOR OR CHIEF EXECUTIVE OFFICER OF THE MUNICIPAL CORPORATION IF AN OATH IS REQUIRED BY STATE OR LOCAL LAW.

REVISOR'S NOTE: This section is new language derived without substantive change from former SG § 16–104.

The references to a chief "executive officer" are substituted for the former references to a chief "magistrate" to reflect the terminology used in the Local Government Article. *See*, *e.g.*, LG § 4–109.

Defined term: "State" § 1–115

2–206. OTHER OFFICERS.

EXCEPT FOR AN OFFICER SPECIFIED IN §§ 2–202 THROUGH 2–205 OF THIS SUBTITLE, AN OFFICER ELECTED OR APPOINTED TO ANY OFFICE OF TRUST OR PROFIT UNDER THE MARYLAND CONSTITUTION OR OTHER STATE LAW, INCLUDING A MAYOR OR OTHER CHIEF EXECUTIVE OFFICER OF A MUNICIPAL CORPORATION, SHALL TAKE AND SUBSCRIBE THE OATH REQUIRED BY ARTICLE I, § 9 OF THE MARYLAND CONSTITUTION BEFORE A CLERK OR A DEPUTY CLERK OF THE CIRCUIT COURT.

REVISOR'S NOTE: This section is new language derived without substantive change from former SG § 16–105.

The reference to a chief "executive officer" is substituted for the former reference to a chief "magistrate" to reflect the terminology used in the Local Government Article. *See*, *e.g.*, LG § 4–109.

The former reference to a "sworn" deputy clerk is deleted as unnecessary in light of § 2–104(b) of the Courts Article, which requires every deputy clerk to take an oath.

Defined term: "State" § 1–115

SUBTITLE 3. MISCELLANEOUS PROVISIONS.

2–301. REFUSAL TO TAKE OATH.

AN INDIVIDUAL ELECTED OR APPOINTED TO AN OFFICE SHALL BE DEEMED TO HAVE REFUSED THE OFFICE IF THE INDIVIDUAL DECLINES OR NEGLECTS TO TAKE AND SUBSCRIBE THE OATH REQUIRED BY ARTICLE I, § 9 OF THE MARYLAND CONSTITUTION OR BY OTHER STATE OR LOCAL LAW:

(1) WITHIN 30 DAYS AFTER THE OFFICE OF A CLERK OF A CIRCUIT COURT RECEIVES THE COMMISSION OF THE INDIVIDUAL; OR

(2) IF THE COMMISSION IS NOT SENT TO A CLERK OF A CIRCUIT COURT, WITHIN 30 DAYS AFTER THE INDIVIDUAL RECEIVES THE COMMISSION OR THE NOTICE OF APPOINTMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former SG § 16–107.

The General Provisions Article Review Committee notes, for consideration by the General Assembly, that §§ 2–104 and 2–106 of the Courts Article contain similar provisions to those required by this section. Section 2–104 of the Courts Article requires every auditor, clerk, sheriff, constable, commissioner, surveyor, or other officer to take and sign the oath or affirmation required by the Constitution. Section 2–106 of the Courts Article provides that a person who is required to take an oath under § 2–104 but who fails to qualify for office by taking and subscribing the required oath or affirmation is deemed to have refused the office.

Defined term: "State" § 1–115

2–302. REPORTS OF CLERKS TO SECRETARY OF STATE.

(A) REPORT REQUIRED.

AT LEAST ONCE EACH MONTH, THE CLERK OF EACH CIRCUIT COURT SHALL REPORT TO THE SECRETARY OF STATE THE NAMES AND OFFICES OF ALL OFFICERS WHO HAVE TAKEN AND SUBSCRIBED AN OATH BEFORE THE CLERK.

(B) PRESERVATION OF REPORT BY SECRETARY OF STATE; CERTIFICATION.

THE SECRETARY OF STATE:

(1) SHALL PRESERVE A REPORT REQUIRED BY SUBSECTION (A) OF THIS SECTION; AND

(2) EQUALLY WITH THE CLERK OF A CIRCUIT COURT, IS COMPETENT TO CERTIFY THAT AN OFFICER HAS QUALIFIED BY TAKING AND SUBSCRIBING AN OATH BEFORE THE CLERK.

REVISOR'S NOTE: This section is new language derived without substantive change from former SG § 16–108.

In subsection (b)(2) of this section, the former reference to "certify[ing] the character" of an officer is deleted as impracticable since it is not possible to certify the character of an individual. No substantive change is intended in deleting this reference. For other provisions in which the Secretary of State certifies the qualifications of an individual, and not the character of an individual, *see* § 7–105(b)(2) of the State Government Article.

Defined term: "State" § 1–115

TITLE 3. OPEN MEETINGS ACT.

SUBTITLE 1. DEFINITIONS; GENERAL PROVISIONS.

3–101. DEFINITIONS.

(A) IN GENERAL.

IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection formerly was SG § 10–502(a).

The only changes are in style.

(B) ADMINISTRATIVE FUNCTION.

(1) "ADMINISTRATIVE FUNCTION" MEANS THE ADMINISTRATION OF:

(I) A LAW OF THE STATE;

(II) A LAW OF A POLITICAL SUBDIVISION OF THE STATE; OR

(III) A RULE, REGULATION, OR BYLAW OF A PUBLIC BODY.

(2) "ADMINISTRATIVE FUNCTION" DOES NOT INCLUDE:

(I) AN ADVISORY FUNCTION;

(II) A JUDICIAL FUNCTION;

(III) A LEGISLATIVE FUNCTION;

(IV) A QUASI–JUDICIAL FUNCTION; OR

(V) A QUASI–LEGISLATIVE FUNCTION.

REVISOR'S NOTE: This subsection formerly was SG § 10–502(b).

No changes are made.

For applicability of "administrative function", *see* § 3–103 of this subtitle, which provides that, with certain exceptions, this title does not apply to a public body when it is carrying out an administrative function.

Defined terms: "Advisory function" § 3–101
"Judicial function" § 3–101
"Legislative function" § 3–101
"Public body" § 3–101
"Quasi–judicial function" § 3–101
"Quasi–legislative function" § 3–101
"State" § 1–115

(C) ADVISORY FUNCTION.

"ADVISORY FUNCTION" MEANS THE STUDY OF A MATTER OF PUBLIC CONCERN, OR THE MAKING OF RECOMMENDATIONS ON THE MATTER, UNDER A DELEGATION OF RESPONSIBILITY BY:

(1) LAW;

(2) THE GOVERNOR OR AN OFFICIAL WHO IS SUBJECT TO THE POLICY DIRECTION OF THE GOVERNOR;

(3) THE CHIEF EXECUTIVE OFFICER OF A POLITICAL SUBDIVISION OF THE STATE OR AN OFFICIAL WHO IS SUBJECT TO THE POLICY DIRECTION OF THE CHIEF EXECUTIVE OFFICER; OR

(4) FORMAL ACTION BY OR FOR A PUBLIC BODY THAT EXERCISES AN ADMINISTRATIVE FUNCTION, JUDICIAL FUNCTION, LEGISLATIVE FUNCTION, QUASI–JUDICIAL FUNCTION, OR QUASI–LEGISLATIVE FUNCTION.

REVISOR'S NOTE: This subsection formerly was SG § 10–502(c).

The only changes are in style.

Defined terms: "Administrative function" § 3–101
"Judicial function" § 3–101
"Legislative function" § 3–101
"Public body" § 3–101
"Quasi–judicial function" § 3–101
"Quasi–legislative function" § 3–101
"State" § 1–115

(D) BOARD.

"BOARD" MEANS THE STATE OPEN MEETINGS LAW COMPLIANCE BOARD.

REVISOR'S NOTE: This subsection formerly was SG § 10–502(d).

No changes are made.

(E) JUDICIAL FUNCTION.

(1) "JUDICIAL FUNCTION" MEANS THE EXERCISE OF ANY POWER OF THE JUDICIAL BRANCH OF THE STATE GOVERNMENT.

(2) "JUDICIAL FUNCTION" INCLUDES THE EXERCISE OF:

(I) A POWER FOR WHICH ARTICLE IV, § 1 OF THE MARYLAND CONSTITUTION PROVIDES;

(II) A FUNCTION OF A GRAND JURY;

(III) A FUNCTION OF A PETIT JURY;

(IV) A FUNCTION OF THE COMMISSION ON JUDICIAL DISABILITIES; AND

(V) A FUNCTION OF A JUDICIAL NOMINATING COMMISSION.

(3) "JUDICIAL FUNCTION" DOES NOT INCLUDE THE EXERCISE OF RULEMAKING POWER BY A COURT.

REVISOR'S NOTE: This subsection formerly was SG § 10–502(e).

The only changes are in style.

Defined terms: "Includes" § 1–110
"State" § 1–115

(F) LEGISLATIVE FUNCTION.

"LEGISLATIVE FUNCTION" MEANS THE PROCESS OR ACT OF:

(1) APPROVING, DISAPPROVING, ENACTING, AMENDING, OR REPEALING A LAW OR OTHER MEASURE TO SET PUBLIC POLICY;

(2) APPROVING OR DISAPPROVING AN APPOINTMENT;

(3) PROPOSING OR RATIFYING A CONSTITUTION OR CONSTITUTIONAL AMENDMENT; OR

(4) PROPOSING OR RATIFYING A CHARTER OR CHARTER AMENDMENT.

REVISOR'S NOTE: This subsection formerly was SG § 10–502(f).

No changes are made.

(G) MEET.

"MEET" MEANS TO CONVENE A QUORUM OF A PUBLIC BODY TO CONSIDER OR TRANSACT PUBLIC BUSINESS.

REVISOR'S NOTE: This subsection formerly was SG § 10–502(g).

The only changes are in style.

Defined terms: "Public body" § 3–101
"Quorum" § 3–101

(H) PUBLIC BODY.

(1) "PUBLIC BODY" MEANS AN ENTITY THAT:

(I) CONSISTS OF AT LEAST TWO INDIVIDUALS; AND

(II) IS CREATED BY:

1. THE MARYLAND CONSTITUTION;

2. A STATE STATUTE;

3. A COUNTY OR MUNICIPAL CHARTER;

4. A MEMORANDUM OF UNDERSTANDING OR A MASTER AGREEMENT TO WHICH A MAJORITY OF THE COUNTY BOARDS OF EDUCATION AND THE STATE DEPARTMENT OF EDUCATION ARE SIGNATORIES;

5. AN ORDINANCE;

6. A RULE, RESOLUTION, OR BYLAW;

7. AN EXECUTIVE ORDER OF THE GOVERNOR; OR

8. AN EXECUTIVE ORDER OF THE CHIEF EXECUTIVE AUTHORITY OF A POLITICAL SUBDIVISION OF THE STATE.

(2) "PUBLIC BODY" INCLUDES:

(I) ANY MULTIMEMBER BOARD, COMMISSION, OR COMMITTEE APPOINTED BY THE GOVERNOR OR THE CHIEF EXECUTIVE AUTHORITY OF A POLITICAL SUBDIVISION OF THE STATE, OR APPOINTED BY AN OFFICIAL WHO IS SUBJECT TO THE POLICY DIRECTION OF THE GOVERNOR OR CHIEF EXECUTIVE AUTHORITY OF THE POLITICAL SUBDIVISION, IF THE ENTITY INCLUDES IN ITS MEMBERSHIP AT LEAST TWO INDIVIDUALS NOT EMPLOYED BY THE STATE OR THE POLITICAL SUBDIVISION;

(II) ANY MULTIMEMBER BOARD, COMMISSION, OR COMMITTEE THAT:

1. IS APPOINTED BY:

A. AN ENTITY IN THE EXECUTIVE BRANCH OF THE STATE GOVERNMENT, THE MEMBERS OF WHICH ARE APPOINTED BY THE GOVERNOR, AND THAT OTHERWISE MEETS THE DEFINITION OF A PUBLIC BODY UNDER THIS SUBSECTION; OR

B. AN OFFICIAL WHO IS SUBJECT TO THE POLICY DIRECTION OF AN ENTITY DESCRIBED IN ITEM A OF THIS ITEM; AND

2. INCLUDES IN ITS MEMBERSHIP AT LEAST TWO INDIVIDUALS WHO ARE NOT MEMBERS OF THE APPOINTING ENTITY OR EMPLOYED BY THE STATE; AND

(III) THE MARYLAND SCHOOL FOR THE BLIND.

(3) "PUBLIC BODY" DOES NOT INCLUDE:

(I) ANY SINGLE MEMBER ENTITY;

(II) ANY JUDICIAL NOMINATING COMMISSION;

(III) ANY GRAND JURY;

(IV) ANY PETIT JURY;

(V) THE APPALACHIAN STATES LOW LEVEL RADIOACTIVE WASTE COMMISSION ESTABLISHED IN § 7–302 OF THE ENVIRONMENT ARTICLE;

(VI) EXCEPT WHEN A COURT IS EXERCISING RULEMAKING POWER, ANY COURT ESTABLISHED IN ACCORDANCE WITH ARTICLE IV OF THE MARYLAND CONSTITUTION;

(VII) THE GOVERNOR'S CABINET, THE GOVERNOR'S EXECUTIVE COUNCIL AS PROVIDED IN TITLE 8, SUBTITLE 1 OF THE STATE GOVERNMENT ARTICLE, OR ANY COMMITTEE OF THE EXECUTIVE COUNCIL;

(VIII) A LOCAL GOVERNMENT'S COUNTERPART TO THE GOVERNOR'S CABINET, EXECUTIVE COUNCIL, OR ANY COMMITTEE OF THE COUNTERPART OF THE EXECUTIVE COUNCIL;

(IX) EXCEPT AS PROVIDED IN PARAGRAPH (1) OF THIS SUBSECTION, A SUBCOMMITTEE OF A PUBLIC BODY AS DEFINED IN PARAGRAPH (2)(I) OF THIS SUBSECTION;

(X) THE GOVERNING BODY OF A HOSPITAL AS DEFINED IN § 19–301 OF THE HEALTH – GENERAL ARTICLE; AND

(XI) A SELF–INSURANCE POOL THAT IS ESTABLISHED IN ACCORDANCE WITH TITLE 19, SUBTITLE 6 OF THE INSURANCE ARTICLE OR § 9–404 OF THE LABOR AND EMPLOYMENT ARTICLE BY:

1. A PUBLIC ENTITY, AS DEFINED IN § 19–602 OF THE INSURANCE ARTICLE; OR

2. A COUNTY OR MUNICIPAL CORPORATION, AS DESCRIBED IN § 9–404 OF THE LABOR AND EMPLOYMENT ARTICLE.

REVISOR'S NOTE: This subsection formerly was SG § 10–502(h).

In paragraph (3)(xi)2 of this subsection, the reference to a county or municipality "as described in" § 9–404 of the Labor and Employment Article is substituted for the former reference to a county or municipality "as defined in" § 9–404 of the Labor and Employment Article because there is no definition of a county or municipality in that section.

The only other changes are in style.

Defined terms: "County" § 1–107
"Includes" § 1–110
"State" § 1–115

(I) QUASI–JUDICIAL FUNCTION.

"QUASI–JUDICIAL FUNCTION" MEANS A DETERMINATION OF:

(1) A CONTESTED CASE TO WHICH TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE APPLIES;

(2) A PROCEEDING BEFORE AN ADMINISTRATIVE AGENCY FOR WHICH TITLE 7, CHAPTER 200 OF THE MARYLAND RULES WOULD GOVERN JUDICIAL REVIEW; OR

(3) A COMPLAINT BY THE BOARD IN ACCORDANCE WITH THIS TITLE.

REVISOR'S NOTE: This subsection formerly was SG § 10–502(i).

The only changes are in style.

For applicability of "quasi–judicial function", *see* § 3–103 of this subtitle, which provides that, with certain exceptions, this title does not apply to a public body when it is carrying out a quasi–judicial function.

The General Provisions Article Review Committee notes, for consideration by the General Assembly, that the definition of "quasi–judicial function" seemingly excludes agency adjudications where

a hearing and judicial review are not required by statute. *See* Title 7, Chapter 400 of the Maryland Rules of Procedure.

Defined term: "Board" § 3–101

(J) QUASI–LEGISLATIVE FUNCTION.

"QUASI–LEGISLATIVE FUNCTION" MEANS THE PROCESS OR ACT OF:

(1) ADOPTING, DISAPPROVING, AMENDING, OR REPEALING A RULE, REGULATION, OR BYLAW THAT HAS THE FORCE OF LAW, INCLUDING A RULE OF A COURT;

(2) APPROVING, DISAPPROVING, OR AMENDING A BUDGET; OR

(3) APPROVING, DISAPPROVING, OR AMENDING A CONTRACT.

REVISOR'S NOTE: This subsection formerly was SG § 10–502(j).

No changes are made.

Defined term: "Including" § 1–110

(K) QUORUM.

"QUORUM" MEANS:

(1) A MAJORITY OF THE MEMBERS OF A PUBLIC BODY; OR

(2) THE NUMBER OF MEMBERS THAT THE LAW REQUIRES.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former SG § 10–502(k).

In item (2) of this subsection, the reference to "the number of members" is substituted for the former reference to "any different number" for clarity.

Defined term: "Public body" § 3–101

3–102. LEGISLATIVE POLICY.

(A) IN GENERAL.

IT IS ESSENTIAL TO THE MAINTENANCE OF A DEMOCRATIC SOCIETY THAT, EXCEPT IN SPECIAL AND APPROPRIATE CIRCUMSTANCES:

(1) PUBLIC BUSINESS BE CONDUCTED OPENLY AND PUBLICLY; AND

(2) THE PUBLIC BE ALLOWED TO OBSERVE:

(I) THE PERFORMANCE OF PUBLIC OFFICIALS; AND

(II) THE DELIBERATIONS AND DECISIONS THAT THE MAKING OF PUBLIC POLICY INVOLVES.

(B) ACCOUNTABILITY; FAITH IN GOVERNMENT; EFFECTIVENESS OF PUBLIC INVOLVEMENT.

(1) THE ABILITY OF THE PUBLIC, ITS REPRESENTATIVES, AND THE MEDIA TO ATTEND, REPORT ON, AND BROADCAST MEETINGS OF PUBLIC BODIES AND TO WITNESS THE PHASES OF THE DELIBERATION, POLICY FORMATION, AND DECISION MAKING OF PUBLIC BODIES ENSURES THE ACCOUNTABILITY OF GOVERNMENT TO THE CITIZENS OF THE STATE.

(2) THE CONDUCT OF PUBLIC BUSINESS IN OPEN MEETINGS INCREASES THE FAITH OF THE PUBLIC IN GOVERNMENT AND ENHANCES THE EFFECTIVENESS OF THE PUBLIC IN FULFILLING ITS ROLE IN A DEMOCRATIC SOCIETY.

(C) PUBLIC POLICY.

EXCEPT IN SPECIAL AND APPROPRIATE CIRCUMSTANCES WHEN MEETINGS OF PUBLIC BODIES MAY BE CLOSED UNDER THIS TITLE, IT IS THE PUBLIC POLICY OF THE STATE THAT THE PUBLIC BE PROVIDED WITH ADEQUATE NOTICE OF THE TIME AND LOCATION OF MEETINGS OF PUBLIC BODIES, WHICH SHALL BE HELD IN PLACES REASONABLY ACCESSIBLE TO INDIVIDUALS WHO WOULD LIKE TO ATTEND THESE MEETINGS.

REVISOR'S NOTE: This section formerly was SG § 10–501.

In the introductory language of subsection (a)(2) of this section, the reference to "the public" is substituted for the former reference to "citizens of the State" because the meaning of the term "citizens" in this context is unclear.

The only other changes are in style.

Defined terms: "Public body" § 3–101

"State" § 1–115

3–103. SCOPE OF TITLE.

(A) NOT APPLICABLE.

EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION AND § 3–104 OF THIS SUBTITLE, THIS TITLE DOES NOT APPLY TO:

(1) A PUBLIC BODY WHEN IT IS CARRYING OUT:

(I) AN ADMINISTRATIVE FUNCTION;

(II) A JUDICIAL FUNCTION; OR

(III) A QUASI–JUDICIAL FUNCTION; OR

(2) A CHANCE ENCOUNTER, A SOCIAL GATHERING, OR ANY OTHER OCCASION THAT IS NOT INTENDED TO CIRCUMVENT THIS TITLE.

(B) APPLICABLE.

THIS TITLE APPLIES TO A PUBLIC BODY WHEN IT IS MEETING TO CONSIDER:

(1) GRANTING A LICENSE OR PERMIT; OR

(2) A SPECIAL EXCEPTION, VARIANCE, CONDITIONAL USE, OR ZONING CLASSIFICATION, THE ENFORCEMENT OF ANY ZONING LAW OR REGULATION, OR ANY OTHER ZONING MATTER.

REVISOR'S NOTE: This section formerly was SG § 10–503(a) and (b).

The only changes are in style.

Defined terms: "Administrative function" § 3–101
"Judicial function" § 3–101
"Public body" § 3–101
"Quasi–judicial function" § 3–101

3–104. MINUTES FOR CLOSED SESSION.

IF A PUBLIC BODY RECESSES AN OPEN SESSION TO CARRY OUT AN ADMINISTRATIVE FUNCTION IN A MEETING THAT IS NOT OPEN TO THE PUBLIC, THE MINUTES FOR THE PUBLIC BODY'S NEXT MEETING SHALL INCLUDE:

(1) A STATEMENT OF THE DATE, TIME, PLACE, AND PERSONS PRESENT AT THE ADMINISTRATIVE FUNCTION MEETING; AND

(2) A PHRASE OR SENTENCE IDENTIFYING THE SUBJECT MATTER DISCUSSED AT THE ADMINISTRATIVE FUNCTION MEETING.

REVISOR'S NOTE: This section formerly was SG § 10–503(c).

No changes are made.

Defined terms: "Administrative function" § 3–101
"Person" § 1–114
"Public body" § 3–101

3–105. CONFLICT OF LAWS.

WHENEVER THIS TITLE AND ANOTHER LAW THAT RELATES TO MEETINGS OF PUBLIC BODIES CONFLICT, THIS TITLE APPLIES UNLESS THE OTHER LAW IS MORE STRINGENT.

REVISOR'S NOTE: This section formerly was SG § 10–504.

The only changes are in style.

Defined term: "Public body" § 3–101

SUBTITLE 2. STATE OPEN MEETINGS LAW COMPLIANCE BOARD.

3–201. ESTABLISHED.

THERE IS A STATE OPEN MEETINGS LAW COMPLIANCE BOARD.

REVISOR'S NOTE: This section formerly was SG § 10–502.1.

No changes are made.

Defined term: "State" § 1–115

3–202. MEMBERSHIP.

(A) COMPOSITION; APPOINTMENT OF MEMBERS.

(1) THE BOARD CONSISTS OF THREE MEMBERS.

(2) AT LEAST ONE OF THE MEMBERS SHALL BE AN ATTORNEY ADMITTED TO THE MARYLAND BAR.

(3) THE GOVERNOR SHALL APPOINT THE MEMBERS WITH THE ADVICE AND CONSENT OF THE SENATE.

(B) CHAIR.

FROM AMONG THE MEMBERS OF THE BOARD, THE GOVERNOR SHALL APPOINT A CHAIR.

(C) TENURE.

(1) THE TERM OF A MEMBER IS 3 YEARS.

(2) THE TERMS OF MEMBERS ARE STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR MEMBERS OF THE BOARD ON OCTOBER 1, 2014.

(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.

(5) A MEMBER MAY NOT SERVE FOR MORE THAN TWO CONSECUTIVE 3–YEAR TERMS.

REVISOR'S NOTE: This section is new language derived without substantive change from former SG § 10–502.2.

In subsection (c)(2) of this section, the reference to terms being staggered as required by the terms provided for members on "October 1, 2014" is substituted for the former obsolete reference to terms being staggered as required by the terms provided on "July 1, 1991". This substitution reflects the effective date of this Act and is not intended to alter the term of any member of the Board. *See* § 6 of Ch. ___, Acts of 2014. The terms of the appointed members serving on October 1, 2014, end as follows: (1) one on June 30, 1999; (2) one on June 30, 2010; and (3) one on June 30, 2012.

Defined term: "Board" § 3–101

3–203. QUORUM; MEETINGS; COMPENSATION; STAFF.

(A) QUORUM.

A MAJORITY OF THE FULL AUTHORIZED MEMBERSHIP OF THE BOARD IS A QUORUM.

(B) MEETINGS.

THE BOARD SHALL DETERMINE THE TIMES AND PLACES OF ITS MEETINGS.

(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, AS PROVIDED IN THE STATE BUDGET.

(D) STAFF.

THE OFFICE OF THE ATTORNEY GENERAL SHALL PROVIDE STAFF FOR THE BOARD.

REVISOR'S NOTE: This section is new language derived without substantive change from former SG § 10–502.3.

In subsection (c)(1) of this section, the reference to receiving compensation "as a member of the Board" is added for clarity.

Defined terms: "Board" § 3–101
"State" § 1–115

3–204. DUTIES.

(A) COMPLAINTS ON VIOLATIONS; WRITTEN OPINION.

THE BOARD SHALL:

(1) RECEIVE, REVIEW, AND, SUBJECT TO § 3–207 OF THIS SUBTITLE, RESOLVE COMPLAINTS FROM ANY PERSON ALLEGING A VIOLATION OF THIS TITLE; AND

(2) ISSUE A WRITTEN OPINION AS TO WHETHER A VIOLATION HAS OCCURRED.

(B) COMPLAINTS ON PROSPECTIVE VIOLATIONS.

THE BOARD SHALL RECEIVE AND REVIEW ANY COMPLAINT ALLEGING A PROSPECTIVE VIOLATION OF THIS TITLE AS PROVIDED UNDER § 3–212 OF THIS SUBTITLE.

(C) COMPLIANCE; RECOMMENDATIONS.

THE BOARD SHALL:

(1) STUDY ONGOING COMPLIANCE WITH THIS TITLE BY PUBLIC BODIES; AND

(2) MAKE RECOMMENDATIONS TO THE GENERAL ASSEMBLY FOR IMPROVEMENTS IN THIS TITLE.

(D) EDUCATIONAL PROGRAMS.

THE BOARD, IN CONJUNCTION WITH THE OFFICE OF THE ATTORNEY GENERAL AND OTHER INTERESTED ORGANIZATIONS OR PERSONS, SHALL DEVELOP AND CONDUCT EDUCATIONAL PROGRAMS ON THE REQUIREMENTS OF THE OPEN MEETINGS LAW FOR THE STAFFS AND ATTORNEYS OF:

(1) PUBLIC BODIES;

(2) THE MARYLAND MUNICIPAL LEAGUE; AND

(3) THE MARYLAND ASSOCIATION OF COUNTIES.

(E) ANNUAL REPORT.

(1) ON OR BEFORE OCTOBER 1 OF EACH YEAR, THE BOARD SHALL SUBMIT AN ANNUAL REPORT TO THE GOVERNOR AND, SUBJECT TO § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY.

(2) THE REPORT SHALL:

(I) DESCRIBE THE ACTIVITIES OF THE BOARD;

(II) DESCRIBE THE OPINIONS OF THE BOARD;

(III) STATE THE NUMBER AND NATURE OF COMPLAINTS FILED WITH THE BOARD AND DISCUSS COMPLAINTS THAT REASONABLE NOTICE OF A MEETING WAS NOT GIVEN; AND

(IV) RECOMMEND ANY IMPROVEMENTS TO THIS TITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former SG § 10–502.4.

In subsection (a)(1) of this section, the phrase ", subject to § 3–207 of this subtitle," is added for clarity.

Defined terms: "Board" § 3–101
"Including" § 1–110
"Person" § 1–114
"Public body" § 3–101

3–205. COMPLAINT.

(A) IN GENERAL.

ANY PERSON MAY FILE A WRITTEN COMPLAINT WITH THE BOARD SEEKING A WRITTEN OPINION FROM THE BOARD ON THE APPLICATION OF THIS TITLE TO THE ACTION OF A PUBLIC BODY COVERED BY THIS TITLE.

(B) REQUIREMENTS.

THE COMPLAINT SHALL:

(1) IDENTIFY THE PUBLIC BODY THAT IS THE SUBJECT OF THE COMPLAINT;

(2) DESCRIBE THE ACTION OF THE PUBLIC BODY, THE DATE OF THE ACTION, AND THE CIRCUMSTANCES OF THE ACTION; AND

(3) BE SIGNED BY THE COMPLAINANT.

REVISOR'S NOTE: This section is new language derived without substantive change from former SG § 10–502.5(a) and (b).

In subsection (b)(1) of this section, the reference to the public body "that is the subject of the complaint" is added for clarity.

Defined terms: "Board" § 3–101
"Person" § 1–114
"Public body" § 3–101

3–206. RECEIPT OF COMPLAINT; RESPONSE.

(A) RECEIPT OF COMPLAINT.

EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, ON RECEIPT OF THE WRITTEN COMPLAINT, THE BOARD PROMPTLY SHALL:

(1) SEND THE COMPLAINT TO THE PUBLIC BODY IDENTIFIED IN THE COMPLAINT; AND

(2) REQUEST THAT A RESPONSE TO THE COMPLAINT BE SENT TO THE BOARD.

(B) RESPONSE REQUIRED.

(1) THE PUBLIC BODY SHALL FILE A WRITTEN RESPONSE TO THE COMPLAINT WITHIN 30 DAYS AFTER IT RECEIVES THE COMPLAINT.

(2) ON REQUEST OF THE BOARD, THE PUBLIC BODY SHALL INCLUDE WITH ITS WRITTEN RESPONSE TO THE COMPLAINT A COPY OF:

(I) THE NOTICE PROVIDED UNDER § 3–302 OF THIS TITLE;

(II) ANY WRITTEN STATEMENT MADE UNDER § 3–305(D)(2)(II) OF THIS TITLE; AND

(III) THE WRITTEN MINUTES AND ANY TAPE RECORDING MADE BY THE PUBLIC BODY UNDER § 3–306 OF THIS TITLE.

(3) THE BOARD SHALL MAINTAIN THE CONFIDENTIALITY OF THE WRITTEN MINUTES AND ANY TAPE RECORDING SUBMITTED BY A PUBLIC BODY THAT ARE SEALED IN ACCORDANCE WITH § 3–306(C)(3)(II) OF THIS TITLE.

(C) PROCEDURE FOR PUBLIC BODY NO LONGER EXISTING.

(1) IF THE PUBLIC BODY IDENTIFIED IN THE COMPLAINT NO LONGER EXISTS, THE BOARD PROMPTLY SHALL SEND THE COMPLAINT TO THE OFFICIAL OR ENTITY THAT APPOINTED THE PUBLIC BODY.

(2) THE OFFICIAL OR ENTITY THAT APPOINTED THE PUBLIC BODY SHALL COMPLY, TO THE EXTENT FEASIBLE, WITH THE REQUIREMENTS OF SUBSECTION (B) OF THIS SECTION.

(D) EFFECT OF FAILURE TO RESPOND.

IF A WRITTEN RESPONSE IS NOT RECEIVED WITHIN 45 DAYS AFTER THE NOTICE IS SENT, THE BOARD SHALL DECIDE THE CASE ON THE FACTS BEFORE THE BOARD.

REVISOR'S NOTE: This section is new language derived without substantive change from former SG § 10–502.5(c).

In subsection (b)(2)(iii) and (3) of this section, the references to "the written" minutes are added to conform to the terminology used in § 3–306 of this title.

In subsection (d) of this section, the reference to a response not being received "within 45 days after the notice is sent" is substituted for the former reference to a response not being received "after 45 days" for clarity.

Defined terms: "Board" § 3–101
"Public body" § 3–101

3–207. REVIEW AND WRITTEN OPINION BY BOARD.

(A) INFORMATION SUFFICIENT FOR DETERMINATION.

(1) THE BOARD SHALL REVIEW THE COMPLAINT AND ANY RESPONSE.

(2) IF THE INFORMATION IN THE COMPLAINT AND RESPONSE IS SUFFICIENT FOR MAKING A DETERMINATION, WITHIN 30 DAYS AFTER RECEIVING THE RESPONSE THE BOARD SHALL ISSUE A WRITTEN OPINION AS TO WHETHER A VIOLATION OF THIS TITLE HAS OCCURRED OR WILL OCCUR.

(B) INFORMAL CONFERENCE FOR ADDITIONAL INFORMATION.

(1) IF THE BOARD IS UNABLE TO REACH A DETERMINATION BASED ON THE WRITTEN SUBMISSIONS BEFORE IT, THE BOARD MAY SCHEDULE AN INFORMAL CONFERENCE TO HEAR FROM THE COMPLAINANT, THE PUBLIC BODY, OR ANY OTHER PERSON WITH RELEVANT INFORMATION ABOUT THE SUBJECT OF THE COMPLAINT.

(2) AN INFORMAL CONFERENCE SCHEDULED BY THE BOARD IS NOT A CONTESTED CASE WITHIN THE MEANING OF § 10–202(D) OF THE STATE GOVERNMENT ARTICLE.

(3) THE BOARD SHALL ISSUE A WRITTEN OPINION WITHIN 30 DAYS AFTER THE INFORMAL CONFERENCE.

(C) EXTENSION OF TIME FOR OPINION; BOARD UNABLE TO RESOLVE COMPLAINT.

(1) IF THE BOARD IS UNABLE TO RENDER AN OPINION ON A COMPLAINT WITHIN THE TIME PERIODS SPECIFIED IN SUBSECTION (A) OR (B) OF THIS SECTION, THE BOARD SHALL:

(I) STATE IN WRITING THE REASON FOR ITS INABILITY TO RENDER AN OPINION; AND

(II) ISSUE AN OPINION AS SOON AS POSSIBLE BUT NOT LATER THAN 90 DAYS AFTER THE FILING OF THE COMPLAINT.

(2) AN OPINION OF THE BOARD MAY STATE THAT THE BOARD IS UNABLE TO RESOLVE THE COMPLAINT.

(D) REQUIRED RECIPIENTS OF OPINION.

THE BOARD SHALL SEND A COPY OF THE WRITTEN OPINION TO THE COMPLAINANT AND THE AFFECTED PUBLIC BODY.

REVISOR'S NOTE: This section is new language derived without substantive change from former SG § 10–502.5(d) through (g).

Defined terms: "Board" § 3–101
"Person" § 1–114
"Public body" § 3–101

3–208. DISTRIBUTION OF OPINIONS.

(A) IN GENERAL.

THE BOARD MAY SEND TO ANY PUBLIC BODY IN THE STATE ANY WRITTEN OPINION THAT WILL PROVIDE THE PUBLIC BODY WITH GUIDANCE ON COMPLIANCE WITH THIS TITLE.

(B) ON REQUEST.

ON REQUEST, THE BOARD SHALL PROVIDE A COPY OF A WRITTEN OPINION TO ANY PERSON.

REVISOR'S NOTE: This section is new language derived without substantive change from former SG § 10–502.5(h).

In subsection (a) of this section, the former phrase "[o]n a periodic basis" is deleted as implicit.

In subsection (b) of this section, the reference to "the Board" is added for clarity.

Defined terms: "Board" § 3–101
"Person" § 1–114
"Public body" § 3–101
"State" § 1–115

3–209. OPINIONS ARE ADVISORY ONLY.

THE OPINIONS OF THE BOARD ARE ADVISORY ONLY.

REVISOR'S NOTE: This section formerly was SG § 10–502.5(i)(1).

No changes are made.

Defined term: "Board" § 3–101

3–210. LIMIT ON AUTHORITY OF BOARD.

EXCEPT AS PROVIDED IN § 3–211 OF THIS SUBTITLE, THE BOARD MAY NOT REQUIRE OR COMPEL ANY SPECIFIC ACTIONS BY A PUBLIC BODY.

REVISOR'S NOTE: This section formerly was SG § 10–502.5(i)(2).

The only changes are in style.

Defined terms: "Board" § 3–101
"Public body" § 3–101

3–211. ANNOUNCEMENT OF VIOLATION; SUMMARY OF OPINION.

(A) IF VIOLATION HAS OCCURRED.

IF THE BOARD DETERMINES THAT A VIOLATION OF THIS TITLE HAS OCCURRED:

(1) AT THE NEXT OPEN MEETING OF THE PUBLIC BODY AFTER THE BOARD HAS ISSUED ITS OPINION, A MEMBER OF THE PUBLIC BODY SHALL ANNOUNCE THE VIOLATION AND ORALLY SUMMARIZE THE OPINION; AND

(2) A MAJORITY OF THE MEMBERS OF THE PUBLIC BODY SHALL SIGN A COPY OF THE OPINION AND RETURN THE SIGNED COPY TO THE BOARD.

(B) REPRESENTATIVE MAY NOT PROVIDE ANNOUNCEMENT AND SUMMARY.

THE PUBLIC BODY MAY NOT DESIGNATE ITS COUNSEL OR ANOTHER REPRESENTATIVE TO PROVIDE THE ANNOUNCEMENT AND SUMMARY.

(C) LIMITATIONS ON COMPLIANCE.

COMPLIANCE BY A PUBLIC BODY OR A MEMBER OF A PUBLIC BODY WITH SUBSECTIONS (A) AND (B) OF THIS SECTION:

(1) IS NOT AN ADMISSION TO A VIOLATION OF THIS TITLE BY THE PUBLIC BODY; AND

(2) MAY NOT BE USED AS EVIDENCE IN A PROCEEDING CONDUCTED IN ACCORDANCE WITH § 3–401 OF THIS TITLE.

REVISOR'S NOTE: This section formerly was SG § 10–502.5(i)(3).

The only changes are in style.

Defined terms: "Board" § 3–101
"Public body" § 3–101

3–212. COMPLAINT PROCESS FOR PROSPECTIVE VIOLATION.

(A) IN GENERAL.

ON RECEIPT OF AN ORAL OR WRITTEN COMPLAINT BY ANY PERSON THAT A MEETING REQUIRED TO BE OPEN UNDER THIS TITLE WILL BE CLOSED IN VIOLATION OF THIS TITLE, THE BOARD, ACTING THROUGH ITS CHAIR, A DESIGNATED BOARD MEMBER, OR ANY AUTHORIZED STAFF PERSON AVAILABLE TO THE BOARD, MAY CONTACT THE PUBLIC BODY TO DETERMINE THE NATURE OF THE MEETING THAT WILL BE HELD AND THE REASON FOR THE EXPECTED CLOSURE OF THE MEETING.

(B) NOTICE OF POTENTIAL VIOLATION.

WHEN AT LEAST TWO MEMBERS OF THE BOARD CONCLUDE THAT A VIOLATION OF THIS TITLE MAY OCCUR IF THE CLOSED MEETING IS HELD, THE PERSON ACTING FOR THE BOARD IMMEDIATELY SHALL INFORM THE PUBLIC BODY OF THE POTENTIAL VIOLATION AND ANY LAWFUL MEANS THAT ARE AVAILABLE FOR CONDUCTING ITS MEETING TO ACHIEVE THE PURPOSES OF THE PUBLIC BODY.

(C) NOTICE TO COMPLAINANT.

THE PERSON ACTING FOR THE BOARD SHALL INFORM THE PERSON WHO FILED THE COMPLAINT UNDER SUBSECTION (A) OF THIS SECTION OF THE RESULT OF ANY EFFORT TO ACHIEVE COMPLIANCE WITH THIS TITLE UNDER SUBSECTION (B) OF THIS SECTION.

(D) WRITTEN REPORT.

THE PERSON ACTING FOR THE BOARD SHALL FILE A WRITTEN REPORT WITH THE BOARD DESCRIBING THE COMPLAINT, THE EFFORT TO ACHIEVE COMPLIANCE, AND THE RESULTS OF THE EFFORT.

(E) EFFECT OF COMPLAINT AND ACTION BY BOARD.

THE FILING OF A COMPLAINT UNDER SUBSECTION (A) OF THIS SECTION AND ACTION BY A PERSON ACTING FOR THE BOARD UNDER SUBSECTIONS (B), (C), AND (D) OF THIS SECTION MAY NOT PREVENT OR BAR THE BOARD FROM CONSIDERING AND ACTING ON A WRITTEN COMPLAINT FILED IN ACCORDANCE WITH § 3–205 OF THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former SG § 10–502.6.

Defined terms: "Board" § 3–101
"Person" § 1–114
"Public body" § 3–101

3–213. REQUIRED TRAINING.

(A) DESIGNATION OF INDIVIDUAL.

EACH PUBLIC BODY SHALL:

(1) DESIGNATE AT LEAST ONE INDIVIDUAL WHO IS AN EMPLOYEE, AN OFFICER, OR A MEMBER OF THE PUBLIC BODY TO RECEIVE TRAINING ON THE REQUIREMENTS OF THE OPEN MEETINGS LAW; AND

(2) FORWARD A LIST OF THE INDIVIDUALS DESIGNATED UNDER ITEM (1) OF THIS SUBSECTION TO THE BOARD.

(B) CLASS TO BE TAKEN.

WITHIN 90 DAYS AFTER BEING DESIGNATED UNDER SUBSECTION (A)(1) OF THIS SECTION, AN INDIVIDUAL SHALL COMPLETE:

(1) AN ONLINE CLASS ON THE REQUIREMENTS OF THE OPEN MEETINGS LAW OFFERED BY THE OFFICE OF THE ATTORNEY GENERAL AND THE UNIVERSITY OF MARYLAND'S INSTITUTE FOR GOVERNMENTAL SERVICE AND RESEARCH; OR

(2) A CLASS ON THE REQUIREMENTS OF THE OPEN MEETINGS LAW OFFERED BY THE MARYLAND ASSOCIATION OF COUNTIES OR THE MARYLAND MUNICIPAL LEAGUE THROUGH THE ACADEMY FOR EXCELLENCE IN LOCAL GOVERNANCE.

REVISOR'S NOTE: This section formerly was SG § 10–502.7.

No changes are made.

Defined terms: "Board" § 3–101
"Public body" § 3–101

SUBTITLE 3. OPEN MEETINGS REQUIREMENTS.

3–301. OPEN SESSIONS GENERALLY REQUIRED.

EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THIS TITLE, A PUBLIC BODY SHALL MEET IN OPEN SESSION.

REVISOR'S NOTE: This section formerly was SG § 10–505.

The only changes are in style.

Defined terms: "Meet" § 3–101
"Public body" § 3–101

3–302. NOTICE.

(A) REQUIRED.

BEFORE MEETING IN A CLOSED OR OPEN SESSION, A PUBLIC BODY SHALL GIVE REASONABLE ADVANCE NOTICE OF THE SESSION.

(B) FORM.

WHENEVER REASONABLE, A NOTICE UNDER THIS SECTION SHALL:

(1) BE IN WRITING;

(2) INCLUDE THE DATE, TIME, AND PLACE OF THE SESSION; AND

(3) IF APPROPRIATE, INCLUDE A STATEMENT THAT A PART OR ALL OF A MEETING MAY BE CONDUCTED IN CLOSED SESSION.

(C) METHOD.

A PUBLIC BODY MAY GIVE THE NOTICE UNDER THIS SECTION AS FOLLOWS:

(1) IF THE PUBLIC BODY IS A UNIT OF STATE GOVERNMENT, BY PUBLICATION IN THE MARYLAND REGISTER;

(2) BY DELIVERY TO REPRESENTATIVES OF THE NEWS MEDIA WHO REGULARLY REPORT ON SESSIONS OF THE PUBLIC BODY OR THE ACTIVITIES OF THE GOVERNMENT OF WHICH THE PUBLIC BODY IS A PART;

(3) IF THE PUBLIC BODY PREVIOUSLY HAS GIVEN PUBLIC NOTICE THAT THIS METHOD WILL BE USED:

(I) BY POSTING OR DEPOSITING THE NOTICE AT A CONVENIENT PUBLIC LOCATION AT OR NEAR THE PLACE OF THE SESSION; OR

(II) BY POSTING THE NOTICE ON AN INTERNET WEB SITE ORDINARILY USED BY THE PUBLIC BODY TO PROVIDE INFORMATION TO THE PUBLIC; OR

(4) BY ANY OTHER REASONABLE METHOD.

(D) COPY OF NOTICE.

A PUBLIC BODY SHALL KEEP A COPY OF A NOTICE PROVIDED UNDER THIS SECTION FOR AT LEAST 1 YEAR AFTER THE DATE OF THE SESSION.

REVISOR'S NOTE: This section formerly was SG § 10–506.

The only changes are in style.

For provisions on the requirements for holding meetings in closed session, *see* § 3–305 of this subtitle.

Defined terms: "Public body" § 3–101
"State" § 1–115

3–303. ATTENDANCE AT OPEN SESSION.

(A) IN GENERAL.

WHENEVER A PUBLIC BODY MEETS IN OPEN SESSION, THE GENERAL PUBLIC IS ENTITLED TO ATTEND.

(B) RULES.

A PUBLIC BODY SHALL ADOPT AND ENFORCE REASONABLE RULES REGARDING THE CONDUCT OF PERSONS ATTENDING ITS MEETINGS AND THE VIDEOTAPING, TELEVISING, PHOTOGRAPHING, BROADCASTING, OR RECORDING OF ITS MEETINGS.

(C) REMOVAL OF INDIVIDUALS.

(1) IF THE PRESIDING OFFICER DETERMINES THAT THE BEHAVIOR OF AN INDIVIDUAL IS DISRUPTING AN OPEN SESSION, THE PUBLIC BODY MAY HAVE THE INDIVIDUAL REMOVED.

(2) UNLESS THE PUBLIC BODY OR ITS MEMBERS OR AGENTS ACT MALICIOUSLY, THE PUBLIC BODY, MEMBERS, AND AGENTS ARE NOT LIABLE FOR HAVING AN INDIVIDUAL REMOVED UNDER THIS SUBSECTION.

REVISOR'S NOTE: This section formerly was SG § 10–507.

The only changes are in style.

Defined terms: "Meet" § 3–101
"Public body" § 3–101

3–304. INTERPRETERS.

(A) SCOPE OF SECTION.

THIS SECTION APPLIES ONLY TO THE EXECUTIVE AND LEGISLATIVE BRANCHES OF THE STATE GOVERNMENT.

(B) IN GENERAL.

ON REQUEST AND TO THE EXTENT FEASIBLE, A UNIT THAT HOLDS A PUBLIC HEARING SHALL PROVIDE A QUALIFIED INTERPRETER TO ASSIST DEAF INDIVIDUALS TO UNDERSTAND THE PROCEEDING.

(C) FORM OF REQUEST.

A REQUEST FOR AN INTERPRETER MUST BE SUBMITTED IN WRITING OR BY TELECOMMUNICATION AT LEAST 5 DAYS BEFORE THE PROCEEDING BEGINS.

(D) DETERMINATION OF FEASIBILITY.

THE UNIT SHALL DETERMINE, IN EACH INSTANCE, WHETHER IT IS FEASIBLE TO PROVIDE AN INTERPRETER.

REVISOR'S NOTE: This section is new language derived without substantive change from former SG § 10–507.1.

In subsection (c) of this section, the reference to a request "for an interpreter" is added for clarity.

In subsection (d) of this section, the former reference to the unit "involved" is deleted as surplusage.

Defined term: "State" § 1–115

3–305. CLOSED SESSIONS.

(A) CONSTRUCTION OF SECTION.

THE EXCEPTIONS IN SUBSECTION (B) OF THIS SECTION SHALL BE STRICTLY CONSTRUED IN FAVOR OF OPEN MEETINGS OF PUBLIC BODIES.

(B) IN GENERAL.

SUBJECT TO SUBSECTION (D) OF THIS SECTION, A PUBLIC BODY MAY MEET IN CLOSED SESSION OR ADJOURN AN OPEN SESSION TO A CLOSED SESSION ONLY TO:

(1) DISCUSS:

(I) THE APPOINTMENT, EMPLOYMENT, ASSIGNMENT, PROMOTION, DISCIPLINE, DEMOTION, COMPENSATION, REMOVAL, RESIGNATION, OR PERFORMANCE EVALUATION OF AN APPOINTEE, EMPLOYEE, OR OFFICIAL OVER WHOM IT HAS JURISDICTION; OR

(II) ANY OTHER PERSONNEL MATTER THAT AFFECTS ONE OR MORE SPECIFIC INDIVIDUALS;

(2) PROTECT THE PRIVACY OR REPUTATION OF AN INDIVIDUAL WITH RESPECT TO A MATTER THAT IS NOT RELATED TO PUBLIC BUSINESS;

(3) CONSIDER THE ACQUISITION OF REAL PROPERTY FOR A PUBLIC PURPOSE AND MATTERS DIRECTLY RELATED TO THE ACQUISITION;

(4) CONSIDER A MATTER THAT CONCERNS THE PROPOSAL FOR A BUSINESS OR INDUSTRIAL ORGANIZATION TO LOCATE, EXPAND, OR REMAIN IN THE STATE;

(5) CONSIDER THE INVESTMENT OF PUBLIC FUNDS;

(6) CONSIDER THE MARKETING OF PUBLIC SECURITIES;

(7) CONSULT WITH COUNSEL TO OBTAIN LEGAL ADVICE;

(8) CONSULT WITH STAFF, CONSULTANTS, OR OTHER INDIVIDUALS ABOUT PENDING OR POTENTIAL LITIGATION;

(9) CONDUCT COLLECTIVE BARGAINING NEGOTIATIONS OR CONSIDER MATTERS THAT RELATE TO THE NEGOTIATIONS;

(10) DISCUSS PUBLIC SECURITY, IF THE PUBLIC BODY DETERMINES THAT PUBLIC DISCUSSION WOULD CONSTITUTE A RISK TO THE PUBLIC OR TO PUBLIC SECURITY, INCLUDING:

(I) THE DEPLOYMENT OF FIRE AND POLICE SERVICES AND STAFF; AND

(II) THE DEVELOPMENT AND IMPLEMENTATION OF EMERGENCY PLANS;

(11) PREPARE, ADMINISTER, OR GRADE A SCHOLASTIC, LICENSING, OR QUALIFYING EXAMINATION;

(12) CONDUCT OR DISCUSS AN INVESTIGATIVE PROCEEDING ON ACTUAL OR POSSIBLE CRIMINAL CONDUCT;

(13) COMPLY WITH A SPECIFIC CONSTITUTIONAL, STATUTORY, OR JUDICIALLY IMPOSED REQUIREMENT THAT PREVENTS PUBLIC DISCLOSURES ABOUT A PARTICULAR PROCEEDING OR MATTER; OR

(14) DISCUSS, BEFORE A CONTRACT IS AWARDED OR BIDS ARE OPENED, A MATTER DIRECTLY RELATED TO A NEGOTIATING STRATEGY OR THE CONTENTS OF A BID OR PROPOSAL, IF PUBLIC DISCUSSION OR DISCLOSURE WOULD ADVERSELY IMPACT THE ABILITY OF THE PUBLIC BODY TO PARTICIPATE IN THE COMPETITIVE BIDDING OR PROPOSAL PROCESS.

(C) LIMITATION.

A PUBLIC BODY THAT MEETS IN CLOSED SESSION UNDER THIS SECTION MAY NOT DISCUSS OR ACT ON ANY MATTER NOT AUTHORIZED UNDER SUBSECTION (B) OF THIS SECTION.

(D) VOTE; WRITTEN STATEMENT.

(1) UNLESS A MAJORITY OF THE MEMBERS OF A PUBLIC BODY PRESENT AND VOTING VOTE IN FAVOR OF CLOSING THE SESSION, THE PUBLIC BODY MAY NOT MEET IN CLOSED SESSION.

(2) BEFORE A PUBLIC BODY MEETS IN CLOSED SESSION, THE PRESIDING OFFICER SHALL:

(I) CONDUCT A RECORDED VOTE ON THE CLOSING OF THE SESSION; AND

(II) MAKE A WRITTEN STATEMENT OF THE REASON FOR CLOSING THE MEETING, INCLUDING A CITATION OF THE AUTHORITY UNDER THIS SECTION, AND A LISTING OF THE TOPICS TO BE DISCUSSED.

(3) IF A PERSON OBJECTS TO THE CLOSING OF A SESSION, THE PUBLIC BODY SHALL SEND A COPY OF THE WRITTEN STATEMENT TO THE BOARD.

(4) THE WRITTEN STATEMENT SHALL BE A MATTER OF PUBLIC RECORD.

(5) A PUBLIC BODY SHALL KEEP A COPY OF THE WRITTEN STATEMENT FOR AT LEAST 1 YEAR AFTER THE DATE OF THE SESSION.

REVISOR'S NOTE: This section is new language derived without substantive change from former SG § 10–508.

In subsection (b)(3) of this section, the reference to matters directly related "to the acquisition" is substituted for the former reference to matters directly related "thereto" for clarity.

Defined terms: "Board" § 3–101
"Including" § 1–110
"Meet" § 3–101
"Person" § 1–114
"Public body" § 3–101
"State" § 1–115

3–306. MINUTES; TAPE RECORDINGS.

(A) SCOPE OF SECTION.

THIS SECTION DOES NOT:

(1) REQUIRE ANY CHANGE IN THE FORM OR CONTENT OF THE JOURNAL OF THE SENATE OF MARYLAND OR JOURNAL OF THE HOUSE OF DELEGATES OF MARYLAND; OR

(2) LIMIT THE MATTERS THAT A PUBLIC BODY MAY INCLUDE IN ITS MINUTES.

(B) MINUTES REQUIRED.

(1) SUBJECT TO PARAGRAPHS (2) AND (3) OF THIS SUBSECTION, AS SOON AS PRACTICABLE AFTER A PUBLIC BODY MEETS, IT SHALL HAVE WRITTEN MINUTES OF ITS SESSION PREPARED.

(2) A PUBLIC BODY NEED NOT PREPARE WRITTEN MINUTES OF AN OPEN SESSION IF:

(I) LIVE AND ARCHIVED VIDEO OR AUDIO STREAMING OF THE OPEN SESSION IS AVAILABLE; OR

(II) THE PUBLIC BODY VOTES ON LEGISLATION AND THE INDIVIDUAL VOTES TAKEN BY EACH MEMBER OF THE PUBLIC BODY WHO PARTICIPATES IN THE VOTING ARE POSTED PROMPTLY ON THE INTERNET.

(3) THE INFORMATION SPECIFIED UNDER PARAGRAPH (2) OF THIS SUBSECTION SHALL BE DEEMED THE MINUTES OF THE OPEN SESSION.

(C) CONTENT OF MINUTES; TAPE RECORDINGS.

(1) THE WRITTEN MINUTES SHALL REFLECT:

(I) EACH ITEM THAT THE PUBLIC BODY CONSIDERED;

(II) THE ACTION THAT THE PUBLIC BODY TOOK ON EACH ITEM; AND

(III) EACH VOTE THAT WAS RECORDED.

(2) IF A PUBLIC BODY MEETS IN CLOSED SESSION, THE WRITTEN MINUTES FOR ITS NEXT OPEN SESSION SHALL INCLUDE:

(I) A STATEMENT OF THE TIME, PLACE, AND PURPOSE OF THE CLOSED SESSION;

(II) A RECORD OF THE VOTE OF EACH MEMBER AS TO CLOSING THE SESSION;

(III) A CITATION OF THE AUTHORITY UNDER § 3–305 OF THIS SUBTITLE FOR CLOSING THE SESSION; AND

(IV) A LISTING OF THE TOPICS OF DISCUSSION, PERSONS PRESENT, AND EACH ACTION TAKEN DURING THE SESSION.

(3) (I) A SESSION MAY BE TAPE RECORDED BY A PUBLIC BODY.

(II) EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH (4) OF THIS SUBSECTION, THE WRITTEN MINUTES AND ANY TAPE RECORDING OF A CLOSED SESSION SHALL BE SEALED AND MAY NOT BE OPEN TO PUBLIC INSPECTION.

(4) THE WRITTEN MINUTES AND ANY TAPE RECORDING SHALL BE UNSEALED AND OPEN TO INSPECTION AS FOLLOWS:

(I) FOR A MEETING CLOSED UNDER § 3–305(B)(5) OF THIS SUBTITLE, WHEN THE PUBLIC BODY INVESTS THE FUNDS;

(II) FOR A MEETING CLOSED UNDER § 3–305(B)(6) OF THIS SUBTITLE, WHEN THE PUBLIC SECURITIES BEING DISCUSSED HAVE BEEN MARKETED; OR

(III) ON REQUEST OF A PERSON OR ON THE PUBLIC BODY'S OWN INITIATIVE, IF A MAJORITY OF THE MEMBERS OF THE PUBLIC BODY PRESENT AND VOTING VOTE IN FAVOR OF UNSEALING THE WRITTEN MINUTES AND ANY TAPE RECORDING.

(D) ACCESS.

EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, WRITTEN MINUTES OF A PUBLIC BODY ARE PUBLIC RECORDS AND SHALL BE OPEN TO PUBLIC INSPECTION DURING ORDINARY BUSINESS HOURS.

(E) RETENTION OF MINUTES AND TAPE RECORDINGS.

A PUBLIC BODY SHALL KEEP A COPY OF THE WRITTEN MINUTES OF EACH SESSION AND ANY TAPE RECORDING MADE UNDER SUBSECTION (B)(2)(I) OR (C)(3)(I) OF THIS SECTION FOR AT LEAST 1 YEAR AFTER THE DATE OF THE SESSION.

REVISOR'S NOTE: This section formerly was SG § 10–509.

In subsection (c)(2)(iii) of this section, the more specific reference to "§ 3–305 of this subtitle" is substituted for the former reference to "this subtitle", which is now revised as this title, for consistency with § 3–305(d)(2)(ii) of this subtitle.

The only other changes are in style.

The General Provisions Article Review Committee notes, for consideration by the General Assembly, that although the references to "tape recordings" in this section may be outdated, such recordings are still used. The General Assembly may wish to include additional methods of recording meetings to reflect modern technology.

Defined terms: "Meet" § 3–101
"Person" § 1–114
"Public body" § 3–101

SUBTITLE 4. ENFORCEMENT.

3–401. IN GENERAL.

(A) SCOPE OF SECTION.

(1) THIS SECTION DOES NOT APPLY TO THE ACTION OF:

(I) APPROPRIATING PUBLIC FUNDS;

(II) IMPOSING A TAX; OR

(III) PROVIDING FOR THE ISSUANCE OF BONDS, NOTES, OR OTHER EVIDENCES OF PUBLIC OBLIGATION.

(2) THIS SECTION DOES NOT AUTHORIZE A COURT TO VOID AN ACTION OF A PUBLIC BODY BECAUSE OF ANY VIOLATION OF THIS TITLE BY ANOTHER PUBLIC BODY.

(3) THIS SECTION DOES NOT AFFECT OR PREVENT THE USE OF ANY OTHER AVAILABLE REMEDIES.

(B) PETITION AUTHORIZED.

(1) IF A PUBLIC BODY FAILS TO COMPLY WITH § 3–301, § 3–302, § 3–303, § 3–305, OR § 3–306(C) OF THIS TITLE, ANY PERSON MAY FILE WITH A CIRCUIT COURT THAT HAS VENUE A PETITION THAT ASKS THE COURT TO:

(I) DETERMINE THE APPLICABILITY OF THOSE SECTIONS;

(II) REQUIRE THE PUBLIC BODY TO COMPLY WITH THOSE SECTIONS; OR

(III) VOID THE ACTION OF THE PUBLIC BODY.

(2) IF A VIOLATION OF § 3–302, § 3–305, OR § 3–306(C) OF THIS TITLE IS ALLEGED, THE PERSON SHALL FILE THE PETITION WITHIN 45 DAYS AFTER THE DATE OF THE ALLEGED VIOLATION.

(3) IF A VIOLATION OF § 3–301 OR § 3–303 OF THIS TITLE IS ALLEGED, THE PERSON SHALL FILE THE PETITION WITHIN 45 DAYS AFTER THE PUBLIC BODY INCLUDES IN THE MINUTES OF AN OPEN SESSION THE INFORMATION SPECIFIED IN § 3–306(C)(2) OF THIS TITLE.

(4) IF A WRITTEN COMPLAINT IS FILED WITH THE BOARD IN ACCORDANCE WITH § 3–205 OF THIS TITLE, THE TIME BETWEEN THE FILING OF THE COMPLAINT AND THE MAILING OF THE WRITTEN OPINION TO THE COMPLAINANT AND THE AFFECTED PUBLIC BODY UNDER § 3–207(D) OF THIS TITLE MAY NOT BE INCLUDED IN DETERMINING WHETHER A CLAIM AGAINST A PUBLIC BODY IS BARRED BY THE STATUTE OF LIMITATIONS SET FORTH IN PARAGRAPHS (2) AND (3) OF THIS SUBSECTION.

(C) PRESUMPTION.

IN AN ACTION UNDER THIS SECTION:

(1) IT IS PRESUMED THAT THE PUBLIC BODY DID NOT VIOLATE ANY PROVISION OF THIS TITLE; AND

(2) THE COMPLAINANT HAS THE BURDEN OF PROVING THE VIOLATION.

(D) AUTHORITY OF COURT.

A COURT MAY:

(1) CONSOLIDATE A PROCEEDING UNDER THIS SECTION WITH ANOTHER PROCEEDING UNDER THIS SECTION OR AN APPEAL FROM THE ACTION OF THE PUBLIC BODY;

(2) ISSUE AN INJUNCTION;

(3) DETERMINE THE APPLICABILITY OF THIS TITLE TO THE DISCUSSIONS OR DECISIONS OF PUBLIC BODIES;

(4) DECLARE THE FINAL ACTION OF A PUBLIC BODY VOID IF THE COURT FINDS THAT THE PUBLIC BODY WILLFULLY FAILED TO COMPLY WITH §

3–301, § 3–302, § 3–303, OR § 3–306(C) OF THIS TITLE AND THAT NO OTHER REMEDY IS ADEQUATE;

(5) AS PART OF ITS JUDGMENT:

(I) ASSESS AGAINST ANY PARTY REASONABLE COUNSEL FEES AND OTHER LITIGATION EXPENSES THAT THE PARTY WHO PREVAILS IN THE ACTION INCURRED; AND

(II) REQUIRE A REASONABLE BOND TO ENSURE THE PAYMENT OF THE ASSESSMENT; AND

(6) GRANT ANY OTHER APPROPRIATE RELIEF.

(E) PETITION.

(1) A PERSON MAY FILE A PETITION UNDER THIS SECTION WITHOUT SEEKING AN OPINION FROM THE BOARD.

(2) THE FAILURE OF A PERSON TO FILE A COMPLAINT WITH THE BOARD IS NOT A GROUND FOR THE COURT TO STAY OR DISMISS A PETITION.

REVISOR'S NOTE: This section is new language derived without substantive change from former SG § 10–510.

In subsection (a)(1) of this section, the reference to "imposing" a tax is substituted for the former reference to "levying" a tax to conform to the terminology used in recently revised articles of the Code.

Subsection (a) of this section makes no changes to the scope of the enforcement provisions of the Open Meetings Law, which exempts certain governmental actions, such as appropriating public funds, and which provides that "[t]his section does not alter or prevent the use of any other available remedies". The committee calls to the attention of the General Assembly the decision of the Court of Appeals in *Avara v. Baltimore News American*, 292 Md. 543 (1982), where the "other remedies" proviso did not authorize a court to issue a declaratory judgment regarding a violation of the Act if the government action involved the appropriation of public funds. *Id.* at 553.

Defined terms: "Board" § 3–101
"Person" § 1–114
"Public body" § 3–101

3–402. PENALTY.

(A) IN GENERAL.

IN ACCORDANCE WITH § 3–401 OF THIS SUBTITLE, A PUBLIC BODY THAT WILLFULLY MEETS WITH KNOWLEDGE THAT THE MEETING IS BEING HELD IN VIOLATION OF THIS SUBTITLE IS SUBJECT TO A CIVIL PENALTY NOT TO EXCEED:

(1) $250 FOR THE FIRST VIOLATION; AND

(2) $1,000 FOR EACH SUBSEQUENT VIOLATION THAT OCCURS WITHIN 3 YEARS AFTER THE FIRST VIOLATION.

(B) DETERMINATION OF FINE.

WHEN DETERMINING THE AMOUNT OF A FINE UNDER SUBSECTION (A) OF THIS SECTION, THE COURT SHALL CONSIDER THE FINANCIAL RESOURCES AVAILABLE TO THE PUBLIC BODY AND THE ABILITY OF THE PUBLIC BODY TO PAY THE FINE.

REVISOR'S NOTE: This section formerly was SG § 10–511.

The only changes are in style.

Defined terms: "Meet" § 3–101
"Public body" § 3–101

SUBTITLE 5. SHORT TITLE.

3–501. SHORT TITLE.

THIS TITLE MAY BE CITED AS THE OPEN MEETINGS ACT.

REVISOR'S NOTE: This section formerly was SG § 10–512.

The only changes are in style.

TITLE 4. PUBLIC INFORMATION ACT.

SUBTITLE 1. DEFINITIONS; GENERAL PROVISIONS.

4–101. DEFINITIONS.

(A) IN GENERAL.

IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection formerly was SG § 10–611(a).

The only changes are in style.

(B) APPLICANT.

"APPLICANT" MEANS A PERSON OR GOVERNMENTAL UNIT THAT ASKS TO INSPECT A PUBLIC RECORD.

REVISOR'S NOTE: This subsection formerly was SG § 10–611(b).

No changes are made.

Defined terms: "Person" § 1–114
"Public record" § 4–101

(C) CUSTODIAN.

"CUSTODIAN" MEANS:

(1) THE OFFICIAL CUSTODIAN; OR

(2) ANY OTHER AUTHORIZED INDIVIDUAL WHO HAS PHYSICAL CUSTODY AND CONTROL OF A PUBLIC RECORD.

REVISOR'S NOTE: This subsection formerly was SG § 10–611(c).

No changes are made.

Defined terms: "Official custodian" § 4–101
"Public record" § 4–101

(D) OFFICIAL CUSTODIAN.

"OFFICIAL CUSTODIAN" MEANS AN OFFICER OR EMPLOYEE OF THE STATE OR OF A POLITICAL SUBDIVISION WHO IS RESPONSIBLE FOR KEEPING A PUBLIC RECORD, WHETHER OR NOT THE OFFICER OR EMPLOYEE HAS PHYSICAL CUSTODY AND CONTROL OF THE PUBLIC RECORD.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former SG § 10–611(e).

Defined terms: "Political subdivision" § 4–101

"Public record" § 4–101
"State" § 1–115

(E) PERSON IN INTEREST.

"PERSON IN INTEREST" MEANS:

(1) A PERSON OR GOVERNMENTAL UNIT THAT IS THE SUBJECT OF A PUBLIC RECORD OR A DESIGNEE OF THE PERSON OR GOVERNMENTAL UNIT;

(2) IF THE PERSON HAS A LEGAL DISABILITY, THE PARENT OR LEGAL REPRESENTATIVE OF THE PERSON; OR

(3) AS TO REQUESTS FOR CORRECTION OF CERTIFICATES OF DEATH UNDER § 5–310(D)(2) OF THE HEALTH – GENERAL ARTICLE, THE SPOUSE, ADULT CHILD, PARENT, ADULT SIBLING, GRANDPARENT, OR GUARDIAN OF THE PERSON OF THE DECEASED AT THE TIME OF THE DECEASED'S DEATH.

REVISOR'S NOTE: This subsection formerly was SG § 10–611(f).

No changes are made.

Defined terms: "Person" § 1–114
"Public record" § 4–101

(F) PERSONAL INFORMATION.

(1) "PERSONAL INFORMATION" MEANS INFORMATION THAT IDENTIFIES AN INDIVIDUAL.

(2) EXCEPT AS PROVIDED IN § 4–355 OF THIS TITLE, "PERSONAL INFORMATION" INCLUDES AN INDIVIDUAL'S:

(I) NAME;

(II) ADDRESS;

(III) DRIVER'S LICENSE NUMBER OR ANY OTHER IDENTIFICATION NUMBER;

(IV) MEDICAL OR DISABILITY INFORMATION;

(V) PHOTOGRAPH OR COMPUTER–GENERATED IMAGE;

(VI) SOCIAL SECURITY NUMBER; AND

(VII) TELEPHONE NUMBER.

(3) "PERSONAL INFORMATION" DOES NOT INCLUDE AN INDIVIDUAL'S:

(I) DRIVER'S STATUS;

(II) DRIVING OFFENSES;

(III) FIVE–DIGIT ZIP CODE; OR

(IV) INFORMATION ON VEHICULAR ACCIDENTS.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former SG § 10–611(g).

Defined term: "Includes" § 1–110

(G) POLITICAL SUBDIVISION.

"POLITICAL SUBDIVISION" MEANS:

(1) A COUNTY;

(2) A MUNICIPAL CORPORATION;

(3) AN UNINCORPORATED TOWN;

(4) A SCHOOL DISTRICT; OR

(5) A SPECIAL DISTRICT.

REVISOR'S NOTE: This subsection formerly was SG § 10–601.

In this subsection, the former references to a municipal corporation, an unincorporated town, a school district, and a special district "in the State" are deleted as implicit.

The only other changes are in style.

The General Provisions Article Review Committee notes, for consideration by the General Assembly, that the reference in item (3) of

this subsection to "an unincorporated town" is unclear. According to the Maryland Public Information Act Manual, "it is not clear what, if any, entities it encompasses". Maryland Public Information Act Manual, 12th ed., October 2011, pp. 1–3. The term was in the original enactment of the Public Information Act but was not defined. The General Assembly may wish to delete the reference to avoid any confusion.

Defined term: "County" § 1–107

(H) PUBLIC RECORD.

(1) "PUBLIC RECORD" MEANS THE ORIGINAL OR ANY COPY OF ANY DOCUMENTARY MATERIAL THAT:

(I) IS MADE BY A UNIT OR AN INSTRUMENTALITY OF THE STATE OR OF A POLITICAL SUBDIVISION OR RECEIVED BY THE UNIT OR INSTRUMENTALITY IN CONNECTION WITH THE TRANSACTION OF PUBLIC BUSINESS; AND

(II) IS IN ANY FORM, INCLUDING:

1. A CARD;

2. A COMPUTERIZED RECORD;

3. CORRESPONDENCE;

4. A DRAWING;

5. FILM OR MICROFILM;

6. A FORM;

7. A MAP;

8. A PHOTOGRAPH OR PHOTOSTAT;

9. A RECORDING; OR

10. A TAPE.

(2) "PUBLIC RECORD" INCLUDES A DOCUMENT THAT LISTS THE SALARY OF AN EMPLOYEE OF A UNIT OR AN INSTRUMENTALITY OF THE STATE OR OF A POLITICAL SUBDIVISION.

(3) "PUBLIC RECORD" DOES NOT INCLUDE A DIGITAL PHOTOGRAPHIC IMAGE OR SIGNATURE OF AN INDIVIDUAL, OR THE ACTUAL STORED DATA OF THE IMAGE OR SIGNATURE, RECORDED BY THE MOTOR VEHICLE ADMINISTRATION.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former SG § 10–611(h).

In paragraphs (1)(i) and (2) of this subsection, the former references to the State "government" are deleted as surplusage.

In paragraph (3) of this subsection, the reference to the actual stored data "of the image or signature" is substituted for the former reference to the actual stored data "thereof" for clarity.

Defined terms: "Includes", "including" § 1–110
"Political subdivision" § 4–101
"State" § 1–115

4–102. LIMITATION ON RECORDS.

THE STATE, A POLITICAL SUBDIVISION, OR A UNIT OF THE STATE OR OF A POLITICAL SUBDIVISION MAY KEEP ONLY THE INFORMATION ABOUT A PERSON THAT:

(1) IS NEEDED BY THE STATE, THE POLITICAL SUBDIVISION, OR THE UNIT TO ACCOMPLISH A GOVERNMENTAL PURPOSE THAT IS AUTHORIZED OR REQUIRED TO BE ACCOMPLISHED UNDER:

(I) A STATUTE OR ANY OTHER LEGISLATIVE MANDATE;

(II) AN EXECUTIVE ORDER OF THE GOVERNOR;

(III) AN EXECUTIVE ORDER OF THE CHIEF EXECUTIVE OF A LOCAL JURISDICTION; OR

(IV) A JUDICIAL RULE; AND

(2) IS RELEVANT TO ACCOMPLISHMENT OF THE PURPOSE.

REVISOR'S NOTE: This section formerly was SG § 10–602.

No changes are made.

Defined terms: "Person" § 1–114
"Political subdivision" § 4–101
"State" § 1–115

4–103. GENERAL RIGHT TO INFORMATION.

(A) IN GENERAL.

ALL PERSONS ARE ENTITLED TO HAVE ACCESS TO INFORMATION ABOUT THE AFFAIRS OF GOVERNMENT AND THE OFFICIAL ACTS OF PUBLIC OFFICIALS AND EMPLOYEES.

(B) GENERAL CONSTRUCTION.

TO CARRY OUT THE RIGHT SET FORTH IN SUBSECTION (A) OF THIS SECTION, UNLESS AN UNWARRANTED INVASION OF THE PRIVACY OF A PERSON IN INTEREST WOULD RESULT, THIS TITLE SHALL BE CONSTRUED IN FAVOR OF ALLOWING INSPECTION OF A PUBLIC RECORD, WITH THE LEAST COST AND LEAST DELAY TO THE PERSON OR GOVERNMENTAL UNIT THAT REQUESTS THE INSPECTION.

(C) GENERAL ASSEMBLY.

THIS TITLE DOES NOT PRECLUDE A MEMBER OF THE GENERAL ASSEMBLY FROM ACQUIRING THE NAMES AND ADDRESSES OF AND STATISTICAL INFORMATION ABOUT INDIVIDUALS WHO ARE LICENSED OR, AS REQUIRED BY A STATE LAW, REGISTERED.

REVISOR'S NOTE: This section formerly was SG § 10–612.

The only changes are in style.

Defined terms: "Person" § 1–114
"Person in interest" § 4–101
"Public record" § 4–101
"State" § 1–115

SUBTITLE 2. INSPECTION OF PUBLIC RECORDS.

4–201. INSPECTION OF PUBLIC RECORDS.

(A) IN GENERAL.

(1) EXCEPT AS OTHERWISE PROVIDED BY LAW, A CUSTODIAN SHALL ALLOW A PERSON OR GOVERNMENTAL UNIT TO INSPECT ANY PUBLIC RECORD AT ANY REASONABLE TIME.

(2) INSPECTION OR COPYING OF A PUBLIC RECORD MAY BE DENIED ONLY TO THE EXTENT PROVIDED UNDER THIS TITLE.

(B) RULES OR REGULATIONS.

TO PROTECT PUBLIC RECORDS AND TO PREVENT UNNECESSARY INTERFERENCE WITH OFFICIAL BUSINESS, EACH OFFICIAL CUSTODIAN SHALL ADOPT REASONABLE RULES OR REGULATIONS THAT, SUBJECT TO THIS TITLE, GOVERN TIMELY PRODUCTION AND INSPECTION OF A PUBLIC RECORD.

(C) DESIGNATION OF SPECIFIC TYPES OF RECORDS.

EACH OFFICIAL CUSTODIAN SHALL CONSIDER WHETHER TO:

(1) DESIGNATE TYPES OF PUBLIC RECORDS OF THE GOVERNMENTAL UNIT THAT ARE TO BE MADE AVAILABLE TO ANY APPLICANT IMMEDIATELY ON REQUEST; AND

(2) MAINTAIN A CURRENT LIST OF THE TYPES OF PUBLIC RECORDS THAT HAVE BEEN DESIGNATED AS AVAILABLE TO ANY APPLICANT IMMEDIATELY ON REQUEST.

REVISOR'S NOTE: This section formerly was SG § 10–613.

In subsection (c)(1) of this section, the former reference to "specific" types of public records is deleted as surplusage.

The only other changes are in style.

The General Provisions Article Review Committee notes, for consideration by the General Assembly, that in subsection (c) of this section, item (2), which allows for a list of types of available records to be maintained, is likely meant to be a mandatory requirement if records are designated as available under item (1). As the subsection is written now, the maintaining of a list is merely authorized. The General Assembly may wish to clarify this provision.

Defined terms: "Applicant" § 4–101
"Custodian" § 4–101
"Official custodian" § 4–101
"Person" § 1–114

"Public record" § 4–101

4–202. APPLICATION TO INSPECT PUBLIC RECORD REQUIRED.

(A) IN GENERAL.

EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A PERSON OR GOVERNMENTAL UNIT THAT WISHES TO INSPECT A PUBLIC RECORD SHALL SUBMIT A WRITTEN APPLICATION TO THE CUSTODIAN.

(B) EXCEPTIONS.

A PERSON OR GOVERNMENTAL UNIT NEED NOT SUBMIT A WRITTEN APPLICATION TO THE CUSTODIAN IF:

(1) THE PERSON OR GOVERNMENTAL UNIT SEEKS TO INSPECT A PUBLIC RECORD LISTED BY AN OFFICIAL CUSTODIAN IN ACCORDANCE WITH § 4–201(C)(2) OF THIS SUBTITLE; OR

(2) THE CUSTODIAN WAIVES THE REQUIREMENT FOR A WRITTEN APPLICATION.

(C) APPLICATION SUBMITTED TO NONCUSTODIAN.

IF THE INDIVIDUAL TO WHOM THE APPLICATION IS SUBMITTED IS NOT THE CUSTODIAN OF THE PUBLIC RECORD, WITHIN 10 WORKING DAYS AFTER RECEIVING THE APPLICATION, THE INDIVIDUAL SHALL GIVE THE APPLICANT:

(1) NOTICE OF THAT FACT; AND

(2) IF KNOWN:

(I) THE NAME OF THE CUSTODIAN; AND

(II) THE LOCATION OR POSSIBLE LOCATION OF THE PUBLIC RECORD.

(D) NONEXISTENT RECORD.

WHEN AN APPLICANT REQUESTS TO INSPECT A PUBLIC RECORD AND A CUSTODIAN DETERMINES THAT THE RECORD DOES NOT EXIST, THE CUSTODIAN SHALL NOTIFY THE APPLICANT OF THIS DETERMINATION:

(1) IF THE CUSTODIAN HAS REACHED THIS DETERMINATION ON INITIAL REVIEW OF THE APPLICATION, IMMEDIATELY; OR

(2) IF THE CUSTODIAN HAS REACHED THIS DETERMINATION AFTER A SEARCH FOR POTENTIALLY RESPONSIVE PUBLIC RECORDS, PROMPTLY AFTER THE SEARCH IS COMPLETED BUT NOT MORE THAN 30 DAYS AFTER RECEIVING THE APPLICATION.

REVISOR'S NOTE: This section formerly was SG § 10–614(a).

The only changes are in style.

Defined terms: "Applicant" § 4–101
"Custodian" § 4–101
"Official custodian" § 4–101
"Person" § 1–114
"Public record" § 4–101

4–203. TIMELINESS OF DECISION ON APPLICATION.

(A) IN GENERAL.

THE CUSTODIAN SHALL GRANT OR DENY THE APPLICATION PROMPTLY, BUT NOT MORE THAN 30 DAYS AFTER RECEIVING THE APPLICATION.

(B) PROCEDURE FOR APPROVAL.

A CUSTODIAN WHO APPROVES THE APPLICATION SHALL PRODUCE THE PUBLIC RECORD IMMEDIATELY OR WITHIN A REASONABLE PERIOD THAT IS NEEDED TO RETRIEVE THE PUBLIC RECORD, BUT NOT MORE THAN 30 DAYS AFTER RECEIPT OF THE APPLICATION.

(C) PROCEDURE FOR DENIAL.

A CUSTODIAN WHO DENIES THE APPLICATION SHALL:

(1) IMMEDIATELY NOTIFY THE APPLICANT;

(2) WITHIN 10 WORKING DAYS, GIVE THE APPLICANT A WRITTEN STATEMENT THAT GIVES:

(I) THE REASONS FOR THE DENIAL;

(II) THE LEGAL AUTHORITY FOR THE DENIAL; AND

(III) NOTICE OF THE REMEDIES UNDER THIS TITLE FOR REVIEW OF THE DENIAL; AND

(3) ALLOW INSPECTION OF ANY PART OF THE RECORD THAT IS SUBJECT TO INSPECTION AND IS REASONABLY SEVERABLE.

(D) EXTENSION BY CONSENT.

WITH THE CONSENT OF THE APPLICANT, ANY TIME LIMIT IMPOSED UNDER THIS SECTION MAY BE EXTENDED FOR NOT MORE THAN 30 DAYS.

REVISOR'S NOTE: This section formerly was SG § 10–614(b).

The only changes are in style.

Defined terms: "Applicant" § 4–101
"Custodian" § 4–101
"Public record" § 4–101

4–204. IMPROPER CONDITIONS ON GRANTING APPLICATION.

(A) IN GENERAL.

EXCEPT TO THE EXTENT THAT THE GRANT OF AN APPLICATION IS RELATED TO THE STATUS OF THE APPLICANT AS A PERSON IN INTEREST AND EXCEPT AS REQUIRED BY OTHER LAW OR REGULATION, THE CUSTODIAN MAY NOT CONDITION THE GRANT OF AN APPLICATION ON:

(1) THE IDENTITY OF THE APPLICANT;

(2) ANY ORGANIZATIONAL OR OTHER AFFILIATION OF THE APPLICANT; OR

(3) A DISCLOSURE BY THE APPLICANT OF THE PURPOSE FOR AN APPLICATION.

(B) EXCEPTIONS.

THIS SECTION DOES NOT PRECLUDE AN OFFICIAL CUSTODIAN FROM CONSIDERING THE IDENTITY OF THE APPLICANT, ANY ORGANIZATIONAL OR OTHER AFFILIATION OF THE APPLICANT, OR THE PURPOSE FOR THE APPLICATION IF:

(1) THE APPLICANT CHOOSES TO PROVIDE THIS INFORMATION FOR THE CUSTODIAN TO CONSIDER IN MAKING A DETERMINATION UNDER SUBTITLE 3, PART IV OF THIS TITLE;

(2) THE APPLICANT HAS REQUESTED A WAIVER OF FEES UNDER § 4–206(E) OF THIS SUBTITLE; OR

(3) THE IDENTITY OF THE APPLICANT, ANY ORGANIZATIONAL OR OTHER AFFILIATION OF THE APPLICANT, OR THE PURPOSE FOR THE APPLICATION IS MATERIAL TO THE DETERMINATION OF THE OFFICIAL CUSTODIAN IN ACCORDANCE WITH § 4–206(E)(2) OF THIS SUBTITLE.

(C) REQUEST FOR IDENTITY ALLOWED.

CONSISTENTLY WITH THIS SECTION, AN OFFICIAL MAY REQUEST THE IDENTITY OF AN APPLICANT FOR THE PURPOSE OF CONTACTING THE APPLICANT.

REVISOR'S NOTE: This section formerly was SG § 10–614(c).

The only changes are in style.

Defined terms: "Applicant" § 4–101
"Custodian" § 4–101
"Official custodian" § 4–101
"Person in interest" § 4–101

4–205. COPIES; PRINTOUTS; PHOTOGRAPHS; ELECTRONIC FORMAT.

(A) "METADATA" DEFINED.

(1) IN THIS SECTION, "METADATA" MEANS INFORMATION, GENERALLY NOT VISIBLE WHEN AN ELECTRONIC DOCUMENT IS PRINTED, DESCRIBING THE HISTORY, TRACKING, OR MANAGEMENT OF THE ELECTRONIC DOCUMENT, INCLUDING INFORMATION ABOUT DATA IN THE ELECTRONIC DOCUMENT THAT DESCRIBES HOW, WHEN, AND BY WHOM THE DATA IS COLLECTED, CREATED, ACCESSED, OR MODIFIED AND HOW THE DATA IS FORMATTED.

(2) "METADATA" DOES NOT INCLUDE:

(I) A SPREADSHEET FORMULA;

(II) A DATABASE FIELD;

(III) AN EXTERNALLY OR INTERNALLY LINKED FILE; OR

(IV) A REFERENCE TO AN EXTERNAL FILE OR A HYPERLINK.

(B) IN GENERAL.

EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, AN APPLICANT WHO IS AUTHORIZED TO INSPECT A PUBLIC RECORD MAY HAVE:

(1) A COPY, PRINTOUT, OR PHOTOGRAPH OF THE PUBLIC RECORD; OR

(2) IF THE CUSTODIAN DOES NOT HAVE FACILITIES TO REPRODUCE THE PUBLIC RECORD, ACCESS TO THE PUBLIC RECORD TO MAKE THE COPY, PRINTOUT, OR PHOTOGRAPH.

(C) PUBLIC RECORD IN ELECTRONIC FORMAT.

(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE CUSTODIAN OF A PUBLIC RECORD SHALL PROVIDE AN APPLICANT WITH A COPY OF THE PUBLIC RECORD IN A SEARCHABLE AND ANALYZABLE ELECTRONIC FORMAT IF:

(I) THE PUBLIC RECORD IS IN A SEARCHABLE AND ANALYZABLE ELECTRONIC FORMAT;

(II) THE APPLICANT REQUESTS A COPY OF THE PUBLIC RECORD IN A SEARCHABLE AND ANALYZABLE ELECTRONIC FORMAT; AND

(III) THE CUSTODIAN IS ABLE TO PROVIDE A COPY OF THE PUBLIC RECORD, IN WHOLE OR IN PART, IN A SEARCHABLE AND ANALYZABLE ELECTRONIC FORMAT THAT DOES NOT DISCLOSE:

1. CONFIDENTIAL OR PROTECTED INFORMATION FOR WHICH THE CUSTODIAN IS REQUIRED TO DENY INSPECTION IN ACCORDANCE WITH SUBTITLE 3, PARTS I THROUGH III OF THIS TITLE; OR

2. INFORMATION FOR WHICH A CUSTODIAN HAS CHOSEN TO DENY INSPECTION IN ACCORDANCE WITH SUBTITLE 3, PART IV OF THIS TITLE.

(2) THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION IS NOT REQUIRED TO PROVIDE AN APPLICANT WITH A COPY OF THE PUBLIC RECORD IN A SEARCHABLE AND ANALYZABLE ELECTRONIC FORMAT IF THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION HAS PROVIDED THE PUBLIC RECORD TO A CONTRACTOR THAT WILL PROVIDE THE APPLICANT A COPY OF THE PUBLIC RECORD IN A SEARCHABLE AND ANALYZABLE ELECTRONIC FORMAT FOR A REASONABLE COST.

(3) A CUSTODIAN MAY REMOVE METADATA FROM AN ELECTRONIC DOCUMENT BEFORE PROVIDING THE ELECTRONIC DOCUMENT TO AN APPLICANT BY:

(I) USING A SOFTWARE PROGRAM OR FUNCTION; OR

(II) CONVERTING THE ELECTRONIC DOCUMENT INTO A DIFFERENT SEARCHABLE AND ANALYZABLE FORMAT.

(4) THIS SUBSECTION MAY NOT BE CONSTRUED TO:

(I) REQUIRE THE CUSTODIAN TO RECONSTRUCT A PUBLIC RECORD IN AN ELECTRONIC FORMAT IF THE CUSTODIAN NO LONGER HAS THE PUBLIC RECORD AVAILABLE IN AN ELECTRONIC FORMAT;

(II) ALLOW A CUSTODIAN TO MAKE A PUBLIC RECORD AVAILABLE ONLY IN AN ELECTRONIC FORMAT;

(III) REQUIRE A CUSTODIAN TO CREATE, COMPILE, OR PROGRAM A NEW PUBLIC RECORD; OR

(IV) REQUIRE A CUSTODIAN TO RELEASE AN ELECTRONIC RECORD IN A FORMAT THAT WOULD JEOPARDIZE OR COMPROMISE THE SECURITY OR INTEGRITY OF THE ORIGINAL RECORD OR OF ANY PROPRIETARY SOFTWARE IN WHICH THE RECORD IS MAINTAINED.

(5) IF A PUBLIC RECORD EXISTS IN A SEARCHABLE AND ANALYZABLE ELECTRONIC FORMAT, THE ACT OF A CUSTODIAN PROVIDING A PORTION OF THE PUBLIC RECORD IN A SEARCHABLE AND ANALYZABLE ELECTRONIC FORMAT DOES NOT CONSTITUTE CREATING A NEW PUBLIC RECORD.

(D) CONDITIONS FOR MAKING A COPY, PRINTOUT, OR PHOTOGRAPH; SCHEDULE.

(1) THE COPY, PRINTOUT, OR PHOTOGRAPH SHALL BE MADE:

(I) WHILE THE PUBLIC RECORD IS IN THE CUSTODY OF THE CUSTODIAN; AND

(II) WHENEVER PRACTICABLE, WHERE THE PUBLIC RECORD IS KEPT.

(2) THE OFFICIAL CUSTODIAN MAY SET A REASONABLE TIME SCHEDULE TO MAKE COPIES, PRINTOUTS, OR PHOTOGRAPHS.

(E) COPY OF JUDGMENT.

AN APPLICANT MAY NOT HAVE A COPY OF A JUDGMENT UNTIL:

(1) THE TIME FOR APPEAL EXPIRES; OR

(2) IF AN APPEAL IS NOTED, THE APPEAL IS DISMISSED OR ADJUDICATED.

REVISOR'S NOTE: This section formerly was SG §§ 10–620 and 10–611(d).

The only changes are in style.

The General Provisions Article Review Committee notes, for consideration by the General Assembly, that subsection (e) of this section, which temporarily restricts the ability to copy a judgment, appears to be inconsistent with the Maryland Rules of Procedure regarding access to court records. Specifically, Maryland Rule 16–1002(a) provides for a presumption of openness in stating that "[c]ourt records maintained by a court or by another judicial agency are presumed to be open to the public for inspection. Except as otherwise provided by or pursuant to these Rules, the custodian of a court record shall permit a person, upon personal appearance in the office of the custodian during normal business hours, to inspect such a record". Maryland Rule 16–1003 generally allows copying of court records and Maryland Rule 16–1005 makes restrictive provisions of the Maryland Public Information Act inapplicable to case records unless expressly incorporated into the Rules. Under Article IV, § 18(a) of the Maryland Constitution, a rule of the Court of Appeals can supersede a State statute, subject to the General Assembly's authority to override the rule change. A decision to take such an action is a substantive one, within the power of the General Assembly. Just like a 2011 reenactment of this source law along with an unrelated substantive change, Chapter 436, Acts of 2011, this revision of the source law for

subsection (e) of this section is not intended to supersede any conflicting rule of the Court of Appeals.

Defined terms: "Applicant" § 4–101
"Custodian" § 4–101
"Including" § 1–110
"Official custodian" § 4–101
"Public record" § 4–101

4–206. FEES.

(A) "REASONABLE FEE" DEFINED.

IN THIS SECTION, "REASONABLE FEE" MEANS A FEE BEARING A REASONABLE RELATIONSHIP TO THE RECOVERY OF ACTUAL COSTS INCURRED BY A GOVERNMENTAL UNIT.

(B) CHARGING REASONABLE FEE.

SUBJECT TO THE LIMITATIONS IN THIS SECTION, THE OFFICIAL CUSTODIAN MAY CHARGE AN APPLICANT A REASONABLE FEE FOR THE SEARCH FOR, PREPARATION OF, AND REPRODUCTION OF A PUBLIC RECORD.

(C) LIMITATION ON SEARCH AND PREPARATION FEE.

THE OFFICIAL CUSTODIAN MAY NOT CHARGE A FEE FOR THE FIRST 2 HOURS THAT ARE NEEDED TO SEARCH FOR A PUBLIC RECORD AND PREPARE IT FOR INSPECTION.

(D) LIMITATION ON REPRODUCTION FEE.

(1) IF ANOTHER LAW SETS A FEE FOR A COPY, AN ELECTRONIC COPY, A PRINTOUT, OR A PHOTOGRAPH OF A PUBLIC RECORD, THAT LAW APPLIES.

(2) THE OFFICIAL CUSTODIAN OTHERWISE MAY CHARGE ANY REASONABLE FEE FOR MAKING OR SUPERVISING THE MAKING OF A COPY, AN ELECTRONIC COPY, A PRINTOUT, OR A PHOTOGRAPH OF A PUBLIC RECORD.

(3) THE OFFICIAL CUSTODIAN MAY CHARGE FOR THE COST OF PROVIDING FACILITIES FOR THE REPRODUCTION OF THE PUBLIC RECORD IF THE CUSTODIAN DID NOT HAVE THE FACILITIES.

(E) WAIVER.

THE OFFICIAL CUSTODIAN MAY WAIVE A FEE UNDER THIS SECTION IF:

(1) THE APPLICANT ASKS FOR A WAIVER; AND

(2) AFTER CONSIDERATION OF THE ABILITY OF THE APPLICANT TO PAY THE FEE AND OTHER RELEVANT FACTORS, THE OFFICIAL CUSTODIAN DETERMINES THAT THE WAIVER WOULD BE IN THE PUBLIC INTEREST.

REVISOR'S NOTE: This section formerly was SG § 10–621.

No changes are made.

Defined terms: "Applicant" § 4–101
"Official custodian" § 4–101
"Public record" § 4–101

SUBTITLE 3. DENIALS OF INSPECTION.

PART I. IN GENERAL.

4–301. IN GENERAL.

A CUSTODIAN SHALL DENY INSPECTION OF A PUBLIC RECORD OR ANY PART OF A PUBLIC RECORD IF:

(1) BY LAW, THE PUBLIC RECORD IS PRIVILEGED OR CONFIDENTIAL; OR

(2) THE INSPECTION WOULD BE CONTRARY TO:

(I) A STATE STATUTE;

(II) A FEDERAL STATUTE OR A REGULATION THAT IS ISSUED UNDER THE STATUTE AND HAS THE FORCE OF LAW;

(III) THE RULES ADOPTED BY THE COURT OF APPEALS; OR

(IV) AN ORDER OF A COURT OF RECORD.

REVISOR'S NOTE: This section formerly was SG § 10–615.

No changes are made.

Defined terms: "Custodian" § 4–101
"Public record" § 4–101
"State" § 1–115

4–302. RESERVED.

4–303. RESERVED.

PART II. REQUIRED DENIALS FOR SPECIFIC RECORDS.

4–304. IN GENERAL.

UNLESS OTHERWISE PROVIDED BY LAW, A CUSTODIAN SHALL DENY INSPECTION OF A PUBLIC RECORD, AS PROVIDED IN THIS PART.

REVISOR'S NOTE: This section formerly was SG § 10–616(a).

The only changes are in style.

Defined terms: "Custodian" § 4–101
"Public record" § 4–101

4–305. ADOPTION RECORDS.

A CUSTODIAN SHALL DENY INSPECTION OF PUBLIC RECORDS THAT RELATE TO THE ADOPTION OF AN INDIVIDUAL.

REVISOR'S NOTE: This section formerly was SG § 10–616(b).

No changes are made.

Defined terms: "Custodian" § 4–101
"Public record" § 4–101

4–306. HOSPITAL RECORDS.

A CUSTODIAN SHALL DENY INSPECTION OF A HOSPITAL RECORD THAT:

(1) RELATES TO:

(I) MEDICAL ADMINISTRATION;

(II) STAFF;

(III) MEDICAL CARE; OR

(IV) OTHER MEDICAL INFORMATION; AND

(2) CONTAINS GENERAL OR SPECIFIC INFORMATION ABOUT ONE OR MORE INDIVIDUALS.

REVISOR'S NOTE: This section formerly was SG § 10–616(j).

The only changes are in style.

Defined term: "Custodian" § 4–101

4–307. WELFARE RECORDS.

A CUSTODIAN SHALL DENY INSPECTION OF PUBLIC RECORDS THAT RELATE TO WELFARE FOR AN INDIVIDUAL.

REVISOR'S NOTE: This section formerly was SG § 10–616(c).

No changes are made.

Defined terms: "Custodian" § 4–101
"Public record" § 4–101

4–308. LIBRARY RECORDS.

(A) IN GENERAL.

SUBJECT TO SUBSECTION (B) OF THIS SECTION, A CUSTODIAN SHALL PROHIBIT INSPECTION, USE, OR DISCLOSURE OF A CIRCULATION RECORD OF A PUBLIC LIBRARY OR ANY OTHER ITEM, COLLECTION, OR GROUPING OF INFORMATION ABOUT AN INDIVIDUAL THAT:

(1) IS MAINTAINED BY A LIBRARY;

(2) CONTAINS AN INDIVIDUAL'S NAME OR THE IDENTIFYING NUMBER, SYMBOL, OR OTHER IDENTIFYING PARTICULAR ASSIGNED TO THE INDIVIDUAL; AND

(3) IDENTIFIES THE USE A PATRON MAKES OF THAT LIBRARY'S MATERIALS, SERVICES, OR FACILITIES.

(B) PERMISSIBLE INSPECTION.

A CUSTODIAN SHALL ALLOW INSPECTION, USE, OR DISCLOSURE OF A CIRCULATION RECORD OF A PUBLIC LIBRARY ONLY:

(1) IN CONNECTION WITH THE LIBRARY'S ORDINARY BUSINESS; AND

(2) FOR THE PURPOSES FOR WHICH THE RECORD WAS CREATED.

REVISOR'S NOTE: This section formerly was SG § 10–616(e).

The only changes are in style.

Defined term: "Custodian" § 4–101

4–309. GIFTS OF LIBRARY, ARCHIVAL, OR MUSEUM MATERIALS.

A CUSTODIAN SHALL DENY INSPECTION OF LIBRARY, ARCHIVAL, OR MUSEUM MATERIAL GIVEN BY A PERSON TO THE EXTENT THAT THE PERSON WHO MADE THE GIFT LIMITS DISCLOSURE AS A CONDITION OF THE GIFT.

REVISOR'S NOTE: This section formerly was SG § 10–616(f).

No changes are made.

Defined terms: "Custodian" § 4–101
"Person" § 1–114

4–310. LETTER OF REFERENCE.

A CUSTODIAN SHALL DENY INSPECTION OF A LETTER OF REFERENCE.

REVISOR'S NOTE: This section formerly was SG § 10–616(d).

No changes are made.

Defined term: "Custodian" § 4–101

4–311. PERSONNEL RECORDS.

(A) IN GENERAL.

SUBJECT TO SUBSECTION (B) OF THIS SECTION, A CUSTODIAN SHALL DENY INSPECTION OF A PERSONNEL RECORD OF AN INDIVIDUAL, INCLUDING AN APPLICATION, A PERFORMANCE RATING, OR SCHOLASTIC ACHIEVEMENT INFORMATION.

(B) REQUIRED INSPECTIONS.

A CUSTODIAN SHALL ALLOW INSPECTION BY:

(1) THE PERSON IN INTEREST; OR

(2) AN ELECTED OR APPOINTED OFFICIAL WHO SUPERVISES THE WORK OF THE INDIVIDUAL.

REVISOR'S NOTE: This section formerly was SG § 10–616(i).

The only changes are in style.

Defined terms: "Custodian" § 4–101
"Including" § 1–110
"Person in interest" § 4–101

4–312. RETIREMENT RECORDS.

(A) IN GENERAL.

SUBJECT TO SUBSECTIONS (B) THROUGH (E) OF THIS SECTION, A CUSTODIAN SHALL DENY INSPECTION OF A RETIREMENT RECORD FOR AN INDIVIDUAL.

(B) REQUIRED INSPECTIONS.

(1) A CUSTODIAN SHALL ALLOW INSPECTION:

(I) BY THE PERSON IN INTEREST;

(II) BY THE APPOINTING AUTHORITY OF THE INDIVIDUAL;

(III) AFTER THE DEATH OF THE INDIVIDUAL, BY A BENEFICIARY, A PERSONAL REPRESENTATIVE, OR ANY OTHER PERSON WHO SATISFIES THE ADMINISTRATORS OF THE RETIREMENT AND PENSION SYSTEMS THAT THE PERSON HAS A VALID CLAIM TO THE BENEFITS OF THE INDIVIDUAL;

(IV) BY ANY LAW ENFORCEMENT AGENCY TO OBTAIN THE HOME ADDRESS OF A RETIRED EMPLOYEE OF THE AGENCY WHEN CONTACT WITH THE RETIRED EMPLOYEE IS DOCUMENTED TO BE NECESSARY FOR OFFICIAL AGENCY BUSINESS; AND

(V) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, BY THE EMPLOYEES OF A COUNTY UNIT THAT, BY COUNTY LAW, IS REQUIRED TO AUDIT THE RETIREMENT RECORDS FOR CURRENT OR FORMER EMPLOYEES OF THE COUNTY.

(2) (I) THE INFORMATION OBTAINED DURING AN INSPECTION UNDER PARAGRAPH (1)(V) OF THIS SUBSECTION IS CONFIDENTIAL.

(II) THE COUNTY UNIT AND ITS EMPLOYEES MAY NOT DISCLOSE ANY INFORMATION OBTAINED DURING AN INSPECTION UNDER PARAGRAPH (1)(V) OF THIS SUBSECTION THAT WOULD IDENTIFY A PERSON IN INTEREST.

(C) REQUIRED RELEASE OF INFORMATION.

A CUSTODIAN SHALL ALLOW RELEASE OF INFORMATION AS PROVIDED IN § 21–504 OR § 21–505 OF THE STATE PERSONNEL AND PENSIONS ARTICLE.

(D) REQUIRED STATEMENTS AND DISCLOSURES.

(1) ON REQUEST, A CUSTODIAN SHALL STATE WHETHER THE INDIVIDUAL RECEIVES A RETIREMENT OR PENSION ALLOWANCE.

(2) ON WRITTEN REQUEST, A CUSTODIAN SHALL:

(I) DISCLOSE THE AMOUNT OF THE PART OF A RETIREMENT ALLOWANCE THAT IS DERIVED FROM EMPLOYER CONTRIBUTIONS AND THAT IS GRANTED TO:

1. A RETIRED ELECTED OR APPOINTED OFFICIAL OF THE STATE;

2. A RETIRED ELECTED OFFICIAL OF A POLITICAL SUBDIVISION; OR

3. A RETIRED APPOINTED OFFICIAL OF A POLITICAL SUBDIVISION WHO IS A MEMBER OF A SEPARATE SYSTEM FOR ELECTED OR APPOINTED OFFICIALS; AND

(II) DISCLOSE THE BENEFIT FORMULA AND THE VARIABLES FOR CALCULATING THE RETIREMENT ALLOWANCE OF:

1. A CURRENT ELECTED OR APPOINTED OFFICIAL OF THE STATE;

2. A CURRENT ELECTED OFFICIAL OF A POLITICAL SUBDIVISION; OR

3. A CURRENT APPOINTED OFFICIAL OF A POLITICAL SUBDIVISION WHO IS A MEMBER OF A SEPARATE SYSTEM FOR ELECTED OR APPOINTED OFFICIALS.

(E) REQUIRED DISCLOSURE IN ANNE ARUNDEL COUNTY.

(1) THIS SUBSECTION APPLIES ONLY TO ANNE ARUNDEL COUNTY.

(2) ON WRITTEN REQUEST, A CUSTODIAN OF RETIREMENT RECORDS SHALL DISCLOSE:

(I) THE TOTAL AMOUNT OF THE PART OF A PENSION OR RETIREMENT ALLOWANCE THAT IS DERIVED FROM EMPLOYER CONTRIBUTIONS AND THAT IS GRANTED TO A RETIRED ELECTED OR APPOINTED OFFICIAL OF THE COUNTY;

(II) THE TOTAL AMOUNT OF THE PART OF A PENSION OR RETIREMENT ALLOWANCE THAT IS DERIVED FROM EMPLOYEE CONTRIBUTIONS AND THAT IS GRANTED TO A RETIRED ELECTED OR APPOINTED OFFICIAL OF THE COUNTY IF THE RETIRED ELECTED OR APPOINTED OFFICIAL CONSENTS TO THE DISCLOSURE;

(III) THE BENEFIT FORMULA AND THE VARIABLES FOR CALCULATING THE RETIREMENT ALLOWANCE OF A CURRENT ELECTED OR APPOINTED OFFICIAL OF THE COUNTY; AND

(IV) THE AMOUNT OF THE EMPLOYEE CONTRIBUTIONS PLUS INTEREST ATTRIBUTABLE TO A CURRENT ELECTED OR APPOINTED OFFICIAL OF THE COUNTY IF THE CURRENT ELECTED OR APPOINTED OFFICIAL CONSENTS TO THE DISCLOSURE.

(3) A CUSTODIAN OF RETIREMENT RECORDS SHALL MAINTAIN A LIST OF THOSE ELECTED OR APPOINTED OFFICIALS OF THE COUNTY WHO HAVE CONSENTED TO THE DISCLOSURE OF INFORMATION UNDER PARAGRAPH (2)(II) OR (IV) OF THIS SUBSECTION.

REVISOR'S NOTE: This section formerly was SG § 10–616(g).

In subsection (b)(2)(ii) of this section, the reference to the information "obtained during an inspection under paragraph (1)(v) of this subsection" is added for clarity.

In subsection (e)(1) of this section, the word "only" is added for clarity.

The only other changes are in style.

Defined terms: "County" § 1–107
"Custodian" § 4–101
"Person" § 1–114
"Person in interest" § 4–101
"Personal representative" § 1–102
"Political subdivision" § 4–101
"State" § 1–115

4–313. STUDENT RECORDS.

(A) IN GENERAL.

SUBJECT TO SUBSECTIONS (B) AND (C) OF THIS SECTION, A CUSTODIAN SHALL DENY INSPECTION OF A SCHOOL DISTRICT RECORD ABOUT THE HOME ADDRESS, HOME TELEPHONE NUMBER, BIOGRAPHY, FAMILY, PHYSIOLOGY, RELIGION, ACADEMIC ACHIEVEMENT, OR PHYSICAL OR MENTAL ABILITY OF A STUDENT.

(B) REQUIRED INSPECTIONS.

A CUSTODIAN SHALL ALLOW INSPECTION BY:

(1) THE PERSON IN INTEREST; OR

(2) AN ELECTED OR APPOINTED OFFICIAL WHO SUPERVISES THE STUDENT.

(C) PERMISSIBLE INSPECTIONS.

(1) A CUSTODIAN MAY ALLOW INSPECTION OF THE HOME ADDRESS OR HOME TELEPHONE NUMBER OF A STUDENT OF A PUBLIC SCHOOL BY:

(I) AN ORGANIZATION OF PARENTS, TEACHERS, STUDENTS, OR FORMER STUDENTS, OR ANY COMBINATION OF THOSE GROUPS, OF THE SCHOOL;

(II) AN ORGANIZATION OR A FORCE OF THE MILITARY;

(III) A PERSON ENGAGED BY A SCHOOL OR BOARD OF EDUCATION TO CONFIRM A HOME ADDRESS OR HOME TELEPHONE NUMBER;

(IV) A REPRESENTATIVE OF A COMMUNITY COLLEGE IN THE STATE; OR

(V) THE MARYLAND HIGHER EDUCATION COMMISSION.

(2) THE MARYLAND HIGHER EDUCATION COMMISSION OR A PERSON, AN ORGANIZATION, OR A COMMUNITY COLLEGE THAT OBTAINS INFORMATION UNDER THIS SUBSECTION MAY NOT:

(I) USE THIS INFORMATION FOR A COMMERCIAL PURPOSE; OR

(II) DISCLOSE THIS INFORMATION TO ANOTHER PERSON, ORGANIZATION, OR COMMUNITY COLLEGE.

(3) WHEN A CUSTODIAN ALLOWS INSPECTION UNDER THIS SUBSECTION, THE CUSTODIAN SHALL NOTIFY THE MARYLAND HIGHER EDUCATION COMMISSION, PERSON, ORGANIZATION, OR COMMUNITY COLLEGE OF THE PROHIBITIONS UNDER PARAGRAPH (2) OF THIS SUBSECTION REGARDING USE AND DISCLOSURE OF THIS INFORMATION.

REVISOR'S NOTE: This section formerly was SG § 10–616(k).

The only changes are in style.

Defined terms: "Custodian" § 4–101
"Person" § 1–114
"Person in interest" § 4–101
"State" § 1–115

4–314. HIGHER EDUCATION INVESTMENT CONTRACTS.

(A) IN GENERAL.

SUBJECT TO SUBSECTION (B) OF THIS SECTION, A CUSTODIAN SHALL DENY INSPECTION OF ANY RECORD DISCLOSING:

(1) THE NAME OF AN ACCOUNT HOLDER OR A QUALIFIED BENEFICIARY OF A PREPAID CONTRACT UNDER TITLE 18, SUBTITLE 19 OF THE EDUCATION ARTICLE; OR

(2) THE NAME OF AN ACCOUNT HOLDER OR A QUALIFIED DESIGNATED BENEFICIARY OF AN INVESTMENT ACCOUNT UNDER TITLE 18, SUBTITLE 19A OF THE EDUCATION ARTICLE.

(B) REQUIRED INSPECTIONS; PERMISSIBLE RELEASE OF INFORMATION.

A CUSTODIAN:

(1) SHALL ALLOW INSPECTION BY A PERSON IN INTEREST; AND

(2) MAY RELEASE INFORMATION TO AN ELIGIBLE INSTITUTION OF HIGHER EDUCATION DESIGNATED:

(I) BY AN ACCOUNT HOLDER OF A PREPAID CONTRACT OR A QUALIFIED BENEFICIARY UNDER TITLE 18, SUBTITLE 19 OF THE EDUCATION ARTICLE; OR

(II) BY AN ACCOUNT HOLDER OR A QUALIFIED DESIGNATED BENEFICIARY UNDER TITLE 18, SUBTITLE 19A OF THE EDUCATION ARTICLE.

REVISOR'S NOTE: This section formerly was SG § 10–616(n).

In subsection (b)(2)(i) of this section, the reference to "Subtitle 19" of the Education Article is substituted for the former reference to "Subtitle 19A" of the Education Article for accuracy and to correct an apparent incorrect cross–reference in the original enactment (Chapters 381 and 382 of the Acts of 2003).

The only other changes are in style.

Defined terms: "Custodian" § 4–101
"Person in interest" § 4–101

4–315. TRAFFIC ACCIDENT REPORTS; CRIMINAL CHARGING DOCUMENTS; TRAFFIC CITATIONS.

(A) SCOPE OF SECTION.

THIS SECTION APPLIES ONLY TO PUBLIC RECORDS THAT RELATE TO:

(1) POLICE REPORTS OF TRAFFIC ACCIDENTS;

(2) CRIMINAL CHARGING DOCUMENTS BEFORE SERVICE ON THE DEFENDANT NAMED IN THE DOCUMENT; OR

(3) TRAFFIC CITATIONS FILED IN THE MARYLAND AUTOMATED TRAFFIC SYSTEM.

(B) DENIAL OF INSPECTION REQUIRED.

A CUSTODIAN SHALL DENY INSPECTION OF A RECORD DESCRIBED IN SUBSECTION (A) OF THIS SECTION TO ANY OF THE FOLLOWING PERSONS WHO REQUEST INSPECTION OF RECORDS TO SOLICIT OR MARKET LEGAL SERVICES:

(1) AN ATTORNEY WHO IS NOT AN ATTORNEY OF RECORD OF A PERSON NAMED IN THE RECORD; OR

(2) A PERSON WHO IS EMPLOYED BY, RETAINED BY, ASSOCIATED WITH, OR ACTING ON BEHALF OF AN ATTORNEY DESCRIBED IN THIS SUBSECTION.

REVISOR'S NOTE: This section formerly was SG § 10–616(h).

The only changes are in style.

The General Provisions Article Review Committee notes, for consideration by the General Assembly, that in 1992 U.S. District Court Judge Nickerson granted an injunction when subsection (a)(3) of this section was challenged as unconstitutional, finding that the provision violated First Amendment rights. *Ficker, et al v. Utz,* No. 1:92–cv–01466–WMN (N.D. Md. Sept. 16, 1993). Since the *Ficker* decision, the legal landscape may have changed. In *Los Angeles Police Department v. United Reporting Publishing Corp.*, 528 U.S. 32 (1999), the United States Supreme Court rejected a facial First Amendment challenge to a California law which denied access to the arrestee's addresses to those intending to use this information to sell a product or service. The court noted that "[t]his is not a case in which the government is prohibiting a speaker from conveying information that the speaker already possesses". *Id.* at 40. Rather, "what we have before us is nothing more than a government denial of access to information in its possession. California could decide not to give out arrestee information at all without violating the First Amendment." *Id.*

Whether the 1999 Supreme Court decision could now be used to defend a prohibition such as that found in subsection (a)(3) of this section is an open question. But in any event, on the basis of this new authority, the committee does not recommend deletion of this presently inoperative provision. Nevertheless, the Maryland law is presently enjoined and revision of this provision is not intended to reinstate subsection (a)(3) as an operative provision of law. The decision whether to revise this provision is substantive and within the power of the General Assembly.

Defined terms: "Custodian" § 4–101
"Person" § 1–114
"Public record" § 4–101

4–316. ARREST WARRANTS AND CHARGING DOCUMENTS.

(A) IN GENERAL.

EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION AND SUBJECT TO SUBSECTION (E) OF THIS SECTION, UNLESS OTHERWISE ORDERED BY THE COURT, FILES AND RECORDS OF THE COURT PERTAINING TO AN ARREST WARRANT ISSUED UNDER MARYLAND RULE 4–212(D)(1) OR (2) AND THE CHARGING DOCUMENT ON WHICH THE ARREST WARRANT WAS ISSUED MAY NOT BE OPEN TO INSPECTION UNTIL:

(1) THE ARREST WARRANT HAS BEEN SERVED AND A RETURN OF SERVICE HAS BEEN FILED IN ACCORDANCE WITH MARYLAND RULE 4–212(G); OR

(2) 90 DAYS HAVE ELAPSED SINCE THE ARREST WARRANT WAS ISSUED.

(B) GRAND JURY INDICTMENTS OR CONSPIRACY INVESTIGATIONS.

EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION AND SUBJECT TO SUBSECTION (E) OF THIS SECTION, UNLESS OTHERWISE ORDERED BY THE COURT, FILES AND RECORDS OF THE COURT PERTAINING TO AN ARREST WARRANT ISSUED IN ACCORDANCE WITH A GRAND JURY INDICTMENT OR CONSPIRACY INVESTIGATION AND THE CHARGING DOCUMENT ON WHICH THE ARREST WARRANT WAS ISSUED MAY NOT BE OPEN TO INSPECTION UNTIL ALL ARREST WARRANTS FOR ANY CO–CONSPIRATORS HAVE BEEN SERVED AND ALL RETURNS OF SERVICE HAVE BEEN FILED IN ACCORDANCE WITH MARYLAND RULE 4–212(G).

(C) FILES AND RECORDS OPEN TO INSPECTION.

SUBJECT TO SUBSECTIONS (A) AND (B) OF THIS SECTION, UNLESS SEALED UNDER MARYLAND RULE 4–201(D), THE FILES AND RECORDS SHALL BE OPEN TO INSPECTION.

(D) RELEASE OF INFORMATION TO MOTOR VEHICLE ADMINISTRATION.

(1) THE NAME, ADDRESS, BIRTH DATE, DRIVER'S LICENSE NUMBER, SEX, HEIGHT, AND WEIGHT OF AN INDIVIDUAL CONTAINED IN AN ARREST WARRANT ISSUED UNDER MARYLAND RULE 4–212(D)(1) OR (2) OR ISSUED IN ACCORDANCE WITH A GRAND JURY INDICTMENT OR CONSPIRACY INVESTIGATION MAY BE RELEASED TO THE MOTOR VEHICLE ADMINISTRATION FOR USE BY THE ADMINISTRATION FOR PURPOSES OF § 13–406.1 OR § 16–204 OF THE TRANSPORTATION ARTICLE.

(2) EXCEPT AS PROVIDED IN PARAGRAPH (1) OF THIS SUBSECTION, INFORMATION IN A CHARGING DOCUMENT THAT IDENTIFIES AN INDIVIDUAL MAY NOT BE RELEASED TO THE MOTOR VEHICLE ADMINISTRATION.

(E) CONSTRUCTION OF SECTION.

SUBSECTIONS (A) AND (B) OF THIS SECTION MAY NOT BE CONSTRUED TO PROHIBIT:

(1) THE RELEASE OF STATISTICAL INFORMATION CONCERNING UNSERVED ARREST WARRANTS;

(2) THE RELEASE OF INFORMATION BY A STATE'S ATTORNEY OR PEACE OFFICER CONCERNING AN UNSERVED ARREST WARRANT AND THE CHARGING DOCUMENT ON WHICH THE ARREST WARRANT WAS ISSUED;

(3) INSPECTION OF FILES AND RECORDS OF A COURT CONCERNING AN UNSERVED ARREST WARRANT AND THE CHARGING DOCUMENT ON WHICH THE ARREST WARRANT WAS ISSUED BY:

(I) A JUDICIAL OFFICER;

(II) ANY AUTHORIZED COURT PERSONNEL;

(III) A STATE'S ATTORNEY;

(IV) A PEACE OFFICER;

(V) A CORRECTIONAL OFFICER WHO IS AUTHORIZED BY LAW TO SERVE AN ARREST WARRANT;

(VI) A BAIL BONDSMAN, SURETY INSURER, OR SURETY WHO EXECUTES BAIL BONDS WHO EXECUTED A BAIL BOND FOR THE INDIVIDUAL WHO IS SUBJECT TO ARREST UNDER THE ARREST WARRANT;

(VII) AN ATTORNEY AUTHORIZED BY THE INDIVIDUAL WHO IS SUBJECT TO ARREST UNDER THE ARREST WARRANT;

(VIII) THE DEPARTMENT OF JUVENILE SERVICES; OR

(IX) A FEDERAL, STATE, OR LOCAL CRIMINAL JUSTICE AGENCY DESCRIBED UNDER TITLE 10, SUBTITLE 2 OF THE CRIMINAL PROCEDURE ARTICLE; OR

(4) THE RELEASE OF INFORMATION BY THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES OR THE DEPARTMENT OF JUVENILE SERVICES TO NOTIFY A VICTIM UNDER § 11–507 OF THE CRIMINAL PROCEDURE ARTICLE.

REVISOR'S NOTE: This section formerly was SG § 10–616(q).

In subsection (d)(1) of this section, the former phrase "[s]ubject to subparagraph (ii) of this paragraph", which is revised as subsection (d)(2) of this section, is deleted as unnecessary in light of the phrase "[e]xcept as provided in paragraph (1) of this subsection" in subsection (d)(2) of this section.

The only other changes are in style.

Defined term: "State" § 1–115

4–317. DEPARTMENT OF NATURAL RESOURCES RECORDS.

(A) IN GENERAL.

SUBJECT TO § 8–704.1 OF THE NATURAL RESOURCES ARTICLE AND SUBSECTION (B) OF THIS SECTION, A CUSTODIAN MAY NOT KNOWINGLY DISCLOSE A PUBLIC RECORD OF THE DEPARTMENT OF NATURAL RESOURCES CONTAINING PERSONAL INFORMATION ABOUT THE OWNER OF A REGISTERED VESSEL.

(B) REQUIRED DISCLOSURES.

A CUSTODIAN SHALL DISCLOSE PERSONAL INFORMATION ABOUT THE OWNER OF A REGISTERED VESSEL FOR USE IN THE NORMAL COURSE OF BUSINESS ACTIVITY BY A FINANCIAL INSTITUTION, AS DEFINED IN § 1–101(I) OF THE FINANCIAL INSTITUTIONS ARTICLE, ITS AGENTS, EMPLOYEES, OR CONTRACTORS, BUT ONLY:

(1) TO VERIFY THE ACCURACY OF PERSONAL INFORMATION SUBMITTED BY THE INDIVIDUAL TO THAT FINANCIAL INSTITUTION; AND

(2) IF THE INFORMATION SUBMITTED IS NOT ACCURATE, TO OBTAIN CORRECT INFORMATION ONLY FOR THE PURPOSE OF:

(I) PREVENTING FRAUD BY THE INDIVIDUAL;

(II) PURSUING LEGAL REMEDIES AGAINST THE INDIVIDUAL; OR

(III) RECOVERING ON A DEBT OR SECURITY INTEREST AGAINST THE INDIVIDUAL.

REVISOR'S NOTE: This section formerly was SG § 10–616(s).

In subsection (b) of this section, the former phrase "[n]otwithstanding paragraph (1) of this subsection,", which is revised as subsection (a) of this section, is deleted as unnecessary in light of the phrase "[s]ubject to … subsection (b) of this section" in subsection (a) of this section.

The only other changes are in style.

Defined terms: "Custodian" § 4–101
"Personal information" § 4–101
"Public record" § 4–101

4–318. MARYLAND TRANSIT ADMINISTRATION RECORDS.

(A) IN GENERAL.

EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A CUSTODIAN SHALL DENY INSPECTION OF ALL RECORDS OF PERSONS CREATED, GENERATED, OR OBTAINED BY, OR SUBMITTED TO, THE MARYLAND TRANSIT ADMINISTRATION OR ITS AGENTS OR EMPLOYEES IN CONNECTION WITH THE

USE OR PURCHASE OF ELECTRONIC FARE MEDIA PROVIDED BY THE MARYLAND TRANSIT ADMINISTRATION OR ITS AGENTS, EMPLOYEES, OR CONTRACTORS.

(B) REQUIRED INSPECTIONS.

A CUSTODIAN SHALL ALLOW INSPECTION OF THE RECORDS DESCRIBED IN SUBSECTION (A) OF THIS SECTION BY:

(1) AN INDIVIDUAL NAMED IN THE RECORD; OR

(2) THE ATTORNEY OF RECORD OF AN INDIVIDUAL NAMED IN THE RECORD.

REVISOR'S NOTE: This section formerly was SG § 10–616(r).

The only changes are in style.

Defined terms: "Custodian" § 4–101
"Person" § 1–114

4–319. MARYLAND TRANSPORTATION AUTHORITY RECORDS.

(A) IN GENERAL.

SUBJECT TO SUBSECTION (B) OF THIS SECTION, A CUSTODIAN SHALL DENY INSPECTION OF EVERY RECORD THAT:

(1) IS:

(I) A PHOTOGRAPH, A VIDEOTAPE, OR AN ELECTRONICALLY RECORDED IMAGE OF A VEHICLE;

(II) A VEHICLE MOVEMENT RECORD;

(III) PERSONAL FINANCIAL INFORMATION;

(IV) A CREDIT REPORT;

(V) OTHER PERSONAL INFORMATION; OR

(VI) OTHER FINANCIAL INFORMATION; AND

(2) HAS BEEN CREATED, RECORDED, OR OBTAINED BY, OR SUBMITTED TO, THE MARYLAND TRANSPORTATION AUTHORITY OR ITS AGENTS

OR EMPLOYEES FOR OR ABOUT AN ELECTRONIC TOLL COLLECTION SYSTEM OR ASSOCIATED TRANSACTION SYSTEM.

(B) REQUIRED INSPECTIONS.

A CUSTODIAN SHALL ALLOW INSPECTION OF THE RECORDS DESCRIBED IN SUBSECTION (A) OF THIS SECTION BY:

(1) AN INDIVIDUAL NAMED IN THE RECORD;

(2) THE ATTORNEY OF RECORD OF AN INDIVIDUAL NAMED IN THE RECORD;

(3) AN EMPLOYEE OR AGENT OF THE MARYLAND TRANSPORTATION AUTHORITY IN ANY INVESTIGATION OR PROCEEDING RELATING TO A VIOLATION OF SPEED LIMITATIONS OR TO THE IMPOSITION OF OR INDEMNIFICATION FROM LIABILITY FOR FAILURE TO PAY A TOLL IN CONNECTION WITH ANY ELECTRONIC TOLL COLLECTION SYSTEM;

(4) AN EMPLOYEE OR AGENT OF A THIRD PARTY THAT HAS ENTERED INTO AN AGREEMENT WITH THE MARYLAND TRANSPORTATION AUTHORITY TO USE AN ELECTRONIC TOLL COLLECTION SYSTEM FOR NONTOLL APPLICATIONS IN THE COLLECTION OF REVENUES DUE TO THE THIRD PARTY; OR

(5) AN EMPLOYEE OR AGENT OF AN ENTITY IN ANOTHER STATE OPERATING OR HAVING JURISDICTION OVER A TOLL FACILITY.

REVISOR'S NOTE: This section is new language derived without substantive change from former SG § 10–616(m).

Defined terms: "Custodian" § 4–101
"State" § 1–115

4–320. MOTOR VEHICLE ADMINISTRATION.

(A) "TELEPHONE SOLICITATION" DEFINED.

(1) IN THIS SECTION, "TELEPHONE SOLICITATION" MEANS THE INITIATION OF A TELEPHONE CALL TO AN INDIVIDUAL OR TO THE RESIDENCE OR BUSINESS OF AN INDIVIDUAL TO ENCOURAGE THE PURCHASE OR RENTAL OF OR INVESTMENT IN PROPERTY, GOODS, OR SERVICES.

(2) "TELEPHONE SOLICITATION" DOES NOT INCLUDE A TELEPHONE CALL OR MESSAGE:

(I) TO AN INDIVIDUAL WHO HAS GIVEN EXPRESS PERMISSION TO THE PERSON MAKING THE TELEPHONE CALL;

(II) TO AN INDIVIDUAL WITH WHOM THE PERSON HAS AN ESTABLISHED BUSINESS RELATIONSHIP; OR

(III) BY A TAX–EXEMPT, NOT–FOR–PROFIT ORGANIZATION.

(B) IN GENERAL.

EXCEPT AS PROVIDED IN SUBSECTIONS (C) THROUGH (F) OF THIS SECTION, A CUSTODIAN MAY NOT KNOWINGLY DISCLOSE A PUBLIC RECORD OF THE MOTOR VEHICLE ADMINISTRATION CONTAINING PERSONAL INFORMATION.

(C) DISCLOSURE REQUIRED BY FEDERAL LAW.

A CUSTODIAN SHALL DISCLOSE PERSONAL INFORMATION WHEN REQUIRED BY FEDERAL LAW.

(D) DISCLOSURE ON REQUEST; CONSENT OF PERSON IN INTEREST REQUIRED.

(1) THIS SUBSECTION APPLIES ONLY TO THE DISCLOSURE OF PERSONAL INFORMATION FOR ANY USE IN RESPONSE TO A REQUEST FOR AN INDIVIDUAL MOTOR VEHICLE RECORD.

(2) THE CUSTODIAN MAY NOT DISCLOSE PERSONAL INFORMATION WITHOUT WRITTEN CONSENT FROM THE PERSON IN INTEREST.

(3) (I) AT ANY TIME THE PERSON IN INTEREST MAY WITHDRAW CONSENT TO DISCLOSE PERSONAL INFORMATION BY NOTIFYING THE CUSTODIAN.

(II) THE WITHDRAWAL BY THE PERSON IN INTEREST OF CONSENT TO DISCLOSE PERSONAL INFORMATION SHALL TAKE EFFECT AS SOON AS PRACTICABLE AFTER IT IS RECEIVED BY THE CUSTODIAN.

(E) DISCLOSURE FOR USE IN SURVEYS, MARKETING, AND SOLICITATIONS.

(1) THIS SUBSECTION APPLIES ONLY TO THE DISCLOSURE OF PERSONAL INFORMATION FOR INCLUSION IN LISTS OF INFORMATION TO BE USED FOR SURVEYS, MARKETING, AND SOLICITATIONS.

(2) THE CUSTODIAN MAY NOT DISCLOSE PERSONAL INFORMATION FOR SURVEYS, MARKETING, AND SOLICITATIONS WITHOUT WRITTEN CONSENT FROM THE PERSON IN INTEREST.

(3) (I) AT ANY TIME THE PERSON IN INTEREST MAY WITHDRAW CONSENT TO DISCLOSE PERSONAL INFORMATION BY NOTIFYING THE CUSTODIAN.

(II) THE WITHDRAWAL BY THE PERSON IN INTEREST OF CONSENT TO DISCLOSE PERSONAL INFORMATION SHALL TAKE EFFECT AS SOON AS PRACTICABLE AFTER IT IS RECEIVED BY THE CUSTODIAN.

(4) THE CUSTODIAN MAY NOT DISCLOSE PERSONAL INFORMATION UNDER THIS SUBSECTION FOR USE IN TELEPHONE SOLICITATIONS.

(5) PERSONAL INFORMATION DISCLOSED UNDER THIS SUBSECTION MAY BE USED ONLY FOR SURVEYS, MARKETING, OR SOLICITATIONS AND ONLY FOR A PURPOSE APPROVED BY THE MOTOR VEHICLE ADMINISTRATION.

(F) REQUIRED DISCLOSURE.

NOTWITHSTANDING SUBSECTIONS (D) AND (E) OF THIS SECTION, A CUSTODIAN SHALL DISCLOSE PERSONAL INFORMATION:

(1) FOR USE BY A FEDERAL, STATE, OR LOCAL GOVERNMENT, INCLUDING A LAW ENFORCEMENT AGENCY, OR A COURT IN CARRYING OUT ITS FUNCTIONS;

(2) FOR USE IN CONNECTION WITH MATTERS OF:

(I) MOTOR VEHICLE OR DRIVER SAFETY;

(II) MOTOR VEHICLE THEFT;

(III) MOTOR VEHICLE EMISSIONS;

(IV) MOTOR VEHICLE PRODUCT ALTERATIONS, RECALLS, OR ADVISORIES;

(V) PERFORMANCE MONITORING OF MOTOR VEHICLE PARTS AND DEALERS; AND

(VI) REMOVAL OF NONOWNER RECORDS FROM THE ORIGINAL RECORDS OF MOTOR VEHICLE MANUFACTURERS;

(3) FOR USE BY A PRIVATE DETECTIVE AGENCY LICENSED BY THE SECRETARY OF STATE POLICE UNDER TITLE 13 OF THE BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE OR A SECURITY GUARD SERVICE LICENSED BY THE SECRETARY OF STATE POLICE UNDER TITLE 19 OF THE BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE FOR A PURPOSE ALLOWED UNDER THIS SUBSECTION;

(4) FOR USE IN CONNECTION WITH A CIVIL, AN ADMINISTRATIVE, AN ARBITRAL, OR A CRIMINAL PROCEEDING IN A FEDERAL, STATE, OR LOCAL COURT OR REGULATORY AGENCY FOR SERVICE OF PROCESS, INVESTIGATION IN ANTICIPATION OF LITIGATION, AND EXECUTION OR ENFORCEMENT OF JUDGMENTS OR ORDERS;

(5) FOR PURPOSES OF RESEARCH OR STATISTICAL REPORTING AS APPROVED BY THE MOTOR VEHICLE ADMINISTRATION PROVIDED THAT THE PERSONAL INFORMATION IS NOT PUBLISHED, REDISCLOSED, OR USED TO CONTACT THE INDIVIDUAL;

(6) FOR USE BY AN INSURER, AN INSURANCE SUPPORT ORGANIZATION, OR A SELF–INSURED ENTITY, OR ITS EMPLOYEES, AGENTS, OR CONTRACTORS, IN CONNECTION WITH RATING, UNDERWRITING, CLAIMS INVESTIGATING, AND ANTIFRAUD ACTIVITIES;

(7) FOR USE IN THE NORMAL COURSE OF BUSINESS ACTIVITY BY A LEGITIMATE BUSINESS ENTITY OR ITS AGENTS, EMPLOYEES, OR CONTRACTORS, BUT ONLY:

(I) TO VERIFY THE ACCURACY OF PERSONAL INFORMATION SUBMITTED BY THE INDIVIDUAL TO THAT ENTITY; AND

(II) IF THE INFORMATION SUBMITTED IS NOT ACCURATE, TO OBTAIN CORRECT INFORMATION ONLY FOR THE PURPOSE OF:

1. PREVENTING FRAUD BY THE INDIVIDUAL;

2. PURSUING LEGAL REMEDIES AGAINST THE INDIVIDUAL; OR

3. RECOVERING ON A DEBT OR SECURITY INTEREST AGAINST THE INDIVIDUAL;

(8) FOR USE BY AN EMPLOYER OR INSURER TO OBTAIN OR VERIFY INFORMATION RELATING TO A HOLDER OF A COMMERCIAL DRIVER'S LICENSE THAT IS REQUIRED UNDER THE COMMERCIAL MOTOR VEHICLE SAFETY ACT OF 1986 (49 U.S.C. § 31101 ET SEQ.);

(9) FOR USE IN CONNECTION WITH THE OPERATION OF A PRIVATE TOLL TRANSPORTATION FACILITY;

(10) FOR USE IN PROVIDING NOTICE TO THE OWNER OF A TOWED OR IMPOUNDED MOTOR VEHICLE;

(11) FOR USE BY AN APPLICANT WHO PROVIDES WRITTEN CONSENT FROM THE INDIVIDUAL TO WHOM THE INFORMATION PERTAINS IF THE CONSENT IS OBTAINED WITHIN THE 6–MONTH PERIOD BEFORE THE DATE OF THE REQUEST FOR PERSONAL INFORMATION;

(12) FOR USE IN ANY MATTER RELATING TO:

(I) THE OPERATION OF A CLASS B (FOR HIRE), CLASS C (FUNERAL AND AMBULANCE), OR CLASS Q (LIMOUSINE) VEHICLE; AND

(II) PUBLIC SAFETY OR THE TREATMENT BY THE OPERATOR OF A MEMBER OF THE PUBLIC;

(13) FOR A USE SPECIFICALLY AUTHORIZED BY STATE LAW, IF THE USE IS RELATED TO THE OPERATION OF A MOTOR VEHICLE OR PUBLIC SAFETY;

(14) FOR USE BY A HOSPITAL TO OBTAIN, FOR HOSPITAL SECURITY, INFORMATION RELATING TO OWNERSHIP OF VEHICLES PARKED ON HOSPITAL PROPERTY;

(15) FOR USE BY A PROCUREMENT ORGANIZATION REQUESTING INFORMATION UNDER § 4–516 OF THE ESTATES AND TRUSTS ARTICLE FOR THE PURPOSES OF ORGAN, TISSUE, AND EYE DONATION;

(16) FOR USE BY AN ELECTRIC COMPANY, AS DEFINED IN § 1–101 OF THE PUBLIC UTILITIES ARTICLE, BUT ONLY:

(I) INFORMATION DESCRIBING A PLUG–IN ELECTRIC DRIVE VEHICLE, AS DEFINED IN § 11–145.1 OF THE TRANSPORTATION ARTICLE, AND IDENTIFYING THE ADDRESS OF THE REGISTERED OWNER OF THE PLUG–IN VEHICLE;

(II) FOR USE IN PLANNING FOR THE AVAILABILITY AND RELIABILITY OF THE ELECTRIC POWER SUPPLY; AND

(III) IF THE INFORMATION IS NOT:

1. PUBLISHED OR REDISCLOSED, INCLUDING REDISCLOSED TO AN AFFILIATE AS DEFINED IN § 7–501 OF THE PUBLIC UTILITIES ARTICLE; OR

2. USED FOR MARKETING OR SOLICITATION; AND

(17) FOR USE BY AN ATTORNEY, A TITLE INSURANCE PRODUCER, OR ANY OTHER INDIVIDUAL AUTHORIZED TO CONDUCT A TITLE SEARCH OF A MANUFACTURED HOME UNDER TITLE 8B OF THE REAL PROPERTY ARTICLE.

(G) RESTRICTIONS ON USE OF INFORMATION.

(1) A PERSON RECEIVING PERSONAL INFORMATION UNDER SUBSECTION (E) OR (F) OF THIS SECTION MAY NOT USE OR REDISCLOSE THE PERSONAL INFORMATION FOR A PURPOSE OTHER THAN THE PURPOSE FOR WHICH THE CUSTODIAN DISCLOSED THE PERSONAL INFORMATION.

(2) A PERSON RECEIVING PERSONAL INFORMATION UNDER SUBSECTION (E) OR (F) OF THIS SECTION WHO REDISCLOSES THE PERSONAL INFORMATION SHALL:

(I) KEEP A RECORD FOR 5 YEARS OF THE PERSON TO WHOM THE INFORMATION IS REDISCLOSED AND THE PURPOSE FOR WHICH THE INFORMATION IS TO BE USED; AND

(II) MAKE THE RECORD AVAILABLE TO THE CUSTODIAN ON REQUEST.

(H) REGULATIONS REQUIRED.

(1) THE CUSTODIAN SHALL ADOPT REGULATIONS TO IMPLEMENT AND ENFORCE THIS SECTION.

(2) (I) THE CUSTODIAN SHALL ADOPT REGULATIONS AND PROCEDURES FOR SECURING FROM A PERSON IN INTEREST A WAIVER OF PRIVACY RIGHTS UNDER THIS SECTION WHEN AN APPLICANT REQUESTS PERSONAL INFORMATION ABOUT THE PERSON IN INTEREST THAT THE CUSTODIAN IS NOT AUTHORIZED TO DISCLOSE UNDER SUBSECTIONS (C) THROUGH (F) OF THIS SECTION.

(II) THE REGULATIONS AND PROCEDURES ADOPTED UNDER THIS PARAGRAPH SHALL:

1. STATE THE CIRCUMSTANCES UNDER WHICH THE CUSTODIAN MAY REQUEST A WAIVER; AND

2. CONFORM WITH THE WAIVER REQUIREMENTS IN THE FEDERAL DRIVER'S PRIVACY PROTECTION ACT OF 1994 AND OTHER FEDERAL LAW.

(I) METHODS FOR MONITORING COMPLIANCE.

THE CUSTODIAN MAY DEVELOP AND IMPLEMENT METHODS FOR MONITORING COMPLIANCE WITH THIS SECTION AND ENSURING THAT PERSONAL INFORMATION IS USED ONLY FOR THE PURPOSES FOR WHICH IT IS DISCLOSED.

REVISOR'S NOTE: This section is new language derived without substantive change from former SG §§ 10–611(i) and 10–616(p).

Defined terms: "Applicant" § 4–101
"Custodian" § 4–101
"Including" § 1–110
"Person" § 1–114
"Person in interest" § 4–101
"Personal information" § 4–101
"Public record" § 4–101
"State" § 1–115

4–321. RECORDED IMAGES FROM TRAFFIC CONTROL SIGNAL MONITORING SYSTEM.

(A) "RECORDED IMAGES" DEFINED.

IN THIS SECTION, "RECORDED IMAGES" HAS THE MEANING STATED IN § 21–202.1, § 21–809, § 21–810, OR § 24–111.3 OF THE TRANSPORTATION ARTICLE.

(B) IN GENERAL.

EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, A CUSTODIAN SHALL DENY INSPECTION OF RECORDED IMAGES PRODUCED BY:

(1) A TRAFFIC CONTROL SIGNAL MONITORING SYSTEM OPERATED UNDER § 21–202.1 OF THE TRANSPORTATION ARTICLE;

(2) A SPEED MONITORING SYSTEM OPERATED UNDER § 21–809 OF THE TRANSPORTATION ARTICLE;

(3) A WORK ZONE SPEED CONTROL SYSTEM OPERATED UNDER § 21–810 OF THE TRANSPORTATION ARTICLE; OR

(4) A VEHICLE HEIGHT MONITORING SYSTEM OPERATED UNDER § 24–111.3 OF THE TRANSPORTATION ARTICLE.

(C) REQUIRED INSPECTIONS.

A CUSTODIAN SHALL ALLOW INSPECTION OF RECORDED IMAGES:

(1) AS REQUIRED IN § 21–202.1, § 21–809, § 21–810, OR § 24–111.3 OF THE TRANSPORTATION ARTICLE;

(2) BY ANY PERSON ISSUED A CITATION UNDER § 21–202.1, § 21–809, § 21–810, OR § 24–111.3 OF THE TRANSPORTATION ARTICLE, OR BY AN ATTORNEY OF RECORD FOR THE PERSON; OR

(3) BY AN EMPLOYEE OR AGENT OF AN AGENCY IN AN INVESTIGATION OR A PROCEEDING RELATING TO THE IMPOSITION OF OR INDEMNIFICATION FROM CIVIL LIABILITY UNDER § 21–202.1, § 21–809, § 21–810, OR § 24–111.3 OF THE TRANSPORTATION ARTICLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former SG § 10–616(o).

Defined terms: "Custodian" § 4–101
"Person" § 1–114

4–322. SURVEILLANCE IMAGES.

(A) "SURVEILLANCE IMAGE" DEFINED.

IN THIS SECTION, "SURVEILLANCE IMAGE" HAS THE MEANING STATED IN § 10–112 OF THE CRIMINAL LAW ARTICLE.

(B) IN GENERAL.

EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, A CUSTODIAN OF A SURVEILLANCE IMAGE SHALL DENY INSPECTION OF THE SURVEILLANCE IMAGE.

(C) REQUIRED INSPECTIONS.

A CUSTODIAN SHALL ALLOW INSPECTION OF A SURVEILLANCE IMAGE:

(1) AS REQUIRED IN § 10–112 OF THE CRIMINAL LAW ARTICLE;

(2) BY ANY PERSON ISSUED A CITATION UNDER § 10–112 OF THE CRIMINAL LAW ARTICLE, OR BY AN ATTORNEY OF RECORD FOR THE PERSON; OR

(3) BY AN EMPLOYEE OR AGENT OF THE BALTIMORE CITY DEPARTMENT OF PUBLIC WORKS IN AN INVESTIGATION OR A PROCEEDING RELATING TO THE IMPOSITION OF OR INDEMNIFICATION FROM CIVIL LIABILITY UNDER § 10–112 OF THE CRIMINAL LAW ARTICLE.

REVISOR'S NOTE: This section formerly was SG § 10–616(u).

The only changes are in style.

Defined terms: "Custodian" § 4–101
"Person" § 1–114

4–323. RISK BASED CAPITAL RECORDS.

SUBJECT TO § 4–310 OF THE INSURANCE ARTICLE, A CUSTODIAN SHALL DENY INSPECTION OF ALL RISK BASED CAPITAL REPORTS AND RISK BASED CAPITAL PLANS AND ANY OTHER RECORDS THAT RELATE TO THOSE REPORTS OR PLANS.

REVISOR'S NOTE: This section formerly was SG § 10–616(l).

The references to "risk based capital" are substituted for the former acronym "RBC" for clarity.

The only other changes are in style.

Defined term: "Custodian" § 4–101

4–324. RENEWABLE ENERGY CREDIT RECORDS.

A CUSTODIAN SHALL DENY INSPECTION OF AN APPLICATION FOR RENEWABLE ENERGY CREDIT CERTIFICATION OR A CLAIM FOR RENEWABLE ENERGY CREDITS UNDER TITLE 10, SUBTITLE 15 OF THE AGRICULTURE ARTICLE.

REVISOR'S NOTE: This section formerly was SG § 10–616(t).

No changes are made.

Defined term: "Custodian" § 4–101

4–325. FIREARM AND HANDGUN RECORDS.

(A) IN GENERAL.

EXCEPT AS PROVIDED IN SUBSECTIONS (B) AND (C) OF THIS SECTION, A CUSTODIAN SHALL DENY INSPECTION OF ALL RECORDS OF A PERSON AUTHORIZED TO:

(1) SELL, PURCHASE, RENT, OR TRANSFER A REGULATED FIREARM UNDER TITLE 5, SUBTITLE 1 OF THE PUBLIC SAFETY ARTICLE; OR

(2) CARRY, WEAR, OR TRANSPORT A HANDGUN UNDER TITLE 5, SUBTITLE 3 OF THE PUBLIC SAFETY ARTICLE.

(B) REQUIRED INSPECTIONS.

A CUSTODIAN SHALL ALLOW INSPECTION OF FIREARM OR HANDGUN RECORDS BY:

(1) THE INDIVIDUAL NAMED IN THE RECORD; OR

(2) THE ATTORNEY OF RECORD OF THE INDIVIDUAL NAMED IN THE RECORD.

(C) CONSTRUCTION OF SECTION.

THIS SECTION MAY NOT BE CONSTRUED TO PROHIBIT THE DEPARTMENT OF STATE POLICE OR THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES FROM ACCESSING FIREARM OR HANDGUN RECORDS IN THE PERFORMANCE OF THAT DEPARTMENT'S OFFICIAL DUTY.

REVISOR'S NOTE: This section formerly was SG § 10–616(v).

The only changes are in style.

Defined terms: "Custodian" § 4–101
"Person" § 1–114

4–326. RESERVED.

4–327. RESERVED.

PART III. REQUIRED DENIALS FOR SPECIFIC INFORMATION.

4–328. IN GENERAL.

UNLESS OTHERWISE PROVIDED BY LAW, A CUSTODIAN SHALL DENY INSPECTION OF A PART OF A PUBLIC RECORD, AS PROVIDED IN THIS PART.

REVISOR'S NOTE: This section formerly was SG § 10–617(a).

The only changes are in style.

Defined terms: "Custodian" § 4–101
"Public record" § 4–101

4–329. MEDICAL OR PSYCHOLOGICAL INFORMATION.

(A) SCOPE OF SECTION.

EXCEPT FOR SUBSECTION (B)(3) OF THIS SECTION, THIS SECTION DOES NOT APPLY TO:

(1) A NURSING HOME AS DEFINED IN § 19–1401 OF THE HEALTH – GENERAL ARTICLE; OR

(2) AN ASSISTED LIVING PROGRAM AS DEFINED IN § 19–1801 OF THE HEALTH – GENERAL ARTICLE.

(B) IN GENERAL.

SUBJECT TO SUBSECTION (C) OF THIS SECTION, A CUSTODIAN SHALL DENY INSPECTION OF THE PART OF A PUBLIC RECORD THAT CONTAINS:

(1) MEDICAL OR PSYCHOLOGICAL INFORMATION ABOUT AN INDIVIDUAL, OTHER THAN AN AUTOPSY REPORT OF A MEDICAL EXAMINER;

(2) PERSONAL INFORMATION ABOUT AN INDIVIDUAL WITH, OR PERCEIVED TO HAVE, A DISABILITY AS DEFINED IN § 20–701 OF THE STATE GOVERNMENT ARTICLE; OR

(3) ANY REPORT ON HUMAN IMMUNODEFICIENCY VIRUS OR ACQUIRED IMMUNODEFICIENCY SYNDROME SUBMITTED IN ACCORDANCE WITH TITLE 18 OF THE HEALTH – GENERAL ARTICLE.

(C) REQUIRED INSPECTIONS.

A CUSTODIAN SHALL ALLOW THE PERSON IN INTEREST TO INSPECT THE PUBLIC RECORD TO THE EXTENT ALLOWED UNDER § 4–304(A) OF THE HEALTH – GENERAL ARTICLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former SG § 10–617(b).

Defined terms: "Custodian" § 4–101
"Person in interest" § 4–101
"Personal information" § 4–101
"Public record" § 4–101

4–330. SOCIOLOGICAL INFORMATION.

IF THE OFFICIAL CUSTODIAN HAS ADOPTED RULES OR REGULATIONS THAT DEFINE SOCIOLOGICAL INFORMATION FOR PURPOSES OF THIS SECTION, A CUSTODIAN SHALL DENY INSPECTION OF THE PART OF A PUBLIC RECORD THAT CONTAINS SOCIOLOGICAL INFORMATION, IN ACCORDANCE WITH THE RULES OR REGULATIONS.

REVISOR'S NOTE: This section formerly was SG § 10–617(c).

The only changes are in style.

Defined terms: "Custodian" § 4–101
"Official custodian" § 4–101

"Public record" § 4–101

4–331. INFORMATION ABOUT PUBLIC EMPLOYEES.

SUBJECT TO § 21–504 OF THE STATE PERSONNEL AND PENSIONS ARTICLE, A CUSTODIAN SHALL DENY INSPECTION OF THE PART OF A PUBLIC RECORD THAT CONTAINS THE HOME ADDRESS OR TELEPHONE NUMBER OF AN EMPLOYEE OF A UNIT OR AN INSTRUMENTALITY OF THE STATE OR OF A POLITICAL SUBDIVISION UNLESS:

(1) THE EMPLOYEE GIVES PERMISSION FOR THE INSPECTION; OR

(2) THE UNIT OR INSTRUMENTALITY THAT EMPLOYS THE INDIVIDUAL DETERMINES THAT INSPECTION IS NEEDED TO PROTECT THE PUBLIC INTEREST.

REVISOR'S NOTE: This section formerly was SG § 10–617(e).

No changes are made.

Defined terms: "Custodian" § 4–101
"Political subdivision" § 4–101
"Public record" § 4–101
"State" § 1–115

4–332. INFORMATION ABOUT NOTARIES PUBLIC.

(A) IN GENERAL.

SUBJECT TO SUBSECTIONS (B) THROUGH (E) OF THIS SECTION, A CUSTODIAN SHALL DENY INSPECTION OF THE PART OF A PUBLIC RECORD THAT CONTAINS INFORMATION ABOUT THE APPLICATION AND COMMISSION OF A PERSON AS A NOTARY PUBLIC.

(B) REQUIRED INSPECTIONS.

A CUSTODIAN SHALL ALLOW INSPECTION OF THE PART OF A PUBLIC RECORD THAT GIVES:

(1) THE NAME OF THE NOTARY PUBLIC;

(2) THE HOME ADDRESS OF THE NOTARY PUBLIC;

(3) THE HOME AND BUSINESS TELEPHONE NUMBERS OF THE NOTARY PUBLIC;

(4) THE ISSUE AND EXPIRATION DATES OF THE NOTARY PUBLIC'S COMMISSION;

(5) THE DATE THE PERSON TOOK THE OATH OF OFFICE AS A NOTARY PUBLIC; OR

(6) THE SIGNATURE OF THE NOTARY PUBLIC.

(C) INSPECTION PERMISSIBLE FOR COMPELLING PUBLIC PURPOSE.

A CUSTODIAN MAY ALLOW INSPECTION OF OTHER INFORMATION ABOUT A NOTARY PUBLIC IF THE CUSTODIAN FINDS A COMPELLING PUBLIC PURPOSE.

(D) PERMISSIBLE DENIALS.

A CUSTODIAN MAY DENY INSPECTION OF A RECORD BY A NOTARY PUBLIC OR ANY OTHER PERSON IN INTEREST ONLY TO THE EXTENT THAT THE INSPECTION COULD:

(1) INTERFERE WITH A VALID AND PROPER LAW ENFORCEMENT PROCEEDING;

(2) DEPRIVE ANOTHER PERSON OF A RIGHT TO A FAIR TRIAL OR AN IMPARTIAL ADJUDICATION;

(3) CONSTITUTE AN UNWARRANTED INVASION OF PERSONAL PRIVACY;

(4) DISCLOSE THE IDENTITY OF A CONFIDENTIAL SOURCE;

(5) DISCLOSE AN INVESTIGATIVE TECHNIQUE OR PROCEDURE;

(6) PREJUDICE AN INVESTIGATION; OR

(7) ENDANGER THE LIFE OR PHYSICAL SAFETY OF AN INDIVIDUAL.

(E) REQUIRED OMISSION FROM LIST ON REQUEST.

A CUSTODIAN WHO SELLS LISTS OF NOTARIES PUBLIC SHALL OMIT FROM THE LISTS THE NAME OF ANY NOTARY PUBLIC, ON WRITTEN REQUEST OF THE NOTARY PUBLIC.

REVISOR'S NOTE: This section formerly was SG § 10–617(j).

The only changes are in style.

Defined terms: "Custodian" § 4–101
"Person" § 1–114
"Person in interest" § 4–101
"Public record" § 4–101

4–333. LICENSING RECORDS.

(A) IN GENERAL.

SUBJECT TO SUBSECTIONS (B) THROUGH (D) OF THIS SECTION, A CUSTODIAN SHALL DENY INSPECTION OF THE PART OF A PUBLIC RECORD THAT CONTAINS INFORMATION ABOUT THE LICENSING OF AN INDIVIDUAL IN AN OCCUPATION OR A PROFESSION.

(B) REQUIRED INSPECTION.

A CUSTODIAN SHALL ALLOW INSPECTION OF THE PART OF A PUBLIC RECORD THAT GIVES:

(1) THE NAME OF THE LICENSEE;

(2) THE BUSINESS ADDRESS OF THE LICENSEE OR, IF THE BUSINESS ADDRESS IS NOT AVAILABLE, THE HOME ADDRESS OF THE LICENSEE AFTER THE CUSTODIAN REDACTS ANY INFORMATION THAT IDENTIFIES THE LOCATION AS THE HOME ADDRESS OF AN INDIVIDUAL WITH A DISABILITY AS DEFINED IN § 20–701 OF THE STATE GOVERNMENT ARTICLE;

(3) THE BUSINESS TELEPHONE NUMBER OF THE LICENSEE;

(4) THE EDUCATIONAL AND OCCUPATIONAL BACKGROUND OF THE LICENSEE;

(5) THE PROFESSIONAL QUALIFICATIONS OF THE LICENSEE;

(6) ANY ORDERS AND FINDINGS THAT RESULT FROM FORMAL DISCIPLINARY ACTIONS; AND

(7) ANY EVIDENCE THAT HAS BEEN PROVIDED TO THE CUSTODIAN TO MEET THE REQUIREMENTS OF A STATUTE AS TO FINANCIAL RESPONSIBILITY.

(C) PERMISSIBLE INSPECTION.

A CUSTODIAN MAY ALLOW INSPECTION OF OTHER INFORMATION ABOUT A LICENSEE IF:

(1) THE CUSTODIAN FINDS A COMPELLING PUBLIC PURPOSE; AND

(2) THE RULES OR REGULATIONS OF THE OFFICIAL CUSTODIAN ALLOW THE INSPECTION.

(D) REQUIRED INSPECTION BY PERSON IN INTEREST.

EXCEPT AS OTHERWISE PROVIDED BY THIS SECTION OR OTHER LAW, A CUSTODIAN SHALL ALLOW INSPECTION BY THE PERSON IN INTEREST.

(E) REQUIRED OMISSION FROM LIST ON REQUEST.

A CUSTODIAN WHO SELLS LISTS OF LICENSEES SHALL OMIT FROM THE LISTS THE NAME OF ANY LICENSEE, ON WRITTEN REQUEST OF THE LICENSEE.

REVISOR'S NOTE: This section is new language derived without substantive change from former SG § 10–617(h) and (b)(1).

In subsection (b)(2) of this section, the reference to redacting "any information" is substituted for the former reference to redacting "all information, if any" for brevity.

Defined terms: "Custodian" § 4–101
"Person in interest" § 4–101
"Public record" § 4–101

4–334. SOCIAL SECURITY NUMBER.

(A) IN GENERAL.

EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A CUSTODIAN SHALL DENY INSPECTION OF THE PART OF AN APPLICATION FOR A MARRIAGE LICENSE UNDER § 2–402 OF THE FAMILY LAW ARTICLE OR A RECREATIONAL

LICENSE UNDER TITLE 4 OF THE NATURAL RESOURCES ARTICLE THAT CONTAINS A SOCIAL SECURITY NUMBER.

(B) INSPECTION REQUIRED.

A CUSTODIAN SHALL ALLOW INSPECTION OF THE PART OF AN APPLICATION DESCRIBED IN SUBSECTION (A) OF THIS SECTION THAT CONTAINS A SOCIAL SECURITY NUMBER BY:

(1) A PERSON IN INTEREST; OR

(2) ON REQUEST, THE STATE CHILD SUPPORT ENFORCEMENT ADMINISTRATION.

REVISOR'S NOTE: This section formerly was SG § 10–617(k).

The only changes are in style.

Defined terms: "Custodian" § 4–101
"Person in interest" § 4–101

4–335. TRADE SECRETS; CONFIDENTIAL INFORMATION.

A CUSTODIAN SHALL DENY INSPECTION OF THE PART OF A PUBLIC RECORD THAT CONTAINS ANY OF THE FOLLOWING INFORMATION PROVIDED BY OR OBTAINED FROM ANY PERSON OR GOVERNMENTAL UNIT:

(1) A TRADE SECRET;

(2) CONFIDENTIAL COMMERCIAL INFORMATION;

(3) CONFIDENTIAL FINANCIAL INFORMATION; OR

(4) CONFIDENTIAL GEOLOGICAL OR GEOPHYSICAL INFORMATION.

REVISOR'S NOTE: This section formerly was SG § 10–617(d).

No changes are made.

Defined terms: "Custodian" § 4–101
"Person" § 1–114
"Public record" § 4–101

4–336. FINANCIAL INFORMATION.

(A) SCOPE OF SECTION.

THIS SECTION DOES NOT APPLY TO THE SALARY OF A PUBLIC EMPLOYEE.

(B) IN GENERAL.

SUBJECT TO SUBSECTION (C) OF THIS SECTION, A CUSTODIAN SHALL DENY INSPECTION OF THE PART OF A PUBLIC RECORD THAT CONTAINS INFORMATION ABOUT THE FINANCES OF AN INDIVIDUAL, INCLUDING ASSETS, INCOME, LIABILITIES, NET WORTH, BANK BALANCES, FINANCIAL HISTORY OR ACTIVITIES, OR CREDITWORTHINESS.

(C) REQUIRED INSPECTION FOR PERSON IN INTEREST.

A CUSTODIAN SHALL ALLOW INSPECTION BY THE PERSON IN INTEREST.

REVISOR'S NOTE: This section formerly was SG § 10–617(f).

The only changes are in style.

Defined terms: "Custodian" § 4–101
"Including" § 1–110
"Person in interest" § 4–101
"Public record" § 4–101

4–337. COLLUSIVE OR ANTICOMPETITIVE ACTIVITY.

A CUSTODIAN SHALL DENY INSPECTION OF THE PART OF A PUBLIC RECORD THAT CONTAINS INFORMATION:

(1) GENERATED BY THE BID ANALYSIS MANAGEMENT SYSTEM;

(2) CONCERNING AN INVESTIGATION OF A TRANSPORTATION CONTRACTOR'S SUSPECTED COLLUSIVE OR ANTICOMPETITIVE ACTIVITY; AND

(3) SUBMITTED TO THE MARYLAND DEPARTMENT OF TRANSPORTATION BY THE UNITED STATES DEPARTMENT OF TRANSPORTATION OR BY ANOTHER STATE.

REVISOR'S NOTE: This section is new language derived without substantive change from former SG § 10–617(i).

In item (3) of this section, the reference to the "Maryland Department of Transportation" is substituted for the former reference to the "Department" to reflect the intent of Chapter 38, Acts of 1994, which enacted former SG § 10–617(i). The fiscal note and other documents in the bill file for Chapter 38 indicate that it was intended to apply to documents submitted to the Maryland Department of Transportation.

Defined terms: "Custodian" § 4–101
"Public record" § 4–101
"State" § 1–115

4–338. SECURITY OF INFORMATION SYSTEMS.

A CUSTODIAN SHALL DENY INSPECTION OF THE PART OF A PUBLIC RECORD THAT CONTAINS INFORMATION ABOUT THE SECURITY OF AN INFORMATION SYSTEM.

REVISOR'S NOTE: This section formerly was SG § 10–617(g).

No changes are made.

Defined terms: "Custodian" § 4–101
"Public record" § 4–101

4–339. ALARM OR SECURITY SYSTEM.

(A) IN GENERAL.

EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A CUSTODIAN SHALL DENY INSPECTION OF THE PART OF A PUBLIC RECORD THAT IDENTIFIES OR CONTAINS PERSONAL INFORMATION ABOUT A PERSON, INCLUDING A COMMERCIAL ENTITY, THAT MAINTAINS AN ALARM OR SECURITY SYSTEM.

(B) REQUIRED INSPECTION.

A CUSTODIAN SHALL ALLOW INSPECTION BY:

(1) THE PERSON IN INTEREST;

(2) AN ALARM OR SECURITY SYSTEM COMPANY IF THE COMPANY CAN DOCUMENT THAT IT CURRENTLY PROVIDES ALARM OR SECURITY SERVICES TO THE PERSON IN INTEREST;

(3) LAW ENFORCEMENT PERSONNEL; AND

(4) EMERGENCY SERVICES PERSONNEL, INCLUDING:

(I) A CAREER FIREFIGHTER;

(II) AN EMERGENCY MEDICAL SERVICES PROVIDER, AS DEFINED IN § 13–516 OF THE EDUCATION ARTICLE;

(III) A RESCUE SQUAD EMPLOYEE; AND

(IV) A VOLUNTEER FIREFIGHTER, A RESCUE SQUAD MEMBER, OR AN ADVANCED LIFE SUPPORT UNIT MEMBER.

REVISOR'S NOTE: This section formerly was SG § 10–617(l).

The only changes are in style.

Defined terms: "Custodian" § 4–101
"Including" § 1–110
"Person" § 1–114
"Person in interest" § 4–101
"Personal information" § 4–101
"Public record" § 4–101

4–340. SENIOR CITIZEN ACTIVITIES CENTERS.

(A) "SENIOR CITIZEN ACTIVITIES CENTER" DEFINED.

"SENIOR CITIZEN ACTIVITIES CENTER" HAS THE MEANING STATED IN § 10–513 OF THE HUMAN SERVICES ARTICLE.

(B) IN GENERAL.

EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, A CUSTODIAN SHALL DENY INSPECTION OF THE PART OF A PUBLIC RECORD THAT CONTAINS THE NAME, ADDRESS, TELEPHONE NUMBER, OR ELECTRONIC MAIL ADDRESS OF ANY INDIVIDUAL ENROLLED IN OR ANY MEMBER OF A SENIOR CITIZEN ACTIVITIES CENTER.

(C) REQUIRED INSPECTION.

A CUSTODIAN SHALL ALLOW INSPECTION BY:

(1) A PERSON IN INTEREST;

(2) LAW ENFORCEMENT PERSONNEL; OR

(3) EMERGENCY SERVICES PERSONNEL, INCLUDING:

(I) A CAREER FIREFIGHTER;

(II) AN EMERGENCY MEDICAL SERVICES PROVIDER, AS DEFINED IN § 13–516 OF THE EDUCATION ARTICLE;

(III) A RESCUE SQUAD EMPLOYEE; AND

(IV) A VOLUNTEER FIREFIGHTER, A RESCUE SQUAD MEMBER, OR AN ADVANCED LIFE SUPPORT UNIT MEMBER.

REVISOR'S NOTE: This section formerly was SG § 10–617(m).

The only changes are in style.

Defined terms: "Custodian" § 4–101
"Including" § 1–110
"Person in interest" § 4–101
"Public record" § 4–101

4–341. RESERVED.

4–342. RESERVED.

PART IV. DENIAL OF PART OF PUBLIC RECORD.

4–343. IN GENERAL.

UNLESS OTHERWISE PROVIDED BY LAW, IF A CUSTODIAN BELIEVES THAT INSPECTION OF A PART OF A PUBLIC RECORD BY THE APPLICANT WOULD BE CONTRARY TO THE PUBLIC INTEREST, THE CUSTODIAN MAY DENY INSPECTION BY THE APPLICANT OF THAT PART OF THE RECORD, AS PROVIDED IN THIS PART.

REVISOR'S NOTE: This section formerly was SG § 10–618(a).

The reference to that part "of the record" is added for clarity.

The only other changes are in style.

Defined terms: "Applicant" § 4–101
"Custodian" § 4–101
"Public record" § 4–101

4–344. INTERAGENCY OR INTRA–AGENCY LETTERS OR MEMORANDA.

A CUSTODIAN MAY DENY INSPECTION OF ANY PART OF AN INTERAGENCY OR INTRA–AGENCY LETTER OR MEMORANDUM THAT WOULD NOT BE AVAILABLE BY LAW TO A PRIVATE PARTY IN LITIGATION WITH THE UNIT.

REVISOR'S NOTE: This section formerly was SG § 10–618(b).

No changes are made.

Defined term: "Custodian" § 4–101

4–345. EXAMINATION INFORMATION.

(A) IN GENERAL.

SUBJECT TO SUBSECTION (B) OF THIS SECTION, A CUSTODIAN MAY DENY INSPECTION OF TEST QUESTIONS, SCORING KEYS, AND OTHER EXAMINATION INFORMATION THAT RELATES TO THE ADMINISTRATION OF LICENSES, EMPLOYMENT, OR ACADEMIC MATTERS.

(B) INSPECTION REQUIRED BY PERSON IN INTEREST.

AFTER A WRITTEN PROMOTIONAL EXAMINATION HAS BEEN GIVEN AND GRADED, A CUSTODIAN SHALL ALLOW A PERSON IN INTEREST TO INSPECT THE EXAMINATION AND THE RESULTS OF THE EXAMINATION, BUT MAY NOT ALLOW THE PERSON IN INTEREST TO COPY OR OTHERWISE TO REPRODUCE THE EXAMINATION.

REVISOR'S NOTE: This section formerly was SG § 10–618(c).

The only changes are in style.

Defined terms: "Custodian" § 4–101
"Person in interest" § 4–101

4–346. STATE OR LOCAL RESEARCH PROJECT.

(A) IN GENERAL.

SUBJECT TO SUBSECTION (B) OF THIS SECTION, A CUSTODIAN MAY DENY INSPECTION OF A PUBLIC RECORD THAT CONTAINS THE SPECIFIC DETAILS OF A RESEARCH PROJECT THAT AN INSTITUTION OF THE STATE OR OF A POLITICAL SUBDIVISION IS CONDUCTING.

(B) DENIAL FOR PARTICULAR INFORMATION PROHIBITED.

A CUSTODIAN MAY NOT DENY INSPECTION OF THE PART OF A PUBLIC RECORD THAT GIVES ONLY THE NAME, TITLE, AND EXPENDITURES OF A RESEARCH PROJECT DESCRIBED IN SUBSECTION (A) OF THIS SECTION AND THE DATE WHEN THE FINAL PROJECT SUMMARY OF THE RESEARCH PROJECT WILL BE AVAILABLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former SG § 10–618(d).

In subsection (b) of this section, the reference to the name, title, and expenditures "of a research project described in subsection (a) of this section" is added for clarity. Similarly, in subsection (b) of this section, the reference to the final project summary "of the research project" is added.

Defined terms: "Custodian" § 4–101
"Political subdivision" § 4–101
"Public record" § 4–101
"State" § 1–115

4–347. INVENTIONS OWNED BY STATE PUBLIC INSTITUTION OF HIGHER EDUCATION.

(A) IN GENERAL.

SUBJECT TO SUBSECTION (B) OF THIS SECTION, A CUSTODIAN MAY DENY INSPECTION OF THE PART OF A PUBLIC RECORD THAT CONTAINS INFORMATION DISCLOSING OR RELATING TO AN INVENTION OWNED IN WHOLE OR IN PART BY A STATE PUBLIC INSTITUTION OF HIGHER EDUCATION FOR 4 YEARS TO ALLOW THE INSTITUTION TO EVALUATE WHETHER TO PATENT OR MARKET THE INVENTION AND PURSUE ECONOMIC DEVELOPMENT AND LICENSING OPPORTUNITIES RELATED TO THE INVENTION.

(B) CIRCUMSTANCES UNDER WHICH DENIAL PROHIBITED.

A CUSTODIAN MAY NOT DENY INSPECTION OF A PART OF A PUBLIC RECORD DESCRIBED IN SUBSECTION (A) OF THIS SECTION IF:

(1) THE INFORMATION DISCLOSING OR RELATING TO AN INVENTION HAS BEEN PUBLISHED OR DISSEMINATED BY THE INVENTORS IN THE COURSE OF THEIR ACADEMIC ACTIVITIES OR DISCLOSED IN A PUBLISHED PATENT;

(2) THE INVENTION REFERRED TO IN THAT PART OF THE RECORD HAS BEEN LICENSED BY THE INSTITUTION FOR AT LEAST 4 YEARS; OR

(3) 4 YEARS HAVE ELAPSED FROM THE DATE OF THE WRITTEN DISCLOSURE OF THE INVENTION TO THE INSTITUTION.

REVISOR'S NOTE: This section formerly was SG § 10–618(h).

The only changes are in style.

Defined terms: "Custodian" § 4–101
"Public record" § 4–101
"State" § 1–115

4–348. CONFIDENTIAL INFORMATION OWNED BY SPECIFIC STATE ENTITIES.

A CUSTODIAN MAY DENY INSPECTION OF THE PART OF A PUBLIC RECORD THAT CONTAINS INFORMATION DISCLOSING OR RELATING TO A TRADE SECRET, CONFIDENTIAL COMMERCIAL INFORMATION, OR CONFIDENTIAL FINANCIAL INFORMATION OWNED IN WHOLE OR IN PART BY:

(1) THE MARYLAND TECHNOLOGY DEVELOPMENT CORPORATION; OR

(2) A PUBLIC INSTITUTION OF HIGHER EDUCATION, IF THE INFORMATION IS PART OF THE INSTITUTION'S ACTIVITIES UNDER § 15–107 OF THE EDUCATION ARTICLE.

REVISOR'S NOTE: This section formerly was SG § 10–618(i).

No changes are made.

Defined terms: "Custodian" § 4–101
"Public record" § 4–101

4–349. REAL ESTATE APPRAISALS.

(A) IN GENERAL.

SUBJECT TO SUBSECTION (B) OF THIS SECTION AND OTHER LAW, UNTIL THE STATE OR A POLITICAL SUBDIVISION ACQUIRES TITLE TO PROPERTY, A CUSTODIAN MAY DENY INSPECTION OF A PUBLIC RECORD THAT CONTAINS A REAL ESTATE APPRAISAL OF THE PROPERTY.

(B) OWNER OF PROPERTY.

A CUSTODIAN MAY NOT DENY INSPECTION BY THE OWNER OF THE PROPERTY.

REVISOR'S NOTE: This section formerly was SG § 10–618(e).

The only changes are in style.

Defined terms: "Custodian" § 4–101
"Political subdivision" § 4–101
"Public record" § 4–101
"State" § 1–115

4–350. SITE–SPECIFIC LOCATIONS OF CERTAIN PLANTS, ANIMALS, OR PROPERTY.

(A) IN GENERAL.

A CUSTODIAN MAY DENY INSPECTION OF A PUBLIC RECORD THAT CONTAINS INFORMATION CONCERNING THE SITE–SPECIFIC LOCATION OF AN ENDANGERED OR THREATENED SPECIES OF PLANT OR ANIMAL, A SPECIES OF PLANT OR ANIMAL IN NEED OF CONSERVATION, A CAVE, OR A HISTORIC PROPERTY AS DEFINED IN § 5A–301 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(B) CIRCUMSTANCES UNDER WHICH DENIAL PROHIBITED.

A CUSTODIAN MAY NOT DENY INSPECTION OF A PUBLIC RECORD DESCRIBED IN SUBSECTION (A) OF THIS SECTION IF REQUESTED BY:

(1) THE OWNER OF THE LAND ON WHICH THE RESOURCE IS LOCATED; OR

(2) ANY ENTITY THAT IS AUTHORIZED TO TAKE THE LAND THROUGH THE RIGHT OF EMINENT DOMAIN.

REVISOR'S NOTE: This section is new language derived without substantive change from former SG § 10–618(g).

Defined terms: "Custodian" § 4–101
"Public record" § 4–101

4–351. INVESTIGATION; INTELLIGENCE INFORMATION; SECURITY PROCEDURES.

(A) IN GENERAL.

SUBJECT TO SUBSECTION (B) OF THIS SECTION, A CUSTODIAN MAY DENY INSPECTION OF:

(1) RECORDS OF INVESTIGATIONS CONDUCTED BY THE ATTORNEY GENERAL, A STATE'S ATTORNEY, A MUNICIPAL OR COUNTY ATTORNEY, A POLICE DEPARTMENT, OR A SHERIFF;

(2) AN INVESTIGATORY FILE COMPILED FOR ANY OTHER LAW ENFORCEMENT, JUDICIAL, CORRECTIONAL, OR PROSECUTION PURPOSE; OR

(3) RECORDS THAT CONTAIN INTELLIGENCE INFORMATION OR SECURITY PROCEDURES OF THE ATTORNEY GENERAL, A STATE'S ATTORNEY, A MUNICIPAL OR COUNTY ATTORNEY, A POLICE DEPARTMENT, A STATE OR LOCAL CORRECTIONAL FACILITY, OR A SHERIFF.

(B) CIRCUMSTANCES UNDER WHICH DENIAL PERMISSIBLE.

A CUSTODIAN MAY DENY INSPECTION BY A PERSON IN INTEREST ONLY TO THE EXTENT THAT THE INSPECTION WOULD:

(1) INTERFERE WITH A VALID AND PROPER LAW ENFORCEMENT PROCEEDING;

(2) DEPRIVE ANOTHER PERSON OF A RIGHT TO A FAIR TRIAL OR AN IMPARTIAL ADJUDICATION;

(3) CONSTITUTE AN UNWARRANTED INVASION OF PERSONAL PRIVACY;

(4) DISCLOSE THE IDENTITY OF A CONFIDENTIAL SOURCE;

(5) DISCLOSE AN INVESTIGATIVE TECHNIQUE OR PROCEDURE;

(6) PREJUDICE AN INVESTIGATION; OR

(7) ENDANGER THE LIFE OR PHYSICAL SAFETY OF AN INDIVIDUAL.

REVISOR'S NOTE: This section formerly was SG § 10–618(f).

The only changes are in style.

Defined terms: "County" § 1–107
"Custodian" § 4–101
"Person" § 1–114
"Person in interest" § 4–101
"State" § 1–115

4–352. INFORMATION RELATED TO EMERGENCY MANAGEMENT.

(A) IN GENERAL.

SUBJECT TO SUBSECTIONS (B) AND (C) OF THIS SECTION, A CUSTODIAN MAY DENY INSPECTION OF:

(1) RESPONSE PROCEDURES OR PLANS PREPARED TO PREVENT OR RESPOND TO EMERGENCY SITUATIONS, THE DISCLOSURE OF WHICH WOULD REVEAL VULNERABILITY ASSESSMENTS, SPECIFIC TACTICS, SPECIFIC EMERGENCY PROCEDURES, OR SPECIFIC SECURITY PROCEDURES;

(2) (I) BUILDING PLANS, BLUEPRINTS, SCHEMATIC DRAWINGS, DIAGRAMS, OPERATIONAL MANUALS, OR ANY OTHER RECORDS OF PORTS AND AIRPORTS AND ANY OTHER MASS TRANSIT FACILITIES, BRIDGES, TUNNELS, EMERGENCY RESPONSE FACILITIES OR STRUCTURES, BUILDINGS WHERE HAZARDOUS MATERIALS ARE STORED, ARENAS, STADIUMS, WASTE AND WATER SYSTEMS, AND ANY OTHER BUILDING, STRUCTURE, OR FACILITY, THE DISCLOSURE OF WHICH WOULD REVEAL THE BUILDING'S, STRUCTURE'S, OR FACILITY'S INTERNAL LAYOUT, SPECIFIC LOCATION, LIFE, SAFETY, AND SUPPORT SYSTEMS, STRUCTURAL ELEMENTS, SURVEILLANCE TECHNIQUES, ALARM OR SECURITY SYSTEMS OR TECHNOLOGIES, OPERATIONAL AND TRANSPORTATION PLANS OR PROTOCOLS, OR PERSONNEL DEPLOYMENTS; OR

(II) RECORDS OF ANY OTHER BUILDING, STRUCTURE, OR FACILITY, THE DISCLOSURE OF WHICH WOULD REVEAL THE BUILDING'S, STRUCTURE'S, OR FACILITY'S LIFE, SAFETY, AND SUPPORT SYSTEMS, SURVEILLANCE TECHNIQUES, ALARM OR SECURITY SYSTEMS OR TECHNOLOGIES, OPERATIONAL AND EVACUATION PLANS OR PROTOCOLS, OR PERSONNEL DEPLOYMENTS; OR

(3) RECORDS THAT:

(I) ARE PREPARED TO PREVENT OR RESPOND TO EMERGENCY SITUATIONS; AND

(II) IDENTIFY OR DESCRIBE THE NAME, LOCATION, PHARMACEUTICAL CACHE, CONTENTS, CAPACITY, EQUIPMENT, PHYSICAL FEATURES, OR CAPABILITIES OF INDIVIDUAL MEDICAL FACILITIES, STORAGE FACILITIES, OR LABORATORIES.

(B) CIRCUMSTANCES UNDER WHICH DENIAL PERMISSIBLE.

THE CUSTODIAN MAY DENY INSPECTION OF A PART OF A PUBLIC RECORD UNDER SUBSECTION (A) OF THIS SECTION ONLY TO THE EXTENT THAT THE INSPECTION WOULD:

(1) JEOPARDIZE THE SECURITY OF ANY BUILDING, STRUCTURE, OR FACILITY;

(2) FACILITATE THE PLANNING OF A TERRORIST ATTACK; OR

(3) ENDANGER THE LIFE OR PHYSICAL SAFETY OF AN INDIVIDUAL.

(C) CIRCUMSTANCES UNDER WHICH DENIAL PROHIBITED.

(1) THIS SUBSECTION DOES NOT APPLY TO THE RECORDS OF ANY BUILDING, STRUCTURE, OR FACILITY OWNED OR OPERATED BY THE STATE OR ANY POLITICAL SUBDIVISION.

(2) A CUSTODIAN MAY NOT DENY INSPECTION OF A PUBLIC RECORD UNDER SUBSECTION (A) OR (B) OF THIS SECTION THAT RELATES TO A BUILDING, STRUCTURE, OR FACILITY THAT HAS BEEN SUBJECTED TO A CATASTROPHIC EVENT, INCLUDING A FIRE, AN EXPLOSION, OR A NATURAL DISASTER.

(3) SUBJECT TO SUBSECTIONS (A) AND (B) OF THIS SECTION, A CUSTODIAN MAY NOT DENY INSPECTION OF A PUBLIC RECORD THAT RELATES TO AN INSPECTION OF OR ISSUANCE OF A CITATION CONCERNING A BUILDING, STRUCTURE, OR FACILITY BY AN AGENCY OF THE STATE OR ANY POLITICAL SUBDIVISION.

REVISOR'S NOTE: This section is new language derived without substantive change from former SG § 10–618(j).

In subsection (c)(2) and (3) of this section, the former phrases "[s]ubject to subparagraph (ii) of this paragraph" and "[s]ubject to … subparagraph (ii) of this paragraph", respectively, are deleted as unnecessary in light of subsection (c)(1) of this section.

Defined terms: "Custodian" § 4–101
"Including" § 1–110
"Political subdivision" § 4–101
"Public record" § 4–101
"State" § 1–115

4–353. MARYLAND PORT ADMINISTRATION INFORMATION.

(A) IN GENERAL.

A CUSTODIAN MAY DENY INSPECTION OF ANY PART OF A PUBLIC RECORD THAT CONTAINS:

(1) STEVEDORING OR TERMINAL SERVICES OR FACILITY USE RATES OR PROPOSED RATES GENERATED, RECEIVED, OR NEGOTIATED BY THE MARYLAND PORT ADMINISTRATION OR ANY PRIVATE OPERATING COMPANY CREATED BY THE MARYLAND PORT ADMINISTRATION;

(2) A PROPOSAL GENERATED, RECEIVED, OR NEGOTIATED BY THE MARYLAND PORT ADMINISTRATION OR ANY PRIVATE OPERATING COMPANY CREATED BY THE MARYLAND PORT ADMINISTRATION FOR USE OF STEVEDORING OR TERMINAL SERVICES OR FACILITIES TO INCREASE WATERBORNE COMMERCE THROUGH THE PORTS OF THE STATE; OR

(3) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, RESEARCH OR ANALYSIS RELATED TO MARITIME BUSINESSES OR VESSELS COMPILED FOR THE MARYLAND PORT ADMINISTRATION OR ANY PRIVATE OPERATING COMPANY CREATED BY THE MARYLAND PORT ADMINISTRATION TO EVALUATE ITS COMPETITIVE POSITION WITH RESPECT TO OTHER PORTS.

(B) CIRCUMSTANCES UNDER WHICH DENIAL PROHIBITED.

(1) A CUSTODIAN MAY NOT DENY INSPECTION OF ANY PART OF A PUBLIC RECORD UNDER SUBSECTION (A)(3) OF THIS SECTION BY THE EXCLUSIVE REPRESENTATIVE IDENTIFIED IN SECTION 1 OF THE MEMORANDUM OF UNDERSTANDING, OR ANY IDENTICAL SECTION OF A SUCCESSOR MEMORANDUM, BETWEEN THE STATE AND THE AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES DATED JUNE 28, 2000, OR THE MEMORANDUM OF UNDERSTANDING, OR ANY IDENTICAL SECTION OF A SUCCESSOR MEMORANDUM, BETWEEN THE STATE AND THE MARYLAND PROFESSIONAL EMPLOYEES COUNCIL DATED AUGUST 18, 2000, IF THE PART OF THE PUBLIC RECORD:

(I) IS RELATED TO STATE EMPLOYEES; AND

(II) WOULD OTHERWISE BE AVAILABLE TO THE EXCLUSIVE REPRESENTATIVE UNDER ARTICLE 4, SECTION 12 OF THE APPLICABLE MEMORANDUM OF UNDERSTANDING, OR ANY IDENTICAL SECTION OF A SUCCESSOR MEMORANDUM OF UNDERSTANDING.

(2) BEFORE THE INSPECTION OF ANY PART OF A PUBLIC RECORD UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE EXCLUSIVE REPRESENTATIVE SHALL ENTER INTO A NONDISCLOSURE AGREEMENT WITH THE MARYLAND PORT ADMINISTRATION TO ENSURE THE CONFIDENTIALITY OF THE INFORMATION PROVIDED.

REVISOR'S NOTE: This section formerly was SG § 10–618(k).

In subsection (b)(1)(ii) of this section, the reference to the "applicable" memorandum of understanding is added for clarity because there are two memoranda of understanding referenced in the introductory language of subsection (b)(1) of this section.

The only other changes are in style.

Defined terms: "Custodian" § 4–101
"Public record" § 4–101
"State" § 1–115

4–354. UNIVERSITY OF MARYLAND UNIVERSITY COLLEGE RECORDS.

(A) IN GENERAL.

A CUSTODIAN MAY DENY INSPECTION OF ANY PART OF A PUBLIC RECORD THAT:

(1) RELATES TO THE UNIVERSITY OF MARYLAND UNIVERSITY COLLEGE'S COMPETITIVE POSITION WITH RESPECT TO OTHER PROVIDERS OF EDUCATION SERVICES; AND

(2) CONTAINS:

(I) FEES, TUITION, CHARGES, AND ANY INFORMATION SUPPORTING FEES, TUITION, AND CHARGES, PROPOSED, GENERATED, RECEIVED, OR NEGOTIATED FOR RECEIPT BY THE UNIVERSITY OF MARYLAND UNIVERSITY COLLEGE, EXCEPT FEES, TUITION, AND CHARGES PUBLISHED IN CATALOGUES AND ORDINARILY CHARGED TO STUDENTS;

(II) A PROPOSAL GENERATED, RECEIVED, OR NEGOTIATED BY THE UNIVERSITY OF MARYLAND UNIVERSITY COLLEGE, OTHER THAN WITH ITS STUDENTS, FOR THE PROVISION OF EDUCATION SERVICES; OR

(III) ANY RESEARCH, ANALYSIS, OR PLANS COMPILED BY OR FOR THE UNIVERSITY OF MARYLAND UNIVERSITY COLLEGE RELATING TO ITS OPERATIONS OR PROPOSED OPERATIONS.

(B) CIRCUMSTANCES UNDER WHICH DENIAL PROHIBITED.

A CUSTODIAN MAY NOT DENY INSPECTION OF ANY PART OF A PUBLIC RECORD UNDER SUBSECTION (A) OF THIS SECTION IF:

(1) THE RECORD RELATES TO A PROCUREMENT BY THE UNIVERSITY OF MARYLAND UNIVERSITY COLLEGE;

(2) THE UNIVERSITY OF MARYLAND UNIVERSITY COLLEGE IS REQUIRED TO DEVELOP OR MAINTAIN THE RECORD BY LAW OR AT THE DIRECTION OF THE BOARD OF REGENTS OF THE UNIVERSITY SYSTEM OF MARYLAND; OR

(3) (I) THE RECORD IS REQUESTED BY THE EXCLUSIVE REPRESENTATIVE OF ANY BARGAINING UNIT OF EMPLOYEES OF THE UNIVERSITY OF MARYLAND UNIVERSITY COLLEGE;

(II) THE RECORD RELATES TO A MATTER THAT IS THE SUBJECT OF COLLECTIVE BARGAINING NEGOTIATIONS BETWEEN THE EXCLUSIVE REPRESENTATIVE AND THE UNIVERSITY OF MARYLAND UNIVERSITY COLLEGE; AND

(III) THE EXCLUSIVE REPRESENTATIVE HAS ENTERED INTO A NONDISCLOSURE AGREEMENT WITH THE UNIVERSITY OF MARYLAND UNIVERSITY COLLEGE TO ENSURE THE CONFIDENTIALITY OF THE INFORMATION PROVIDED.

REVISOR'S NOTE: This section formerly was SG § 10–618(l).

The only changes are in style.

Defined terms: "Custodian" § 4–101
"Public record" § 4–101
"University of Maryland" § 1–116

4–355. PUBLIC INSTITUTION OF HIGHER EDUCATION RECORDS.

(A) DEFINITIONS.

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

(2) "DIRECTORY INFORMATION" HAS THE MEANING STATED IN 20 U.S.C. § 1232G.

(3) "PERSONAL INFORMATION" MEANS:

(I) AN ADDRESS;

(II) A TELEPHONE NUMBER;

(III) AN ELECTRONIC MAIL ADDRESS; OR

(IV) DIRECTORY INFORMATION.

(B) CIRCUMSTANCES UNDER WHICH DENIAL PERMISSIBLE.

A CUSTODIAN OF A RECORD KEPT BY A PUBLIC INSTITUTION OF HIGHER EDUCATION THAT CONTAINS PERSONAL INFORMATION RELATING TO A STUDENT, A FORMER STUDENT, OR AN APPLICANT MAY:

(1) REQUIRE THAT A REQUEST TO INSPECT A RECORD CONTAINING PERSONAL INFORMATION BE MADE IN WRITING AND SENT BY FIRST–CLASS MAIL; AND

(2) DENY INSPECTION OF THE PART OF THE RECORD CONTAINING THE PERSONAL INFORMATION IF THE INFORMATION IS REQUESTED FOR COMMERCIAL PURPOSES.

REVISOR'S NOTE: This section formerly was SG § 10–618(m).

The only changes are in style.

Defined term: "Custodian" § 4–101

4–356. RESERVED.

4–357. RESERVED.

PART V. TEMPORARY DENIALS.

4–358. TEMPORARY DENIALS.

(A) IN GENERAL.

WHENEVER THIS TITLE AUTHORIZES INSPECTION OF A PUBLIC RECORD BUT THE OFFICIAL CUSTODIAN BELIEVES THAT INSPECTION WOULD CAUSE SUBSTANTIAL INJURY TO THE PUBLIC INTEREST, THE OFFICIAL CUSTODIAN MAY DENY INSPECTION TEMPORARILY.

(B) PETITION.

(1) WITHIN 10 WORKING DAYS AFTER THE DENIAL, THE OFFICIAL CUSTODIAN SHALL PETITION A COURT TO ORDER AUTHORIZATION FOR THE CONTINUED DENIAL OF INSPECTION.

(2) THE PETITION SHALL BE FILED WITH THE CIRCUIT COURT FOR THE COUNTY WHERE:

(I) THE PUBLIC RECORD IS LOCATED; OR

(II) THE PRINCIPAL PLACE OF BUSINESS OF THE OFFICIAL CUSTODIAN IS LOCATED.

(3) THE PETITION SHALL BE SERVED ON THE APPLICANT, AS PROVIDED IN THE MARYLAND RULES.

(C) RIGHTS OF APPLICANT.

THE APPLICANT IS ENTITLED TO APPEAR AND TO BE HEARD ON THE PETITION.

(D) ORDER FOR CONTINUED DENIAL.

IF, AFTER THE HEARING, THE COURT FINDS THAT INSPECTION OF THE PUBLIC RECORD WOULD CAUSE SUBSTANTIAL INJURY TO THE PUBLIC INTEREST, THE COURT MAY ISSUE AN APPROPRIATE ORDER AUTHORIZING THE CONTINUED DENIAL OF INSPECTION.

REVISOR'S NOTE: This section formerly was SG § 10–619.

In subsection (d) of this section, the reference to the court "issu[ing]" an order is substituted for the former reference to the court "pass[ing]" an order for accuracy.

The only other changes are in style.

Defined terms: "Applicant" § 4–101
"County" § 1–107
"Official custodian" § 4–101
"Public record" § 4–101

4–359. RESERVED.

4–360. RESERVED.

PART VI. ADMINISTRATIVE AND JUDICIAL REVIEW.

4–361. ADMINISTRATIVE REVIEW.

(A) SCOPE OF SECTION.

THIS SECTION DOES NOT APPLY WHEN THE OFFICIAL CUSTODIAN DENIES INSPECTION TEMPORARILY UNDER § 4–358 OF THIS SUBTITLE.

(B) ALLOWED.

IF A UNIT IS SUBJECT TO TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE, A PERSON OR GOVERNMENTAL UNIT MAY SEEK ADMINISTRATIVE REVIEW IN ACCORDANCE WITH THAT SUBTITLE OF A DECISION OF THE UNIT, UNDER THIS SUBTITLE, TO DENY INSPECTION OF ANY PART OF A PUBLIC RECORD.

(C) NOT REQUIRED.

A PERSON OR GOVERNMENTAL UNIT NEED NOT EXHAUST THE REMEDY UNDER THIS SECTION BEFORE FILING SUIT.

REVISOR'S NOTE: This section formerly was SG § 10–622.

The only changes are in style.

Defined terms: "Official custodian" § 4–101
"Person" § 1–114
"Public record" § 4–101

4–362. JUDICIAL REVIEW.

(A) COMPLAINT.

WHENEVER A PERSON OR GOVERNMENTAL UNIT IS DENIED INSPECTION OF A PUBLIC RECORD, THE PERSON OR GOVERNMENTAL UNIT MAY FILE A COMPLAINT WITH THE CIRCUIT COURT FOR THE COUNTY WHERE:

(1) THE COMPLAINANT RESIDES OR HAS A PRINCIPAL PLACE OF BUSINESS; OR

(2) THE PUBLIC RECORD IS LOCATED.

(B) DEFENDANT.

(1) UNLESS, FOR GOOD CAUSE SHOWN, THE COURT OTHERWISE DIRECTS, AND NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE DEFENDANT SHALL SERVE AN ANSWER OR OTHERWISE PLEAD TO THE COMPLAINT WITHIN 30 DAYS AFTER SERVICE OF THE COMPLAINT.

(2) THE DEFENDANT:

(I) HAS THE BURDEN OF SUSTAINING A DECISION TO DENY INSPECTION OF A PUBLIC RECORD; AND

(II) IN SUPPORT OF THE DECISION, MAY SUBMIT A MEMORANDUM TO THE COURT.

(C) COURT.

(1) EXCEPT FOR CASES THAT THE COURT CONSIDERS OF GREATER IMPORTANCE, A PROCEEDING UNDER THIS SECTION, INCLUDING AN APPEAL, SHALL:

(I) TAKE PRECEDENCE ON THE DOCKET;

(II) BE HEARD AT THE EARLIEST PRACTICABLE DATE; AND

(III) BE EXPEDITED IN EVERY WAY.

(2) THE COURT MAY EXAMINE THE PUBLIC RECORD IN CAMERA TO DETERMINE WHETHER ANY PART OF THE PUBLIC RECORD MAY BE WITHHELD UNDER THIS TITLE.

(3) THE COURT MAY:

(I) ENJOIN THE STATE, A POLITICAL SUBDIVISION, OR A UNIT, AN OFFICIAL, OR AN EMPLOYEE OF THE STATE OR OF A POLITICAL SUBDIVISION FROM WITHHOLDING THE PUBLIC RECORD;

(II) ISSUE AN ORDER FOR THE PRODUCTION OF THE PUBLIC RECORD THAT WAS WITHHELD FROM THE COMPLAINANT; AND

(III) FOR NONCOMPLIANCE WITH THE ORDER, PUNISH THE RESPONSIBLE EMPLOYEE FOR CONTEMPT.

(D) DAMAGES.

(1) A DEFENDANT GOVERNMENTAL UNIT IS LIABLE TO THE COMPLAINANT FOR ACTUAL DAMAGES THAT THE COURT CONSIDERS APPROPRIATE IF THE COURT FINDS BY CLEAR AND CONVINCING EVIDENCE THAT ANY DEFENDANT KNOWINGLY AND WILLFULLY FAILED TO DISCLOSE OR FULLY TO DISCLOSE A PUBLIC RECORD THAT THE COMPLAINANT WAS ENTITLED TO INSPECT UNDER THIS TITLE.

(2) AN OFFICIAL CUSTODIAN IS LIABLE FOR ACTUAL DAMAGES THAT THE COURT CONSIDERS APPROPRIATE IF THE COURT FINDS THAT, AFTER TEMPORARILY DENYING INSPECTION OF A PUBLIC RECORD, THE OFFICIAL CUSTODIAN FAILED TO PETITION A COURT FOR AN ORDER TO CONTINUE THE DENIAL.

(E) DISCIPLINARY ACTION.

(1) WHENEVER THE COURT ORDERS THE PRODUCTION OF A PUBLIC RECORD THAT WAS WITHHELD FROM THE APPLICANT AND, IN ADDITION, FINDS THAT THE CUSTODIAN ACTED ARBITRARILY OR CAPRICIOUSLY IN WITHHOLDING THE PUBLIC RECORD, THE COURT SHALL SEND A CERTIFIED COPY OF ITS FINDING TO THE APPOINTING AUTHORITY OF THE CUSTODIAN.

(2) ON RECEIPT OF THE STATEMENT OF THE COURT AND AFTER AN APPROPRIATE INVESTIGATION, THE APPOINTING AUTHORITY SHALL TAKE THE DISCIPLINARY ACTION THAT THE CIRCUMSTANCES WARRANT.

(F) COSTS.

IF THE COURT DETERMINES THAT THE COMPLAINANT HAS SUBSTANTIALLY PREVAILED, THE COURT MAY ASSESS AGAINST A DEFENDANT GOVERNMENTAL UNIT REASONABLE COUNSEL FEES AND OTHER LITIGATION COSTS THAT THE COMPLAINANT REASONABLY INCURRED.

REVISOR'S NOTE: This section formerly was SG § 10–623.

In subsection (c)(3)(ii) of this section, the reference to the court "issu[ing]" an order is substituted for the former reference to the court "pass[ing]" an order for accuracy.

The only other changes are in style.

Defined terms: "Applicant" § 4–101
"County" § 1–107
"Custodian" § 4–101
"Including" § 1–110
"Official custodian" § 4–101
"Person" § 1–114
"Political subdivision" § 4–101
"Public record" § 4–101
"State" § 1–115

SUBTITLE 4. LIABILITY; PROHIBITED ACTS; PENALTIES; IMMUNITY.

4–401. UNLAWFUL DISCLOSURE OF PUBLIC RECORDS.

(A) LIABILITY.

A PERSON, INCLUDING AN OFFICER OR EMPLOYEE OF A GOVERNMENTAL UNIT, IS LIABLE TO AN INDIVIDUAL FOR ACTUAL DAMAGES THAT THE COURT CONSIDERS APPROPRIATE IF THE COURT FINDS BY CLEAR AND CONVINCING EVIDENCE THAT:

(1) (I) THE PERSON WILLFULLY AND KNOWINGLY ALLOWS INSPECTION OR USE OF A PUBLIC RECORD IN VIOLATION OF THIS SUBTITLE; AND

(II) THE PUBLIC RECORD NAMES OR, WITH REASONABLE CERTAINTY, OTHERWISE IDENTIFIES THE INDIVIDUAL BY AN IDENTIFYING FACTOR SUCH AS:

1. AN ADDRESS;

2. A DESCRIPTION;

3. A FINGERPRINT OR VOICE PRINT;

4. A NUMBER; OR

5. A PICTURE; OR

(2) THE PERSON WILLFULLY AND KNOWINGLY OBTAINS, DISCLOSES, OR USES PERSONAL INFORMATION IN VIOLATION OF § 4–320 OF THIS TITLE.

(B) COSTS.

IF THE COURT DETERMINES THAT THE COMPLAINANT HAS SUBSTANTIALLY PREVAILED, THE COURT MAY ASSESS AGAINST A DEFENDANT REASONABLE COUNSEL FEES AND OTHER LITIGATION COSTS THAT THE COMPLAINANT REASONABLY INCURRED.

REVISOR'S NOTE: This section formerly was SG § 10–626.

The only changes are in style.

Defined terms: "Including" § 1–110
"Person" § 1–114
"Personal information" § 4–101
"Public record" § 4–101

4–402. PROHIBITED ACTS; CRIMINAL PENALTIES.

(A) PROHIBITED ACTS.

A PERSON MAY NOT:

(1) WILLFULLY OR KNOWINGLY VIOLATE ANY PROVISION OF THIS TITLE;

(2) FAIL TO PETITION A COURT AFTER TEMPORARILY DENYING INSPECTION OF A PUBLIC RECORD; OR

(3) BY FALSE PRETENSES, BRIBERY, OR THEFT, GAIN ACCESS TO OR OBTAIN A COPY OF A PERSONAL RECORD IF DISCLOSURE OF THE PERSONAL RECORD TO THE PERSON IS PROHIBITED BY THIS TITLE.

(B) CRIMINAL PENALTIES.

A PERSON WHO VIOLATES ANY PROVISION OF THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING $1,000.

REVISOR'S NOTE: This section formerly was SG § 10–627.

The only changes are in style.

Defined terms: "Person" § 1–114
"Public record" § 4–101

4–403. IMMUNITY FOR CERTAIN DISCLOSURES.

A CUSTODIAN IS NOT CIVILLY OR CRIMINALLY LIABLE FOR TRANSFERRING OR DISCLOSING THE CONTENTS OF A PUBLIC RECORD TO THE ATTORNEY GENERAL UNDER § 5–313 OF THE STATE PERSONNEL AND PENSIONS ARTICLE.

REVISOR'S NOTE: This section formerly was SG § 10–628.

No changes are made.

Defined terms: "Custodian" § 4–101
"Public record" § 4–101

SUBTITLE 5. MISCELLANEOUS PROVISIONS.

4–501. PERSONAL RECORDS.

(A) "PERSONAL RECORD" DEFINED.

IN THIS SECTION, "PERSONAL RECORD" MEANS A PUBLIC RECORD THAT NAMES OR, WITH REASONABLE CERTAINTY, OTHERWISE IDENTIFIES AN INDIVIDUAL BY AN IDENTIFYING FACTOR SUCH AS:

(1) AN ADDRESS;

(2) A DESCRIPTION;

(3) A FINGERPRINT OR VOICE PRINT;

(4) A NUMBER; OR

(5) A PICTURE.

(B) REQUIREMENT OF NEED.

(1) PERSONAL RECORDS MAY NOT BE CREATED UNLESS THE NEED FOR THE INFORMATION HAS BEEN CLEARLY ESTABLISHED BY THE UNIT COLLECTING THE RECORDS.

(2) PERSONAL INFORMATION COLLECTED FOR PERSONAL RECORDS:

(I) SHALL BE APPROPRIATE AND RELEVANT TO THE PURPOSES FOR WHICH IT IS COLLECTED;

(II) SHALL BE ACCURATE AND CURRENT TO THE GREATEST EXTENT PRACTICABLE; AND

(III) MAY NOT BE OBTAINED BY FRAUDULENT MEANS.

(C) COLLECTION BY OFFICIAL CUSTODIAN FROM PERSON IN INTEREST.

(1) THIS SUBSECTION APPLIES ONLY TO UNITS OF THE STATE.

(2) EXCEPT AS OTHERWISE PROVIDED BY LAW, AN OFFICIAL CUSTODIAN WHO KEEPS PERSONAL RECORDS SHALL COLLECT, TO THE GREATEST EXTENT PRACTICABLE, PERSONAL INFORMATION FROM THE PERSON IN INTEREST.

(3) AN OFFICIAL CUSTODIAN WHO REQUESTS PERSONAL INFORMATION FOR PERSONAL RECORDS SHALL PROVIDE THE FOLLOWING INFORMATION TO EACH PERSON IN INTEREST FROM WHOM PERSONAL INFORMATION IS COLLECTED:

(I) THE PURPOSE FOR WHICH THE PERSONAL INFORMATION IS COLLECTED;

(II) ANY SPECIFIC CONSEQUENCES TO THE PERSON FOR REFUSAL TO PROVIDE THE PERSONAL INFORMATION;

(III) THE PERSON'S RIGHT TO INSPECT, AMEND, OR CORRECT PERSONAL RECORDS, IF ANY;

(IV) WHETHER THE PERSONAL INFORMATION IS GENERALLY AVAILABLE FOR PUBLIC INSPECTION; AND

(V) WHETHER THE PERSONAL INFORMATION IS MADE AVAILABLE OR TRANSFERRED TO OR SHARED WITH ANY ENTITY OTHER THAN THE OFFICIAL CUSTODIAN.

(4) EACH UNIT OF THE STATE SHALL POST ITS PRIVACY POLICIES ON THE COLLECTION OF PERSONAL INFORMATION, INCLUDING THE POLICIES SPECIFIED IN THIS SUBSECTION, ON ITS INTERNET WEB SITE.

(5) THE FOLLOWING PERSONAL RECORDS ARE EXEMPT FROM THE REQUIREMENTS OF THIS SUBSECTION:

(I) INFORMATION CONCERNING THE ENFORCEMENT OF CRIMINAL LAWS OR THE ADMINISTRATION OF THE PENAL SYSTEM;

(II) INFORMATION CONTAINED IN INVESTIGATIVE MATERIALS KEPT FOR THE PURPOSE OF INVESTIGATING A SPECIFIC VIOLATION OF STATE LAW AND MAINTAINED BY A STATE AGENCY WHOSE PRINCIPAL FUNCTION MAY BE OTHER THAN LAW ENFORCEMENT;

(III) INFORMATION CONTAINED IN PUBLIC RECORDS THAT ARE ACCEPTED BY THE STATE ARCHIVIST FOR DEPOSIT IN THE MARYLAND HALL OF RECORDS;

(IV) INFORMATION GATHERED AS PART OF FORMAL RESEARCH PROJECTS PREVIOUSLY REVIEWED AND APPROVED BY FEDERALLY MANDATED INSTITUTIONAL REVIEW BOARDS; AND

(V) ANY OTHER PERSONAL RECORDS EXEMPTED BY REGULATIONS ADOPTED BY THE SECRETARY OF BUDGET AND MANAGEMENT, BASED ON THE RECOMMENDATION OF THE SECRETARY OF INFORMATION TECHNOLOGY.

(6) IF THE SECRETARY OF BUDGET AND MANAGEMENT ADOPTS REGULATIONS UNDER PARAGRAPH (5)(V) OF THIS SUBSECTION, THE SECRETARY SHALL REPORT, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY ON THE PERSONAL RECORDS EXEMPTED FROM THE REQUIREMENTS OF THIS SUBSECTION.

(D) ANNUAL REPORT.

(1) THIS SUBSECTION DOES NOT APPLY TO:

(I) A UNIT IN THE LEGISLATIVE BRANCH OF THE STATE GOVERNMENT;

(II) A UNIT IN THE JUDICIAL BRANCH OF THE STATE GOVERNMENT; OR

(III) A BOARD OF LICENSE COMMISSIONERS.

(2) IF A UNIT OR AN INSTRUMENTALITY OF THE STATE KEEPS PERSONAL RECORDS, THE UNIT OR INSTRUMENTALITY SHALL SUBMIT AN ANNUAL REPORT TO THE SECRETARY OF GENERAL SERVICES.

(3) AN ANNUAL REPORT SHALL STATE:

(I) THE NAME OF THE UNIT OR INSTRUMENTALITY;

(II) FOR EACH SET OF PERSONAL RECORDS:

1. THE NAME OF THE SET;

2. THE LOCATION OF THE SET; AND

3. IF A SUBUNIT KEEPS THE SET, THE NAME OF THE SUBUNIT;

(III) FOR EACH SET OF PERSONAL RECORDS THAT HAS NOT BEEN PREVIOUSLY REPORTED:

1. THE CATEGORY OF INDIVIDUALS TO WHOM THE SET APPLIES;

2. A BRIEF DESCRIPTION OF THE TYPES OF INFORMATION THAT THE SET CONTAINS;

3. THE MAJOR USES AND PURPOSES OF THE INFORMATION;

4. BY CATEGORY, THE SOURCE OF INFORMATION FOR THE SET; AND

5. THE POLICIES AND PROCEDURES OF THE UNIT OR INSTRUMENTALITY AS TO:

A. ACCESS AND CHALLENGES TO THE PERSONAL RECORD BY THE PERSON IN INTEREST; AND

B. STORAGE, RETRIEVAL, RETENTION, DISPOSAL, AND SECURITY, INCLUDING CONTROLS ON ACCESS; AND

(IV) FOR EACH SET OF PERSONAL RECORDS THAT HAS BEEN DISPOSED OF OR CHANGED SIGNIFICANTLY SINCE THE UNIT OR INSTRUMENTALITY LAST SUBMITTED A REPORT, THE INFORMATION REQUIRED UNDER ITEM (III) OF THIS PARAGRAPH.

(4) A UNIT OR AN INSTRUMENTALITY THAT HAS TWO OR MORE SETS OF PERSONAL RECORDS MAY COMBINE THE PERSONAL RECORDS IN THE REPORT ONLY IF THE CHARACTER OF THE PERSONAL RECORDS IS HIGHLY SIMILAR.

(5) THE SECRETARY OF GENERAL SERVICES SHALL ADOPT REGULATIONS THAT GOVERN THE FORM AND METHOD OF REPORTING UNDER THIS SUBSECTION.

(6) THE ANNUAL REPORT SHALL BE AVAILABLE FOR PUBLIC INSPECTION.

(E) ACCESS FOR RESEARCH.

THE OFFICIAL CUSTODIAN MAY ALLOW INSPECTION OF PERSONAL RECORDS FOR WHICH INSPECTION OTHERWISE IS NOT AUTHORIZED BY A PERSON WHO IS ENGAGED IN A RESEARCH PROJECT IF:

(1) THE RESEARCHER SUBMITS TO THE OFFICIAL CUSTODIAN A WRITTEN REQUEST THAT:

(I) DESCRIBES THE PURPOSE OF THE RESEARCH PROJECT;

(II) DESCRIBES THE INTENT, IF ANY, TO PUBLISH THE FINDINGS;

(III) DESCRIBES THE NATURE OF THE REQUESTED PERSONAL RECORDS;

(IV) DESCRIBES THE SAFEGUARDS THAT THE RESEARCHER WOULD TAKE TO PROTECT THE IDENTITY OF THE PERSONS IN INTEREST; AND

(V) STATES THAT PERSONS IN INTEREST WILL NOT BE CONTACTED UNLESS THE OFFICIAL CUSTODIAN APPROVES AND MONITORS THE CONTACT;

(2) THE OFFICIAL CUSTODIAN IS SATISFIED THAT THE PROPOSED SAFEGUARDS WILL PREVENT THE DISCLOSURE OF THE IDENTITY OF PERSONS IN INTEREST; AND

(3) THE RESEARCHER MAKES AN AGREEMENT WITH THE UNIT OR INSTRUMENTALITY THAT:

(I) DEFINES THE SCOPE OF THE RESEARCH PROJECT;

(II) SETS OUT THE SAFEGUARDS FOR PROTECTING THE IDENTITY OF THE PERSONS IN INTEREST; AND

(III) STATES THAT A BREACH OF ANY CONDITION OF THE AGREEMENT IS A BREACH OF CONTRACT.

REVISOR'S NOTE: This section formerly was SG § 10–624.

In subsections (c)(1) and (4) and (d)(2) of this section, the former references to the State "government" are deleted as surplusage.

In subsection (d)(2) of this section, the former phrase "as provided in this subsection" is deleted as surplusage.

In subsection (d)(3)(ii)1 of this section, the reference to the name "of the set" is added for clarity. Similarly, in subsection (d)(3)(ii)2 of this section, the reference to the location "of the set" is added.

The only other changes are in style.

Defined terms: "Including" § 1–110
"Official custodian" § 4–101
"Person" § 1–114
"Person in interest" § 4–101
"Personal information" § 4–101
"Public record" § 4–101
"State" § 1–115

4–502. CORRECTIONS OF PUBLIC RECORD.

(A) REQUEST FOR CHANGE ALLOWED.

A PERSON IN INTEREST MAY REQUEST A UNIT OF THE STATE TO CORRECT INACCURATE OR INCOMPLETE INFORMATION IN A PUBLIC RECORD THAT:

(1) THE UNIT KEEPS; AND

(2) THE PERSON IN INTEREST IS AUTHORIZED TO INSPECT.

(B) CONTENTS OF REQUEST.

A REQUEST UNDER THIS SECTION SHALL:

(1) BE IN WRITING;

(2) DESCRIBE THE REQUESTED CHANGE PRECISELY; AND

(3) STATE THE REASONS FOR THE CHANGE.

(C) ACTION ON REQUEST.

(1) WITHIN 30 DAYS AFTER RECEIVING A REQUEST UNDER THIS SECTION, A UNIT SHALL:

(I) MAKE OR REFUSE TO MAKE THE REQUESTED CHANGE; AND

(II) GIVE THE PERSON IN INTEREST WRITTEN NOTICE OF THE ACTION TAKEN.

(2) A NOTICE OF REFUSAL SHALL CONTAIN THE UNIT'S REASONS FOR THE REFUSAL.

(D) STATEMENT OF DISAGREEMENT.

(1) IF THE UNIT FINALLY REFUSES A REQUEST UNDER THIS SECTION, THE PERSON IN INTEREST MAY SUBMIT TO THE UNIT A CONCISE STATEMENT THAT, IN FIVE PAGES OR LESS, STATES THE REASONS FOR THE REQUEST AND FOR DISAGREEMENT WITH THE REFUSAL.

(2) IF THE UNIT PROVIDES THE DISPUTED INFORMATION TO A THIRD PARTY, THE UNIT SHALL PROVIDE TO THAT PARTY A COPY OF THE STATEMENT SUBMITTED TO THE UNIT BY THE PERSON IN INTEREST.

(E) ADMINISTRATIVE AND JUDICIAL REVIEW.

IF A UNIT IS SUBJECT TO TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE, A PERSON OR GOVERNMENTAL UNIT MAY SEEK ADMINISTRATIVE AND JUDICIAL REVIEW IN ACCORDANCE WITH THAT SUBTITLE OF:

(1) A DECISION OF THE UNIT TO DENY:

(I) A REQUEST TO CHANGE A PUBLIC RECORD; OR

(II) A RIGHT TO SUBMIT A STATEMENT OF DISAGREEMENT; OR

(2) THE FAILURE OF THE UNIT TO PROVIDE THE STATEMENT TO A THIRD PARTY.

REVISOR'S NOTE: This section formerly was SG § 10–625.

In the introductory language of subsection (a) of this section, the former reference to the State "government" is deleted as surplusage.

The only other changes are in style.

Defined terms: "Person" § 1–114
"Person in interest" § 4–101
"Public record" § 4–101
"State" § 1–115

SUBTITLE 6. SHORT TITLE.

4–601. SHORT TITLE.

THIS TITLE MAY BE CITED AS THE PUBLIC INFORMATION ACT.

REVISOR'S NOTE: This section formerly was SG § 10–630.

The only other changes are in style.

TITLE 5. MARYLAND PUBLIC ETHICS LAW.

SUBTITLE 1. DEFINITIONS; GENERAL PROVISIONS.

5–101. DEFINITIONS.

(A) IN GENERAL.

IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED UNLESS:

(1) THE CONTEXT CLEARLY REQUIRES A DIFFERENT MEANING; OR

(2) A DIFFERENT DEFINITION IS ADOPTED FOR A PARTICULAR PROVISION.

REVISOR'S NOTE: This subsection formerly was SG § 15–102(a).

No changes are made.

(B) ADVISORY BODY.

"ADVISORY BODY" MEANS:

(1) A GOVERNMENTAL UNIT DESIGNATED BY THE COURT OF APPEALS TO GIVE ADVICE WITH RESPECT TO THE APPLICATION OR INTERPRETATION OF SUBTITLES 5 AND 6 OF THIS TITLE TO A STATE OFFICIAL OF THE JUDICIAL BRANCH;

(2) THE JOINT ETHICS COMMITTEE, FOR QUESTIONS ARISING UNDER SUBTITLE 5 OF THIS TITLE REGARDING A STATE OFFICIAL OF THE LEGISLATIVE BRANCH; OR

(3) THE ETHICS COMMISSION, FOR ALL OTHER QUESTIONS.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former SG § 15–102(b).

In item (1) of this subsection, the phrase "to give advice with respect to the application or interpretation of" is substituted for the former phrase "for the purpose of issuing advisory opinions as to questions arising under" for consistency with Maryland Rule 16–812.1(i)(2) which provides that the Judicial Ethics Committee is designated as the body to give advice with respect to the application or interpretation of any provision of Code, State Government Article, Title 15, Subtitles 5 and 6, to a State official in the Judicial Branch.

Defined terms: "Ethics Commission" § 5–101
"Governmental unit" § 5–101
"Joint Ethics Committee" § 5–101
"State official" § 5–101

(C) BICOUNTY COMMISSION.

"BICOUNTY COMMISSION" MEANS:

(1) THE MARYLAND–NATIONAL CAPITAL PARK AND PLANNING COMMISSION;

(2) THE WASHINGTON SUBURBAN SANITARY COMMISSION; OR

(3) THE WASHINGTON SUBURBAN TRANSIT COMMISSION.

REVISOR'S NOTE: This subsection formerly was SG § 15–102(c).

No changes are made.

(D) BOARD.

"BOARD" MEANS AN EXECUTIVE UNIT COMPOSED OF AT LEAST TWO MEMBERS, ALL OF WHOM ARE APPOINTED AND SERVE ON A PART–TIME BASIS.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former SG § 15–102(d).

Defined term: "Executive unit" § 5–101

(E) BUSINESS ENTITY.

"BUSINESS ENTITY" MEANS A PERSON ENGAGED IN BUSINESS, WHETHER PROFIT OR NONPROFIT, REGARDLESS OF FORM.

REVISOR'S NOTE: This subsection formerly was SG § 15–102(e).

No changes are made.

Defined term: "Person" § 1–114

(F) COMPENSATION.

"COMPENSATION" MEANS MONEY OR ANY OTHER VALUABLE THING, REGARDLESS OF FORM, RECEIVED OR TO BE RECEIVED BY A PERSON FROM AN EMPLOYER FOR SERVICES RENDERED.

REVISOR'S NOTE: This subsection formerly was SG § 15–102(f)(1).

No changes are made.

Defined terms: "Employer" § 5–101
"Person" § 1–114

(G) EMPLOYEE.

(1) "EMPLOYEE" MEANS AN INDIVIDUAL WHO IS EMPLOYED:

(I) BY AN EXECUTIVE UNIT;

(II) BY THE LEGISLATIVE BRANCH; OR

(III) IN THE JUDICIAL BRANCH.

(2) "EMPLOYEE" DOES NOT INCLUDE:

(I) A PUBLIC OFFICIAL; OR

(II) A STATE OFFICIAL.

REVISOR'S NOTE: This subsection formerly was SG § 15–102(g).

No changes are made.

Defined terms: "Executive unit" § 5–101
"Public official" § 5–101
"State official" § 5–101

(H) EMPLOYER.

"EMPLOYER" MEANS AN ENTITY THAT PAYS OR AGREES TO PAY COMPENSATION TO ANOTHER ENTITY FOR SERVICES RENDERED.

REVISOR'S NOTE: This subsection formerly was SG § 15–102(h).

No changes are made.

Defined terms: "Compensation" § 5–101

"Entity" § 5–101

(I) ENTITY.

"ENTITY" MEANS:

(1) A PERSON; OR

(2) A GOVERNMENT OR INSTRUMENTALITY OF GOVERNMENT.

REVISOR'S NOTE: This subsection formerly was SG § 15–102(i).

No changes are made.

Defined term: "Person" § 1–114

(J) ENTITY DOING BUSINESS WITH THE STATE.

"ENTITY DOING BUSINESS WITH THE STATE" MEANS:

(1) A REGULATED LOBBYIST;

(2) AN ENTITY REGULATED BY THE EXECUTIVE UNIT OF THE APPLICABLE OFFICIAL OR EMPLOYEE; OR

(3) AN ENTITY THAT IS A PARTY TO ONE OR A COMBINATION OF SALES, PURCHASES, LEASES, OR CONTRACTS TO, FROM, OR WITH THE STATE, OR ANY UNIT OF THE STATE, INVOLVING CONSIDERATION:

(I) OF AT LEAST $5,000 ON A CUMULATIVE BASIS DURING THE CALENDAR YEAR FOR WHICH A STATEMENT REQUIRED BY SUBTITLE 6 OF THIS TITLE IS FILED, REGARDLESS OF WHEN THE CONSIDERATION IS TO BE PAID; AND

(II) WHICH SHALL INCLUDE, AS OF THE AWARD OR EXECUTION OF A CONTRACT OR LEASE, THE TOTAL CONSIDERATION COMMITTED TO BE PAID UNDER THE CONTRACT OR LEASE, TO THE EXTENT ASCERTAINABLE WHEN AWARDED OR EXECUTED, REGARDLESS OF THE PERIOD OVER WHICH PAYMENTS ARE TO BE MADE.

REVISOR'S NOTE: This subsection formerly was SG § 15–102(j).

No changes are made.

Defined terms: "Employee" § 5–101
"Entity" § 5–101
"Executive unit" § 5–101
"Official" § 5–101
"Regulated lobbyist" § 5–101
"State" § 1–115

(K) ETHICS COMMISSION.

"ETHICS COMMISSION" MEANS THE STATE ETHICS COMMISSION.

REVISOR'S NOTE: This subsection formerly was SG § 15–102(k).

No changes are made.

Defined term: "State" § 1–115

(L) EXECUTIVE ACTION.

"EXECUTIVE ACTION" MEANS AN ACT:

(1) FOR WHICH THE EXECUTIVE BRANCH OF STATE GOVERNMENT IS RESPONSIBLE; AND

(2) THAT IS TAKEN BY AN OFFICIAL OR EMPLOYEE OF THE EXECUTIVE BRANCH.

REVISOR'S NOTE: This subsection formerly was SG § 15–102(l).

The only changes are in style.

Defined terms: "Employee" § 5–101
"Official" § 5–101
"State" § 1–115

(M) EXECUTIVE UNIT.

(1) "EXECUTIVE UNIT" MEANS A DEPARTMENT, AGENCY, COMMISSION, BOARD, COUNCIL, OR OTHER BODY OF STATE GOVERNMENT THAT:

(I) IS ESTABLISHED BY LAW; AND

(II) IS NOT IN THE LEGISLATIVE BRANCH OR THE JUDICIAL BRANCH OF STATE GOVERNMENT.

(2) "EXECUTIVE UNIT" INCLUDES:

(I) A COUNTY HEALTH DEPARTMENT UNLESS THE OFFICIALS AND EMPLOYEES OF THE DEPARTMENT ARE EXPRESSLY DESIGNATED AS LOCAL OFFICIALS IN § 5–801 OF THIS TITLE;

(II) THE OFFICE OF THE SHERIFF IN EACH COUNTY;

(III) THE OFFICE OF THE STATE'S ATTORNEY IN EACH COUNTY; AND

(IV) THE LIQUOR CONTROL BOARD FOR SOMERSET COUNTY.

REVISOR'S NOTE: This subsection formerly was SG § 15–102(m).

The only changes are in style.

Defined terms: "Board" § 5–101
"County" § 1–107
"Employee" § 5–101
"Includes" § 1–110
"Local official" § 5–101
"Official" § 5–101
"State" § 1–115

(N) FINANCIAL INTEREST.

"FINANCIAL INTEREST" MEANS:

(1) OWNERSHIP OF AN INTEREST AS THE RESULT OF WHICH THE OWNER HAS RECEIVED WITHIN THE PAST 3 YEARS, IS CURRENTLY RECEIVING, OR IN THE FUTURE IS ENTITLED TO RECEIVE, MORE THAN $1,000 PER YEAR; OR

(2) (I) OWNERSHIP OF MORE THAN 3% OF A BUSINESS ENTITY BY:

1. AN OFFICIAL;

2. AN EMPLOYEE; OR

3. THE SPOUSE OF AN OFFICIAL OR EMPLOYEE; OR

(II) OWNERSHIP OF SECURITIES OF ANY KIND THAT REPRESENT, OR ARE CONVERTIBLE INTO, OWNERSHIP OF MORE THAN 3% OF A BUSINESS ENTITY BY:

1. AN OFFICIAL;

2. AN EMPLOYEE; OR

3. THE SPOUSE OF AN OFFICIAL OR EMPLOYEE.

REVISOR'S NOTE: This subsection formerly was SG § 15–102(n).

No changes are made.

Defined terms: "Business entity" § 5–101
"Employee" § 5–101
"Interest" § 5–101
"Official" § 5–101

(O) GENERAL ASSEMBLY.

"GENERAL ASSEMBLY" INCLUDES A MEMBER, COMMITTEE, OR SUBCOMMITTEE OF THE GENERAL ASSEMBLY.

REVISOR'S NOTE: This subsection formerly was SG § 15–102(o).

No changes are made.

Defined term: "Includes" § 1–110

(P) GIFT.

(1) "GIFT" MEANS THE TRANSFER OF ANYTHING OF ECONOMIC VALUE, REGARDLESS OF FORM, WITHOUT ADEQUATE AND LAWFUL CONSIDERATION.

(2) "GIFT" DOES NOT INCLUDE THE SOLICITATION, ACCEPTANCE, RECEIPT, OR REGULATION OF A POLITICAL CONTRIBUTION THAT IS REGULATED IN ACCORDANCE WITH:

(I) THE ELECTION LAW ARTICLE; OR

(II) ANY OTHER STATE LAW REGULATING:

1. THE CONDUCT OF ELECTIONS; OR

2. THE RECEIPT OF POLITICAL CONTRIBUTIONS.

REVISOR'S NOTE: This subsection formerly was SG § 15–102(p).

No changes are made.

Defined terms: "Political contribution" § 5–101
"State" § 1–115

(Q) GOVERNMENTAL UNIT.

"GOVERNMENTAL UNIT" MEANS A DEPARTMENT, AN AGENCY, A COMMISSION, A BOARD, A COUNCIL, OR ANY OTHER BODY OF STATE GOVERNMENT THAT IS ESTABLISHED BY LAW.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former SG § 15–102(q).

The former reference to governmental unit "includes an executive unit" is deleted as surplusage.

Defined terms: "Board" § 5–101
"State" § 1–115

(R) HONORARIUM.

(1) "HONORARIUM" MEANS THE PAYMENT OF MONEY OR ANYTHING OF VALUE FOR:

(I) SPEAKING TO, PARTICIPATING IN, OR ATTENDING A MEETING OR OTHER FUNCTION; OR

(II) WRITING AN ARTICLE THAT HAS BEEN OR IS INTENDED TO BE PUBLISHED.

(2) "HONORARIUM" DOES NOT INCLUDE PAYMENT FOR WRITING A BOOK THAT HAS BEEN OR IS INTENDED TO BE PUBLISHED.

REVISOR'S NOTE: This subsection formerly was SG § 15–102(r).

No changes are made.

The General Provisions Article Review Committee notes, for consideration by the General Assembly, that the definition of "honorarium" in this subsection is grammatically incorrect since an honorarium is not the act of paying, which is how the definition is worded, but is instead the actual payment itself. The General Assembly may wish to amend the definition of "honorarium" to be consistent with the commonly understood definition of the term.

(S) IMMEDIATE FAMILY.

"IMMEDIATE FAMILY" MEANS AN INDIVIDUAL'S SPOUSE AND DEPENDENT CHILDREN.

REVISOR'S NOTE: This subsection formerly was SG § 15–102(s).

No changes are made.

(T) INTEREST.

(1) "INTEREST" MEANS A LEGAL OR EQUITABLE ECONOMIC INTEREST THAT IS OWNED OR HELD WHOLLY OR PARTLY, JOINTLY OR SEVERALLY, OR DIRECTLY OR INDIRECTLY, WHETHER OR NOT THE ECONOMIC INTEREST IS SUBJECT TO AN ENCUMBRANCE OR CONDITION.

(2) "INTEREST" DOES NOT INCLUDE:

(I) AN INTEREST HELD IN THE CAPACITY OF AGENT, CUSTODIAN, FIDUCIARY, PERSONAL REPRESENTATIVE, OR TRUSTEE, UNLESS THE HOLDER HAS AN EQUITABLE INTEREST IN THE SUBJECT MATTER;

(II) AN INTEREST IN A TIME OR DEMAND DEPOSIT IN A FINANCIAL INSTITUTION;

(III) AN INTEREST IN AN INSURANCE POLICY, ENDOWMENT POLICY, OR ANNUITY CONTRACT UNDER WHICH AN INSURER PROMISES TO PAY A FIXED AMOUNT OF MONEY IN A LUMP SUM OR PERIODICALLY FOR LIFE OR A SPECIFIED PERIOD;

(IV) A COMMON TRUST FUND OR A TRUST THAT FORMS PART OF A PENSION OR A PROFIT–SHARING PLAN THAT:

1. HAS MORE THAN 25 PARTICIPANTS; AND

2. IS DETERMINED BY THE INTERNAL REVENUE SERVICE TO BE A QUALIFIED TRUST UNDER THE INTERNAL REVENUE CODE OR A QUALIFIED TUITION PLAN ESTABLISHED PURSUANT TO SECTION 529 OF THE INTERNAL REVENUE CODE; OR

(V) A MUTUAL FUND THAT IS PUBLICLY TRADED ON A NATIONAL SCALE UNLESS THE MUTUAL FUND IS COMPOSED PRIMARILY OF HOLDINGS OF STOCKS AND INTERESTS IN A SPECIFIC SECTOR OR AREA THAT IS REGULATED BY THE INDIVIDUAL'S GOVERNMENTAL UNIT.

REVISOR'S NOTE: This subsection formerly was SG § 15–102(t).

In paragraph (2)(iv)2 of this subsection, the reference to a "qualified tuition plan established in accordance with Section 529 of the Internal Revenue Code" is substituted for the former reference to a "college savings plan under the Internal Revenue Code" for clarity and accuracy.

No other changes are made.

(U) JOINT ETHICS COMMITTEE.

"JOINT ETHICS COMMITTEE" MEANS THE JOINT COMMITTEE ON LEGISLATIVE ETHICS.

REVISOR'S NOTE: This subsection formerly was SG § 15–102(u).

No changes are made.

(V) LEGISLATIVE ACTION.

(1) "LEGISLATIVE ACTION" MEANS AN OFFICIAL ACTION OR NONACTION RELATING TO:

(I) A BILL, A RESOLUTION, AN AMENDMENT, A NOMINATION, AN APPOINTMENT, A REPORT, OR ANY OTHER MATTER WITHIN THE JURISDICTION OF THE GENERAL ASSEMBLY; OR

(II) A BILL PRESENTED TO THE GOVERNOR FOR SIGNATURE OR VETO.

(2) "LEGISLATIVE ACTION" INCLUDES:

(I) INTRODUCTION;

(II) SPONSORSHIP;

(III) CONSIDERATION;

(IV) DEBATE;

(V) AMENDMENT;

(VI) PASSAGE;

(VII) DEFEAT;

(VIII) APPROVAL; AND

(IX) VETO.

REVISOR'S NOTE: This subsection formerly was SG § 15–102(v).

In paragraph (2)(viii) of this subsection, the word "and" is substituted for the former word "or" since "and" is the more appropriate conjunction when used in a definition following "includes".

The only other changes are in style.

Defined terms: "General Assembly" § 5–101
"Includes" § 1–110

(W) LEGISLATIVE UNIT.

"LEGISLATIVE UNIT" MEANS:

(1) THE GENERAL ASSEMBLY;

(2) EITHER HOUSE OF THE GENERAL ASSEMBLY;

(3) A STANDING COMMITTEE OF THE GENERAL ASSEMBLY, PROVIDED THAT THE PRESIDING OFFICER OF THE HOUSE OF DELEGATES AND THE PRESIDING OFFICER OF THE SENATE SHALL BE DEEMED AN EX OFFICIO MEMBER OF ANY STANDING COMMITTEE OF THE PRESIDING OFFICER'S CHAMBER; OR

(4) A COUNTY OR REGIONAL DELEGATION OF MEMBERS OF THE GENERAL ASSEMBLY THAT IS RECOGNIZED BY A PRESIDING OFFICER OF THE GENERAL ASSEMBLY.

REVISOR'S NOTE: This subsection formerly was SG § 15–102(w).

In item (3) of this subsection, the reference to "the presiding officer of the House of Delegates and the presiding officer of the Senate" is substituted for the former reference to "the presiding officer of the House of Delegates or Senate" for clarity.

The only other changes are in style.

Defined terms: "County" § 1–107
"General Assembly" § 5–101

(X) LOBBYING.

"LOBBYING" MEANS PERFORMING ANY ACT THAT REQUIRES REGISTRATION UNDER § 5–701 OF THIS TITLE.

REVISOR'S NOTE: This subsection formerly was SG § 15–102(x)(1).

The only changes are in style.

(Y) LOCAL OFFICIAL.

(1) "LOCAL OFFICIAL", SUBJECT TO § 5–801 OF THIS TITLE, MEANS AN OFFICIAL, OFFICER, OR EMPLOYEE OF A COUNTY OR MUNICIPAL CORPORATION THAT THE GOVERNING BODY OF THE COUNTY OR MUNICIPAL CORPORATION DETERMINES IS SUBJECT TO SUBTITLE 8, PART II OF THIS TITLE.

(2) "LOCAL OFFICIAL", SUBJECT TO § 5–801 OF THIS TITLE, INCLUDES EACH MEMBER AND EMPLOYEE OF A BOARD OF LICENSE COMMISSIONERS THAT THE APPLICABLE GOVERNING BODY DETERMINES IS SUBJECT TO SUBTITLE 8, PART II OF THIS TITLE.

REVISOR'S NOTE: This subsection formerly was SG § 15–102(y).

The only changes are in style.

Defined terms: "County" § 1–107
"Employee" § 5–101
"Includes" § 1–110
"Municipal corporation" § 5–101

(Z) MEMBER OF HOUSEHOLD.

"MEMBER OF HOUSEHOLD" MEANS:

(1) IF SHARING AN INDIVIDUAL'S LEGAL RESIDENCE, THE INDIVIDUAL'S:

(I) SPOUSE;

(II) CHILD;

(III) WARD;

(IV) FINANCIALLY DEPENDENT PARENT; OR

(V) OTHER FINANCIALLY DEPENDENT RELATIVE; OR

(2) AN INDIVIDUAL'S SPOUSE, CHILD, WARD, PARENT, OR OTHER RELATIVE, OVER WHOSE FINANCIAL AFFAIRS THE INDIVIDUAL HAS LEGAL OR ACTUAL CONTROL.

REVISOR'S NOTE: This subsection formerly was SG § 15–102(z).

No changes are made.

(AA) MUNICIPAL CORPORATION.

"MUNICIPAL CORPORATION" MEANS A MUNICIPALITY GOVERNED BY ARTICLE XI–E OF THE MARYLAND CONSTITUTION.

REVISOR'S NOTE: This subsection formerly was SG § 15–102(aa).

No changes are made.

(BB) OFFICIAL.

"OFFICIAL" MEANS EITHER A STATE OFFICIAL OR A PUBLIC OFFICIAL.

REVISOR'S NOTE: This subsection formerly was SG § 15–102(bb).

No changes are made.

Defined terms: "Public official" § 5–101
"State official" § 5–101

(CC) POLITICAL CONTRIBUTION.

"POLITICAL CONTRIBUTION" MEANS A CONTRIBUTION AS DEFINED IN § 1–101 OF THE ELECTION LAW ARTICLE.

REVISOR'S NOTE: This subsection formerly was SG § 15–102(cc).

The only changes are in style.

(DD) PRINCIPAL POLITICAL PARTY.

"PRINCIPAL POLITICAL PARTY" MEANS THE STATE DEMOCRATIC PARTY OR THE STATE REPUBLICAN PARTY.

REVISOR'S NOTE: This subsection formerly was SG § 15–102(dd).

No changes are made.

(EE) PROCUREMENT CONTRACT.

"PROCUREMENT CONTRACT" HAS THE MEANING STATED IN § 11–101 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

REVISOR'S NOTE: This subsection formerly was SG § 15–102(ee).

The only changes are in style.

(FF) PUBLIC OFFICIAL.

"PUBLIC OFFICIAL" MEANS AN INDIVIDUAL DETERMINED TO BE A PUBLIC OFFICIAL UNDER § 5–103 OF THIS SUBTITLE.

REVISOR'S NOTE: This subsection formerly was SG § 15–102(ff).

The only changes are in style.

(GG) QUALIFYING RELATIVE.

"QUALIFYING RELATIVE" MEANS A SPOUSE, PARENT, CHILD, BROTHER, OR SISTER.

REVISOR'S NOTE: This subsection formerly was SG § 15–102(gg).

No changes are made.

(HH) REGULATED LOBBYIST.

"REGULATED LOBBYIST" MEANS AN ENTITY THAT IS REQUIRED TO REGISTER WITH THE ETHICS COMMISSION UNDER § 5–701(A) OF THIS TITLE.

REVISOR'S NOTE: This subsection formerly was SG § 15–102(hh).

The only changes are in style.

Defined terms: "Entity" § 5–101
"Ethics Commission" § 5–101

(II) RESPONDENT.

"RESPONDENT" MEANS ANY OF THE FOLLOWING THAT IS THE SUBJECT OF A COMPLAINT BEFORE THE ETHICS COMMISSION:

(1) AN OFFICIAL;

(2) AN EMPLOYEE;

(3) A CANDIDATE FOR OFFICE AS A STATE OFFICIAL;

(4) AN ENTITY SUBJECT TO SUBTITLE 7 OF THIS TITLE; OR

(5) AN ENTITY SUBJECT TO § 5–512 OF THIS TITLE.

REVISOR'S NOTE: This subsection formerly was SG § 15–102(ii).

The only changes are in style.

Defined terms: "Employee" § 5–101
"Entity" § 5–101
"Ethics Commission" § 5–101
"Official" § 5–101
"State official" § 5–101

(JJ) SCHOOL BOARD.

"SCHOOL BOARD" MEANS A COUNTY BOARD OF EDUCATION OR, IN BALTIMORE CITY, THE BOARD OF SCHOOL COMMISSIONERS.

REVISOR'S NOTE: This subsection formerly was SG § 15–102(jj).

No changes are made.

Defined term: "County" § 1–107

(KK) SCHOOL SYSTEM.

"SCHOOL SYSTEM" MEANS THE EDUCATIONAL SYSTEM UNDER THE AUTHORITY OF A SCHOOL BOARD.

REVISOR'S NOTE: This subsection formerly was SG § 15–102(kk).

No changes are made.

Defined term: "School board" § 5–101

(LL) STATE OFFICIAL.

"STATE OFFICIAL" MEANS:

(1) A CONSTITUTIONAL OFFICER OR OFFICER–ELECT IN AN EXECUTIVE UNIT;

(2) A MEMBER OR MEMBER–ELECT OF THE GENERAL ASSEMBLY;

(3) A JUDGE OR JUDGE–ELECT OF A COURT UNDER ARTICLE IV, § 1 OF THE MARYLAND CONSTITUTION;

(4) A JUDICIAL APPOINTEE AS DEFINED IN MARYLAND RULE 16–814;

(5) A STATE'S ATTORNEY;

(6) A CLERK OF THE CIRCUIT COURT;

(7) A REGISTER OF WILLS; OR

(8) A SHERIFF.

REVISOR'S NOTE: This subsection formerly was SG § 15–102(ll).

The only changes are in style.

Defined terms: "Executive unit" § 5–101

"General Assembly" § 5–101
"State" § 1–115

(MM) SUPERINTENDENT.

"SUPERINTENDENT" MEANS A COUNTY SUPERINTENDENT AS DEFINED IN § 1–101 OF THE EDUCATION ARTICLE.

REVISOR'S NOTE: This subsection formerly was SG § 15–102(mm).

No changes are made.

5–102. LEGISLATIVE FINDINGS; POLICY; LIBERAL CONSTRUCTION.

(A) LEGISLATIVE FINDINGS.

(1) THE GENERAL ASSEMBLY OF MARYLAND, RECOGNIZING THAT OUR SYSTEM OF REPRESENTATIVE GOVERNMENT IS DEPENDENT ON MAINTAINING THE HIGHEST TRUST BY THE PEOPLE IN THEIR GOVERNMENT OFFICIALS AND EMPLOYEES, FINDS AND DECLARES THAT THE PEOPLE HAVE A RIGHT TO BE ASSURED THAT THE IMPARTIALITY AND INDEPENDENT JUDGMENT OF THOSE OFFICIALS AND EMPLOYEES WILL BE MAINTAINED.

(2) IT IS EVIDENT THAT THE PEOPLE'S CONFIDENCE AND TRUST ARE ERODED WHEN THE CONDUCT OF THE STATE'S BUSINESS IS SUBJECT TO IMPROPER INFLUENCE OR EVEN THE APPEARANCE OF IMPROPER INFLUENCE.

(B) POLICY.

FOR THE PURPOSE OF GUARDING AGAINST IMPROPER INFLUENCE, THE GENERAL ASSEMBLY ENACTS THIS MARYLAND PUBLIC ETHICS LAW TO REQUIRE CERTAIN GOVERNMENT OFFICIALS AND EMPLOYEES TO DISCLOSE THEIR FINANCIAL AFFAIRS AND TO SET MINIMUM ETHICAL STANDARDS FOR THE CONDUCT OF STATE AND LOCAL BUSINESS.

(C) LIBERAL CONSTRUCTION OF TITLE.

THE GENERAL ASSEMBLY INTENDS THAT THIS TITLE, EXCEPT ITS PROVISIONS FOR CRIMINAL SANCTIONS, BE CONSTRUED LIBERALLY TO ACCOMPLISH THIS PURPOSE.

REVISOR'S NOTE: This section formerly was SG § 15–101.

The only changes are in style.

Defined terms: "Employee" § 5–101
"General Assembly" § 5–101
"Official" § 5–101
"State" § 1–115

5–103. DESIGNATION OF INDIVIDUALS AS PUBLIC OFFICIALS.

(A) IN GENERAL.

THE DETERMINATION OF WHETHER AN INDIVIDUAL IS A PUBLIC OFFICIAL FOR THE PURPOSES OF THIS TITLE SHALL BE MADE IN ACCORDANCE WITH THIS SECTION.

(B) PUBLIC OFFICIALS OF EXECUTIVE UNITS.

EXCEPT AS PROVIDED IN SUBSECTION (F) OF THIS SECTION, THE FOLLOWING INDIVIDUALS IN EXECUTIVE UNITS ARE PUBLIC OFFICIALS:

(1) AN INDIVIDUAL WHO RECEIVES COMPENSATION AT A RATE EQUIVALENT TO AT LEAST STATE GRADE LEVEL 16, OR WHO IS APPOINTED TO A BOARD, IF THE ETHICS COMMISSION DETERMINES UNDER § 5–208 OF THIS TITLE THAT:

(I) THE INDIVIDUAL, ACTING ALONE OR AS A MEMBER OF AN EXECUTIVE UNIT, HAS DECISION–MAKING AUTHORITY OR ACTS AS A PRINCIPAL ADVISOR TO AN INDIVIDUAL WITH DECISION–MAKING AUTHORITY:

1. IN MAKING STATE POLICY IN AN EXECUTIVE UNIT; OR

2. IN EXERCISING QUASI–JUDICIAL, REGULATORY, LICENSING, INSPECTING, OR AUDITING FUNCTIONS; AND

(II) THE INDIVIDUAL'S DUTIES ARE NOT ESSENTIALLY ADMINISTRATIVE AND MINISTERIAL;

(2) ANY OTHER INDIVIDUAL IN AN EXECUTIVE UNIT IF THE ETHICS COMMISSION DETERMINES THAT THE INDIVIDUAL, ACTING ALONE OR AS A MEMBER OF THE EXECUTIVE UNIT, HAS DECISION–MAKING AUTHORITY OR ACTS AS A PRINCIPAL ADVISOR TO AN INDIVIDUAL WITH DECISION–MAKING AUTHORITY IN DRAFTING SPECIFICATIONS FOR, NEGOTIATING, OR EXECUTING CONTRACTS THAT COMMIT THE STATE OR AN EXECUTIVE UNIT TO SPEND MORE THAN $10,000 IN A YEAR;

(3) A MEMBER, APPOINTEE, OR EMPLOYEE OF THE MARYLAND STADIUM AUTHORITY;

(4) A MEMBER, APPOINTEE, OR EMPLOYEE OF THE CANAL PLACE PRESERVATION AND DEVELOPMENT AUTHORITY; AND

(5) A MEMBER OF THE EMERGENCY MEDICAL SERVICES BOARD.

(C) PUBLIC OFFICIALS OF LEGISLATIVE BRANCH.

EXCEPT AS PROVIDED IN SUBSECTION (F) OF THIS SECTION, AN INDIVIDUAL IN THE LEGISLATIVE BRANCH IS A PUBLIC OFFICIAL IF THE INDIVIDUAL:

(1) RECEIVES COMPENSATION AT A RATE EQUIVALENT TO AT LEAST STATE GRADE LEVEL 16; AND

(2) IS DESIGNATED A PUBLIC OFFICIAL BY ORDER OF THE PRESIDING OFFICERS OF THE GENERAL ASSEMBLY.

(D) PUBLIC OFFICIALS OF JUDICIAL BRANCH.

(1) (I) IN THIS PARAGRAPH, "INDIVIDUAL IN THE JUDICIAL BRANCH" INCLUDES AN INDIVIDUAL WHO IS:

1. EMPLOYED IN THE OFFICE OF A CLERK OF COURT;

2. PAID BY A COUNTY TO PERFORM SERVICES IN AN ORPHANS' COURT OR CIRCUIT COURT;

3. EMPLOYED BY THE ATTORNEY GRIEVANCE COMMISSION;

4. EMPLOYED BY THE STATE BOARD OF LAW EXAMINERS; OR

5. EMPLOYED BY THE COURT OF APPEALS STANDING COMMITTEE ON RULES OF PRACTICE AND PROCEDURE.

(II) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION OR SUBSECTION (F) OF THIS SECTION, AN INDIVIDUAL IN THE

JUDICIAL BRANCH IS A PUBLIC OFFICIAL IF THE INDIVIDUAL RECEIVES COMPENSATION AT A RATE EQUIVALENT TO AT LEAST STATE GRADE LEVEL 16.

(2) THE ETHICS COMMISSION MAY EXCLUDE THE INDIVIDUALS IN A POSITION IN THE JUDICIAL BRANCH FROM INCLUSION AS PUBLIC OFFICIALS UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION:

(I) ON THE RECOMMENDATION OF THE STATE COURT ADMINISTRATOR; AND

(II) IF THE ETHICS COMMISSION DETERMINES THAT THE POSITION DOES NOT HAVE POLICY, POLICY ADVICE, QUASI–JUDICIAL, OR PROCUREMENT FUNCTIONS.

(E) BICOUNTY COMMISSION MEMBERS.

A MEMBER OF A BICOUNTY COMMISSION IS A PUBLIC OFFICIAL.

(F) EXCEPTIONS.

THE FOLLOWING ARE NOT PUBLIC OFFICIALS:

(1) A STATE OFFICIAL;

(2) AN INDIVIDUAL EMPLOYED ON A CONTRACTUAL BASIS UNLESS THE INDIVIDUAL IS:

(I) EMPLOYED ON A FULL–TIME BASIS FOR MORE THAN 6 MONTHS; AND

(II) DESIGNATED AS A PUBLIC OFFICIAL UNDER SUBSECTION (B)(1) OR (C) OF THIS SECTION; AND

(3) A PART–TIME OR FULL–TIME FACULTY MEMBER AT A STATE INSTITUTION OF HIGHER EDUCATION:

(I) AS TO SUBSECTION (B)(2) OF THIS SECTION, ONLY WHEN THE INDIVIDUAL IS ACTING IN THE CAPACITY OF A FACULTY MEMBER; AND

(II) AS TO ANY OTHER PROVISION OF THIS SECTION, UNLESS THE INDIVIDUAL ALSO:

1. IS EMPLOYED IN ANOTHER POSITION THAT CAUSES THE INDIVIDUAL TO BE DESIGNATED AS A PUBLIC OFFICIAL; OR

2. DIRECTLY PROCURES, DIRECTLY INFLUENCES, OR OTHERWISE DIRECTLY AFFECTS THE FORMATION OR EXECUTION OF ANY STATE CONTRACT, PURCHASE, OR SALE, AS ESTABLISHED BY REGULATIONS ADOPTED BY THE ETHICS COMMISSION AND APPROVED BY THE JOINT COMMITTEE ON ADMINISTRATIVE, EXECUTIVE, AND LEGISLATIVE REVIEW.

REVISOR'S NOTE: This section is new language derived without substantive change from former SG § 15–103.

In subsection (b)(1)(i) and (2) of this section, the references to acting as a principal advisor to "an individual" are substituted for the former references to acting as a principal advisor to "one" for clarity.

In subsection (f)(2)(ii) of this section, the reference to an individual designated "as a public official" is added for clarity.

Defined terms: "Bicounty commission" § 5–101
"Board" § 5–101
"Compensation" § 5–101
"County" § 1–107
"Employee" § 5–101
"Ethics Commission" § 5–101
"Executive unit" § 5–101
"General Assembly" § 5–101
"Includes" § 1–110
"Public official" § 5–101
"State" § 1–115
"State official" § 5–101

5–104. ADMINISTRATION OF TITLE.

THIS TITLE SHALL BE ADMINISTERED AND IMPLEMENTED BY:

(1) THE JOINT ETHICS COMMITTEE, ACTING AS AN ADVISORY BODY AS TO THE APPLICATION OF SUBTITLE 5 OF THIS TITLE TO MEMBERS OF THE GENERAL ASSEMBLY;

(2) THE COMMISSION ON JUDICIAL DISABILITIES OR ANOTHER BODY DESIGNATED BY THE COURT OF APPEALS, ACTING AS AN ADVISORY BODY AS TO THE APPLICATION OF SUBTITLES 5 AND 6 OF THIS TITLE TO STATE OFFICIALS OF THE JUDICIAL BRANCH; AND

(3) IN ALL OTHER MATTERS, THE ETHICS COMMISSION.

REVISOR'S NOTE: This section formerly was SG § 15–104.

In the introductory language of this section, the former reference to "the following three ethics agencies" is deleted as surplusage.

In item (2) of this section, the reference to the "Commission on Judicial Disabilities" is substituted for the former reference to the "Judicial Disabilities Commission" to accurately state the name of the Commission.

No other changes are made.

The General Provisions Article Review Committee notes, for consideration by the General Assembly, that while the Commission on Judicial Disabilities exists, it does not implement or administer Title 15, Subtitles 5 and 6 of the State Government Article. Instead, Maryland Rule 16–812.1 designates the Judicial Ethics Committee as the body to give advice with respect to the application or interpretation of any provision of Code, State Government Article, Title 15, Subtitles 5 and 6, to a State official in the Judicial Branch. The General Assembly may wish to amend item (2) of this section to conform to Maryland Rule 16–812.1.

Defined terms: "Advisory body" § 5–101
"Ethics Commission" § 5–101
"General Assembly" § 5–101
"Joint Ethics Committee" § 5–101
"State official" § 5–101

5–105. OTHER LAWS.

(A) IN GENERAL.

IF ANOTHER PROVISION OF LAW RELATING TO CONFLICTS OF INTEREST, FINANCIAL DISCLOSURE, OR LOBBYING IS MORE STRINGENT THAN THIS TITLE, THE OTHER PROVISION SHALL APPLY.

(B) EXCEPTION.

TITLE 3, SUBTITLE 1 OF THE PUBLIC SAFETY ARTICLE DOES NOT APPLY TO ACTIVITIES CARRIED OUT BY THE ETHICS COMMISSION UNDER THIS TITLE.

REVISOR'S NOTE: This section formerly was SG § 15–105.

In subsection (a) of this section, the reference to "the other" provision is substituted for the former reference to "that" provision for clarity.

No other changes are made.

Defined terms: "Ethics Commission" § 5–101
"Lobbying" § 5–101

SUBTITLE 2. STATE ETHICS COMMISSION.

5–201. ESTABLISHED.

THERE IS A STATE ETHICS COMMISSION.

REVISOR'S NOTE: This section formerly was SG § 15–201.

No changes are made.

5–202. MEMBERSHIP.

(A) COMPOSITION; APPOINTMENT OF MEMBERS.

(1) THE ETHICS COMMISSION CONSISTS OF FIVE MEMBERS.

(2) THE GOVERNOR SHALL APPOINT:

(I) WITH THE ADVICE AND CONSENT OF THE SENATE, THREE MEMBERS, AT LEAST ONE OF WHOM SHALL BE A MEMBER OF THE PRINCIPAL POLITICAL PARTY OF WHICH THE GOVERNOR IS NOT A MEMBER;

(II) ONE MEMBER NOMINATED BY THE PRESIDENT OF THE SENATE; AND

(III) ONE MEMBER NOMINATED BY THE SPEAKER OF THE HOUSE.

(3) THE GOVERNOR MAY REJECT A NOMINEE OF THE PRESIDENT OR OF THE SPEAKER ONLY FOR CAUSE.

(4) IF THE GOVERNOR REJECTS A NOMINEE UNDER PARAGRAPH (3) OF THIS SUBSECTION, THE APPROPRIATE PRESIDING OFFICER SHALL NOMINATE ANOTHER INDIVIDUAL.

(5) A VACANCY SHALL BE FILLED IN A MANNER CONSISTENT WITH THIS SUBSECTION.

(B) QUALIFICATIONS OF MEMBERS.

A MEMBER OF THE ETHICS COMMISSION MAY NOT:

(1) HOLD ELECTED OR APPOINTED OFFICE IN, BE AN EMPLOYEE OF, OR BE A CANDIDATE FOR OFFICE IN:

(I) THE FEDERAL GOVERNMENT;

(II) THE STATE GOVERNMENT;

(III) A MUNICIPAL CORPORATION, COUNTY, OR MULTICOUNTY AGENCY OF THE STATE; OR

(IV) A POLITICAL PARTY; OR

(2) BE A REGULATED LOBBYIST.

(C) OATH.

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

(D) TENURE; VACANCIES.

(1) THE TERM OF A MEMBER IS 5 YEARS.

(2) THE TERMS OF MEMBERS ARE STAGGERED AS REQUIRED BY THE TERMS IN EFFECT FOR MEMBERS OF THE ETHICS COMMISSION ON OCTOBER 1, 2013.

(3) A MEMBER MAY SERVE NO MORE THAN TWO CONSECUTIVE 5–YEAR TERMS.

(4) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES FOR THE REST OF THE TERM.

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

(E) REMOVAL.

(1) THE GOVERNOR MAY REMOVE A MEMBER FOR:

(I) NEGLECT OF DUTY;

(II) MISCONDUCT IN OFFICE;

(III) A DISABILITY THAT MAKES THE MEMBER UNABLE TO DISCHARGE THE POWERS AND DUTIES OF OFFICE; OR

(IV) A VIOLATION OF THIS TITLE.

(2) BEFORE REMOVING A MEMBER, THE GOVERNOR SHALL GIVE THE MEMBER:

(I) WRITTEN NOTICE OF THE CHARGES; AND

(II) AN OPPORTUNITY TO ANSWER THE CHARGES.

REVISOR'S NOTE: This section formerly was SG § 15–202.

In subsection (e)(2)(ii) of this section, the reference to "answer[ing]" the charges is substituted for the former reference to "reply[ing] to" the charges to use the appropriate terminology.

The only other changes are in style.

The General Provisions Article Review Committee notes, for consideration by the General Assembly, that subsection (d) of this section is ambiguous in that it is unclear whether a member of the Ethics Commission who has been appointed after a 5–year term has begun is considered to have served for a 5–year term. If that is true, a member would be disqualified from serving more than two consecutive 5–year terms under subsection (d)(3) of this section. The General Assembly may wish to clarify the meaning of subsection (d)(4) of this section.

Defined terms: "County" § 1–107
"Employee" § 5–101
"Ethics Commission" § 5–101
"Municipal corporation" § 5–101
"Principal political party" § 5–101
"Regulated lobbyist" § 5–101
"State" § 1–115

5–203. OFFICERS.

(A) CHAIR.

THE ETHICS COMMISSION SHALL ELECT A CHAIR FROM AMONG ITS MEMBERS.

(B) TERM OF OFFICE.

(1) THE TERM OF THE CHAIR IS 1 YEAR.

(2) THE CHAIR MAY BE REELECTED.

REVISOR'S NOTE: This section formerly was SG § 15–203.

The only changes are in style.

Defined term: "Ethics Commission" § 5–101

5–204. QUORUM; MEETINGS; COMPENSATION; STAFF.

(A) QUORUM.

(1) A MAJORITY OF THE AUTHORIZED MEMBERSHIP OF THE ETHICS COMMISSION IS A QUORUM.

(2) THE ETHICS COMMISSION MAY ACT ONLY ON THE AFFIRMATIVE VOTE OF AT LEAST A MAJORITY OF ITS AUTHORIZED MEMBERSHIP.

(B) MEETINGS.

THE ETHICS COMMISSION SHALL MEET AT THE CALL OF THE CHAIR OR A MAJORITY OF THE MEMBERS THEN SERVING.

(C) COMPENSATION AND REIMBURSEMENT FOR EXPENSES.

EACH MEMBER OF THE ETHICS COMMISSION IS ENTITLED TO:

(1) COMPENSATION IN ACCORDANCE WITH THE STATE BUDGET; AND

(2) REIMBURSEMENT FOR REASONABLE AND NECESSARY EXPENSES INCURRED IN THE DISCHARGE OF OFFICIAL DUTIES.

(D) STAFF.

(1) THE ETHICS COMMISSION SHALL:

(I) APPOINT TO SERVE AT ITS PLEASURE:

1. AN EXECUTIVE DIRECTOR;

2. A GENERAL COUNSEL; AND

3. A STAFF COUNSEL; AND

(II) HAVE OTHER STAFF, INCLUDING SUCH COUNSEL AS MAY BE REQUIRED TO ADVISE PERSONS WHO ARE SUBJECT TO THE JURISDICTION OF THE ETHICS COMMISSION, IN ACCORDANCE WITH THE STATE BUDGET.

(2) THE GENERAL COUNSEL AND THE STAFF COUNSEL OF THE ETHICS COMMISSION SHALL BE INDIVIDUALS ADMITTED TO PRACTICE LAW IN THE STATE.

(E) ASSISTANCE FROM ATTORNEY GENERAL AND COMPTROLLER.

THE ETHICS COMMISSION MAY ASK THE ATTORNEY GENERAL OR COMPTROLLER FOR PROFESSIONAL ASSISTANCE TO ASSIST IN THE PERFORMANCE OF THE COMMISSION'S FUNCTIONS.

REVISOR'S NOTE: This section formerly was SG § 15–204.

The only changes are in style.

Defined terms: "Compensation" § 5–101
"Ethics Commission" § 5–101
"Including" § 1–110
"Person" § 1–114
"State" § 1–115

5–205. DUTIES.

(A) IN GENERAL.

THE ETHICS COMMISSION SHALL:

(1) ADMINISTER THE PROVISIONS OF THIS TITLE, EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THIS TITLE;

(2) CREATE AND PROVIDE FORMS FOR EACH DOCUMENT REQUIRED BY THIS TITLE;

(3) RETAIN AS A PUBLIC RECORD EACH DOCUMENT FILED WITH THE COMMISSION FOR AT LEAST 4 YEARS AFTER RECEIPT;

(4) REVIEW PERIODICALLY THE ADEQUACY OF PUBLIC ETHICS LAWS;

(5) (I) REVIEW EACH STATEMENT AND REPORT FILED IN ACCORDANCE WITH SUBTITLE 6 OR SUBTITLE 7 OF THIS TITLE; AND

(II) NOTIFY OFFICIALS AND EMPLOYEES SUBMITTING DOCUMENTS UNDER SUBTITLE 6 OF THIS TITLE OF ANY OMISSIONS OR DEFICIENCIES; AND

(6) PUBLISH AND MAKE AVAILABLE TO PERSONS SUBJECT TO THIS TITLE, AND TO THE PUBLIC, INFORMATION THAT EXPLAINS THE PROVISIONS OF THIS TITLE, THE DUTIES IMPOSED BY IT, AND THE MEANS FOR ENFORCING IT.

(B) MODEL PROVISIONS FOR LOCAL GOVERNMENTS.

(1) THE ETHICS COMMISSION SHALL ADOPT BY REGULATION MODEL PROVISIONS FOR LOCAL GOVERNMENTS ON:

(I) CONFLICTS OF INTEREST;

(II) FINANCIAL DISCLOSURE; AND

(III) REGULATION OF LOBBYING.

(2) MODEL PROVISIONS ADOPTED UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY BE:

(I) ADOPTED BY ANY LOCAL JURISDICTION; OR

(II) IMPOSED ON A LOCAL JURISDICTION IN ACCORDANCE WITH SUBTITLE 8 OF THIS TITLE.

(C) LIST OF ENTITIES DOING BUSINESS WITH THE STATE.

(1) THE ETHICS COMMISSION SHALL:

(I) COMPILE ANNUALLY AN ALPHABETIZED LIST OF ENTITIES DOING BUSINESS WITH THE STATE DURING THE PRECEDING CALENDAR YEAR; AND

(II) MAKE THE LIST AVAILABLE TO INDIVIDUALS REQUIRED TO FILE A STATEMENT UNDER SUBTITLE 6 OF THIS TITLE.

(2) THE LIST PREPARED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE AVAILABLE FOR PUBLIC INSPECTION BY MARCH 1 OF EACH YEAR.

(3) ON REQUEST OF THE ETHICS COMMISSION, AN OFFICIAL OR A UNIT OF STATE GOVERNMENT SHALL PROVIDE TO THE COMMISSION IN A TIMELY MANNER ANY INFORMATION NECESSARY FOR THE COMMISSION TO PERFORM ITS DUTIES UNDER THIS SUBSECTION.

(D) TRAINING COURSE FOR PUBLIC OFFICIALS.

(1) THE ETHICS COMMISSION SHALL PROVIDE A TRAINING COURSE OF AT LEAST 2 HOURS ON THE REQUIREMENTS OF THE MARYLAND PUBLIC ETHICS LAW FOR AN INDIVIDUAL WHO:

(I) FILLS A VACANCY IN A POSITION THAT HAS BEEN IDENTIFIED AS A PUBLIC OFFICIAL POSITION UNDER § 5–103 OF THIS TITLE; OR

(II) SERVES IN A POSITION IDENTIFIED AS A PUBLIC OFFICIAL POSITION UNDER § 5–103 OF THIS TITLE.

(2) THE INDIVIDUAL SHALL COMPLETE THE TRAINING COURSE WITHIN 6 MONTHS OF:

(I) FILLING A VACANCY; OR

(II) A POSITION BEING IDENTIFIED AS A PUBLIC OFFICIAL POSITION.

(3) THE TRAINING REQUIREMENT UNDER THIS SUBSECTION DOES NOT APPLY TO AN INDIVIDUAL WHO:

(I) IS A PUBLIC OFFICIAL ONLY AS A MEMBER OF A COMMISSION, TASK FORCE, OR SIMILAR ENTITY; OR

(II) HAS COMPLETED A TRAINING COURSE PROVIDED BY THE ETHICS COMMISSION WHILE SERVING IN ANOTHER PUBLIC OFFICIAL POSITION.

(E) TRAINING COURSE FOR REGULATED LOBBYISTS.

(1) (I) 1. THE ETHICS COMMISSION SHALL PROVIDE A TRAINING COURSE FOR REGULATED LOBBYISTS AND PROSPECTIVE REGULATED LOBBYISTS AT LEAST TWICE EACH YEAR ON THE PROVISIONS OF THE MARYLAND PUBLIC ETHICS LAW RELEVANT TO REGULATED LOBBYISTS.

2. ONE TRAINING COURSE SHALL BE HELD EACH JANUARY.

(II) AN INDIVIDUAL REGULATED LOBBYIST, OTHER THAN THE EMPLOYER OF A REGULATED LOBBYIST AS DESCRIBED IN § 5–701(A)(6) OF THIS TITLE, SHALL ATTEND A TRAINING COURSE PROVIDED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH AT LEAST ONCE IN ANY 2–YEAR PERIOD DURING WHICH THE LOBBYIST HAS REGISTERED WITH THE ETHICS COMMISSION.

(2) WHEN A PERSON INITIALLY REGISTERS AS A REGULATED LOBBYIST, THE ETHICS COMMISSION SHALL PROVIDE THE PERSON WITH INFORMATION ON THE PROVISIONS OF THE MARYLAND PUBLIC ETHICS LAW RELEVANT TO REGULATED LOBBYISTS.

(F) REPORTS.

SUBJECT TO § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE ETHICS COMMISSION SHALL SUBMIT TO THE GENERAL ASSEMBLY:

(1) AN ANNUAL REPORT ON ITS ACTIVITIES; AND

(2) BASED ON ITS INVESTIGATIONS AND STUDIES, OTHER SPECIAL REPORTS WITH RECOMMENDATIONS FOR LEGISLATION AS MAY BE APPROPRIATE.

REVISOR'S NOTE: This section is new language derived without substantive change from former SG § 15–205.

In subsection (c)(1)(i) of this section, the former reference to entities doing business with the State ", as defined in § 15–102 of this title," is deleted as surplusage.

In subsection (c)(1)(ii) of this section, the former reference to "information from" the list is deleted as surplusage.

In subsection (d)(1)(i) and (ii) of this section, the former references to "after September 30, 1999" are deleted as obsolete.

In subsection (e)(1)(i)2 of this section, the word "each" is substituted for the former phrase "in the month of" for brevity and clarity.

In subsection (e)(1)(ii) of this section, the reference to an "individual" regulated lobbyist is added to conform to the terminology used throughout this title.

The General Provisions Article Review Committee notes, for consideration by the General Assembly, that subsection (a)(4) of this section, which requires the Ethics Commission to review "periodically" the adequacy of public ethics laws, is ambiguous and provides no actual timeframe for review by the Ethics Commission. The General Assembly may wish to amend this subsection to provide a measurable timeframe for Ethics Commission review of public ethics laws.

Defined terms: "Employee" § 5–101
"Employer" § 5–101
"Entity" § 5–101
"Entity doing business with the State" § 5–101
"Ethics Commission" § 5–101
"General Assembly" § 5–101
"Lobbying" § 5–101
"Official" § 5–101
"Person" § 1–114
"Public official" § 5–101
"Regulated lobbyist" § 5–101
"State" § 1–115

5–206. REGULATIONS.

THE ETHICS COMMISSION MAY ADOPT REGULATIONS TO IMPLEMENT THIS TITLE.

REVISOR'S NOTE: This section formerly was SG § 15–206.

No changes are made.

Defined term: "Ethics Commission" § 5–101

5–207. OATHS AND SUBPOENAS.

(A) IN GENERAL.

THE ETHICS COMMISSION AND ITS STAFF COUNSEL EACH MAY:

(1) ADMINISTER OATHS; AND

(2) ISSUE SUBPOENAS FOR THE ATTENDANCE OF WITNESSES TO TESTIFY OR TO PRODUCE OTHER EVIDENCE.

(B) JUDICIAL ENFORCEMENT.

A SUBPOENA ISSUED UNDER SUBSECTION (A) OF THIS SECTION MAY BE ENFORCED JUDICIALLY.

REVISOR'S NOTE: This section is new language derived without substantive change from former SG § 15–207.

Defined term: "Ethics Commission" § 5–101

5–208. DETERMINATION OF PUBLIC OFFICIAL IN EXECUTIVE AGENCY.

(A) DETERMINATION OF ETHICS COMMISSION.

WITH ADVICE FROM THE SECRETARY OF BUDGET AND MANAGEMENT AND IN ACCORDANCE WITH § 5–103 OF THIS TITLE, THE ETHICS COMMISSION SHALL DETERMINE WHETHER AN INDIVIDUAL IN AN EXECUTIVE UNIT IS A PUBLIC OFFICIAL FOR THE PURPOSES OF THIS TITLE.

(B) SECRETARY OF BUDGET AND MANAGEMENT TO PROVIDE ADVICE.

THE SECRETARY OF BUDGET AND MANAGEMENT SHALL PROVIDE ADVICE UNDER SUBSECTION (A) OF THIS SECTION TO THE ETHICS COMMISSION:

(1) ANNUALLY; AND

(2) AT ANY OTHER TIME ON REQUEST OF THE ETHICS COMMISSION.

REVISOR'S NOTE: This section formerly was SG § 15–208.

The only changes are in style.

Defined terms: "Ethics Commission" § 5–101
"Executive unit" § 5–101
"Public official" § 5–101

5–209. EXEMPTIONS FROM TITLE.

(A) IN GENERAL.

THE ETHICS COMMISSION MAY EXEMPT FROM THIS TITLE OR MODIFY THE REQUIREMENTS OF THIS TITLE FOR A BOARD, A MEMBER OF A BOARD, OR A MUNICIPAL CORPORATION IF THE ETHICS COMMISSION FINDS THAT, BECAUSE OF THE NATURE OF THE BOARD OR THE SIZE OF THE MUNICIPAL CORPORATION, THE APPLICATION OF THIS TITLE TO THAT BOARD, MEMBER, OR MUNICIPAL CORPORATION:

(1) WOULD BE AN UNREASONABLE INVASION OF PRIVACY;

(2) WOULD REDUCE SIGNIFICANTLY THE AVAILABILITY OF QUALIFIED INDIVIDUALS FOR PUBLIC SERVICE; AND

(3) IS NOT NECESSARY TO PRESERVE THE PURPOSES OF THIS TITLE.

(B) REQUEST BY EXECUTIVE UNIT INVOLVED.

SUBJECT TO § 5–502(D) OF THIS TITLE, THE ETHICS COMMISSION MAY GRANT AN EXEMPTION TO A BOARD OR MEMBER OF A BOARD ONLY ON WRITTEN REQUEST OF THE EXECUTIVE UNIT OF WHICH THE BOARD IS A PART.

(C) AVAILABILITY OF RECORDS.

NOTWITHSTANDING ANY OTHER PROVISION OF THIS TITLE, THE RECORDS OF THE ETHICS COMMISSION IN ANY MATTER IN WHICH AN EXEMPTION IS GRANTED UNDER THIS SECTION SHALL BE AVAILABLE FOR PUBLIC INSPECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former SG § 15–209.

In subsection (b) of this section, the reference to the executive unit "of which the board is a part" is substituted for the former reference to the executive unit "involved" for clarity.

In subsection (c) of this section, the reference to an exemption granted under this "section" is substituted for the former reference to an exemption granted under this "title" for accuracy.

Defined terms: "Board" § 5–101
"Ethics Commission" § 5–101
"Executive unit" § 5–101
"Municipal corporation" § 5–101

5–210. LOBBYIST REGISTRATION FUND.

(A) FUND ESTABLISHED.

(1) THERE IS A LOBBYIST REGISTRATION FUND.

(2) THE FUND CONSISTS OF ALL FEES COLLECTED UNDER SUBTITLE 7 OF THIS TITLE.

(B) FUND TO BE NONLAPSING.

(1) THE FUND IS A CONTINUING, NONLAPSING FUND.

(2) ANY BALANCE REMAINING IN THE FUND AT THE END OF ANY FISCAL YEAR SHALL REVERT TO THE GENERAL FUND OF THE STATE.

(C) ADMINISTRATION OF FUND.

(1) (I) THE STATE TREASURER SHALL HOLD THE FUND SEPARATELY.

(II) THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.

(2) THE FUND SHALL BE INVESTED AND REINVESTED IN THE SAME MANNER AS OTHER STATE FUNDS.

(3) EXPENDITURES FROM THE FUND SHALL BE MADE IN ACCORDANCE WITH AN APPROPRIATION APPROVED BY THE GENERAL ASSEMBLY IN THE ANNUAL BUDGET.

(D) USES OF FUND.

THE FUND SHALL BE USED TO DEFRAY THE EXPENSES OF ADMINISTERING SUBTITLE 7 OF THIS TITLE.

REVISOR'S NOTE: This section formerly was SG § 15–210.

In subsection (a)(2) of this section, the reference to the Fund "consist[ing] of" fees collected is substituted for the former reference to the Fund "includ[ing]" fees collected for clarity. The fees are the only source of money deposited into the Fund.

The only other changes are in style.

Defined terms: "General Assembly" § 5–101
"Lobbyist" § 5–101
"State" § 1–115

SUBTITLE 3. ADVISORY OPINIONS.

5–301. REQUEST FOR ADVISORY OPINION.

(A) REQUIRED.

ON WRITTEN REQUEST OF AN ENTITY SUBJECT TO THIS TITLE, THE APPROPRIATE ADVISORY BODY SHALL ISSUE AN ADVISORY OPINION REGARDING THE APPLICATION OF THIS TITLE.

(B) DISCRETIONARY.

ON WRITTEN REQUEST OF ANY OTHER ENTITY, THE APPROPRIATE ADVISORY BODY MAY ISSUE AN ADVISORY OPINION.

REVISOR'S NOTE: This section formerly was SG § 15–301.

No changes are made.

Defined terms: "Advisory body" § 5–101
"Entity" § 5–101

5–302. ISSUANCE.

THE ETHICS COMMISSION SHALL ISSUE AN ADVISORY OPINION REQUIRED UNDER § 5–301(A) OF THIS SUBTITLE NOT MORE THAN 60 DAYS AFTER RECEIVING A REQUEST, OR MORE PROMPTLY IF CIRCUMSTANCES REQUIRE.

REVISOR'S NOTE: This section formerly was SG § 15–302.

The only changes are in style.

Defined term: "Ethics Commission" § 5–101

5–303. PUBLICATION.

(A) REQUIREMENTS.

EACH ADVISORY OPINION SHALL BE:

(1) IN WRITING; AND

(2) PUBLISHED IN THE MARYLAND REGISTER, SUBJECT TO SUBSECTION (B) OF THIS SECTION.

(B) CONFIDENTIALITY.

(1) BEFORE AN ADVISORY OPINION MAY BE MADE PUBLIC, THE ADVISORY BODY SHALL DELETE:

(I) THE NAME OF THE ENTITY THAT IS THE SUBJECT OF THE OPINION; AND

(II) TO THE FULLEST EXTENT POSSIBLE, ANY OTHER INFORMATION THAT MAY IDENTIFY THE ENTITY.

(2) THE IDENTITY OF THE ENTITY THAT IS THE SUBJECT OF THE OPINION MAY NOT BE REVEALED.

REVISOR'S NOTE: This section formerly was SG § 15–303.

In subsection (a)(2) of this section, the phrase ", subject to subsection (b) of this section" is added for clarity.

No other changes are made.

The General Provisions Article Review Committee notes, for consideration by the General Assembly, that although subsection (a) of this section requires advisory opinions issued by the Ethics Commission to be published in the Maryland Register, Maryland Rule 16–812.1 does not require the publication of opinions by the Judicial Ethics Commission.

Defined terms: "Advisory body" § 5–101
"Entity" § 5–101

5–304. FURTHER OPINION BY JOINT ETHICS COMMITTEE.

(A) ISSUANCE.

IF THE ETHICS COMMISSION ISSUES AN ADVISORY OPINION ABOUT A STATE OFFICIAL OF THE LEGISLATIVE BRANCH AS TO A QUESTION ARISING UNDER SUBTITLE 6 OF THIS TITLE, AND IF REQUESTED BY THE STATE OFFICIAL, THE JOINT ETHICS COMMITTEE SHALL ISSUE AN ADVISORY OPINION ON THE MATTER IN ACCORDANCE WITH THIS SUBTITLE.

(B) JOINT ETHICS COMMITTEE OPINION TO PREVAIL.

THE OPINION OF THE JOINT ETHICS COMMITTEE PREVAILS TO THE EXTENT OF ANY INCONSISTENCY.

REVISOR'S NOTE: This section formerly was SG § 15–304.

The only changes are in style.

Defined terms: "Ethics Commission" § 5–101
"Joint Ethics Committee" § 5–101
"State official" § 5–101

SUBTITLE 4. PROCEDURES FOR COMPLAINT OF VIOLATION OF TITLE.

5–401. COMPLAINTS — FILING; REQUIREMENTS.

(A) COMMENCEMENT OF ACTION.

(1) ANY ENTITY MAY FILE WITH THE ETHICS COMMISSION A WRITTEN COMPLAINT ALLEGING A VIOLATION OF THIS TITLE.

(2) A COMPLAINT FILED UNDER THIS SUBSECTION SHALL BE:

(I) SIGNED; AND

(II) MADE UNDER OATH.

(B) ON MOTION OF ETHICS COMMISSION.

THE ETHICS COMMISSION ON ITS OWN MOTION MAY ISSUE A COMPLAINT ALLEGING A VIOLATION OF THIS TITLE.

(C) COPY TO RESPONDENT.

THE ETHICS COMMISSION SHALL PROMPTLY TRANSMIT A COPY OF THE COMPLAINT TO THE RESPONDENT.

REVISOR'S NOTE: This section formerly was SG § 15–401.

The only changes are in style.

Defined terms: "Entity" § 5–101
"Ethics Commission" § 5–101
"Respondent" § 5–101

5–402. COMPLAINTS — REFERRAL.

(A) IN GENERAL.

FOR FURTHER ACTION AFTER THE FILING OF A COMPLAINT, THE ETHICS COMMISSION PROMPTLY SHALL REFER THE COMPLAINT TO:

(1) THE COMMISSION ON JUDICIAL DISABILITIES, IF THE COMPLAINT CONCERNS A JUDGE OF A COURT ESTABLISHED UNDER ARTICLE IV, § 1 OF THE MARYLAND CONSTITUTION;

(2) THE JOINT ETHICS COMMITTEE, IF THE COMPLAINT CONCERNS:

(I) A STATE OFFICIAL OF THE LEGISLATIVE BRANCH; AND

(II) A VIOLATION OF SUBTITLE 5 OF THIS TITLE; OR

(3) THE STAFF COUNSEL, IF THE COMPLAINT CONCERNS ANY OTHER ENTITY.

(B) ASSISTANCE FROM ETHICS COMMISSION.

ON REQUEST OF THE COMMISSION ON JUDICIAL DISABILITIES OR THE JOINT ETHICS COMMITTEE, THE ETHICS COMMISSION SHALL PROVIDE ANY INFORMATION OR ASSISTANCE THAT IS NOT PROHIBITED BY LAW.

REVISOR'S NOTE: This section formerly was SG § 15–402.

No changes are made.

Defined terms: "Entity" § 5–101
"Ethics Commission" § 5–101

"Joint Ethics Committee" § 5–101
"State official" § 5–101

5–403. COMPLAINTS — RETENTION BY ETHICS COMMISSION.

(A) EVIDENCE.

AS TO A COMPLAINT RETAINED BY THE ETHICS COMMISSION UNDER § 5–402(B) OF THIS SUBTITLE, THE STAFF COUNSEL SHALL COLLECT AND SUBMIT TO THE ETHICS COMMISSION EVIDENCE RELATING TO EACH VIOLATION OF THIS TITLE ALLEGED IN THE COMPLAINT.

(B) OPPORTUNITY TO CURE.

(1) BEFORE SUBMITTING THE EVIDENCE TO THE ETHICS COMMISSION, THE STAFF COUNSEL SHALL NOTIFY THE COMPLAINANT AND THE RESPONDENT.

(2) THE ETHICS COMMISSION SHALL DISMISS THE COMPLAINT IN A SIGNED ORDER IF:

(I) THE RESPONDENT, WITHIN 15 DAYS AFTER RECEIVING THE NOTICE, TAKES ANY ACTION THAT MAY BE AVAILABLE TO CURE EACH ALLEGED VIOLATION; AND

(II) THE ETHICS COMMISSION FINDS THAT DISMISSAL IS NOT CONTRARY TO THE PURPOSES OF THIS TITLE.

(3) IF THE COMPLAINT IS DISMISSED UNDER THIS SUBSECTION, THE ETHICS COMMISSION PROMPTLY SHALL SEND A COPY OF THE ORDER TO THE COMPLAINANT AND THE RESPONDENT.

(C) DISMISSAL AFTER PRELIMINARY REVIEW.

IF THE ETHICS COMMISSION DETERMINES THAT THE EVIDENCE SUBMITTED BY THE STAFF COUNSEL DOES NOT MERIT FURTHER PROCEEDINGS, THE ETHICS COMMISSION SHALL:

(1) DISMISS THE COMPLAINT IN A SIGNED ORDER; AND

(2) PROMPTLY SEND A COPY OF THE ORDER TO THE COMPLAINANT AND THE RESPONDENT.

(D) FURTHER PROCEEDINGS.

IF A COMPLAINT IS NOT DISMISSED UNDER SUBSECTION (B) OR (C) OF THIS SECTION, THE ETHICS COMMISSION SHALL PROCEED TO A HEARING ON THE COMPLAINT.

REVISOR'S NOTE: This section formerly was SG § 15–403.

The only changes are in style.

Defined terms: "Ethics Commission" § 5–101
"Respondent" § 5–101

5–404. COMPLAINTS — HEARING.

(A) HEARING.

(1) A HEARING ON A COMPLAINT SHALL BE CONDUCTED UNDER TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE INSOFAR AS THAT SUBTITLE IS CONSISTENT WITH THIS TITLE.

(2) IN PREPARATION FOR THE HEARING, THE RESPONDENT MAY USE THE SUBPOENA POWER OF THE ETHICS COMMISSION.

(B) PRESENTATION OF EVIDENCE.

AT THE HEARING, THE STAFF COUNSEL:

(1) SHALL PRESENT TO THE ETHICS COMMISSION ALL AVAILABLE EVIDENCE RELATING TO EACH ALLEGED VIOLATION OF THIS TITLE; AND

(2) MAY RECOMMEND ANY DISPOSITION OF THE COMPLAINT THAT APPEARS APPROPRIATE TO THE STAFF COUNSEL.

(C) REPRESENTATION BY COUNSEL.

THE RESPONDENT MAY BE REPRESENTED BY COUNSEL.

REVISOR'S NOTE: This section formerly was SG § 15–404.

The only changes are in style.

Defined terms: "Ethics Commission" § 5–101

"Respondent" § 5–101

5–405. COMPLAINTS — DISPOSITION.

(A) DETERMINATIONS AFTER HEARING.

AFTER THE ETHICS COMMISSION CONSIDERS ALL OF THE EVIDENCE PRESENTED AT THE HEARING, THE ETHICS COMMISSION SHALL MAKE FINDINGS OF FACT AND CONCLUSIONS OF LAW WITH RESPECT TO EACH ALLEGED VIOLATION.

(B) FINDING OF NO VIOLATION.

IF THE ETHICS COMMISSION DETERMINES THAT THE RESPONDENT HAS NOT VIOLATED THIS TITLE, THE ETHICS COMMISSION SHALL:

(1) DISMISS THE COMPLAINT IN A SIGNED ORDER; AND

(2) PROMPTLY SEND A COPY OF THE ORDER TO THE COMPLAINANT AND THE RESPONDENT.

(C) FINDING OF VIOLATION; SANCTIONS — GENERALLY.

IF THE ETHICS COMMISSION DETERMINES THAT THE RESPONDENT HAS VIOLATED ANY PROVISION OF THIS TITLE, THE ETHICS COMMISSION MAY:

(1) ISSUE AN ORDER OF COMPLIANCE DIRECTING THE RESPONDENT TO CEASE AND DESIST FROM THE VIOLATION;

(2) ISSUE A REPRIMAND; OR

(3) RECOMMEND TO THE APPROPRIATE AUTHORITY OTHER APPROPRIATE DISCIPLINE OF THE RESPONDENT, INCLUDING CENSURE OR REMOVAL, IF THAT DISCIPLINE IS AUTHORIZED BY LAW.

(D) FINDING OF VIOLATION; SANCTIONS — SUBTITLE 7.

IF THE ETHICS COMMISSION DETERMINES THAT A RESPONDENT HAS VIOLATED SUBTITLE 7 OF THIS TITLE, THE ETHICS COMMISSION MAY:

(1) REQUIRE A RESPONDENT WHO IS A REGULATED LOBBYIST TO FILE ANY ADDITIONAL REPORTS OR INFORMATION THAT REASONABLY RELATES TO INFORMATION REQUIRED UNDER §§ 5–703 AND 5–704 OF THIS TITLE;

(2) IMPOSE A FINE NOT EXCEEDING $5,000 FOR EACH VIOLATION; OR

(3) SUBJECT TO SUBSECTION (E) OF THIS SECTION, SUSPEND THE REGISTRATION OF A REGULATED LOBBYIST.

(E) SUSPENSION OR REVOCATION OF REGISTRATION.

(1) IF THE ETHICS COMMISSION DETERMINES IT NECESSARY TO PROTECT THE PUBLIC INTEREST AND THE INTEGRITY OF THE GOVERNMENTAL PROCESS, THE ETHICS COMMISSION MAY ISSUE AN ORDER TO:

(I) SUSPEND THE REGISTRATION OF AN INDIVIDUAL REGULATED LOBBYIST IF THE ETHICS COMMISSION DETERMINES THAT THE INDIVIDUAL REGULATED LOBBYIST:

1. HAS KNOWINGLY AND WILLFULLY VIOLATED SUBTITLE 7 OF THIS TITLE; OR

2. HAS BEEN CONVICTED OF A CRIMINAL OFFENSE ARISING FROM LOBBYING ACTIVITIES; OR

(II) REVOKE THE REGISTRATION OF AN INDIVIDUAL REGULATED LOBBYIST IF THE ETHICS COMMISSION DETERMINES THAT, BASED ON ACTS ARISING FROM LOBBYING ACTIVITIES, THE INDIVIDUAL REGULATED LOBBYIST HAS BEEN CONVICTED OF BRIBERY, THEFT, OR OTHER CRIME INVOLVING MORAL TURPITUDE.

(2) IF THE ETHICS COMMISSION SUSPENDS THE REGISTRATION OF AN INDIVIDUAL REGULATED LOBBYIST UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE INDIVIDUAL REGULATED LOBBYIST MAY NOT ENGAGE IN LOBBYING FOR COMPENSATION FOR A PERIOD, NOT TO EXCEED 3 YEARS, THAT THE ETHICS COMMISSION DETERMINES AS TO THAT INDIVIDUAL REGULATED LOBBYIST IS NECESSARY TO SATISFY THE PURPOSES OF THIS SUBSECTION.

(3) IF THE ETHICS COMMISSION REVOKES THE REGISTRATION OF AN INDIVIDUAL REGULATED LOBBYIST UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE INDIVIDUAL REGULATED LOBBYIST MAY NOT ENGAGE IN LOBBYING FOR COMPENSATION.

(4) IF THE ETHICS COMMISSION INITIATES A COMPLAINT BASED ON A VIOLATION OR CONVICTION DESCRIBED IN PARAGRAPH (1) OF THIS

SUBSECTION, THE ETHICS COMMISSION SHALL INITIATE THE COMPLAINT WITHIN 2 YEARS AFTER THE EARLIER OF:

(I) THE ETHICS COMMISSION'S KNOWLEDGE OF THE VIOLATION; OR

(II) THE DATE THE CONVICTION BECOMES FINAL.

(5) THE TERMINATION OR EXPIRATION OF THE REGISTRATION OF AN INDIVIDUAL REGULATED LOBBYIST DOES NOT LIMIT THE AUTHORITY OF THE ETHICS COMMISSION TO ISSUE AN ORDER UNDER THIS SUBSECTION.

(F) REINSTATEMENT.

(1) AN INDIVIDUAL WHOSE REGISTRATION AS AN INDIVIDUAL REGULATED LOBBYIST IS REVOKED OR SUSPENDED UNDER SUBSECTION (E) OF THIS SECTION MAY APPLY TO THE ETHICS COMMISSION FOR REINSTATEMENT.

(2) THE ETHICS COMMISSION MAY REINSTATE THE REGISTRATION OF AN INDIVIDUAL WHOSE REGISTRATION AS A REGULATED LOBBYIST HAS BEEN REVOKED OR SUSPENDED UNDER SUBSECTION (E) OF THIS SECTION IF THE ETHICS COMMISSION DETERMINES THAT REINSTATEMENT OF THE INDIVIDUAL WOULD NOT BE DETRIMENTAL TO THE PUBLIC INTEREST AND THE INTEGRITY OF THE GOVERNMENTAL PROCESS, BASED ON:

(I) THE NATURE AND CIRCUMSTANCES OF THE ORIGINAL MISCONDUCT OR VIOLATION LEADING TO REVOCATION OR SUSPENSION;

(II) THE INDIVIDUAL'S SUBSEQUENT CONDUCT AND REFORMATION; AND

(III) THE PRESENT ABILITY OF THE INDIVIDUAL TO COMPLY WITH THE ETHICS LAW.

(G) PENALTIES FOR LATE FILING.

(1) IF THE RESPONDENT IS A REGULATED LOBBYIST, FOR EACH REPORT REQUIRED UNDER SUBTITLE 7 OF THIS TITLE THAT IS FILED LATE THE RESPONDENT SHALL PAY A FEE OF $10 FOR EACH LATE DAY, NOT TO EXCEED A TOTAL OF $250.

(2) IF THE RESPONDENT IS AN OFFICIAL, FOR EACH FINANCIAL DISCLOSURE STATEMENT FOUND TO HAVE BEEN FILED LATE, THE RESPONDENT SHALL PAY A FEE OF $2 FOR EACH LATE DAY, NOT TO EXCEED A TOTAL OF $250.

REVISOR'S NOTE: This section formerly was SG § 15–405.

In the introductory language of subsection (e)(4) of this section, the phrase "after the earlier" is added for clarity.

In subsection (f)(1) of this section, the former phrase "[s]ubject to paragraph (2) of this subsection" is deleted because paragraph (2) is about when the Ethics Commission may reinstate a registration and not about when an individual may apply for reinstatement.

The only other changes are in style.

Defined terms: "Compensation" § 5–101
"Ethics Commission" § 5–101
"Including" § 1–110
"Lobbying" § 5–101
"Official" § 5–101
"Regulated lobbyist" § 5–101
"Respondent" § 5–101

5–406. JUDICIAL REVIEW.

(A) IN GENERAL.

IF THE RESPONDENT IS AGGRIEVED BY A FINAL ORDER OF THE ETHICS COMMISSION, THE RESPONDENT MAY SEEK JUDICIAL REVIEW AS PROVIDED IN TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

(B) STAY PENDING JUDICIAL REVIEW.

(1) THE ORDER IS STAYED AUTOMATICALLY UNTIL THE TIME FOR SEEKING JUDICIAL REVIEW HAS EXPIRED.

(2) (I) THE FILING OF A PETITION FOR JUDICIAL REVIEW DOES NOT AUTOMATICALLY STAY THE ENFORCEMENT OF THE ORDER.

(II) EXCEPT AS OTHERWISE PROVIDED BY LAW, THE ETHICS COMMISSION OR THE REVIEWING COURT MAY STAY THE ENFORCEMENT OF THE ORDER, UNDER TERMS THE ETHICS COMMISSION CONSIDERS PROPER.

(C) JUDICIAL RELIEF FOR ETHICS COMMISSION.

THE ETHICS COMMISSION MAY SEEK JUDICIAL ENFORCEMENT AND OTHER RELIEF AS PROVIDED UNDER SUBTITLE 8 OF THIS TITLE.

REVISOR'S NOTE: This section formerly was SG § 15–406.

The only changes are in style.

Defined terms: "Ethics Commission" § 5–101
"Respondent" § 5–101

5–407. CONFIDENTIALITY.

(A) IN GENERAL.

NOTWITHSTANDING ANY OTHER LAW, AND EXCEPT AS PROVIDED IN SUBSECTIONS (B) AND (C) OF THIS SECTION, AFTER A COMPLAINT IS FILED:

(1) THE PROCEEDINGS, MEETINGS, AND ACTIVITIES OF THE ETHICS COMMISSION AND ITS EMPLOYEES RELATING TO THE COMPLAINT ARE CONFIDENTIAL; AND

(2) INFORMATION RELATING TO THE COMPLAINT, INCLUDING THE IDENTITY OF THE COMPLAINANT AND RESPONDENT, MAY NOT BE DISCLOSED BY:

(I) THE ETHICS COMMISSION;

(II) THE STAFF OF THE ETHICS COMMISSION;

(III) THE COMPLAINANT; OR

(IV) THE RESPONDENT.

(B) DURATION.

EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, THE RESTRICTIONS IN SUBSECTION (A) OF THIS SECTION APPLY UNLESS:

(1) THE MATTER IS REFERRED FOR PROSECUTION; OR

(2) THE ETHICS COMMISSION FINDS A VIOLATION OF THIS TITLE.

(C) DISCLOSURES ALLOWED.

(1) THE ETHICS COMMISSION MAY RELEASE ANY INFORMATION IF THE RESPONDENT AGREES IN WRITING TO THE RELEASE.

(2) ON REQUEST OF THE RESPONDENT, THE ETHICS COMMISSION SHALL DISCLOSE THE IDENTITY OF THE COMPLAINANT TO THE RESPONDENT.

REVISOR'S NOTE: This section formerly was SG § 15–407.

In subsection (c) of this section, the former phrase "at any time" is deleted as surplusage.

The only other changes are in style.

Defined terms: "Ethics Commission" § 5–101
"Including" § 1–110
"Respondent" § 5–101

5–408. REFERRAL TO PROSECUTING AUTHORITY.

(A) REFERRAL FOR PROSECUTION.

IF THE ETHICS COMMISSION, WHILE CONSIDERING A COMPLAINT, FINDS THAT THERE ARE REASONABLE GROUNDS TO BELIEVE THAT THE RESPONDENT MAY HAVE COMMITTED A CRIMINAL OFFENSE, THE ETHICS COMMISSION PROMPTLY SHALL REFER THE MATTER TO AN APPROPRIATE PROSECUTING AUTHORITY.

(B) EVIDENCE.

THE ETHICS COMMISSION SHALL MAKE AVAILABLE TO THE PROSECUTING AUTHORITY ALL PERTINENT EVIDENCE UNDER THE ETHICS COMMISSION'S CONTROL.

REVISOR'S NOTE: This section formerly was SG § 15–408.

The only changes are in style.

Defined terms: "Ethics Commission" § 5–101
"Respondent" § 5–101

5–409. RETENTION OF DOCUMENTS BY ENTITIES SUBJECT TO TITLE.

(A) IN GENERAL.

AN ENTITY THAT IS REQUIRED TO FILE A REPORT, STATEMENT, OR RECORD UNDER THIS TITLE SHALL OBTAIN EACH ACCOUNT, BILL, RECEIPT, BOOK, PAPER, OR OTHER DOCUMENT NECESSARY TO COMPLETE AND SUBSTANTIATE THE REPORT OR STATEMENT.

(B) PERIOD OF RETENTION.

THE ENTITY SHALL RETAIN THE DOCUMENT FOR 3 YEARS AFTER:

(1) THE DATE THE REPORT, STATEMENT, OR RECORD WAS FILED; OR

(2) IF THE REPORT, STATEMENT, OR RECORD WAS NOT FILED, THE DATE THE REPORT, STATEMENT, OR RECORD WAS REQUIRED TO BE FILED.

(C) INSPECTION BY ETHICS COMMISSION.

ON REQUEST OF THE ETHICS COMMISSION, AND AFTER REASONABLE NOTICE, THE DOCUMENTS SHALL BE AVAILABLE FOR INSPECTION BY THE ETHICS COMMISSION.

REVISOR'S NOTE: This section formerly was SG § 15–409.

The only changes are in style.

Defined terms: "Entity" § 5–101
"Ethics Commission" § 5–101

SUBTITLE 5. CONFLICTS OF INTEREST.

PART I. GENERAL PROVISIONS.

5–501. RESTRICTIONS ON PARTICIPATION.

(A) IN GENERAL.

EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (C) OF THIS SECTION, AN OFFICIAL OR EMPLOYEE MAY NOT PARTICIPATE IN A MATTER IF:

(1) THE OFFICIAL OR EMPLOYEE OR A QUALIFYING RELATIVE OF THE OFFICIAL OR EMPLOYEE HAS AN INTEREST IN THE MATTER AND THE OFFICIAL OR EMPLOYEE KNOWS OF THE INTEREST; OR

(2) ANY OF THE FOLLOWING IS A PARTY TO THE MATTER:

(I) A BUSINESS ENTITY IN WHICH THE OFFICIAL OR EMPLOYEE HAS A DIRECT FINANCIAL INTEREST OF WHICH THE OFFICIAL OR EMPLOYEE REASONABLY MAY BE EXPECTED TO KNOW;

(II) A BUSINESS ENTITY, INCLUDING A LIMITED LIABILITY COMPANY OR A LIMITED LIABILITY PARTNERSHIP, OF WHICH ANY OF THE FOLLOWING IS AN OFFICER, A DIRECTOR, A TRUSTEE, A PARTNER, OR AN EMPLOYEE:

1. THE OFFICIAL OR EMPLOYEE; OR

2. IF KNOWN TO THE OFFICIAL OR EMPLOYEE, A QUALIFYING RELATIVE OF THE OFFICIAL OR EMPLOYEE;

(III) A BUSINESS ENTITY WITH WHICH ANY OF THE FOLLOWING HAS APPLIED FOR A POSITION, IS NEGOTIATING EMPLOYMENT, OR HAS ARRANGED PROSPECTIVE EMPLOYMENT:

1. THE OFFICIAL OR EMPLOYEE; OR

2. IF KNOWN TO THE OFFICIAL OR EMPLOYEE, A QUALIFYING RELATIVE OF THE OFFICIAL OR EMPLOYEE;

(IV) IF THE CONTRACT REASONABLY COULD BE EXPECTED TO RESULT IN A CONFLICT BETWEEN THE PRIVATE INTEREST AND THE OFFICIAL STATE DUTIES OF THE OFFICIAL OR EMPLOYEE, A BUSINESS ENTITY THAT IS A PARTY TO A CONTRACT WITH:

1. THE OFFICIAL OR EMPLOYEE; OR

2. IF KNOWN TO THE OFFICIAL OR EMPLOYEE, A QUALIFYING RELATIVE OF THE OFFICIAL OR EMPLOYEE;

(V) A BUSINESS ENTITY, EITHER ENGAGED IN A TRANSACTION WITH THE STATE OR SUBJECT TO REGULATION BY THE OFFICIAL'S OR EMPLOYEE'S GOVERNMENTAL UNIT, IN WHICH A DIRECT FINANCIAL INTEREST IS OWNED BY ANOTHER BUSINESS ENTITY IF THE OFFICIAL OR EMPLOYEE:

1. HAS A DIRECT FINANCIAL INTEREST IN THE OTHER BUSINESS ENTITY; AND

2. REASONABLY MAY BE EXPECTED TO KNOW OF BOTH FINANCIAL INTERESTS; OR

(VI) A BUSINESS ENTITY THAT:

1. THE OFFICIAL OR EMPLOYEE KNOWS IS A CREDITOR OR AN OBLIGEE OF THE OFFICIAL OR EMPLOYEE, OR OF A QUALIFYING RELATIVE OF THE OFFICIAL OR EMPLOYEE, WITH RESPECT TO A THING OF ECONOMIC VALUE; AND

2. AS A CREDITOR OR AN OBLIGEE, IS IN A POSITION TO AFFECT DIRECTLY AND SUBSTANTIALLY THE INTEREST OF THE OFFICIAL, EMPLOYEE, OR QUALIFYING RELATIVE.

(B) EXCEPTIONS.

(1) THE PROHIBITIONS OF SUBSECTION (A) OF THIS SECTION DO NOT APPLY IF PARTICIPATION IS ALLOWED:

(I) AS TO OFFICIALS AND EMPLOYEES SUBJECT TO THE AUTHORITY OF THE ETHICS COMMISSION, BY REGULATION OF THE ETHICS COMMISSION;

(II) BY THE OPINION OF AN ADVISORY BODY; OR

(III) BY ANOTHER PROVISION OF THIS SUBTITLE.

(2) THIS SECTION DOES NOT PROHIBIT PARTICIPATION BY AN OFFICIAL OR EMPLOYEE THAT IS LIMITED TO THE EXERCISE OF AN ADMINISTRATIVE OR MINISTERIAL DUTY THAT DOES NOT AFFECT THE DECISION OR DISPOSITION WITH RESPECT TO THE MATTER.

(C) PARTICIPATION NOTWITHSTANDING CONFLICT.

AN OFFICIAL OR EMPLOYEE WHO OTHERWISE WOULD BE DISQUALIFIED FROM PARTICIPATION UNDER SUBSECTION (A) OF THIS SECTION SHALL DISCLOSE THE NATURE AND CIRCUMSTANCES OF THE CONFLICT, AND MAY PARTICIPATE OR ACT, IF:

(1) THE DISQUALIFICATION WOULD LEAVE A BODY WITH LESS THAN A QUORUM CAPABLE OF ACTING;

(2) THE DISQUALIFIED OFFICIAL OR EMPLOYEE IS REQUIRED BY LAW TO ACT; OR

(3) THE DISQUALIFIED OFFICIAL OR EMPLOYEE IS THE ONLY INDIVIDUAL AUTHORIZED TO ACT.

REVISOR'S NOTE: This section formerly was SG § 15–501.

In subsection (b)(2) of this section, the former reference to the matter "involved" is deleted as surplusage.

The only other changes are in style.

Defined terms: "Advisory body" § 5–101
"Business entity" § 5–101
"Employee" § 5–101
"Ethics Commission" § 5–101
"Financial interest" § 5–101
"Governmental unit" § 5–101
"Including" § 1–110
"Interest" § 5–101
"Official" § 5–101
"Qualifying relative" § 5–101
"State" § 1–115

5–502. EMPLOYMENT OR FINANCIAL INTERESTS — GENERAL RESTRICTION.

(A) GENERAL ASSEMBLY MEMBERS EXEMPTED.

THIS SECTION DOES NOT APPLY TO MEMBERS OF THE GENERAL ASSEMBLY.

(B) PROHIBITIONS.

EXCEPT AS PROVIDED IN SUBSECTIONS (C) AND (D) OF THIS SECTION, AN OFFICIAL OR EMPLOYEE MAY NOT:

(1) BE EMPLOYED BY OR HAVE A FINANCIAL INTEREST IN:

(I) AN ENTITY SUBJECT TO THE AUTHORITY OF THAT OFFICIAL OR EMPLOYEE OR OF THE GOVERNMENTAL UNIT WITH WHICH THE OFFICIAL OR EMPLOYEE IS AFFILIATED; OR

(II) AN ENTITY THAT IS NEGOTIATING OR HAS ENTERED A CONTRACT WITH THAT GOVERNMENTAL UNIT OR AN ENTITY THAT IS A SUBCONTRACTOR ON A CONTRACT WITH THAT GOVERNMENTAL UNIT; OR

(2) HOLD ANY OTHER EMPLOYMENT RELATIONSHIP THAT WOULD IMPAIR THE IMPARTIALITY AND INDEPENDENT JUDGMENT OF THE OFFICIAL OR EMPLOYEE.

(C) EXCEPTIONS.

THE PROHIBITIONS OF SUBSECTION (B) OF THIS SECTION DO NOT APPLY:

(1) TO EMPLOYMENT OR A FINANCIAL INTEREST ALLOWED BY REGULATION OF THE ETHICS COMMISSION IF:

(I) THE EMPLOYMENT DOES NOT CREATE A CONFLICT OF INTEREST OR THE APPEARANCE OF A CONFLICT OF INTEREST; OR

(II) THE FINANCIAL INTEREST IS DISCLOSED;

(2) TO A PUBLIC OFFICIAL WHO IS APPOINTED TO A REGULATORY OR LICENSING UNIT IN ACCORDANCE WITH A STATUTORY REQUIREMENT THAT ENTITIES SUBJECT TO THE JURISDICTION OF THE UNIT BE REPRESENTED IN APPOINTMENTS TO IT;

(3) AS ALLOWED BY REGULATIONS ADOPTED BY THE ETHICS COMMISSION, TO AN EMPLOYEE WHOSE GOVERNMENT DUTIES ARE MINISTERIAL, IF THE PRIVATE EMPLOYMENT OR FINANCIAL INTEREST DOES NOT CREATE A CONFLICT OF INTEREST OR THE APPEARANCE OF A CONFLICT OF INTEREST; OR

(4) TO A MEMBER OF A BOARD WHO HOLDS THE EMPLOYMENT OR FINANCIAL INTEREST WHEN APPOINTED IF THE EMPLOYMENT OR FINANCIAL INTEREST IS DISCLOSED PUBLICLY TO THE APPOINTING AUTHORITY, THE ETHICS COMMISSION, AND, IF APPLICABLE, THE SENATE OF MARYLAND BEFORE SENATE CONFIRMATION.

(D) EXEMPTION UNDER EXTRAORDINARY CIRCUMSTANCES.

(1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE ETHICS COMMISSION MAY EXEMPT A PUBLIC OFFICIAL OF AN EXECUTIVE UNIT OR AN EMPLOYEE OF AN EXECUTIVE UNIT FROM THE PROHIBITIONS OF

SUBSECTION (B) OF THIS SECTION IF THE ETHICS COMMISSION DETERMINES THAT:

(I) FAILURE TO GRANT THE EXEMPTION WOULD LIMIT THE ABILITY OF THE STATE TO:

1. RECRUIT AND HIRE HIGHLY QUALIFIED OR UNIQUELY QUALIFIED PROFESSIONALS FOR PUBLIC SERVICE; OR

2. ASSURE THE AVAILABILITY OF COMPETENT SERVICES TO THE PUBLIC; AND

(II) THE NUMBER OF EXEMPTIONS GRANTED UNDER THIS SUBSECTION HAS NOT ERODED THE PURPOSES OF SUBSECTION (B) OF THIS SECTION OR OTHER PROVISIONS OF THIS TITLE.

(2) (I) THE ETHICS COMMISSION MAY GRANT AN EXEMPTION UNDER PARAGRAPH (1) OF THIS SUBSECTION ONLY:

1. IN EXTRAORDINARY SITUATIONS; AND

2. ON THE RECOMMENDATION OF THE GOVERNOR, AT THE REQUEST OF THE EXECUTIVE UNIT INVOLVED.

(II) THE ETHICS COMMISSION SHALL APPLY THIS SUBSECTION AS CONSISTENTLY AS POSSIBLE UNDER SIMILAR FACTS AND CIRCUMSTANCES.

REVISOR'S NOTE: This section formerly was SG § 15–502.

The only changes are in style.

Defined terms: "Board" § 5–101
"Employee" § 5–101
"Entity" § 5–101
"Ethics Commission" § 5–101
"Executive unit" § 5–101
"Financial interest" § 5–101
"General Assembly" § 5–101
"Governmental unit" § 5–101
"Official" § 5–101
"Public official" § 5–101

5–503. EMPLOYMENT RESTRICTION — ENTITIES CONTRACTING WITH STATE.

(A) GENERAL ASSEMBLY MEMBERS EXEMPTED.

THIS SECTION DOES NOT APPLY TO MEMBERS OF THE GENERAL ASSEMBLY.

(B) EMPLOYMENT PROHIBITED.

AN OFFICIAL OR EMPLOYEE MAY NOT BE EMPLOYED BY AN ENTITY THAT IS A PARTY TO A CONTRACT THAT BINDS OR PURPORTS TO BIND THE STATE IF:

(1) THE DUTIES OF THE OFFICIAL OR EMPLOYEE INCLUDE MATTERS SUBSTANTIALLY RELATING TO OR AFFECTING THE SUBJECT MATTER OF THE CONTRACT; AND

(2) THE CONTRACT BINDS OR PURPORTS TO BIND THE STATE TO PAY MORE THAN $1,000.

REVISOR'S NOTE: This section formerly was SG § 15–503.

No changes are made.

Defined terms: "Employee" § 5–101
"Entity" § 5–101
"General Assembly" § 5–101
"Official" § 5–101
"State" § 1–115

5–504. EMPLOYMENT RESTRICTION — REPRESENTATION OR ASSISTANCE.

(A) CONTINGENT COMPENSATION.

(1) THIS SUBSECTION DOES NOT APPLY TO MEMBERS OF THE GENERAL ASSEMBLY.

(2) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, AN OFFICIAL OR EMPLOYEE MAY NOT, FOR CONTINGENT COMPENSATION, ASSIST OR REPRESENT A PARTY IN ANY MATTER BEFORE OR INVOLVING ANY UNIT OF THE STATE OR A POLITICAL SUBDIVISION OF THE STATE.

(3) PARAGRAPH (2) OF THIS SUBSECTION DOES NOT APPLY TO ASSISTANCE TO OR REPRESENTATION OF A PARTY:

(I) IN A JUDICIAL OR QUASI–JUDICIAL PROCEEDING, INCLUDING A PROCEEDING BEFORE AN ADMINISTRATIVE LAW JUDGE IN THE OFFICE OF ADMINISTRATIVE HEARINGS, OR A MATTER PRELIMINARY, INCIDENTAL, OR COLLATERAL TO A JUDICIAL OR QUASI–JUDICIAL PROCEEDING; OR

(II) IN A MATTER BEFORE OR INVOLVING THE WORKERS' COMPENSATION COMMISSION, THE MARYLAND AUTOMOBILE INSURANCE FUND, OR THE CRIMINAL INJURIES COMPENSATION BOARD.

(B) GENERAL ASSEMBLY MEMBER — COMPENSATED REPRESENTATION OR ASSISTANCE.

(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A MEMBER OF THE GENERAL ASSEMBLY MAY NOT, FOR COMPENSATION, ASSIST OR REPRESENT A PARTY IN ANY MATTER BEFORE OR INVOLVING ANY UNIT OF THE STATE OR A POLITICAL SUBDIVISION OF THE STATE.

(2) PARAGRAPH (1) OF THIS SUBSECTION DOES NOT APPLY TO ASSISTANCE TO OR REPRESENTATION OF A PARTY:

(I) IN MATTERS RELATING TO THE PERFORMANCE OF MINISTERIAL ACTS BY A GOVERNMENTAL UNIT;

(II) IN MATTERS INVOLVING THE MEMBER'S REGULAR BUSINESS, EMPLOYMENT, OR PROFESSION, IN WHICH CONTACT WITH A GOVERNMENTAL UNIT:

1. IS AN INCIDENTAL PART OF THE BUSINESS, EMPLOYMENT, OR PROFESSION;

2. IS MADE IN THE MANNER THAT IS CUSTOMARY FOR PERSONS IN THAT BUSINESS, EMPLOYMENT, OR PROFESSION; AND

3. IS NOT FOR CONTINGENT COMPENSATION;

(III) IN A JUDICIAL OR QUASI–JUDICIAL PROCEEDING, INCLUDING A PROCEEDING BEFORE AN ADMINISTRATIVE LAW JUDGE IN THE OFFICE OF ADMINISTRATIVE HEARINGS, OR A MATTER PRELIMINARY, INCIDENTAL, OR COLLATERAL TO A JUDICIAL OR QUASI–JUDICIAL PROCEEDING;

(IV) IN A MATTER BEFORE OR INVOLVING THE WORKERS' COMPENSATION COMMISSION, THE MARYLAND AUTOMOBILE INSURANCE FUND, OR THE CRIMINAL INJURIES COMPENSATION BOARD; OR

(V) IN A MATTER IN WHICH THE ASSISTANCE OR REPRESENTATION, OTHER THAN FOR CONTINGENT COMPENSATION, WAS COMMENCED BY THE MEMBER OF THE GENERAL ASSEMBLY BEFORE:

1. THE MEMBER FILED A CERTIFICATE OF CANDIDACY FOR ELECTION TO THE GENERAL ASSEMBLY AT A TIME WHEN THE MEMBER WAS NOT AN INCUMBENT; OR

2. IF THE MEMBER WAS APPOINTED TO FILL A VACANCY, THE DATE OF APPOINTMENT.

(C) GENERAL ASSEMBLY MEMBER — REPRESENTATION IN PROCUREMENT OR REGULATIONS MATTERS.

(1) A MEMBER OF THE GENERAL ASSEMBLY MAY NOT ASSIST OR REPRESENT A PERSON, INCLUDING HIMSELF OR HERSELF, FOR COMPENSATION BEFORE A STATE OR LOCAL GOVERNMENTAL AGENCY IN ANY MATTER INVOLVING:

(I) PROCUREMENT; OR

(II) THE ADOPTION OF REGULATIONS.

(2) PARAGRAPH (1) OF THIS SUBSECTION DOES NOT APPLY TO AN ADMINISTRATIVE PROCEEDING CONDUCTED IN ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

(D) FORMER OFFICIAL OR EMPLOYEE.

(1) EXCEPT FOR A FORMER MEMBER OF THE GENERAL ASSEMBLY, WHO SHALL BE SUBJECT TO THE RESTRICTIONS PROVIDED UNDER PARAGRAPH (2) OF THIS SUBSECTION, A FORMER OFFICIAL OR EMPLOYEE MAY NOT ASSIST OR REPRESENT A PARTY, OTHER THAN THE STATE, IN A CASE, A CONTRACT, OR ANY OTHER SPECIFIC MATTER FOR COMPENSATION IF:

(I) THE MATTER INVOLVES STATE GOVERNMENT; AND

(II) THE FORMER OFFICIAL OR EMPLOYEE PARTICIPATED SIGNIFICANTLY IN THE MATTER AS AN OFFICIAL OR EMPLOYEE.

(2) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, UNTIL THE CONCLUSION OF THE NEXT REGULAR SESSION THAT BEGINS AFTER THE MEMBER LEAVES OFFICE, A FORMER MEMBER OF THE GENERAL ASSEMBLY MAY NOT ASSIST OR REPRESENT ANOTHER PARTY FOR COMPENSATION IN A MATTER THAT IS THE SUBJECT OF LEGISLATIVE ACTION.

(II) THE LIMITATION UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH ON REPRESENTATION BY A FORMER MEMBER OF THE GENERAL ASSEMBLY DOES NOT APPLY TO THE FORMER MEMBER'S REPRESENTATION OF A MUNICIPAL CORPORATION, COUNTY, OR STATE GOVERNMENTAL ENTITY.

(E) OFFICIAL OR EMPLOYEE IN JUDICIAL BRANCH.

NOTWITHSTANDING SUBSECTION (A)(3) OF THIS SECTION OR § 5–502 OF THIS SUBTITLE, A FULL–TIME OFFICIAL OR EMPLOYEE IN THE JUDICIAL BRANCH MAY NOT REPRESENT A PARTY BEFORE A COURT OR UNIT OF THE JUDICIAL BRANCH EXCEPT IN THE DISCHARGE OF OFFICIAL DUTIES.

REVISOR'S NOTE: This section formerly was SG § 15–504.

The only changes are in style.

Defined terms: "Compensation" § 5–101
"County" § 1–107
"Employee" § 5–101
"General Assembly" § 5–101
"Governmental unit" § 5–101
"Including" § 1–110
"Legislative action" § 5–101
"Municipal corporation" § 5–101
"Official" § 5–101
"Person" § 1–114
"State" § 1–115

5–505. GIFTS OR HONORARIA.

(A) GIFT SOLICITATION PROHIBITED.

(1) AN OFFICIAL OR EMPLOYEE MAY NOT SOLICIT ANY GIFT.

(2) AN OFFICIAL MAY NOT DIRECTLY SOLICIT OR FACILITATE THE SOLICITATION OF A GIFT, ON BEHALF OF ANOTHER PERSON, FROM AN INDIVIDUAL REGULATED LOBBYIST DESCRIBED IN § 5–701(A)(1) OF THIS TITLE.

(B) GIFT ACCEPTANCE PROHIBITED.

(1) IN THIS SUBSECTION, "ENTITY" DOES NOT INCLUDE A GOVERNMENTAL UNIT.

(2) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, AN OFFICIAL OR EMPLOYEE MAY NOT KNOWINGLY ACCEPT A GIFT, DIRECTLY OR INDIRECTLY, FROM AN ENTITY THAT THE OFFICIAL OR EMPLOYEE KNOWS OR HAS REASON TO KNOW:

(I) DOES OR SEEKS TO DO ANY BUSINESS OF ANY KIND, REGARDLESS OF AMOUNT, WITH THE OFFICIAL'S OR EMPLOYEE'S GOVERNMENTAL UNIT;

(II) ENGAGES IN AN ACTIVITY THAT IS REGULATED OR CONTROLLED BY THE OFFICIAL'S OR EMPLOYEE'S GOVERNMENTAL UNIT;

(III) HAS A FINANCIAL INTEREST THAT MAY BE AFFECTED SUBSTANTIALLY AND MATERIALLY, IN A MANNER DISTINGUISHABLE FROM THE PUBLIC GENERALLY, BY THE PERFORMANCE OR NONPERFORMANCE OF THE OFFICIAL'S OR EMPLOYEE'S OFFICIAL DUTIES; OR

(IV) IS A REGULATED LOBBYIST WITH RESPECT TO MATTERS WITHIN THE JURISDICTION OF THE OFFICIAL OR EMPLOYEE.

(C) EXCEPTIONS.

(1) NOTWITHSTANDING SUBSECTION (B) OF THIS SECTION, AN OFFICIAL OR EMPLOYEE MAY ACCEPT A GIFT LISTED IN PARAGRAPH (2) OF THIS SUBSECTION UNLESS:

(I) THE GIFT WOULD TEND TO IMPAIR THE IMPARTIALITY AND INDEPENDENT JUDGMENT OF THE OFFICIAL OR EMPLOYEE; OR

(II) AS TO A GIFT OF SIGNIFICANT VALUE:

1. THE GIFT WOULD GIVE THE APPEARANCE OF IMPAIRING THE IMPARTIALITY AND INDEPENDENT JUDGMENT OF THE OFFICIAL OR EMPLOYEE; OR

2. THE OFFICIAL OR EMPLOYEE BELIEVES OR HAS REASON TO BELIEVE THAT THE GIFT IS DESIGNED TO IMPAIR THE IMPARTIALITY AND INDEPENDENT JUDGMENT OF THE OFFICIAL OR EMPLOYEE.

(2) SUBJECT TO PARAGRAPH (1) OF THIS SUBSECTION, SUBSECTION (B) OF THIS SECTION DOES NOT APPLY TO:

(I) 1. EXCEPT FOR OFFICIALS OF THE LEGISLATIVE BRANCH, MEALS OR BEVERAGES RECEIVED AND CONSUMED BY THE OFFICIAL OR EMPLOYEE IN THE PRESENCE OF THE DONOR OR SPONSORING ENTITY;

2. FOR OFFICIALS OF THE LEGISLATIVE BRANCH, FOOD OR BEVERAGES RECEIVED AND CONSUMED BY THE OFFICIAL IN THE PRESENCE OF THE DONOR OR SPONSORING ENTITY AS PART OF A MEAL OR RECEPTION TO WHICH ALL MEMBERS OF A LEGISLATIVE UNIT WERE INVITED;

3. FOR A MEMBER OF THE GENERAL ASSEMBLY, FOOD OR BEVERAGES RECEIVED FROM A DONOR OR SPONSORING ENTITY, OTHER THAN AN INDIVIDUAL REGULATED LOBBYIST DESCRIBED IN § 5–701(A)(1) OF THIS TITLE, DURING A PERIOD WHEN THE GENERAL ASSEMBLY IS NOT IN SESSION, AT A LOCATION THAT IS WITHIN A COUNTY THAT CONTAINS THE MEMBER'S DISTRICT, PROVIDED THAT THE DONOR OR SPONSORING ENTITY IS LOCATED WITHIN A COUNTY THAT CONTAINS THE MEMBER'S DISTRICT; OR

4. FOR A MEMBER OF THE GENERAL ASSEMBLY, FOOD OR BEVERAGES RECEIVED AT THE TIME AND GEOGRAPHIC LOCATION OF A MEETING OF A LEGISLATIVE ORGANIZATION FOR WHICH THE MEMBER'S PRESIDING OFFICER HAS APPROVED THE MEMBER'S ATTENDANCE AT STATE EXPENSE;

(II) CEREMONIAL GIFTS OR AWARDS OF INSIGNIFICANT MONETARY VALUE;

(III) EXCEPT FOR A STATE OFFICIAL OF THE EXECUTIVE BRANCH OR LEGISLATIVE BRANCH, UNSOLICITED GIFTS OF NOMINAL VALUE;

(IV) FOR A STATE OFFICIAL OF THE EXECUTIVE BRANCH OR LEGISLATIVE BRANCH, UNSOLICITED GIFTS FROM A REGULATED LOBBYIST THAT ARE NOT MEALS OR ALCOHOLIC BEVERAGES AND THAT DO NOT EXCEED $20 IN COST;

(V) TRIVIAL GIFTS OF INFORMATIONAL VALUE;

(VI) IN RETURN FOR PARTICIPATION ON A PANEL OR A SPEAKING ENGAGEMENT AT A MEETING, REASONABLE EXPENSES FOR FOOD, TRAVEL, LODGING, OR SCHEDULED ENTERTAINMENT OF THE OFFICIAL OR

EMPLOYEE IF THE EXPENSES ARE ASSOCIATED WITH THE MEETING, EXCEPT THAT, IF SUCH EXPENSES FOR A STATE OFFICIAL OF THE LEGISLATIVE BRANCH OR EXECUTIVE BRANCH ARE TO BE PAID BY A REGULATED LOBBYIST AND ARE ANTICIPATED TO EXCEED $500, THE OFFICIAL SHALL NOTIFY THE APPROPRIATE ADVISORY BODY BEFORE ATTENDING THE MEETING;

(VII) FOR A MEMBER OF THE GENERAL ASSEMBLY, REASONABLE EXPENSES FOR FOOD, TRAVEL, LODGING, OR SCHEDULED ENTERTAINMENT TO ATTEND A LEGISLATIVE CONFERENCE THAT HAS BEEN APPROVED BY THE MEMBER'S PRESIDING OFFICER;

(VIII) TICKETS OR FREE ADMISSION EXTENDED TO AN ELECTED CONSTITUTIONAL OFFICER FROM THE PERSON SPONSORING OR CONDUCTING THE EVENT, AS A COURTESY OR CEREMONY TO THE OFFICE, TO ATTEND A CHARITABLE, CULTURAL, OR POLITICAL EVENT;

(IX) A SPECIFIC GIFT OR CLASS OF GIFTS EXEMPTED FROM SUBSECTION (B) OF THIS SECTION BY THE ETHICS COMMISSION ON A WRITTEN FINDING THAT:

1. ACCEPTANCE OF THE GIFT OR CLASS OF GIFTS WOULD NOT BE DETRIMENTAL TO THE IMPARTIAL CONDUCT OF GOVERNMENT; AND

2. THE GIFT IS PURELY PERSONAL AND PRIVATE IN NATURE;

(X) A GIFT FROM:

1. AN INDIVIDUAL RELATED TO THE OFFICIAL OR EMPLOYEE BY BLOOD OR MARRIAGE; OR

2. ANY OTHER INDIVIDUAL WHO IS A MEMBER OF THE HOUSEHOLD OF THE OFFICIAL OR EMPLOYEE; OR

(XI) TO THE EXTENT PROVIDED IN SUBSECTION (D) OF THIS SECTION, HONORARIA.

(D) HONORARIA.

(1) EXCEPT AS PROVIDED IN SUBSECTION (C)(2)(VI) OF THIS SECTION, A MEMBER OR MEMBER–ELECT OF THE GENERAL ASSEMBLY MAY NOT ACCEPT AN HONORARIUM.

(2) SUBJECT TO SUBSECTION (C)(1) OF THIS SECTION, AN OFFICIAL OR EMPLOYEE WHO IS NOT A MEMBER OR MEMBER–ELECT OF THE GENERAL ASSEMBLY MAY ACCEPT AN HONORARIUM IF:

(I) THE HONORARIUM IS LIMITED TO REASONABLE EXPENSES FOR THE OFFICIAL'S MEALS, TRAVEL, AND LODGING, AND REASONABLE AND VERIFIABLE EXPENSES FOR CARE OF A CHILD OR DEPENDENT ADULT, THAT ARE ACTUALLY INCURRED;

(II) THE HONORARIUM CONSISTS OF GIFTS DESCRIBED IN SUBSECTION (C)(2)(II) THROUGH (IV) OF THIS SECTION; OR

(III) THE OFFICIAL OR EMPLOYEE IS A FACULTY MEMBER OF A STATE INSTITUTION OF HIGHER EDUCATION WHO DOES NOT HOLD ANOTHER POSITION AS AN OFFICIAL THAT PRECLUDES RECEIVING THE HONORARIUM.

(3) OTHER THAN AS ALLOWED BY PARAGRAPH (2) OF THIS SUBSECTION, AN HONORARIUM MAY NOT BE ACCEPTED, EVEN IF ALLOWED BY SUBSECTION (C)(1) OF THIS SECTION, IF:

(I) THE PAYOR OF THE HONORARIUM HAS AN INTEREST THAT MAY BE AFFECTED SUBSTANTIALLY AND MATERIALLY, IN A MANNER DISTINGUISHABLE FROM THE PUBLIC GENERALLY, BY THE PERFORMANCE OR NONPERFORMANCE OF THE OFFICIAL'S OR EMPLOYEE'S OFFICIAL DUTIES; AND

(II) THE OFFERING OF THE HONORARIUM IS RELATED IN ANY WAY TO THE OFFICIAL'S OR EMPLOYEE'S OFFICIAL POSITION.

(E) GIFTS PROHIBITED UNDER STATE FINANCE AND PROCUREMENT ARTICLE.

AN OFFICIAL OR EMPLOYEE MAY NOT ACCEPT A GIFT THAT IS PROHIBITED UNDER § 13–211 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(F) FURTHER EXEMPTIONS.

BY REGULATION, THE ETHICS COMMISSION MAY DEFINE FURTHER EXEMPTIONS FROM THIS SECTION AS MAY BE NECESSARY.

REVISOR'S NOTE: This section is new language derived without substantive change from former SG § 15–505.

Subsection (b)(1) of this section is new language codifying the consistent interpretation, by the State Ethics Commission and the Joint Committee on Legislative Ethics, of the gift section of the Ethics Law.

In subsection (d)(1) of this section, the reference to a "member or member–elect of the General Assembly" is substituted for the former reference to a "State official of the Legislative Branch" for clarity.

In the introductory language of subsection (d)(2) of this section, the reference to an official or employee "who is not a member or member–elect of the General Assembly" is substituted for the former phrase "[e]xcept as provided in paragraph (1) of this subsection" for clarity.

Defined terms: "Advisory body" § 5–101
"County" § 1–107
"Employee" § 5–101
"Entity" § 5–101
"Ethics Commission" § 5–101
"Financial interest" § 5–101
"General Assembly" § 5–101
"Gift" § 5–101
"Governmental unit" § 5–101
"Honorarium" § 5–101
"Interest" § 5–101
"Legislative unit" § 5–101
"Member of household" § 5–101
"Official" § 5–101
"Person" § 1–114
"Regulated lobbyist" § 5–101
"State" § 1–115
"State official" § 5–101

5–506. USE OF PRESTIGE OF OFFICE.

(A) IN GENERAL.

AN OFFICIAL OR EMPLOYEE MAY NOT INTENTIONALLY USE THE PRESTIGE OF OFFICE OR PUBLIC POSITION FOR THAT OFFICIAL'S OR EMPLOYEE'S PRIVATE GAIN OR THAT OF ANOTHER.

(B) EXEMPTION.

THE PERFORMANCE OF USUAL AND CUSTOMARY CONSTITUENT SERVICES, WITHOUT ADDITIONAL COMPENSATION, IS NOT PROHIBITED UNDER SUBSECTION (A) OF THIS SECTION.

REVISOR'S NOTE: This section formerly was SG § 15–506.

No changes are made.

Defined terms: "Compensation" § 5–101
"Employee" § 5–101
"Official" § 5–101

5–507. DISCLOSURE OR USE OF CONFIDENTIAL INFORMATION.

EXCEPT IN THE DISCHARGE OF AN OFFICIAL DUTY, AN OFFICIAL OR EMPLOYEE MAY NOT DISCLOSE OR USE CONFIDENTIAL INFORMATION ACQUIRED BY REASON OF THE OFFICIAL'S OR EMPLOYEE'S PUBLIC POSITION AND NOT AVAILABLE TO THE PUBLIC:

(1) FOR PERSONAL ECONOMIC BENEFIT; OR

(2) FOR THE ECONOMIC BENEFIT OF ANOTHER.

REVISOR'S NOTE: This section formerly was SG § 15–507.

No changes are made.

Defined terms: "Employee" § 5–101
"Official" § 5–101

5–508. PARTICIPATION IN PROCUREMENT.

(A) IN GENERAL.

AN INDIVIDUAL WHO ASSISTS AN EXECUTIVE UNIT IN THE DRAFTING OF SPECIFICATIONS, AN INVITATION FOR BIDS, A REQUEST FOR PROPOSALS FOR A PROCUREMENT, OR THE SELECTION OR AWARD MADE IN RESPONSE TO AN INVITATION FOR BIDS OR REQUEST FOR PROPOSALS, OR A PERSON THAT EMPLOYS THE INDIVIDUAL, MAY NOT:

(1) SUBMIT A BID OR PROPOSAL FOR THAT PROCUREMENT; OR

(2) ASSIST OR REPRESENT ANOTHER PERSON, DIRECTLY OR INDIRECTLY, WHO IS SUBMITTING A BID OR PROPOSAL FOR THAT PROCUREMENT.

(B) EXEMPTIONS.

FOR PURPOSES OF SUBSECTION (A) OF THIS SECTION, ASSISTING IN THE DRAFTING OF SPECIFICATIONS, AN INVITATION FOR BIDS, OR A REQUEST FOR PROPOSALS FOR A PROCUREMENT DOES NOT INCLUDE:

(1) PROVIDING DESCRIPTIVE LITERATURE SUCH AS CATALOGUE SHEETS, BROCHURES, TECHNICAL DATA SHEETS, OR STANDARD SPECIFICATION "SAMPLES", WHETHER REQUESTED BY AN EXECUTIVE UNIT OR PROVIDED UNSOLICITED;

(2) SUBMITTING WRITTEN OR ORAL COMMENTS ON A SPECIFICATION PREPARED BY AN EXECUTIVE UNIT OR ON A SOLICITATION FOR A BID OR PROPOSAL WHEN COMMENTS ARE SOLICITED FROM TWO OR MORE PERSONS AS PART OF A REQUEST FOR INFORMATION OR A PREBID OR PREPROPOSAL PROCESS;

(3) PROVIDING SPECIFICATIONS FOR A SOLE SOURCE PROCUREMENT MADE IN ACCORDANCE WITH § 13–107 OF THE STATE FINANCE AND PROCUREMENT ARTICLE;

(4) PROVIDING ARCHITECTURAL AND ENGINEERING SERVICES FOR:

(I) PROGRAMMING, MASTER PLANNING, OR OTHER PROJECT PLANNING SERVICES; OR

(II) THE DESIGN OF A CONSTRUCTION PROJECT IF:

1. THE DESIGN SERVICES DO NOT INVOLVE LEAD OR PRIME DESIGN RESPONSIBILITIES OR CONSTRUCTION PHASE RESPONSIBILITIES ON BEHALF OF THE STATE; AND

2. A. THE ANTICIPATED VALUE OF THE PROCUREMENT CONTRACT AT THE TIME OF ADVERTISEMENT IS AT LEAST $2,500,000 AND NOT MORE THAN $100,000,000; OR

B. REGARDLESS OF THE AMOUNT OF THE PROCUREMENT CONTRACT, THE PAYMENT TO THE INDIVIDUAL OR PERSON FOR THE DESIGN SERVICES DOES NOT EXCEED $500,000; OR

(5) FOR A PROCUREMENT OF HEALTH, HUMAN, SOCIAL, OR EDUCATIONAL SERVICES, COMMENTS SOLICITED FROM TWO OR MORE PERSONS AS PART OF A REQUEST FOR INFORMATION, INCLUDING WRITTEN OR ORAL

COMMENTS ON A DRAFT SPECIFICATION, INVITATION FOR BIDS, OR REQUEST FOR PROPOSALS.

(C) RETENTION OF WRITTEN AND ORAL COMMENTS.

A UNIT THAT RECEIVES COMMENTS AS DESCRIBED IN SUBSECTION (B)(2) AND (5) OF THIS SECTION SHALL RETAIN:

(1) ANY WRITTEN COMMENTS; AND

(2) A RECORD OF ANY ORAL COMMENTS.

REVISOR'S NOTE: This section formerly was SG § 15–508.

In subsection (b)(1) and (2) of this section, the references to "executive unit" are substituted for the former references to "executive agency" and "agency", respectively, to use the appropriate defined term.

The only other changes are in style.

Defined terms: "Executive unit" § 5–101
"Person" § 1–114
"Procurement contract" § 5–101
"State" § 1–115

5–509. RESERVED.

5–510. RESERVED.

PART II. SPECIAL LEGISLATIVE PROVISIONS.

5–511. APPLICATION OF PART.

THIS PART APPLIES ONLY TO MEMBERS OF THE GENERAL ASSEMBLY.

REVISOR'S NOTE: This section formerly was SG § 15–510.

The only changes are in style.

Defined term: "General Assembly" § 5–101

5–512. DISQUALIFICATION — PRESUMPTION OF CONFLICT.

(A) "CLOSE ECONOMIC ASSOCIATION" DEFINED.

(1) IN THIS SECTION, "CLOSE ECONOMIC ASSOCIATION" MEANS THE ASSOCIATION BETWEEN A LEGISLATOR AND:

(I) THE LEGISLATOR'S:

1. EMPLOYER;

2. EMPLOYEE; OR

3. PARTNER IN A BUSINESS OR PROFESSIONAL ENTERPRISE;

(II) A PARTNERSHIP, LIMITED LIABILITY PARTNERSHIP, OR LIMITED LIABILITY COMPANY IN WHICH THE LEGISLATOR HAS INVESTED CAPITAL OR OWNS AN INTEREST;

(III) A CORPORATION IN WHICH THE LEGISLATOR OWNS THE LESSER OF:

1. 10% OR MORE OF THE OUTSTANDING CAPITAL STOCK; OR

2. CAPITAL STOCK WITH A CUMULATIVE VALUE OF $25,000 OR MORE; AND

(IV) A CORPORATION IN WHICH THE LEGISLATOR IS AN OFFICER, A DIRECTOR, OR AN AGENT.

(2) "CLOSE ECONOMIC ASSOCIATION" DOES NOT INCLUDE A LEGISLATOR'S OWNERSHIP OF STOCK DIRECTLY THROUGH A MUTUAL FUND, A RETIREMENT PLAN, OR ANY OTHER SIMILAR COMMINGLED INVESTMENT VEHICLE THE INDIVIDUAL INVESTMENTS OF WHICH THE LEGISLATOR DOES NOT CONTROL OR MANAGE.

(B) DISQUALIFICATION.

(1) AN INTEREST OF A MEMBER OF THE GENERAL ASSEMBLY CONFLICTS WITH THE PUBLIC INTEREST IF THE LEGISLATOR'S INTEREST TENDS TO IMPAIR THE LEGISLATOR'S INDEPENDENCE OF JUDGMENT.

(2) THE CONFLICT DISQUALIFIES THE LEGISLATOR FROM PARTICIPATING IN ANY LEGISLATIVE ACTION, OR OTHERWISE ATTEMPTING TO INFLUENCE ANY LEGISLATION, TO WHICH THE CONFLICT RELATES.

(C) PRESUMPTION OF CONFLICT.

IT IS PRESUMED THAT AN INTEREST DISQUALIFIES A LEGISLATOR FROM PARTICIPATING IN LEGISLATIVE ACTION WHENEVER THE LEGISLATOR:

(1) HAS OR ACQUIRES A DIRECT INTEREST IN AN ENTERPRISE THAT WOULD BE AFFECTED BY THE LEGISLATOR'S VOTE ON PROPOSED LEGISLATION, UNLESS THE INTEREST IS COMMON TO ALL MEMBERS OF:

(I) A PROFESSION OR OCCUPATION OF WHICH THE LEGISLATOR IS A MEMBER; OR

(II) THE GENERAL PUBLIC OR A LARGE CLASS OF THE GENERAL PUBLIC;

(2) BENEFITS FINANCIALLY FROM A CLOSE ECONOMIC ASSOCIATION WITH A PERSON WHOM THE LEGISLATOR KNOWS HAS A DIRECT INTEREST IN AN ENTERPRISE OR INTEREST THAT WOULD BE AFFECTED BY THE LEGISLATOR'S PARTICIPATION IN LEGISLATIVE ACTION, DIFFERENTLY FROM OTHER LIKE ENTERPRISES OR INTERESTS;

(3) BENEFITS FINANCIALLY FROM A CLOSE ECONOMIC ASSOCIATION WITH A PERSON WHO IS LOBBYING FOR THE PURPOSE OF INFLUENCING LEGISLATIVE ACTION; OR

(4) SOLICITS, ACCEPTS, OR AGREES TO ACCEPT A LOAN, OTHER THAN A LOAN FROM A COMMERCIAL LENDER IN THE NORMAL COURSE OF BUSINESS, FROM A PERSON WHO WOULD BE AFFECTED BY OR HAS AN INTEREST IN AN ENTERPRISE THAT WOULD BE AFFECTED BY THE LEGISLATOR'S PARTICIPATION IN LEGISLATIVE ACTION.

REVISOR'S NOTE: This section formerly was SG § 15–511.

In the introductory language of subsection (a)(1) of this section, the phrase "the association between a legislator and" is added for clarity.

In subsection (a)(2) of this section, the reference to "a legislator's ownership of" stock is added for clarity.

The only other changes are in style.

Defined terms: "Employee" § 5–101
"Employer" § 5–101

"General Assembly" § 5–101
"Interest" § 5–101
"Legislative action" § 5–101
"Lobbying" § 5–101
"Person" § 1–114

5–513. SUSPENSION OF DISQUALIFICATION.

(A) DISCLAIMER OF CONFLICT; EXCEPTION.

(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE DISQUALIFICATION ARISING UNDER § 5–512 OF THIS SUBTITLE IS SUSPENDED IF A LEGISLATOR WITH AN APPARENT OR PRESUMED CONFLICT FILES WITH THE JOINT ETHICS COMMITTEE A SWORN STATEMENT THAT:

(I) DESCRIBES THE CIRCUMSTANCES OF THE APPARENT OR PRESUMED CONFLICT AND THE LEGISLATION OR CLASS OF LEGISLATION TO WHICH IT RELATES; AND

(II) ASSERTS THAT THE LEGISLATOR IS ABLE TO PARTICIPATE IN LEGISLATIVE ACTION RELATING TO THE LEGISLATION FAIRLY, OBJECTIVELY, AND IN THE PUBLIC INTEREST.

(2) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE DISQUALIFICATION ARISING UNDER § 5–512 OF THIS SUBTITLE MAY NOT BE SUSPENDED IF THE CONFLICT IS DIRECT AND PERSONAL TO:

1. THE LEGISLATOR;

2. A MEMBER OF THE LEGISLATOR'S IMMEDIATE FAMILY; OR

3. THE LEGISLATOR'S EMPLOYER.

(II) THIS PARAGRAPH DOES NOT APPLY TO A VOTE ON:

1. THE ANNUAL OPERATING BUDGET BILL, IN ITS ENTIRETY; OR

2. THE ANNUAL CAPITAL BUDGET BILL, IN ITS ENTIRETY.

(B) STATEMENT OF JOINT ETHICS COMMITTEE; FURTHER ACTION.

(1) WHENEVER A LEGISLATOR FILES A STATEMENT DESCRIBED IN SUBSECTION (A)(1) OF THIS SECTION, THE JOINT ETHICS COMMITTEE ON ITS OWN MOTION MAY ISSUE A STATEMENT CONCERNING THE PROPRIETY OF THE LEGISLATOR'S PARTICIPATION IN THE PARTICULAR LEGISLATIVE ACTION, WITH REFERENCE TO THE APPLICABLE ETHICAL STANDARDS.

(2) THE SUSPENSION OF THE DISQUALIFICATION BY THE FILING OF THE STATEMENT IS SUBJECT TO FURTHER ACTION BY THE JOINT ETHICS COMMITTEE IF THE QUESTION OF CONFLICT COMES BEFORE THE COMMITTEE AS TO THE SAME CIRCUMSTANCES AND THE SAME LEGISLATOR.

(C) STATEMENT OF RECUSAL.

A MEMBER WHO IS DISQUALIFIED FROM PARTICIPATING IN LEGISLATIVE ACTION UNDER SUBSECTION (A)(2)(I) OF THIS SECTION, OR WHO CHOOSES TO BE EXCUSED FROM PARTICIPATING IN LEGISLATIVE ACTION ON A BILL OR CLASS OF BILLS BECAUSE OF THE APPEARANCE OR PRESUMPTION OF A CONFLICT, SHALL FILE IN A TIMELY MANNER A STATEMENT WITH THE JOINT ETHICS COMMITTEE THAT DESCRIBES THE CIRCUMSTANCES OF THE APPARENT OR PRESUMED CONFLICT.

(D) PUBLIC RECORD.

ALL STATEMENTS FILED UNDER THIS SECTION SHALL BE:

(1) FILED ELECTRONICALLY ON A FORM REQUIRED BY THE JOINT ETHICS COMMITTEE; AND

(2) MAINTAINED AS A MATTER OF PUBLIC RECORD AS REQUIRED IN SUBSECTION (E) OF THIS SECTION.

(E) STATEMENTS AVAILABLE FOR PUBLIC INSPECTION; CONTENTS.

(1) THE DEPARTMENT OF LEGISLATIVE SERVICES SHALL:

(I) COMPILE THE STATEMENTS FILED UNDER THIS SECTION;

(II) MAKE THE STATEMENTS AVAILABLE FOR PUBLIC INSPECTION AS PROVIDED IN THE PUBLIC INFORMATION ACT; AND

(III) AS TO STATEMENTS FILED ON OR AFTER JANUARY 1, 2013, MAKE THE STATEMENTS FREELY AVAILABLE TO THE PUBLIC ON THE INTERNET THROUGH AN ONLINE REGISTRATION PROGRAM.

(2) AS TO EACH STATEMENT, THE INTERNET POSTING SHALL INDICATE:

(I) WHETHER THE JOINT ETHICS COMMITTEE HAS MADE A DETERMINATION UNDER SUBSECTION (B) OF THIS SECTION;

(II) THE DETERMINATION MADE, IF ANY; AND

(III) THE DATE, IF ANY, ON WHICH THE DETERMINATION WAS MADE.

REVISOR'S NOTE: This section is new language derived without substantive change from former SG § 15–512.

In subsection (a)(1)(ii) of this section, the reference to "participat[ing] in legislative action" is substituted for the former reference to "vot[ing] and otherwise participat[ing] in action" for brevity and clarity.

Defined terms: "Employer" § 5–101
"Immediate family" § 5–101
"Joint Ethics Committee" § 5–101
"Legislative action" § 5–101

5–514. OUTSIDE INCOME RELATING TO STATE OR LOCAL GOVERNMENTAL ENTITIES.

(A) RESTRICTION ON EARNED INCOME.

(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OR (3) OF THIS SUBSECTION, A MEMBER OF THE GENERAL ASSEMBLY, A FILED CANDIDATE FOR ELECTION TO THE GENERAL ASSEMBLY, OR A MEMBER–ELECT OF THE GENERAL ASSEMBLY MAY NOT RECEIVE EARNED INCOME FROM:

(I) AN EXECUTIVE UNIT; OR

(II) A POLITICAL SUBDIVISION OF THE STATE.

(2) THE JOINT ETHICS COMMITTEE MAY EXEMPT AN INDIVIDUAL FROM THE PROVISIONS OF PARAGRAPH (1) OF THIS SUBSECTION IF THE EARNED INCOME IS FOR:

(I) EDUCATIONAL INSTRUCTION PROVIDED BY THE MEMBER, CANDIDATE, OR MEMBER–ELECT;

(II) A POSITION THAT IS SUBJECT TO A MERIT SYSTEM HIRING PROCESS;

(III) A HUMAN SERVICES POSITION; OR

(IV) A CAREER PROMOTION, CHANGE, OR PROGRESSION THAT IS A LOGICAL TRANSITION FROM A PRE–EXISTING RELATIONSHIP AS DESCRIBED IN PARAGRAPH (3)(II) OF THIS SUBSECTION.

(3) THIS SUBSECTION DOES NOT APPLY TO COMPENSATION TO A MEMBER, CANDIDATE, OR MEMBER–ELECT DERIVED FROM:

(I) EMPLOYMENT AS A NONELECTED LAW ENFORCEMENT OFFICER OR A FIRE OR RESCUE SQUAD WORKER; OR

(II) A TRANSACTION OR RELATIONSHIP THAT EXISTED BEFORE THE INDIVIDUAL:

1. FILED A CERTIFICATE OF CANDIDACY FOR ELECTION TO THE GENERAL ASSEMBLY WHILE THE INDIVIDUAL WAS NOT AN INCUMBENT MEMBER OF THE GENERAL ASSEMBLY; OR

2. WAS APPOINTED TO FILL A VACANCY.

(B) REPORTS.

(1) A LEGISLATOR SHALL REPORT THE FOLLOWING INFORMATION IN WRITING TO THE JOINT ETHICS COMMITTEE AT THE TIMES AND IN THE MANNER REQUIRED BY THE JOINT ETHICS COMMITTEE:

(I) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, IF REPRESENTING A PERSON FOR COMPENSATION BEFORE A STATE OR LOCAL GOVERNMENT AGENCY, EXCEPT IN A JUDICIAL PROCEEDING OR IN A QUASI–JUDICIAL PROCEEDING, THE NAME OF THE PERSON REPRESENTED, THE SERVICES PERFORMED, AND THE CONSIDERATION;

(II) IF REPRESENTING A STATE OR LOCAL GOVERNMENT AGENCY FOR COMPENSATION, THE NAME OF THE AGENCY, THE SERVICES PERFORMED, AND THE CONSIDERATION;

(III) THE NAME OF ANY BUSINESS ENTERPRISE SUBJECT TO REGULATION BY A STATE AGENCY IN WHICH THE LEGISLATOR AND A MEMBER OF THE LEGISLATOR'S IMMEDIATE FAMILY (SPOUSE AND CHILDREN LIVING WITH THE LEGISLATOR), TOGETHER OR SEPARATELY, HAVE:

1. THE LESSER OF:

A. 10% OR MORE OF THE CAPITAL STOCK OF ANY CORPORATION; OR

B. CAPITAL STOCK OF ANY CORPORATION WITH A CUMULATIVE VALUE OF $25,000 OR MORE; AND

2. ANY INTEREST IN A PARTNERSHIP, LIMITED LIABILITY PARTNERSHIP, OR LIMITED LIABILITY COMPANY;

(IV) DETAILS OF ANY CONTRACTUAL RELATIONSHIP WITH A GOVERNMENTAL ENTITY OF THE STATE OR A LOCAL GOVERNMENT IN THE STATE, INCLUDING THE SUBJECT MATTER AND THE CONSIDERATION;

(V) DETAILS OF ANY TRANSACTION WITH A GOVERNMENTAL ENTITY OF THE STATE OR A LOCAL GOVERNMENT IN THE STATE INVOLVING A MONETARY CONSIDERATION; AND

(VI) ANY PRIMARY EMPLOYMENT OR BUSINESS INTEREST AND THE EMPLOYER OF THE LEGISLATOR OR THE SPOUSE OF THE LEGISLATOR, EXCEPT FOR EMPLOYMENT AS A LEGISLATOR.

(2) A LEGISLATOR, ON THE WRITTEN ADVICE OF THE COUNSEL TO THE JOINT ETHICS COMMITTEE, IS NOT REQUIRED TO REPORT ANY INFORMATION UNDER THIS SUBSECTION IF REPORTING THE INFORMATION WOULD VIOLATE STANDARDS OF CLIENT CONFIDENTIALITY OR PROFESSIONAL CONDUCT.

(3) THE JOINT ETHICS COMMITTEE MAY ADOPT PROCEDURES TO KEEP CONFIDENTIAL THE NAME OF THE PERSON REPRESENTED IN A REPORT FILED UNDER SUBSECTION (B)(1)(I) OF THIS SECTION IF THAT INFORMATION IS PRIVILEGED OR CONFIDENTIAL UNDER ANY LAW GOVERNING PROCEEDINGS BEFORE THAT STATE OR LOCAL GOVERNMENT AGENCY.

(C) PUBLIC RECORD.

ALL REPORTS FILED UNDER THIS SECTION SHALL BE:

(1) FILED ELECTRONICALLY ON A FORM REQUIRED BY THE JOINT ETHICS COMMITTEE; AND

(2) MAINTAINED AS A MATTER OF PUBLIC RECORD AS REQUIRED IN SUBSECTION (D) OF THIS SECTION.

(D) REPORTS AVAILABLE FOR PUBLIC INSPECTION; CONTENTS.

(1) THE DEPARTMENT OF LEGISLATIVE SERVICES SHALL:

(I) COMPILE THE REPORTS FILED UNDER THIS SECTION;

(II) MAKE THE REPORTS AVAILABLE FOR PUBLIC INSPECTION AS PROVIDED IN THE PUBLIC INFORMATION ACT; AND

(III) AS TO REPORTS FILED ON OR AFTER JANUARY 1, 2013, AND EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, MAKE THE REPORTS FREELY AVAILABLE TO THE PUBLIC ON THE INTERNET THROUGH AN ONLINE REGISTRATION PROGRAM.

(2) THE DEPARTMENT OF LEGISLATIVE SERVICES MAY NOT POST ON THE INTERNET INFORMATION RELATED TO CONSIDERATION RECEIVED THAT IS REPORTED UNDER SUBSECTION (B) OF THIS SECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former SG § 15–513.

In subsection (a)(3)(ii)2 of this section, the former reference to "the date of the appointment" is deleted as surplusage.

In subsection (b)(1)(iv) and (v) of this section, the references to "a governmental entity of the State" are substituted for the former references to "the State or a State agency" and "the State", respectively, for clarity.

In subsection (b)(2) of this section, the reference to "this subsection" is substituted for the former reference to "this paragraph" for accuracy.

In subsection (b)(3) of this section, the reference to the State "or local government" agency is added for accuracy.

Defined terms: "Compensation" § 5–101
"Employer" § 5–101

"Executive unit" § 5–101
"General Assembly" § 5–101
"Immediate family" § 5–101
"Including" § 1–110
"Interest" § 5–101
"Joint Ethics Committee" § 5–101
"Person" § 1–114
"State" § 1–115

5–515. JOINT ETHICS COMMITTEE — WRITTEN OPINIONS.

(A) REQUEST FOR OPINION.

(1) A LEGISLATOR MAY REQUEST A WRITTEN OPINION FROM THE JOINT ETHICS COMMITTEE ON THE PROPRIETY OF ANY CURRENT OR PROPOSED CONDUCT OF THE LEGISLATOR AND INVOLVING THE APPLICABLE STANDARDS OF ETHICAL CONDUCT FOR LEGISLATORS ESTABLISHED BY LAW, RULE, OR OTHER STANDARD OF ETHICAL CONDUCT.

(2) A REQUEST FOR AN OPINION SHALL:

(I) BE IN WRITING AND SIGNED BY THE LEGISLATOR;

(II) BE ADDRESSED TO THE JOINT ETHICS COMMITTEE OR EITHER COCHAIR;

(III) BE SUBMITTED IN A TIMELY MANNER; AND

(IV) INCLUDE A COMPLETE AND ACCURATE STATEMENT OF THE RELEVANT FACTS.

(3) IF A REQUEST IS UNCLEAR OR INCOMPLETE, THE JOINT ETHICS COMMITTEE MAY SEEK ADDITIONAL INFORMATION FROM THE LEGISLATOR.

(4) (I) THE COUNSEL TO THE JOINT ETHICS COMMITTEE SHALL PREPARE FOR THE COMMITTEE A RESPONSE TO EACH WRITTEN REQUEST FOR AN OPINION UNDER THIS SUBSECTION.

(II) EACH OPINION SHALL DISCUSS ALL APPLICABLE LAWS, RULES, OR OTHER STANDARDS.

(5) EXCEPT AS PROVIDED IN PARAGRAPH (6)(I) OF THIS SUBSECTION, AN OPINION MUST BE APPROVED BY A MAJORITY OF THE MEMBERS OF THE JOINT ETHICS COMMITTEE.

(6) (I) THE COCHAIRS OF THE JOINT ETHICS COMMITTEE MAY APPROVE AN OPINION ON BEHALF OF THE COMMITTEE IF THEY DETERMINE THAT THE OPINION IS CONSISTENT WITH PRIOR PRECEDENT AND THEREFORE DOES NOT REQUIRE CONSIDERATION BY THE FULL COMMITTEE.

(II) AN OPINION ISSUED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL BE DISTRIBUTED TO EACH MEMBER OF THE JOINT ETHICS COMMITTEE NOT LATER THAN THE NEXT MEETING OF THE COMMITTEE.

(III) NOTWITHSTANDING SUBPARAGRAPH (I) OF THIS PARAGRAPH, IF A COCHAIR OF THE JOINT ETHICS COMMITTEE IS THE LEGISLATOR REQUESTING THE OPINION, THE OPINION MUST BE APPROVED BY A MAJORITY OF THE COMMITTEE.

(B) RESPONSE.

THE JOINT ETHICS COMMITTEE IS NOT REQUIRED TO ISSUE AN OPINION IF THE REQUEST IS NOT MADE IN A TIMELY MANNER.

(C) SUA SPONTE OPINIONS.

THE JOINT ETHICS COMMITTEE ON ITS OWN MOTION MAY ISSUE OPINIONS AS IT CONSIDERS APPROPRIATE.

(D) PUBLIC RELEASE.

(1) THE COCHAIRS SHALL DETERMINE WHETHER AN OPINION SHALL BE MADE PUBLIC, WITH DELETIONS AND CHANGES NECESSARY TO PROTECT THE LEGISLATOR'S IDENTITY.

(2) (I) THE COUNSEL TO THE JOINT ETHICS COMMITTEE SHALL COMPILE AND INDEX EACH OPINION THAT WILL BE MADE PUBLIC.

(II) THE COMPILATION OF OPINIONS SHALL BE DISTRIBUTED TO EACH MEMBER OF THE GENERAL ASSEMBLY AND SHALL BE AVAILABLE TO THE PUBLIC.

(E) SAVINGS CLAUSE.

THE JOINT ETHICS COMMITTEE MAY TAKE NO ADVERSE ACTION WITH REGARD TO CONDUCT THAT HAS BEEN UNDERTAKEN IN RELIANCE ON A WRITTEN OPINION IF THE CONDUCT CONFORMS TO THE SPECIFIC FACTS ADDRESSED IN THE OPINION.

(F) RESTRICTIONS ON USE OF INFORMATION.

INFORMATION PROVIDED TO THE JOINT ETHICS COMMITTEE BY A LEGISLATOR SEEKING ADVICE REGARDING PROSPECTIVE CONDUCT MAY NOT BE USED AS THE BASIS FOR INITIATING AN INVESTIGATION UNDER § 5–515 OF THIS SUBTITLE IF THE LEGISLATOR ACTS IN GOOD FAITH IN ACCORDANCE WITH THE ADVICE OF THE COMMITTEE.

(G) BINDING EFFECT.

(1) AN OPINION ISSUED UNDER THIS SECTION IS BINDING ON ANY LEGISLATOR TO WHOM IT IS ADDRESSED.

(2) A PUBLISHED OPINION IS BINDING ON ALL MEMBERS OF THE GENERAL ASSEMBLY.

REVISOR'S NOTE: This section formerly was SG § 15–514.

In subsection (a)(4)(ii) of this section, the reference to an "opinion" is substituted for the former reference to a "response" for clarity.

In subsection (a)(6)(ii) of this section, the reference to an opinion "issued under subparagraph (i) of this paragraph" is substituted for the former reference to an opinion "for which approval by the cochairmen under this paragraph is anticipated" for clarity.

The only other changes are in style.

Defined terms: "General Assembly" § 5–101
"Joint Ethics Committee" § 5–101

5–516. COMPLAINTS.

(A) FORM.

A COMPLAINT ALLEGING THAT A MEMBER OF THE GENERAL ASSEMBLY MAY HAVE VIOLATED STANDARDS OF ETHICAL CONDUCT, INCLUDING § 2–108 OF THE STATE GOVERNMENT ARTICLE, MAY BE FILED WITH THE JOINT ETHICS COMMITTEE BY:

(1) A WRITTEN STATEMENT FROM ANY PERSON, ACCOMPANIED BY AN AFFIDAVIT, SETTING FORTH THE FACTS ON WHICH THE STATEMENT IS BASED;

(2) MOTION OF A MAJORITY OF THE MEMBERSHIP OF THE JOINT ETHICS COMMITTEE; OR

(3) REFERRAL OF A MATTER TO THE JOINT ETHICS COMMITTEE BY A PRESIDING OFFICER OF THE GENERAL ASSEMBLY AS PROVIDED IN § 2–706(A)(5) OF THE STATE GOVERNMENT ARTICLE.

(B) COPIES.

(1) THE JOINT ETHICS COMMITTEE SHALL PROVIDE A COPY OF EACH COMPLAINT FILED UNDER SUBSECTION (A) OF THIS SECTION TO THE PRESIDING OFFICER OF THE HOUSE OF THE LEGISLATOR WHO IS THE SUBJECT OF THE COMPLAINT.

(2) BASED ON THE INFORMATION CONTAINED IN A COMPLAINT PROVIDED TO A PRESIDING OFFICER UNDER PARAGRAPH (1) OF THIS SUBSECTION, IF A PRESIDING OFFICER DETERMINES THAT IT IS INAPPROPRIATE FOR A JOINT ETHICS COMMITTEE MEMBER FROM THAT HOUSE TO CONSIDER A PARTICULAR MATTER, THE PRESIDING OFFICER SHALL APPOINT A SUBSTITUTE MEMBER TO THE JOINT ETHICS COMMITTEE FOR ITS CONSIDERATION OF THE MATTER.

REVISOR'S NOTE: This section formerly was SG § 15–515.

In subsection (b)(2) of this section, the reference to "its" consideration is substituted for the former reference to "the purposes of" consideration to clarify that it is the Joint Ethics Committee, not the substitute member alone, that will be considering the matter.

The only other changes are in style.

Defined terms: "General Assembly" § 5–101
"Including" § 1–110
"Joint Ethics Committee" § 5–101
"Person" § 1–114

5–517. CONFIDENTIALITY.

(A) IN GENERAL.

EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, ANY MATTER BEFORE THE JOINT ETHICS COMMITTEE, INCLUDING INFORMATION RELATING TO ANY COMPLAINT, PROCEEDING, OR RECORD OF THE JOINT ETHICS COMMITTEE, SHALL REMAIN CONFIDENTIAL.

(B) EXCEPTIONS.

PUBLIC ACCESS AND INSPECTION OF AN ACTIVITY OR A RECORD OF THE JOINT ETHICS COMMITTEE SHALL BE AVAILABLE FOR:

(1) A DISCLOSURE OR DISCLAIMER OF A CONFLICT OF INTEREST FORM FILED WITH THE JOINT ETHICS COMMITTEE;

(2) A PORTION OF A MEETING IN WHICH A DISCLOSURE OR DISCLAIMER FORM IS REVIEWED BY THE JOINT ETHICS COMMITTEE;

(3) INFORMATION RELATING TO A COMPLAINT, PROCEEDING, OR RECORD OF THE JOINT ETHICS COMMITTEE INVOLVING A MEMBER OF THE GENERAL ASSEMBLY IF CONSENT TO PUBLIC ACCESS AND INSPECTION IS GRANTED BY:

(I) THE MEMBER INVOLVED IN THE MATTER; OR

(II) A THREE–FOURTHS VOTE OF THE FULL MEMBERSHIP OF THE JOINT ETHICS COMMITTEE, BASED ON CRITERIA ESTABLISHED BY RULE;

(4) A RULE OR BROADLY APPLICABLE OPINION ISSUED BY THE JOINT ETHICS COMMITTEE; OR

(5) ANY MATTER OR RECORD THAT IS OTHERWISE AVAILABLE FOR PUBLIC ACCESS OR INSPECTION AS SPECIFICALLY AUTHORIZED UNDER THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former SG § 15–516.

In subsection (b)(3)(ii) of this section, the reference to the "full" membership is added for clarity.

In subsection (b)(4) of this section, the reference to a "broadly applicable" opinion is added for clarity.

Defined terms: "General Assembly" § 5–101

"Including" § 1–110
"Joint Ethics Committee" § 5–101

5–518. REVIEW OF COMPLAINTS.

(A) IN GENERAL.

AFTER THE FILING OR PREPARATION OF A COMPLAINT UNDER § 5–516 OF THIS SUBTITLE, THE JOINT ETHICS COMMITTEE SHALL REVIEW THE COMPLAINT AND PROCEED IN ACCORDANCE WITH § 5–519 OF THIS SUBTITLE UNLESS, AFTER EXAMINING THE COMPLAINT AND THE ISSUES RAISED BY IT, THE COMMITTEE FINDS THAT FURTHER PROCEEDINGS ARE NOT JUSTIFIED BECAUSE:

(1) THE COMPLAINT IS FRIVOLOUS;

(2) THE COMPLAINT DOES NOT ALLEGE ACTIONS ON THE PART OF THE ACCUSED LEGISLATOR THAT PROVIDE REASON TO BELIEVE THAT A VIOLATION MAY HAVE OCCURRED;

(3) THE MATTERS ALLEGED ARE NOT WITHIN THE JURISDICTION OF THE JOINT ETHICS COMMITTEE;

(4) THE VIOLATIONS ALLEGED WERE INADVERTENT, TECHNICAL, OR MINOR, OR HAVE BEEN CURED, AND, AFTER CONSIDERATION OF ALL OF THE CIRCUMSTANCES THEN KNOWN, FURTHER PROCEEDINGS WOULD NOT SERVE THE PURPOSES OF THIS SUBTITLE; OR

(5) FOR OTHER REASONS, AFTER CONSIDERATION OF ALL THE CIRCUMSTANCES, FURTHER PROCEEDINGS WOULD NOT SERVE THE PURPOSES OF THIS SUBTITLE.

(B) REPORT; NOTICE; INSPECTION.

(1) IF A FINDING IS MADE UNDER SUBSECTION (A) OF THIS SECTION, THE JOINT ETHICS COMMITTEE SHALL:

(I) SUBMIT A REPORT OF ITS CONCLUSIONS TO THE PRESIDING OFFICER OR TO THE MEMBERSHIP OF THE BRANCH OF THE LEGISLATURE OF WHICH THE ACCUSED LEGISLATOR IS A MEMBER, AND THE PROCEEDINGS SHALL BE TERMINATED;

(II) PROVIDE ADVICE OR GUIDANCE TO THE ACCUSED LEGISLATOR; OR

(III) PROVIDE THE ACCUSED LEGISLATOR WITH AN OPPORTUNITY TO CURE ANY MINOR VIOLATION OF ETHICAL STANDARDS.

(2) (I) SUBJECT TO § 5–517 OF THIS SUBTITLE, NOTICE OF THE JOINT ETHICS COMMITTEE'S ACTION SHALL BE PROVIDED TO THE ACCUSED LEGISLATOR AND TO ANY PERSON WHO FILED THE COMPLAINT.

(II) ON REQUEST, THE ACCUSED LEGISLATOR MAY SEE THE COMPLAINT AND THE REPORT.

(C) ALLEGATION SUMMARY.

IF NO FINDING IS MADE UNDER SUBSECTION (A) OF THIS SECTION, THE JOINT ETHICS COMMITTEE SHALL PREPARE AN ALLEGATION SUMMARY, BASED ON ITS EXAMINATION UNDER SUBSECTION (A) OF THIS SECTION, SETTING FORTH THE ALLEGED FACTS AND THE ISSUES THEN KNOWN THAT MERIT FURTHER PROCEEDINGS.

(D) PROVIDING STATEMENT TO ACCUSED LEGISLATOR.

AFTER REVIEW OF A COMPLAINT, THE JOINT ETHICS COMMITTEE SHALL PROVIDE A STATEMENT OF ITS FINDINGS TO THE ACCUSED LEGISLATOR.

REVISOR'S NOTE: This section formerly was SG § 15–517.

Throughout this section and this part, the references to the "accused legislator" are substituted for the former references to the "member", the "legislator", and the "legislator against whom the complaint has been filed" for clarity and consistency.

The only other changes are in style.

Defined terms: "Joint Ethics Committee" § 5–101
"Person" § 1–114

5–519. ALLEGATION SUMMARY.

(A) NOTICE; ANSWER.

(1) EXCEPT AS TO PROCEEDINGS TERMINATED IN ACCORDANCE WITH § 5–518(B) OF THIS SUBTITLE, THE JOINT ETHICS COMMITTEE SHALL PROVIDE TO THE ACCUSED LEGISLATOR A COPY OF:

(I) THE COMPLAINT FILED OR PREPARED IN ACCORDANCE WITH § 5–516 OF THIS SUBTITLE; AND

(II) THE ALLEGATION SUMMARY PREPARED IN ACCORDANCE WITH § 5–518(C) OF THIS SUBTITLE.

(2) THE ACCUSED LEGISLATOR SHALL BE ALLOWED AN OPPORTUNITY TO FILE A WRITTEN ANSWER TO THE ALLEGATION SUMMARY.

(B) TERMINATION OF HEARING.

FOLLOWING NOTIFICATION OF THE ACCUSED LEGISLATOR, THE JOINT ETHICS COMMITTEE MAY:

(1) TERMINATE THE PROCEEDINGS; OR

(2) SCHEDULE A HEARING AND NOTIFY THE ACCUSED LEGISLATOR OF THE TIME, LOCATION, AND PROCEDURES OF THE HEARING.

(C) AMENDMENT.

(1) THE JOINT ETHICS COMMITTEE MAY AMEND THE ALLEGATION SUMMARY AT ANY TIME.

(2) IF AN ALLEGATION SUMMARY IS AMENDED UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE ACCUSED LEGISLATOR SHALL BE ALLOWED AN OPPORTUNITY TO FILE A WRITTEN ANSWER TO THE AMENDED ALLEGATION SUMMARY.

REVISOR'S NOTE: This section is new language derived without substantive change from former SG § 15–518.

In the introductory language of subsection (a)(1) of this section, the former reference to "notif[ying]" the legislator is deleted as included in the reference to "provid[ing] … a copy".

Defined term: "Joint Ethics Committee" § 5–101

5–520. HEARING PROCEDURES.

(A) ADOPTION.

THE JOINT ETHICS COMMITTEE SHALL ADOPT WRITTEN PROCEDURES FOR CONDUCTING A HEARING TO CONSIDER A COMPLAINT, AN ALLEGATION SUMMARY, AND A WRITTEN ANSWER, IF ANY.

(B) ACCESS.

THE WRITTEN PROCEDURES ADOPTED BY THE JOINT ETHICS COMMITTEE UNDER SUBSECTION (A) OF THIS SECTION:

(1) SHALL BE AVAILABLE FOR PUBLIC INSPECTION;

(2) SHALL BE PROVIDED TO THE LEGISLATOR WHO IS THE SUBJECT OF A HEARING;

(3) SHALL ALLOW THE ACCUSED LEGISLATOR TO:

(I) BE REPRESENTED BY COUNSEL;

(II) CROSS–EXAMINE WITNESSES; AND

(III) BE PROVIDED AN OPPORTUNITY TO INSPECT, IN A REASONABLE MANNER, ANY RECORDS THAT THE JOINT ETHICS COMMITTEE INTENDS TO USE DURING THE HEARING, SUBJECT TO LIMITATIONS ESTABLISHED BY THE JOINT ETHICS COMMITTEE IN THE WRITTEN PROCEDURES; AND

(4) SUBJECT TO ITEMS (1) AND (2) OF THIS SUBSECTION, MAY BE AMENDED BY THE JOINT ETHICS COMMITTEE AT ANY TIME.

(C) SUBPOENAS.

(1) (I) IF THE JOINT ETHICS COMMITTEE DETERMINES THAT A HEARING IS REQUIRED UNDER § 5–519(B)(2) OF THIS SUBTITLE, THE JOINT ETHICS COMMITTEE, BY A TWO–THIRDS VOTE OF ITS FULL MEMBERSHIP, MAY ISSUE ONE OR MORE SUBPOENAS THAT REQUIRE THE APPEARANCE OF A PERSON, THE PRODUCTION OF RELEVANT RECORDS, AND THE GIVING OF RELEVANT TESTIMONY.

(II) IF THE JOINT ETHICS COMMITTEE EXERCISES SUBPOENA POWERS UNDER THIS PARAGRAPH, THE LEGISLATOR WHO IS THE SUBJECT OF THE INVESTIGATION MAY REQUIRE THE JOINT ETHICS COMMITTEE TO ISSUE ONE OR MORE SUBPOENAS ON THE LEGISLATOR'S BEHALF.

(2) A REQUEST TO APPEAR, AN APPEARANCE, OR A SUBMISSION OF EVIDENCE DOES NOT LIMIT THE SUBPOENA POWER OF THE JOINT ETHICS COMMITTEE.

(3) A SUBPOENA ISSUED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE SERVED:

(I) IN THE MANNER PROVIDED BY LAW FOR SERVICE OF A SUBPOENA IN A CIVIL ACTION;

(II) BEFORE THE TIME THAT THE SUBPOENA SETS FOR APPEARANCE OR PRODUCTION OF RECORDS; AND

(III) WITH THE FOLLOWING DOCUMENTS:

1. A COPY OF THIS TITLE;

2. A COPY OF THE RULES OF THE JOINT ETHICS COMMITTEE; AND

3. IF THE SUBPOENA REQUIRES THE APPEARANCE OF A PERSON, NOTICE THAT COUNSEL MAY ACCOMPANY THE PERSON.

(4) A PERSON WHO IS SUBPOENAED TO APPEAR AT A HEARING IS ENTITLED TO RECEIVE THE FEES AND ALLOWANCES THAT ARE PROVIDED FOR A PERSON WHO IS SUBPOENAED BY A CIRCUIT COURT.

(5) A PERSON MAY BE HELD IN CONTEMPT IF THE PERSON UNJUSTIFIABLY:

(I) FAILS OR REFUSES TO COMPLY WITH A SUBPOENA FOR APPEARANCE;

(II) APPEARS BUT FAILS OR REFUSES TO TESTIFY UNDER OATH; OR

(III) DISOBEYS A DIRECTIVE OF THE PRESIDING CHAIR AT THE HEARING TO ANSWER A RELEVANT QUESTION OR TO PRODUCE A RECORD, INCLUDING AN ELECTRONIC RECORD, THAT HAS BEEN SUBPOENAED, UNLESS THE DIRECTIVE IS OVERRULED BY A MAJORITY VOTE OF THE MEMBERS OF THE JOINT ETHICS COMMITTEE WHO ARE PRESENT AT THE HEARING.

(6) BY A TWO–THIRDS VOTE OF ITS FULL MEMBERSHIP, THE JOINT ETHICS COMMITTEE MAY APPLY FOR A CONTEMPT CITATION TO A CIRCUIT COURT.

REVISOR'S NOTE: This section is new language derived without substantive change from former SG § 15–519.

In subsection (a) of this section, the former phrase ", as provided in § 15–518(b) of this subtitle" is deleted as surplusage.

In the introductory language of subsection (b)(3) of this section, the word "allow" is substituted for the former word "authorize" for clarity.

In subsection (c)(1)(i) of this section, the reference to "its full membership" is substituted for the former reference to "the members of the Joint Ethics Committee" for clarity and brevity. Similarly, in subsection (c)(6) of this section, the reference to "its full membership" is substituted for the former reference to "all of the members of the Joint Ethics Committee".

Defined terms: "Circuit court" § 1–107
"Including" § 1–110
"Joint Ethics Committee" § 5–101
"Person" § 1–114

5–521. FINDINGS.

(A) SOURCES.

THE JOINT ETHICS COMMITTEE MAY MAKE A FINDING DEVELOPED FROM:

(1) INFORMATION PRESENTED DURING THE HEARING;

(2) THE ALLEGATION SUMMARY AND ANY AMENDMENTS TO IT;

(3) THE WRITTEN ANSWER OF THE ACCUSED LEGISLATOR TO THE ALLEGATION SUMMARY, IF ANY; AND

(4) ANY OTHER INFORMATION PROVIDED TO THE JOINT ETHICS COMMITTEE AND MADE AVAILABLE TO THE ACCUSED LEGISLATOR.

(B) CRITERIA.

CONSISTENT WITH THE PURPOSES OF THIS TITLE, THE JOINT ETHICS COMMITTEE MAY ESTABLISH CRITERIA FOR MAKING A FINDING IN ITS WRITTEN PROCEDURES ESTABLISHED UNDER § 5–520(A) OF THIS SUBTITLE.

(C) PROCEDURE.

IF THE JOINT ETHICS COMMITTEE MAKES A FINDING UNDER THIS SECTION, THE JOINT ETHICS COMMITTEE SHALL:

(1) TERMINATE THE PROCEEDING AGAINST THE ACCUSED LEGISLATOR; OR

(2) ISSUE ANY RECOMMENDATIONS TO THE PRESIDING OFFICER OF THE HOUSE OF THE ACCUSED LEGISLATOR OR TO THE FULL HOUSE OF THE ACCUSED LEGISLATOR, INCLUDING ANY RECOMMENDATIONS FOR APPROPRIATE SANCTIONS.

REVISOR'S NOTE: This section formerly was SG § 15–520.

The only changes are in style.

Defined terms: "Including" § 1–110
"Joint Ethics Committee" § 5–101

5–522. REFERRAL TO PROSECUTORIAL AUTHORITIES.

IF THE JOINT ETHICS COMMITTEE, AT ANY TIME DURING ITS CONSIDERATION OF ANY COMPLAINT OR ALLEGATION SUMMARY OR DURING ANY PROCEEDING, FINDS THAT THERE ARE REASONABLE GROUNDS TO BELIEVE THAT A LEGISLATOR MAY HAVE COMMITTED A CRIME, THE JOINT ETHICS COMMITTEE SHALL:

(1) REFER THE MATTER TO AN APPROPRIATE PROSECUTING AUTHORITY; AND

(2) PROVIDE ANY INFORMATION OR EVIDENCE TO THE PROSECUTING AUTHORITY THAT THE JOINT ETHICS COMMITTEE DETERMINES IS APPROPRIATE.

REVISOR'S NOTE: This section formerly was SG § 15–521.

The only changes are in style.

Defined term: "Joint Ethics Committee" § 5–101

5–523. RESERVED.

5–524. RESERVED.

PART III. PUBLIC–PRIVATE PARTNERSHIP ACT.

5–525. INSTITUTIONS OF HIGHER EDUCATION.

(A) DEFINITIONS.

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

(2) "CONFLICT OF INTEREST POLICIES" MEANS POLICIES ADOPTED BY A GOVERNING BOARD AND APPROVED:

(I) BY THE OFFICE OF THE ATTORNEY GENERAL; AND

(II) AS TO CONFORMITY WITH THIS SECTION, BY THE ETHICS COMMISSION.

(3) "EDUCATIONAL INSTITUTION" MEANS:

(I) A PUBLIC SENIOR HIGHER EDUCATION INSTITUTION AS DEFINED IN § 10–101 OF THE EDUCATION ARTICLE;

(II) A CENTER OR AN INSTITUTE OF THE UNIVERSITY SYSTEM OF MARYLAND THAT IS DESIGNATED IN THE CONFLICT OF INTEREST POLICIES ADOPTED BY THE SYSTEM'S BOARD OF REGENTS; OR

(III) THE UNIVERSITY SYSTEM OF MARYLAND ADMINISTRATION, FOR WHICH THE CHANCELLOR OF THE SYSTEM SHALL BE CONSIDERED THE PRESIDENT FOR PURPOSES OF THIS SECTION.

(4) "GOVERNING BOARD" HAS THE MEANING PROVIDED IN § 10–101 OF THE EDUCATION ARTICLE.

(5) "RELATIONSHIP" INCLUDES ANY:

(I) INTEREST;

(II) SERVICE;

(III) EMPLOYMENT;

(IV) GIFT; OR

(V) OTHER BENEFIT OR RELATIONSHIP.

(6) (I) "RESEARCH OR DEVELOPMENT" MEANS BASIC OR APPLIED RESEARCH OR DEVELOPMENT.

(II) "RESEARCH OR DEVELOPMENT" INCLUDES:

1. THE DEVELOPMENT OR MARKETING OF UNIVERSITY–OWNED TECHNOLOGY;

2. THE ACQUISITION OF SERVICES OF AN OFFICIAL OR EMPLOYEE BY AN ENTITY FOR RESEARCH AND DEVELOPMENT PURPOSES; OR

3. PARTICIPATION IN STATE ECONOMIC DEVELOPMENT PROGRAMS.

(B) ADOPTION OF PROCEDURES.

(1) EACH EDUCATIONAL INSTITUTION ENGAGED IN RESEARCH OR DEVELOPMENT SHALL DEVELOP CONFLICT OF INTEREST PROCEDURES BASED ON:

(I) CONFLICT OF INTEREST POLICIES DEVELOPED BY ITS GOVERNING BOARD; AND

(II) THE PURPOSES OF THIS TITLE SPECIFIED IN § 5–102 OF THIS TITLE.

(2) BEFORE THEY MAY BECOME EFFECTIVE, THE PROCEDURES AND POLICIES DEVELOPED UNDER THIS SUBSECTION SHALL BE APPROVED BY:

(I) THE OFFICE OF THE ATTORNEY GENERAL; AND

(II) AS TO CONFORMITY WITH THIS SECTION, THE ETHICS COMMISSION.

(C) CONTENT OF PROCEDURES — IN GENERAL.

THE PROCEDURES ADOPTED BY AN EDUCATIONAL INSTITUTION UNDER SUBSECTION (B) OF THIS SECTION SHALL:

(1) REQUIRE DISCLOSURE OF ANY INTEREST IN, EMPLOYMENT BY, OR OTHER RELATIONSHIP WITH AN ENTITY FOR WHICH AN EXEMPTION UNDER THIS SECTION IS CLAIMED, ON A FORM FILED WITH THE ETHICS COMMISSION AND MAINTAINED AS A PUBLIC RECORD AT THE EDUCATIONAL INSTITUTION;

(2) REQUIRE A REVIEW OF ALL DISCLOSURES BY A DESIGNATED OFFICIAL, WHO SHALL DETERMINE WHAT:

(I) FURTHER INFORMATION MUST BE DISCLOSED; AND

(II) RESTRICTIONS SHALL BE IMPOSED BY THE EDUCATIONAL INSTITUTION TO MANAGE, REDUCE, OR ELIMINATE ANY ACTUAL OR POTENTIAL CONFLICT OF INTEREST;

(3) INCLUDE GUIDELINES TO ENSURE THAT INTERESTS AND EMPLOYMENT FOR WHICH AN EXEMPTION UNDER THIS SECTION IS CLAIMED DO NOT:

(I) IMPROPERLY GIVE AN ADVANTAGE TO ENTITIES IN WHICH THE INTERESTS OR EMPLOYMENT ARE MAINTAINED;

(II) LEAD TO MISUSE OF INSTITUTION STUDENTS OR EMPLOYEES FOR THE BENEFIT OF ENTITIES IN WHICH THE INTERESTS OR EMPLOYMENT ARE MAINTAINED; OR

(III) OTHERWISE INTERFERE WITH THE DUTIES AND RESPONSIBILITIES OF THE EXEMPT OFFICIAL OR EMPLOYEE;

(4) REQUIRE APPROVAL BY THE PRESIDENT OF THE EDUCATIONAL INSTITUTION OF ANY INTEREST OR EMPLOYMENT FOR WHICH AN EXEMPTION IS CLAIMED UNDER THIS SECTION; AND

(5) REQUIRE APPROVAL BY THE GOVERNING BOARD OF THE EDUCATIONAL INSTITUTION IF AN EXEMPTION IS CLAIMED BY THE PRESIDENT OF THE EDUCATIONAL INSTITUTION.

(D) CONTENT OF PROCEDURES — CONSULTATIONS.

POLICIES AND PROCEDURES ADOPTED UNDER THIS SECTION MAY PROVIDE FOR PERIODIC CONSULTATION WITH THE DEPARTMENT OF BUSINESS AND ECONOMIC DEVELOPMENT AND WITH FEDERAL AGENCIES THAT HAVE IMPOSED REGULATORY REQUIREMENTS ON FEDERALLY FUNDED RESEARCH, CONCERNING THE IMPLEMENTATION OF THIS SECTION.

(E) EXEMPTION FROM STATE ETHICS LAW REQUIREMENTS.

(1) EXCEPT AS PROVIDED IN SUBSECTION (F) OF THIS SECTION, A PRESENT OR FORMER OFFICIAL OR EMPLOYEE AT AN EDUCATIONAL INSTITUTION MAY HAVE A RELATIONSHIP, OTHERWISE PROHIBITED BY THIS SUBTITLE, WITH AN ENTITY ENGAGED IN RESEARCH OR DEVELOPMENT, OR WITH AN ENTITY HAVING A DIRECT INTEREST IN THE OUTCOME OF RESEARCH OR DEVELOPMENT, ONLY IF:

(I) THE EDUCATIONAL INSTITUTION HAS ADOPTED POLICIES AND PROCEDURES IN ACCORDANCE WITH THIS SECTION; AND

(II) THE OFFICIAL OR EMPLOYEE HAS COMPLIED WITH THE POLICIES AND PROCEDURES.

(2) IF THE PROVISIONS OF THIS SUBSECTION ARE NOT MET, THE OFFICIAL OR EMPLOYEE IS NOT EXEMPT FROM ANY RELEVANT PROVISIONS OF THIS SUBTITLE.

(F) LIMITATION ON EXEMPTIONS.

(1) THIS SECTION DOES NOT EXEMPT AN OFFICIAL OR EMPLOYEE AT AN EDUCATIONAL INSTITUTION FROM THE PROVISIONS OF § 5–505 OF THIS SUBTITLE.

(2) AN OFFICIAL OR EMPLOYEE AT AN EDUCATIONAL INSTITUTION MAY NOT:

(I) REPRESENT A PARTY FOR CONTINGENT COMPENSATION IN ANY MATTER BEFORE THE INSTITUTION'S GOVERNING BOARD OR BEFORE THE BOARD OF PUBLIC WORKS; OR

(II) INTENTIONALLY MISUSE THE INDIVIDUAL'S STATE POSITION FOR THE INDIVIDUAL'S PERSONAL GAIN OR FOR THE GAIN OF ANOTHER PERSON.

(G) QUARTERLY REPORTS.

EACH GOVERNING BOARD SHALL REPORT QUARTERLY TO THE GOVERNOR, THE LEGISLATIVE POLICY COMMITTEE OF THE GENERAL ASSEMBLY, AND THE ETHICS COMMISSION:

(1) THE NUMBER OF APPROVALS GRANTED UNDER SUBSECTION (C) OF THIS SECTION; AND

(2) HOW THE CONFLICT OF INTEREST POLICIES AND PROCEDURES ADOPTED UNDER THIS SECTION HAVE BEEN IMPLEMENTED IN THE PRECEDING YEAR.

(H) SPECIFIC OFFICIALS.

(1) THIS SUBSECTION APPLIES TO AN OFFICIAL WHO IS:

(I) A CHANCELLOR, VICE CHANCELLOR, PRESIDENT, OR VICE PRESIDENT AT A PUBLIC SENIOR HIGHER EDUCATIONAL INSTITUTION IN THE STATE; OR

(II) AN INDIVIDUAL WHO HOLDS A SIMILAR POSITION AT A PUBLIC SENIOR HIGHER EDUCATIONAL INSTITUTION IN THE STATE.

(2) AN OFFICIAL SUBJECT TO THIS SUBSECTION MAY NOT RECEIVE AN EXEMPTION UNDER THIS SECTION UNLESS THE GOVERNING BOARD OF THE EDUCATIONAL INSTITUTION FINDS THAT:

(I) PARTICIPATION BY, AND THE FINANCIAL INTEREST OR EMPLOYMENT OF, THE OFFICIAL IS NECESSARY TO THE SUCCESS OF THE RESEARCH OR DEVELOPMENT ACTIVITY; AND

(II) THE CONFLICT OF INTEREST CAN BE MANAGED CONSISTENT WITH THE PURPOSES OF THIS SECTION AND OTHER RELEVANT PROVISIONS OF THIS TITLE.

(3) NOTWITHSTANDING SUBSECTION (G) OF THIS SECTION, THE GOVERNING BOARD OF AN EDUCATIONAL INSTITUTION PROMPTLY SHALL NOTIFY THE ETHICS COMMISSION IN WRITING OF ANY EXEMPTION THAT IS GRANTED UNDER THIS SECTION TO AN OFFICIAL SUBJECT TO THIS SUBSECTION.

(4) (I) IF THE ETHICS COMMISSION DISAGREES WITH AN EXEMPTION THAT IS GRANTED BY THE GOVERNING BOARD OF AN EDUCATIONAL INSTITUTION TO AN OFFICIAL WHO IS SUBJECT TO THIS SUBSECTION, WITHIN 30

DAYS AFTER RECEIPT OF THE NOTICE UNDER PARAGRAPH (3) OF THIS SUBSECTION, THE ETHICS COMMISSION SHALL NOTIFY THE GOVERNING BOARD OF THE REASON FOR ITS DISAGREEMENT.

(II) ON RECEIPT OF THE NOTICE FROM THE ETHICS COMMISSION UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE GOVERNING BOARD OF THE EDUCATIONAL INSTITUTION SHALL REEXAMINE THE MATTER.

(I) SHORT TITLE.

THIS SECTION MAY BE CITED AS THE PUBLIC–PRIVATE PARTNERSHIP ACT.

REVISOR'S NOTE: This section is new language derived without substantive change from former SG § 15–523.

In the introductory language of subsection (c) of this section, the cross–reference to "subsection (b)" is substituted for the former cross–reference to "subsection (b)(2)" for accuracy.

In subsection (h)(4)(i) of this section, the word "disagreement" is substituted for the former word "concern" for clarity.

Defined terms: "Compensation" § 5–101
"Employee" § 5–101
"Entity" § 5–101
"Ethics Commission" § 5–101
"Financial interest" § 5–101
"General Assembly" § 5–101
"Gift" § 5–101
"Includes" § 1–110
"Interest" § 5–101
"Official" § 5–101
"State" § 1–115

SUBTITLE 6. FINANCIAL DISCLOSURE.

5–601. INDIVIDUALS REQUIRED TO FILE STATEMENT.

(A) OFFICIALS AND CANDIDATES.

EXCEPT AS PROVIDED IN SUBSECTIONS (B) AND (C) OF THIS SECTION, AND SUBJECT TO SUBSECTIONS (D) AND (E) OF THIS SECTION, EACH OFFICIAL AND CANDIDATE FOR OFFICE AS A STATE OFFICIAL SHALL FILE A STATEMENT AS SPECIFIED IN §§ 5–602 THROUGH 5–608 OF THIS SUBTITLE.

(B) STATE OFFICIALS OF JUDICIAL BRANCH.

FINANCIAL DISCLOSURE BY A JUDGE OF A COURT UNDER ARTICLE IV, § 1 OF THE MARYLAND CONSTITUTION, A CANDIDATE FOR ELECTIVE OFFICE AS A JUDGE, OR A JUDICIAL APPOINTEE AS DEFINED IN MARYLAND RULE 16–814 IS GOVERNED BY § 5–610 OF THIS SUBTITLE.

(C) EXCEPTIONS.

THE REQUIREMENT TO FILE A FINANCIAL DISCLOSURE STATEMENT UNDER SUBSECTION (A) OF THIS SECTION DOES NOT APPLY TO:

(1) A DEPUTY SHERIFF AND ANY EMPLOYEE IN THE OFFICE OF THE SHERIFF OF A COUNTY; AND

(2) A DEPUTY OR ASSISTANT STATE'S ATTORNEY AND ANY EMPLOYEE IN THE OFFICE OF THE STATE'S ATTORNEY FOR A COUNTY.

(D) MEMBER OF BOARD.

(1) AN INDIVIDUAL WHO IS A PUBLIC OFFICIAL ONLY AS A MEMBER OF A BOARD AND WHO RECEIVES ANNUAL COMPENSATION THAT IS LESS THAN 25% OF THE LOWEST ANNUAL COMPENSATION AT STATE GRADE LEVEL 16 SHALL FILE THE STATEMENT REQUIRED BY SUBSECTION (A) OF THIS SECTION IN ACCORDANCE WITH § 5–609 OF THIS SUBTITLE.

(2) A MEMBER OF THE HARFORD COUNTY LIQUOR CONTROL BOARD SHALL FILE THE STATEMENT REQUIRED BY SUBSECTION (A) OF THIS SECTION IN ACCORDANCE WITH § 5–609 OF THIS SUBTITLE.

(E) COMMISSIONER OF BICOUNTY COMMISSION.

A COMMISSIONER OR AN APPLICANT FOR APPOINTMENT AS COMMISSIONER OF A BICOUNTY COMMISSION SHALL FILE THE STATEMENT REQUIRED BY SUBSECTION (A) OF THIS SECTION IN ACCORDANCE WITH SUBTITLE 8, PART IV OF THIS TITLE.

REVISOR'S NOTE: This section formerly was SG § 15–601.

The only changes are in style.

Defined terms: "Bicounty commission" § 5–101
"Board" § 5–101

"Compensation" § 5–101
"County" § 1–107
"Official" § 5–101
"Public official" § 5–101
"State" § 1–115
"State official" § 5–101

5–602. FINANCIAL DISCLOSURE STATEMENT — FILING REQUIREMENTS.

(A) IN GENERAL.

EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, A STATEMENT FILED UNDER § 5–601, § 5–603, § 5–604, OR § 5–605 OF THIS SUBTITLE SHALL:

(1) BE FILED WITH THE ETHICS COMMISSION;

(2) BE FILED UNDER OATH;

(3) BE FILED ON OR BEFORE APRIL 30 OF EACH YEAR;

(4) COVER THE CALENDAR YEAR IMMEDIATELY PRECEDING THE YEAR OF FILING; AND

(5) CONTAIN THE INFORMATION REQUIRED IN § 5–607 OF THIS SUBTITLE.

(B) DUPLICATE FILING.

A MEMBER OF THE GENERAL ASSEMBLY SHALL FILE THE STATEMENT WITH THE ETHICS COMMISSION AND THE JOINT ETHICS COMMITTEE.

(C) PRELIMINARY DISCLOSURE.

(1) IN ADDITION TO THE STATEMENT FILED UNDER § 5–601 OF THIS SUBTITLE, A MEMBER OF THE GENERAL ASSEMBLY SHALL FILE A PRELIMINARY DISCLOSURE ON OR BEFORE THE SEVENTH DAY OF THE REGULAR LEGISLATIVE SESSION IF THERE WILL BE A SUBSTANTIAL CHANGE IN THE STATEMENT COVERING THE CALENDAR YEAR IMMEDIATELY PRECEDING THE YEAR OF FILING, AS COMPARED TO THE NEXT PRECEDING CALENDAR YEAR.

(2) A MEMBER OF THE GENERAL ASSEMBLY WHOSE STATEMENT UNDER § 5–601 OF THIS SUBTITLE WILL NOT CONTAIN A SUBSTANTIAL CHANGE IS NOT REQUIRED TO FILE A PRELIMINARY DISCLOSURE UNDER PARAGRAPH (1) OF THIS SUBSECTION.

(3) THE JOINT ETHICS COMMITTEE SHALL DETERMINE:

(I) THE FORM OF A PRELIMINARY DISCLOSURE UNDER THIS SUBSECTION; AND

(II) WHICH ASPECTS OF FINANCIAL DISCLOSURE ARE SUBJECT TO THIS SUBSECTION.

(4) A PRELIMINARY DISCLOSURE SHALL BE FILED AND MAINTAINED, AND MAY BE DISCLOSED, IN THE SAME MANNER REQUIRED FOR A STATEMENT FILED UNDER § 5–601 OF THIS SUBTITLE.

(D) ELECTRONIC FILING.

(1) THE ETHICS COMMISSION SHALL DEVELOP PROCEDURES UNDER WHICH A STATEMENT UNDER THIS SUBTITLE MAY BE FILED ELECTRONICALLY AND WITHOUT ADDITIONAL COST TO THE INDIVIDUAL WHO FILES THE STATEMENT.

(2) (I) TO COMPLY WITH THE REQUIREMENT OF PARAGRAPH (1) OF THIS SUBSECTION, THE ETHICS COMMISSION MAY ADOPT REGULATIONS TO MODIFY THE FORMAT FOR DISCLOSURE OF INFORMATION REQUIRED UNDER § 5–607 OF THIS SUBTITLE.

(II) THE REGULATIONS ADOPTED UNDER THIS PARAGRAPH SHALL BE CONSISTENT WITH THE INTENT OF THIS TITLE.

(E) OATH OR AFFIRMATION FOR ELECTRONIC FILING.

(1) IF THE FINANCIAL DISCLOSURE STATEMENT FILED ELECTRONICALLY UNDER SUBSECTION (D) OF THIS SECTION IS REQUIRED TO BE MADE UNDER OATH OR AFFIRMATION, THE OATH OR AFFIRMATION SHALL BE MADE BY AN ELECTRONIC SIGNATURE THAT IS:

(I) IN THE FINANCIAL DISCLOSURE STATEMENT OR ATTACHED TO AND MADE PART OF THE FINANCIAL DISCLOSURE STATEMENT; AND

(II) MADE EXPRESSLY UNDER THE PENALTIES FOR PERJURY.

(2) AN ELECTRONIC SIGNATURE MADE UNDER PARAGRAPH (1) OF THIS SUBSECTION SUBJECTS THE INDIVIDUAL MAKING IT TO THE PENALTIES FOR PERJURY TO THE SAME EXTENT AS AN OATH OR AFFIRMATION MADE BEFORE AN INDIVIDUAL AUTHORIZED TO ADMINISTER OATHS.

REVISOR'S NOTE: This section formerly was SG § 15–602.

In subsection (b) of this section, the reference to the statement being filed with "the Ethics Commission" is substituted for the former reference to the statement being filed "in duplicate" for clarity.

Also in subsection (b) of this section, the former phrase "[n]otwithstanding subsection (a)(1) of this section," is deleted as surplusage.

The only other changes are in style.

Defined terms: "Ethics Commission" § 5–101
"General Assembly" § 5–101
"Joint Ethics Committee" § 5–101

5–603. APPOINTEE FILLING VACANCY.

AN INDIVIDUAL WHO IS APPOINTED TO FILL A VACANCY IN AN OFFICE FOR WHICH A STATEMENT IS REQUIRED BY § 5–601(A) OF THIS SUBTITLE, AND WHO HAS NOT ALREADY FILED A STATEMENT UNDER § 5–602 OF THIS SUBTITLE FOR THE PRECEDING CALENDAR YEAR, SHALL FILE THE STATEMENT WITHIN 30 DAYS AFTER APPOINTMENT.

REVISOR'S NOTE: This section formerly was SG § 15–603.

The only changes are in style.

5–604. OFFICIAL LEAVING OFFICE.

(A) IN GENERAL.

EXCEPT AS PROVIDED UNDER SUBSECTION (C) OF THIS SECTION, AN INDIVIDUAL WHO, OTHER THAN BY REASON OF DEATH, LEAVES AN OFFICE FOR WHICH A STATEMENT IS REQUIRED BY § 5–601(A) OF THIS SUBTITLE SHALL FILE THE STATEMENT WITHIN 60 DAYS AFTER LEAVING THE OFFICE.

(B) PERIOD COVERED.

THE STATEMENT SHALL COVER:

(1) THE CALENDAR YEAR IMMEDIATELY PRECEDING THE YEAR IN WHICH THE INDIVIDUAL LEFT OFFICE, UNLESS A STATEMENT COVERING THAT YEAR HAS ALREADY BEEN FILED BY THE INDIVIDUAL; AND

(2) THE PORTION OF THE CURRENT CALENDAR YEAR DURING WHICH THE INDIVIDUAL HELD THE OFFICE.

(C) EXCEPTIONS.

THIS SECTION DOES NOT REQUIRE THE FILING OF A STATEMENT IF:

(1) THE INDIVIDUAL HAS LEFT OFFICE TO BECOME AN OFFICIAL IN ANOTHER OFFICE FOR WHICH A STATEMENT IS REQUIRED UNDER THIS SUBTITLE; AND

(2) THE DISCLOSURE REQUIREMENTS OF THE NEW OFFICE ARE AT LEAST AS EXTENSIVE AS THOSE OF THE OLD OFFICE.

REVISOR'S NOTE: This section formerly was SG § 15–604.

The only changes are in style.

Defined term: "Official" § 5–101

5–605. CANDIDATES FOR OFFICE.

(A) IN GENERAL.

EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A CANDIDATE WHO IS REQUIRED BY § 5–601(A) OF THIS SUBTITLE TO FILE A STATEMENT SHALL FILE THE STATEMENT EACH YEAR BEGINNING WITH THE YEAR IN WHICH THE CANDIDATE FILES A CERTIFICATE OF CANDIDACY THROUGH THE YEAR OF THE ELECTION.

(B) EXCEPTION.

THIS SECTION DOES NOT REQUIRE THE FILING OF A STATEMENT FOR ANY FULL YEAR COVERED BY A STATEMENT FILED BY THE INDIVIDUAL UNDER § 5–602 OF THIS SUBTITLE.

(C) FILING REQUIREMENTS.

A STATEMENT UNDER THIS SECTION SHALL BE FILED WITH THE ELECTION BOARD WITH WHICH THE CERTIFICATE OF CANDIDACY IS REQUIRED TO BE FILED.

(D) TIME FOR FILING.

(1) THE FIRST STATEMENT REQUIRED UNDER THIS SECTION SHALL BE FILED NO LATER THAN THE FILING OF THE CERTIFICATE OF CANDIDACY.

(2) IN THE YEAR OF THE ELECTION THE STATEMENT SHALL BE FILED ON OR BEFORE THE EARLIER OF:

(I) APRIL 30; OR

(II) THE LAST DAY FOR THE WITHDRAWAL OF A CANDIDACY UNDER § 5–502 OF THE ELECTION LAW ARTICLE.

(E) FAILURE TO FILE.

IF A STATEMENT REQUIRED BY THIS SECTION IS OVERDUE AND IS NOT FILED WITHIN 20 DAYS AFTER THE CANDIDATE RECEIVES FROM THE ELECTION BOARD WRITTEN NOTICE OF THE FAILURE TO FILE, THE CANDIDATE IS DEEMED TO HAVE WITHDRAWN THE CANDIDACY.

(F) PREREQUISITE FOR FILING CERTIFICATE OF CANDIDACY.

(1) AN ELECTION BOARD MAY NOT ACCEPT A CERTIFICATE OF CANDIDACY OR CERTIFICATE OF NOMINATION OF A CANDIDATE COVERED BY THIS SECTION UNLESS THE CANDIDATE HAS FILED A STATEMENT REQUIRED BY THIS SECTION OR § 5–602 OF THIS SUBTITLE.

(2) AN ELECTION BOARD, WITHIN 30 DAYS AFTER RECEIVING A STATEMENT, SHALL FORWARD THE STATEMENT TO THE ETHICS COMMISSION.

REVISOR'S NOTE: This section formerly was SG § 15–605.

The only changes are in style.

Defined term: "Ethics Commission" § 5–101

5–606. PUBLIC RECORD.

(A) ACCESS TO STATEMENTS.

(1) THE ETHICS COMMISSION AND THE JOINT ETHICS COMMITTEE SHALL MAINTAIN THE STATEMENTS SUBMITTED UNDER THIS SUBTITLE AND, DURING NORMAL OFFICE HOURS, MAKE THE STATEMENTS AVAILABLE TO THE PUBLIC FOR EXAMINATION AND COPYING.

(2) THE ETHICS COMMISSION AND THE JOINT ETHICS COMMITTEE MAY CHARGE A REASONABLE FEE AND ADOPT ADMINISTRATIVE PROCEDURES FOR THE EXAMINATION AND COPYING OF A STATEMENT.

(B) REQUIREMENTS AND NOTICE.

(1) THE ETHICS COMMISSION AND THE JOINT ETHICS COMMITTEE SHALL MAINTAIN A RECORD OF:

(I) THE NAME AND HOME ADDRESS OF EACH INDIVIDUAL WHO EXAMINES OR COPIES A STATEMENT UNDER THIS SECTION; AND

(II) THE NAME OF THE INDIVIDUAL WHOSE STATEMENT WAS EXAMINED OR COPIED.

(2) ON THE REQUEST OF THE INDIVIDUAL WHOSE STATEMENT WAS EXAMINED OR COPIED, THE ETHICS COMMISSION OR THE JOINT ETHICS COMMITTEE SHALL FORWARD TO THAT INDIVIDUAL A COPY OF THE RECORD SPECIFIED IN PARAGRAPH (1) OF THIS SUBSECTION.

REVISOR'S NOTE: This section formerly was SG § 15–606.

In subsection (b)(2) of this section, the reference to "the record specified in paragraph (1) of this subsection" is substituted for the former reference to "that record" for clarity.

The only other changes are in style.

Defined terms: "Ethics Commission" § 5–101
"Joint Ethics Committee" § 5–101

5–607. CONTENT OF STATEMENTS.

(A) IN GENERAL.

A STATEMENT THAT IS REQUIRED UNDER § 5–601(A) OF THIS SUBTITLE SHALL CONTAIN SCHEDULES DISCLOSING THE INFORMATION AND INTERESTS

SPECIFIED IN THIS SECTION, IF KNOWN, FOR THE INDIVIDUAL MAKING THE STATEMENT FOR THE APPLICABLE PERIOD.

(B) INTERESTS IN REAL PROPERTY.

(1) THE STATEMENT SHALL INCLUDE A SCHEDULE OF EACH INTEREST IN REAL PROPERTY, WHEREVER LOCATED, INCLUDING EACH INTEREST HELD IN THE NAME OF A PARTNERSHIP, LIMITED LIABILITY PARTNERSHIP, OR LIMITED LIABILITY COMPANY IN WHICH THE INDIVIDUAL HELD AN INTEREST.

(2) FOR EACH INTEREST REPORTED, THE SCHEDULE SHALL INCLUDE:

(I) THE NATURE OF THE PROPERTY;

(II) THE STREET ADDRESS, MAILING ADDRESS, OR LEGAL DESCRIPTION OF THE PROPERTY;

(III) THE NATURE AND EXTENT OF THE INTEREST IN THE PROPERTY, INCLUDING ANY CONDITIONS TO AND ENCUMBRANCES ON THE INTEREST;

(IV) THE DATE AND MANNER IN WHICH THE INTEREST WAS ACQUIRED;

(V) THE IDENTITY OF THE ENTITY FROM WHICH THE INTEREST WAS ACQUIRED;

(VI) IF THE INTEREST WAS ACQUIRED BY PURCHASE, THE NATURE AND AMOUNT OF THE CONSIDERATION GIVEN FOR THE INTEREST;

(VII) IF THE INTEREST WAS ACQUIRED IN ANY OTHER MANNER, THE FAIR MARKET VALUE OF THE INTEREST WHEN ACQUIRED;

(VIII) IF ANY INTEREST WAS TRANSFERRED, IN WHOLE OR IN PART, DURING THE APPLICABLE PERIOD:

1. A DESCRIPTION OF THE INTEREST TRANSFERRED;

2. THE NATURE AND AMOUNT OF THE CONSIDERATION RECEIVED FOR THE INTEREST; AND

3. THE IDENTITY OF THE ENTITY TO WHICH THE INTEREST WAS TRANSFERRED; AND

(IX) THE IDENTITY OF ANY OTHER ENTITY WITH AN INTEREST IN THE PROPERTY.

(C) INTERESTS IN CORPORATIONS AND PARTNERSHIPS.

(1) THE STATEMENT SHALL INCLUDE A SCHEDULE OF EACH INTEREST HELD BY THE INDIVIDUAL IN A CORPORATION, PARTNERSHIP, LIMITED LIABILITY PARTNERSHIP, OR LIMITED LIABILITY COMPANY, WHETHER OR NOT THE CORPORATION, PARTNERSHIP, LIMITED LIABILITY PARTNERSHIP, OR LIMITED LIABILITY COMPANY DOES BUSINESS WITH THE STATE.

(2) FOR EACH INTEREST REPORTED, THE SCHEDULE SHALL INCLUDE:

(I) THE NAME AND ADDRESS OF THE PRINCIPAL OFFICE OF THE CORPORATION, PARTNERSHIP, LIMITED LIABILITY PARTNERSHIP, OR LIMITED LIABILITY COMPANY;

(II) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, THE NATURE AND AMOUNT OF THE INTEREST HELD, INCLUDING ANY CONDITIONS TO AND ENCUMBRANCES ON THE INTEREST;

(III) EXCEPT AS PROVIDED IN PARAGRAPH (4) OF THIS SUBSECTION, IF ANY INTEREST WAS ACQUIRED DURING THE APPLICABLE PERIOD:

1. THE DATE AND MANNER IN WHICH THE INTEREST WAS ACQUIRED;

2. THE IDENTITY OF THE ENTITY FROM WHICH THE INTEREST WAS ACQUIRED;

3. IF THE INTEREST WAS ACQUIRED BY PURCHASE, THE NATURE AND AMOUNT OF THE CONSIDERATION GIVEN FOR THE INTEREST; AND

4. IF THE INTEREST WAS ACQUIRED IN ANY OTHER MANNER, THE FAIR MARKET VALUE OF THE INTEREST WHEN IT WAS ACQUIRED; AND

(IV) IF ANY INTEREST WAS TRANSFERRED, IN WHOLE OR IN PART, DURING THE APPLICABLE PERIOD:

1. A DESCRIPTION OF THE INTEREST TRANSFERRED;

2. THE NATURE AND AMOUNT OF THE CONSIDERATION RECEIVED FOR THE INTEREST; AND

3. IF KNOWN, THE IDENTITY OF THE ENTITY TO WHICH THE INTEREST WAS TRANSFERRED.

(3) (I) AS TO AN EQUITY INTEREST IN A CORPORATION, THE INDIVIDUAL MAY SATISFY PARAGRAPH (2)(II) OF THIS SUBSECTION BY REPORTING, INSTEAD OF A DOLLAR AMOUNT:

1. THE NUMBER OF SHARES HELD; AND

2. UNLESS THE CORPORATION'S STOCK IS PUBLICLY TRADED, THE PERCENTAGE OF EQUITY INTEREST HELD.

(II) AS TO AN EQUITY INTEREST IN A PARTNERSHIP, LIMITED LIABILITY PARTNERSHIP, OR LIMITED LIABILITY COMPANY, THE INDIVIDUAL MAY SATISFY PARAGRAPH (2)(II) OF THIS SUBSECTION BY REPORTING, INSTEAD OF A DOLLAR AMOUNT, THE PERCENTAGE OF EQUITY INTEREST HELD.

(4) IF AN INTEREST ACQUIRED DURING THE APPLICABLE REPORTING PERIOD CONSISTS OF ADDITIONS TO EXISTING PUBLICLY TRADED CORPORATE INTERESTS ACQUIRED BY DIVIDEND OR DIVIDEND REINVESTMENT, AND THE TOTAL VALUE OF THE ACQUISITION IS LESS THAN $500, ONLY THE MANNER OF ACQUISITION IS REQUIRED TO BE DISCLOSED UNDER PARAGRAPH (2)(III) OF THIS SUBSECTION.

(D) INTERESTS IN BUSINESS ENTITIES DOING BUSINESS WITH STATE.

(1) THE STATEMENT SHALL INCLUDE A SCHEDULE OF EACH INTEREST IN A BUSINESS ENTITY DOING BUSINESS WITH THE STATE, OTHER THAN INTERESTS REPORTED UNDER SUBSECTION (C) OF THIS SECTION.

(2) FOR EACH INTEREST REPORTED, THE SCHEDULE SHALL INCLUDE:

(I) THE NAME AND ADDRESS OF THE PRINCIPAL OFFICE OF THE BUSINESS ENTITY;

(II) THE NATURE AND AMOUNT OF THE INTEREST HELD, INCLUDING ANY CONDITIONS TO AND ENCUMBRANCES ON THE INTEREST;

(III) IF ANY INTEREST WAS ACQUIRED DURING THE APPLICABLE PERIOD:

1. THE DATE AND MANNER IN WHICH THE INTEREST WAS ACQUIRED;

2. THE IDENTITY OF THE ENTITY FROM WHICH THE INTEREST WAS ACQUIRED;

3. IF THE INTEREST WAS ACQUIRED BY PURCHASE, THE NATURE AND AMOUNT OF THE CONSIDERATION GIVEN FOR THE INTEREST; AND

4. IF THE INTEREST WAS ACQUIRED IN ANY OTHER MANNER, THE FAIR MARKET VALUE OF THE INTEREST WHEN IT WAS ACQUIRED; AND

(IV) IF ANY INTEREST WAS TRANSFERRED, IN WHOLE OR IN PART, DURING THE APPLICABLE PERIOD:

1. A DESCRIPTION OF THE INTEREST TRANSFERRED;

2. THE NATURE AND AMOUNT OF THE CONSIDERATION RECEIVED FOR THE INTEREST; AND

3. THE IDENTITY OF THE ENTITY TO WHICH THE INTEREST WAS TRANSFERRED.

(E) GIFTS.

(1) THIS SUBSECTION DOES NOT APPLY TO A GIFT RECEIVED FROM A MEMBER OF THE IMMEDIATE FAMILY, ANOTHER CHILD, OR A PARENT OF THE INDIVIDUAL.

(2) THE STATEMENT SHALL INCLUDE A SCHEDULE OF EACH GIFT, SPECIFIED IN PARAGRAPH (3) OF THIS SUBSECTION, RECEIVED DURING THE APPLICABLE PERIOD:

(I) BY THE INDIVIDUAL OR BY ANOTHER ENTITY AT THE DIRECTION OF THE INDIVIDUAL; AND

(II) DIRECTLY OR INDIRECTLY, FROM OR ON BEHALF OF AN ENTITY THAT IS:

1. A REGULATED LOBBYIST;

2. REGULATED BY THE STATE; OR

3. OTHERWISE AN ENTITY DOING BUSINESS WITH THE STATE.

(3) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE SCHEDULE SHALL INCLUDE EACH GIFT WITH A VALUE OF MORE THAN $20 AND EACH OF TWO OR MORE GIFTS WITH A CUMULATIVE VALUE OF $100 OR MORE RECEIVED FROM ONE ENTITY DURING THE APPLICABLE PERIOD.

(II) THE STATEMENT NEED NOT INCLUDE AS A GIFT:

1. FOOD OR BEVERAGES RECEIVED AND CONSUMED BY AN OFFICIAL OF THE LEGISLATIVE BRANCH IN THE PRESENCE OF THE DONOR OR SPONSORING ENTITY AS PART OF A MEAL OR RECEPTION TO WHICH ALL MEMBERS OF A LEGISLATIVE UNIT WERE INVITED;

2. FOOD OR BEVERAGES RECEIVED BY A MEMBER OF THE GENERAL ASSEMBLY AT THE TIME AND GEOGRAPHIC LOCATION OF A MEETING OF A LEGISLATIVE ORGANIZATION FOR WHICH THE MEMBER'S PRESIDING OFFICER HAS APPROVED THE MEMBER'S ATTENDANCE AT STATE EXPENSE; OR

3. EXCEPT AS PROVIDED IN SUBPARAGRAPH (III) OF THIS PARAGRAPH, A TICKET OR FREE ADMISSION EXTENDED TO A MEMBER OF THE GENERAL ASSEMBLY BY THE PERSON SPONSORING OR CONDUCTING THE EVENT AS A COURTESY OR CEREMONY TO THE OFFICE TO ATTEND A CHARITABLE, CULTURAL, OR POLITICAL EVENT TO WHICH ALL MEMBERS OF A LEGISLATIVE UNIT WERE INVITED.

(III) THE STATEMENT SHALL INCLUDE THE ACCEPTANCE OF EACH OF TWO OR MORE TICKETS OR FREE ADMISSIONS, EXTENDED TO A MEMBER OF THE GENERAL ASSEMBLY BY THE PERSON SPONSORING OR

CONDUCTING THE EVENT, WITH A CUMULATIVE VALUE OF $100 OR MORE RECEIVED FROM ONE ENTITY DURING THE APPLICABLE PERIOD.

(4) FOR EACH GIFT SUBJECT TO THIS SUBSECTION, THE SCHEDULE SHALL INCLUDE:

(I) THE NATURE AND VALUE OF THE GIFT; AND

(II) THE IDENTITY OF THE ENTITY FROM WHICH THE GIFT WAS RECEIVED, WHETHER DIRECTLY OR INDIRECTLY.

(5) THIS SUBSECTION DOES NOT AUTHORIZE ACCEPTANCE OF A GIFT NOT OTHERWISE ALLOWED BY LAW.

(F) EMPLOYMENT BY OR INTERESTS IN BUSINESS ENTITIES DOING BUSINESS WITH STATE.

(1) THE STATEMENT SHALL INCLUDE, AS SPECIFIED IN THIS SUBSECTION, A SCHEDULE OF ALL OFFICES, DIRECTORSHIPS, AND SALARIED EMPLOYMENT, OR ANY SIMILAR INTEREST NOT OTHERWISE DISCLOSED, IN BUSINESS ENTITIES DOING BUSINESS WITH THE STATE.

(2) THIS SUBSECTION APPLIES TO POSITIONS AND INTERESTS HELD AT ANY TIME DURING THE APPLICABLE PERIOD BY:

(I) THE INDIVIDUAL; OR

(II) ANY MEMBER OF THE INDIVIDUAL'S IMMEDIATE FAMILY.

(3) FOR EACH POSITION OR INTEREST REPORTED, THIS SCHEDULE SHALL INCLUDE:

(I) THE NAME AND ADDRESS OF THE PRINCIPAL OFFICE OF THE BUSINESS ENTITY;

(II) THE NATURE OF THE POSITION OR INTEREST AND THE DATE IT COMMENCED;

(III) THE NAME OF EACH GOVERNMENTAL UNIT WITH WHICH THE ENTITY IS DOING BUSINESS; AND

(IV) THE NATURE OF THE BUSINESS WITH THE STATE, WHICH, AT A MINIMUM, SHALL BE SPECIFIED BY REFERENCE TO THE APPLICABLE CRITERIA OF DOING BUSINESS DESCRIBED IN § 5–101(J) OF THIS TITLE.

(G) INDEBTEDNESS TO ENTITY DOING BUSINESS WITH STATE.

(1) THE STATEMENT SHALL INCLUDE A SCHEDULE, TO THE EXTENT THE INDIVIDUAL MAY REASONABLY BE EXPECTED TO KNOW, OF EACH DEBT, EXCLUDING RETAIL CREDIT ACCOUNTS, OWED AT ANY TIME DURING THE APPLICABLE PERIOD TO ENTITIES DOING BUSINESS WITH THE STATE:

(I) BY THE INDIVIDUAL; AND

(II) IF THE INDIVIDUAL WAS INVOLVED IN THE TRANSACTION GIVING RISE TO THE DEBT, BY ANY MEMBER OF THE IMMEDIATE FAMILY OF THE INDIVIDUAL.

(2) FOR EACH DEBT, THE SCHEDULE SHALL INCLUDE:

(I) THE IDENTITY OF THE ENTITY TO WHICH THE DEBT WAS OWED;

(II) THE DATE IT WAS INCURRED;

(III) THE AMOUNT OWED AT THE END OF THE APPLICABLE PERIOD;

(IV) THE TERMS OF PAYMENT;

(V) THE EXTENT TO WHICH THE PRINCIPAL WAS INCREASED OR DECREASED DURING THE APPLICABLE PERIOD; AND

(VI) ANY SECURITY GIVEN.

(H) FAMILY MEMBERS EMPLOYED BY STATE.

THE STATEMENT SHALL INCLUDE A SCHEDULE LISTING THE MEMBERS OF THE IMMEDIATE FAMILY OF THE INDIVIDUAL WHO WERE EMPLOYED BY THE STATE IN ANY CAPACITY AT ANY TIME DURING THE APPLICABLE PERIOD.

(I) SOURCES OF EARNED INCOME.

(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE STATEMENT SHALL INCLUDE A SCHEDULE LISTING THE NAME AND ADDRESS OF EACH:

(I) PLACE OF SALARIED EMPLOYMENT, INCLUDING SECONDARY EMPLOYMENT, OF THE INDIVIDUAL OR A MEMBER OF THE INDIVIDUAL'S IMMEDIATE FAMILY AT ANY TIME DURING THE APPLICABLE PERIOD; AND

(II) BUSINESS ENTITY OF WHICH THE INDIVIDUAL OR A MEMBER OF THE INDIVIDUAL'S IMMEDIATE FAMILY WAS A SOLE OR PARTIAL OWNER, AND FROM WHICH THE INDIVIDUAL OR FAMILY MEMBER RECEIVED EARNED INCOME, AT ANY TIME DURING THE APPLICABLE PERIOD.

(2) THE STATEMENT MAY NOT INCLUDE A LISTING OF A MINOR CHILD'S EMPLOYMENT OR BUSINESS ENTITIES OF WHICH THE CHILD IS SOLE OR PARTIAL OWNER, UNLESS THE PLACE OF EMPLOYMENT OR THE BUSINESS ENTITY:

(I) IS SUBJECT TO THE REGULATION OR AUTHORITY OF THE AGENCY THAT EMPLOYS THE INDIVIDUAL; OR

(II) HAS CONTRACTS IN EXCESS OF $10,000 WITH THE AGENCY THAT EMPLOYS THE INDIVIDUAL.

(J) ADDITIONAL INFORMATION.

THE STATEMENT MAY INCLUDE A SCHEDULE LISTING ADDITIONAL INTERESTS OR INFORMATION THAT THE INDIVIDUAL CHOOSES TO DISCLOSE.

(K) ADDITIONAL REPORTS BY GENERAL ASSEMBLY MEMBERS.

TO THE EXTENT NOT REPORTED UNDER SUBSECTIONS (A) THROUGH (J) OF THIS SECTION, A STATEMENT FILED BY A MEMBER OF THE GENERAL ASSEMBLY SHALL INCLUDE:

(1) THE INFORMATION REQUIRED UNDER § 5–514(B) OF THIS TITLE; AND

(2) AN ACKNOWLEDGMENT, SIGNED BY THE MEMBER, THAT ANY INFORMATION REQUIRED UNDER § 5–514(B) OF THIS TITLE THAT BECOMES REPORTABLE AFTER THE STATEMENT IS FILED SHALL BE REPORTED IMMEDIATELY TO THE JOINT ETHICS COMMITTEE AS REQUIRED BY § 5–514(B) OF THIS TITLE.

REVISOR'S NOTE: This section formerly was SG § 15–607.

In subsection (a) of this section, the former phrase "under this subtitle" is deleted as surplusage.

In subsection (e)(5) of this section, the reference to the "acceptance" of a gift is added for clarity.

The only other changes are in style.

Defined terms: "Business entity" § 5–101
"Entity" § 5–101
"Entity doing business with the State" § 5–101
"General Assembly" § 5–101
"Gift" § 5–101
"Governmental unit" § 5–101
"Immediate family" § 5–101
"Including" § 1–110
"Interest" § 5–101
"Joint Ethics Committee" § 5–101
"Legislative unit" § 5–101
"Person" § 1–114
"Regulated lobbyist" § 5–101
"State" § 1–115

5–608. INTERESTS ATTRIBUTABLE TO INDIVIDUAL FILING STATEMENT.

(A) INTERESTS ATTRIBUTABLE.

THE FOLLOWING ARE DEEMED TO BE INTERESTS OF THE INDIVIDUAL UNDER § 5–607(B), (C), AND (D) OF THIS SUBTITLE:

(1) AN INTEREST HELD BY A SPOUSE OR CHILD OF THE INDIVIDUAL, IF THE INTEREST WAS CONTROLLED, DIRECTLY OR INDIRECTLY, BY THE INDIVIDUAL AT ANY TIME DURING THE APPLICABLE PERIOD;

(2) AN INTEREST HELD BY A BUSINESS ENTITY IN WHICH THE INDIVIDUAL HELD A 30% OR GREATER INTEREST AT ANY TIME DURING THE APPLICABLE PERIOD; AND

(3) AN INTEREST HELD BY A TRUST OR AN ESTATE IN WHICH, AT ANY TIME DURING THE APPLICABLE PERIOD, THE INDIVIDUAL:

(I) HELD A REVERSIONARY INTEREST;

(II) WAS A BENEFICIARY; OR

(III) IF A REVOCABLE TRUST, WAS A SETTLOR.

(B) EFFECT ON OTHER DISCLOSURE REQUIREMENTS.

SUBSECTION (A)(2) OF THIS SECTION DOES NOT AFFECT:

(1) THE REQUIREMENT UNDER § 5–607(B) OF THIS SUBTITLE OF DISCLOSURE OF REAL ESTATE INTERESTS HELD IN THE NAME OF A PARTNERSHIP, LIMITED LIABILITY PARTNERSHIP, OR LIMITED LIABILITY COMPANY IN WHICH THE INDIVIDUAL HOLDS AN INTEREST; OR

(2) THE REQUIREMENT UNDER § 5–607(C) OF THIS SUBTITLE OF DISCLOSURE OF ALL PARTNERSHIPS, LIMITED LIABILITY PARTNERSHIPS, OR LIMITED LIABILITY COMPANIES IN WHICH THE INDIVIDUAL HOLDS AN INTEREST.

(C) BLIND TRUSTS.

FOR THE PURPOSES OF § 5–607 OF THIS SUBTITLE, INTERESTS HELD BY A BLIND TRUST MAY NOT BE CONSIDERED TO BE INTERESTS OF THE PERSON MAKING THE STATEMENT IF THE BLIND TRUST IS APPROVED BY THE ETHICS COMMISSION IN ACCORDANCE WITH REGULATIONS ADOPTED UNDER § 5–501(B) OR § 5–502(C) OF THIS TITLE AND IS OPERATED IN COMPLIANCE WITH THOSE REGULATIONS.

REVISOR'S NOTE: This section formerly was SG § 15–608.

In subsection (c) of this section, the former reference to "the disclosure required by that section" is deleted as included in the reference to "the purposes of § 5–607 of this subtitle".

The only other changes are in style.

Defined terms: "Business entity" § 5–101
"Ethics Commission" § 5–101
"Interest" § 5–101
"Person" § 1–114

5–609. CERTAIN BOARD MEMBERS — MODIFIED REQUIREMENTS.

(A) FILING REQUIREMENTS.

(1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A MEMBER OF A BOARD WHO IS DESCRIBED IN § 5–601(D) OF THIS SUBTITLE SHALL FILE THE STATEMENT REQUIRED BY § 5–601 OF THIS SUBTITLE.

(2) THE MEMBER SHALL BE REQUIRED TO DISCLOSE THE INFORMATION SPECIFIED IN § 5–607 OF THIS SUBTITLE ONLY AS TO THOSE INTERESTS, GIFTS, COMPENSATED POSITIONS, AND LIABILITIES THAT MAY CREATE A CONFLICT, AS DESCRIBED IN SUBTITLE 5 OF THIS TITLE, BETWEEN THE MEMBER'S PERSONAL INTERESTS AND THE MEMBER'S DUTIES ON THE BOARD.

(B) REGULATIONS.

(1) THE ETHICS COMMISSION SHALL ADOPT REGULATIONS, SUBJECT TO THE APPROVAL OF THE ADMINISTRATIVE, EXECUTIVE, AND LEGISLATIVE REVIEW COMMITTEE, SPECIFYING:

(I) THE INFORMATION TO BE DISCLOSED UNDER SUBSECTION (A) OF THIS SECTION; AND

(II) THE CIRCUMSTANCES UNDER WHICH THE INFORMATION IS TO BE DISCLOSED.

(2) THE REGULATIONS ADOPTED UNDER THIS SUBSECTION SHALL BE BASED ON THE EXPERIENCE OF THE ETHICS COMMISSION IN:

(I) IMPLEMENTING SUBTITLE 5 OF THIS TITLE; AND

(II) REVIEWING STATEMENTS UNDER THIS SUBTITLE.

REVISOR'S NOTE: This section formerly was SG § 15–609.

The only changes are in style.

The General Provisions Article Review Committee notes, for consideration by the General Assembly, that although there is no Maryland case law on the subject, the Attorney General has advised that a "legislative veto" provision like that found in former § 15–609(b)(1) of the State Government Article, and retained in subsection (b)(1) of this section, is unconstitutional. *See* 85 Op. Att'y Gen. 190, 203 (2000).

Defined terms: "Board" § 5–101
"Ethics Commission" § 5–101

"Gift" § 5–101
"Interest" § 5–101

5–610. JUDICIAL BRANCH — STATE OFFICIALS AND CANDIDATES.

(A) IN GENERAL.

IN ACCORDANCE WITH ITS ADMINISTRATIVE AUTHORITY OVER THE JUDICIAL BRANCH UNDER THE MARYLAND CONSTITUTION, THE COURT OF APPEALS SHALL ADOPT AND ADMINISTER RULES THAT REQUIRE EACH INDIVIDUAL SPECIFIED IN § 5–601(B) OF THIS SUBTITLE TO FILE A STATEMENT PERIODICALLY THAT DISCLOSES, AS A PUBLIC RECORD, THE INFORMATION CONCERNING THE INDIVIDUAL'S FINANCIAL AFFAIRS THAT THE COURT CONSIDERS NECESSARY OR APPROPRIATE TO PROMOTE CONTINUED TRUST AND CONFIDENCE IN THE INTEGRITY OF THE JUDICIAL BRANCH.

(B) CANDIDATE FOR JUDICIAL OFFICE.

(1) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, EACH CANDIDATE FOR NOMINATION FOR OR ELECTION TO A JUDGESHIP SHALL FILE THE STATEMENT SPECIFIED IN SUBSECTION (A) OF THIS SECTION NO LATER THAN THE TIME THE CANDIDATE FILES A CERTIFICATE OF CANDIDACY.

(II) THIS PARAGRAPH DOES NOT REQUIRE THE FILING OF A STATEMENT FOR ANY YEAR COVERED IN FULL BY A STATEMENT FILED BY THE INDIVIDUAL UNDER SUBSECTION (A) OF THIS SECTION.

(2) THE STATEMENT SHALL:

(I) COVER THE CALENDAR YEAR IMMEDIATELY PRECEDING THE YEAR IN WHICH THE CERTIFICATE OF CANDIDACY IS FILED; AND

(II) BE FILED WITH THE ELECTION BOARD WITH WHICH THE CERTIFICATE OF CANDIDACY IS FILED.

(3) AN ELECTION BOARD MAY NOT ACCEPT A CERTIFICATE OF CANDIDACY OR CERTIFICATE OF NOMINATION OF A CANDIDATE COVERED BY THIS SUBSECTION UNLESS THE CANDIDATE HAS FILED EACH STATEMENT REQUIRED BY THIS SECTION.

(4) AN ELECTION BOARD, WITHIN 30 DAYS AFTER RECEIVING A STATEMENT UNDER THIS SUBSECTION, SHALL FORWARD THE STATEMENT TO

THE ENTITY DESIGNATED BY THE COURT OF APPEALS TO RECEIVE THE STATEMENTS FILED UNDER SUBSECTION (A) OF THIS SECTION.

(C) TRANSMISSION OF STATEMENTS TO ETHICS COMMISSION.

WITHIN 30 DAYS AFTER RECEIVING A STATEMENT UNDER THIS SECTION, THE COURT OF APPEALS OR ITS DESIGNEE SHALL TRANSMIT A COPY OF THE STATEMENT TO THE ETHICS COMMISSION.

REVISOR'S NOTE: This section formerly was SG § 15–610.

The only changes are in style.

Defined terms: "Entity" § 5–101
"Ethics Commission" § 5–101

5–611. DISCLOSURE BY OTHER PERSONNEL AND APPOINTEES.

(A) IN GENERAL.

AN INDIVIDUAL WHO IS NOT AN OFFICIAL SHALL DISCLOSE INFORMATION ANNUALLY IF DESIGNATED UNDER SUBSECTION (B) OF THIS SECTION.

(B) DESIGNATION.

FOR DISCLOSURE UNDER THIS SECTION:

(1) THE GOVERNOR, BY EXECUTIVE ORDER, MAY DESIGNATE:

(I) AN EMPLOYEE OF AN EXECUTIVE UNIT; OR

(II) A NONCOMPENSATED APPOINTEE OF THE GOVERNOR;

(2) THE CHIEF JUDGE OF THE COURT OF APPEALS, BY ORDER, MAY DESIGNATE:

(I) AN EMPLOYEE OF THE JUDICIAL BRANCH; OR

(II) A NONCOMPENSATED APPOINTEE OF THE COURT OF APPEALS OR THE CHIEF JUDGE; AND

(3) THE PRESIDING OFFICERS OF THE GENERAL ASSEMBLY, BY ORDER, MAY DESIGNATE:

(I) AN EMPLOYEE OF THE LEGISLATIVE BRANCH; OR

(II) A NONCOMPENSATED APPOINTEE OF EITHER OR BOTH OF THE PRESIDING OFFICERS.

(C) STATEMENTS.

A STATEMENT FILED UNDER THIS SECTION IS A PUBLIC RECORD AND SHALL CONTAIN THE RELEVANT INFORMATION CONCERNING THE FINANCIAL AFFAIRS OF THE INDIVIDUAL SUBMITTING THE STATEMENT THAT IS CONSIDERED NECESSARY BY THE APPLICABLE DESIGNATING AUTHORITY.

(D) REQUIRED DESIGNATIONS.

(1) IN COMPLYING WITH SUBSECTION (B)(1) OF THIS SECTION, THE GOVERNOR, BY EXECUTIVE ORDER, SHALL DESIGNATE ANY EMPLOYEE OF AN EXECUTIVE UNIT WHO IS:

(I) A HOME INSPECTOR OR LICENSED HOME INSPECTOR UNDER § 16–101 OF THE BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE;

(II) A BUILDING CODE ENFORCEMENT OFFICIAL EMPLOYED BY THE STATE;

(III) AN ACCREDITED INSPECTOR OF LEAD FOR THE DEPARTMENT OF THE ENVIRONMENT UNDER § 6–818 OF THE ENVIRONMENT ARTICLE; OR

(IV) AN ENVIRONMENTAL HEALTH SPECIALIST UNDER TITLE 21 OF THE HEALTH OCCUPATIONS ARTICLE.

(2) AN EMPLOYEE UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL FILE A STATEMENT IN ACCORDANCE WITH § 5–601 OF THIS SUBTITLE THAT:

(I) DISCLOSES ANY INTEREST THE EMPLOYEE MAY HAVE IN ANY REAL PROPERTY IN THE STATE; AND

(II) DISCLOSES ANY OTHER INFORMATION THE ETHICS COMMISSION CONSIDERS A CONFLICT OF INTEREST RELATED TO THE EMPLOYMENT OF THE EMPLOYEE.

REVISOR'S NOTE: This section formerly was SG § 15–611.

In subsection (d)(1)(iv) of this section, the reference to an "environmental health specialist under Title 21 of the Health Occupations Article" is substituted for the former reference to an "environmental sanitarian under Title 11 of the Environment Article" for accuracy. Chapter 667 of the Acts of the General Assembly of 2012 transferred Title 11 of the Environment Article to Title 21 of the Health Occupations Article and renamed "environmental sanitarians" to be "environmental health specialists".

The only other changes are in style.

Defined terms: "Employee" § 5–101
"Ethics Commission" § 5–101
"Executive unit" § 5–101
"General Assembly" § 5–101
"Interest" § 5–101
"Official" § 5–101
"State" § 1–115

SUBTITLE 7. LOBBYING.

5–701. "COMPENSATION" DEFINED.

IN THIS SUBTITLE, "COMPENSATION", AS TO A PERSON WHOSE LOBBYING IS ONLY A PART OF THE PERSON'S EMPLOYMENT, MEANS A PRORATED AMOUNT BASED ON THE TIME THE PERSON DEVOTES TO LOBBYING AND THE TIME THE PERSON DEVOTES TO OTHER EMPLOYMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former SG § 15–102(f)(2).

The former reference to other employment "duties" is deleted as surplusage.

Defined terms: "Compensation" §§ 5–101, 5–701
"Lobbying" § 5–101
"Person" § 1–114

5–702. LOBBYING — GENERALLY.

(A) REGISTRATION REQUIRED.

UNLESS EXEMPTED UNDER SUBSECTION (B) OF THIS SECTION, AN ENTITY SHALL REGISTER WITH THE ETHICS COMMISSION AS PROVIDED IN THIS SUBTITLE AND SHALL BE A REGULATED LOBBYIST FOR THE PURPOSES OF THIS TITLE IF, DURING A REPORTING PERIOD, THE ENTITY:

(1) FOR THE PURPOSE OF INFLUENCING ANY LEGISLATIVE ACTION OR ANY EXECUTIVE ACTION RELATING TO THE DEVELOPMENT OR ADOPTION OF REGULATIONS OR THE DEVELOPMENT OR ISSUANCE OF AN EXECUTIVE ORDER:

(I) 1. COMMUNICATES WITH AN OFFICIAL OR EMPLOYEE OF THE LEGISLATIVE BRANCH OR EXECUTIVE BRANCH IN THE PRESENCE OF THAT OFFICIAL OR EMPLOYEE; AND

2. EXCEPT FOR THE PERSONAL TRAVEL OR SUBSISTENCE EXPENSES OF THE ENTITY OR A REPRESENTATIVE OF THE ENTITY, INCURS EXPENSES OF AT LEAST $500 OR EARNS AT LEAST $2,500 AS COMPENSATION FOR ALL SUCH COMMUNICATION AND ACTIVITIES RELATING TO THE COMMUNICATION DURING THE REPORTING PERIOD; OR

(II) 1. COMMUNICATES WITH AN OFFICIAL OR EMPLOYEE OF THE LEGISLATIVE BRANCH OR EXECUTIVE BRANCH; AND

2. EARNS AT LEAST $5,000 AS COMPENSATION FOR ALL SUCH COMMUNICATION AND ACTIVITIES RELATING TO THE COMMUNICATION DURING THE REPORTING PERIOD;

(2) IN CONNECTION WITH OR FOR THE PURPOSE OF INFLUENCING ANY EXECUTIVE ACTION, SPENDS A CUMULATIVE VALUE OF AT LEAST $100 FOR GIFTS, INCLUDING MEALS, BEVERAGES, AND SPECIAL EVENTS, TO ONE OR MORE OFFICIALS OR EMPLOYEES OF THE EXECUTIVE BRANCH;

(3) SUBJECT TO SUBSECTION (B)(4) OF THIS SECTION, IS COMPENSATED TO INFLUENCE EXECUTIVE ACTION ON A PROCUREMENT CONTRACT THAT EXCEEDS $100,000;

(4) SUBJECT TO SUBSECTION (B)(5) OF THIS SECTION, IS COMPENSATED BY A BUSINESS ENTITY TO INFLUENCE EXECUTIVE ACTION TO SECURE FROM THE STATE A BUSINESS GRANT OR LOAN WITH A VALUE OF MORE THAN $100,000 FOR THE BUSINESS ENTITY;

(5) SPENDS AT LEAST $2,000, INCLUDING EXPENDITURES FOR SALARIES, CONTRACTUAL EMPLOYEES, POSTAGE, TELECOMMUNICATIONS SERVICES, ELECTRONIC SERVICES, ADVERTISING, PRINTING, AND DELIVERY SERVICES, FOR THE EXPRESS PURPOSE OF SOLICITING OTHERS TO COMMUNICATE WITH AN OFFICIAL TO INFLUENCE LEGISLATIVE ACTION OR EXECUTIVE ACTION; OR

(6) SPENDS AT LEAST $2,500 TO PROVIDE COMPENSATION TO ONE OR MORE ENTITIES REQUIRED TO REGISTER UNDER THIS SUBSECTION.

(B) EXEMPTED ACTIVITIES.

(1) THE FOLLOWING ACTIVITIES ARE EXEMPT FROM REGULATION UNDER THIS SUBTITLE:

(I) AN APPEARANCE AS PART OF THE OFFICIAL DUTIES OF AN ELECTED OR APPOINTED OFFICIAL OR EMPLOYEE OF THE STATE, A POLITICAL SUBDIVISION OF THE STATE, OR THE UNITED STATES, TO THE EXTENT THAT THE APPEARANCE IS NOT ON BEHALF OF ANY OTHER ENTITY;

(II) AN ACTION OF A MEMBER OF THE NEWS MEDIA, TO THE EXTENT THAT THE ACTION IS IN THE ORDINARY COURSE OF GATHERING AND DISSEMINATING NEWS OR MAKING EDITORIAL COMMENT TO THE GENERAL PUBLIC;

(III) REPRESENTATION OF A BONA FIDE RELIGIOUS ORGANIZATION, TO THE EXTENT THAT THE REPRESENTATION IS FOR THE PURPOSE OF PROTECTING THE RIGHT OF ITS MEMBERS TO PRACTICE THE DOCTRINE OF THE ORGANIZATION;

(IV) AN APPEARANCE AS PART OF THE OFFICIAL DUTIES OF AN OFFICER, A DIRECTOR, A MEMBER, OR AN EMPLOYEE OF AN ASSOCIATION ENGAGED ONLY IN REPRESENTING COUNTIES OR MUNICIPAL CORPORATIONS, TO THE EXTENT THAT THE APPEARANCE IS NOT ON BEHALF OF ANY OTHER ENTITY; OR

(V) AN ACTION AS PART OF THE OFFICIAL DUTIES OF A TRUSTEE, AN ADMINISTRATOR, OR A FACULTY MEMBER OF A NONPROFIT INDEPENDENT COLLEGE OR UNIVERSITY IN THE STATE, PROVIDED THE OFFICIAL DUTIES OF THE INDIVIDUAL DO NOT CONSIST PRIMARILY OF ATTEMPTING TO INFLUENCE LEGISLATIVE ACTION OR EXECUTIVE ACTION.

(2) THE FOLLOWING ACTIVITIES ARE EXEMPT FROM REGULATION UNDER THIS SUBTITLE IF THE INDIVIDUAL ENGAGES IN NO OTHER ACTS DURING THE REPORTING PERIOD THAT REQUIRE REGISTRATION:

(I) PROFESSIONAL SERVICES IN DRAFTING BILLS OR IN ADVISING CLIENTS ON THE CONSTRUCTION OR EFFECT OF PROPOSED OR PENDING LEGISLATION;

(II) AN APPEARANCE BEFORE THE ENTIRE GENERAL ASSEMBLY, OR ANY COMMITTEE OR SUBCOMMITTEE OF THE GENERAL ASSEMBLY, AT THE SPECIFIC REQUEST OF THE BODY INVOLVED;

(III) AN APPEARANCE AS A WITNESS BEFORE A LEGISLATIVE COMMITTEE AT THE SPECIFIC REQUEST OF A REGULATED LOBBYIST IF THE WITNESS NOTIFIES THE COMMITTEE THAT THE WITNESS IS TESTIFYING AT THE REQUEST OF THE REGULATED LOBBYIST;

(IV) AN APPEARANCE BEFORE AN EXECUTIVE UNIT AT THE SPECIFIC REQUEST OF THE EXECUTIVE UNIT INVOLVED; OR

(V) AN APPEARANCE AS A WITNESS BEFORE AN EXECUTIVE UNIT AT THE SPECIFIC REQUEST OF A REGULATED LOBBYIST IF THE WITNESS NOTIFIES THE EXECUTIVE UNIT THAT THE WITNESS IS TESTIFYING AT THE REQUEST OF THE REGULATED LOBBYIST.

(3) AN ELEMENTARY, SECONDARY, OR POSTSECONDARY SCHOOL STUDENT OR STUDENT ORGANIZATION THAT COMMUNICATES AS PART OF A COURSE OR STUDENT ACTIVITY IS NOT SUBJECT TO THE REGISTRATION REQUIREMENTS BASED ON THE EXPENSE THRESHOLD UNDER SUBSECTION (A)(1)(I) OF THIS SECTION.

(4) SUBSECTION (A)(3) OF THIS SECTION DOES NOT APPLY TO A BONA FIDE SALESPERSON OR COMMERCIAL SELLING AGENCY EMPLOYED OR MAINTAINED BY AN EMPLOYER FOR THE PURPOSE OF SOLICITING OR SECURING A PROCUREMENT CONTRACT UNLESS THE PERSON ENGAGES IN ACTS DURING THE REPORTING PERIOD THAT REQUIRE REGISTRATION UNDER SUBSECTION (A)(1) OR (2) OF THIS SECTION.

(5) IF THE PERSON ENGAGES IN NO OTHER ACT DURING THE REPORTING PERIOD THAT REQUIRES REGISTRATION, SUBSECTION (A)(4) OF THIS SECTION DOES NOT APPLY TO:

(I) A BONA FIDE FULL–TIME OFFICIAL OR EMPLOYEE OF A BUSINESS ENTITY SEEKING TO SECURE A BUSINESS GRANT OR LOAN; OR

(II) A PERSON SEEKING TO SECURE A BUSINESS GRANT OR LOAN FOR THE PURPOSE OF LOCATING, RELOCATING, OR EXPANDING A BUSINESS IN OR INTO THE STATE.

(C) LIMITED EXEMPTIONS — EMPLOYER OF REGULATED LOBBYIST.

(1) EXCEPT FOR PROVIDING THE SIGNED AUTHORIZATION REQUIRED BY § 5–703 OF THIS SUBTITLE AND THE REPORT REQUIRED BY § 5–705(D) OF THIS SUBTITLE, AN ENTITY THAT COMPENSATES ONE OR MORE REGULATED LOBBYISTS, AND THAT REASONABLY BELIEVES THAT ALL EXPENDITURES REQUIRING REGISTRATION WILL BE REPORTED BY THE REGULATED LOBBYIST OR LOBBYISTS, IS EXEMPT FROM THE REGISTRATION AND REPORTING REQUIREMENTS OF THIS SUBTITLE IF THE ENTITY ENGAGES IN NO OTHER ACT THAT REQUIRES REGISTRATION.

(2) IF A REGULATED LOBBYIST COMPENSATED BY AN ENTITY THAT IS EXEMPT UNDER PARAGRAPH (1) OF THIS SUBSECTION FAILS TO REPORT THE INFORMATION REQUIRED BY THIS SUBTITLE, THE ENTITY IMMEDIATELY SHALL BECOME SUBJECT TO THE REGISTRATION AND REPORTING REQUIREMENTS OF THIS SUBTITLE.

REVISOR'S NOTE: This section formerly was SG § 15–701.

In subsection (b)(2)(iii) and (v) of this section, the phrase "as a witness" is added for clarity.

In subsection (c)(1) of this section, the reference to the "signed" authorization is added for clarity.

The only other changes are in style.

Defined terms: "Business entity" § 5–101
"Compensation" §§ 5–101, 5–701
"Employee" § 5–101
"Employer" § 5–101
"Entity" § 5–101
"Ethics Commission" § 5–101
"Executive action" § 5–101
"Executive unit" § 5–101
"General Assembly" § 5–101
"Gift" § 5–101
"Including" § 1–110
"Legislative action" § 5–101
"Municipal corporation" § 5–101
"Official" § 5–101
"Person" § 1–114
"Procurement contract" § 5–101
"Regulated lobbyist" § 5–101
"State" § 1–115

5–703. AUTHORITY TO LOBBY.

(A) WRITTEN AUTHORIZATION.

(1) AN ENTITY THAT ENGAGES A REGULATED LOBBYIST FOR THE PURPOSE OF LOBBYING SHALL PROVIDE A SIGNED AUTHORIZATION FOR THE REGULATED LOBBYIST TO ACT.

(2) IF THE ENTITY IS A CORPORATION, AN AUTHORIZED OFFICER OR AGENT OTHER THAN THE REGULATED LOBBYIST SHALL SIGN THE AUTHORIZATION.

(B) TERMS AND CONDITIONS.

THE SIGNED AUTHORIZATION SHALL INCLUDE:

(1) THE FULL LEGAL NAME AND BUSINESS ADDRESS OF THE ENTITY AND OF THE REGULATED LOBBYIST;

(2) SUBJECT TO SUBSEQUENT MODIFICATION, THE PERIOD DURING WHICH THE REGULATED LOBBYIST IS AUTHORIZED TO ACT; AND

(3) THE PROPOSAL OR SUBJECT ON WHICH THE REGULATED LOBBYIST REPRESENTS THE ENTITY.

REVISOR'S NOTE: This section formerly was SG § 15–702.

In the introductory language of subsection (b) of this section, the reference to the "signed" authorization is substituted for the former reference to the authorization "to act required by subsection (a) of this section" for brevity.

The only other changes are in style.

Defined terms: "Entity" § 5–101
"Lobbying" § 5–101
"Regulated lobbyist" § 5–101

5–704. REGISTRATION WITH ETHICS COMMISSION.

(A) REGISTRATION REQUIRED.

(1) AT THE TIMES SPECIFIED IN SUBSECTION (D) OF THIS SECTION, EACH REGULATED LOBBYIST SHALL REGISTER WITH THE ETHICS COMMISSION ON A FORM PROVIDED BY THE ETHICS COMMISSION.

(2) A REGULATED LOBBYIST SHALL REGISTER SEPARATELY FOR EACH ENTITY THAT HAS ENGAGED THE REGULATED LOBBYIST FOR LOBBYING PURPOSES.

(B) CONTENTS.

EACH REGISTRATION FORM SHALL INCLUDE THE FOLLOWING INFORMATION, IF APPLICABLE:

(1) THE REGULATED LOBBYIST'S NAME AND PERMANENT ADDRESS;

(2) THE NAME AND PERMANENT ADDRESS OF ANY OTHER REGULATED LOBBYIST THAT WILL BE LOBBYING ON THE REGULATED LOBBYIST'S BEHALF;

(3) THE NAME, ADDRESS, AND NATURE OF BUSINESS OF ANY ENTITY THAT HAS ENGAGED THE REGULATED LOBBYIST FOR LOBBYING PURPOSES, ACCOMPANIED BY A STATEMENT INDICATING WHETHER, BECAUSE OF THE FILING AND REPORTING OF THE REGULATED LOBBYIST, THE COMPENSATING ENTITY IS EXEMPT UNDER § 5–702(C) OF THIS SUBTITLE; AND

(4) THE IDENTIFICATION, BY FORMAL DESIGNATION IF KNOWN, OF THE MATTERS ON WHICH THE REGULATED LOBBYIST EXPECTS TO PERFORM ACTS, OR TO ENGAGE ANOTHER REGULATED LOBBYIST TO PERFORM ACTS, THAT REQUIRE REGISTRATION UNDER THIS SUBTITLE.

(C) FILING OF AUTHORIZATION STATEMENT.

EACH REGISTRATION SHALL INCLUDE THE APPLICABLE SIGNED AUTHORIZATION, IF ANY, REQUIRED BY § 5–703 OF THIS SUBTITLE.

(D) REGISTRATION FILING.

(1) A REGULATED LOBBYIST WHO IS NOT CURRENTLY REGISTERED SHALL REGISTER WITHIN 5 DAYS AFTER FIRST PERFORMING AN ACT THAT REQUIRES REGISTRATION UNDER THIS SUBTITLE.

(2) A REGULATED LOBBYIST SHALL FILE A NEW REGISTRATION FORM ON OR BEFORE NOVEMBER 1 OF EACH YEAR IF, ON THAT DATE, THE REGULATED LOBBYIST IS ENGAGED IN LOBBYING.

(E) FEE.

(1) EACH REGISTRATION FORM SHALL BE ACCOMPANIED BY A FEE OF $100.

(2) THE FEE SHALL BE CREDITED TO THE LOBBYIST REGISTRATION FUND ESTABLISHED UNDER § 5–210 OF THIS TITLE.

(F) TERMINATION OF REGISTRATION.

(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, EACH REGISTRATION SHALL TERMINATE ON THE EARLIER OF:

(I) THE OCTOBER 31 FOLLOWING THE FILING OF THE REGISTRATION; OR

(II) AN EARLIER TERMINATION DATE SPECIFIED IN AN AUTHORIZATION FILED WITH RESPECT TO THAT REGISTRATION UNDER § 5–703 OF THIS SUBTITLE.

(2) A REGULATED LOBBYIST MAY TERMINATE THE REGISTRATION BEFORE THE DATE SPECIFIED IN PARAGRAPH (1) OF THIS SUBSECTION BY:

(I) CEASING ALL ACTIVITY THAT REQUIRES REGISTRATION; AND

(II) AFTER CEASING ACTIVITY IN ACCORDANCE WITH ITEM (I) OF THIS PARAGRAPH:

1. FILING A NOTICE OF TERMINATION WITH THE ETHICS COMMISSION; AND

2. FILING ALL REPORTS REQUIRED BY THIS SUBTITLE WITHIN 30 DAYS AFTER THE FILING OF THE NOTICE OF TERMINATION.

(3) (I) SUBJECT TO SUBPARAGRAPHS (II) AND (III) OF THIS PARAGRAPH, IF A REGULATED LOBBYIST IS OR BECOMES SUBJECT TO REGULATION UNDER THIS TITLE AS AN OFFICIAL OR EMPLOYEE, THE REGULATED LOBBYIST SHALL IMMEDIATELY TERMINATE THE REGISTRATION IN ACCORDANCE WITH PARAGRAPH (2) OF THIS SUBSECTION.

(II) AFTER HOLDING A PUBLIC HEARING, THE ETHICS COMMISSION SHALL ADOPT REGULATIONS ESTABLISHING CRITERIA UNDER WHICH A REGULATED LOBBYIST MAY SERVE ON A STATE BOARD OR COMMISSION.

(III) THE REGULATIONS ADOPTED UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH SHALL:

1. ESTABLISH A CLASSIFICATION OF STATE BOARDS OR COMMISSIONS ON WHICH REGULATED LOBBYISTS MAY SERVE;

2. AT A MINIMUM AUTHORIZE A REGULATED LOBBYIST TO SERVE AS AN APPOINTED MEMBER OF AN ADVISORY GOVERNMENTAL BODY OF LIMITED DURATION; AND

3. AS TO A REGULATED LOBBYIST WHO SERVES ON A STATE BOARD OR COMMISSION, ESTABLISH DISCLOSURE REQUIREMENTS THAT ARE SUBSTANTIALLY SIMILAR TO DISCLOSURE REQUIREMENTS FOR MEMBERS OF THE GENERAL ASSEMBLY.

REVISOR'S NOTE: This section formerly was SG § 15–703.

In subsection (c) of this section, the reference to the "signed" authorization is added for clarity.

Also in subsection (c) of this section, the phrase ", if any," is added for clarity.

In subsection (f)(3)(iii)3 of this section, the reference to a "State" board or commission is substituted for the former reference to a board or commission "under this paragraph" for clarity.

The General Provisions Article Review Committee notes, for consideration by the General Assembly, that although this revision retains the requirement in subsection (f)(3)(ii) of this section that the Ethics Commission adopt regulations establishing criteria under which a regulated lobbyist may serve on a State board or commission "after holding a public hearing", the Ethics Commission views the provision requiring the public hearing as obsolete since a public hearing was held before the initial adoption of the regulations. The General Assembly may wish to delete the language requiring the public hearing before adoption of the regulations.

The only other changes are in style.

Defined terms: "Board" § 5–101
"Employee" § 5–101
"Entity" § 5–101
"Ethics Commission" § 5–101
"General Assembly" § 5–101
"Lobbying" § 5–101
"Official" § 5–101
"Regulated lobbyist" § 5–101
"State" § 1–115

5–705. REPORTS.

(A) IN GENERAL.

(1) A REGULATED LOBBYIST SHALL FILE WITH THE ETHICS COMMISSION, UNDER OATH AND FOR EACH REGISTRATION, A SEPARATE REPORT CONCERNING THE REGULATED LOBBYIST'S LOBBYING ACTIVITIES:

(I) BY MAY 31 OF EACH YEAR, TO COVER THE PERIOD FROM NOVEMBER 1 OF THE PREVIOUS YEAR THROUGH APRIL 30 OF THE CURRENT YEAR; AND

(II) BY NOVEMBER 30 OF EACH YEAR, TO COVER THE PERIOD FROM MAY 1 THROUGH OCTOBER 31 OF THAT YEAR.

(2) IF THE REGULATED LOBBYIST IS NOT AN INDIVIDUAL, AN AUTHORIZED OFFICER OR AGENT OF THE REGULATED LOBBYIST SHALL SIGN THE REPORT.

(3) IF A PRORATED AMOUNT IS REPORTED AS COMPENSATION, IT SHALL BE LABELED AS PRORATED.

(B) REQUIRED INFORMATION.

A REPORT REQUIRED BY THIS SECTION SHALL INCLUDE:

(1) A COMPLETE, CURRENT STATEMENT OF THE INFORMATION REQUIRED UNDER § 5–704(B) OF THIS SUBTITLE;

(2) TOTAL EXPENDITURES IN CONNECTION WITH INFLUENCING EXECUTIVE ACTION OR LEGISLATIVE ACTION IN EACH OF THE FOLLOWING CATEGORIES:

(I) TOTAL INDIVIDUAL REGULATED LOBBYIST COMPENSATION, EXCLUDING EXPENSES REPORTED UNDER THIS PARAGRAPH;

(II) OFFICE EXPENSES OF THE REGULATED LOBBYIST;

(III) PROFESSIONAL AND TECHNICAL RESEARCH AND ASSISTANCE;

(IV) PUBLICATIONS THAT EXPRESSLY ENCOURAGE COMMUNICATION WITH ONE OR MORE OFFICIALS OR EMPLOYEES;

(V) WITNESSES, INCLUDING THE NAME OF EACH AND THE FEES AND EXPENSES PAID TO EACH;

(VI) EXCEPT AS OTHERWISE REPORTED UNDER THIS PARAGRAPH, MEALS AND BEVERAGES FOR OFFICIALS, EMPLOYEES, OR MEMBERS OF THE IMMEDIATE FAMILIES OF OFFICIALS OR EMPLOYEES;

(VII) EXCEPT AS PROVIDED IN § 5–709(D)(2) OF THIS SUBTITLE, FOOD, BEVERAGES, AND INCIDENTAL EXPENSES FOR OFFICIALS OF THE LEGISLATIVE BRANCH FOR MEALS AND RECEPTIONS TO WHICH ALL MEMBERS OF ANY LEGISLATIVE UNIT WERE INVITED;

(VIII) FOOD AND BEVERAGES FOR MEMBERS OF THE GENERAL ASSEMBLY AT THE TIMES AND GEOGRAPHIC LOCATIONS OF MEETINGS OF LEGISLATIVE ORGANIZATIONS, AS ALLOWED UNDER § 5–505(C)(2)(I)4 OF THIS TITLE;

(IX) FOOD, LODGING, AND SCHEDULED ENTERTAINMENT FOR OFFICIALS AND EMPLOYEES AT MEETINGS AT WHICH THE OFFICIALS AND EMPLOYEES WERE SCHEDULED SPEAKERS OR SCHEDULED PANEL PARTICIPANTS;

(X) TICKETS AND FREE ADMISSION EXTENDED TO MEMBERS OF THE GENERAL ASSEMBLY, AS A COURTESY OR CEREMONY TO THE OFFICE, TO ATTEND CHARITABLE, CULTURAL, OR POLITICAL EVENTS SPONSORED OR CONDUCTED BY THE REPORTING ENTITY, AS ALLOWED UNDER § 5–505(C)(2)(VIII) OF THIS TITLE;

(XI) OTHER GIFTS TO OR FOR OFFICIALS, EMPLOYEES, OR MEMBERS OF THE IMMEDIATE FAMILIES OF OFFICIALS OR EMPLOYEES; AND

(XII) OTHER EXPENSES; AND

(3) AS TO EXPENDITURES REPORTED IN PARAGRAPH (2)(VII), (VIII), (IX), AND (X) OF THIS SUBSECTION, THE DATE, LOCATION, AND TOTAL EXPENSE OF THE REGULATED LOBBYIST FOR EACH MEAL, RECEPTION, EVENT, OR MEETING.

(C) ADDITIONAL INFORMATION; EXCEPTIONS.

(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A REPORT REQUIRED UNDER THIS SECTION ALSO SHALL INCLUDE THE NAME OF EACH OFFICIAL, EMPLOYEE, OR MEMBER OF THE IMMEDIATE FAMILY OF AN OFFICIAL OR EMPLOYEE WHO HAS BENEFITED FROM ONE OR MORE GIFTS WITH A CUMULATIVE VALUE OF $75 DURING THE REPORTING PERIOD FROM THE REGULATED LOBBYIST, REGARDLESS OF WHETHER THE GIFT:

(I) IS ATTRIBUTABLE TO MORE THAN ONE ENTITY; OR

(II) WAS GIVEN IN CONNECTION WITH LOBBYING ACTIVITY.

(2) THE FOLLOWING GIFTS NEED NOT BE ALLOCATED TO INDIVIDUAL RECIPIENTS AND REPORTED BY NAME:

(I) GIFTS REPORTED UNDER SUBSECTION (B)(2)(VII) AND (VIII) OF THIS SECTION;

(II) GIFTS REPORTED UNDER SUBSECTION (B)(2)(IX) OF THIS SECTION WITH A VALUE OF $200 OR LESS; AND

(III) GIFTS REPORTED UNDER SUBSECTION (B)(2)(X) OF THIS SECTION, UNLESS THE RECIPIENT RECEIVED FROM THE REGULATED LOBBYIST DURING THE REPORTING PERIOD TWO OR MORE SUCH GIFTS WITH A CUMULATIVE VALUE OF AT LEAST $100.

(D) ADDITIONAL REPORTS FROM CERTAIN REGULATED LOBBYISTS.

(1) THIS SUBSECTION APPLIES ONLY TO A REGULATED LOBBYIST, OTHER THAN AN INDIVIDUAL, THAT IS ORGANIZED AND OPERATED FOR THE PRIMARY PURPOSE OF ATTEMPTING TO INFLUENCE LEGISLATIVE ACTION OR EXECUTIVE ACTION.

(2) IN ADDITION TO THE OTHER REPORTS REQUIRED UNDER THIS SECTION, A REGULATED LOBBYIST SHALL REPORT THE NAME AND PERMANENT

ADDRESS OF EACH ENTITY THAT PROVIDED AT LEAST 5% OF THE REGULATED LOBBYIST'S TOTAL RECEIPTS DURING THE PRECEDING 12 MONTHS.

(3) FOR THE PURPOSE OF THE REPORTING AND REGISTRATION REQUIREMENTS OF THIS SUBTITLE, RECEIPTS OF A REGULATED LOBBYIST INCLUDE FUNDS SPENT ON THE REGULATED LOBBYIST'S BEHALF, AT ITS DIRECTION, OR IN ITS NAME.

REVISOR'S NOTE: This section is new language derived without substantive change from former SG § 15–704.

In subsection (b)(2)(viii) of this section, the phrase "as allowed under § 5–505(c)(2)(i)4 of this title" is substituted for the former phrase "to which those members' attendance at State expense has been approved by the appropriate presiding officer" for brevity and clarity. Similarly, in subsection (b)(2)(x) of this section, the phrase "as allowed under § 5–505(c)(2)(viii) of this title" is substituted for the former phrase "to each of which all members of a legislative unit were invited".

Also in subsection (b)(2)(viii) of this section, the former reference to the "respective" times and locations is deleted as surplusage.

In subsection (d)(2) and (3) of this section, the former references to a regulated lobbyist "subject to this subsection" are deleted as unnecessary in light of subsection (d)(1) of this section.

Defined terms: "Compensation" §§ 5–101, 5–701
"Employee" § 5–101
"Entity" § 5–101
"Ethics Commission" § 5–101
"Executive action" § 5–101
"General Assembly" § 5–101
"Gift" § 5–101
"Immediate family" § 5–101
"Including" § 1–110
"Legislative action" § 5–101
"Legislative unit" § 5–101
"Lobbying" § 5–101
"Official" § 5–101
"Regulated lobbyist" § 5–101

5–706. MEALS OR BEVERAGES.

(A) IN GENERAL.

IN ADDITION TO ANY OTHER REPORT REQUIRED UNDER THIS SUBTITLE, A REGULATED LOBBYIST SHALL FILE A SEPARATE REPORT DISCLOSING THE NAME OF EACH STATE OFFICIAL OF THE EXECUTIVE BRANCH OR MEMBER OF THE IMMEDIATE FAMILY OF A STATE OFFICIAL OF THE EXECUTIVE BRANCH WHO HAS BENEFITED DURING THE REPORTING PERIOD FROM A GIFT OF A MEAL OR BEVERAGES FROM THE REGULATED LOBBYIST, WHETHER OR NOT IN CONNECTION WITH LOBBYING ACTIVITIES, ALLOWED UNDER § 5–505(C)(2)(I)1 OF THIS TITLE.

(B) ALLOCATION.

GIFTS REPORTED BY NAME OF RECIPIENT UNDER § 5–705(B)(2)(IX) OF THIS SUBTITLE NEED NOT BE ALLOCATED FOR THE PURPOSES OF DISCLOSURE UNDER SUBSECTION (A) OF THIS SECTION.

(C) REQUIRED INFORMATION.

THE DISCLOSURE REQUIRED BY THIS SECTION SHALL BE UNDER OATH OR AFFIRMATION, ON A FORM ISSUED BY THE ETHICS COMMISSION, AND SHALL INCLUDE:

(1) THE NAME AND BUSINESS ADDRESS OF THE REGULATED LOBBYIST;

(2) THE NAME OF EACH RECIPIENT OF A GIFT OF A MEAL OR BEVERAGES;

(3) THE DATE AND VALUE OF EACH GIFT OF A MEAL OR BEVERAGES, AND THE IDENTITY OF THE ENTITY OR ENTITIES TO WHICH THE GIFT IS ATTRIBUTABLE; AND

(4) THE TOTAL CUMULATIVE VALUE OF GIFTS OF MEALS OR BEVERAGES, CALCULATED AS TO EACH RECIPIENT.

(D) EXPLANATION OF CIRCUMSTANCES.

THE REGULATED LOBBYIST MAY EXPLAIN THE CIRCUMSTANCES UNDER WHICH THE GIFT OF A MEAL OR BEVERAGES WAS GIVEN.

(E) EFFECT OF DISCLOSURE.

GIFTS OF MEALS OR BEVERAGES REPORTED BY A REGULATED LOBBYIST UNDER THIS SECTION NEED NOT BE COUNTED OR REPORTED BY THE

REGULATED LOBBYIST FOR PURPOSES OF DISCLOSURE UNDER § 5–705(C) OF THIS SUBTITLE.

(F) FILING.

THE REPORT SHALL BE FILED AT THE TIME AND IN THE MANNER REQUIRED FOR REPORTS FILED UNDER § 5–705 OF THIS SUBTITLE.

REVISOR'S NOTE: This section formerly was SG § 15–705.

The only changes are in style.

Defined terms: "Entity" § 5–101
"Ethics Commission" § 5–101
"Gift" § 5–101
"Immediate family" § 5–101
"Lobbying" § 5–101
"Regulated lobbyist" § 5–101
"State official" § 5–101

5–707. REPORTS OF BUSINESS TRANSACTIONS — GENERALLY.

(A) APPLICATION OF SECTION.

(1) THIS SECTION APPLIES ONLY TO AN INDIVIDUAL REGULATED LOBBYIST DESCRIBED IN § 5–702(A)(1), (2), (3), OR (4) OF THIS SUBTITLE WHO LOBBIES THE EXECUTIVE BRANCH OR LEGISLATIVE BRANCH.

(2) THIS SECTION DOES NOT APPLY TO AN ENTITY THAT EMPLOYS AN INDIVIDUAL REGULATED LOBBYIST DESCRIBED IN § 5–702(A)(1), (2), (3), OR (4) OF THIS SUBTITLE.

(B) COVERED TRANSACTIONS.

IN ADDITION TO ANY OTHER REPORT REQUIRED UNDER THIS SUBTITLE, AN INDIVIDUAL REGULATED LOBBYIST SHALL FILE, WITH THE REPORT REQUIRED UNDER § 5–705 OF THIS SUBTITLE, A REPORT THAT DISCLOSES EACH BUSINESS TRANSACTION OR SERIES OF BUSINESS TRANSACTIONS THAT THE INDIVIDUAL REGULATED LOBBYIST HAD WITH AN INDIVIDUAL OR BUSINESS ENTITY LISTED IN SUBSECTION (C) OF THIS SECTION THAT:

(1) INVOLVED THE EXCHANGE OF VALUE OF:

(I) $1,000 OR MORE FOR A SINGLE TRANSACTION; OR

(II) $5,000 OR MORE FOR A SERIES OF TRANSACTIONS; AND

(2) OCCURRED IN THE PREVIOUS REPORTING PERIOD.

(C) COVERED ENTITIES.

AN INDIVIDUAL REGULATED LOBBYIST IS SUBJECT TO THE REPORTING REQUIREMENTS OF THIS SUBTITLE IF THE INDIVIDUAL REGULATED LOBBYIST ENGAGES IN A BUSINESS TRANSACTION WITH:

(1) A MEMBER OF THE GENERAL ASSEMBLY;

(2) THE GOVERNOR;

(3) THE LIEUTENANT GOVERNOR;

(4) THE ATTORNEY GENERAL;

(5) THE SECRETARY OF STATE;

(6) THE COMPTROLLER;

(7) THE STATE TREASURER;

(8) THE SECRETARY OF ANY PRINCIPAL STATE DEPARTMENT;

(9) THE SPOUSE OF AN INDIVIDUAL LISTED IN ITEMS (1) THROUGH (8) OF THIS SUBSECTION;

(10) A BUSINESS ENTITY IN WHICH AN INDIVIDUAL LISTED IN ITEMS (1) THROUGH (9) OF THIS SUBSECTION PARTICIPATES AS A PROPRIETOR OR PARTNER; OR

(11) A BUSINESS ENTITY IN WHICH AN INDIVIDUAL LISTED IN ITEMS (1) THROUGH (9) OF THIS SUBSECTION HAS AN OWNERSHIP INTEREST OF AT LEAST 30%.

(D) REQUIRED INFORMATION.

THE DISCLOSURE REQUIRED UNDER THIS SECTION SHALL INCLUDE:

(1) THE DATE OF THE BUSINESS TRANSACTION OR DATES OF EACH OF THE SERIES OF TRANSACTIONS;

(2) THE NAME AND TITLE OF THE OFFICIAL WHO IS SUBJECT TO THIS SECTION WHO WAS INVOLVED IN EACH BUSINESS TRANSACTION OR SERIES OF TRANSACTIONS; AND

(3) THE NATURE AND VALUE OF ANYTHING EXCHANGED.

REVISOR'S NOTE: This section is new language derived without substantive change from former SG § 15–706.

In subsection (b)(2) of this section, the reference to the previous "reporting period" is substituted for the former reference to the previous "6 months" for clarity.

Defined terms: "Business entity" § 5–101
"Entity" § 5–101
"General Assembly" § 5–101
"Interest" § 5–101
"Official" § 5–101
"Regulated lobbyist" § 5–101
"State" § 1–115

5–708. REPORTS OF BUSINESS TRANSACTIONS — POLITICAL CONTRIBUTIONS.

(A) IN GENERAL.

IN ADDITION TO ANY OTHER REPORT REQUIRED UNDER THIS SUBTITLE, AN INDIVIDUAL REGULATED LOBBYIST DESCRIBED IN § 5–702(A)(1), (2), (3), OR (4) OF THIS SUBTITLE SHALL FILE A SEPARATE REPORT DISCLOSING ANY POLITICAL CONTRIBUTION MADE:

(1) DIRECTLY OR INDIRECTLY BY THE REGULATED LOBBYIST;

(2) DURING THE REPORTING PERIOD;

(3) UNDER THE ELECTION LAW ARTICLE; AND

(4) FOR THE BENEFIT OF THE GOVERNOR, LIEUTENANT GOVERNOR, ATTORNEY GENERAL, COMPTROLLER, OR MEMBER OF THE GENERAL ASSEMBLY, OR A CANDIDATE FOR ELECTION TO ANY OF THOSE OFFICES.

(B) REQUIRED INFORMATION.

THE REPORT SHALL STATE:

(1) THE NAME OF EACH OFFICIAL OR CANDIDATE FOR WHOSE BENEFIT A POLITICAL CONTRIBUTION WAS MADE; AND

(2) THE TOTAL POLITICAL CONTRIBUTIONS FOR THE BENEFIT OF THAT OFFICIAL OR CANDIDATE.

(C) FILING.

THE REPORT SHALL BE FILED AT THE TIME AND IN THE MANNER REQUIRED FOR REPORTS FILED UNDER § 5–705 OF THIS SUBTITLE.

REVISOR'S NOTE: This section formerly was SG § 15–707.

In subsections (a) and (b) of this section, the references to a "political" contribution are added to use the appropriate defined term.

The only other changes are in style.

Defined terms: "General Assembly" § 5–101
"Official" § 5–101
"Political contribution" § 5–101
"Regulated lobbyist" § 5–101

5–709. LEGISLATIVE UNIT MEALS AND RECEPTIONS.

(A) IN GENERAL.

A REGULATED LOBBYIST WHO INVITES ALL MEMBERS OF A LEGISLATIVE UNIT TO A MEAL OR RECEPTION SHALL, AT LEAST 5 DAYS BEFORE THE DATE OF THE MEAL OR RECEPTION:

(1) EXTEND A WRITTEN INVITATION TO ALL MEMBERS OF THE LEGISLATIVE UNIT; AND

(2) REGISTER THE MEAL OR RECEPTION WITH THE DEPARTMENT OF LEGISLATIVE SERVICES ON A FORM REQUIRED BY THE ETHICS COMMISSION.

(B) REQUIRED INFORMATION.

A LEGISLATIVE UNIT REGISTRATION REPORT REQUIRED UNDER SUBSECTION (A) OF THIS SECTION SHALL INCLUDE:

(1) THE DATE AND LOCATION OF THE MEAL OR RECEPTION; AND

(2) THE NAME OF THE LEGISLATIVE UNIT INVITED.

(C) ACTIONS BY DEPARTMENT OF LEGISLATIVE SERVICES.

(1) BASED ON INFORMATION CONTAINED IN A LEGISLATIVE UNIT REGISTRATION REPORT FILED UNDER SUBSECTION (A) OF THIS SECTION, THE DEPARTMENT OF LEGISLATIVE SERVICES SHALL PUBLISH ONCE A WEEK A LIST CONTAINING THE DATE AND LOCATION OF EACH UPCOMING MEAL OR RECEPTION AND THE NAME OF THE LEGISLATIVE UNIT INVITED.

(2) (I) THE DEPARTMENT OF LEGISLATIVE SERVICES SHALL ALLOW PUBLIC INSPECTION OF ANY LEGISLATIVE UNIT REGISTRATION REPORT REQUIRED UNDER THIS SECTION DURING REGULAR BUSINESS HOURS.

(II) WITHIN 3 BUSINESS DAYS AFTER RECEIPT OF A LEGISLATIVE UNIT REGISTRATION REPORT REQUIRED UNDER THIS SECTION, THE DEPARTMENT OF LEGISLATIVE SERVICES SHALL FORWARD THE ORIGINAL REGISTRATION REPORT TO THE ETHICS COMMISSION.

(III) THE DEPARTMENT OF LEGISLATIVE SERVICES SHALL MAINTAIN A PHOTOCOPY OR ELECTRONIC COPY OF EACH REGISTRATION REPORT REQUIRED UNDER THIS SECTION.

(D) REPORTING OF COST.

(1) (I) A REGULATED LOBBYIST WHO IS REQUIRED TO REGISTER UNDER SUBSECTION (A) OF THIS SECTION SHALL REPORT THE TOTAL COST OF THE MEAL OR RECEPTION, AND THE NAME OF EACH SPONSOR WHO CONTRIBUTES TO THE COST AND THE AMOUNT OF THE CONTRIBUTION, TO THE ETHICS COMMISSION WITHIN 14 DAYS AFTER THE DATE OF THE MEAL OR RECEPTION.

(II) IF ANY INFORMATION REQUIRED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH IS NOT KNOWN WITHIN 14 DAYS AFTER THE DATE OF THE MEAL OR RECEPTION, THE REGULATED LOBBYIST SHALL, AS TO THE INFORMATION NOT KNOWN, SPECIFY THE NATURE AND ESTIMATE THE AMOUNT OF EACH ITEM.

(2) IF ALL OF THE INFORMATION REQUIRED BY PARAGRAPH (1)(I) OF THIS SUBSECTION IS REPORTED ACCURATELY AND COMPLETELY, THE REGULATED LOBBYIST IS NOT REQUIRED TO REPORT THE COST OF THE MEAL OR RECEPTION UNDER § 5–705(B)(2)(VII) OF THIS SUBTITLE.

(3) THE ETHICS COMMISSION SHALL ALLOW PUBLIC INSPECTION OF EACH REGISTRATION REPORT REQUIRED UNDER THIS SUBSECTION DURING REGULAR BUSINESS HOURS.

REVISOR'S NOTE: This section formerly was SG § 15–708.

In subsection (b)(2) of this section, the reference to "the name of" the legislative unit is added for clarity.

In subsections (c)(1) and (d)(1)(i) of this section, the references to the "name" are substituted for the former references to the "identity" for clarity.

In subsection (d)(1)(ii) of this section, the former phrase "[n]otwithstanding the provisions of subparagraph (i) of this paragraph," is deleted as surplusage.

The only other changes are in style.

Defined terms: "Ethics Commission" § 5–101
"Legislative unit" § 5–101
"Regulated lobbyist" § 5–101

5–710. ELECTRONIC FILING; PUBLIC INSPECTION; OATH OR AFFIRMATION.

(A) IN GENERAL.

THE ETHICS COMMISSION SHALL DEVELOP PROCEDURES UNDER WHICH A REPORT REQUIRED UNDER §§ 5–705 THROUGH 5–709 OF THIS SUBTITLE:

(1) MAY BE FILED ELECTRONICALLY WITHOUT ADDITIONAL COST TO THE INDIVIDUAL WHO FILES THE REPORT; AND

(2) SHALL BE MADE AVAILABLE FOR PUBLIC INSPECTION ELECTRONICALLY.

(B) OATH OR AFFIRMATION.

(1) IF THE REPORT FILED ELECTRONICALLY UNDER SUBSECTION (A) OF THIS SECTION IS REQUIRED TO BE MADE UNDER OATH OR AFFIRMATION,

THE OATH OR AFFIRMATION SHALL BE MADE BY AN ELECTRONIC SIGNATURE THAT IS:

(I) IN THE REPORT OR ATTACHED TO AND MADE PART OF THE REPORT; AND

(II) MADE EXPRESSLY UNDER THE PENALTIES OF PERJURY.

(2) AN ELECTRONIC SIGNATURE MADE UNDER PARAGRAPH (1) OF THIS SUBSECTION SUBJECTS THE INDIVIDUAL MAKING THE ELECTRONIC SIGNATURE TO THE PENALTIES OF PERJURY TO THE SAME EXTENT AS AN OATH OR AFFIRMATION MADE BEFORE AN INDIVIDUAL AUTHORIZED TO ADMINISTER OATHS.

REVISOR'S NOTE: This section formerly was SG § 15–709.

The only changes are in style.

Defined term: "Ethics Commission" § 5–101

5–711. GIFTS TO FAMILY MEMBERS.

THIS SUBTITLE DOES NOT REQUIRE THE DISCLOSURE BY A REGULATED LOBBYIST OF ANY GIFT TO THE REGULATED LOBBYIST'S IMMEDIATE FAMILY IF THE GIFT IS:

(1) PURELY PERSONAL AND PRIVATE IN NATURE AND NOT RELATED TO THE REGULATED LOBBYIST'S LOBBYING ACTIVITIES; AND

(2) FROM THE REGULATED LOBBYIST'S PERSONAL FUNDS AND NOT ATTRIBUTABLE TO ANY OTHER ENTITY.

REVISOR'S NOTE: This section formerly was SG § 15–710.

In item (2) of this section, the former reference to "entities" is deleted in light of the reference to "entity" and § 1–202 of this article, which provides that the singular generally includes the plural.

No other changes are made.

Defined terms: "Entity" § 5–101
"Gift" § 5–101
"Immediate family" § 5–101
"Lobbying" § 5–101
"Regulated lobbyist" § 5–101

5–712. ADDITIONAL REPORTS.

THE ETHICS COMMISSION MAY REQUIRE A REGULATED LOBBYIST TO FILE ANY ADDITIONAL REPORT THE ETHICS COMMISSION DETERMINES TO BE NECESSARY.

REVISOR'S NOTE: This section formerly was SG § 15–711.

No changes are made.

Defined terms: "Ethics Commission" § 5–101
"Regulated lobbyist" § 5–101

5–713. DISCLOSURE OF STATISTICS; NOTICE TO OFFICIAL NAMED IN REPORT.

(A) STATISTICS TO BE DISCLOSED.

AFTER EACH REPORTING PERIOD, THE ETHICS COMMISSION SHALL COMPUTE AND MAKE AVAILABLE:

(1) FOR EACH OF THE CATEGORIES OF EXPENSES REQUIRED TO BE REPORTED UNDER § 5–705(B)(2) OF THIS SUBTITLE, A TOTAL OF THE EXPENDITURES REPORTED BY ALL REGULATED LOBBYISTS IN THAT CATEGORY;

(2) FOR THE CATEGORIES OF EXPENSES REQUIRED TO BE REPORTED UNDER § 5–705(B)(2)(V) THROUGH (VII) OF THIS SUBTITLE, A COMBINED TOTAL OF THE EXPENDITURES REPORTED BY ALL REGULATED LOBBYISTS; AND

(3) THE TOTAL OF THE REPORTED EXPENDITURES BY ALL REGULATED LOBBYISTS FOR LOBBYING ACTIVITIES DURING THE REPORTING PERIOD.

(B) NOTICE TO OFFICIAL NAMED IN REPORT.

(1) IF A REPORT UNDER § 5–705 OR § 5–706 OF THIS SUBTITLE CONTAINS THE NAME OF AN OFFICIAL OR EMPLOYEE IN THE EXECUTIVE BRANCH OR LEGISLATIVE BRANCH OR THE NAME OF A MEMBER OF THE OFFICIAL'S OR EMPLOYEE'S IMMEDIATE FAMILY, THE ETHICS COMMISSION SHALL:

(I) NOTIFY THE OFFICIAL OR EMPLOYEE WITHIN 30 DAYS AFTER RECEIPT OF THE REPORT BY THE ETHICS COMMISSION; AND

(II) KEEP THE REPORT CONFIDENTIAL FOR 60 DAYS AFTER ITS RECEIPT.

(2) WITHIN 30 DAYS AFTER RECEIVING THE NOTICE, THE OFFICIAL OR EMPLOYEE MAY SUBMIT A WRITTEN EXCEPTION TO THE INCLUSION IN THE REPORT OF THE NAME OF THE OFFICIAL, EMPLOYEE, OR MEMBER OF THE OFFICIAL'S OR EMPLOYEE'S IMMEDIATE FAMILY.

REVISOR'S NOTE: This section formerly was SG § 15–712.

The only changes are in style.

Defined terms: "Employee" § 5–101
"Ethics Commission" § 5–101
"Immediate family" § 5–101
"Lobbying" § 5–101
"Official" § 5–101
"Regulated lobbyist" § 5–101

5–714. PROHIBITIONS.

A REGULATED LOBBYIST MAY NOT:

(1) BE ENGAGED FOR LOBBYING PURPOSES FOR COMPENSATION THAT IS DEPENDENT IN ANY MANNER ON:

(I) THE ENACTMENT OR DEFEAT OF LEGISLATION;

(II) THE OUTCOME OF ANY EXECUTIVE ACTION RELATING TO THE SOLICITATION OR SECURING OF A PROCUREMENT CONTRACT; OR

(III) ANY OTHER CONTINGENCY RELATED TO EXECUTIVE ACTION OR LEGISLATIVE ACTION;

(2) INITIATE OR ENCOURAGE THE INTRODUCTION OF LEGISLATION FOR THE PURPOSE OF OPPOSING THE LEGISLATION;

(3) KNOWINGLY COUNSEL ANY PERSON TO VIOLATE ANY PROVISION OF THIS TITLE OR ANY OTHER STATE OR FEDERAL LAW;

(4) ENGAGE IN OR COUNSEL ANY PERSON TO ENGAGE IN FRAUDULENT CONDUCT;

(5) WHILE ENGAGING IN LOBBYING ACTIVITIES, KNOWINGLY MAKE TO AN OFFICIAL OR EMPLOYEE A STATEMENT OF MATERIAL FACT RELATING TO LOBBYING ACTIVITY THAT THE REGULATED LOBBYIST KNOWS TO BE FALSE;

(6) ENGAGE IN LOBBYING WITHOUT BEING REGISTERED AS A REGULATED LOBBYIST IN ACCORDANCE WITH § 5–702 OF THIS SUBTITLE;

(7) REQUEST AN OFFICIAL OR EMPLOYEE TO RECOMMEND TO A POTENTIAL CLIENT THE LOBBYING SERVICES OF THE REGULATED LOBBYIST OR ANY OTHER REGULATED LOBBYIST;

(8) MAKE A GIFT, DIRECTLY OR INDIRECTLY, TO AN OFFICIAL OR EMPLOYEE IF THE REGULATED LOBBYIST KNOWS OR HAS REASON TO KNOW THE GIFT IS IN VIOLATION OF § 5–505 OF THIS TITLE;

(9) MAKE A GIFT, DIRECTLY OR INDIRECTLY, AS A RESULT OF A SOLICITATION OR FACILITATION THAT THE REGULATED LOBBYIST KNOWS OR HAS REASON TO KNOW IS PROHIBITED UNDER § 5–505(A)(2) OF THIS TITLE;

(10) IF THE REGULATED LOBBYIST IS AN INDIVIDUAL, ENGAGE IN ANY CHARITABLE FUND–RAISING ACTIVITY AT THE REQUEST OF AN OFFICIAL OR EMPLOYEE, INCLUDING SOLICITING, TRANSMITTING THE SOLICITATION OF, OR TRANSMITTING A CHARITABLE CONTRIBUTION;

(11) MAKE OR FACILITATE THE MAKING OF ANY LOAN OF MONEY, GOODS, OR SERVICES TO AN OFFICIAL OR EMPLOYEE UNLESS IN THE ORDINARY COURSE OF BUSINESS OF THE REGULATED LOBBYIST;

(12) WHILE ENGAGING IN LOBBYING ACTIVITIES ON BEHALF OF AN ENTITY, KNOWINGLY CONCEAL FROM AN OFFICIAL OR EMPLOYEE THE IDENTITY OF THE ENTITY;

(13) COMMIT A CRIMINAL OFFENSE ARISING FROM LOBBYING ACTIVITY; OR

(14) IF SERVING ON THE STATE OR A LOCAL CENTRAL COMMITTEE OF A POLITICAL PARTY, PARTICIPATE:

(I) AS AN OFFICER OF THE CENTRAL COMMITTEE;

(II) IN FUND–RAISING ACTIVITY ON BEHALF OF THE POLITICAL PARTY; OR

(III) IN ACTIONS RELATING TO FILLING A VACANCY IN A PUBLIC OFFICE.

REVISOR'S NOTE: This section formerly was SG § 15–713.

In item (6) of this section, the former reference to being "properly" registered is deleted as unnecessary in light of the reference to be registered "in accordance with § 5–702 of this subtitle".

In item (8) of this section, the reference to "§ 5–505" is substituted for the former reference to "Subtitle 5" because § 5–505 is the only section in that subtitle that refers to the applicable gifts.

The only other changes are in style.

Defined terms: "Compensation" §§ 5–101, 5–701
"Employee" § 5–101
"Entity" § 5–101
"Executive action" § 5–101
"Gift" § 5–101
"Including" § 1–110
"Legislative action" § 5–101
"Lobbying" § 5–101
"Official" § 5–101
"Person" § 1–114
"Procurement contract" § 5–101
"Regulated lobbyist" § 5–101
"State" § 1–115

5–715. RESTRICTION ON CERTAIN CAMPAIGN CONTRIBUTIONS.

(A) DEFINITIONS.

IN THIS SECTION, "CANDIDATE", "CONTRIBUTION", AND "POLITICAL COMMITTEE" HAVE THE MEANINGS STATED IN § 1–101 OF THE ELECTION LAW ARTICLE.

(B) APPLICATION OF SECTION.

(1) THIS SECTION APPLIES ONLY TO A REGULATED LOBBYIST DESCRIBED IN § 5–702(A)(1), (2), (3), OR (4) OF THIS SUBTITLE.

(2) THIS SECTION DOES NOT APPLY TO A REGULATED LOBBYIST WHO IS A CANDIDATE WITH RESPECT TO THE REGULATED LOBBYIST'S OWN CAMPAIGN.

(C) APPLICABLE TIME PERIOD.

THE RESTRICTIONS IN THIS SECTION APPLY FROM THE STARTING DATE OF THE REGULATED LOBBYIST'S REGISTRATION TO THE END OF THE CALENDAR YEAR IN WHICH THE REGISTRATION PERIOD ENDS.

(D) RESTRICTIONS ON ACTIVITIES.

(1) FOR THE BENEFIT OF THE GOVERNOR, LIEUTENANT GOVERNOR, ATTORNEY GENERAL, OR COMPTROLLER, OR A MEMBER OF THE GENERAL ASSEMBLY, OR A CANDIDATE FOR ELECTION TO THE OFFICE OF GOVERNOR, LIEUTENANT GOVERNOR, ATTORNEY GENERAL, COMPTROLLER, OR MEMBER OF THE GENERAL ASSEMBLY, A REGULATED LOBBYIST WHO IS SUBJECT TO THIS SECTION OR A PERSON ACTING ON BEHALF OF THE REGULATED LOBBYIST MAY NOT:

(I) SOLICIT OR TRANSMIT A POLITICAL CONTRIBUTION FROM ANY PERSON, INCLUDING A POLITICAL COMMITTEE;

(II) SERVE ON A FUND–RAISING COMMITTEE OR A POLITICAL COMMITTEE;

(III) ACT AS A TREASURER FOR A CANDIDATE OR AN OFFICIAL OR AS TREASURER OR CHAIR OF A POLITICAL COMMITTEE;

(IV) ORGANIZE OR ESTABLISH A POLITICAL COMMITTEE FOR THE PURPOSE OF SOLICITING OR TRANSMITTING CONTRIBUTIONS FROM ANY PERSON; OR

(V) FORWARD TICKETS FOR FUND–RAISING ACTIVITIES, OR OTHER SOLICITATIONS FOR POLITICAL CONTRIBUTIONS, TO A POTENTIAL CONTRIBUTOR.

(2) THIS SECTION DOES NOT PROHIBIT A REGULATED LOBBYIST FROM:

(I) MAKING A PERSONAL POLITICAL CONTRIBUTION;

(II) INFORMING ANY ENTITY OF A POSITION TAKEN BY A CANDIDATE OR AN OFFICIAL; OR

(III) ENGAGING IN OTHER ACTIVITIES NOT SPECIFICALLY PROHIBITED UNDER PARAGRAPH (1) OF THIS SUBSECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former SG § 15–714.

Defined terms: "Entity" § 5–101
"General Assembly" § 5–101
"Including" § 1–110
"Official" § 5–101
"Person" § 1–114
"Political contribution" § 5–101
"Regulated lobbyist" § 5–101

5–716. STATEMENT BY PERSON PROVIDING LOBBYIST COMPENSATION AND MAKING CONTRIBUTIONS.

(A) DEFINITIONS.

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

(2) "APPLICABLE CONTRIBUTION" MEANS A POLITICAL CONTRIBUTION OR SERIES OF POLITICAL CONTRIBUTIONS MADE TO OR FOR THE BENEFIT OF AN APPLICABLE RECIPIENT IN A CUMULATIVE AMOUNT OF MORE THAN $500.

(3) "APPLICABLE RECIPIENT" MEANS A CANDIDATE FOR, OR AN OFFICIAL HOLDING, THE OFFICE OF:

(I) GOVERNOR;

(II) LIEUTENANT GOVERNOR;

(III) ATTORNEY GENERAL;

(IV) COMPTROLLER; OR

(V) MEMBER OF THE GENERAL ASSEMBLY.

(B) POLITICAL CONTRIBUTION TO POLITICAL COMMITTEE.

A POLITICAL CONTRIBUTION MADE TO A POLITICAL COMMITTEE FOR AN APPLICABLE RECIPIENT IS DEEMED A POLITICAL CONTRIBUTION TO THE APPLICABLE RECIPIENT.

(C) STATEMENT REQUIRED.

SUBJECT TO SUBSECTION (I) OF THIS SECTION, A PERSON SHALL FILE A STATEMENT IN ACCORDANCE WITH THIS SECTION IF AT ANY TIME DURING THE REPORTING PERIOD THE PERSON:

(1) SPENT AT LEAST $500 TO PROVIDE COMPENSATION TO ONE OR MORE REGULATED LOBBYISTS; AND

(2) MADE OR CAUSED TO BE MADE AN APPLICABLE CONTRIBUTION.

(D) FILING WITH STATE BOARD OF ELECTIONS.

A STATEMENT REQUIRED UNDER THIS SECTION SHALL BE FILED WITH THE STATE BOARD OF ELECTIONS.

(E) REPORTING PERIOD.

(1) THE REPORTING PERIOD IS THE 6–MONTH PERIOD ENDING ON EITHER JANUARY 31 OR JULY 31.

(2) THE STATEMENT SHALL BE FILED WITHIN 5 DAYS AFTER THE END OF THE REPORTING PERIOD.

(F) REQUIRED INFORMATION.

THE STATEMENT REQUIRED UNDER THIS SECTION SHALL BE MADE UNDER OATH AND STATE:

(1) THE NAME OF EACH APPLICABLE RECIPIENT TO WHOM AN APPLICABLE CONTRIBUTION WAS MADE OR CAUSED TO BE MADE DURING THE REPORTING PERIOD AND, IF NOT PREVIOUSLY REPORTED, DURING THE PRECEDING REPORTING PERIOD;

(2) THE OFFICE HELD OR SOUGHT BY EACH APPLICABLE RECIPIENT NAMED IN ITEM (1) OF THIS SUBSECTION;

(3) THE AGGREGATE CONTRIBUTIONS MADE TO EACH APPLICABLE RECIPIENT;

(4) THE NAME OF EACH REGULATED LOBBYIST EMPLOYED OR RETAINED BY THE PERSON FILING THE STATEMENT; AND

(5) THE NAME OF THE PERSON WHO MADE THE POLITICAL CONTRIBUTION AND THE RELATIONSHIP OF THAT PERSON TO THE PERSON FILING THE STATEMENT IF A POLITICAL CONTRIBUTION WAS MADE BY ANOTHER PERSON BUT IS ATTRIBUTED TO THE PERSON FILING THE STATEMENT.

(G) BUSINESS ENTITIES.

IF THE PERSON FILING THE STATEMENT IS A BUSINESS ENTITY:

(1) (I) AN APPLICABLE CONTRIBUTION MADE BY AN OFFICER, A DIRECTOR, OR A PARTNER OF THE BUSINESS ENTITY SHALL BE ATTRIBUTED TO THE BUSINESS ENTITY; AND

(II) A POLITICAL CONTRIBUTION, REGARDLESS OF AMOUNT, IF MADE AT THE SUGGESTION OR DIRECTION OF THE BUSINESS ENTITY, BY AN OFFICER, A DIRECTOR, A PARTNER, AN EMPLOYEE, AN AGENT, OR ANY OTHER PERSON, SHALL BE ATTRIBUTED TO THE BUSINESS ENTITY;

(2) EACH OFFICER, DIRECTOR, OR PARTNER OF THE BUSINESS ENTITY WHO MAKES OR CAUSES TO BE MADE AN APPLICABLE CONTRIBUTION SHALL REPORT THE CONTRIBUTION TO THE CHIEF EXECUTIVE OFFICER OF THE BUSINESS ENTITY;

(3) EACH OFFICER, DIRECTOR, PARTNER, EMPLOYEE, AGENT, OR OTHER PERSON WHO MAKES OR CAUSES TO BE MADE A POLITICAL CONTRIBUTION, REGARDLESS OF AMOUNT, AT THE SUGGESTION OR DIRECTION OF THE BUSINESS ENTITY SHALL REPORT THE POLITICAL CONTRIBUTION TO THE CHIEF EXECUTIVE OFFICER OF THE BUSINESS ENTITY;

(4) APPLICABLE CONTRIBUTIONS MADE BY, OR CAUSED TO BE MADE BY, A SUBSIDIARY, AT LEAST 30% OF THE EQUITY OF WHICH THE BUSINESS ENTITY OWNS OR CONTROLS, SHALL BE ATTRIBUTED TO THE BUSINESS ENTITY; AND

(5) IF A SUBSIDIARY DESCRIBED IN ITEM (4) OF THIS SUBSECTION MADE AN EXPENDITURE TO PROVIDE COMPENSATION TO ONE OR MORE

REGULATED LOBBYISTS, THE EXPENDITURE SHALL BE ATTRIBUTED TO THE BUSINESS ENTITY.

(H) NOT–FOR–PROFIT ORGANIZATIONS.

(1) NOTWITHSTANDING SUBSECTION (G) OF THIS SECTION, A CONTRIBUTION MADE BY AN INDIVIDUAL WHO SERVES AS A TRUSTEE OR MEMBER OF THE BOARD OF DIRECTORS OR AS AN OFFICER OF A NOT–FOR–PROFIT ORGANIZATION IS NOT ATTRIBUTABLE TO THE ORGANIZATION, AND THE INDIVIDUAL IS NOT REQUIRED TO REPORT THE CONTRIBUTION TO THE CHIEF EXECUTIVE OFFICER OF THE ORGANIZATION, UNLESS:

(I) THE CONTRIBUTION IS MADE ON THE RECOMMENDATION OF THE NOT–FOR–PROFIT ORGANIZATION; OR

(II) THE INDIVIDUAL WHO MADE THE CONTRIBUTION IS PAID BY THE NOT–FOR–PROFIT ORGANIZATION.

(2) THE STATE BOARD OF ELECTIONS SHALL ADOPT REGULATIONS THAT DEFINE "OFFICER" FOR THE PURPOSES OF THIS SUBSECTION.

(I) FILING UNDER ELECTION LAW ARTICLE.

A PERSON WHO FILES, UNDER TITLE 14 OF THE ELECTION LAW ARTICLE, ALL INFORMATION REQUIRED BY THIS SECTION MAY SATISFY THE REQUIREMENTS OF THIS SECTION BY SUBMITTING A NOTICE TO THAT EFFECT ON THE FORM REQUIRED BY THE STATE BOARD OF ELECTIONS.

(J) DUTIES OF STATE BOARD OF ELECTIONS.

THE STATE BOARD OF ELECTIONS SHALL:

(1) PREPARE AND MAKE AVAILABLE FORMS FOR THE STATEMENT AND NOTICE REQUIRED BY THIS SECTION;

(2) RETAIN EACH STATEMENT FILED UNDER THIS SECTION IN THE SAME MANNER AND SUBJECT TO THE SAME STANDARDS OF PUBLIC ACCESS AS A STATEMENT FILED UNDER TITLE 14 OF THE ELECTION LAW ARTICLE; AND

(3) REPORT ANY VIOLATION OF THIS SECTION TO THE ETHICS COMMISSION.

(K) MANNER OF FILING.

THE STATEMENT REQUIRED UNDER THIS SECTION SHALL BE FILED IN THE MANNER REQUIRED FOR STATEMENTS FILED UNDER TITLE 14 OF THE ELECTION LAW ARTICLE.

(L) PENALTIES.

(1) A PERSON WHO KNOWINGLY AND WILLFULLY FAILS TO COMPLY WITH THE REQUIREMENTS OF THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING $1,000 OR IMPRISONMENT NOT EXCEEDING 1 YEAR OR BOTH.

(2) IF A PERSON THAT VIOLATES THIS SECTION IS A BUSINESS ENTITY, EACH OFFICER AND PARTNER OF THE BUSINESS ENTITY WHO KNOWINGLY AUTHORIZED OR PARTICIPATED IN VIOLATING THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING $1,000 OR IMPRISONMENT NOT EXCEEDING 1 YEAR OR BOTH.

REVISOR'S NOTE: This section is new language derived without substantive change from former SG § 15–715.

Throughout this section, the references to a "political" contribution are added to use the appropriate defined term.

In subsection (g)(1)(i) of this section, the conjunction "and" is substituted for the former conjunction "or" for clarity.

In subsection (i) of this section, the reference to the "form required by the State Board of Elections" is substituted for the former reference to the "appropriate prescribed form" for clarity.

Defined terms: "Business entity" § 5–101
"Compensation" §§ 5–101, 5–701
"Employee" § 5–101
"Ethics Commission" § 5–101
"General Assembly" § 5–101
"Official" § 5–101
"Person" § 1–114
"Political contribution" § 5–101
"Regulated lobbyist" § 5–101

SUBTITLE 8. LOCAL GOVERNMENT PROVISIONS.

PART I. GENERAL PROVISIONS.

5–801. 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) LOBBYING.

"LOBBYING" MEANS PERFORMING ACTS, OF A NATURE COMPARABLE TO ACTS REQUIRING REGISTRATION UNDER SUBTITLE 7 OF THIS TITLE, BEFORE THE LOCAL GOVERNMENT INVOLVED.

REVISOR'S NOTE: This subsection formerly was SG § 15–102(x)(2).

The former phrase "[w]ith respect to Subtitle 8 of this title" is deleted as unnecessary in light of subsection (a) of this section.

No other changes are made.

(C) LOCAL OFFICIAL.

(1) IN BALTIMORE CITY, "LOCAL OFFICIAL" INCLUDES:

(I) CITY EMPLOYEES AND OFFICIALS OF THE BALTIMORE CITY HEALTH DEPARTMENT;

(II) THE POLICE COMMISSIONER OF BALTIMORE CITY AND THE CIVILIAN EMPLOYEES AND POLICE OFFICERS OF THE POLICE DEPARTMENT OF BALTIMORE CITY; AND

(III) MEMBERS AND EMPLOYEES OF THE CIVILIAN REVIEW BOARD.

(2) IN BALTIMORE COUNTY, "LOCAL OFFICIAL" INCLUDES:

(I) BOARD MEMBERS AND THE CHIEF EXECUTIVE OF THE BALTIMORE COUNTY REVENUE AUTHORITY; AND

(II) FOR THE PURPOSE OF THE FINANCIAL DISCLOSURE PROVISIONS ENACTED BY THE GOVERNING BODY OF BALTIMORE COUNTY, EXCEPT FOR A MEMBER OF THE BALTIMORE COUNTY BOARD OF EDUCATION, MEMBERS OF A BOARD OF A STATE AGENCY THAT IS WHOLLY OR PARTLY FUNDED BY BALTIMORE COUNTY, REGARDLESS OF WHETHER A MEMBER IS COMPENSATED.

(3) IN MONTGOMERY COUNTY, "LOCAL OFFICIAL" INCLUDES:

(I) MEMBERS AND EMPLOYEES OF THE MONTGOMERY COUNTY REVENUE AUTHORITY;

(II) COMMISSIONERS AND EMPLOYEES OF THE MONTGOMERY COUNTY HOUSING OPPORTUNITIES COMMISSION; AND

(III) COUNTY EMPLOYEES OF THE MONTGOMERY COUNTY DEPARTMENT OF HEALTH AND HUMAN SERVICES.

(4) IN PRINCE GEORGE'S COUNTY, "LOCAL OFFICIAL" INCLUDES:

(I) MEMBERS OF THE BOARD OF LICENSE COMMISSIONERS;

(II) INSPECTORS OF THE BOARD OF LICENSE COMMISSIONERS, INCLUDING THE CHIEF INSPECTOR;

(III) THE ADMINISTRATOR OF THE BOARD OF LICENSE COMMISSIONERS; AND

(IV) THE ATTORNEY TO THE BOARD OF LICENSE COMMISSIONERS.

(5) IN ST. MARY'S COUNTY, "LOCAL OFFICIAL" INCLUDES COMMISSIONERS AND EMPLOYEES OF THE ST. MARY'S COUNTY METROPOLITAN COMMISSION.

REVISOR'S NOTE: This subsection formerly was SG § 15–807(a) through (c), (e), and (d)(1) and (2).

The only changes are in style.

Defined terms: "Board" § 5–101
"Employee" § 5–101
"Includes", "including" § 1–110

"Local official" §§ 5–101, 5–801
"State" § 1–115

5–802. RESERVED.

5–803. RESERVED.

PART II. PUBLIC ETHICS LAWS FOR COUNTIES AND MUNICIPAL CORPORATIONS.

5–804. "ELECTED LOCAL OFFICIAL" DEFINED.

IN THIS PART, "ELECTED LOCAL OFFICIAL" INCLUDES:

(1) AN INDIVIDUAL WHO HOLDS AN ELECTIVE OFFICE OF A COUNTY OR MUNICIPAL CORPORATION; AND

(2) A CANDIDATE FOR ELECTIVE OFFICE AS A LOCAL OFFICIAL OF A COUNTY OR MUNICIPAL CORPORATION.

REVISOR'S NOTE: This section formerly was SG § 15–805(a)(1) and (2).

The definition in former SG § 15–805 applied only to that section, but it appears from the context that it was intended to be applied also to the use of the same term in former SG §§ 15–803 and 15–804, revised in this part as §§ 5–807 and 5–808.

The only other changes are in style.

Defined terms: "County" § 1–107
"Includes" § 1–111
"Local official" §§ 5–101, 5–801
"Municipal corporation" § 5–101

5–805. SCOPE OF PART.

THIS PART DOES NOT APPLY TO AN OFFICIAL OR EMPLOYEE OF THE JUDICIAL BRANCH OF STATE GOVERNMENT.

REVISOR'S NOTE: This section formerly was SG § 15–801.

The only changes are in style.

Defined terms: "Employee" § 5–101
"Official" § 5–101

5–806. EFFECT ON OTHER PROVISIONS OF LAW.

THE EXPRESS POWERS CONTAINED IN TITLE 5, SUBTITLE 2 AND TITLE 10 OF THE LOCAL GOVERNMENT ARTICLE AND IN ARTICLE II OF THE CHARTER OF THE CITY OF BALTIMORE ARE INTENDED AND SHALL BE DEEMED TO INCORPORATE AND INCLUDE THE POWER AND AUTHORITY CONTAINED IN THIS PART.

REVISOR'S NOTE: This section formerly was SG § 15–802.

The reference to "Article II of" the Charter of the City of Baltimore is added for clarity.

The only other changes are in style.

5–807. PUBLIC ETHICS LAWS REQUIRED.

(A) IN GENERAL.

SUBJECT TO § 5–209 OF THIS TITLE, EACH COUNTY AND EACH MUNICIPAL CORPORATION SHALL ENACT PROVISIONS TO GOVERN THE PUBLIC ETHICS OF LOCAL OFFICIALS RELATING TO:

(1) CONFLICTS OF INTEREST;

(2) FINANCIAL DISCLOSURE; AND

(3) LOBBYING.

(B) CERTIFICATION OF COMPLIANCE.

ON OR BEFORE OCTOBER 1 OF EACH YEAR, EACH LOCAL ETHICS COMMISSION OR APPROPRIATE ENTITY SHALL CERTIFY TO THE ETHICS COMMISSION THAT THE COUNTY OR MUNICIPAL CORPORATION IS IN COMPLIANCE WITH THE REQUIREMENTS OF THIS PART FOR ELECTED LOCAL OFFICIALS.

REVISOR'S NOTE: This section formerly was SG § 15–803.

The only changes are in style.

Defined terms: "County" § 1–107
"Elected local official" § 5–804
"Entity" § 5–101

"Ethics Commission" § 5–101
"Lobbying" § 5–801
"Local official" §§ 5–101, 5–801
"Municipal corporation" § 5–101

5–808. CONFLICT OF INTEREST LAWS.

(A) IN GENERAL.

EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THE CONFLICT OF INTEREST PROVISIONS ENACTED BY A COUNTY OR MUNICIPAL CORPORATION UNDER § 5–807 OF THIS SUBTITLE:

(1) SHALL BE SIMILAR TO THE PROVISIONS OF SUBTITLE 5 OF THIS TITLE; BUT

(2) MAY BE MODIFIED TO THE EXTENT NECESSARY TO MAKE THE PROVISIONS RELEVANT TO THE PREVENTION OF CONFLICTS OF INTEREST IN THAT JURISDICTION.

(B) ELECTED LOCAL OFFICIALS.

THE CONFLICT OF INTEREST PROVISIONS FOR ELECTED LOCAL OFFICIALS ENACTED BY A COUNTY OR MUNICIPAL CORPORATION UNDER § 5–807 OF THIS SUBTITLE:

(1) SHALL BE EQUIVALENT TO OR EXCEED THE REQUIREMENTS OF SUBTITLE 5 OF THIS TITLE; BUT

(2) MAY BE MODIFIED TO THE EXTENT NECESSARY TO MAKE THE PROVISIONS RELEVANT TO THE PREVENTION OF CONFLICTS OF INTEREST IN THAT JURISDICTION.

REVISOR'S NOTE: This section formerly was SG § 15–804.

The only changes are in style.

Defined terms: "County" § 1–107
"Elected local official" § 5–804
"Municipal corporation" § 5–101

5–809. FINANCIAL DISCLOSURE LAWS.

(A) "LOCAL OFFICIAL" DEFINED.

IN THIS SECTION, "LOCAL OFFICIAL" INCLUDES AN INDIVIDUAL WHO IS DESIGNATED AS A LOCAL OFFICIAL AND WHOSE POSITION IS FUNDED WHOLLY OR PARTLY BY THE STATE.

(B) SIMILARITY TO STATE ETHICS LAW.

(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION AND SUBSECTION (C) OF THIS SECTION, THE FINANCIAL DISCLOSURE PROVISIONS ENACTED BY A COUNTY OR MUNICIPAL CORPORATION UNDER § 5–807 OF THIS SUBTITLE:

(I) SHALL BE SIMILAR TO THE PROVISIONS OF SUBTITLE 6 OF THIS TITLE; BUT

(II) SHALL BE MODIFIED TO THE EXTENT NECESSARY TO MAKE THE PROVISIONS RELEVANT TO THE PREVENTION OF CONFLICTS OF INTEREST IN THAT JURISDICTION.

(2) THE FINANCIAL DISCLOSURE PROVISIONS FOR ELECTED LOCAL OFFICIALS ENACTED BY A COUNTY OR MUNICIPAL CORPORATION UNDER § 5–807 OF THIS SUBTITLE:

(I) SHALL BE EQUIVALENT TO OR EXCEED THE REQUIREMENTS OF SUBTITLE 6 OF THIS TITLE; BUT

(II) SHALL BE MODIFIED TO THE EXTENT NECESSARY TO MAKE THE PROVISIONS RELEVANT TO THE PREVENTION OF CONFLICTS OF INTEREST IN THAT JURISDICTION.

(C) MINIMUM STANDARDS.

(1) THIS SUBTITLE DOES NOT COMPEL THE GOVERNING BODY OF A COUNTY OR MUNICIPAL CORPORATION TO REQUIRE A LOCAL OFFICIAL TO FILE A FINANCIAL DISCLOSURE STATEMENT EXCEPT WHEN THE PERSONAL INTEREST OF THE LOCAL OFFICIAL WILL PRESENT A POTENTIAL CONFLICT WITH THE PUBLIC INTEREST IN CONNECTION WITH AN ANTICIPATED PUBLIC ACTION OF THE LOCAL OFFICIAL.

(2) THE GOVERNING BODY OF A COUNTY OR MUNICIPAL CORPORATION SHALL REQUIRE A LOCAL OFFICIAL TO FILE A FINANCIAL DISCLOSURE STATEMENT AT LEAST ANNUALLY TO REPORT ON GIFTS RECEIVED BY THE LOCAL OFFICIAL.

(3) THE FINANCIAL DISCLOSURE PROVISIONS SHALL REQUIRE THAT A STATEMENT BE FILED:

(I) UNDER PARAGRAPH (1) OF THIS SUBSECTION SUFFICIENTLY IN ADVANCE OF THE ACTION TO PROVIDE ADEQUATE DISCLOSURE TO THE PUBLIC; AND

(II) BY AN ELECTED LOCAL OFFICIAL UNDER SUBSECTION (B)(2) OF THIS SECTION ON OR BEFORE APRIL 30 OF EACH YEAR.

(D) STANDARDS FOR CANDIDATES.

FINANCIAL DISCLOSURE PROVISIONS APPLICABLE TO A CANDIDATE SHALL BE CONSISTENT WITH THE PROVISIONS APPLICABLE TO AN INCUMBENT HOLDING THE OFFICE INVOLVED.

REVISOR'S NOTE: This section is new language derived without a substantive change from former SG § 15–805(b), (c), (d), and (a)(1) and (3).

In the introductory language of subsection (c)(3) of this section, the reference to the "financial disclosure" provisions is added for consistency within this section.

Defined terms: "County" § 1–107
"Elected local official" § 5–804
"Gift" § 5–101
"Includes" § 1–110
"Local official" §§ 5–101, 5–801
"Municipal corporation" § 5–101
"State" § 1–115

5–810. LOBBYING.

THE LOBBYING PROVISIONS ENACTED BY A COUNTY OR MUNICIPAL CORPORATION UNDER § 5–807 OF THIS SUBTITLE:

(1) SHALL BE SUBSTANTIALLY SIMILAR TO THE PROVISIONS OF SUBTITLE 7 OF THIS TITLE; BUT

(2) (I) SHALL BE MODIFIED TO THE EXTENT NECESSARY TO MAKE THE PROVISIONS RELEVANT TO THAT JURISDICTION; AND

(II) MAY BE FURTHER MODIFIED TO THE EXTENT CONSIDERED NECESSARY AND APPROPRIATE BY AND FOR THAT JURISDICTION.

REVISOR'S NOTE: This section formerly was SG § 15–806.

The only changes are in style.

Defined terms: "County" § 1–107
"Lobbying" § 5–801
"Municipal corporation" § 5–101

5–811. SPECIAL PROVISIONS FOR PRINCE GEORGE'S COUNTY.

(A) SCOPE OF SECTION.

THIS SECTION APPLIES ONLY TO PRINCE GEORGE'S COUNTY.

(B) CONFLICT OF INTEREST.

(1) THE CONFLICT OF INTEREST PROVISIONS REQUIRED UNDER § 5–807(A)(1) OF THIS SUBTITLE SHALL PROHIBIT:

(I) THE COUNTY GOVERNMENT FROM ISSUING A CREDIT CARD TO AN ELECTED COUNTY OFFICIAL OR A MEMBER OF THE COUNTY SCHOOL BOARD; AND

(II) AN ELECTED COUNTY OFFICIAL FROM DIRECTLY OR INDIRECTLY SOLICITING A PERSON TO ENTER INTO A BUSINESS RELATIONSHIP WITH OR PROVIDE ANYTHING OF MONETARY VALUE TO A SPECIFIC INDIVIDUAL OR ENTITY IF THE PERSON BEING SOLICITED IS SEEKING:

1. THE SUCCESS OR DEFEAT OF COUNTY LEGISLATION;

2. A COUNTY CONTRACT; OR

3. ANY OTHER COUNTY BENEFIT.

(2) A CONFLICT OF INTEREST PROVISION ENACTED IN ACCORDANCE WITH PARAGRAPH (1)(II) OF THIS SUBSECTION MAY NOT BE CONSTRUED TO AFFECT THE VALIDITY OF ANY LEGALLY ENACTED REQUIREMENT OR CONDITION, PROPOSED AND ADOPTED ON THE PUBLIC RECORD AT A PUBLIC HEARING, THE PURPOSE OF WHICH IS TO MITIGATE THE IMPACT OF A DEVELOPMENT ON THE PROPERTY OWNERS IN THE AREAS SURROUNDING THE DEVELOPMENT, INCLUDING:

(I) AN ADEQUATE PUBLIC FACILITIES REQUIREMENT;

(II) A MINORITY BUSINESS REQUIREMENT; OR

(III) A COMMUNITY BENEFIT REQUIREMENT.

(C) LOBBYING.

THE LOBBYING PROVISIONS REQUIRED UNDER § 5–807(A)(3) OF THIS SUBTITLE SHALL PROHIBIT A PERSON FROM BEING ENGAGED FOR LOBBYING PURPOSES FOR COMPENSATION THAT IS DEPENDENT IN ANY MANNER ON THE OUTCOME OF EXECUTIVE ACTION OR LEGISLATIVE ACTION BEFORE THE COUNTY GOVERNMENT.

(D) COUNTY ETHICS ENACTMENTS.

THE COUNTY'S ETHICS ENACTMENTS SHALL PROVIDE FOR:

(1) A COUNTY BOARD OF ETHICS THAT MEETS AT LEAST TWO TIMES EACH YEAR AND IS COMPOSED OF FIVE MEMBERS APPOINTED BY THE COUNTY EXECUTIVE, WITH THE ADVICE AND CONSENT OF THE COUNTY COUNCIL; AND

(2) AN EXECUTIVE DIRECTOR OF THE BOARD OF ETHICS WHO:

(I) SHALL MEET INDIVIDUALLY WITH EACH ELECTED COUNTY OFFICIAL AT LEAST ANNUALLY TO ADVISE THE OFFICIAL REGARDING THE REQUIREMENTS OF ANY APPLICABLE ETHICS LAW, RULE, OR STANDARD OF CONDUCT;

(II) SHALL ASSIST EACH ELECTED COUNTY OFFICIAL IN PREPARING ANY AFFIDAVIT OR OTHER DOCUMENT REQUIRED TO BE FILED UNDER THE COUNTY'S ETHICS ENACTMENTS;

(III) SHALL CONDUCT ETHICS–RELATED BRIEFINGS FOR THE BENEFIT OF ELECTED OFFICIALS OF THE COUNTY; AND

(IV) MAY PROVIDE INFORMATION TO ANY PERSON REGARDING LAWS, RULES, AND OTHER STANDARDS OF ETHICAL CONDUCT APPLICABLE TO ELECTED COUNTY OFFICIALS.

REVISOR'S NOTE: This section is new language derived without substantive change from former SG § 15–807(d)(1) and (3) through (6).

In subsection (a) of this section, the word "only" is added for clarity.

Defined terms: "Compensation" § 5–101
"Entity" § 5–101
"Executive action" § 5–101
"Including" § 1–110
"Legislative action" § 5–101
"Lobbying" § 5–801
"Person" § 1–114
"School board" § 5–101

5–812. ENFORCEMENT OF PART.

(A) IN GENERAL.

IF THE ETHICS COMMISSION DETERMINES THAT A COUNTY OR MUNICIPAL CORPORATION HAS NOT COMPLIED WITH THE REQUIREMENTS OF THIS PART, THE ETHICS COMMISSION MAY PETITION A CIRCUIT COURT WITH VENUE OVER THE PROCEEDING FOR APPROPRIATE RELIEF TO COMPEL COMPLIANCE.

(B) EQUITABLE RELIEF.

THE CIRCUIT COURT MAY GRANT ANY AVAILABLE EQUITABLE RELIEF.

REVISOR'S NOTE: This section formerly was SG § 15–808.

The only changes are in style.

Defined terms: "Ethics Commission" § 5–101
"Municipal corporation" § 5–101

5–813. RESERVED.

5–814. RESERVED.

PART III. LOCAL BOARDS OF EDUCATION.

5–815. SCOPE OF PART.

THIS PART GOVERNS THE CONFLICT OF INTEREST STANDARDS, FINANCIAL DISCLOSURE REQUIREMENTS, AND LOBBYING REGULATIONS OF SCHOOL SYSTEMS.

REVISOR'S NOTE: This section formerly was SG § 15–811.

The only changes are in style.

Defined terms: "Lobbying" § 5–801
"School system" § 5–101

5–816. CONFLICTS OF INTEREST.

(A) ADOPTION OF REGULATIONS.

IN ACCORDANCE WITH THIS SECTION, A SCHOOL BOARD:

(1) MAY ADOPT CONFLICT OF INTEREST REGULATIONS APPLICABLE TO OFFICIALS AND EMPLOYEES OF THE SCHOOL SYSTEM; AND

(2) SHALL ADOPT CONFLICT OF INTEREST REGULATIONS APPLICABLE TO MEMBERS OF THE SCHOOL BOARD.

(B) SIMILARITY TO STATE ETHICS LAW.

(1) THE CONFLICT OF INTEREST REGULATIONS ADOPTED BY A SCHOOL BOARD UNDER SUBSECTION (A)(1) OF THIS SECTION:

(I) SHALL BE SIMILAR TO THE PROVISIONS OF SUBTITLE 5 OF THIS TITLE; BUT

(II) MAY BE MODIFIED TO THE EXTENT NECESSARY TO MAKE THE REGULATIONS RELEVANT TO THE PREVENTION OF CONFLICTS OF INTEREST IN THAT SCHOOL SYSTEM.

(2) THE CONFLICT OF INTEREST REGULATIONS ADOPTED BY A SCHOOL BOARD UNDER SUBSECTION (A)(2) OF THIS SECTION:

(I) SHALL BE EQUIVALENT TO OR EXCEED THE REQUIREMENTS OF SUBTITLE 5 OF THIS TITLE; BUT

(II) MAY BE MODIFIED TO THE EXTENT NECESSARY TO MAKE THE REGULATIONS RELEVANT TO THE PREVENTION OF CONFLICTS OF INTEREST IN THAT SCHOOL SYSTEM.

(C) APPLICABILITY OF COUNTY PROVISIONS.

UNLESS A SCHOOL BOARD ADOPTS AND MAINTAINS CONFLICT OF INTEREST REGULATIONS UNDER SUBSECTION (A)(1) OF THIS SECTION, THE

PROVISIONS ENACTED BY THE COUNTY UNDER § 5–808 OF THIS SUBTITLE SHALL APPLY TO OFFICIALS AND EMPLOYEES OF THAT SCHOOL SYSTEM.

REVISOR'S NOTE: This section formerly was SG § 15–812.

The only changes are in style.

Defined terms: "County" § 1–107
"Employee" § 5–101
"Official" § 5–101
"School board" § 5–101
"School system" § 5–101

5–817. FINANCIAL DISCLOSURE.

(A) ADOPTION OF REGULATIONS.

(1) IN ACCORDANCE WITH THIS SECTION, A SCHOOL BOARD:

(I) MAY ADOPT FINANCIAL DISCLOSURE REGULATIONS APPLICABLE TO OFFICIALS AND EMPLOYEES OF THAT SCHOOL SYSTEM; AND

(II) SHALL ADOPT FINANCIAL DISCLOSURE REGULATIONS APPLICABLE TO MEMBERS OF THE SCHOOL BOARD.

(2) (I) THE REGULATIONS ADOPTED UNDER PARAGRAPH (1)(I) OF THIS SUBSECTION SHALL APPLY TO:

1. THE SUPERINTENDENT OF THAT SCHOOL SYSTEM; AND

2. THOSE OTHER OFFICIALS AND EMPLOYEES OF THAT SCHOOL SYSTEM DESIGNATED BY THE SCHOOL BOARD, SUBJECT TO SUBPARAGRAPH (III) OF THIS PARAGRAPH.

(II) THE REGULATIONS ADOPTED UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION SHALL APPLY TO:

1. EACH MEMBER OF THE SCHOOL BOARD; AND

2. IF THE SCHOOL BOARD IS AN ELECTED BOARD UNDER TITLE 3, SUBTITLE 1, PART III OF THE EDUCATION ARTICLE, EACH CANDIDATE FOR ELECTION TO THE SCHOOL BOARD.

(III) THE REGULATIONS MAY NOT APPLY TO A CLASSROOM TEACHER UNLESS THE TEACHER HAS ADDITIONAL DUTIES, NOT NORMALLY EXPECTED OF CLASSROOM TEACHERS, THAT CAUSE THE TEACHER FOR OTHER REASONS TO BE COVERED BY THE FINANCIAL DISCLOSURE REGULATIONS.

(B) SIMILARITY TO STATE ETHICS LAW.

(1) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, THE REGULATIONS ADOPTED UNDER SUBSECTION (A)(1)(I) OF THIS SECTION:

(I) SHALL BE SIMILAR TO THE PROVISIONS OF SUBTITLE 6 OF THIS TITLE; BUT

(II) MAY BE MODIFIED TO THE EXTENT NECESSARY TO MAKE THE REGULATIONS RELEVANT TO THE PREVENTION OF CONFLICTS OF INTEREST IN THAT SCHOOL SYSTEM.

(2) THE REGULATIONS ADOPTED UNDER SUBSECTION (A)(1)(II) OF THIS SECTION:

(I) SHALL BE EQUIVALENT TO OR EXCEED THE REQUIREMENTS OF SUBTITLE 6 OF THIS TITLE; BUT

(II) MAY BE MODIFIED TO THE EXTENT NECESSARY TO MAKE THE REGULATIONS RELEVANT TO THE PREVENTION OF CONFLICTS OF INTEREST IN THAT SCHOOL SYSTEM.

(C) MINIMUM STANDARDS.

(1) (I) THIS SECTION DOES NOT COMPEL A SCHOOL BOARD TO REQUIRE AN INDIVIDUAL TO FILE A FINANCIAL DISCLOSURE STATEMENT EXCEPT:

1. WHEN THE PERSONAL INTEREST OF THE INDIVIDUAL WILL PRESENT A POTENTIAL CONFLICT WITH THE PUBLIC INTEREST IN CONNECTION WITH AN ANTICIPATED PUBLIC ACTION OF THE INDIVIDUAL; AND

2. AT LEAST ANNUALLY TO REPORT ON GIFTS RECEIVED BY THE INDIVIDUAL.

(II) THE REGULATIONS ADOPTED UNDER SUBSECTION (A)(1)(I) OF THIS SECTION SHALL REQUIRE THAT A STATEMENT FILED UNDER

SUBPARAGRAPH (I)1 OF THIS PARAGRAPH BE FILED SUFFICIENTLY IN ADVANCE OF THE PUBLIC ACTION TO PROVIDE ADEQUATE DISCLOSURE TO THE PUBLIC.

(2) THE REGULATIONS ADOPTED UNDER SUBSECTION (A)(1)(II) OF THIS SECTION SHALL REQUIRE THAT A STATEMENT FILED BY A MEMBER OF A SCHOOL BOARD BE FILED ON OR BEFORE APRIL 30 OF EACH YEAR.

(D) APPLICABILITY.

EXCEPT AS PROVIDED FOR A SCHOOL BOARD MEMBER UNDER THIS PART, UNLESS A SCHOOL BOARD ADOPTS AND MAINTAINS FINANCIAL DISCLOSURE REGULATIONS UNDER THIS SUBTITLE, THE PROVISIONS ENACTED BY THE COUNTY UNDER § 5–809 OF THIS SUBTITLE SHALL APPLY TO:

(1) THE SUPERINTENDENT OF THAT SCHOOL SYSTEM; AND

(2) THE OTHER OFFICIALS AND EMPLOYEES OF THE SCHOOL SYSTEM DESIGNATED BY THE GOVERNING BODY OF THAT COUNTY.

REVISOR'S NOTE: This section formerly was SG § 15–813.

In the introductory language of subsection (c) of this section, the word "section" is substituted for the former word "paragraph" to correct an apparent drafting error that occurred in Chapter 277 of the Acts of 2010.

In the introductory language of subsection (d) of this section, the reference to a "school board member" is substituted for the former reference to a "member of a board of education" to use the appropriate defined term.

The only other changes are in style.

Defined terms: "County" § 1–107
"Employee" § 5–101
"Gift" § 5–101
"Official" § 5–101
"School board" § 5–101
"School system" § 5–101
"Superintendent" § 5–101

5–818. LOBBYING.

(A) ADOPTION OF REGULATIONS.

IN ACCORDANCE WITH THIS SECTION, A SCHOOL BOARD MAY ADOPT REGULATIONS RELATING TO LOBBYING OF MEMBERS OF THE SCHOOL BOARD AND OF OFFICIALS AND EMPLOYEES OF THE SCHOOL SYSTEM.

(B) SIMILARITY TO STATE ETHICS LAW.

THE LOBBYING REGULATIONS ADOPTED BY A SCHOOL BOARD UNDER SUBSECTION (A) OF THIS SECTION:

(1) SHALL BE SUBSTANTIALLY SIMILAR TO THE PROVISIONS OF SUBTITLE 7 OF THIS TITLE; BUT

(2) (I) MAY BE MODIFIED TO THE EXTENT NECESSARY TO MAKE THE PROVISIONS RELEVANT TO THAT SCHOOL SYSTEM; AND

(II) MAY BE FURTHER MODIFIED TO THE EXTENT CONSIDERED NECESSARY AND APPROPRIATE BY AND FOR THAT SCHOOL SYSTEM.

(C) APPLICABILITY OF COUNTY PROVISIONS.

UNLESS A SCHOOL BOARD ADOPTS AND MAINTAINS LOBBYING REGULATIONS UNDER THIS SUBTITLE, THE PROVISIONS ENACTED BY THE COUNTY UNDER § 5–810 OF THIS SUBTITLE SHALL APPLY TO THAT SCHOOL SYSTEM.

REVISOR'S NOTE: This section formerly was SG § 15–814.

The only changes are in style.

Defined terms: "County" § 1–107
"Employee" § 5–101
"Lobbying" § 5–801
"Official" § 5–101
"School board" § 5–101
"School system" § 5–101

5–819. APPROVAL OF REGULATIONS.

(A) SUBMISSION.

A SCHOOL BOARD SHALL SUBMIT REGULATIONS ADOPTED UNDER THIS PART, AND AMENDMENTS TO ADOPTED REGULATIONS, TO THE ETHICS COMMISSION FOR REVIEW AND APPROVAL OR DISAPPROVAL.

(B) APPROVAL AND EFFECTIVE DATE.

IF THE ETHICS COMMISSION DOES NOT DISAPPROVE A REGULATION OR AN AMENDMENT TO A REGULATION WITHIN 60 DAYS AFTER ITS SUBMISSION, THE REGULATION OR AMENDMENT IS DEEMED TO HAVE BEEN APPROVED AND BECOMES EFFECTIVE.

(C) DISAPPROVAL.

(1) THE ETHICS COMMISSION MAY DISAPPROVE A REGULATION OR AN AMENDMENT TO A REGULATION ONLY IF THE ETHICS COMMISSION FINDS THAT THE REGULATION OR AMENDMENT IS NOT IN SUBSTANTIAL COMPLIANCE WITH THIS PART.

(2) IF THE ETHICS COMMISSION DISAPPROVES A REGULATION OR AN AMENDMENT, THE ETHICS COMMISSION SHALL PROMPTLY NOTIFY THE SCHOOL BOARD OF THE ACTION.

(D) ASSISTANCE FROM ETHICS COMMISSION.

ON REQUEST OF A SCHOOL BOARD, THE ETHICS COMMISSION SHALL ADVISE AND ASSIST THE SCHOOL BOARD IN PREPARING REGULATIONS THAT COMPLY WITH THIS TITLE.

REVISOR'S NOTE: This section formerly was SG § 15–815.

The only changes are in style.

The General Provisions Article Review Committee notes, for consideration by the General Assembly, that subsection (c)(1) of this section refers to regulations not being in compliance with this "part", while subsection (d) of this section refers to regulations that comply with this "title". It is not known by the committee if the references were meant to be different or if the intent was for them to be identical. If the General Assembly believes the latter to be true, one of the references should be amended accordingly.

Defined terms: "Ethics Commission" § 5–101
"School board" § 5–101

5–820. RESERVED.

5–821. RESERVED.

PART IV. PUBLIC ETHICS FOR BICOUNTY COMMISSIONS.

5–822. "COMMISSIONER" DEFINED.

IN THIS PART, "COMMISSIONER" MEANS A COMMISSIONER OF A BICOUNTY COMMISSION.

REVISOR'S NOTE: This section formerly was SG § 15–818.

The only changes are in style.

Defined term: "Bicounty commission" § 5–101

5–823. ADOPTION OF CONFLICT OF INTEREST REGULATIONS.

(A) IN GENERAL.

EACH BICOUNTY COMMISSION SHALL ADOPT REGULATIONS RELATING TO CONFLICTS OF INTEREST OF ITS EMPLOYEES.

(B) SIMILARITY TO STATE ETHICS LAW.

AT A MINIMUM, THE CONFLICT OF INTEREST STANDARDS APPLICABLE TO PUBLIC OFFICIALS UNDER SUBTITLE 5 OF THIS TITLE SHALL APPLY TO THE EMPLOYEES OF EACH BICOUNTY COMMISSION.

(C) COPY TO ETHICS COMMISSION.

EACH BICOUNTY COMMISSION SHALL FILE WITH THE ETHICS COMMISSION A COPY OF ITS REGULATIONS RELATING TO CONFLICTS OF INTEREST.

(D) ANNUAL REPORT.

EACH BICOUNTY COMMISSION SHALL:

(1) PREPARE AN ANNUAL REPORT ON ITS CONFLICT OF INTEREST ISSUES AND REGULATIONS DURING THE YEAR COVERED; AND

(2) SUBMIT THE REPORT TO THE GOVERNING BODY OF EACH COUNTY IN WHICH THE BICOUNTY COMMISSION OPERATES.

REVISOR'S NOTE: This section formerly was SG § 15–819.

In subsection (d)(2) of this section, the word "operates" is substituted for the former phrase "conducts its operations" for brevity.

No other changes are made.

Defined terms: "Bicounty commission" § 5–101
"Employee" § 5–101
"Ethics Commission" § 5–101
"Public official" § 5–101

5–824. FINANCIAL DISCLOSURE BY COMMISSIONERS.

(A) APPLICABILITY TO WASHINGTON SUBURBAN TRANSIT COMMISSION.

IN THIS SECTION, AS TO THE WASHINGTON SUBURBAN TRANSIT COMMISSION, "COMMISSIONER" INCLUDES THE MEMBERS APPOINTED FROM MONTGOMERY COUNTY OR PRINCE GEORGE'S COUNTY AND THE MEMBERS APPOINTED BY THE GOVERNOR.

(B) IN GENERAL.

(1) EACH COMMISSIONER AND EACH APPLICANT FOR APPOINTMENT TO A BICOUNTY COMMISSION SHALL FILE THE FINANCIAL DISCLOSURE STATEMENT REQUIRED BY § 5–601(A) OF THIS TITLE, EXCEPT THAT:

(I) REFERENCES TO "BUSINESS WITH THE STATE" ARE DEEMED TO REFER TO "BUSINESS WITH THE STATE, THE APPROPRIATE BICOUNTY COMMISSION, MONTGOMERY COUNTY, OR PRINCE GEORGE'S COUNTY"; AND

(II) REFERENCES TO "EMPLOYED BY THE STATE" ARE DEEMED TO REFER TO "EMPLOYED BY THE STATE, THE APPROPRIATE BICOUNTY COMMISSION, MONTGOMERY COUNTY, OR PRINCE GEORGE'S COUNTY".

(2) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, THE STATEMENT SHALL BE FILED AS REQUIRED IN § 5–602 OF THIS TITLE.

(C) FORMS TO BE PROVIDED.

THE EXECUTIVE DIRECTOR OF A BICOUNTY COMMISSION SHALL:

(1) PROVIDE FORMS FOR THE STATEMENTS REQUIRED BY THIS SECTION;

(2) MAKE THE FORMS AVAILABLE IN THE OFFICE OF THE EXECUTIVE DIRECTOR; AND

(3) PROVIDE ENOUGH FORMS TO THE CHIEF ADMINISTRATIVE OFFICERS OF MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY FOR USE BY APPLICANTS AND COMMISSIONERS.

(D) PLACE OF FILING.

(1) EACH COMMISSIONER SHALL FILE THE STATEMENT WITH THE CHIEF ADMINISTRATIVE OFFICER OF THE COUNTY FROM WHICH THE COMMISSIONER IS APPOINTED.

(2) COMMISSIONERS OF THE WASHINGTON SUBURBAN TRANSIT COMMISSION ALSO SHALL FILE A FINANCIAL DISCLOSURE STATEMENT WITH THE ETHICS COMMISSION.

(E) WASHINGTON SUBURBAN TRANSIT COMMISSION — ALTERNATE FILING.

(1) IF A COMMISSIONER OF THE WASHINGTON SUBURBAN TRANSIT COMMISSION HOLDS ANOTHER PUBLIC OFFICE AND IS REQUIRED TO FILE A FINANCIAL DISCLOSURE STATEMENT UNDER ANOTHER STATE OR LOCAL LAW, THE COMMISSIONER MAY COMPLY WITH SUBSECTION (B) OF THIS SECTION BY SUBMITTING A COPY OF THE STATEMENT FILED IN ACCORDANCE WITH THE OTHER LAW.

(2) THE STATEMENT SHALL BE SUPPLEMENTED TO INCLUDE ANY ADDITIONAL INFORMATION REQUIRED BY THIS SECTION.

REVISOR'S NOTE: This section formerly was SG § 15–820.

In subsection (c)(3) of this section, the reference to "enough" forms is substituted for the former reference to "a sufficient number of" forms for brevity.

The only other changes are in style.

Defined terms: "Bicounty commission" § 5–101
"Commissioner" § 5–822
"Ethics Commission" § 5–101

"Includes" § 1–110
"State" § 1–115

5–825. FINANCIAL DISCLOSURE BY COMMISSIONERS — APPLICANTS.

(A) IN GENERAL.

AN APPLICANT FOR APPOINTMENT AS COMMISSIONER SHALL FILE THE FINANCIAL DISCLOSURE STATEMENT REQUIRED BY THIS PART IN ACCORDANCE WITH THIS SECTION.

(B) PLACE OF FILING.

THE STATEMENT SHALL BE FILED WITH THE COUNTY COUNCIL AND THE CHIEF ADMINISTRATIVE OFFICER OF THE COUNTY FROM WHICH THE APPLICANT SEEKS APPOINTMENT.

(C) MARYLAND–NATIONAL CAPITAL PARK AND PLANNING COMMISSION APPLICANTS.

(1) (I) IN MONTGOMERY COUNTY, AN APPLICANT FOR APPOINTMENT OR REAPPOINTMENT TO THE MARYLAND–NATIONAL CAPITAL PARK AND PLANNING COMMISSION SHALL FILE THE STATEMENT AT LEAST 5 DAYS BEFORE THE INTERVIEW CONDUCTED UNDER § 15–104 OF THE LAND USE ARTICLE.

(II) THE STATEMENT SHALL COVER THE 12–MONTH PERIOD ENDING 60 DAYS BEFORE THE DAY THE STATEMENT IS FILED.

(2) (I) IN PRINCE GEORGE'S COUNTY, AN APPLICANT FOR APPOINTMENT TO THE MARYLAND–NATIONAL CAPITAL PARK AND PLANNING COMMISSION SHALL FILE THE STATEMENT AT LEAST 5 DAYS BEFORE THE CONFIRMATION HEARING CONDUCTED UNDER § 15–103 OF THE LAND USE ARTICLE.

(II) THE STATEMENT SHALL COVER THE 12–MONTH PERIOD ENDING 60 DAYS BEFORE THE INITIAL DATE SET FOR THE CONFIRMATION HEARING.

(D) WASHINGTON SUBURBAN SANITARY COMMISSION APPLICANTS.

(1) AN APPLICANT FOR APPOINTMENT TO THE WASHINGTON SUBURBAN SANITARY COMMISSION SHALL FILE THE STATEMENT AT LEAST 5

DAYS BEFORE THE INTERVIEW CONDUCTED UNDER § 17–103 OF THE PUBLIC UTILITIES ARTICLE.

(2) THE STATEMENT SHALL COVER THE 12–MONTH PERIOD ENDING 60 DAYS BEFORE THE DAY THE STATEMENT IS FILED.

(E) WASHINGTON SUBURBAN TRANSIT COMMISSION APPLICANTS.

(1) AN APPLICANT FOR APPOINTMENT TO THE WASHINGTON SUBURBAN TRANSIT COMMISSION SHALL FILE THE STATEMENT AT LEAST 10 DAYS BEFORE THE APPOINTMENT BECOMES EFFECTIVE.

(2) THE STATEMENT SHALL COVER THE 12–MONTH PERIOD ENDING NOT MORE THAN 60 DAYS BEFORE THE DAY THE STATEMENT IS FILED.

REVISOR'S NOTE: This section formerly was SG § 15–821.

The only changes are in style.

Defined term: "Commissioner" § 5–822

5–826. TRANSMITTAL AND RETENTION OF FINANCIAL DISCLOSURE STATEMENTS.

(A) TRANSMITTAL OF STATEMENTS.

THE CHIEF ADMINISTRATIVE OFFICER OF A COUNTY SHALL TRANSMIT EACH FINANCIAL DISCLOSURE STATEMENT OF A COMMISSIONER OR APPOINTED APPLICANT TO:

(1) THE ETHICS COMMISSION; AND

(2) THE EXECUTIVE DIRECTOR OF THE APPROPRIATE BICOUNTY COMMISSION.

(B) RETENTION OF STATEMENTS.

THE EXECUTIVE DIRECTOR AND THE CHIEF ADMINISTRATIVE OFFICER SHALL RETAIN THE STATEMENT FOR THE ENTIRE TERM OF OFFICE OF THE COMMISSIONER.

(C) STATEMENTS OF APPLICANTS NOT APPOINTED.

WITHIN 15 DAYS AFTER AN APPOINTMENT TO A BICOUNTY COMMISSION HAS BECOME FINAL, THE COUNTY COUNCIL AND THE CHIEF ADMINISTRATIVE OFFICER OF THE COUNTY INVOLVED SHALL RETURN TO EACH APPLICANT WHO IS NOT APPOINTED THE ORIGINAL AND ALL COPIES OF THE STATEMENT SUBMITTED BY THAT APPLICANT.

REVISOR'S NOTE: This section formerly was SG § 15–822.

In the introductory language of subsection (a) of this section, the reference to each "financial disclosure" statement is added for clarity.

No other changes are made.

Defined terms: "Bicounty commission" § 5–101
"Commissioner" § 5–822
"Ethics Commission" § 5–101

5–827. EXAMINATION AND COPYING OF FINANCIAL DISCLOSURE STATEMENTS.

(A) PUBLIC INSPECTION.

THE ETHICS COMMISSION, THE EXECUTIVE DIRECTOR OF EACH BICOUNTY COMMISSION, AND THE CHIEF ADMINISTRATIVE OFFICER OF EACH COUNTY:

(1) SHALL MAINTAIN FINANCIAL DISCLOSURE STATEMENTS OF COMMISSIONERS AND APPOINTED APPLICANTS RECEIVED UNDER THIS PART;

(2) SHALL MAKE THE STATEMENTS AVAILABLE TO THE PUBLIC FOR EXAMINATION AND COPYING DURING NORMAL OFFICE HOURS; AND

(3) MAY CHARGE A REASONABLE FEE AND ADOPT REASONABLE ADMINISTRATIVE PROCEDURES FOR THE EXAMINATION AND COPYING OF A STATEMENT.

(B) INFORMATION ABOUT EXAMINING OR COPYING STATEMENTS.

THE ETHICS COMMISSION, THE EXECUTIVE DIRECTOR OF EACH BICOUNTY COMMISSION, AND THE CHIEF ADMINISTRATIVE OFFICER OF EACH COUNTY SHALL REQUIRE THAT ANY PERSON EXAMINING OR COPYING A STATEMENT SHALL RECORD:

(1) THE PERSON'S NAME AND HOME ADDRESS; AND

(2) THE NAME OF THE INDIVIDUAL WHOSE STATEMENT WAS EXAMINED OR COPIED.

REVISOR'S NOTE: This section formerly was SG § 15–823.

In subsection (a)(1) of this section, the reference to "financial disclosure" statements is added for clarity.

The only other changes are in style.

The General Provisions Article Review Committee notes, for consideration by the General Assembly, that although this section requires any person examining or copying a financial statement to record the person's name and home address and the name of the individual whose statement was examined or copied, it is not clear where the information is to be recorded. The General Assembly may wish to amend this section to clarify where the names and addresses are to be recorded.

Defined terms: "Bicounty commission" § 5–101
"Commissioner" § 5–822
"Ethics Commission" § 5–101
"Person" § 1–114

5–828. SUSPENSION OF COMPENSATION.

IF A MANDATORY INJUNCTION IS ISSUED AGAINST A COMMISSIONER UNDER SUBTITLE 9 OF THIS TITLE, THE APPROPRIATE BICOUNTY COMMISSION SHALL SUSPEND PAYMENT OF ANY SALARY OR OTHER COMPENSATION TO THE COMMISSIONER UNTIL THE COMMISSIONER COMPLIES FULLY WITH THE INJUNCTION.

REVISOR'S NOTE: This section formerly was SG § 15–824.

The phrase "until the commissioner complies fully with the injunction" is substituted for the former phrase "pending full compliance with the terms of the injunction" for clarity.

The only other changes are in style.

Defined terms: "Bicounty commission" § 5–101
"Commissioner" § 5–822
"Compensation" § 5–101

5–829. FINANCIAL DISCLOSURE BY EMPLOYEES.

(A) IN GENERAL.

EACH BICOUNTY COMMISSION SHALL ADOPT REGULATIONS RELATING TO FINANCIAL DISCLOSURE BY ITS EMPLOYEES.

(B) SIMILARITY TO STATE STANDARDS.

THE REGULATIONS REQUIRED BY THIS SECTION:

(1) SHALL BE SUBSTANTIALLY SIMILAR TO THE STATE FINANCIAL DISCLOSURE PROVISIONS OF SUBTITLE 6 OF THIS TITLE; AND

(2) MAY NOT CONFLICT WITH THE FINANCIAL DISCLOSURE PROVISIONS FOR COMMISSIONERS AND APPLICANTS SPECIFIED IN §§ 5–824 THROUGH 5–828 OF THIS SUBTITLE.

(C) COPY TO ETHICS COMMISSION AND COUNTY GOVERNING BODY.

EACH BICOUNTY COMMISSION SHALL SUBMIT THE REGULATIONS ADOPTED UNDER THIS SECTION, AND ANY AMENDMENTS TO THE REGULATIONS, TO:

(1) THE ETHICS COMMISSION; AND

(2) THE GOVERNING BODY OF EACH COUNTY IN WHICH THE BICOUNTY COMMISSION OPERATES.

REVISOR'S NOTE: This section formerly was SG § 15–825.

In subsection (c)(2) of this section, the word "operates" is substituted for the former phrase "conducts its operations" for brevity.

The only other changes are in style.

Defined terms: "Bicounty commission" § 5–101
"Commissioner" § 5–822
"Employee" § 5–101
"Ethics Commission" § 5–101
"State" § 1–115

5–830. LOBBYING REGULATIONS FOR BICOUNTY COMMISSIONS.

(A) IN GENERAL.

EACH BICOUNTY COMMISSION SHALL ADOPT REGULATIONS RELATING TO LOBBYING OF THAT BICOUNTY COMMISSION.

(B) SIMILARITY TO STATE STANDARDS.

AT A MINIMUM, THE REGULATIONS ADOPTED BY A BICOUNTY COMMISSION SHALL BE SIMILAR TO THE PROVISIONS OF SUBTITLE 7 OF THIS TITLE.

(C) COPY TO ETHICS COMMISSION.

EACH BICOUNTY COMMISSION SHALL SUBMIT TO THE ETHICS COMMISSION A COPY OF ITS REGULATIONS RELATING TO LOBBYING.

(D) ANNUAL REPORT.

EACH BICOUNTY COMMISSION SHALL:

(1) PREPARE AN ANNUAL REPORT ON THE LOBBYING BEFORE THE BICOUNTY COMMISSION AND REGULATION OF THAT LOBBYING BY THE BICOUNTY COMMISSION; AND

(2) SUBMIT THE REPORT TO THE GOVERNING BODY OF EACH COUNTY IN WHICH THE BICOUNTY COMMISSION OPERATES.

REVISOR'S NOTE: This section formerly was SG § 15–826.

In subsection (d)(2) of this section, the word "operates" is substituted for the former phrase "conducts its operations" for brevity.

No other changes are made.

Defined terms: "Bicounty commission" § 5–101
"Ethics Commission" § 5–101
"Lobbying" § 5–801

5–831. RESERVED.

5–832. RESERVED.

PART V. REGIONAL DISTRICT — SPECIAL PROVISIONS FOR PRINCE GEORGE'S COUNTY.

5–833. DEFINITIONS.

(A) IN GENERAL.

IN THIS PART THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection formerly was SG § 15–829(a).

The only changes are in style.

(B) AGENT.

(1) "AGENT" MEANS AN INDIVIDUAL OR A BUSINESS ENTITY HIRED OR RETAINED BY AN APPLICANT FOR ANY PURPOSE RELATING TO THE LAND THAT IS THE SUBJECT OF AN APPLICATION IF THE INDIVIDUAL OR BUSINESS ENTITY IS:

(I) AN ACCOUNTANT;

(II) AN ATTORNEY;

(III) AN ARCHITECT;

(IV) AN ENGINEER;

(V) A LAND USE CONSULTANT;

(VI) AN ECONOMIC CONSULTANT;

(VII) A REAL ESTATE AGENT;

(VIII) A REAL ESTATE BROKER;

(IX) A TRAFFIC CONSULTANT; OR

(X) A TRAFFIC ENGINEER.

(2) "AGENT" INCLUDES:

(I) AS TO A CORPORATION DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION, ITS OFFICERS, DIRECTORS, AND MAJORITY STOCKHOLDERS WHO ARE ENGAGED IN SUBSTANTIVE ACTIVITIES PERTAINING SPECIFICALLY TO LAND DEVELOPMENT IN PRINCE GEORGE'S COUNTY AS A REGULAR PART OF THEIR ONGOING BUSINESS ACTIVITIES;

(II) AS TO A PARTNERSHIP OR LIMITED PARTNERSHIP DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION, ITS GENERAL PARTNERS AND LIMITED PARTNERS WHO ARE ENGAGED IN SUBSTANTIVE ACTIVITIES PERTAINING SPECIFICALLY TO LAND DEVELOPMENT IN PRINCE GEORGE'S COUNTY AS A REGULAR PART OF THEIR ONGOING BUSINESS ACTIVITIES; AND

(III) AS TO A JOINT VENTURE DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION, THE PRINCIPAL MEMBERS OF THE JOINT VENTURE WHO ARE ENGAGED IN SUBSTANTIVE ACTIVITIES PERTAINING SPECIFICALLY TO LAND DEVELOPMENT IN PRINCE GEORGE'S COUNTY AS A REGULAR PART OF THEIR ONGOING BUSINESS ACTIVITIES.

REVISOR'S NOTE: This subsection formerly was SG § 15–829(b).

The only changes are in style.

Defined terms: "Applicant" § 5–833
"Application" § 5–833
"Business entity" § 5–833
"Includes" § 1–110

(C) APPLICANT.

(1) "APPLICANT" MEANS AN INDIVIDUAL OR A BUSINESS ENTITY THAT IS:

(I) A TITLE OWNER OR CONTRACT PURCHASER OF LAND THAT IS THE SUBJECT OF AN APPLICATION;

(II) A TRUSTEE THAT HAS AN INTEREST IN LAND THAT IS THE SUBJECT OF AN APPLICATION, EXCLUDING A TRUSTEE DESCRIBED IN A MORTGAGE OR DEED OF TRUST; OR

(III) A HOLDER OF AT LEAST A 5% INTEREST IN A BUSINESS ENTITY THAT HAS AN INTEREST IN LAND THAT IS THE SUBJECT OF AN APPLICATION BUT ONLY IF:

1. THE HOLDER OF AT LEAST A 5% INTEREST HAS SUBSTANTIVE INVOLVEMENT IN DIRECTING THE AFFAIRS OF THE BUSINESS ENTITY WITH AN INTEREST IN THE LAND THAT IS THE SUBJECT OF AN APPLICATION WITH SPECIFIC REGARD TO THE DISPOSITION OF THAT LAND; OR

2. THE HOLDER OF AT LEAST A 5% INTEREST IS ENGAGED IN SUBSTANTIVE ACTIVITIES SPECIFICALLY PERTAINING TO LAND

DEVELOPMENT IN PRINCE GEORGE'S COUNTY AS A REGULAR PART OF THE BUSINESS ENTITY'S ONGOING BUSINESS ACTIVITIES.

(2) "APPLICANT" INCLUDES:

(I) ANY BUSINESS ENTITY IN WHICH A PERSON DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION HOLDS AT LEAST A 5% INTEREST; AND

(II) THE DIRECTORS AND OFFICERS OF A CORPORATION THAT ACTUALLY HOLDS TITLE TO THE LAND, OR IS A CONTRACT PURCHASER OF THE LAND, THAT IS THE SUBJECT OF AN APPLICATION.

(3) "APPLICANT" DOES NOT INCLUDE:

(I) A FINANCIAL INSTITUTION THAT HAS LOANED MONEY OR EXTENDED FINANCING FOR THE ACQUISITION, DEVELOPMENT, OR CONSTRUCTION OF IMPROVEMENTS ON ANY LAND THAT IS THE SUBJECT OF AN APPLICATION;

(II) A MUNICIPAL CORPORATION OR PUBLIC CORPORATION;

(III) A PUBLIC AUTHORITY;

(IV) A PUBLIC UTILITY REGULATED BY THE PUBLIC SERVICE COMMISSION IN ANY INSTANCE WHERE THE UTILITY IS ENGAGED IN OR CONDUCTING REGULATED ACTIVITIES THAT HAVE BEEN APPROVED BY THE PUBLIC SERVICE COMMISSION OR ARE ALLOWED UNDER DIVISION I OF THE PUBLIC UTILITIES ARTICLE; OR

(V) THE DIRECTORS AND OFFICERS OF ANY ENTITY THAT DOES NOT HOLD TITLE TO THE LAND, OR IS NOT THE CONTRACT PURCHASER OF THE LAND, THAT IS THE SUBJECT OF AN APPLICATION.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former SG § 15–829(c).

In paragraph (1)(iii)1 of this subsection, the former reference to the disposition of the land "which is the subject of the application" is deleted as surplusage.

In paragraph (3)(i) of this subsection, the former reference to a "bank, savings and loan institution, or other" financial institution is deleted as included in the reference to a "financial institution".

Defined terms: "Application" § 5–833
"Business entity" § 5–833
"Entity" § 5–101
"Includes" § 1–110
"Interest" § 5–101
"Municipal corporation" § 5–101
"Person" § 1–114

(D) APPLICATION.

"APPLICATION" MEANS:

(1) AN APPLICATION FOR:

(I) A ZONING MAP AMENDMENT;

(II) A SPECIAL EXCEPTION;

(III) A DEPARTURE FROM DESIGN STANDARDS;

(IV) A REVISION TO A SPECIAL EXCEPTION SITE PLAN;

(V) AN EXPANSION OF A LEGAL NONCONFORMING USE;

(VI) A REVISION TO A LEGAL NONCONFORMING USE SITE PLAN; OR

(VII) A REQUEST FOR A VARIANCE FROM THE ZONING ORDINANCE;

(2) AN APPLICATION TO APPROVE:

(I) A COMPREHENSIVE DESIGN PLAN;

(II) A CONCEPTUAL SITE PLAN; OR

(III) A SPECIFIC DESIGN PLAN; OR

(3) PARTICIPATION IN ADOPTING AND APPROVING AN AREA MASTER PLAN OR SECTIONAL MAP AMENDMENT BY APPEARANCE AT A PUBLIC HEARING, FILING A STATEMENT IN THE OFFICIAL RECORD, OR OTHER SIMILAR COMMUNICATION TO A MEMBER OF THE COUNTY COUNCIL OR THE PLANNING BOARD, WHERE THE INTENT IS TO INTENSIFY THE ZONING CATEGORY APPLICABLE TO THE LAND OF THE APPLICANT.

REVISOR'S NOTE: This subsection formerly was SG § 15–829(d).

The only changes are in style.

Defined terms: "Applicant" § 5–833
"County Council" § 5–833

(E) BUSINESS ENTITY.

"BUSINESS ENTITY" MEANS:

(1) A CORPORATION;

(2) A GENERAL PARTNERSHIP;

(3) A JOINT VENTURE;

(4) A LIMITED LIABILITY COMPANY;

(5) A LIMITED PARTNERSHIP; OR

(6) A SOLE PROPRIETORSHIP.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former SG § 15–829(e).

(F) CANDIDATE.

"CANDIDATE" MEANS A CANDIDATE FOR ELECTION TO THE COUNTY COUNCIL WHO BECOMES A MEMBER.

REVISOR'S NOTE: This subsection formerly was SG § 15–829(f).

No changes are made.

Defined terms: "County Council" § 5–833
"Member" § 5–833

(G) CONTINUING POLITICAL COMMITTEE.

"CONTINUING POLITICAL COMMITTEE" MEANS A COMMITTEE SPECIFICALLY CREATED TO PROMOTE THE CANDIDACY OF A MEMBER RUNNING FOR ANY ELECTIVE OFFICE.

REVISOR'S NOTE: This subsection formerly was SG § 15–829(g).

No changes are made.

Defined term: "Member" § 5–833

(H) CONTRIBUTOR.

"CONTRIBUTOR" MEANS A PERSON OR BUSINESS ENTITY THAT MAKES A PAYMENT.

REVISOR'S NOTE: This subsection formerly was SG § 15–829(h).

No changes are made.

Defined terms: "Business entity" § 5–833
"Payment" § 5–833
"Person" § 1–114

(I) COUNTY COUNCIL.

"COUNTY COUNCIL" MEANS THE COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY.

REVISOR'S NOTE: This subsection formerly was SG § 15–829(i).

No changes are made.

(J) COUNTY EXECUTIVE.

"COUNTY EXECUTIVE" MEANS THE COUNTY EXECUTIVE OF PRINCE GEORGE'S COUNTY.

REVISOR'S NOTE: This subsection formerly was SG § 15–829(j).

No changes are made.

(K) DISTRICT COUNCIL.

"DISTRICT COUNCIL" MEANS THE COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY SITTING AS THE DISTRICT COUNCIL FOR THE PRINCE GEORGE'S COUNTY PORTION OF THE MARYLAND–WASHINGTON REGIONAL DISTRICT.

REVISOR'S NOTE: This subsection formerly was SG § 15–829(k).

No changes are made.

Defined term: "County Council" § 5–833

(L) MEMBER.

"MEMBER" INCLUDES ANY CANDIDATE OR PERSON DULY ELECTED OR APPOINTED WHO TAKES THE OATH OF OFFICE AS A MEMBER OF THE COUNTY COUNCIL FOR PRINCE GEORGE'S COUNTY AND WHO THEREBY SERVES ON THE DISTRICT COUNCIL.

REVISOR'S NOTE: This subsection formerly was SG § 15–829(l).

The former reference to a member "of the County Council" is deleted as surplusage. Most instances of the term in the former law used only "member".

No other changes are made.

Defined terms: "Candidate" § 5–833
"County Council" § 5–833
"District Council" § 5–833
"Includes" § 1–110
"Person" § 1–114

(M) PAYMENT.

"PAYMENT" MEANS A PAYMENT OR CONTRIBUTION OF MONEY OR PROPERTY OR THE INCURRING OF A LIABILITY OR PROMISE OF ANYTHING OF VALUE TO A TREASURER OF A CANDIDATE, A CANDIDATE'S CONTINUING POLITICAL COMMITTEE, OR A SLATE TO WHICH THE CANDIDATE BELONGS.

REVISOR'S NOTE: This subsection formerly was SG § 15–829(m).

The only changes are in style.

Defined terms: "Candidate" § 5–833
"Continuing political committee" § 5–833
"Slate" § 5–833
"Treasurer" § 5–833

(N) PENDENCY OF THE APPLICATION.

(1) "PENDENCY OF THE APPLICATION" MEANS THE TIME BETWEEN THE ACCEPTANCE OF A FILING OF AN APPLICATION BY THE APPROPRIATE AGENCY AND EXPIRATION OF THE TIME UNDER WHICH AN APPEAL ON THE APPLICATION MAY BE TAKEN.

(2) "PENDENCY OF THE APPLICATION" DOES NOT INCLUDE A PERIOD DURING WHICH:

(I) ACTION ON THE APPLICATION IS UNDER JUDICIAL REVIEW; OR

(II) JUDICIAL REVIEW MAY BE REQUESTED.

REVISOR'S NOTE: This subsection formerly was SG § 15–829(n).

In paragraph (1) of this subsection, the former phrase ", subject to paragraph (2) of this subsection," is deleted as surplusage.

No other changes are made.

Defined term: "Application" § 5–833

(O) POLITICAL ACTION COMMITTEE.

"POLITICAL ACTION COMMITTEE" MEANS A POLITICAL COMMITTEE THAT IS NOT:

(1) A POLITICAL PARTY;

(2) A CENTRAL COMMITTEE;

(3) A SLATE; OR

(4) A POLITICAL COMMITTEE ORGANIZED AND OPERATED BY, AND SOLELY ON BEHALF OF, AN INDIVIDUAL RUNNING FOR ANY ELECTIVE OFFICE OR A SLATE.

REVISOR'S NOTE: This subsection formerly was SG § 15–829(o).

No changes are made.

Defined term: "Slate" § 5–833

(P) SLATE.

"SLATE" MEANS A GROUP, COMBINATION, OR ORGANIZATION OF CANDIDATES CREATED UNDER THE ELECTION LAW ARTICLE.

REVISOR'S NOTE: This subsection formerly was SG § 15–829(p).

The only changes are in style.

Defined term: "Candidate" § 5–833

(Q) TREASURER.

(1) "TREASURER" HAS THE MEANING STATED IN § 1–101 OF THE ELECTION LAW ARTICLE.

(2) "TREASURER" INCLUDES A SUBTREASURER.

REVISOR'S NOTE: This subsection formerly was SG § 15–829(q).

The only changes are in style.

Defined term: "Includes" § 1–110

5–834. POWERS ENUMERATED IN LAND USE ARTICLE.

NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE PROVISIONS OF DIVISION II OF THE LAND USE ARTICLE AFFECTING THAT PART OF THE MARYLAND–WASHINGTON REGIONAL DISTRICT IN PRINCE GEORGE'S COUNTY SHALL BE CARRIED OUT IN ACCORDANCE WITH THIS PART.

REVISOR'S NOTE: This section formerly was SG § 15–830.

The only changes are in style.

5–835. APPLICATIONS.

(A) PROHIBITED PAYMENTS.

AN APPLICANT OR AGENT OF THE APPLICANT MAY NOT MAKE A PAYMENT TO A MEMBER OR THE COUNTY EXECUTIVE, OR A SLATE THAT INCLUDES A MEMBER OR THE COUNTY EXECUTIVE, DURING THE PENDENCY OF THE APPLICATION.

(B) PARTICIPATION IN PROCEEDINGS; PAYMENTS DURING PRECEDING 36–MONTH PERIOD.

(1) AFTER AN APPLICATION HAS BEEN FILED, A MEMBER MAY NOT VOTE OR PARTICIPATE IN ANY WAY IN THE PROCEEDING ON THE APPLICATION IF THE MEMBER'S TREASURER OR CONTINUING POLITICAL COMMITTEE, OR A SLATE TO WHICH THE MEMBER BELONGS OR BELONGED DURING THE 36–MONTH PERIOD BEFORE THE FILING OF THE APPLICATION, RECEIVED A PAYMENT DURING THE 36–MONTH PERIOD BEFORE THE FILING OF THE APPLICATION OR DURING THE PENDENCY OF THE APPLICATION FROM ANY OF THE APPLICANTS OR THE AGENTS OF THE APPLICANTS.

(2) A MEMBER IS NOT SUBJECT TO THE REQUIREMENTS OF PARAGRAPH (1) OF THIS SUBSECTION IF:

(I) A TRANSFER TO THE MEMBER'S TREASURER, A CONTINUING POLITICAL COMMITTEE, OR A SLATE TO WHICH THE MEMBER BELONGS OR BELONGED DURING THE 36–MONTH PERIOD BEFORE THE FILING OF THE APPLICATION WAS MADE BY A POLITICAL ACTION COMMITTEE TO WHICH AN APPLICANT OR AGENT HAD MADE A PAYMENT;

(II) THE APPLICANT OR AGENT MADE THE PAYMENT TO THE POLITICAL ACTION COMMITTEE WITHOUT ANY INTENT TO SUBVERT THE PURPOSES OF THIS SUBTITLE;

(III) THE APPLICANT'S OR AGENT'S PAYMENT TO THE POLITICAL ACTION COMMITTEE, AND THE POLITICAL ACTION COMMITTEE'S TRANSFER, ARE DISCLOSED IN AN AFFIDAVIT; AND

(IV) THE TRANSFER IS RETURNED TO THE POLITICAL ACTION COMMITTEE BY THE MEMBER, OR THE PAYMENT IS RETURNED TO THE APPLICANT OR AGENT BY THE POLITICAL ACTION COMMITTEE.

(C) AFFIDAVIT BY APPLICANT.

(1) AFTER AN APPLICATION IS FILED, THE APPLICANT SHALL FILE AN AFFIDAVIT UNDER OATH:

(I) 1. STATING TO THE BEST OF THE APPLICANT'S INFORMATION, KNOWLEDGE, AND BELIEF THAT DURING THE 36–MONTH PERIOD BEFORE THE FILING OF THE APPLICATION AND DURING THE PENDENCY OF THE APPLICATION, THE APPLICANT HAS NOT MADE ANY PAYMENT TO A MEMBER'S TREASURER, A MEMBER'S CONTINUING POLITICAL COMMITTEE, OR A SLATE TO WHICH THE MEMBER BELONGS OR BELONGED DURING THE 36–MONTH PERIOD BEFORE THE FILING OF THE APPLICATION; OR

2. IF ANY SUCH PAYMENT WAS MADE, DISCLOSING THE NAME OF THE MEMBER TO WHOSE TREASURER OR CONTINUING POLITICAL COMMITTEE, OR SLATE TO WHICH THE MEMBER BELONGS OR BELONGED DURING THE 36–MONTH PERIOD BEFORE THE FILING OF THE APPLICATION, THE PAYMENT WAS MADE;

(II) 1. STATING TO THE BEST OF THE APPLICANT'S INFORMATION, KNOWLEDGE, AND BELIEF THAT DURING THE 36–MONTH PERIOD BEFORE THE FILING OF THE APPLICATION AND DURING THE PENDENCY OF THE APPLICATION, THE APPLICANT HAS NOT SOLICITED ANY PERSON OR BUSINESS ENTITY TO MAKE A PAYMENT TO A MEMBER'S TREASURER, A MEMBER'S CONTINUING POLITICAL COMMITTEE, OR A SLATE TO WHICH THE MEMBER BELONGS OR BELONGED DURING THE 36–MONTH PERIOD BEFORE THE FILING OF THE APPLICATION; OR

2. IF ANY SUCH SOLICITED PAYMENT WAS MADE, DISCLOSING THE NAME OF THE MEMBER TO WHOSE TREASURER OR CONTINUING POLITICAL COMMITTEE, OR SLATE TO WHICH THE MEMBER BELONGS OR BELONGED DURING THE 36–MONTH PERIOD BEFORE THE FILING OF THE APPLICATION, THE PAYMENT WAS MADE; AND

(III) 1. STATING TO THE BEST OF THE APPLICANT'S INFORMATION, KNOWLEDGE, AND BELIEF THAT DURING THE 36–MONTH PERIOD BEFORE THE FILING OF THE APPLICATION AND DURING THE PENDENCY OF THE APPLICATION, A MEMBER OF THE APPLICANT'S HOUSEHOLD HAS NOT MADE A PAYMENT TO A MEMBER'S TREASURER, A MEMBER'S CONTINUING POLITICAL COMMITTEE, OR A SLATE TO WHICH THE MEMBER BELONGS OR BELONGED DURING THE 36–MONTH PERIOD BEFORE THE FILING OF THE APPLICATION; OR

2. IF ANY SUCH PAYMENT WAS MADE, DISCLOSING THE NAME OF THE MEMBER TO WHOSE TREASURER OR CONTINUING POLITICAL COMMITTEE, OR SLATE TO WHICH THE MEMBER BELONGS OR BELONGED DURING THE 36–MONTH PERIOD BEFORE THE FILING OF THE APPLICATION, THE PAYMENT WAS MADE.

(2) THE AFFIDAVIT SHALL BE FILED AT LEAST 30 CALENDAR DAYS BEFORE CONSIDERATION OF THE APPLICATION BY THE DISTRICT COUNCIL.

(3) A SUPPLEMENTAL AFFIDAVIT SHALL BE FILED WHENEVER A PAYMENT IS MADE AFTER THE ORIGINAL AFFIDAVIT WAS FILED.

(4) (I) AN APPLICANT IS NOT REQUIRED TO MAKE ANY REPRESENTATIONS IN THE AFFIDAVIT PERTAINING TO THE ACTIONS OF ANYONE OTHER THAN THAT APPLICANT.

(II) ANYONE WITH AUTHORITY TO ACT ON BEHALF OF AND BIND A BUSINESS ENTITY MAY EXECUTE AN AFFIDAVIT ON BEHALF OF THE BUSINESS ENTITY.

(5) THE ONLY DISCLOSURES REQUIRED UNDER THE AFFIDAVIT ARE THOSE INVOLVING INDIVIDUALS OR BUSINESS ENTITIES THAT WOULD BE SUBJECT TO THIS SUBTITLE.

(D) AFFIDAVIT BY AGENT.

(1) AN AGENT SHALL FILE AN AFFIDAVIT IN AN APPLICATION ONLY IF:

(I) THE AGENT HAS ACTED ON BEHALF OF THE APPLICANT WITH REGARD TO THE SPECIFIC APPLICATION; AND

(II) DURING THE 36–MONTH PERIOD BEFORE THE FILING OF THE APPLICATION AND DURING THE PENDENCY OF THE APPLICATION, AND AFTER BECOMING AN AGENT OF THE APPLICANT:

1. THE AGENT HAS MADE A PAYMENT TO A MEMBER, A MEMBER'S CONTINUING POLITICAL COMMITTEE, OR A SLATE TO WHICH THE MEMBER BELONGS OR BELONGED DURING THE 36–MONTH PERIOD BEFORE THE FILING OF THE APPLICATION; OR

2. THE AGENT HAS SOLICITED ANY PERSON TO MAKE A PAYMENT TO A MEMBER'S TREASURER, A MEMBER'S CONTINUING POLITICAL COMMITTEE, OR A SLATE TO WHICH THE MEMBER BELONGS OR BELONGED DURING THE 36–MONTH PERIOD BEFORE THE FILING OF THE APPLICATION.

(2) NOTWITHSTANDING PARAGRAPH (1)(II) OF THIS SUBSECTION, AN AGENT SHALL DISCLOSE IN THE AFFIDAVIT A PAYMENT MADE BEFORE BECOMING AN AGENT IF THE AGENT:

(I) MADE THE PAYMENT BY PREARRANGEMENT OR IN COORDINATION WITH ONE OR MORE APPLICANTS; OR

(II) ACTED AS AN AGENT AS TO ANY OTHER APPLICATION FILED DURING THE 36–MONTH PERIOD.

(E) APPLICABILITY OF PART.

(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A CONTRIBUTOR, A MEMBER, OR A POLITICAL ACTION COMMITTEE IS SUBJECT TO THIS PART IF A PAYMENT IS MADE BY THE CONTRIBUTOR OR A TRANSFER IS MADE BY THE POLITICAL ACTION COMMITTEE TO:

(I) THE CANDIDATE;

(II) THE CANDIDATE'S CONTINUING POLITICAL COMMITTEE; OR

(III) A SLATE TO WHICH THE MEMBER BELONGS OR BELONGED DURING THE 36–MONTH PERIOD BEFORE THE FILING OF THE APPLICATION.

(2) THIS PART DOES NOT APPLY TO:

(I) ANY TRANSFER TO THE CONTINUING POLITICAL COMMITTEE OF A MEMBER BY THE CONTINUING POLITICAL COMMITTEE OF ANOTHER INDIVIDUAL RUNNING FOR ELECTIVE OFFICE; OR

(II) A PAYMENT OR TRANSFER TO THE PRINCE GEORGE'S COUNTY OR STATE CENTRAL COMMITTEE OF A POLITICAL PARTY, EVEN IF THE CENTRAL COMMITTEE SUPPORTS A CANDIDATE.

(3) A PERSON MAY NOT MAKE A PAYMENT IN VIOLATION OF THIS PART.

(F) CIRCUMVENTING INTENT OF PART PROHIBITED.

AN APPLICANT OR AGENT MAY NOT TAKE ANY ACTION, DIRECTLY OR INDIRECTLY, WITH THE INTENT TO CIRCUMVENT THE INTENT OF THIS PART.

REVISOR'S NOTE: This section is new language derived without substantive change from former SG § 15–831.

Throughout this section, the former references to a member "or candidate" are deleted as surplusage, as candidates are included in the definition of "member".

In subsections (a), (b)(1), and (e)(1) and (2)(i) of this section, the former references to a member "of the County Council" are deleted as unnecessary in light of the defined term "member".

In subsection (c)(2) of this section, the former reference to filing the affidavit "any time prior to consideration … at the discretion of the applicant" is deleted as surplusage.

In subsection (c)(4)(ii) of this section, the former phrase "[i]n the case of business entities," is deleted as surplusage.

Also in subsection (c)(4)(ii) of this section, the former reference to the business entity "itself" is deleted as surplusage.

In subsection (f) of this section, the reference to "this part" is substituted for the former reference to "this subtitle" to conform to the apparent intent.

Defined terms: "Agent" § 5–833
"Applicant" § 5–833
"Application" § 5–833
"Business entity" § 5–833
"Candidate" § 5–833
"Continuing political committee" § 5–833
"Contributor" § 5–833
"County Executive" § 5–833
"District Council" § 5–833
"Member" § 5–833
"Member of household" § 5–101
"Payment" § 5–833
"Pendency of the application" § 5–833
"Person" § 1–114
"Political action committee" § 5–833
"Slate" § 5–833
"Treasurer" § 5–833

5–836. DISCLOSURE OF EX PARTE COMMUNICATION.

(A) IN GENERAL.

AN EX PARTE COMMUNICATION CONCERNING A PENDING APPLICATION BETWEEN AN APPLICANT OR APPLICANT'S AGENT AND A MEMBER OR THE COUNTY EXECUTIVE SHALL BE DISCLOSED AS REQUIRED IN THIS SECTION.

(B) BY APPLICANT.

AN APPLICANT OR AGENT WHO COMMUNICATES EX PARTE DURING THE PENDENCY OF THE APPLICATION WITH A MEMBER OR WITH THE COUNTY EXECUTIVE SHALL FILE, FOR EACH EX PARTE COMMUNICATION, A SEPARATE DISCLOSURE WITH THE CLERK OF THE COUNTY COUNCIL WITHIN 5 WORKING DAYS AFTER THE COMMUNICATION WAS MADE OR RECEIVED, WHICHEVER IS LATER.

(C) BY COUNTY EXECUTIVE OR MEMBER.

THE COUNTY EXECUTIVE OR A MEMBER WHO COMMUNICATES EX PARTE DURING THE PENDENCY OF THE APPLICATION WITH AN APPLICANT OR AGENT SHALL FILE, FOR EACH EX PARTE COMMUNICATION, A SEPARATE DISCLOSURE WITH THE CLERK OF THE COUNTY COUNCIL WITHIN 5 WORKING DAYS AFTER THE COMMUNICATION WAS MADE OR RECEIVED, WHICHEVER IS LATER.

REVISOR'S NOTE: This section formerly was SG § 15–832.

Throughout this section, the former references to a member "of the County Council" are deleted as unnecessary in light of the defined term "member".

In subsections (b) and (c) of this section, the references to each "ex parte" communication are substituted for the former reference to each "such" communication for clarity.

The only other changes are in style.

Defined terms: "Agent" § 5–833
"Applicant" § 5–833
"Application" § 5–833
"County Council" § 5–833
"County Executive" § 5–833
"Member" § 5–833
"Pendency of the application" § 5–833

5–837. EVIDENCE OF PAYMENTS OR EX PARTE COMMUNICATION.

AT ANY TIME BEFORE FINAL ACTION ON AN APPLICATION, A PARTY OF RECORD MAY FILE WITH THE CLERK OF THE COUNTY COUNCIL COMPETENT EVIDENCE OF:

(1) A PAYMENT OR CONTRIBUTION BY AN APPLICANT OR AGENT COVERED UNDER § 5–835 OF THIS SUBTITLE; OR

(2) AN EX PARTE COMMUNICATION COVERED UNDER § 5–836 OF THIS SUBTITLE.

REVISOR'S NOTE: This section formerly was SG § 15–833.

The only changes are in style.

Defined terms: "Agent" § 5–833
"Applicant" § 5–833
"Application" § 5–833
"County Council" § 5–833
"Payment" § 5–833

5–838. ENFORCEMENT OF PART.

(A) DIRECTION AND CONTROL OF ETHICS COMMISSION.

IN THE ENFORCEMENT OF THIS PART, THE CLERK OF THE COUNTY COUNCIL SHALL BE SUBJECT TO THE DIRECTION AND CONTROL OF THE ETHICS COMMISSION OR ITS EXECUTIVE DIRECTOR AND, UNLESS OTHERWISE SPECIFICALLY DIRECTED BY THE ETHICS COMMISSION OR ITS EXECUTIVE DIRECTOR, MAY ONLY:

(1) RECEIVE FILINGS;

(2) MAINTAIN RECORDS;

(3) REPORT VIOLATIONS; AND

(4) PERFORM OTHER MINISTERIAL DUTIES NECESSARY TO ADMINISTER THIS PART.

(B) FILING OF AFFIDAVIT BY CORPORATION.

NOTWITHSTANDING ANY OTHER PROVISION OF THIS PART, AS TO A CORPORATION LISTED ON A NATIONAL STOCK EXCHANGE OR REGULATED BY THE SECURITIES AND EXCHANGE COMMISSION, AND ANY SUBSIDIARY OF THE CORPORATION, THE FOLLOWING REQUIREMENTS APPLY IF THE FILING OF AN AFFIDAVIT IS OTHERWISE REQUIRED UNDER THIS PART:

(1) A DIRECTOR OR AN OFFICER IN THE CORPORATION OR ANY OF ITS SUBSIDIARIES, OR A STOCKHOLDER WHO HAS AT LEAST A 5% INTEREST IN THE CORPORATION OR ANY OF ITS SUBSIDIARIES, IS REQUIRED TO FILE AN AFFIDAVIT ONLY IF THE INDIVIDUAL HAS MADE A PAYMENT TO THE TREASURER

OF A CANDIDATE OR CONTINUING POLITICAL COMMITTEE, OR IF THE INDIVIDUAL HAS SOLICITED ANYONE TO MAKE A PAYMENT TO THE TREASURER OF A CANDIDATE OR CONTINUING POLITICAL COMMITTEE; AND

(2) THE CORPORATION OR ITS SUBSIDIARY SHALL FILE A CORPORATE AFFIDAVIT STATING:

(I) 1. THAT THE CORPORATION HAS NOT MADE OR SOLICITED A PAYMENT TO THE TREASURER OF A CANDIDATE OR CONTINUING POLITICAL COMMITTEE; OR

2. IF SUCH A PAYMENT WAS MADE, THE NAME OF THE MEMBER TO WHOSE TREASURER OR CONTINUING POLITICAL COMMITTEE THE PAYMENT WAS MADE; AND

(II) THAT ALL DIRECTORS, OFFICERS, AND STOCKHOLDERS WITH AT LEAST A 5% INTEREST HAVE BEEN NOTIFIED OF THE DISCLOSURE REQUIREMENTS OF ITEM (1) OF THIS SUBSECTION.

(C) FILING OF AFFIDAVITS; SUMMARY REPORTS.

(1) THE AFFIDAVITS AND DISCLOSURES REQUIRED UNDER THIS PART SHALL BE FILED IN THE APPROPRIATE CASE FILE OF AN APPLICATION.

(2) THE CLERK OF THE COUNTY COUNCIL, AT LEAST TWICE EACH YEAR, SHALL PREPARE A SUMMARY REPORT COMPILING ALL AFFIDAVITS AND DISCLOSURES THAT HAVE BEEN FILED IN THE APPLICATION CASE FILES.

(3) ALL SUMMARY REPORTS COMPILED UNDER PARAGRAPH (2) OF THIS SUBSECTION SHALL BE AVAILABLE TO MEMBERS OF THE PUBLIC ON WRITTEN REQUEST.

(4) ALL AFFIDAVITS, DISCLOSURES, AND ACCOMPANYING DOCUMENTATION REQUIRED UNDER THIS PART SHALL BE IN THE FORM REQUIRED BY THE ETHICS COMMISSION.

REVISOR'S NOTE: This section formerly was SG § 15–834.

The only changes are in style.

Defined terms: "Application" § 5–833
"Candidate" § 5–833
"Continuing political committee" § 5–833
"County Council" § 5–833

"Ethics Commission" § 5–101
"Interest" § 5–833
"Member" § 5–833
"Payment" § 5–833
"Treasurer" § 5–833

5–839. INJUNCTIVE OR OTHER RELIEF; PENALTIES; PRESERVATION OF DOCUMENTS.

(A) PETITION FOR INJUNCTIVE OR OTHER RELIEF.

(1) THE ETHICS COMMISSION OR ANY OTHER AGGRIEVED PERSON MAY:

(I) FILE A PETITION FOR INJUNCTIVE OR OTHER RELIEF IN THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY TO REQUIRE COMPLIANCE WITH THIS PART; AND

(II) ASSERT AS ERROR ANY VIOLATION OF THIS PART IN JUDICIAL REVIEW REQUESTED UNDER § 22–407 OF THE LAND USE ARTICLE.

(2) THE COURT SHALL ISSUE AN ORDER VOIDING AN OFFICIAL ACTION TAKEN BY THE COUNTY COUNCIL IF:

(I) THE ACTION TAKEN BY THE COUNTY COUNCIL WAS IN VIOLATION OF THIS PART; AND

(II) THE LEGAL ACTION WAS BROUGHT WITHIN 30 DAYS AFTER THE OCCURRENCE OF THE OFFICIAL ACTION.

(3) THE COURT, AFTER HEARING AND CONSIDERING ALL THE CIRCUMSTANCES IN THE CASE AND VOIDING AN ACTION OF THE COUNTY COUNCIL, SHALL REVERSE, OR REVERSE AND REMAND, THE CASE TO THE DISTRICT COUNCIL FOR RECONSIDERATION.

(B) PENALTIES.

(1) A PERSON WHO KNOWINGLY AND WILLFULLY VIOLATES THIS PART IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING $1,000 OR IMPRISONMENT NOT EXCEEDING 1 YEAR OR BOTH.

(2) IF THE PERSON IS A BUSINESS ENTITY AND NOT A NATURAL PERSON, EACH OFFICER AND PARTNER OF THE BUSINESS ENTITY WHO KNOWINGLY AUTHORIZED OR PARTICIPATED IN THE VIOLATION IS GUILTY OF A

MISDEMEANOR AND ON CONVICTION IS SUBJECT TO THE SAME PENALTIES AS THE BUSINESS ENTITY.

(3) A MEMBER IS GUILTY OF VIOLATING THIS PART ONLY IF THE MEMBER FAILS TO ABSTAIN FROM VOTING OR PARTICIPATING IN A PROCEEDING, BASED ON INFORMATION CONTAINED IN AN AFFIDAVIT FILED WITH THE COUNTY COUNCIL BY AN APPLICANT OR AGENT, IN VIOLATION OF § 5–835(B) OF THIS SUBTITLE.

(4) AN ACTION TAKEN IN RELIANCE ON AN OPINION OF THE ETHICS COMMISSION MAY NOT BE DEEMED A KNOWING AND WILLFUL VIOLATION.

(C) PRESERVATION OF DOCUMENTS.

(1) A PERSON WHO IS SUBJECT TO THIS PART SHALL PRESERVE ALL ACCOUNTS, BILLS, RECEIPTS, BOOKS, PAPERS, AND OTHER DOCUMENTS NECESSARY TO COMPLETE AND SUBSTANTIATE ANY REPORTS, STATEMENTS, OR RECORDS REQUIRED TO BE MADE UNDER THIS PART FOR 3 YEARS FROM THE DATE OF FILING THE APPLICATION.

(2) THE DOCUMENTS SHALL BE AVAILABLE FOR INSPECTION ON REQUEST OF THE ETHICS COMMISSION AFTER REASONABLE NOTICE.

REVISOR'S NOTE: This section formerly was SG § 15–835.

In subsection (c)(2) of this section, the former reference to "papers" is deleted as included in the reference to "documents".

The only other changes are in style.

Defined terms: "Agent" § 5–833
"Applicant" § 5–833
"Application" § 5–833
"Business entity" § 5–833
"County Council" § 5–833
"District Council" § 5–833
"Ethics Commission" § 5–101
"Member" § 5–833
"Person" § 1–114

5–840. RESERVED.

5–841. RESERVED.

PART VI. REGIONAL DISTRICT — SPECIAL PROVISIONS FOR MONTGOMERY COUNTY.

5–842. DEFINITIONS.

(A) IN GENERAL.

IN THIS PART THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection formerly was SG § 15–838(a).

The only changes are in style.

(B) APPLICANT.

(1) (I) "APPLICANT" MEANS AN INDIVIDUAL OR A BUSINESS ENTITY THAT IS:

1. A TITLE OWNER OR CONTRACT PURCHASER OF LAND THAT IS THE SUBJECT OF AN APPLICATION;

2. A TRUSTEE WHO HAS AN INTEREST IN LAND THAT IS THE SUBJECT OF AN APPLICATION, EXCLUDING A TRUSTEE DESCRIBED IN A MORTGAGE OR DEED OF TRUST; OR

3. A HOLDER OF AT LEAST A 5% INTEREST IN A BUSINESS ENTITY WHO HAS AN INTEREST IN LAND THAT IS THE SUBJECT OF AN APPLICATION.

(II) "APPLICANT" INCLUDES, IF THE APPLICANT IS A CORPORATION, THE DIRECTORS AND OFFICERS OF THE CORPORATION THAT ACTUALLY HOLDS TITLE TO THE LAND, OR IS A CONTRACT PURCHASER OF THE LAND, THAT IS THE SUBJECT OF AN APPLICATION.

(2) "APPLICANT" DOES NOT INCLUDE:

(I) A FINANCIAL INSTITUTION THAT HAS LOANED MONEY OR EXTENDED FINANCING FOR THE ACQUISITION, DEVELOPMENT, OR CONSTRUCTION OR IMPROVEMENTS ON THE LAND THAT IS THE SUBJECT OF AN APPLICATION;

(II) A MUNICIPAL CORPORATION OR PUBLIC CORPORATION;

(III) A PUBLIC AUTHORITY;

(IV) A PUBLIC SERVICE COMPANY ACTING WITHIN THE SCOPE OF DIVISION I OF THE PUBLIC UTILITIES ARTICLE; OR

(V) A PERSON WHO IS HIRED OR RETAINED AS AN ACCOUNTANT, AN ATTORNEY, AN ARCHITECT, AN ENGINEER, A LAND USE CONSULTANT, AN ECONOMIC CONSULTANT, A REAL ESTATE AGENT, A REAL ESTATE BROKER, A TRAFFIC CONSULTANT, OR A TRAFFIC ENGINEER.

REVISOR'S NOTE: This subsection formerly was SG § 15–838(b).

The only changes are in style.

Defined terms: "Application" § 5–842
"Business entity" § 5–842
"Includes" § 1–110
"Interest" § 5–101
"Municipal corporation" § 5–101
"Person" § 1–114

(C) APPLICATION.

"APPLICATION" MEANS AN APPLICATION FOR A LOCAL MAP AMENDMENT, INCLUDING A RECLASSIFICATION.

REVISOR'S NOTE: This subsection formerly was SG § 15–838(c).

No changes are made.

Defined term: "Including" § 1–110

(D) BUSINESS ENTITY.

"BUSINESS ENTITY" MEANS:

(1) A CORPORATION;

(2) A GENERAL PARTNERSHIP;

(3) A JOINT VENTURE;

(4) A LIMITED LIABILITY COMPANY;

(5) A LIMITED PARTNERSHIP; OR

(6) A SOLE PROPRIETORSHIP.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former SG § 15–838(d).

(E) CANDIDATE.

"CANDIDATE" MEANS AN INDIVIDUAL WHO WINS AN ELECTION TO THE OFFICE OF COUNTY EXECUTIVE OR COUNTY COUNCIL OF MONTGOMERY COUNTY.

REVISOR'S NOTE: This subsection formerly was SG § 15–838(e).

No changes are made.

(F) CONTRIBUTION.

(1) (I) "CONTRIBUTION" MEANS:

1. A PAYMENT OR TRANSFER OF MONEY OR PROPERTY OF $500 OR MORE, CALCULATED CUMULATIVELY DURING A 4–YEAR ELECTION CYCLE, TO THE TREASURER OF EITHER A CANDIDATE OR A POLITICAL COMMITTEE; OR

2. THE INCURRING OF ANY LIABILITY OR PROMISE OF ANYTHING OF VALUE OF $500 OR MORE, CALCULATED CUMULATIVELY DURING A 4–YEAR ELECTION CYCLE, TO THE TREASURER OF EITHER A CANDIDATE OR A POLITICAL COMMITTEE.

(II) "CONTRIBUTION" INCLUDES A PAYMENT OR TRANSFER TO A SLATE WITH WHICH A CANDIDATE IS ASSOCIATED.

(2) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE $500 CUMULATIVE THRESHOLD CONTRIBUTION IS CALCULATED SEPARATELY AS TO EACH CANDIDATE OR ELECTED OFFICIAL.

(II) FOR PURPOSES OF THIS PART, A CUMULATIVE CONTRIBUTION OF $500 OR MORE TO A SLATE IS FULLY ATTRIBUTED TO EACH CANDIDATE ON THE SLATE.

REVISOR'S NOTE: This subsection formerly was SG § 15–838(f).

The only changes are in style.

Defined terms: "Candidate" § 5–842
"Elected official" § 5–842
"Includes" § 1–110
"Political committee" § 5–842
"Slate" § 5–842
"Treasurer" § 5–842

(G) CONTRIBUTOR.

"CONTRIBUTOR" MEANS AN INDIVIDUAL OR BUSINESS ENTITY THAT MAKES A CONTRIBUTION.

REVISOR'S NOTE: This subsection formerly was SG § 15–838(g).

No changes are made.

Defined terms: "Business entity" § 5–842
"Contribution" § 5–842

(H) ELECTED OFFICIAL.

"ELECTED OFFICIAL" MEANS AN INDIVIDUAL WHO HOLDS THE OFFICE OF COUNTY EXECUTIVE OR MEMBER OF THE COUNTY COUNCIL OF MONTGOMERY COUNTY.

REVISOR'S NOTE: This subsection formerly was SG § 15–838(h).

No changes are made.

(I) PARTY OF RECORD.

(1) "PARTY OF RECORD" MEANS AN INDIVIDUAL OR A BUSINESS ENTITY THAT IS GRANTED STANDING TO PARTICIPATE IN A LOCAL MAP AMENDMENT PROCEEDING BY THE COUNTY COUNCIL, SITTING AS THE DISTRICT COUNCIL, OR ITS HEARING EXAMINER.

(2) "PARTY OF RECORD" DOES NOT INCLUDE AN ATTORNEY, A CONSULTANT, AN EMPLOYEE, OR ANY OTHER AGENT OF A PARTY OF RECORD, INCLUDING AN AUTHORIZED REPRESENTATIVE OF A COMMUNITY ASSOCIATION WHO IS PARTICIPATING IN A PROCEEDING SOLELY ON BEHALF OF THE ASSOCIATION.

REVISOR'S NOTE: This subsection formerly was SG § 15–838(i).

No changes are made.

Defined terms: "Business entity" § 5–842
"Employee" § 5–101
"Including" § 1–110

(J) POLITICAL ACTION COMMITTEE.

"POLITICAL ACTION COMMITTEE" MEANS A POLITICAL COMMITTEE THAT IS NOT:

(1) A POLITICAL PARTY;

(2) A CENTRAL COMMITTEE;

(3) A SLATE; OR

(4) A POLITICAL COMMITTEE ORGANIZED AND OPERATED BY, AND SOLELY ON BEHALF OF, AN INDIVIDUAL RUNNING FOR AN ELECTIVE OFFICE OR A SLATE.

REVISOR'S NOTE: This subsection formerly was SG § 15–838(j).

The only changes are in style.

Defined terms: "Political committee" § 5–842
"Slate" § 5–842

(K) POLITICAL COMMITTEE.

"POLITICAL COMMITTEE" MEANS ANY COMBINATION OF TWO OR MORE PERSONS APPOINTED BY A CANDIDATE OR ANY OTHER PERSON OR FORMED IN ANY OTHER MANNER THAT ASSISTS OR ATTEMPTS TO ASSIST IN ANY MANNER THE PROMOTION OF THE SUCCESS OR DEFEAT OF ANY CANDIDATE, CANDIDATES, POLITICAL PARTY, PRINCIPLE, OR PROPOSITION SUBMITTED TO A VOTE IN ANY ELECTION.

REVISOR'S NOTE: This subsection formerly was SG § 15–838(k).

The only changes are in style.

Defined terms: "Candidate" § 5–842
"Person" § 1–114

(L) SLATE.

(1) "SLATE" MEANS A POLITICAL COMMITTEE OF TWO OR MORE CANDIDATES WHO JOIN TOGETHER TO CONDUCT AND PAY FOR JOINT ACTIVITIES.

(2) "SLATE" DOES NOT INCLUDE A POLITICAL PARTY OR A CENTRAL COMMITTEE.

REVISOR'S NOTE: This subsection formerly was SG § 15–838(l).

No changes are made.

Defined terms: "Candidate" § 5–842
"Political committee" § 5–842

(M) TREASURER.

(1) "TREASURER" HAS THE MEANING STATED IN § 1–101 OF THE ELECTION LAW ARTICLE.

(2) "TREASURER" INCLUDES A SUBTREASURER.

REVISOR'S NOTE: This subsection formerly was SG § 15–838(m).

No changes are made.

Defined term: "Includes" § 1–110

5–843. DISCLOSURE STATEMENTS.

(A) IN GENERAL.

AN APPLICANT OR PARTY OF RECORD WHO MAKES A CONTRIBUTION DURING THE 4–YEAR ELECTION CYCLE BEFORE THE FILING OF THE APPLICATION OR DURING THE PENDENCY OF THE APPLICATION SHALL DISCLOSE THE CONTRIBUTION IN ACCORDANCE WITH THIS SECTION.

(B) CONTENTS; FILING; TIME LIMITATIONS.

(1) (I) ON FILING AN APPLICATION, AN APPLICANT SHALL SUBMIT A DISCLOSURE STATEMENT THAT:

1. NAMES EACH CANDIDATE OR ELECTED OFFICIAL TO WHOSE TREASURER OR POLITICAL COMMITTEE THE APPLICANT MADE A CONTRIBUTION; AND

2. STATES THE AMOUNT AND THE DATE OF THE CONTRIBUTION.

(II) IF A CONTRIBUTION WAS NOT MADE, THE DISCLOSURE STATEMENT SHALL SO STATE.

(2) THE DISCLOSURE STATEMENT SHALL BE FILED:

(I) ON A FORM APPROVED BY THE COUNTY COUNCIL, WHICH SHALL CONTAIN:

1. AN AFFIRMATION CLAUSE TO BE SIGNED BY THE APPLICANT UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THE DISCLOSURE STATEMENT ARE TRUE TO THE BEST OF THE APPLICANT'S KNOWLEDGE, INFORMATION, AND BELIEF; AND

2. A NOTICE THAT NONCOMPLIANCE WITH THIS SUBTITLE MAY RESULT IN A FINE NOT EXCEEDING $1,000; AND

(II) WITH THE CHIEF HEARING EXAMINER OF THE OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS, UNLESS THE COUNTY COUNCIL DETERMINES OTHERWISE.

(3) WITHIN 2 WEEKS AFTER ENTERING A PROCEEDING, A PARTY OF RECORD THAT HAS MADE A CONTRIBUTION SHALL SUBMIT A DISCLOSURE STATEMENT AS DESCRIBED UNDER PARAGRAPH (2) OF THIS SUBSECTION.

(4) A CONTRIBUTION MADE AFTER THE FILING OF THE INITIAL DISCLOSURE AND BEFORE THE FINAL DISPOSITION OF THE APPLICATION BY THE DISTRICT COUNCIL SHALL BE DISCLOSED WITHIN 5 BUSINESS DAYS AFTER THE CONTRIBUTION.

(C) APPLICABILITY OF PART.

(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A CONTRIBUTOR IS SUBJECT TO THIS PART IF THE CONTRIBUTOR MAKES A CONTRIBUTION TO A CANDIDATE, A SLATE, OR A CANDIDATE'S POLITICAL COMMITTEE.

(2) THIS PART DOES NOT APPLY TO A TRANSFER BY A POLITICAL ACTION COMMITTEE TO A CANDIDATE OR TO THE POLITICAL COMMITTEE OF A CANDIDATE OR AN ELECTED OFFICIAL.

(D) RECORDS — CUSTODIAN; INSPECTION.

(1) THE CHIEF HEARING EXAMINER OF THE OFFICE OF ZONING AND ADMINISTRATIVE APPEALS:

(I) IS THE OFFICIAL CUSTODIAN OF RECORDS FILED UNDER THIS PART; AND

(II) SHALL PREPARE A SUMMARY REPORT AT LEAST TWICE EACH CALENDAR YEAR COMPILING ALL AFFIDAVITS AND DISCLOSURES THAT HAVE BEEN FILED.

(2) A SUMMARY REPORT AND DISCLOSURE STATEMENT FILED UNDER THIS PART SHALL BE A MATTER OF PUBLIC RECORD AND AVAILABLE FOR INSPECTION ON WRITTEN REQUEST.

REVISOR'S NOTE: This section formerly was SG § 15–839.

The only changes are in style.

Defined terms: "Applicant" § 5–842
"Application" § 5–842
"Candidate" § 5–842
"Contribution" § 5–842
"Contributor" § 5–842
"Elected official" § 5–842
"Party of record" § 5–842
"Political action committee" § 5–842
"Political committee" § 5–842
"Slate" § 5–842
"Treasurer" § 5–842

5–844. VIOLATIONS; PENALTY; ENFORCEMENT.

(A) VIOLATIONS; PENALTY.

A PERSON WHO KNOWINGLY AND WILLFULLY VIOLATES THIS PART IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING $1,000.

(B) VIOLATION BY BUSINESS ENTITY.

IF THE PERSON IS A BUSINESS ENTITY AND NOT A NATURAL PERSON, EACH OFFICER AND PARTNER OF THE BUSINESS ENTITY WHO KNOWINGLY

AUTHORIZED OR PARTICIPATED IN THE VIOLATION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO THE SAME PENALTIES AS THE BUSINESS ENTITY.

(C) ENFORCEMENT.

THIS PART SHALL BE ENFORCED BY THE STATE'S ATTORNEY FOR MONTGOMERY COUNTY.

REVISOR'S NOTE: This section formerly was SG § 15–840.

The only changes are in style.

Defined terms: "Business entity" § 5–842
"Person" § 1–114

5–845. ACCURACY OF DISCLOSURE STATEMENTS.

(A) NO LEGAL DUTY TO VERIFY.

THE COUNTY COUNCIL HAS NO LEGAL DUTY TO VERIFY THE ACCURACY OF ANY DISCLOSURE STATEMENT FILED UNDER THIS PART.

(B) NO GROUNDS TO INVALIDATE COUNTY COUNCIL DECISION.

FAILURE BY ANY PERSON, INCLUDING THE CHIEF HEARING EXAMINER OF THE OFFICE OF ZONING AND ADMINISTRATIVE APPEALS, TO COMPLY WITH THIS PART IS NOT GROUNDS FOR INVALIDATION OF ANY DECISION BY THE COUNTY COUNCIL, SITTING AS THE DISTRICT COUNCIL, FOR WHICH A DISCLOSURE STATEMENT IS REQUIRED.

REVISOR'S NOTE: This section formerly was SG § 15–841.

The only changes are in style.

Defined terms: "Including" § 1–110
"Person" § 1–114

5–846. RESERVED.

5–847. RESERVED.

PART VII. LOBBYING DISCLOSURE — SPECIAL PROVISIONS FOR MONTGOMERY AND PRINCE GEORGE'S COUNTIES.

5–848. DEFINITIONS.

(A) IN GENERAL.

IN THIS PART THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection formerly was SG § 15–844(a).

The only changes are in style.

(B) CANDIDATE.

"CANDIDATE" HAS THE MEANING STATED IN § 1–101 OF THE ELECTION LAW ARTICLE, BUT ONLY AS IT APPLIES TO A CANDIDATE SEEKING ELECTION AS A LOCAL OFFICIAL.

REVISOR'S NOTE: This subsection formerly was SG § 15–844(b).

No changes are made.

Defined term: "Local official" § 5–848

(C) CONTRIBUTION.

"CONTRIBUTION" HAS THE MEANING STATED IN § 1–101 OF THE ELECTION LAW ARTICLE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former SG § 15–844(c), as it related to the definition of "contribution".

(D) LOBBYIST.

"LOBBYIST" MEANS A PERSON REQUIRED TO REGISTER UNDER § 2–295 OF THE PRINCE GEORGE'S COUNTY CODE OR § 19A–21 OF THE MONTGOMERY COUNTY CODE.

REVISOR'S NOTE: This subsection formerly was SG § 15–844(d).

No changes are made.

Defined term: "Person" § 1–114

(E) LOCAL OFFICIAL.

"LOCAL OFFICIAL" MEANS:

(1) A MEMBER OF THE COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY OR THE COUNTY EXECUTIVE OF PRINCE GEORGE'S COUNTY; OR

(2) A MEMBER OF THE COUNTY COUNCIL OF MONTGOMERY COUNTY OR THE COUNTY EXECUTIVE OF MONTGOMERY COUNTY.

REVISOR'S NOTE: This subsection formerly was SG § 15–844(e).

No changes are made.

(F) POLITICAL COMMITTEE.

"POLITICAL COMMITTEE" HAS THE MEANINGS STATED IN § 1–101 OF THE ELECTION LAW ARTICLE.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former SG § 15–844(c), as it related to the definition of "political committee".

5–849. RESTRICTIONS ON LOBBYING ACTIVITY.

(A) FUND–RAISING RESTRICTIONS.

BEGINNING WITH THE EFFECTIVE DATE OF A LOBBYING REGISTRATION AND EXTENDING THROUGH THE ENDING DATE OF THE REGISTRATION PERIOD, A LOBBYIST WHO LOBBIES A LOCAL OFFICIAL, OR A PERSON ACTING ON BEHALF OF THE LOBBYIST, MAY NOT:

(1) SOLICIT OR TRANSMIT DIRECTLY OR INDIRECTLY A CONTRIBUTION FROM ANY PERSON, INCLUDING A POLITICAL COMMITTEE, FOR THE BENEFIT OF A LOCAL OFFICIAL OR CANDIDATE;

(2) SERVE ON A FUND–RAISING COMMITTEE OF, OR A POLITICAL COMMITTEE FOR THE BENEFIT OF, A LOCAL OFFICIAL OR CANDIDATE; OR

(3) ACT AS A TREASURER OR CHAIR OF A POLITICAL COMMITTEE FOR THE BENEFIT OF A LOCAL OFFICIAL OR CANDIDATE.

(B) ALLOWED ACTIVITIES.

THIS PART MAY NOT BE CONSTRUED TO PROHIBIT A LOBBYIST FROM:

(1) MAKING A PERSONAL CONTRIBUTION WITHIN THE LIMITATIONS ESTABLISHED UNDER THE ELECTION LAW ARTICLE; OR

(2) INFORMING THE LOBBYIST'S EMPLOYER OR OTHERS OF THE POSITIONS TAKEN BY A PARTICULAR CANDIDATE.

(C) VIOLATION; PENALTIES.

(1) A PERSON WHO KNOWINGLY AND WILLFULLY VIOLATES THIS PART IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING $1,000 OR IMPRISONMENT NOT EXCEEDING 1 YEAR OR BOTH.

(2) IF THE PERSON IS A BUSINESS ENTITY AND NOT A NATURAL PERSON, EACH OFFICER AND PARTNER OF THE BUSINESS ENTITY WHO KNOWINGLY AUTHORIZED OR PARTICIPATED IN THE VIOLATION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO THE SAME PENALTIES AS THE BUSINESS ENTITY.

REVISOR'S NOTE: This section formerly was SG § 15–845.

In subsection (b)(2) of this section, the former reference to a candidate "for office" is deleted as surplusage.

The only other changes are in style.

Defined terms: "Business entity" § 5–101
"Candidate" § 5–848
"Contribution" § 5–848
"Employer" § 5–101
"Including" § 1–110
"Lobbying" § 5–801
"Lobbyist" § 5–848
"Local official" § 5–848
"Person" § 1–114
"Political committee" § 5–848

5–850. RESERVED.

5–851. RESERVED.

PART VIII. SPECIAL PROVISIONS FOR HOWARD COUNTY.

5–852. DEFINITIONS.

(A) IN GENERAL.

IN THIS PART THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection formerly was SG § 15–848(a).

The only changes are in style.

(B) APPLICANT.

(1) "APPLICANT" MEANS AN INDIVIDUAL OR A BUSINESS ENTITY THAT IS, WITH REGARD TO THE LAND THAT IS THE SUBJECT OF AN APPLICATION:

(I) A TITLE OWNER, AN ASSIGNEE, OR A CONTRACT PURCHASER OF THE LAND;

(II) A TRUSTEE THAT HAS AN INTEREST IN THE LAND, EXCLUDING A TRUSTEE DESCRIBED IN A MORTGAGE OR DEED OF TRUST; OR

(III) A HOLDER OF AT LEAST A 5% INTEREST IN A BUSINESS ENTITY THAT HAS AN INTEREST IN THE LAND IF:

1. THE INTEREST HOLDER IS INVOLVED SIGNIFICANTLY IN DIRECTING THE AFFAIRS OF THE BUSINESS ENTITY, INCLUDING THE DISPOSITION OF THE LAND; OR

2. THE INTEREST HOLDER IS ENGAGED IN SUBSTANTIVE ACTIONS SPECIFICALLY PERTAINING TO LAND DEVELOPMENT IN HOWARD COUNTY AS A REGULAR PART OF THE ACTIVITY OF THE BUSINESS ENTITY.

(2) "APPLICANT" INCLUDES:

(I) ANY OTHER BUSINESS ENTITY IN WHICH AN INDIVIDUAL OR BUSINESS ENTITY DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION HOLDS AT LEAST A 3% INTEREST;

(II) AN OFFICER OR A DIRECTOR OF A CORPORATION WHO ACTUALLY HOLDS TITLE TO, OR IS THE CONTRACT PURCHASER OR ASSIGNEE OF, THE LAND THAT IS THE SUBJECT OF AN APPLICATION IF:

1. THE CORPORATION IS LISTED ON A NATIONAL SECURITIES EXCHANGE AND THE OFFICER OR DIRECTOR OWNS AT LEAST 5% OF ITS STOCK; OR

2. IN THE CASE OF ANY OTHER CORPORATION, THE OFFICER OR DIRECTOR OWNS ANY INTEREST IN THE CORPORATION; OR

(III) AS TO AN APPLICATION FOR A ZONING REGULATION, ANY PERSON AUTHORIZED TO SIGN THE APPLICATION.

(3) "APPLICANT" DOES NOT INCLUDE:

(I) A FINANCIAL INSTITUTION THAT HAS LOANED MONEY OR EXTENDED FINANCING FOR THE ACQUISITION, DEVELOPMENT, OR CONSTRUCTION OF IMPROVEMENTS ON THE LAND THAT IS THE SUBJECT OF AN APPLICATION;

(II) A MUNICIPAL CORPORATION OR PUBLIC CORPORATION;

(III) A PUBLIC AUTHORITY;

(IV) A PUBLIC SERVICE COMPANY ACTING WITHIN THE SCOPE OF DIVISION I OF THE PUBLIC UTILITIES ARTICLE; OR

(V) A PERSON WHO IS:

1. LESS THAN A FULL–TIME EMPLOYEE OF A PERSON DESCRIBED IN PARAGRAPH (1) OR (2) OF THIS SUBSECTION; AND

2. HIRED OR RETAINED AS AN ACCOUNTANT, AN ATTORNEY, AN ARCHITECT, AN ENGINEER, A LAND USE CONSULTANT, AN ECONOMIC CONSULTANT, A REAL ESTATE AGENT, A REAL ESTATE BROKER, A TRAFFIC CONSULTANT, OR A TRAFFIC ENGINEER.

REVISOR'S NOTE: This subsection formerly was SG § 15–848(b).

The only changes are in style.

Defined terms: "Application" § 5–852
"Business entity" § 5–852
"Employee" § 5–101
"Includes", "Including" § 1–110
"Interest" § 5–101
"Municipal corporation" § 5–101
"Person" § 1–114

(C) APPLICATION.

"APPLICATION" MEANS:

(1) AN APPLICATION FOR A ZONING MAP AMENDMENT;

(2) AN APPLICATION FOR A ZONING REGULATION AMENDMENT; OR

(3) PARTICIPATION IN THE ADOPTION AND APPROVAL OF A COMPREHENSIVE ZONING PLAN BY APPEARING AT A PUBLIC HEARING, FILING A STATEMENT IN AN OFFICIAL RECORD, OR ENGAGING IN OTHER SIMILAR COMMUNICATION WITH AN ELECTED OFFICIAL, WHERE THE INTENT IS TO CHANGE THE CLASSIFICATION OR INCREASE THE DENSITY OF THE LAND OF THE APPLICANT.

REVISOR'S NOTE: This subsection formerly was SG § 15–848(c).

No changes are made.

Defined terms: "Applicant" § 5–852
"Elected official" § 5–852

(D) BUSINESS ENTITY.

"BUSINESS ENTITY" MEANS:

(1) A CORPORATION;

(2) A GENERAL PARTNERSHIP;

(3) A JOINT VENTURE;

(4) A LIMITED LIABILITY COMPANY;

(5) A LIMITED PARTNERSHIP; OR

(6) A SOLE PROPRIETORSHIP.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former SG § 15–848(d).

(E) CANDIDATE.

"CANDIDATE" MEANS A CANDIDATE FOR ELECTION AS HOWARD COUNTY EXECUTIVE, OR TO THE HOWARD COUNTY COUNCIL, WHO BECOMES AN ELECTED OFFICIAL.

REVISOR'S NOTE: This subsection formerly was SG § 15–848(e).

The only changes are in style.

Defined term: "Elected official" § 5–852

(F) CONTRIBUTION.

"CONTRIBUTION" MEANS ANY PAYMENT OR TRANSFER OF MONEY OR PROPERTY OR THE INCURRING OF ANY LIABILITY OR PROMISE OF ANYTHING OF VALUE TO THE TREASURER OF A CANDIDATE, A POLITICAL COMMITTEE, OR A SLATE.

REVISOR'S NOTE: This subsection formerly was SG § 15–848(f).

No changes are made.

Defined terms: "Candidate" § 5–852
"Political committee" § 5–852
"Slate" § 5–852
"Treasurer" § 5–852

(G) CONTRIBUTOR.

"CONTRIBUTOR" MEANS AN INDIVIDUAL OR BUSINESS ENTITY THAT MAKES A CONTRIBUTION.

REVISOR'S NOTE: This subsection formerly was SG § 15–848(g).

No changes are made.

Defined terms: "Business entity" § 5–852
"Contribution" § 5–852

(H) ELECTED OFFICIAL.

"ELECTED OFFICIAL" MEANS AN INDIVIDUAL WHO SERVES AS HOWARD COUNTY EXECUTIVE OR AS A MEMBER OF THE HOWARD COUNTY COUNCIL.

REVISOR'S NOTE: This subsection formerly was SG § 15–848(h).

No changes are made.

(I) ENGAGING IN BUSINESS.

(1) "ENGAGING IN BUSINESS" MEANS ENTERING INTO:

(I) A SALE, A PURCHASE, A LEASE, OR OTHER TRANSACTION INVOLVING GOODS, SERVICES, OR REAL PROPERTY; OR

(II) A CONTRACT, AN AWARD, A LOAN, AN EXTENSION OF CREDIT, OR ANY OTHER FINANCIAL TRANSACTION.

(2) "ENGAGING IN BUSINESS" DOES NOT INCLUDE THE SALE OF GOODS TO AN INDIVIDUAL FOR THE USE OR CONSUMPTION OF THE INDIVIDUAL OR OTHERS FOR PERSONAL, FAMILY, OR HOUSEHOLD PURPOSES, AS DISTINGUISHED FROM INDUSTRIAL, COMMERCIAL, OR AGRICULTURAL PURPOSES.

REVISOR'S NOTE: This subsection formerly was SG § 15–848(i).

The only changes are in style.

(J) FAMILY MEMBER.

"FAMILY MEMBER" MEANS THE SPOUSE OR CHILD OF EITHER AN APPLICANT OR A PARTY OF RECORD WHO HAS MADE A CONTRIBUTION WITH THE KNOWLEDGE AND CONSENT OF THE APPLICANT OR PARTY OF RECORD.

REVISOR'S NOTE: This subsection formerly was SG § 15–848(j).

No changes are made.

Defined terms: "Applicant" § 5–852
"Contribution" § 5–852
"Party of record" § 5–852

(K) PARTY OF RECORD.

"PARTY OF RECORD" MEANS AN INDIVIDUAL OR BUSINESS ENTITY THAT PARTICIPATES IN A MAP AMENDMENT PROCEEDING BY THE COUNTY COUNCIL OR THE ZONING BOARD, OR WHO PARTICIPATES IN THE ADOPTION AND APPROVAL OF A COMPREHENSIVE ZONING PLAN BY APPEARING AT A PUBLIC HEARING, FILING A STATEMENT IN AN OFFICIAL RECORD, OR ENGAGING IN OTHER SIMILAR COMMUNICATION WITH AN ELECTED OFFICIAL WHERE THE

INTENT IS TO OPPOSE A CHANGE IN CLASSIFICATION OR AN INCREASE IN DENSITY OF THE LAND OF AN APPLICANT.

REVISOR'S NOTE: This subsection formerly was SG § 15–848(k).

No changes are made.

Defined terms: "Applicant" § 5–852
"Business entity" § 5–852
"Elected official" § 5–852

(L) POLITICAL ACTION COMMITTEE.

"POLITICAL ACTION COMMITTEE" MEANS A POLITICAL COMMITTEE THAT IS NOT:

(1) A POLITICAL PARTY;

(2) A CENTRAL COMMITTEE;

(3) A SLATE; OR

(4) A POLITICAL COMMITTEE ORGANIZED AND OPERATED BY, AND SOLELY ON BEHALF OF, AN INDIVIDUAL RUNNING FOR ANY ELECTIVE OFFICE OR A SLATE.

REVISOR'S NOTE: This subsection formerly was SG § 15–848(l).

No changes are made.

Defined terms: "Political committee" § 5–852
"Slate" § 5–852

(M) POLITICAL COMMITTEE.

"POLITICAL COMMITTEE" MEANS A COMMITTEE, WHETHER CONTINUING OR NONCONTINUING, SPECIFICALLY CREATED TO PROMOTE THE CANDIDACY OF A PERSON RUNNING FOR ELECTIVE OFFICE.

REVISOR'S NOTE: This subsection formerly was SG § 15–848(m).

The only changes are in style.

Defined term: "Person" § 1–114

(N) SLATE.

"SLATE" MEANS A GROUP, COMBINATION, OR ORGANIZATION OF CANDIDATES CREATED UNDER THE ELECTION LAW ARTICLE.

REVISOR'S NOTE: This subsection formerly was SG § 15–848(n).

The only changes are in style.

Defined term: "Candidate" § 5–852

(O) TREASURER.

(1) "TREASURER" HAS THE MEANING STATED IN § 1–101 OF THE ELECTION LAW ARTICLE.

(2) "TREASURER" INCLUDES A SUBTREASURER.

REVISOR'S NOTE: This subsection formerly was SG § 15–848(o).

The only changes are in style.

Defined term: "Includes" § 1–110

5–853. CONTRIBUTIONS MADE BY APPLICANTS.

(A) AFFIDAVIT.

(1) WHEN AN APPLICATION IS FILED, THE APPLICANT SHALL FILE AN AFFIDAVIT, UNDER OATH, STATING WHETHER THE APPLICANT:

(I) HAS MADE ANY CONTRIBUTION OR CONTRIBUTIONS HAVING A CUMULATIVE VALUE OF AT LEAST $500 TO THE TREASURER OF A CANDIDATE OR THE TREASURER OF A POLITICAL COMMITTEE DURING THE 48–MONTH PERIOD BEFORE THE APPLICATION IS FILED, TO THE BEST OF THE APPLICANT'S INFORMATION, KNOWLEDGE, AND BELIEF; OR

(II) CURRENTLY IS ENGAGING IN BUSINESS WITH AN ELECTED OFFICIAL.

(2) (I) 1. EXCEPT AS PROVIDED IN SUBSUBPARAGRAPH 2 OF THIS SUBPARAGRAPH, IF THE APPLICANT OR A PARTY OF RECORD OR A FAMILY MEMBER HAS MADE A CONTRIBUTION OR CONTRIBUTIONS HAVING A CUMULATIVE VALUE OF AT LEAST $500 DURING THE 48–MONTH PERIOD

BEFORE THE APPLICATION WAS FILED OR DURING THE PENDENCY OF THE APPLICATION, THE APPLICANT OR THE PARTY OF RECORD SHALL FILE A DISCLOSURE PROVIDING THE NAME OF THE CANDIDATE OR ELECTED OFFICIAL TO WHOSE TREASURER OR POLITICAL COMMITTEE THE CONTRIBUTION WAS MADE, THE AMOUNT, AND THE DATE OF THE CONTRIBUTION.

2. IF THE PARTY OF RECORD IS A COMMUNITY ASSOCIATION, THE ASSOCIATION IS NOT REQUIRED TO POLL ITS MEMBERS TO DISCLOSE INDIVIDUAL CONTRIBUTIONS.

(II) A CONTRIBUTION MADE BETWEEN THE FILING OF THE APPLICATION AND THE DISPOSITION OF THE APPLICATION SHALL BE DISCLOSED WITHIN 5 BUSINESS DAYS AFTER THE CONTRIBUTION.

(3) AN APPLICANT WHO BEGINS ENGAGING IN BUSINESS WITH AN ELECTED OFFICIAL BETWEEN THE FILING OF THE APPLICATION AND THE DISPOSITION OF THE APPLICATION SHALL FILE THE AFFIDAVIT AT THE TIME OF ENGAGING IN BUSINESS WITH THE ELECTED OFFICIAL.

(B) FILING.

EXCEPT AS PROVIDED IN SUBSECTION (A)(3) OF THIS SECTION, THE AFFIDAVIT OR DISCLOSURE SHALL BE FILED AT LEAST 30 CALENDAR DAYS BEFORE ANY CONSIDERATION OF THE APPLICATION BY AN ELECTED OFFICIAL.

(C) DISCLOSURE.

WITHIN 2 WEEKS AFTER ENTERING A PROCEEDING, A PARTY OF RECORD THAT HAS MADE A CONTRIBUTION SHALL SUBMIT A DISCLOSURE AS DESCRIBED IN SUBSECTION (A)(2) OF THIS SECTION.

(D) APPLICABILITY OF PART.

(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A CONTRIBUTOR AND AN ELECTED OFFICIAL ARE SUBJECT TO THIS PART IF THE CONTRIBUTOR MAKES A CONTRIBUTION TO:

(I) THE CANDIDATE;

(II) A SLATE; OR

(III) THE CANDIDATE'S POLITICAL COMMITTEE.

(2) THIS PART DOES NOT APPLY TO A TRANSFER BY A POLITICAL ACTION COMMITTEE TO A CANDIDATE OR THE CANDIDATE'S CONTINUING POLITICAL COMMITTEE.

(E) FORM.

(1) AN AFFIDAVIT OR A DISCLOSURE REQUIRED UNDER THIS PART SHALL BE IN A FORM ESTABLISHED BY THE HOWARD COUNTY SOLICITOR AND APPROVED BY THE COUNTY COUNCIL.

(2) THE COMPLETED FORM SHALL BE FILED IN THE APPROPRIATE CASE FILE OF AN APPLICATION.

(3) THE DISCLOSURE FORM SHALL REPEAT THE PENALTY PROVISION IN § 5–854(A) OF THIS SUBTITLE.

(F) LATER CONTRIBUTIONS.

A CONTRIBUTION MADE AFTER THE FILING OF THE INITIAL DISCLOSURE AND BEFORE FINAL DISPOSITION OF THE APPLICATION BY THE COUNTY COUNCIL SHALL BE DISCLOSED WITHIN 5 BUSINESS DAYS AFTER THE CONTRIBUTION.

(G) ENFORCEMENT.

IN THE ENFORCEMENT OF THIS PART, THE ADMINISTRATIVE ASSISTANT TO THE ZONING BOARD OR THE ADMINISTRATOR OF THE COUNTY COUNCIL, AS APPROPRIATE, CONSIDERING AN APPLICATION SHALL BE SUBJECT TO THE AUTHORITY OF THE HOWARD COUNTY ETHICS COMMISSION AND, UNLESS OTHERWISE DIRECTED BY THE ETHICS COMMISSION, SHALL:

(1) RECEIVE FILINGS OF AFFIDAVITS AND DISCLOSURES;

(2) MAINTAIN FILED AFFIDAVITS AND DISCLOSURES AS PUBLIC RECORDS AVAILABLE FOR REVIEW BY THE GENERAL PUBLIC DURING NORMAL BUSINESS HOURS;

(3) REPORT VIOLATIONS TO THE HOWARD COUNTY ETHICS COMMISSION; AND

(4) PERFORM MINISTERIAL DUTIES NECESSARY TO ADMINISTER THIS PART.

(H) SUMMARY REPORT.

(1) PROMPTLY ON RECEIPT, THE ADMINISTRATIVE ASSISTANT TO THE ZONING BOARD AND THE ADMINISTRATOR OF THE COUNTY COUNCIL SHALL PREPARE A SUMMARY REPORT COMPILING ALL AFFIDAVITS AND DISCLOSURES FILED UNDER THIS PART.

(2) THE SUMMARY REPORT SHALL BE A PUBLIC RECORD AND AVAILABLE FOR IMMEDIATE INSPECTION ON WRITTEN REQUEST.

REVISOR'S NOTE: This section formerly was SG § 15–849.

In subsection (a)(2)(i)2 of this section, the phrase "the association is not required" to poll its members is substituted for the former phrase "this paragraph may not be construed to require the association" to poll its members for brevity.

In the introductory language of subsection (g) of this section, the reference to the "administrative assistant" is substituted for the former reference to the "administrative clerk" to conform to the terminology used in subsection (h) of this section and to the practices of the zoning board.

In subsection (h)(2) of this section, the former reference to the summary report being a "matter of" public record is deleted as surplusage.

The only other changes are in style.

The General Provisions Article Review Committee notes, for consideration by the General Assembly, that although this revision retains the provision in subsection (g) of this section that authorizes the "Ethics Commission" to provide certain direction to the administrative assistant to the Howard County zoning board or the administrator of the Howard County Council when considering an application, the State Ethics Commission has indicated that it is the policy of the Commission not to intervene in local commission matters. The Commission believes that the term "Ethics Commission" refers to the Howard County Ethics Commission, rather than the State Ethics Commission. The General Assembly may wish to clarify the Ethics Commission to which this subsection refers.

The General Provisions Article Review Committee also notes, for consideration by the General Assembly, that subsection (h) of this section requires the administrative assistant to the zoning board and the administrator of the County Council to prepare a certain summary report compiling affidavits and disclosures "promptly on receipt". However, the

section does not indicate what is to be received. The General Assembly may wish to amend subsection (h) for clarity.

Defined terms: "Applicant" § 5–852
"Application" § 5–852
"Candidate" § 5–852
"Contribution" § 5–852
"Contributor" § 5–852
"Elected official" § 5–852
"Engaging in business" § 5–852
"Family member" § 5–852
"Party of record" § 5–852
"Political action committee" § 5–852
"Political committee" § 5–852
"Slate" § 5–852
"Treasurer" § 5–852

5–854. VIOLATIONS.

(A) PENALTY.

(1) A PERSON WHO KNOWINGLY AND WILLFULLY VIOLATES THIS PART IS SUBJECT TO A FINE NOT EXCEEDING $5,000.

(2) IF THE PERSON IS NOT AN INDIVIDUAL, EACH OFFICER AND PARTNER WHO KNOWINGLY AUTHORIZED OR PARTICIPATED IN THE VIOLATION IS SUBJECT TO THE PENALTY SPECIFIED IN PARAGRAPH (1) OF THIS SUBSECTION.

(B) PRESERVATION OF DOCUMENTS.

(1) A PERSON WHO IS SUBJECT TO THIS PART SHALL PRESERVE ALL ACCOUNTS, BILLS, RECEIPTS, BOOKS, PAPERS, AND OTHER DOCUMENTS NECESSARY TO COMPLETE AND SUBSTANTIATE ANY REPORTS, STATEMENTS, OR RECORDS REQUIRED TO BE MADE UNDER THIS PART FOR 3 YEARS FROM THE DATE OF FILING THE APPLICATION.

(2) THE DOCUMENTS SHALL BE AVAILABLE FOR INSPECTION ON REQUEST TO THE HOWARD COUNTY ETHICS COMMISSION, AFTER REASONABLE NOTICE.

REVISOR'S NOTE: This section is new language derived without substantive change from former SG § 15–850.

In subsection (b)(2) of this section, the former reference to "papers" is deleted as included in the reference to "documents".

Defined terms: "Application" § 5–852
"Person" § 1–114

5–855. RESERVED.

5–856. RESERVED.

PART IX. SPECIAL PROVISIONS FOR FREDERICK COUNTY.

5–857. DEFINITIONS.

(A) IN GENERAL.

IN THIS PART THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection formerly was SG § 15–853(a).

The only changes are in style.

(B) AGGRIEVED PARTY.

"AGGRIEVED PARTY" MEANS:

(1) A PROPERTY OWNER WHOSE PROPERTY:

(I) ADJOINS, FRONTS, OR IS LOCATED NEAR THE SUBJECT PROPERTY; OR

(II) IS LOCATED WITHIN SIGHT OR SOUND OF THE SUBJECT PROPERTY; OR

(2) AN INDIVIDUAL LOCATED WITHIN THE SAME SUBDIVISION AS THE SUBJECT PROPERTY OR WHO LIVES UP TO THREE–QUARTERS OF A MILE BY ROAD OR OTHERWISE ONE–HALF MILE AWAY FROM THE SUBJECT PROPERTY.

REVISOR'S NOTE: This subsection formerly was SG § 15–853(b).

No changes are made.

(C) APPLICANT.

(1) "APPLICANT" MEANS A PERSON THAT IS:

(I) A TITLE OWNER OR CONTRACT PURCHASER OF LAND THAT IS THE SUBJECT OF AN APPLICATION;

(II) A TRUSTEE WHO HAS AN INTEREST IN LAND THAT IS THE SUBJECT OF AN APPLICATION, EXCLUDING TRUSTEES DESCRIBED IN A MORTGAGE OR DEED OF TRUST; OR

(III) A HOLDER OF AT LEAST A 10% INTEREST IN LAND THAT IS THE SUBJECT OF AN APPLICATION.

(2) "APPLICANT" INCLUDES A PERSON WHO IS AN OFFICER OR A DIRECTOR OF A CORPORATION THAT ACTUALLY HOLDS TITLE TO THE LAND, OR IS A CONTRACT PURCHASER OF THE LAND, THAT IS THE SUBJECT OF AN APPLICATION.

(3) "APPLICANT" DOES NOT INCLUDE:

(I) A FINANCIAL INSTITUTION THAT HAS LOANED MONEY OR EXTENDED FINANCING FOR THE ACQUISITION, DEVELOPMENT, OR CONSTRUCTION OF OR IMPROVEMENTS ON THE LAND THAT IS THE SUBJECT OF AN APPLICATION;

(II) A MUNICIPAL CORPORATION OR PUBLIC CORPORATION;

(III) A PUBLIC AUTHORITY;

(IV) AN ELECTRIC COMPANY OR ELECTRIC SUPPLIER APPLYING FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY UNDER § 7–207 OR § 7–208 OF THE PUBLIC UTILITIES ARTICLE; OR

(V) A PERSON WHO IS HIRED OR RETAINED AS AN ACCOUNTANT, AN ATTORNEY, AN ARCHITECT, AN ENGINEER, A LAND USE CONSULTANT, AN ECONOMIC CONSULTANT, A REAL ESTATE AGENT, A REAL ESTATE BROKER, A TRAFFIC CONSULTANT, OR A TRAFFIC ENGINEER.

REVISOR'S NOTE: This subsection formerly was SG § 15–853(c).

The only changes are in style.

Defined terms: "Application" § 5–857
"Includes" § 1–110
"Interest" § 5–101

"Municipal corporation" § 5–101
"Person" § 1–114

(D) APPLICATION.

"APPLICATION" MEANS:

(1) AN APPLICATION FOR A ZONING MAP AMENDMENT AS PART OF A PIECEMEAL OR FLOATING ZONE REZONING PROCEEDING;

(2) A FORMAL APPLICATION FOR A COMPREHENSIVE MAP PLANNING CHANGE OR ZONING CHANGE DURING THE COUNTY COMPREHENSIVE LAND USE PLAN UPDATE;

(3) AN APPLICATION FOR A MAP AMENDMENT TO THE COUNTY WATER AND SEWERAGE PLAN;

(4) A REQUEST MADE UNDER § 4–416 OF THE LOCAL GOVERNMENT ARTICLE FOR THE BOARD TO APPROVE THE PLACEMENT OF ANNEXED LAND IN A ZONING CLASSIFICATION THAT ALLOWS A LAND USE THAT IS SUBSTANTIALLY DIFFERENT FROM THE USE FOR THE LAND AUTHORIZED IN THE ZONING CLASSIFICATION OF THE COUNTY APPLICABLE AT THE TIME OF ANNEXATION; OR

(5) AN APPLICATION TO CREATE A DISTRICT OR AN EASEMENT OR ANY OTHER INTEREST IN REAL PROPERTY AS PART OF AN AGRICULTURAL LAND PRESERVATION PROGRAM.

REVISOR'S NOTE: This subsection formerly was SG § 15–853(d).

No changes are made.

Defined terms: "Board" § 5–857
"Interest" § 5–101

(E) BOARD.

"BOARD" MEANS THE BOARD OF COUNTY COMMISSIONERS FOR FREDERICK COUNTY.

REVISOR'S NOTE: This subsection formerly was SG § 15–853(e).

No changes are made.

(F) BOARD MEMBER.

"BOARD MEMBER" INCLUDES AN INDIVIDUAL ELECTED OR APPOINTED TO THE BOARD OR A CANDIDATE WHO TAKES THE OATH OF OFFICE FOR THE BOARD.

REVISOR'S NOTE: This subsection formerly was SG § 15–853(f).

No changes are made.

Defined terms: "Board" § 5–857
"Candidate" § 5–857
"Includes" § 1–110

(G) BUSINESS ENTITY.

"BUSINESS ENTITY" MEANS:

(1) A CORPORATION;

(2) A LIMITED LIABILITY COMPANY;

(3) A PARTNERSHIP; OR

(4) A SOLE PROPRIETORSHIP.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former SG § 15–853(g).

Defined term: "Partnership" § 5–857

(H) CANDIDATE.

"CANDIDATE" MEANS A CANDIDATE FOR THE BOARD WHO BECOMES A MEMBER OF THE BOARD.

REVISOR'S NOTE: This subsection formerly was SG § 15–853(h).

No changes are made.

Defined term: "Board" § 5–857

(I) CONTRIBUTION.

"CONTRIBUTION" MEANS A PAYMENT OR TRANSFER OF MONEY OR PROPERTY WORTH AT LEAST $100, CALCULATED CUMULATIVELY DURING THE PENDENCY OF THE APPLICATION, TO A CANDIDATE OR A TREASURER OR POLITICAL COMMITTEE OF A CANDIDATE.

REVISOR'S NOTE: This subsection formerly was SG § 15–853(i).

No changes are made.

Defined terms: "Application" § 5–857
"Candidate" § 5–857
"Pendency of the application" § 5–857
"Political committee" § 5–857
"Treasurer" § 5–857

(J) PARTNERSHIP.

"PARTNERSHIP" INCLUDES:

(1) A GENERAL PARTNERSHIP;

(2) A JOINT VENTURE;

(3) A LIMITED LIABILITY LIMITED PARTNERSHIP;

(4) A LIMITED LIABILITY PARTNERSHIP; OR

(5) A LIMITED PARTNERSHIP.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former SG § 15–853(j).

Defined term: "Includes" § 1–110

(K) PARTY OF RECORD.

"PARTY OF RECORD" MEANS A PERSON THAT PARTICIPATED IN A PROCEEDING ON AN APPLICATION BEFORE THE BOARD BY APPEARING AT A PUBLIC HEARING OR FILING A STATEMENT IN AN OFFICIAL RECORD.

REVISOR'S NOTE: This subsection formerly was SG § 15–853(k).

No changes are made.

Defined terms: "Application" § 5–857

"Board" § 5–857
"Person" § 1–114

(L) PENDENCY OF THE APPLICATION.

"PENDENCY OF THE APPLICATION" MEANS THE TIME BETWEEN THE ACCEPTANCE BY THE COUNTY DEPARTMENT OF PLANNING AND ZONING OF A FILING OF AN APPLICATION AND THE EARLIER OF:

(1) 2 YEARS AFTER THE ACCEPTANCE OF THE APPLICATION; OR

(2) THE EXPIRATION OF 30 DAYS AFTER:

(I) THE BOARD HAS TAKEN FINAL ACTION ON THE APPLICATION; OR

(II) THE APPLICATION IS WITHDRAWN.

REVISOR'S NOTE: This subsection formerly was SG § 15–853(l).

In item (1) of this subsection, the phrase "after the acceptance of the application" is added for clarity.

The only other changes are in style.

Defined terms: "Application" § 5–857
"Board" § 5–857

(M) POLITICAL COMMITTEE.

"POLITICAL COMMITTEE" MEANS A COMMITTEE SPECIFICALLY CREATED TO PROMOTE THE CANDIDACY OF A BOARD MEMBER WHO IS RUNNING FOR AN ELECTIVE OFFICE.

REVISOR'S NOTE: This subsection formerly was SG § 15–853(m).

No changes are made.

Defined term: "Board member" § 5–857

(N) TREASURER.

"TREASURER" HAS THE MEANING STATED IN § 1–101 OF THE ELECTION LAW ARTICLE.

REVISOR'S NOTE: This subsection formerly was SG § 15–853(n).

No changes are made.

5–858. PROHIBITED ACTIONS.

(A) CONTRIBUTIONS.

AN APPLICANT MAY NOT MAKE A CONTRIBUTION TO A BOARD MEMBER DURING THE PENDENCY OF THE APPLICATION.

(B) VOTING.

EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, AFTER AN APPLICATION HAS BEEN FILED, A BOARD MEMBER MAY NOT VOTE OR PARTICIPATE IN ANY WAY IN THE PROCEEDINGS ON THE APPLICATION IF THE BOARD MEMBER OR THE TREASURER OR POLITICAL COMMITTEE OF THE BOARD MEMBER RECEIVED A CONTRIBUTION FROM THE APPLICANT DURING THE PENDENCY OF THE APPLICATION.

(C) COMPREHENSIVE ZONING OR REZONING PROCEEDINGS.

A BOARD MEMBER MAY PARTICIPATE IN A COMPREHENSIVE ZONING OR REZONING PROCEEDING.

REVISOR'S NOTE: This section formerly was SG § 15–854.

In subsection (c) of this section, the former phrase "[n]otwithstanding subsection (b) of this section" is deleted as unnecessary in light of the phrase "[e]xcept as provided in subsection (c) of this section" in subsection (b) of this section.

No other changes are made.

Defined terms: "Applicant" § 5–857
"Application" § 5–857
"Board member" § 5–857
"Contribution" § 5–857
"Pendency of the application" § 5–857
"Political committee" § 5–857
"Treasurer" § 5–857

5–859. EX PARTE COMMUNICATIONS.

(A) APPLICATION OF SECTION.

THIS SECTION DOES NOT APPLY TO A COMMUNICATION BETWEEN A BOARD MEMBER AND AN EMPLOYEE OF THE FREDERICK COUNTY GOVERNMENT WHOSE DUTIES INVOLVE GIVING AID OR ADVICE TO A BOARD MEMBER CONCERNING A PENDING APPLICATION.

(B) DISCLOSURE.

A BOARD MEMBER WHO COMMUNICATES EX PARTE WITH AN INDIVIDUAL CONCERNING A PENDING APPLICATION DURING THE PENDENCY OF THE APPLICATION SHALL FILE WITH THE COUNTY MANAGER A SEPARATE DISCLOSURE FOR EACH COMMUNICATION WITHIN THE LATER OF 7 DAYS AFTER THE COMMUNICATION WAS MADE OR RECEIVED.

REVISOR'S NOTE: This section formerly was SG § 15–855.

No changes are made.

Defined terms: "Application" § 5–857
"Board member" § 5–857
"Employee" § 5–101
"Pendency of the application" § 5–857

5–860. AFFIDAVIT.

AT ANY TIME BEFORE FINAL ACTION ON AN APPLICATION, A PARTY OF RECORD MAY FILE WITH THE COUNTY MANAGER AN AFFIDAVIT INCLUDING COMPETENT EVIDENCE OF:

(1) A CONTRIBUTION BY AN APPLICANT COVERED UNDER § 5–858 OF THIS SUBTITLE; OR

(2) AN EX PARTE COMMUNICATION COVERED UNDER § 5–859 OF THIS SUBTITLE.

REVISOR'S NOTE: This section formerly was SG § 15–856.

The only changes are in style.

Defined terms: "Applicant" § 5–857
"Application" § 5–857
"Contribution" § 5–857
"Party of record" § 5–857

5–861. ENFORCEMENT.

(A) IN GENERAL.

IN THE ENFORCEMENT OF THIS PART, THE COUNTY MANAGER SHALL BE SUBJECT TO THE DIRECTION AND CONTROL OF THE FREDERICK COUNTY ETHICS COMMISSION AND, UNLESS OTHERWISE SPECIFICALLY DIRECTED BY THE COUNTY ETHICS COMMISSION, MAY ONLY:

(1) RECEIVE FILINGS;

(2) MAINTAIN RECORDS;

(3) REPORT VIOLATIONS; AND

(4) PERFORM OTHER MINISTERIAL DUTIES NECESSARY TO ADMINISTER THIS PART.

(B) FILINGS; SUMMARY REPORTS.

(1) THE AFFIDAVITS AND DISCLOSURES REQUIRED UNDER THIS PART SHALL BE FILED IN THE APPROPRIATE CASE FILE OF AN APPLICATION.

(2) THE COUNTY MANAGER, AT LEAST TWICE EACH YEAR, SHALL PREPARE A SUMMARY REPORT COMPILING ALL AFFIDAVITS AND DISCLOSURES THAT HAVE BEEN FILED IN THE APPLICATION CASE FILES.

(3) ALL SUMMARY REPORTS COMPILED UNDER PARAGRAPH (2) OF THIS SUBSECTION SHALL BE AVAILABLE TO MEMBERS OF THE PUBLIC ON WRITTEN REQUEST.

(4) ALL AFFIDAVITS, DISCLOSURES, AND ACCOMPANYING DOCUMENTATION REQUIRED UNDER THIS PART SHALL BE IN THE FORM REQUIRED BY THE FREDERICK COUNTY ETHICS COMMISSION.

REVISOR'S NOTE: This section formerly was SG § 15–857.

The only changes are in style.

Defined term: "Application" § 5–857

5–862. VIOLATIONS; PENALTIES.

(A) PROCEDURAL ERROR.

(1) THE FREDERICK COUNTY ETHICS COMMISSION OR ANOTHER AGGRIEVED PARTY OF RECORD MAY ASSERT AS PROCEDURAL ERROR A VIOLATION OF THIS PART IN AN ACTION FOR JUDICIAL REVIEW OF THE APPLICATION.

(2) IF THE COURT FINDS THAT A VIOLATION OF THIS PART OCCURRED, THE COURT SHALL REMAND THE CASE TO THE BOARD FOR RECONSIDERATION.

(B) PENALTIES.

(1) A PERSON THAT KNOWINGLY AND WILLFULLY VIOLATES THIS PART 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.

(2) IF THE PERSON IS A BUSINESS ENTITY AND NOT AN INDIVIDUAL, EACH MEMBER, OFFICER, OR PARTNER OF THE BUSINESS ENTITY WHO KNOWINGLY AUTHORIZED OR PARTICIPATED IN THE VIOLATION 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.

(3) AN ACTION TAKEN IN RELIANCE ON AN OPINION OF THE STATE ETHICS COMMISSION OR THE FREDERICK COUNTY ETHICS COMMISSION MAY NOT BE CONSIDERED A KNOWING AND WILLFUL VIOLATION.

(C) PRESERVATION OF DOCUMENTS.

(1) A PERSON THAT IS SUBJECT TO THIS PART SHALL PRESERVE ALL BOOKS, PAPERS, AND OTHER DOCUMENTS NECESSARY TO COMPLETE AND SUBSTANTIATE ANY REPORTS, STATEMENTS, OR RECORDS REQUIRED TO BE MADE UNDER THIS PART FOR 3 YEARS FROM THE DATE OF FILING THE APPLICATION.

(2) THE DOCUMENTS SHALL BE AVAILABLE FOR INSPECTION ON REQUEST.

REVISOR'S NOTE: This section formerly was SG § 15–858.

In subsection (c)(2) of this section, the former reference to "papers" is deleted as included in the reference to "documents".

The only other changes are in style.

Defined terms: "Aggrieved party" § 5–857
"Application" § 5–857
"Board" § 5–857
"Business entity" § 5–857
"Party of record" § 5–857
"Person" § 1–114

GENERAL REVISOR'S NOTE TO SUBTITLE

The General Provisions Article Review Committee notes, for consideration by the General Assembly, that for Parts V and VIII of this subtitle, "slate" is defined as "a group, combination, or organization of candidates". "Candidate" is defined for the parts to mean a candidate for Prince George's County Council "who becomes a member" and a candidate for Howard County Executive or Howard County Council "who becomes an elected official", respectively. *See* §§ 5–833(f) and (p) and 5–852(e) and (n) of this subtitle. Similarly, for Part VI of this subtitle, "slate" is defined, in part, as "two or more candidates". "Candidate" is defined for the part to mean an individual "who wins an election" for Montgomery County Executive or Montgomery County Council. *See* § 5–842(e) and (l) of this subtitle. These definitions would therefore exclude a slate (as defined in the Election Law Article) that had only one "candidate", as defined for these parts, but included one or more candidates for other offices (such as the General Assembly).

SUBTITLE 9. ENFORCEMENT.

5–901. PETITION BY ETHICS COMMISSION.

TO COMPEL COMPLIANCE WITH AN ORDER, OR TO SEEK OTHER RELIEF AUTHORIZED BY THIS SUBTITLE, THE ETHICS COMMISSION MAY FILE A PETITION IN A CIRCUIT COURT WITH VENUE OVER THE PROCEEDING.

REVISOR'S NOTE: This section formerly was SG § 15–901.

No changes are made.

Defined term: "Ethics Commission" § 5–101

5–902. JUDICIAL RELIEF.

(A) IN GENERAL.

THE COURT MAY COMPEL COMPLIANCE WITH THE ETHICS COMMISSION'S ORDER BY:

(1) ISSUING AN ORDER TO CEASE AND DESIST FROM THE VIOLATION; OR

(2) GRANTING OTHER INJUNCTIVE RELIEF.

(B) SPECIAL RELIEF.

(1) THE COURT MAY ALSO:

(I) IMPOSE A FINE:

1. NOT EXCEEDING $5,000 FOR A VIOLATION OF THIS TITLE;

2. WITH EACH DAY THAT THE VIOLATION OCCURS BEING A SEPARATE OFFENSE; AND

3. WHICH SHALL BE PAID TO THE STATE TREASURER AND DEPOSITED IN THE GENERAL FUND; OR

(II) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, VOID AN OFFICIAL ACT OF AN OFFICIAL OR EMPLOYEE IF:

1. THE OFFICIAL OR EMPLOYEE HAD A CONFLICT OF INTEREST THAT IS PROHIBITED BY THIS TITLE;

2. THE ACT AROSE FROM OR CONCERNED THE SUBJECT MATTER OF THE CONFLICT;

3. THE PROCEEDING WAS BROUGHT WITHIN 90 DAYS AFTER THE ACT OCCURRED; AND

4. THE COURT DETERMINES THAT THE CONFLICT HAD AN IMPACT ON THE ACT.

(2) THE COURT MAY NOT VOID AN OFFICIAL ACT THAT:

(I) APPROPRIATES PUBLIC FUNDS;

(II) IMPOSES A TAX; OR

(III) PROVIDES FOR THE ISSUANCE OF A BOND, A NOTE, OR ANY OTHER EVIDENCE OF PUBLIC OBLIGATION.

(C) SCOPE OF RELIEF.

AFTER HEARING THE CASE, THE COURT MAY GRANT ALL OR PART OF THE RELIEF SOUGHT.

REVISOR'S NOTE: This section formerly was SG § 15–902.

In subsection (b)(2)(ii) of this section, the reference to "impos[ing]" a tax is substituted for the former reference to "lev[ying]" a tax to conform to the terminology used in other recently revised articles of the Code.

The only other changes are in style.

Defined terms: "Employee" § 5–101
"Ethics Commission" § 5–101
"Official" § 5–101

5–903. CRIMINAL PENALTIES.

(A) IN GENERAL.

EXCEPT AS PROVIDED IN § 5–716 OF THIS TITLE, A PERSON THAT KNOWINGLY AND WILLFULLY VIOLATES SUBTITLE 7 OF THIS TITLE IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING $10,000 OR IMPRISONMENT NOT EXCEEDING 1 YEAR OR BOTH.

(B) OFFICERS AND PARTNERS.

IF THE PERSON IS NOT AN INDIVIDUAL, EACH OFFICER OR PARTNER WHO KNOWINGLY AUTHORIZES OR PARTICIPATES IN A VIOLATION OF SUBTITLE 7 OF THIS TITLE IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO THE PENALTY SPECIFIED IN SUBSECTION (A) OF THIS SECTION.

REVISOR'S NOTE: This section formerly was SG § 15–903.

The only changes are in style.

Defined term: "Person" § 1–114

5–904. DISCIPLINARY ACTION.

IN ADDITION TO ANY OTHER PENALTY UNDER THIS TITLE, A PUBLIC OFFICIAL OR EMPLOYEE FOUND BY THE ETHICS COMMISSION OR A COURT TO HAVE VIOLATED THIS TITLE:

(1) MAY BE REMOVED OR SUBJECTED TO OTHER DISCIPLINARY ACTION; AND

(2) IF SUBJECT TO AN ORDER OF THE ETHICS COMMISSION OR A COURT DIRECTING COMPLIANCE, MAY NOT RECEIVE SALARY OR OTHER COMPENSATION UNTIL THE INDIVIDUAL COMPLIES FULLY WITH THE ORDER.

REVISOR'S NOTE: This section formerly was SG § 15–904.

In item (2) of this section, the phrase "until the individual complies fully" is substituted for the former phrase "pending full compliance" for clarity.

The only other changes are in style.

Defined terms: "Compensation" §§ 5–101, 5–701
"Employee" § 5–101
"Ethics Commission" § 5–101
"Public official" § 5–101

SUBTITLE 10. SHORT TITLE.

5–1001. SHORT TITLE.

THIS TITLE MAY BE CITED AS THE MARYLAND PUBLIC ETHICS LAW.

REVISOR'S NOTE: This section formerly was SG § 15–1001.

No changes are made.

TITLE 6. UNITED STATES.

SUBTITLE 1. ACQUISITION OF LAND BY UNITED STATES.

6–101. CONSENT OF STATE — GENERALLY.

SUBJECT TO THE LIMITATIONS IN THIS TITLE, THE STATE GIVES THE CONSENT FOR THE ACQUISITION OF LAND THAT CONGRESS NEEDS UNDER ARTICLE I, § 8, CLAUSE 17 OF THE UNITED STATES CONSTITUTION TO EXERCISE JURISDICTION OVER THE LAND.

REVISOR'S NOTE: This section is new language derived without substantive change from former SG § 14–101.

Defined term: "State" § 1–115

6–102. CONSENT OF STATE — NAVIGATIONAL AID.

(A) "NAVIGATIONAL AID" DEFINED.

IN THIS SECTION, "NAVIGATIONAL AID" MEANS A BEACON, LIGHTHOUSE, OR OTHER AID TO NAVIGATION.

(B) LIMITATION ON ACQUISITION.

THIS SUBTITLE DOES NOT AUTHORIZE THE ACQUISITION OF MORE THAN 5 ACRES TO BE USED FOR A NAVIGATIONAL AID.

(C) CONSENT.

IF LAND THAT IS NEEDED FOR A NAVIGATIONAL AID IS UNDER NAVIGABLE WATERS AND THE UNITED STATES SUBMITS TO THE GOVERNOR AN APPLICATION THAT DESCRIBES THE SITE, THE GOVERNOR MAY:

(1) CEDE JURISDICTION OVER THE LAND; AND

(2) CONVEY ANY TITLE THAT THE STATE HOLDS IN THE LAND.

REVISOR'S NOTE: This section is new language derived without substantive change from former SG § 14–105.

In subsection (b) of this section, the word "subtitle" is substituted for the former word "title" for accuracy.

In the introductory language of subsection (c) of this section, the former reference to navigable waters "in the State" is deleted as implicit.

Also in the introductory language of subsection (c) of this section, the former reference to "an agent of" the United States is deleted as surplusage.

Defined term: "State" § 1–115

6–103. RECORDATION.

WHEN THE UNITED STATES ACQUIRES LAND, THE UNITED STATES SHALL RECORD EACH DEED OR DOCUMENT OF TITLE TO THE LAND IN THE LAND RECORDS OF THE COUNTY WHERE THE LAND IS LOCATED.

REVISOR'S NOTE: This section is new language derived without substantive change from former SG § 14–103.

Defined term: "County" § 1–107

6–104. CONDEMNATION.

(A) PROCEDURE.

CONDEMNATION OF PRIVATE PROPERTY BY THE UNITED STATES SHALL BE IN ACCORDANCE WITH TITLE 12 OF THE REAL PROPERTY ARTICLE.

(B) LIMITATION; EXCEPTION.

(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THIS SUBTITLE DOES NOT AUTHORIZE CONDEMNATION OF ANY TRACT OF LAND THAT EXCEEDS 10 ACRES.

(2) THE UNITED STATES MAY CONDEMN A TRACT OF LAND THAT EXCEEDS 10 ACRES TO BUILD AN ARSENAL, A COASTAL DEFENSE, A FORT, OR A MAGAZINE, INCLUDING A BARRACKS FOR STAFF.

REVISOR'S NOTE: This section is new language derived without substantive change from former SG § 14–104.

In subsection (b)(1) of this section, the word "subtitle" is substituted for the former word "title" for accuracy.

Also in subsection (b)(1) of this section, the former reference to "acquisition, by" condemnation is deleted as surplusage.

In subsection (b)(2) of this section, the reference to "a tract of land that exceeds 10 acres" is substituted for the former phrase "more than 10 acres" for clarity and consistency with subsection (b)(1) of this section.

Defined term: "Including" § 1–110

SUBTITLE 2. JURISDICTION.

6–201. JURISDICTION RESERVED BY STATE.

(A) IN GENERAL.

WITH RESPECT TO LAND THAT THE UNITED STATES OR ANY UNIT OF THE UNITED STATES LEASES OR OTHERWISE HOLDS IN THE STATE, THE STATE

RESERVES JURISDICTION AND AUTHORITY OVER THE LAND, AND PERSONS, PROPERTY, AND TRANSACTIONS ON THE LAND, TO THE FULLEST EXTENT THAT IS:

(1) ALLOWED BY THE UNITED STATES CONSTITUTION; AND

(2) NOT INCONSISTENT WITH THE GOVERNMENTAL PURPOSE FOR WHICH THE LAND IS HELD.

(B) EXCLUSIONS.

THIS SECTION DOES NOT AFFECT THE JURISDICTION AND AUTHORITY OF THE STATE OVER LAND, OR PERSONS, PROPERTY, AND TRANSACTIONS ON THE LAND, THAT THE UNITED STATES OR A UNIT OF THE UNITED STATES ACQUIRED ON OR BEFORE MAY 31, 1943, TO THE EXTENT THAT THE STATE CEDED JURISDICTION UNDER:

(1) CHAPTER 193, §§ 3 AND 4, OF THE ACTS OF THE GENERAL ASSEMBLY OF 1874;

(2) CHAPTER 395, §§ 13 AND 14, OF THE ACTS OF THE GENERAL ASSEMBLY OF 1874;

(3) CHAPTER 67, § 21, OF THE ACTS OF THE GENERAL ASSEMBLY OF 1900;

(4) CHAPTER 743, §§ 2 AND 3, OF THE ACTS OF THE GENERAL ASSEMBLY OF 1906;

(5) CHAPTER 194 OF THE ACTS OF THE GENERAL ASSEMBLY OF 1908; OR

(6) ANY OTHER ACT IN WHICH THE STATE GAVE CONSENT FOR THE ACQUISITION OF PROPERTY AND CEDED JURISDICTION WITH RESPECT TO THE PROPERTY.

REVISOR'S NOTE: This section formerly was SG § 14–102(a) and (b).

In subsection (b)(6) of this section, the reference to "the State" giving consent is added for clarity.

The only other changes are in style.

Defined terms: "Person" § 1–114

"State" § 1–115

6–202. AGREEMENTS ON CONCURRENT JURISDICTION.

NOTWITHSTANDING § 6–201(A) OF THIS SUBTITLE, FOR THE PURPOSE OF ENFORCING THE CIVIL OR CRIMINAL LAWS OF THE STATE, THE GOVERNOR MAY ENTER INTO AN AGREEMENT WITH THE UNITED STATES TO ESTABLISH FULL OR PARTIAL CONCURRENT JURISDICTION OF THE STATE AND THE UNITED STATES OVER ANY LAND IN THE STATE HELD BY THE UNITED STATES.

REVISOR'S NOTE: This section is new language derived without substantive change from former SG § 14–102(c).

Defined term: "State" § 1–115

6–203. FORT GEORGE G. MEADE MILITARY RESERVATION.

(A) EXCLUSIVE JURISDICTION OF UNITED STATES; DESCRIPTION OF LAND.

(1) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, AND FOR AS LONG AS THE UNITED STATES SHALL OWN THE LAND, THE STATE CEDES EXCLUSIVE JURISDICTION TO THE UNITED STATES OVER ALL THAT CERTAIN TRACT OR PARCEL OF LAND SITUATE IN ANNE ARUNDEL COUNTY, BEING A PORTION OF THE FORT GEORGE G. MEADE MILITARY RESERVATION, LANDS OWNED BY THE UNITED STATES AS DESIGNATED BY TRACT NUMBERS 170–1, 171, 172, AND 174, COMPRISING APPROXIMATELY 265 ACRES AND HEREINAFTER REFERRED TO BY THE TRACT NUMBER AND MORE PARTICULARLY BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT CONCRETE MONUMENT NUMBER 77 IN THE FORT GEORGE G. MEADE MILITARY RESERVATION BOUNDARY LINE, BEING AN ORIGINAL CORNER OF THE FORT GEORGE G. MEADE MILITARY RESERVATION BOUNDARY LINE, SAID CORNER BEING COMMON TO TRACT NUMBER 170–1 AND THE ORIGINAL RESERVATION, BOTH BEING LANDS OF SAID MILITARY RESERVATION OWNED BY THE UNITED STATES; THENCE CROSSING SAID MILITARY RESERVATION BY RUNNING AND BINDING ALONG THE ORIGINAL MILITARY RESERVATION LINE, SAID LINE COMMON TO THE EASTERLY LINE OF SAID TRACT NUMBER 170–1 THE FOLLOWING 16 COURSES:

(I) SOUTH 05 DEGREES 48 MINUTES 40 SECONDS WEST 665.51 FEET,

(II) SOUTH 21 DEGREES 08 MINUTES 19 SECONDS WEST 1,586.36 FEET,

(III) SOUTH 61 DEGREES 34 MINUTES 06 SECONDS WEST 784.82 FEET,

(IV) SOUTH 61 DEGREES 45 MINUTES 24 SECONDS WEST 243.08 FEET,

(V) SOUTH 17 DEGREES 49 MINUTES 32 SECONDS EAST 377.50 FEET,

(VI) SOUTH 72 DEGREES 10 MINUTES 13 SECONDS WEST, PASSING CONCRETE MONUMENT NUMBER 65 AT 300.00 FEET, IN ALL 849.95 FEET TO CONCRETE MONUMENT NUMBER 64,

(VII) SOUTH 18 DEGREES 03 MINUTES 44 SECONDS EAST 100.16 FEET, TO CONCRETE MONUMENT NUMBER 63,

(VIII) SOUTH 73 DEGREES 03 MINUTES 24 SECONDS WEST 246.48 FEET,

(IX) SOUTH 53 DEGREES 53 MINUTES 26 SECONDS EAST 108.71 FEET, TO CONCRETE MONUMENT NUMBER 61,

(X) SOUTH 29 DEGREES 19 MINUTES 41 SECONDS WEST 198.24 FEET, TO CONCRETE MONUMENT NUMBER 60,

(XI) SOUTH 44 DEGREES 57 MINUTES 02 SECONDS WEST 1,201.77 FEET, TO CONCRETE MONUMENT NUMBER 58,

(XII) NORTH 61 DEGREES 38 MINUTES 35 SECONDS WEST 148.49 FEET, TO CONCRETE MONUMENT NUMBER 57,

(XIII) SOUTH 42 DEGREES 41 MINUTES 45 SECONDS WEST 1,087.75 FEET,

(XIV) SOUTH 59 DEGREES 02 MINUTES 46 SECONDS WEST 619.72 FEET,

(XV) SOUTH 36 DEGREES 20 MINUTES 02 SECONDS WEST 453.33 FEET, TO CONCRETE MONUMENT NUMBER 54,

(XVI) SOUTH 46 DEGREES 48 MINUTES 10 SECONDS WEST 136.61 FEET, TO AN IRON PIPE LOCATED IN THE NORTHERN RIGHT–OF–WAY LINE OF STATE ROUTE 32; THENCE LEAVING SAID ORIGINAL MILITARY RESERVATION LINE OF FORT GEORGE G. MEADE AND RUNNING AND BINDING ALONG THE FORT GEORGE G. MEADE MILITARY RESERVATION BOUNDARY LINE BEING THE SOUTHERLY LINE OF SAID TRACT NUMBER 170–1, AND SAID NORTHERLY ROAD RIGHT–OF–WAY,

NORTH 24 DEGREES 40 MINUTES 07 SECONDS WEST 1,027.36 FEET, TO A CORNER COMMON TO SAID NORTHERN ROAD RIGHT–OF–WAY LINE OF STATE ROUTE 32 AND THE EASTERLY RIGHT–OF–WAY LINE OF COLONY SEVEN ROAD;

THENCE CONTINUING ALONG SAID MILITARY RESERVATION BOUNDARY LINE, BEING A PORTION OF THE WESTERLY LINE OF SAID TRACT NUMBER 170–1, AND LEAVING SAID STATE ROUTE 32 NORTHERN RIGHT–OF–WAY LINE AND RUNNING AND BINDING ALONG SAID COLONY SEVEN ROAD EASTERLY RIGHT–OF–WAY LINE THE FOLLOWING TWO COURSES AND DISTANCES:

(I) NORTH 05 DEGREES 08 MINUTES 30 SECONDS EAST 93.49 FEET,

(II) NORTH 37 DEGREES 00 MINUTES 50 SECONDS EAST 408.54 FEET;

THENCE LEAVING SAID COLONY SEVEN ROAD EASTERLY RIGHT–OF–WAY LINE AND CONTINUING RUNNING AND BINDING ALONG SAID MILITARY RESERVATION BOUNDARY LINE AND SAID WESTERLY LINE OF TRACT NUMBER 170–1 THE FOLLOWING TWO COURSES AND DISTANCES:

(I) NORTH 15 DEGREES 08 MINUTES 34 SECONDS EAST 505.57 FEET,

(II) NORTH 49 DEGREES 50 MINUTES 53 SECONDS EAST 478.74 FEET TO A POINT IN THE EASTERLY RIGHT–OF–WAY LINE OF STATE ROUTE 295, COMMONLY KNOWN AS THE BALTIMORE–WASHINGTON PARKWAY, SAID POINT BEING A CORNER COMMON TO TRACT NUMBERS 170–1 AND 174 OF SAID MILITARY RESERVATION;

THENCE CONTINUING RUNNING AND BINDING ALONG SAID MILITARY RESERVATION BOUNDARY LINE BEING COMMON TO THE WESTERLY LINES OF SAID TRACT NUMBERS 170–1 AND 174 AND SAID PARKWAY EASTERLY RIGHT–OF–WAY LINE THE FOLLOWING NINE COURSES AND DISTANCES:

(I) NORTH 49 DEGREES 42 MINUTES 59 SECONDS EAST 311.11 FEET,

(II) NORTH 47 DEGREES 19 MINUTES 55 SECONDS EAST 1,441.09 FEET,

(III) NORTH 47 DEGREES 23 MINUTES 45 SECONDS EAST 290.05 FEET,

(IV) NORTH 45 DEGREES 09 MINUTES 58 SECONDS EAST, CROSSING THE CENTER LINE OF THE OLD SEVERN–ANNAPOLIS JUNCTION ROAD AT 27.00 FEET, IN ALL 220.64 FEET,

(V) NORTH 36 DEGREES 46 MINUTES 58 SECONDS EAST 319.80 FEET,

(VI) SOUTH 63 DEGREES 38 MINUTES 32 SECONDS EAST 200.28 FEET,

(VII) NORTH 25 DEGREES 51 MINUTES 09 SECONDS EAST 997.62 FEET,

(VIII) NORTH 30 DEGREES 20 MINUTES 54 SECONDS EAST 1,542.06 FEET,

(IX) NORTH 29 DEGREES 35 MINUTES 54 SECONDS EAST 1,721.68 FEET;

THENCE LEAVING SAID PARKWAY EASTERLY RIGHT–OF–WAY LINE AND CONTINUING RUNNING AND BINDING ALONG SAID MILITARY RESERVATION BOUNDARY LINE BEING COMMON TO THE NORTHERLY AND EASTERLY LINES OF SAID TRACT NUMBER 170–1 THE FOLLOWING SIX COURSES AND DISTANCES:

(I) SOUTH 50 DEGREES 05 MINUTES 05 SECONDS EAST 87.89 FEET,

(II) NORTH 86 DEGREES 29 MINUTES 26 SECONDS EAST 123.40 FEET,

(III) SOUTH 04 DEGREES 51 MINUTES 50 SECONDS EAST 635.41 FEET,

(IV) SOUTH 75 DEGREES 17 MINUTES 41 SECONDS EAST 86.63 FEET,

(V) SOUTH 02 DEGREES 22 MINUTES 05 SECONDS EAST 866.38 FEET,

(VI) NORTH 88 DEGREES 17 MINUTES 30 SECONDS EAST 278.48 FEET TO THE POINT OF BEGINNING, CONTAINING 265.45 ACRES, MORE OR LESS.

(2) THE BEARINGS USED ARE REFERENCED TO THE MARYLAND STATE PLANE COORDINATE SYSTEM, 1927 NORTH AMERICAN DATUM.

(B) INTENT OF DESCRIPTION OF LAND.

IT IS THE INTENT THAT THE DESCRIPTION IN SUBSECTION (A) OF THIS SECTION INCLUDE ALL THE SAME LANDS ACQUIRED BY THE UNITED STATES AND AS FILED AND RECORDED IN THE LAND RECORDS OF ANNE ARUNDEL COUNTY FOR THE FOLLOWING FOUR TRACTS:

(1) TRACTS 170–1 AND 170–2 – BY DECLARATION OF TAKING, CIVIL NUMBER WN 87–2810, FILED OCTOBER 19, 1987;

(2) TRACT 171 – FROM JOHN CRONMILLER, ET AL., BY DEED DATED AUGUST 22, 1988, DEED BOOK 4676, PAGE 779;

(3) TRACT 172 – FROM NANCY V. ALLAN AND ALEXANDER V. ALLAN, BY DEED DATED FEBRUARY 23, 1988, DEED BOOK 4555, PAGE 846; AND

(4) TRACT 174 – FROM COLONY 7 MOTOR INN LIMITED PARTNERSHIP, PARTY OF THE FIRST PART, AND ARTHUR C. GRANT, FRIEDA C. GRANT, WILLIAM A. GRANT, HAROLD POLLIN, ELAINE KORN, AND RICHARD POLLIN, TRUSTEES AND NOMINEES OF COLONY 7 MOTOR INN LIMITED PARTNERSHIP I, BY DEED DATED JULY 11, 1980, DEED BOOK 5129, PAGE 168.

(C) RIGHTS RETAINED BY STATE.

NOTWITHSTANDING THE GRANT OF EXCLUSIVE JURISDICTION CEDED BY THE STATE UNDER SUBSECTION (A) OF THIS SECTION, THE STATE RETAINS THE RIGHT TO:

(1) SERVE ALL CIVIL AND CRIMINAL PROCESS OF THE COURTS OF THE STATE; AND

(2) ENFORCE AND ENSURE COMPLIANCE WITH ALL APPLICABLE ENVIRONMENTAL AND PUBLIC SERVICE COMMISSION LAWS AND REGULATIONS.

REVISOR'S NOTE: This section is new language derived without substantive change from former SG § 14–102(d).

Defined terms: "County" § 1–107
"State" § 1–115

SUBTITLE 3. REVERSIONS.

6–301. GEORGE WASHINGTON MEMORIAL PARKWAY.

ANY LAND THAT IS WITHIN THE GEORGE WASHINGTON MEMORIAL PARKWAY AND WAS TRANSFERRED TO THE UNITED STATES UNDER CHAPTER 378 OF THE ACTS OF THE GENERAL ASSEMBLY OF 1941 REVERTS TO THE STATE IF THE UNITED STATES CEASES TO USE THE LAND FOR PARK PURPOSES.

REVISOR'S NOTE: This section formerly was SG § 14–201.

No changes were made.

Defined term: "State" § 1–115

6–302. OTHER LAND.

JURISDICTION CEDED TO THE UNITED STATES REVERTS TO THE STATE IF THE UNITED STATES CEASES TO HOLD LAND ACQUIRED UNDER:

(1) CHAPTER 394 OF THE ACTS OF THE GENERAL ASSEMBLY OF 1910;

(2) CHAPTER 59, §§ 36A AND 36B, OF THE ACTS OF THE GENERAL ASSEMBLY OF 1950; OR

(3) CHAPTER 158 OF THE ACTS OF THE GENERAL ASSEMBLY OF 1953.

REVISOR'S NOTE: This section is new language derived without substantive change from former SG § 14–202.

In the introductory language of this section, the phrase "[j]urisdiction … reverts to the State" is substituted for the former phrase "[j]urisdiction … ceases" for clarity and consistency with § 6–301 of this subtitle.

Defined term: "State" § 1–115

TITLE 7. EMBLEMS; DESIGNATIONS; COMMEMORATIVE DAYS AND MONTHS.

SUBTITLE 1. STATE SEAL.

7–101. ADOPTION AND USE.

(A) IN GENERAL.

THE GREAT SEAL OF MARYLAND IS THE STATE SEAL.

(B) OFFICIAL USE.

THE REVERSE OF THE STATE SEAL SHALL BE USED OFFICIALLY.

REVISOR'S NOTE: This section formerly was SG § 13–101(a) and the first sentence of (b).

No changes are made.

The second sentence of former SG § 13–101(b), which stated that "[t]he obverse has not been used officially", is deleted as surplusage.

Defined term: "State" § 1–115

7–102. DESCRIPTION.

(A) OBVERSE.

(1) THE OBVERSE OF THE GREAT SEAL OF MARYLAND DEPICTS:

(I) AN EQUESTRIAN FIGURE OF THE LORD PROPRIETARY ARRAYED IN COMPLETE ARMOR AND HOLDING A DRAWN SWORD;

(II) A HORSE WEARING CAPARISONS ADORNED WITH THE FAMILY COAT OF ARMS FOR LORD BALTIMORE; AND

(III) ON THE GROUND BELOW THE EQUESTRIAN FIGURE, A SPARSE GROWTH OF GRASS ON SANDY SOIL AND A FEW SMALL BLUE AND YELLOW FLOWERS.

(2) THE CIRCLE SURROUNDING THE OBVERSE OF THE GREAT SEAL OF MARYLAND CONTAINS THE LATIN INSCRIPTION "CAECILIUS ABSOLUTUS DOMINUS TERRAE MARIAE ET AVALONIAE BARO DE BALTEMORE", WHICH MEANS "CECIL ABSOLUTE LORD OF MARYLAND AND AVALON BARON OF BALTIMORE", REFERRING TO LORD BALTIMORE'S FIRST SETTLEMENT IN THE NEW WORLD, ON THE AVALON PENINSULA OF NEWFOUNDLAND.

(B) REVERSE.

(1) THE REVERSE OF THE GREAT SEAL OF MARYLAND DEPICTS:

(I) THE FAMILY COAT OF ARMS FOR LORD BALTIMORE, AS DESCRIBED IN PARAGRAPH (2) OF THIS SUBSECTION;

(II) AN EARL'S CORONET PLACED ABOVE THE SHIELD INDICATING GEORGE CALVERT'S STATUS AS AN EARL OR A COUNT PALATINE IN MARYLAND, THOUGH ONLY A BARON IN ENGLAND;

(III) ABOVE THE EARL'S CORONET, A HELMET SET FULL–FACED;

(IV) ABOVE THE HELMET, THE CALVERT CREST, WHICH CONSISTS OF TWO PENNONS, OR PENNANTS, SUPPORTED BY GULES (RED) STAFFS, ISSUING FROM THE DUCAL CORONET:

1. THE DEXTER (RIGHT) PENNON, OF OR (GOLD); AND

2. THE OTHER PENNON, OF SABLE (BLACK);

(V) A PLOWMAN WEARING A HIGH–CROWNED, BROAD–BRIMMED BEAVER HAT AND HOLDING ONE SIDE OF THE SHIELD WITH HIS LEFT HAND AND A SPADE IN HIS RIGHT HAND;

(VI) A FISHERMAN WEARING A KNITTED CAP SOMEWHAT RESEMBLING A STOCKING CAP AND HOLDING ONE SIDE OF THE SHIELD WITH HIS RIGHT HAND AND IN HIS LEFT HAND A FISH THAT IS NOT SPECIFIC TO ANY SPECIES; AND

(VII) AT THE FEET OF THE PLOWMAN AND FISHERMAN, A RIBBON CONTAINING, IN ITALIAN, THE CALVERT FAMILY MOTTO, "FATTI

MASCHII PAROLE FEMINE", LOOSELY TRANSLATED AS "MANLY DEEDS, WOMANLY WORDS".

(2) (I) THE FAMILY COAT OF ARMS FOR LORD BALTIMORE IS DIVIDED INTO QUARTERS.

(II) THE FIRST AND FOURTH QUARTERS:

1. APPEAR IN THE TOP–LEFT AND BOTTOM–RIGHT QUARTERS;

2. REPRESENT THE COAT OF ARMS OF THE CALVERT FAMILY; AND

3. ARE A PALY OF SIX PIECES, OR (GOLD) AND SABLE (BLACK), AND A BEND DEXTER (RIGHT DIAGONAL BAND) COUNTERCHANGED, SO THAT THEY CONSIST OF SIX ALTERNATING GOLD AND BLACK VERTICAL BARS WITH A DIAGONAL BAND ON WHICH THE COLORS ARE REVERSED.

(III) THE SECOND AND THIRD QUARTERS:

1. APPEAR IN THE TOP–RIGHT AND BOTTOM–LEFT QUARTERS;

2. SHOW THE COAT OF ARMS OF THE CROSSLAND FAMILY, WHICH CECIL CALVERT INHERITED FROM HIS GRANDMOTHER, ALICIA, WIFE OF LEONARD CALVERT, THE FATHER OF GEORGE CALVERT, THE FIRST LORD BALTIMORE; AND

3. ARE QUARTERED ARGENT (SILVER) AND GULES (RED), A CROSS BOTTONY COUNTERCHANGED, SO THAT THEY CONSIST OF A QUARTERED FIELD OF SILVER AND RED, CHARGED WITH A CROSS BOTTONY THAT HAS ARMS TERMINATING IN A BUTTON OR A THREE–LEAF CLOVER AND OPPOSITE COLORING.

(3) BEHIND AND SURROUNDING THE DEPICTION DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION ARE:

(I) AN ERMINE–LINED MANTLE;

(II) A CIRCLE AROUND THE SEAL CONTAINING THE WORDS "SCUTO BONAE VOLUNTATIS TUAE CORONASTI NOS", MEANING "WITH FAVOR WILT THOU COMPASS US AS WITH A SHIELD" (PSALM 5:12); AND

(III) THE DATE 1632, THE YEAR THE MARYLAND CHARTER WAS GRANTED.

REVISOR'S NOTE: This section is new language derived without substantive change from former SG § 13–102.

In subsection (a)(1)(ii) of this section, the reference to the family coat of arms "for Lord Baltimore" is added for clarity.

In subsection (a)(1)(iii) of this section, the reference to the ground below "the equestrian figure" is added for clarity.

In subsection (a)(2) of this section, the reference to the Avalon "Peninsula" is added for clarity.

In subsection (b)(1)(i) of this section, the reference to the "family" coat of arms is substituted for the former reference to the "hereditary" coat of arms for consistency with subsection (a)(1)(ii) of this section.

In subsection (b)(1)(ii) of this section, the reference to "George" Calvert is added for clarity.

In subsection (b)(1)(iv) of this section, the reference to "pennants" is added for clarity.

In subsection (b)(1)(v) and (vi) of this section, the references to "a plowman … holding one side of the shield with his left hand" and "a fisherman … holding one side of the shield with his right hand", respectively, are substituted for the former reference to "[t]he supporters of the shield are a plowman and a fisherman with their hands on the shield" for clarity.

In subsection (b)(1)(vi) of this section, the reference to a fish "that is not specific to any species" is substituted for the former reference to the fish "[being] heraldic and cannot, therefore, be identified as to any species" for brevity and clarity.

In subsection (b)(2)(i) of this section, the statement that "[t]he family coat of arms for Lord Baltimore is divided into quarters" is added for clarity and consistency with § 7–202(a) of this title, which describes the same design on the State flag.

In subsection (b)(2)(ii)3 of this section, the reference to a bend "dexter" counterchanged is added for consistency with § 7–202(b) of this title, which describes the same design on the State flag.

Also in subsection (b)(2)(ii)3 of this section, the parenthetical reference to a "right diagonal band" is added for clarity.

Also in subsection (b)(2)(ii)3 of this section, the reference to the first and fourth quarters "consist[ing] of six alternating … vertical bars with a diagonal band on which the colors are reversed" is added for clarity and consistency with § 7–202(b) of this title, which describes the same design on the State flag.

Also in subsection (b)(2)(ii)3 of this section, the former phrase "described in heraldic language" is deleted as surplusage.

In subsection (b)(2)(iii)1 of this section, the reference to the second and third quarters "appear[ing] in the top–right and bottom–left quarters" is added for clarity and consistency with subsection (b)(2)(ii)1 of this section.

In subsection (b)(2)(iii)2 of this section, the references to Cecil "Calvert" and George "Calvert" are added for clarity.

In subsection (b)(2)(iii)3 of this section, the reference to the second and third quarters "consist[ing] of a quartered field …, charged with a cross bottony that has arms terminating" is substituted for the former reference to "buotonne, … at the end of each radius of the cross" for clarity and consistency with § 7–202(c) of this title, which describes the same design on the State flag.

In the introductory language of subsection (b)(3) of this section, the reference to "the depiction described in paragraph (1) of this subsection" is substituted for the former reference to "both shield and supporters" for clarity.

In subsection (b)(3)(iii) of this section, the reference to the "Maryland" charter is added for clarity.

The General Provisions Article Review Committee notes, for consideration by the General Assembly, that in subsection (b)(2)(iii)3 of this section, the translation of the heraldic term "argent" is "silver"; however, in § 7–202(c) of this title, it is translated as "white". The General Assembly may wish to remedy this inconsistency.

7–103. CUSTODY.

THE SECRETARY OF STATE SHALL HAVE CUSTODY OF THE STATE SEAL.

REVISOR'S NOTE: This section formerly was SG § 13–103.

No changes are made.

Defined term: "State" § 1–115

7–104. USE.

(A) BY GOVERNOR.

(1) THE GOVERNOR MAY HAVE THE STATE SEAL:

(I) TO AFFIX IT TO A CERTIFIED COPY OF A LAW OR RESOLUTION;

(II) TO AFFIX IT TO A COMMUNICATION FROM THE STATE TO THE UNITED STATES, ANOTHER STATE, OR A FOREIGN COUNTRY; OR

(III) AS NEEDED FOR ANY OTHER PURPOSE PROVIDED BY LAW.

(2) UNLESS THE GOVERNOR SIGNS THE DOCUMENT, THE GOVERNOR MAY NOT AFFIX THE STATE SEAL TO A DOCUMENT OR ALLOW THE STATE SEAL TO BE AFFIXED TO A DOCUMENT ISSUED BY THE EXECUTIVE BRANCH OF THE STATE GOVERNMENT.

(B) BY SECRETARY OF SENATE AND CHIEF CLERK OF HOUSE.

THE SECRETARY OF THE SENATE AND THE CHIEF CLERK OF THE HOUSE MAY HAVE THE STATE SEAL TO AFFIX IT TO A BILL AS REQUIRED BY LAW.

REVISOR'S NOTE: This section formerly was SG §§ 13–104 and 13–105.

The only changes are in style.

Defined term: "State" § 1–115

SUBTITLE 2. FLAGS.

7–201. ADOPTION OF STATE FLAG.

THE MARYLAND FLAG IS THE STATE FLAG.

REVISOR'S NOTE: This section formerly was SG § 13–201.

No changes are made.

Defined term: "State" § 1–115

7–202. DESCRIPTION OF STATE FLAG.

(A) IN GENERAL.

THE STATE FLAG IS DIVIDED INTO QUARTERS.

(B) FIRST AND FOURTH QUARTERS.

THE FIRST AND FOURTH QUARTERS ARE A PALY OF SIX PIECES, OR (GOLD) AND SABLE (BLACK), AND A BEND DEXTER (RIGHT DIAGONAL BAND) COUNTERCHANGED, SO THAT THEY CONSIST OF SIX ALTERNATING GOLD AND BLACK VERTICAL BARS WITH A DIAGONAL BAND ON WHICH THE COLORS ARE REVERSED.

(C) SECOND AND THIRD QUARTERS.

THE SECOND AND THIRD QUARTERS ARE QUARTERED ARGENT (WHITE) AND GULES (RED), A CROSS BOTTONY COUNTERCHANGED, SO THAT THEY CONSIST OF A QUARTERED FIELD OF WHITE AND RED, CHARGED WITH A GREEK CROSS THAT HAS ARMS TERMINATING IN TREFOILS AND OPPOSITE COLORING SO THAT RED IS ON THE WHITE QUARTERS AND WHITE IS ON THE RED QUARTERS, AS REPRESENTED ON THE ESCUTCHEON OF THE STATE SEAL.

REVISOR'S NOTE: This section is new language derived without substantive change from former SG § 13–202.

In subsection (a) of this section, the reference to the State flag being "divided into quarters" is substituted for the former reference to the State flag being "quartered" for clarity.

In subsection (b) of this section, the parenthetical reference to a "right diagonal band" is added for clarity.

Also in subsection (b) of this section, the word "alternating" is substituted for the former word "alternately" for clarity.

In subsection (c) of this section, the reference to "counterchanged" is substituted for the former reference to "countersigned" for consistency with § 7–102(b)(1) of this title, which describes the same design on the State seal.

The General Provision Article Review Committee notes, for consideration by the General Assembly, that in subsection (c) of this section, the translation of the heraldic term "argent" is "white"; however, in § 7–102(b)(2)(iii)3 of this title, it is translated as "silver". The General Assembly may wish to remedy this inconsistency.

Defined term: "State" § 1–115

7–203. ORNAMENT FOR STATE FLAG.

ONLY A GOLD CROSS BOTTONY MAY BE USED AS AN ORNAMENT ON THE TOP OF A FLAGSTAFF THAT CARRIES THE STATE FLAG.

REVISOR'S NOTE: This section formerly was SG § 13–203.

No changes are made.

Defined term: "State" § 1–115

7–204. DISPLAY ON STATE HOUSE — FLAG OF THE UNITED STATES AND STATE FLAG.

(A) IN GENERAL.

THE FLAG OF THE UNITED STATES AND THE STATE FLAG SHALL BE FLOWN FROM THE STATE HOUSE AS PROVIDED IN THIS SECTION.

(B) SESSION.

WHEN THE GENERAL ASSEMBLY IS IN SESSION, THE FLAG OF THE UNITED STATES AND THE STATE FLAG SHALL BE FLOWN CONTINUOUSLY.

(C) INTERIM.

WHEN THE GENERAL ASSEMBLY IS NOT IN SESSION, THE FLAG OF THE UNITED STATES AND THE STATE FLAG SHALL BE FLOWN:

(1) CONTINUOUSLY ON EACH DAY THAT THE GOVERNOR DESIGNATES AS A PUBLIC OCCASION; AND

(2) BETWEEN SUNRISE AND SUNSET ON ANY OTHER DAY WHEN THE WEATHER PERMITS.

(D) ARRANGEMENT OF STATE FLAG.

THE STATE FLAG SHALL BE FLOWN WITH THE BLACK STRIPE ON THE DIAGONAL BANDS OF THE FIRST QUARTER AT THE TOP OF THE FLAGSTAFF, AS SHOWN IN THE ILLUSTRATION OF THE STATE FLAG IN "CHRONICLES OF COLONIAL MARYLAND".

REVISOR'S NOTE: This section is new language derived without substantive change from former SG § 13–204.

In subsection (b) and the introductory language of subsection (c) of this section, the references to "the flag of the United States and the State flag" are substituted for the former references to "the flags" for clarity.

Defined term: "State" § 1–115

7–205. DISPLAY ON STATE HOUSE — ARMED FORCES FLAGS.

(A) DEFINITIONS.

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

(2) "FLAG TO HONOR AND REMEMBER MEMBERS OF THE ARMED FORCES WHO DIED IN THE LINE OF DUTY" MEANS:

(I) A FLAG CREATED BY HONOR AND REMEMBER, INC.; OR

(II) THE FLAG DESIGNATED BY THE UNITED STATES CONGRESS AS THE OFFICIAL SYMBOL TO HONOR AND REMEMBER MEMBERS OF THE ARMED FORCES WHO DIED IN THE LINE OF DUTY.

(3) "POW/MIA FLAG" MEANS THE PRISONERS OF WAR/MISSING IN ACTION (POW/MIA) FLAG OF THE NATIONAL LEAGUE OF FAMILIES OF AMERICAN PRISONERS AND MISSING IN SOUTHEAST ASIA.

(B) DISPLAY.

(1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, EACH YEAR, THE POW/MIA FLAG AND A FLAG TO HONOR AND REMEMBER MEMBERS OF THE ARMED FORCES WHO DIED IN THE LINE OF DUTY SHALL BE FLOWN ON THE STATE HOUSE GROUNDS ON:

(I) THE THIRD SATURDAY IN MAY, FOR ARMED FORCES DAY;

(II) MAY 30, FOR MEMORIAL DAY;

(III) THE DAY THAT THE UNITED STATES CONGRESS DESIGNATES FOR THE OBSERVANCE OF MEMORIAL DAY, IF OTHER THAN MAY 30;

(IV) THE SATURDAY AND SUNDAY THAT ARE CLOSEST TO MAY 30, UNLESS THE UNITED STATES CONGRESS DESIGNATES ANOTHER DAY FOR THE OBSERVANCE OF MEMORIAL DAY, IN WHICH CASE, THE SATURDAY AND SUNDAY THAT ARE CLOSEST TO THE DAY DESIGNATED BY THE UNITED STATES CONGRESS;

(V) JULY 4, FOR INDEPENDENCE DAY;

(VI) THE THIRD FRIDAY IN SEPTEMBER, FOR POW/MIA RECOGNITION DAY;

(VII) NOVEMBER 11, FOR VETERANS' DAY;

(VIII) THE DAY THAT THE UNITED STATES CONGRESS DESIGNATES FOR THE OBSERVANCE OF VETERANS' DAY, IF OTHER THAN NOVEMBER 11; AND

(IX) THE SATURDAY AND SUNDAY THAT ARE CLOSEST TO NOVEMBER 11, UNLESS THE UNITED STATES CONGRESS DESIGNATES ANOTHER DAY FOR THE OBSERVANCE OF VETERANS' DAY, IN WHICH CASE, THE SATURDAY AND SUNDAY THAT ARE CLOSEST TO THE DAY DESIGNATED BY THE UNITED STATES CONGRESS.

(2) IF THE UNITED STATES CONGRESS DESIGNATES A FLAG AS THE OFFICIAL SYMBOL TO HONOR AND REMEMBER MEMBERS OF THE ARMED FORCES WHO DIED IN THE LINE OF DUTY, THE FLAG DESIGNATED BY CONGRESS INSTEAD OF THE FLAG CREATED BY HONOR AND REMEMBER, INC., SHALL BE FLOWN IN ACCORDANCE WITH PARAGRAPH (1) OF THIS SUBSECTION.

REVISOR'S NOTE: This section formerly was SG § 13–205.

In subsection (a)(3) of this section, the reference to the "Prisoners of War/Missing in Action (POW/MIA) flag" is substituted for the former reference to the "POW/MIA flag" for clarity.

In subsection (b)(2) of this section, the phrase "instead of the flag created by Honor and Remember, Inc.," is added to clarify that subsection (b)(2)

requires a flag described under subsection (a)(2)(ii) of this section to be displayed, rather than a flag described under subsection (a)(2)(i) of this section.

No other changes are made.

Defined term: "State" § 1–115

7–206. MANUFACTURING REQUIREMENTS — FLAG OF THE UNITED STATES AND STATE FLAG.

A FLAG OF THE UNITED STATES OR A STATE FLAG THAT IS DISPLAYED ON STATE PROPERTY AND PURCHASED WITH STATE MONEY MUST BE MANUFACTURED IN THE UNITED STATES.

REVISOR'S NOTE: This section formerly was SG § 13–206.

No changes are made.

Defined term: "State" § 1–115

SUBTITLE 3. ADDITIONAL EMBLEMS; DESIGNATIONS.

PART I. ANIMALS, PLANTS, AND WILDLIFE.

7–301. BIRD.

THE BALTIMORE ORIOLE (ICTERUS GALBULA) IS THE STATE BIRD.

REVISOR'S NOTE: This section formerly was SG § 13–302.

No changes are made.

Defined term: "State" § 1–115

7–302. CAT.

THE CALICO CAT IS THE STATE CAT.

REVISOR'S NOTE: This section formerly was SG § 13–317.

No changes are made.

Defined term: "State" § 1–115

7–303. CRUSTACEAN.

THE MARYLAND BLUE CRAB (CALLINECTES SAPIDUS) IS THE STATE CRUSTACEAN.

REVISOR'S NOTE: This section formerly was SG § 13–301(b).

No changes are made.

Defined term: "State" § 1–115

7–304. DOG.

THE CHESAPEAKE BAY RETRIEVER IS THE STATE DOG.

REVISOR'S NOTE: This section formerly was SG § 13–303.

The only changes are in style.

Defined term: "State" § 1–115

7–305. FISH.

THE STRIPED BASS OR ROCKFISH (MORONE SAXATILIS) IS THE STATE FISH.

REVISOR'S NOTE: This section formerly was SG § 13–304.

No changes are made.

Defined term: "State" § 1–115

7–306. FLOWER.

THE BLACK–EYED SUSAN (RUDBECKIA HIRTA) IS THE STATE FLOWER.

REVISOR'S NOTE: This section formerly was SG § 13–305.

The only changes are in style.

Defined term: "State" § 1–115

7–307. HORSE.

THE THOROUGHBRED HORSE IS THE STATE HORSE.

REVISOR'S NOTE: This section formerly was SG § 13–318.

The only changes are in style.

Defined term: "State" § 1–115

7–308. INSECT.

THE BALTIMORE CHECKERSPOT BUTTERFLY (EUPHYDRYAS PHAETON) IS THE STATE INSECT.

REVISOR'S NOTE: This section formerly was SG § 13–301(a).

No changes are made.

Defined term: "State" § 1–115

7–309. REPTILE.

THE DIAMONDBACK TERRAPIN (MALACLEMYS TERRAPIN) IS THE STATE REPTILE.

REVISOR'S NOTE: This section is new language derived without substantive change from former SG § 13–313, as it related to the designation of the State reptile.

Defined term: "State" § 1–115

7–310. TREE.

THE WHITE OAK (QUERCUS ALBA) IS THE STATE TREE.

REVISOR'S NOTE: This section formerly was SG § 13–310.

No changes are made.

Defined term: "State" § 1–115

7–311. RESERVED.

7–312. RESERVED.

PART II. ARTS, CULTURE, AND FOOD.

7–313. DESSERT.

SMITH ISLAND CAKE IS THE STATE DESSERT.

REVISOR'S NOTE: This section formerly was SG § 13–320.

No changes are made.

Defined term: "State" § 1–115

7–314. DRINK.

MILK IS THE STATE DRINK.

REVISOR'S NOTE: This section formerly was SG § 13–315.

No changes are made.

Defined term: "State" § 1–115

7–315. FOLK DANCE.

SQUARE DANCING IS THE STATE FOLK DANCE.

REVISOR'S NOTE: This section formerly was SG § 13–314.

No changes are made.

Defined term: "State" § 1–115

7–316. MASCOT.

THE DIAMONDBACK TERRAPIN (MALACLEMYS TERRAPIN) IS THE OFFICIAL MASCOT OF THE UNIVERSITY OF MARYLAND, COLLEGE PARK.

REVISOR'S NOTE: This section is new language derived without substantive change from former SG § 13–313, as it related to the designation of the official mascot of the University of Maryland, College Park.

The reference to the "University of Maryland, College Park" is substituted for the former reference to the "State's flagship university at College Park" to reflect the terminology used in the Education Article. *See*, *e.g.*, ED § 12–101.

7–317. POET LAUREATE.

(A) DESIGNATION AUTHORIZED.

THE GOVERNOR MAY DESIGNATE A CITIZEN OF THE STATE AS ITS POET LAUREATE.

(B) COMPENSATION; REIMBURSEMENT FOR EXPENSES.

(1) THE POET LAUREATE:

(I) MAY NOT RECEIVE COMPENSATION AS POET LAUREATE; BUT

(II) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, IS ENTITLED TO REIMBURSEMENT FOR ANY EXPENSES INCURRED IN THE PERFORMANCE OF DUTIES AS POET LAUREATE.

(2) REIMBURSEMENT UNDER THIS SUBSECTION:

(I) SHALL BE PAID FROM THE GENERAL EMERGENCY FUND OF THE BOARD OF PUBLIC WORKS; AND

(II) MAY NOT EXCEED $1,000 IN ANY 1 FISCAL YEAR.

REVISOR'S NOTE: This section formerly was SG § 13–306.

In subsection (b)(1)(i) of this section, the reference to receiving compensation "as Poet Laureate" is added for clarity.

No other changes are made.

Defined term: "State" § 1–115

7–318. SONG.

(A) DESIGNATION.

THE POEM "MARYLAND! MY MARYLAND!", WRITTEN BY JAMES RYDER RANDALL IN 1861 AND SET TO THE TUNE OF "LAURIGER HORATIUS", IS THE STATE SONG.

(B) WORDS.

THE WORDS OF THE STATE SONG ARE:

I

THE DESPOT'S HEEL IS ON THY SHORE,
MARYLAND!
HIS TORCH IS AT THY TEMPLE DOOR,
MARYLAND!
AVENGE THE PATRIOTIC GORE
THAT FLECKED THE STREETS OF BALTIMORE,
AND BE THE BATTLE QUEEN OF YORE,
MARYLAND! MY MARYLAND!

II

HARK TO AN EXILED SON'S APPEAL,
MARYLAND!
MY MOTHER STATE! TO THEE I KNEEL,
MARYLAND!
FOR LIFE AND DEATH, FOR WOE AND WEAL,
THY PEERLESS CHIVALRY REVEAL,
AND GIRD THY BEAUTEOUS LIMBS WITH STEEL,
MARYLAND! MY MARYLAND!

III

THOU WILT NOT COWER IN THE DUST,
MARYLAND!
THY BEAMING SWORD SHALL NEVER RUST,
MARYLAND!
REMEMBER CARROLL'S SACRED TRUST,
REMEMBER HOWARD'S WARLIKE THRUST,—
AND ALL THY SLUMBERERS WITH THE JUST,
MARYLAND! MY MARYLAND!

IV

COME! 'TIS THE RED DAWN OF THE DAY,
MARYLAND!
COME WITH THY PANOPLIED ARRAY,
MARYLAND!
WITH RINGGOLD'S SPIRIT FOR THE FRAY,
WITH WATSON'S BLOOD AT MONTEREY,
WITH FEARLESS LOWE AND DASHING MAY,
MARYLAND! MY MARYLAND!

V

COME! FOR THY SHIELD IS BRIGHT AND STRONG,

MARYLAND!
COME! FOR THY DALLIANCE DOES THEE WRONG,
MARYLAND!
COME TO THINE OWN HEROIC THRONG,
STALKING WITH LIBERTY ALONG,
AND CHAUNT THY DAUNTLESS SLOGAN SONG,
MARYLAND! MY MARYLAND!

VI

DEAR MOTHER! BURST THE TYRANT'S CHAIN,
MARYLAND!
VIRGINIA SHOULD NOT CALL IN VAIN,
MARYLAND!
SHE MEETS HER SISTERS ON THE PLAIN—
"SIC SEMPER!" 'TIS THE PROUD REFRAIN
THAT BAFFLES MINIONS BACK AGAIN,
MARYLAND! MY MARYLAND!

VII

I SEE THE BLUSH UPON THY CHEEK,
MARYLAND!
FOR THOU WAST EVER BRAVELY MEEK,
MARYLAND!
BUT LO! THERE SURGES FORTH A SHRIEK
FROM HILL TO HILL, FROM CREEK TO CREEK—
POTOMAC CALLS TO CHESAPEAKE,
MARYLAND! MY MARYLAND!

VIII

THOU WILT NOT YIELD THE VANDAL TOLL,
MARYLAND!
THOU WILT NOT CROOK TO HIS CONTROL,
MARYLAND!
BETTER THE FIRE UPON THEE ROLL,
BETTER THE BLADE, THE SHOT, THE BOWL,
THAN CRUCIFIXION OF THE SOUL,
MARYLAND! MY MARYLAND!

IX

I HEAR THE DISTANT THUNDER–HUM,
MARYLAND!
THE OLD LINE'S BUGLE, FIFE, AND DRUM,
MARYLAND!

SHE IS NOT DEAD, NOR DEAF, NOR DUMB—
HUZZA! SHE SPURNS THE NORTHERN SCUM!
SHE BREATHES! SHE BURNS! SHE'LL COME! SHE'LL COME!
MARYLAND! MY MARYLAND!

REVISOR'S NOTE: This section is new language derived without substantive change from former SG § 13–307.

Subsection (a) of this section is revised to clarify that the State song, "Maryland! My Maryland!", is a combination of the poem "Maryland! My Maryland!" and the tune of "Lauriger Horatius".

Defined term: "State" § 1–115

7–319. THEATERS.

(A) STATE THEATER.

CENTER STAGE IN BALTIMORE CITY IS THE STATE THEATER.

(B) SUMMER THEATER.

OLNEY THEATRE IN MONTGOMERY COUNTY IS THE STATE SUMMER THEATER.

REVISOR'S NOTE: This section formerly was SG § 13–309.

No changes are made.

Defined term: "State" § 1–115

7–320. RESERVED.

7–321. RESERVED.

PART III. NATURAL HISTORY.

7–322. DINOSAUR.

THE ASTRODON JOHNSTONI IS THE STATE DINOSAUR.

REVISOR'S NOTE: This section formerly was SG § 13–316.

No changes are made.

Defined term: "State" § 1–115

7–323. FOSSIL SHELL.

THE ECPHORA GARDNERAE GARDNERAE (WILSON) IS THE STATE FOSSIL SHELL.

REVISOR'S NOTE: This section formerly was SG § 13–311.

No changes are made.

Defined term: "State" § 1–115

7–324. GEM.

THE PATUXENT RIVER STONE IS THE STATE GEM.

REVISOR'S NOTE: This section formerly was SG § 13–319.

No changes are made.

Defined term: "State" § 1–115

7–325. RESERVED.

7–326. RESERVED.

PART IV. SPORTS AND RECREATION.

7–327. BOAT.

THE SKIPJACK IS THE STATE BOAT.

REVISOR'S NOTE: This section formerly was SG § 13–312.

The only changes are in style.

Defined term: "State" § 1–115

7–328. EXERCISE.

WALKING IS THE STATE EXERCISE.

REVISOR'S NOTE: This section formerly was SG § 13–321.

No changes are made.

Defined term: "State" § 1–115

7–329. SPORTS.

(A) STATE SPORT.

JOUSTING IS THE STATE SPORT.

(B) TEAM SPORT.

LACROSSE IS THE STATE TEAM SPORT.

REVISOR'S NOTE: This section formerly was SG § 13–308.

No changes are made.

Defined term: "State" § 1–115

SUBTITLE 4. COMMEMORATIVE DAYS.

7–401. ASIAN LUNAR NEW YEAR DAY.

(A) PROCLAMATION.

THE GOVERNOR ANNUALLY SHALL PROCLAIM THE DAY DESIGNATED AS NEW YEAR ON THE ASIAN LUNAR CALENDAR AS ASIAN LUNAR NEW YEAR DAY.

(B) IN RECOGNITION OF CONTRIBUTIONS.

ASIAN LUNAR NEW YEAR DAY IS IN RECOGNITION OF THE ECONOMIC AND CULTURAL CONTRIBUTIONS OF THE MANY MARYLANDERS FOR WHOM THE LUNAR NEW YEAR HOLDS SPECIAL SIGNIFICANCE.

REVISOR'S NOTE: This section is new language derived without substantive change from former SG § 13–405.

7–402. CRIME VICTIM AND ADVOCATE COMMEMORATIVE DAY.

THE GOVERNOR ANNUALLY SHALL:

(1) PROCLAIM APRIL 3 AS CRIME VICTIM AND ADVOCATE COMMEMORATIVE DAY TO HONOR THE INDIVIDUALS IN THE STATE WHO HAVE BECOME CRIME VICTIMS AND THE ADVOCATES WHO SERVE THOSE VICTIMS; AND

(2) TAKE APPROPRIATE STEPS TO PUBLICIZE CRIME VICTIM AND ADVOCATE COMMEMORATIVE DAY.

REVISOR'S NOTE: This section formerly was SG § 13–410.

No changes are made.

Defined term: "State" § 1–115

7–403. JOHN HANSON'S BIRTHDAY.

THE GOVERNOR ANNUALLY SHALL PROCLAIM APRIL 13 AS JOHN HANSON'S BIRTHDAY AND DEDICATE APRIL 13 TO HIM.

REVISOR'S NOTE: This section is new language derived without substantive change from former SG § 13–401.

7–404. LAW DAY.

THE GOVERNOR ANNUALLY SHALL PROCLAIM MAY 1 AS LAW DAY U.S.A.

REVISOR'S NOTE: This section formerly was SG § 13–402.

No changes are made.

7–405. MARYLAND CENTENARIANS DAY.

THE GOVERNOR ANNUALLY SHALL PROCLAIM THE SECOND THURSDAY IN MAY AS MARYLAND CENTENARIANS DAY IN RECOGNITION OF THE LIVES OF THE STATE'S CITIZENS WHO HAVE REACHED THE LANDMARK AGE OF 100 YEARS.

REVISOR'S NOTE: This section formerly was SG § 13–411.

The only changes are in style.

Defined term: "State" § 1–115

7–406. NEGRO BASEBALL LEAGUE DAY.

THE GOVERNOR ANNUALLY SHALL PROCLAIM THE SECOND SATURDAY IN MAY AS NEGRO BASEBALL LEAGUE DAY.

REVISOR'S NOTE: This section formerly was SG § 13–408.

No changes are made.

7–407. MEMORIAL DAY MOMENT OF SILENCE.

THE GOVERNOR ANNUALLY SHALL ISSUE A PROCLAMATION ENCOURAGING THE MEDIA, GOVERNMENT UNITS, BUSINESS AND RECREATIONAL FACILITIES, AND CITIZENS OF THE STATE TO UNITE IN REMEMBRANCE AND COMMEMORATE THE HEROIC ACTS AND EFFORTS OF MARYLANDERS WHO HAVE SERVED AND DIED IN THE UNITED STATES ARMED FORCES BY OBSERVING A MOMENT OF SILENCE AT 3 P.M. ON MEMORIAL DAY.

REVISOR'S NOTE: This section is new language derived without substantive change from former SG § 13–404.

The reference to "units" is substituted for the former reference to "departments and agencies". The term "unit" is used as the general term for a government entity because it is inclusive enough to include the other entities. *See* General Revisor's Note to article.

Defined term: "State" § 1–115

7–408. FIRE, RESCUE, AND EMERGENCY SERVICES WORKERS DAY.

(A) PROCLAMATION.

THE GOVERNOR ANNUALLY SHALL PROCLAIM THE FIRST SUNDAY IN JUNE AS THE DAY TO HONOR THE FIRE, RESCUE, AND EMERGENCY SERVICES WORKERS OF THE STATE WHO MADE THE ULTIMATE SACRIFICE IN THE PERFORMANCE OF THEIR DUTIES.

(B) OBSERVANCE.

THE GOVERNOR ANNUALLY SHALL ORDER THE STATE FLAG TO BE FLOWN AT HALF–STAFF ON THE FIRST SUNDAY IN JUNE.

(C) MEMORIAL PLAQUES.

ON THE FIRST SUNDAY IN JUNE EACH YEAR, MEMORIAL PLAQUES CONTAINING THE NAMES OF THE FIRE, RESCUE, AND EMERGENCY SERVICES

WORKERS WHO MADE THE ULTIMATE SACRIFICE SHALL BE PLACED ON THE MARYLAND FIRE–RESCUE SERVICES MEMORIAL IN THE CITY OF ANNAPOLIS BY THE MARYLAND FIRE–RESCUE SERVICES MEMORIAL FOUNDATION, INC.

REVISOR'S NOTE: This section formerly was SG § 13–409.

The only changes are in style.

Defined term: "State" § 1–115

7–409. MARYLAND CHARTER DAY.

THE GOVERNOR ANNUALLY SHALL PROCLAIM JUNE 20 AS MARYLAND CHARTER DAY.

REVISOR'S NOTE: This section formerly was SG § 13–406.

No changes are made.

7–410. POETRY DAY.

(A) PROCLAMATION.

THE GOVERNOR ANNUALLY SHALL PROCLAIM OCTOBER 15 AS POETRY DAY IN RECOGNITION OF THE CULTURAL AND HUMAN VALUES OF POETRY AND POETIC EXPRESSION.

(B) OBSERVANCE.

THE PROCLAMATION SHALL URGE CULTURAL, EDUCATIONAL, PATRIOTIC, AND RELIGIOUS ORGANIZATIONS TO OBSERVE POETRY DAY PROPERLY.

REVISOR'S NOTE: This section formerly was SG § 13–403.

The only changes are in style.

7–411. MARYLAND EMANCIPATION DAY.

THE GOVERNOR ANNUALLY SHALL PROCLAIM NOVEMBER 1 AS MARYLAND EMANCIPATION DAY IN RECOGNITION OF THE EMANCIPATION OF THE SLAVES IN THE STATE.

REVISOR'S NOTE: This section formerly was SG § 13–412.

The only changes are in style.

Defined term: "State" § 1–115

7–412. ANNAPOLIS CHARTER DAY.

THE GOVERNOR ANNUALLY SHALL PROCLAIM DECEMBER 17 AS ANNAPOLIS CHARTER DAY.

REVISOR'S NOTE: This section formerly was SG § 13–407.

No changes are made.

SUBTITLE 5. COMMEMORATIVE MONTHS.

7–501. BLACK HISTORY MONTH.

(A) PROCLAMATION.

THE GOVERNOR ANNUALLY SHALL PROCLAIM THE MONTH OF FEBRUARY AS BLACK HISTORY MONTH IN RECOGNITION OF THE HISTORICAL CONTRIBUTIONS THAT BLACK AMERICANS HAVE MADE TO THE STATE.

(B) OBSERVANCE.

THE PROCLAMATION SHALL URGE EDUCATIONAL AND CULTURAL ORGANIZATIONS TO OBSERVE BLACK HISTORY MONTH PROPERLY WITH APPROPRIATE PROGRAMS, CEREMONIES, AND ACTIVITIES.

REVISOR'S NOTE: This section formerly was SG § 13–502.

The only changes are in style.

Defined term: "State" § 1–115

7–502. IRISH–AMERICAN HERITAGE MONTH.

(A) PROCLAMATION.

THE GOVERNOR ANNUALLY SHALL PROCLAIM THE MONTH OF MARCH AS IRISH–AMERICAN HERITAGE MONTH IN RECOGNITION OF THE CONTRIBUTIONS THAT IRISH AMERICANS HAVE MADE TO THE STATE.

(B) OBSERVANCE.

THE PROCLAMATION SHALL URGE EDUCATIONAL AND CULTURAL ORGANIZATIONS TO OBSERVE IRISH–AMERICAN HERITAGE MONTH PROPERLY WITH APPROPRIATE PROGRAMS, CEREMONIES, AND ACTIVITIES.

REVISOR'S NOTE: This section formerly was SG § 13–504.

The only changes are in style.

Defined term: "State" § 1–115

7–503. WOMEN'S HISTORY MONTH.

(A) PROCLAMATION.

THE GOVERNOR ANNUALLY SHALL PROCLAIM THE MONTH OF MARCH AS WOMEN'S HISTORY MONTH IN RECOGNITION OF THE HISTORICAL CONTRIBUTIONS THAT WOMEN HAVE MADE TO THE STATE.

(B) OBSERVANCE.

THE PROCLAMATION SHALL URGE EDUCATIONAL AND CULTURAL ORGANIZATIONS TO OBSERVE WOMEN'S HISTORY MONTH PROPERLY WITH APPROPRIATE PROGRAMS, CEREMONIES, AND ACTIVITIES.

REVISOR'S NOTE: This section formerly was SG § 13–501.

The only changes are in style.

Defined term: "State" § 1–115

7–504. HISPANIC HERITAGE MONTH.

(A) PROCLAMATION.

THE GOVERNOR ANNUALLY SHALL PROCLAIM THE MONTH FROM SEPTEMBER 15 TO OCTOBER 15, BOTH INCLUSIVE, AS HISPANIC HERITAGE MONTH IN RECOGNITION OF THE CONTRIBUTIONS THAT HISPANIC AMERICANS HAVE MADE TO THE STATE.

(B) OBSERVANCE.

THE PROCLAMATION SHALL URGE EDUCATIONAL AND CULTURAL ORGANIZATIONS TO OBSERVE HISPANIC HERITAGE MONTH PROPERLY WITH APPROPRIATE PROGRAMS, CEREMONIES, AND ACTIVITIES.

REVISOR'S NOTE: This section formerly was SG § 13–503.

The only changes are in style.

Defined term: "State" § 1–115

7–505. GERMAN–AMERICAN HERITAGE MONTH.

(A) PROCLAMATION.

THE GOVERNOR ANNUALLY SHALL PROCLAIM THE MONTH OF OCTOBER AS GERMAN–AMERICAN HERITAGE MONTH IN RECOGNITION OF THE CONTRIBUTIONS THAT GERMAN AMERICANS HAVE MADE TO THE STATE.

(B) OBSERVANCE.

THE PROCLAMATION SHALL URGE EDUCATIONAL AND CULTURAL ORGANIZATIONS TO OBSERVE GERMAN–AMERICAN HERITAGE MONTH PROPERLY WITH APPROPRIATE PROGRAMS, CEREMONIES, AND ACTIVITIES.

REVISOR'S NOTE: This section formerly was SG § 13–505.

The only changes are in style.

Defined term: "State" § 1–115

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 General Provisions 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 General Provisions Article Review Committee that this bulk revision of certain substantive laws 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* § 4 of Ch. ___, Acts of 2014.

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, as in other revised articles, the term "unit" is substituted for former references to State entities such as "agency", "board", "commission", and "department". 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.

Some apparently obsolete provisions allocated to the General Provisions Article are transferred to 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 2014 Session on some provisions of this article.

SECTION 3. AND BE IT FURTHER ENACTED, That Section(s) 1, 2, and 4 of Article 1 – Rules of Interpretation of the Annotated Code of Maryland be repealed and reenacted, without amendments, and transferred to the Sessions Laws, to read as follows:

Effect of Adoption of Code

1.

The adoption of this Code shall not affect or impair any right, vested or acquired and existing at the time of its adoption, nor shall it impair, discharge or release any existing contract, obligation, duty or liability of any kind whatsoever. All pending suits, actions and prosecutions for crimes or misdemeanors, including all civil and criminal proceedings whatsoever, shall be prosecuted and proceeded with to final determination, and judgment entered therein as if this Code had not been adopted.

2.

If any crime, misdemeanor or other violation of law hath been committed and no prosecution or other proceeding hath been commenced against the offender before the adoption of this Code, then such offender may be proceeded against by indictment or otherwise, and punished in the same manner as if this Code had not been adopted.

3.

No rights, property or privileges held under a charter or grant from this State shall be in any manner impaired or affected by the adoption of this Code.

REVISOR'S NOTE: These sections formerly were Art. 1, §§ 1, 2, and 4.

> Former Art. 1, §§ 1, 2, and 4, which provided for the effect of the adoption of the Code, were originally enacted as part of the Maryland Code of 1860 and reenacted in the Code of 1888. The parties to any then existing contracts or pending litigation would be long dead. They are being transferred to the Session Laws to conform to modern bill drafting conventions, under which such provisions would typically be uncodified.

SECTION 4. 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 5. 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 part of this Act.

SECTION 6. AND BE IT FURTHER ENACTED, That nothing in this Act affects the term of office of an appointed or elected member of any commission, board, 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 7. 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 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 8. AND BE IT FURTHER ENACTED, That the continuity of every commission, board, 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 9. 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 or 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 10. 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 the State.

SECTION 11. 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 2014 that affects provisions enacted by this Act. The publisher shall adequately describe such correction in an editor's note following the section affected.

SECTION 12. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2014.

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.