Article - Financial Institutions

§1–101.

(a) In this article, unless the context clearly requires otherwise, the following words have the meanings indicated.

(b) "Address" means post office address, including, if applicable, street and number, municipal area or county, state, and, if outside of the United States, country.

(c) "Any state" means:

(1) Any state, possession, or territory of the United States;

(2) The District of Columbia; or

(3) The Commonwealth of Puerto Rico.

(d) "Banking institution" means an institution that is incorporated under the laws of this State as a State bank, trust company, or savings bank.

(e) "Charter" has the meaning stated in § 1-101 of the Corporations and Associations Article.

(f) "Commercial bank" means an institution that is incorporated under the laws of this State as a State bank or trust company.

(g) "Commissioner" means the Commissioner of Financial Regulation in the Department of Labor, Licensing, and Regulation.

(h) "County" means a county of this State and, unless otherwise indicated, Baltimore City.

(i) "Financial institution" means any financial institution of the type supervised under this article, whether or not State-chartered.

(j) (1) "Foreign bank" means any financial institution or other institution that engages in banking activities that are usual in connection with the business of banking in the nations in which the institution is organized or operates.

(2) "Foreign bank" does not include a bank organized under the laws of any state or a national banking association that has its headquarters in any state.

(k) "Includes" or "including" means includes or including by way of illustration and not by way of limitation.

(l) "Mail" means to deposit in the United States mail, postage prepaid.

(m) "Mortgage" includes a deed of trust that secures a debt or the performance

of an obligation.

(n) "Municipal area" means a municipal corporation or an unincorporated city, town, or village.

(o) "National banking association" means an institution that is incorporated under federal law as a bank.

(p) "Other-state bank" means a bank chartered and primarily regulated by another state.

(q) "Person" means an individual, receiver, trustee, guardian, personal representative, fiduciary, or representative of any kind and any partnership, firm, association, corporation, or other entity.

(r) "Political subdivision" means:

(1) A county or municipal corporation of this State; and

(2) Unless the context requires otherwise, a special taxing district of this State.

(s) "Real property" includes any interest in real property.

§1–201.

Except as otherwise expressly provided by this article, the Maryland General Corporation Law applies to a financial institution and to all of its corporate acts.

§1–202.

(a) A requirement in this article that a document be acknowledged means that the document shall be acknowledged by an individual:

(1) As the act of that individual; or

(2) If the document is that of a corporate or other entity, as the act of that entity.

(b) A requirement in this article that a document be verified means that the document shall be verified by a declaration made under the penalties for perjury that the matters and facts contained in the document are true to the best of the knowledge, information, and belief of the individual making the declaration.

(c) The acknowledgment or verification shall be made:

(1) Before an individual authorized to take acknowledgments or administer oaths; or

(2) By a signed statement of acknowledgment or verification that:

(i) Is in the document or attached to and made part of the document; and

(ii) As to a verification, states that the statement is made under the penalties for perjury.

(d) If the procedures provided in subsection (c)(2) of this section are used:

(1) A statement of acknowledgment has the same legal effect as an acknowledgment made before an individual authorized to take acknowledgments; and

(2) A statement of verification subjects the individual making the statement to the penalties for perjury to the same extent as if the statement had been verified under oath before an individual authorized to administer oaths.

§1–203.

Before any license or permit may be issued under this article to an employer to engage in an activity in which the employer may employ a covered employee, as defined in § 9-101 of the Labor and Employment Article, the employer shall file with the issuing authority:

(1) A certificate of compliance with the Maryland Workers' Compensation Act; or

(2) The number of a workers' compensation insurance policy or binder.

§1–204.

(a) A provision in an account agreement for a transfer on death in compliance with this section is nontestamentary and shall be effective according to the provisions of this section. Transfers pursuant to this section are effective in the form and manner prescribed by this section and are not to be considered testamentary.

(b) (1) In this section the following words have the meanings indicated.

(2) (i) "Account" means any type of deposit or share account at a depository institution.

(ii) "Account" includes:

1. Checking and other demand deposit accounts;

2. Negotiable order of withdrawal and other savings accounts;

3. Share draft accounts; and

4. Certificated and uncertificated time deposit accounts.

(3) "Account agreement" means a written agreement, whether in 1 or more instruments, that establishes the type of account, the terms of account, and the relationship between the depository institution and the party or parties to the account.

(4) "Beneficiary" means any person designated on a trust account as a person:

(i) To whom the account belongs after the death of all trustees for the account; and

(ii) Who does not possess a present right to draw upon funds in the account during the lifetime of any trustee for the account.

(5) "Convenience person" means any person who is authorized to draw upon funds in an account:

(i) Under a power of attorney given by 1 or more parties to the account; or

(ii) By virtue of a designation in the account agreement appointing that person as agent of a party or the parties to the account for the convenience of the party or parties.

(6) "Depository institution" means any State-chartered or federally chartered financial institution, other-state bank, or foreign bank that:

(i) Is located in this State or maintains a branch in this State; and

(ii) Is authorized to maintain accounts.

(7) "Joint account" means any account other than a P.O.D. account or a trust account established in the name of 2 or more parties.

(8) (i) "Multiple-party account" means any of the following types of accounts at a depository institution:

1. Joint account;

2. P.O.D. account; or

3. Trust account.

(ii) "Multiple-party account" does not include any:

1. Account established and designated for the deposit of funds of a corporation, partnership, joint venture, limited liability company, or other association of persons for business purposes;

2. Account established and designated for the deposit of funds of a charitable or civic organization;

3. Fiduciary account where the relationship is established other than by the account agreement;

4. Account established and designated as governed under the Maryland Uniform Transfers to Minors Act;

5. Account established and designated as governed under Title 13, Subtitle 4 of the Estates and Trusts Article; or

6. Account that would not be a multiple-party account except for the fact that 1 or more convenience persons are authorized to draw upon funds in the account.

(9) (i) "Party" means any person who, by the terms of the account agreement, possesses a present right to draw upon funds in a multiple-party account.

(ii) "Party" includes a trustee of a trust account.

(iii) "Party" does not include a:

1. Beneficiary of a trust account;

2. P.O.D. payee of a P.O.D. account; or

3. Convenience person.

(10) "P.O.D. account" means any account established in the name of 1 or more parties where funds in the account may be drawn upon:

(i) By 1 party during the party's lifetime and by 1 or more P.O.D. payees on the party's death; or

(ii) By 1 or more parties during their respective lifetimes and, upon the death of all the parties, by 1 or more P.O.D. payees.

(11) "P.O.D. payee" means any person designated on a P.O.D. account as a person:

(i) To whom the account belongs after the death of all parties to the account; and

(ii) Who does not possess a present right to draw upon funds in the account during the lifetime of any party to the account.

(12) (i) "Power of attorney" means any writing signed by 1 or more parties to an account that authorizes 1 or more persons to draw upon funds in the

account as agent or agents for the signing party or parties.

(ii) The designation of a person as a convenience person on an account shall be deemed to be a durable power of attorney appointing that person as agent for the party or parties to the account regardless of any disability of the party or parties subsequent to the designation.

(13) (i) "Trust account" means any account established in the name of 1 or more parties as trustees for 1 or more beneficiaries where:

1. None of the beneficiaries is also a trustee;

2. The trust relationship is established by the account agreement; and

3. There is no corpus of the trust other than the funds in the account.

(ii) "Trust account" does not include a:

1. Trust account under a testamentary trust, declaration of trust, or a trust agreement that has significance apart from the account; or

2. Fiduciary account arising from a fiduciary relationship.

(c) (1) A depository institution is authorized to establish multiple-party accounts subject to the terms of this section.

(2) Multiple-party accounts established on or after October 1, 1993, shall be subject to and comply with the terms of this section.

(3) A multiple-party account established before October 1, 1993, shall be subject to and comply with the terms of this section if:

(i) The parties expressly state in an account agreement that complies with subsection (e) of this section that the account shall be subject to the terms of this section; or

(ii) 1. The depository institution gives a written notice that:

A. States that the law applicable to the account has changed;

B. States that the party's rights under the account may change because of the change in law; and

C. Repeats the provisions of subsection (d) of this section; and

2. After that notice is given, any party to the account:

A. Increases or decreases the amount of the deposit in the account;

B. Presents evidence of the account for crediting of interest;

C. Corresponds or responds in writing with the depository institution concerning the account without rejecting in writing the provisions of this section; or

D. Otherwise indicates approval of the account being governed by this section as evidenced by a writing on file with the depository institution.

(d) (1) Upon the death of a party to a multiple-party account, the right to any funds in the account shall be determined in accordance with the express terms of the account agreement.

(2) If the account agreement does not expressly establish the right to funds in the account upon the death of a party, or if there is no account agreement, any funds in the account upon the death of a party shall belong to the surviving party or parties.

(3) Unless the account agreement expressly provides otherwise, upon the death of the last party to a multiple-party account, any funds remaining in the account shall belong to:

(i) The beneficiaries of a trust account who are then living;

(ii) The P.O.D. payees of a P.O.D. account who are then living; or

(iii) Subject to paragraph (4) of this subsection, the personal representative of:

1. The last surviving party of a trust account if no beneficiary is then living;

2. The last surviving party of a P.O.D. account if no P.O.D. payee is then living; or

3. The last surviving party of a joint account.

(4) No payment from a multiple-party account may be made to the personal representative of a deceased party unless:

(i) Proof is presented to the depository institution showing that the deceased party was the last surviving party; or

(ii) There is no right of survivorship under this section.

(5) If there is no right of survivorship under this section, the depository institution may make payment from a multiple-party account to the personal

representative of a deceased party without liability to:

(i) Any other party; or

(ii) Any party's heirs, personal representatives, or assigns.

(6) No funds in an account shall belong to any convenience person by reason of that capacity.

(e) (1) Each account agreement for a multiple-party account opened on or after October 1, 1993, shall contain a clear and conspicuous written statement specifying that unless contrary direction is given in the account agreement, upon the death of a party, the funds in the multiple-party account shall belong to the surviving party or parties.

(2) For multiple-party accounts opened on or after October 1, 1993, the depository institution shall give to the account party or parties:

(i) A copy of the account agreement; or

(ii) A written notice identifying the type of account, the survivorship rights of the parties to the account, and the method by which the account party or parties can obtain a copy of the account agreement.

(f) Unless the account agreement expressly provides otherwise, the funds in a multiple-party account may be withdrawn by any party or by a convenience person for any party or parties, whether or not any other party to the account is incapacitated or deceased.

(g) A depository institution may presume that an account established by the parties as a trust account complies with the definitional requirements of a trust account as set forth in subsection (b) of this section unless, prior to the establishment of the account, the depository institution is provided with written notice to the contrary.

(h) Any written materials required by this section to be given to account parties:

(1) Shall be deemed given if:

(i) Delivered in person to any one of the account parties; or

(ii) Mailed to the account party or parties by first-class mail, postage prepaid, to the address for the account shown on the records of the depository institution; and

(2) May be provided along with or as part of other materials given to account parties.

(i) (1) A person who has an ownership interest in an account that is not a

multiple-party account may designate another person as a convenience person on that account.

(2) No funds in the account shall belong to any convenience person by reason of that capacity.

§1–205.

(a) (1) In this section the following words have the meanings indicated.

(2) "Depository institution" means a State-chartered or federally chartered financial institution located in this State that is authorized to maintain deposit or share accounts.

(3) "Compliance review committee" means:

(i) An audit, loan review, or compliance committee appointed by the board of directors of a depository institution; or

(ii) Any other person to the extent the person acts in an investigatory capacity at the direction of a compliance review committee.

(4) "Compliance review documents" means documents prepared for or created by a compliance review committee.

(5) "Loan review committee" means a person or group of persons who, on behalf of a depository institution, reviews loans held by the institution for the purpose of assessing the credit quality of the loans, compliance with the institution's loan policies, and compliance with applicable laws and regulations.

(6) "Person" means an individual, group of individuals, board, committee, partnership, firm, association, corporation, or other entity.

(b) This section applies to a compliance review committee whose functions are to evaluate and seek to improve:

(1) Loan underwriting standards;

(2) Asset quality;

(3) Financial reporting to federal or State regulatory agencies; or

(4) Compliance with federal or State statutory or regulatory requirements.

(c) Except as provided in subsection (d) of this section:

(1) Compliance review documents are confidential and are not discoverable or admissible in evidence in any civil action arising out of matters evaluated by the compliance review committee; and

(2) Compliance review documents delivered to a federal or State governmental agency remain confidential and are not discoverable or admissible in evidence in any civil action arising out of matters evaluated by the compliance review committee.

(d) Subsection (c) of this section does not apply to any information required by statute or regulation to be maintained by or provided to a governmental agency while the information is in the possession of the governmental agency to the extent applicable law expressly authorizes its disclosure.

(e) This section may not be construed to limit the discovery or admissibility in any civil action of any documents that are not compliance review documents.

§1–206.

(a) In this section, "fiduciary deposit surety bond" means a surety bond that:

(1) Guarantees the payment of deposited funds awaiting distribution or investment held by a financial institution in a fiduciary capacity; and

(2) Subject to the terms and conditions of the bond, is irrevocable and absolute.

(b) Except as provided in §§ 6-202 and 6-209 of the State Finance and Procurement Article, if applicable law requires a deposit made by a financial institution to be collateralized, the financial institution may take as collateral for the deposit, in addition to any other permissible collateral, a fiduciary deposit surety bond issued by an insurance company authorized to do business in this State, the claims-paying ability of which is rated in the highest category by at least two nationally recognized statistical rating agencies.

§1–208.

(a) The directors and officers of a financial institution shall develop and implement written:

(1) Policies governing real estate appraisal; and

(2) Procedures governing the hiring and performance of real estate appraisers.

(b) The procedures required under subsection (a)(2) of this section shall set forth specific factors to be considered by the financial institution's directors and officers, including:

(1) Whether the appraiser is licensed or certified under the Business Occupations and Professions Article; and

(2) The real estate appraiser's:

(i) Professional education; and

(ii) Experience in real estate appraising.

(c) Prior to implementation, a financial institution shall submit its real estate appraisal policies and procedures to the Commissioner for review and approval.

§1–209.

(a) Only the State may enact a law which purports to regulate extensions of credit made by a financial institution.

(b) This section does not:

(1) Affect federal law preemption of State law;

(2) Restrict or otherwise affect local laws that establish property ownership or the rights and obligations of property owners;

(3) Restrict or otherwise affect a local government's ability to regulate its fiscal, economic, or community development policy;

(4) Restrict or otherwise affect a local government's ability to enact laws or adopt regulations relating to fair housing or other civil rights; or

(5) Restrict or otherwise affect a local government's ability to establish or administer loan programs to assist residents with financial needs.

§1–210.

(a) (1) In this section the following words have the meanings indicated.

(2) "Account agreement" means one or more written instruments that establish when a certificate of deposit is payable.

(3) "Certificate of deposit" means a deposit or share account at a depository institution that:

(i) Is payable by the depository institution at the expiration of a specified time; and

(ii) May be transferable or nontransferable, negotiable or nonnegotiable, and renewable or nonrenewable.

(4) "Depository institution" means a State-chartered or federally chartered financial institution located in the State that is authorized to maintain certificates of deposit.

(5) "Maturity date" means the time specified in an account agreement when a certificate of deposit is first payable, without taking into account any agreement regarding renewals.

(b) Subject to subsection (c) of this section, an action to enforce the obligation of a depository institution to pay all or part of the balance of a certificate of deposit must be commenced by the earlier of:

(1) The time that an action to enforce an obligation under § 3-118(e) of the Commercial Law Article must be commenced, if the certificate of deposit is subject to that section; or

(2) 6 years after the later of:

(i) The maturity date of the certificate of deposit;

(ii) The due date of the certificate of deposit indicated in the depository institution's last written notice of renewal of the certificate of deposit, if any;

(iii) The date of the last written communication from the depository institution recognizing the depository institution's obligation to pay the certificate of deposit; or

(iv) The last day of the taxable year for which a person identified in the certificate of deposit last reported interest income earned on the certificate of deposit on a federal or State income tax return.

(c) Notwithstanding subsection (b) of this section, an action to enforce the obligation of a depository institution to pay all or part of the balance of an automatically renewing certificate of deposit in existence on June 1, 2006, must be commenced by the later of:

(1) 6 years after the later of the events described in subsection (b)(2)(i) through (iv) of this section; or

(2) 1 year after June 1, 2006.

§1–211.

(a) (1) In this section the following words have the meanings indicated.

(2) "Depository institution" means a financial institution that:

(i) Is located in this State or maintains a branch in this State; and

(ii) Is authorized to maintain qualifying accounts.

(3) "Eligible customer" means an individual who:

(i) Maintains a qualifying account at a depository institution;

(ii) Is an adult; and

(iii) Is a resident of this State.

(4) "Qualifying account" means a savings account, share account, or other savings product or program:

(i) Offered by a depository institution;

(ii) Insured by the Federal Deposit Insurance Corporation, the National Credit Union Administration, or a credit union share guaranty corporation that is approved by the Commissioner; and

(iii) Through which eligible customers may obtain chances to win prizes in a savings promotion raffle.

(5) "Savings promotion raffle" means a contest in which:

(i) The sole consideration required for a chance of winning designated prizes is obtained by the deposit of a specified amount of money in a qualifying account; and

(ii) Each ticket or entry has an equal chance of being drawn.

(b) A depository institution may conduct a savings promotion raffle for the exclusive benefit of eligible customers if:

(1) The depository institution maintains books and records relating to the savings promotion raffle; and

(2) The savings promotion raffle will not:

(i) Harm the depository institution's ability to operate in a safe and sound manner; or

(ii) Mislead the depository institution's customers.

(c) Except as preempted by federal law, the Commissioner may:

(1) Examine the conduct of a savings promotion raffle; and

(2) Issue a cease and desist order under § 5–808 of this article for a violation of this section.

§1–301.

(a) In this subtitle the following words have the meanings indicated.

(b) (1) "Fiduciary institution" means:

(i) A national banking association;

(ii) A State banking institution;

(iii) An other-state bank that maintains a branch in this State;

(iv) A credit union that is organized under the laws of this State or of the United States;

(v) Any other organization that is organized under the banking laws of this State and subject to the supervision of the Commissioner; or

(vi) A savings and loan association that is organized under the laws of this State or of the United States.

(2) "Fiduciary institution" does not include any person licensed by the Commissioner under Title 11 of this article.

(c) (1) "Financial record" means the original or any copy or record of:

(i) A document that grants signature authority over a deposit or share account;

(ii) A statement, ledger card, or other record of a deposit or share account that shows transactions in or with respect to that deposit or account;

(iii) A check, clear draft, or money order that is drawn on a fiduciary institution or issued and payable by or through a fiduciary institution;

(iv) Any item, other than an institutional or periodic charge, that is made under an agreement between a fiduciary institution and another person and that constitutes a debit or a credit to that person's deposit or share account; or

(v) Any information that relates to a loan account or an application for a loan.

(2) "Financial record" includes any evidence of a transaction conducted by means of an electronic terminal.

(d) "Supervisory agency" means:

(1) The Federal Deposit Insurance Corporation;

(2) The Federal Savings and Loan Insurance Corporation;

(3) The Federal Home Loan Bank Board;

(4) The National Credit Union Administration;

(5) The Federal Reserve Board;

(6) The United States Comptroller of the Currency;

(7) The State of Maryland Deposit Insurance Fund Corporation;

(8) The Credit Union Insurance Corporation;

(9) The Commissioner;

(10) The Division of Savings and Loan Associations; or

(11) An agency of another state with primary responsibility for chartering and supervising banks.

§1–302.

Except as otherwise expressly provided in this subtitle, a fiduciary institution, its officers, employees, agents, and directors:

(1) May not disclose to any person any financial record relating to a customer of the institution unless:

(i) The customer has authorized the disclosure to that person;

(ii) Proceedings have been instituted for appointment of a guardian of the property or of the person of the customer, and court-appointed counsel presents to the fiduciary institution an order of appointment or a certified copy of the order issued by or under the direction or supervision of the court or an officer of the court;

(iii) The customer is disabled and a guardian is appointed or qualified by a court, and the guardian presents to the fiduciary institution an order of appointment or a certified copy of the order issued by or under the direction or supervision of the court or an officer of the court;

(iv) The customer is deceased and a personal representative is appointed or qualified by a court, and the personal representative presents to the fiduciary institution letters of administration issued by or under the direction or supervision of the court or an officer of the court;

(v) The Department of Human Resources requests the financial record in the course of verifying the individual's eligibility for public assistance;

(vi) The institution received a request, notice, or subpoena for information directly from the Child Support Enforcement Administration of the Department of Human Resources under § 10-108.2, § 10-108.3, or § 10-108.5 of the Family Law Article or indirectly through the Federal Parent Locator Service under 42

U.S.C. § 666(a)(17); or

(vii) The institution received a request, notice, or subpoena for information directly from the Comptroller under § 13-804 or § 13-812 of the Tax - General Article;

(2) Shall disclose any information requested in writing by the Department of Human Resources relative to moneys held in a savings deposit, time deposit, demand deposit, or any other deposit held by the fiduciary institution in the name of the individual who is a recipient or applicant for public assistance; and

(3) Shall disclose any information requested in writing by the Comptroller relative to moneys held in a savings deposit, time deposit, demand deposit, or any other deposit held by the fiduciary institution in the name of an individual whose property is subject to a tax lien.

§1–303.

This subtitle does not prohibit:

(1) The preparation, examination, handling, or maintenance of financial records by any officer, employee, or agent of a fiduciary institution that has custody of the records;

(2) The examination of financial records by a certified public accountant while engaged by a fiduciary institution to perform an independent audit;

(3) The examination of financial records by, or the disclosure of financial records to, any officer, employee, or agent of a supervisory agency for use only in the exercise of that person's duties as an officer, employee, or agent;

(4) The publication of information derived from financial records if the information cannot be identified to any particular customer, deposit, or account;

(5) The making of reports or returns required or permitted by federal or State law;

(6) The disclosure of any information permitted to be disclosed under those provisions of the Commercial Law Article that relate to the dishonor of a negotiable instrument;

(7) The exchange, in the regular course of business, of credit information between a fiduciary institution and any other fiduciary institution or commercial enterprise, if made directly or through a consumer reporting agency;

(8) The exchange, in the regular course of business, of a statement of a mortgage account on the subject property in connection with a sale, refinancing, or foreclosure, of real property; or the disclosure, in the regular course of business,

of a statement of a mortgage account on the subject property to the holder of any subordinate mortgage or security interest;

(9) The disclosure to a State's Attorney of any information in accordance with § 8-104(c) of the Criminal Law Article (regarding the presentation of a certificate under oath to prove insufficient funds and dishonor of checks);

(10) A fiduciary institution from disclosing to the Department of Human Resources an individual's financial records that the Department determines are necessary to verify or confirm the individual's eligibility or ineligibility for public assistance;

(11) In a prosecution outside the State for the crime of obtaining property or services by bad check, the presentation to the prosecutor of a certificate under oath by an authorized representative of a drawee that declares the dishonor of the check by the drawee, the lack of an account with the drawee at the time of utterance, or the insufficiency of the drawer's funds at the time of presentation and utterance;

(12) The disclosure of the financial records of one of its customers by a fiduciary institution to an affiliate that extends credit for the sole purpose of evaluating a requested or existing extension of credit to that customer by an affiliate of the fiduciary institution; or

(13) A fiduciary institution from disclosing to the Comptroller an individual's financial records that the Comptroller determines are necessary to enforce the tax laws of the State.

§1–304.

(a) In this section, "subpoena" means a subpoena, summons, warrant, or court order that appears on its face to have been issued on lawful authority.

(b) A fiduciary institution may disclose or produce financial records or information derived from financial records in compliance with a subpoena served on the fiduciary institution, if:

(1) The subpoena contains a certification that a copy of the subpoena has been served on the person whose records are sought by the party seeking the disclosure or production of the records; or

(2) Contains a certification that service has been waived by the court for good cause.

§1–305.

(a) Any officer, employee, agent, or director of a fiduciary institution who knowingly and willfully discloses financial records in violation of this subtitle is guilty of a misdemeanor and on conviction is subject to a fine of not more than $1,000.

(b) Any person who knowingly and willfully induces or attempts to induce an officer, employee, agent, or director of a fiduciary institution to disclose financial records in violation of this subtitle is guilty of a misdemeanor and on conviction is subject to a fine of not more than $1,000.

(c) (1) Subsections (a) and (b) of this section do not apply in connection with an abuse report required under § 1–306(d) of this subtitle.

(2) A fiduciary institution that fails to file an abuse report concerning an elder adult as required under § 1–306(d) of this subtitle is subject to:

(i) A civil penalty not exceeding $1,000; or

(ii) If the failure to report is willful, a civil penalty not exceeding $5,000.

(3) The civil penalties provided under paragraph (2) of this subsection:

(i) May be recovered only in a civil action brought by the Attorney General against the fiduciary institution; and

(ii) Shall be paid by the fiduciary institution.

(4) A person who discloses information contained in an abuse report in violation of § 1–306(d)(4) of this subtitle is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $500.

§1–306.

(a) (1) In this section the following words have the meanings indicated.

(2) "Abuse report" means the report required under subsection (d) of this section.

(3) "Elder adult" means an individual who is believed to be:

(i) At least 65 years old; and

(ii) Residing in the State.

(4) "Financial abuse" means to take, appropriate, obtain, or retain, or assist in taking, appropriating, obtaining, or retaining, real or personal property of an elder adult by any means, including undue influence, for a wrongful purpose or with intent to defraud the elder adult.

(5) "Financial exploitation" means any action which involves the misuse of a customer's funds or property.

(6) "Report of financial exploitation" means an oral or written report

concerning financial exploitation which may include all or part of the information described in § 14–302(d) of the Family Law Article.

(b) Notwithstanding any other provision of law, a fiduciary institution or an officer, employee, agent, or director of a fiduciary institution may disclose financial records and any other information relating to a customer of the fiduciary institution if the fiduciary institution or its officer, employee, agent, or director:

(1) Believes that the customer has been subjected to financial exploitation; and

(2) Makes the disclosure in a report of financial exploitation to the adult protective services program in a local department of social services.

(c) A report of financial exploitation filed under this section by a fiduciary institution or an officer, employee, agent, or director of a fiduciary institution shall be deemed to protect against or prevent actual or potential fraud, unauthorized transactions, or other liability.

(d) (1) Notwithstanding any other law limiting or prohibiting disclosure, a fiduciary institution shall make an abuse report as provided in this subsection if an employee of the fiduciary institution, while acting within the scope of the employee's employment:

(i) Has direct contact with an elder adult or reviews or approves an elder adult's financial documents, records, or transactions in connection with financial services provided by the fiduciary institution to or for the elder adult; and

(ii) Observes or obtains knowledge of behavior or unusual circumstances or transactions that leads the employee to know or have reasonable cause to suspect that the elder adult is the victim of financial abuse.

(2) The abuse report required under paragraph (1) of this subsection shall be made:

(i) 1. To the adult protective services agency in a local department of social services, the local law enforcement agency, or a State's Attorney; or

2. If the employee knows that the elder adult resides in a long–term care facility located in the State, to an ombudsman for the long–term care facility, the local law enforcement agency, or a State's Attorney; and

(ii) 1. By telephone notification within 24 hours after the employee knows or has reasonable cause to suspect that the elder adult is the victim of financial abuse; and

2. In writing sent within 3 business days after the employee

knows or has reasonable cause to suspect that the elder adult is the victim of financial abuse.

(3) A fiduciary institution is not required to:

(i) Investigate an allegation by an elder adult that financial abuse of the elder adult has occurred; or

(ii) Make an abuse report under this subsection if the same matter already has been reported as required under this subsection.

(4) Subject to paragraph (5) of this subsection, an abuse report made under this subsection is confidential and the information contained in the abuse report may be disclosed only:

(i) In connection with an investigation of the suspected financial abuse, to:

1. An adult protective services agency;

2. A long–term care ombudsman;

3. A law enforcement agency; and

4. The office of the Attorney General or of a State's Attorney; or

(ii) As authorized by the elder adult or the legal guardian of the elder adult.

(5) Paragraph (4) of this subsection may not be construed to:

(i) Allow the disclosure of an abuse report made under this subsection or a record relevant to the abuse report if the disclosure would be prohibited by any other provision of State or federal law; or

(ii) Prohibit the disclosure by a fiduciary institution or an officer, employee, agent, or director of a fiduciary institution of an abuse report made under this subsection or a record relevant to the abuse report if the disclosure would be required by another State law, federal law, or court order.

(6) This subsection does not prohibit or limit the disclosure of financial records otherwise permitted under this subtitle.

(7) A fiduciary institution shall establish and implement a training program to:

(i) Assist employees in recognizing signs of potential financial abuse of an elder adult, such as unusual activity in an elder adult's deposit accounts,

automated teller machine (ATM) withdrawals by an elder adult who previously never used an ATM or debit card, and suspicious signatures on checks; and

(ii) Inform employees about the requirement to file abuse reports as provided under this subsection.

(e) (1) Except as provided in paragraph (2) of this subsection, a fiduciary institution or an officer, employee, agent, or director of a fiduciary institution may decline to provide to any person information that would disclose or indicate whether a report of financial exploitation or an abuse report has or has not been filed under this section.

(2) A fiduciary institution or an officer, employee, agent, or director of a fiduciary institution may not decline to provide information requested by a person identified in subsection (d)(4)(i) of this section in connection with an investigation of suspected financial abuse.

(f) Except as provided in § 1–305(c) of this subtitle, there shall be no liability on the part of and no cause of action of any nature shall arise against, and there shall be immunity from any civil and criminal liability that would otherwise result for, a fiduciary institution or an officer, employee, agent, or director of a fiduciary institution for an action or omission involved with:

(1) Making or participating in making a disclosure or report under this section;

(2) Participating in an investigation or a judicial proceeding resulting from a report filed under this section; or

(3) Declining to provide information as described in subsection (e) of this section.

(g) Except as required under subsection (d) of this section, this section does not create and may not be construed as creating, on the part of a fiduciary institution or an officer, employee, agent, or director of a fiduciary institution, a duty to make a disclosure to an adult protective services program or file a report of financial exploitation under this section.

§1–401.

(a) In this subtitle the following words have the meanings indicated.

(b) (1) "Access area" means any paved walkway or sidewalk which is within 50 feet of an automated teller machine.

(2) "Access area" does not include any publicly maintained street or highway or any adjacent sidewalk.

(c) "Access device" has the meaning stated in Federal Reserve Board Regulation E, 12 C.F.R., Part 205.

(d) (1) "Automated teller machine" means any electronic information processing device located in this State which accepts or dispenses cash in connection with a credit, deposit, or convenience account.

(2) "Automated teller machine" does not include devices used:

(i) Solely to facilitate check guarantees or check authorizations;

(ii) In connection with the acceptance or dispensing of cash on a person-to-person basis, including by a store cashier; or

(iii) For the payment of goods or services.

(e) "Candlefoot power" means the light intensity of candles on a horizontal plane at 36 inches above ground level and 5 feet in front of the area to be measured.

(f) "Control" of an access area or defined parking area means to have the present authority to determine how, when, and by whom such area is to be used, maintained, lighted, and landscaped.

(g) "Customer" means an individual to whom an access device has been issued for personal, family, or household use.

(h) (1) "Defined parking area" means that portion of a parking area open for customer parking which is:

(i) Contiguous to an access area with respect to an automated teller machine;

(ii) Regularly, principally, and lawfully used for parking by users of the automated teller machine while conducting automated teller machine transactions during the hours of darkness; and

(iii) Owned or controlled by the operator of the automated teller machine or by the party leasing the automated teller machine site to the operator.

(2) "Defined parking area" includes only the single parking level of a multiple level parking area deemed by the operator of the automated teller machine to be the most directly accessible to users of the automated teller machine if the parking area otherwise satisfies the conditions contained in paragraph (1) of this subsection.

(3) "Defined parking area" does not include a parking area which is:

(i) Not regularly used for parking by users of the automated teller machine who are conducting automated teller machine transactions during the hours

of darkness; or

(ii) Physically closed to access or is marked by conspicuous signs indicating that it is closed.

(i) "Hours of darkness" means the period that begins 30 minutes after sunset and ends 30 minutes before sunrise.

(j) "Operator" means a financial institution or other person that operates an automated teller machine.

§1–402.

(a) (1) (i) This section does not apply to any person:

1. Whose primary function is to provide for the exchange, transfer, or dissemination of electronic fund transfer data; and

2. That is not otherwise an operator or person who controls an access area or designated parking area.

(ii) A person described in subparagraph (i) of this paragraph is not liable to a customer or user of an automated teller machine for any claim relating to:

1. Any provision of this section; or

2. The use or attempted use of an automated teller machine.

(2) This section does not apply to an automated teller machine which is located:

(i) Inside a building:

1. Unless the building is a freestanding installation which exists solely to provide an enclosure for the automated teller machine; or

2. Except to the extent that a transaction can be conducted from outside the building; or

(ii) In any area, including any access area, building, enclosed space, or parking area, which is not controlled by the operator.

(b) (1) An operator of an automated teller machine shall adopt procedures for evaluating the safety of the location of the automated teller machine before it is installed.

(2) The procedures shall include a consideration of:

(i) The extent to which the lighting for the automated teller machine

complies or will comply with the standards described in this section; and

(ii) The presence of landscaping, vegetation, or other obstructions in the area of the automated teller machine, the access area, and the defined parking area.

(3) (i) The operator of an automated teller machine installed prior to January 1, 1995 shall adopt procedures for evaluating the safety of the location of the existing automated teller machine.

(ii) The procedures adopted under subparagraph (i) of this paragraph shall include a consideration of the facts identified in paragraph (2) of this subsection to the extent appropriate to existing locations.

(iii) This subsection does not impose a duty to relocate an automated teller machine or modify the landscaping, vegetation, or other obstructions in the area of an automated teller machine, access area, or defined parking area for an automated teller machine installed prior to January 1, 1995.

(c) (1) An operator of an automated teller machine shall provide during the hours of darkness lighting of at least 10 candlefoot power at the face of the automated teller machine and extending in an unobstructed direction outward 5 feet.

(2) An operator or, if different, the person who controls the access area or the defined parking area shall provide during the hours of darkness lighting of:

(i) At least 2 candlefoot power within 50 feet from all unobstructed directions from the face of the automated teller machine;

(ii) At least 2 candlefoot power in that portion of the defined parking area within 60 feet of the automated teller machine; and

(iii) In the event the automated teller machine is located within 10 feet of a corner of the building and the automated teller machine is generally accessible from the adjacent side, at least 2 candlefoot power along the first 40 unobstructed feet of the adjacent side of the building.

(3) The requirements of this subsection apply only to automated teller machines that are open for use by customers during the hours of darkness.

(d) (1) At or before the time a customer is furnished with an access device, the issuer of the access device shall furnish to the customer a notice concerning basic safety precautions that customers should employ while using an automated teller machine during hours of darkness.

(2) The notice shall be furnished:

(i) To each customer whose address for the account to which the access device relates is in this State; and

(ii) By personally delivering or mailing the notice to customers at their mailing addresses in this State.

(3) (i) Only one notice need be furnished for each mailing address.

(ii) If access devices are furnished to more than one customer for a single account or set of accounts or on the basis of a single application or other request for access devices, only one notice need be furnished to satisfy this subsection's notice requirement as to those customers.

(4) The notice required by this subsection may be included with other disclosures related to the access device furnished to a customer, including any initial or periodic disclosure statement furnished under the Federal Electronic Fund Transfer Act.

(5) The issuer of an access device shall be deemed to be in compliance with the notice requirement of this subsection if the issuer advises the customer to:

(i) Be aware of the customer's surroundings when using an automated teller machine, particularly during the hours of darkness;

(ii) Be accompanied by another person when using an automated teller machine during the hours of darkness;

(iii) Refrain from displaying cash, place cash in a pocket as soon as a transaction is completed, and count cash in the safety of a locked enclosure such as a car or home;

(iv) Use another automated teller machine or return at a later time if anything suspicious is noticed;

(v) Cancel a transaction, place the access device in a pocket, and leave if anything suspicious is noticed when using an automated teller machine; and

(vi) Immediately report all crimes to the operator of the automated teller machine and to local law enforcement officials.

(6) For an access device issued before January 1, 1995, compliance with the provisions of this subsection shall be optional unless:

(i) A customer requests in writing that the notice required by this subsection be provided; or

(ii) The access device is reissued, renewed, or replaced on or after January 1, 1995.

§1–402.1.

(a) This section does not apply to an automated teller machine that is:

(1) Located inside a building unless:

(i) The building is a freestanding installation that exists solely to provide an enclosure for the automated teller machine; or

(ii) A user of the automated teller machine is able to conduct a transaction from outside the building; or

(2) Operated by a financial institution, unless the automated teller machine is located at or within or attached to premises owned by or under the control of the financial institution.

(b) Each operator of an automated teller machine subject to this section shall:

(1) Install and maintain a video camera that views and records an image of a user as the user performs a transaction at the automated teller machine; and

(2) Preserve the recordings made by the video camera for at least 45 calendar days.

(c) An operator of an automated teller machine subject to this section is not in violation of this section if a video camera required under subsection (b) of this section malfunctions due to a reason not within the operator's control.

§1–403.

(a) Subject to this section, a banking institution or credit union may have an automated teller machine at a location other than the principal office or a branch of a banking institution or credit union.

(b) (1) Except as provided in paragraph (2) of this subsection, at least 15 business days before commencing the installation of an automated teller machine, a banking institution or credit union shall submit to the Commissioner written notice of its intent to install the automated teller machine.

(2) No written notice of intent to install an automated teller machine is required if the automated teller machine is to be located at the principal office or a branch of a banking institution or credit union.

(c) (1) An automated teller machine may receive and dispense money as instructed by a customer.

(2) A banking institution or credit union may verify by direct wire transmission or otherwise any transaction that is made by means of an automated

teller machine.

(3) The Commissioner may adopt rules and regulations that are substantially similar to those rules and regulations of the Comptroller of the Currency for the operation and shared use of automated teller machines by national banking associations.

(d) (1) If, after the Commissioner receives the notice required under subsection (b)(1) of this section or the automated teller machine is installed, any requirement of this section is not being met, or if the Commissioner determines that the operation of the automated teller machine is not consistent with safety and soundness and the security of the transactions, the Commissioner shall give the banking institution or credit union notice of the deficiency.

(2) On notice of deficiency, a banking institution or credit union shall stop using the automated teller machine.

(3) If the Commissioner determines that the deficiency has been corrected, the banking institution or credit union may resume use of the automated teller machine.

(e) For purposes of this article, an automated teller machine is not a branch of a banking institution or credit union.

§1–404.

(a) At or before the time a transaction is initiated, the operator of an automated teller machine shall provide the person using the automated teller machine with notice of the fee to be charged by the operator for use of the automated teller machine by persons using access devices not issued by the operator.

(b) (1) The operator may give the notice required under subsection (a) of this section by either:

(i) Posting in a conspicuous place on or near the automated teller machine the amount of the fee; or

(ii) Listing the amount of the fee on the screen of the automated teller machine at the time the transaction is initiated.

(2) If the operator gives the notice in the manner provided by paragraph (1)(ii) of this subsection, the person using the automated teller machine shall be provided with the opportunity to cancel the transaction without incurring any fee.

§1–405.

(a) "Foreign banking corporation" has the meaning stated in § 12-201(e) of this article.

(b) A foreign banking corporation may not have an automated teller machine in this State for any purpose unless:

(1) The foreign banking corporation obtains from the Commissioner a permit for the automated teller machine; or

(2) The automated teller machine is authorized under:

(i) The Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 or other federal law; or

(ii) Title 5, Subtitle 9 or Subtitle 10 of this article.

(c) The process for obtaining a permit for the automated teller machine is as stated in §§ 12-208 and 12-209 of this article.

§1–406.

(a) Only the State may enact a law regarding automated teller machines.

(b) This subtitle shall preempt any local law governing automated teller machines.

§2–101.

There is a Commissioner of Financial Regulation in the Department of Labor, Licensing, and Regulation.

§2–102.

(a) The Commissioner is appointed by the Secretary of Labor, Licensing, and Regulation with the approval of the Governor and the advice and consent of the Senate.

(b) The Commissioner serves at the pleasure of the Secretary of Labor, Licensing, and Regulation.

(c) The Commissioner shall have at least 5 years of experience in state or national banking regulation or management, which may include service as a bank director.

(d) The Commissioner is entitled to the salary provided in the State budget.

§2–103.

(a) With the approval of the Secretary of Labor, Licensing, and Regulation, the Commissioner shall appoint a Deputy Commissioner.

(b) The Deputy Commissioner serves at the pleasure of the Commissioner and is an employee of the Commissioner's office.

(c) The Deputy Commissioner shall have at least 5 years of experience in:

(1) State or national banking regulation or management; or

(2) The regulation or management of the business of making loans by persons of the type regulated by this article.

(d) The Deputy Commissioner is entitled to the salary provided in the State budget.

(e) In addition to any other powers and duties set forth in this article, the Deputy Commissioner has the powers and duties of the Commissioner:

(1) To the extent delegated by the Commissioner;

(2) If the office of the Commissioner is vacant; and

(3) If for any reason the Commissioner is unable to perform the duties of the office.

§2–104.

(a) (1) In this section the following words have the meanings indicated.

(2) "Applicant" means an applicant for employment with the Commissioner.

(3) "Central Repository" means the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services.

(4) "Employee" means a full–time or part–time employee of the Commissioner, including a temporary employee or a contractual employee.

(b) The Commissioner may employ a staff in accordance with the State budget.

(c) The Commissioner shall apply to the Central Repository for a State and national criminal history records check for each applicant prior to an offer of employment.

(d) The Commissioner may apply to the Central Repository for a State and national criminal history records check for an employee.

(e) As part of the application for a criminal history records check, the Commissioner shall submit to the Central Repository:

(1) Two complete sets of the legible fingerprints taken on forms approved by the Director of the Central Repository and the Director of the Federal Bureau of Investigation;

(2) The fee authorized under § 10–221(b)(7) of the Criminal Procedure Article for access to Maryland criminal history records; and

(3) The mandatory processing fee required by the Federal Bureau of Investigation for a national criminal history records check.

(f) In accordance with §§ 10–201 through 10–234 of the Criminal Procedure Article, the Central Repository shall forward to the subject applicant or employee and the Commissioner the applicant's or employee's criminal history record information.

(g) Information obtained from the Central Repository under this section:

(1) Shall be confidential;

(2) May not be redisseminated; and

(3) Shall be used only for the employment purpose authorized by this section.

(h) The subject of a criminal history records check under this section may contest the contents of the printed statement issued by the Central Repository as provided in § 10–223 of the Criminal Procedure Article.

(i) In considering any felony or misdemeanor conviction of an individual as it relates to the individual's qualification for employment with the Commissioner, the Commissioner shall consider:

(1) The nature of the crime;

(2) The relevance of the crime to the duties and responsibilities related to employment;

(3) The length of time since the conviction; and

(4) The behavior and activities of the individual since the conviction.

§2–105.

The Commissioner exercises the powers and performs the duties of the office subject to the authority of the Secretary of Labor, Licensing, and Regulation.

§2–105.1.

(a) (1) In this section the following words have the meanings indicated.

(2) "Money transmission" has the meaning stated in § 12–401 of this article.

(3) "Mortgage lender" has the meaning stated in § 11–501 of this article.

(4) "Mortgage originator" has the meaning stated in § 11–601 of this article.

(b) The Commissioner may adopt and enforce regulations reasonably necessary to carry out the authority and responsibility of the office of Commissioner.

(c) (1) The Commissioner may participate in the establishment and implementation of a multistate automated licensing system for:

(i) Mortgage lenders;

(ii) Mortgage originators; and

(iii) Persons who engage in money transmission.

(2) To facilitate implementation of a multistate automated licensing system, the Commissioner may adopt regulations that waive or modify the requirements of:

(i) Title 11, Subtitles 5 and 6 of this article with respect to mortgage lenders and mortgage originators; and

(ii) Title 12, Subtitle 4 of this article with respect to persons who engage in money transmission.

§2–106.

The Commissioner shall adopt an official seal. A description and impression of the seal shall be filed with the Secretary of State.

§2–107.

On or before December 31 of each year, the Commissioner shall submit to the Governor and, as provided under § 2–1246 of the State Government Article, the General Assembly an annual report that includes, at a minimum, the following information concerning the most recently completed fiscal year ending June 30:

(1) Operations of the office of the Commissioner;

(2) Amendments proposed by the Commissioner regarding the laws the Commissioner administers;

(3) Failures of licensed persons and State–chartered financial institutions;

(4) A summary of the composite ratings of banking institutions and State–chartered credit unions; and

(5) A breakdown by license category of the number of penalties assessed

and instances of consumer recovery.

§2–108.

(a) The Commissioner shall charge and collect, in advance, the following nonrefundable fees:

(1) An examination fee for a new commercial bank charter under § 3–203 of this article.....$15,000

(2) A filing fee for an agreement of consolidation, merger, or transfer of assets under § 3–703 of this article:

(i) Between two commercial banks $3,000

(ii) Among three or more commercial banks $5,000

(3) An application fee for a banking institution to have an affiliate under § 5–403 of this article..... $750

(4) A fee for a conversion of a national banking association, a federal stock savings and loan association, or a federal stock savings bank into a commercial bank under § 3–801 of this article or a federal mutual savings bank into a savings bank under § 4–701.1 of this article:

(i) Filing fee..... $7,000

(ii) Examination fee $3,000

(5) Subject to subsection (b) of this section, a branch fee for:

(i) An application of a banking institution or other–state bank to open a branch under §§ 5–1003 and 5–1005(a) of this article..... $600; or

(ii) An expedited notice of a banking institution or other–state bank to open a branch under §§ 5–1003 and 5–1005(b) of this article..... $400

(6) An application fee for a foreign banking permit under § 12–208 of this article.....$500

(7) A renewal fee for a foreign banking permit under § 12–210 of this article.....$500

(8) A fee for a certificate of valid charter:

(i) If requested by or on behalf of a banking institution..... $25

(ii) If requested by or on behalf of a person other than a banking

institution.....$50

(9) A fee for a certified copy of a document $50

(10) An application fee for conversion of a savings bank to a capital stock commercial bank under § 4–703 of this article.$5,000

(b) The branch fee under subsection (a)(5) of this section does not apply to:

(1) A branch that is acquired by a banking institution through a merger or consolidation with, or transfer to the banking institution of all or substantially all of the assets of, a bank or an insured depository institution; or

(2) An other–state bank chartered by a state that does not charge a fee to a banking institution for establishing a branch in that state.

§2–109.

Except as otherwise provided by law, the Commissioner shall pay all money collected by the Commissioner under this article into the General Fund of this State.

§2–110.

(a) The Commissioner and Deputy Commissioner shall devote full time to their duties.

(b) The Commissioner and Deputy Commissioner may not:

(1) Be an officer or director of any State banking institution or national banking association, or in any entity engaged in the business of making loans; or

(2) Engage in any other business relating to banks and financial institutions or lending.

§2–111.

(a) The Commissioner, employees of the Commissioner's office, and other State employees acting under supervision of the Commissioner's office may not own stock in any institution that is subject to examination or supervision by the Commissioner.

(b) This section does not apply to a member share account of the Commissioner, an employee of the Commissioner's office, or other State employees acting under the supervision of the Commissioner's office held at a credit union that has a membership of over 60,000 State employees.

§2–112.

(a) Except as provided in subsection (b) of this section, the Commissioner, employees of the Commissioner's office, and other State employees acting under the

supervision of the Commissioner's office may not:

(1) Become indebted to any institution that is subject to the jurisdiction of the Commissioner; or

(2) Engage or be interested in the sale of securities of or in the negotiation of loans for others to or with any banking institution or credit union.

(b) This section does not apply to a loan that is:

(1) Made to a member of a credit union that has a membership of over 60,000 State employees; and

(2) Approved by:

(i) A credit committee approval under § 6-603(a)(1) of this article; and

(ii) The Board of Directors.

(c) The Commissioner, employees of the Commissioner's office, and other State employees acting under the supervision of the Commissioner's office may not:

(1) Serve as an officer, director, or committee member of a credit union; or

(2) Exercise any voting rights in a credit union.

(d) Any person who violates any provision of this section is subject to forfeiture of that person's office or employment.

§2–113.

(a) In this section, "affiliate" has the meaning stated in § 5–401(b) of this article.

(b) Except as provided in subsection (d) of this section, the investigative and enforcement powers of the Commissioner authorized under this subtitle are in addition to any investigative or enforcement powers of the Commissioner authorized under any other provision of law.

(c) Beginning in fiscal year 2001, the Governor shall appropriate in the State budget in each fiscal year to the Division of Financial Regulation funding for the positions necessary to implement the investigative and enforcement powers authorized under this subtitle.

(d) Except as provided in § 2–117 of this subtitle, the provisions of §§ 2–114 through 2–117, inclusive, of this subtitle do not apply to:

(1) Any bank, trust company, savings bank, savings and loan association, or credit union incorporated or chartered under the laws of this State or the United

States that maintains its principal office in this State;

(2) Any out–of–state bank, as defined in § 5–1001 of this article, having a branch that accepts deposits in this State;

(3) Any institution incorporated under federal law as a savings association or savings bank that does not maintain its principal office in this State but has a branch that accepts deposits in this State; or

(4) An affiliate of an institution described in item (1), (2), or (3) of this subsection over which the Commissioner has no jurisdiction.

§2–114.

(a) The Commissioner may:

(1) Make public or private investigations as the Commissioner considers necessary to:

(i) Determine whether a person has violated a provision of law, regulation, rule, or order over which the Commissioner has jurisdiction; or

(ii) Aid in the enforcement of a law or in the prescribing of regulations, rules, and orders over which the Commissioner has jurisdiction;

(2) Require or permit a person to file a statement in writing, under oath or otherwise as the Commissioner determines, as to all the facts and circumstances concerning the matter to be investigated; and

(3) Subject to the provisions of Title 4 of the General Provisions Article, publish information concerning a violation of a law, regulation, rule, or order over which the Commissioner has jurisdiction.

(b) For the purpose of an investigation or proceeding, the Commissioner or an officer designated by the Commissioner may administer oaths and affirmations, subpoena witnesses, compel witness attendance, take evidence, and require the production of books, papers, correspondence, memoranda, agreements, or other documents or records that the Commissioner considers relevant or material to the inquiry.

(c) (1) In case of contumacy by or refusal to obey a subpoena issued to a person, the circuit court of the county in which the person resides or transacts business, on application by the Commissioner, may issue to the person an order requiring the person to appear before the Commissioner or the officer designated by the Commissioner to produce documentary evidence if so ordered or to give evidence touching the matter under investigation or in question.

(2) Failure to obey the order of the court may be punished by the court as

a contempt of court.

§2–115.

(a) When the Commissioner determines that a person has engaged in an act or practice constituting a violation of a law, regulation, rule or order over which the Commissioner has jurisdiction, and that immediate action against the person is in the public interest, the Commissioner may in the Commissioner's discretion issue, without a prior hearing, a summary order directing the person to cease and desist from engaging in the activity, provided that the summary cease and desist order gives the person:

(1) Notice of the opportunity for a hearing before the Commissioner to determine whether the summary cease and desist order should be vacated, modified, or entered as final; and

(2) Notice that the summary cease and desist order will be entered as final if the person does not request a hearing within 15 days of receipt of the summary cease and desist order.

(b) When the Commissioner determines after notice and a hearing, unless the right to notice and a hearing is waived, that a person has engaged in an act or practice constituting a violation of a law, regulation, rule or order over which the Commissioner has jurisdiction, the Commissioner may in the Commissioner's discretion and in addition to taking any other action authorized by law:

(1) Issue a final cease and desist order against the person;

(2) Suspend or revoke the license of the person;

(3) Issue a penalty order against the person imposing a civil penalty up to the maximum amount of $1,000 for a first violation and a maximum amount of $5,000 for each subsequent violation; or

(4) Take any combination of the actions specified in this subsection.

(c) In determining the amount of financial penalty to be imposed under subsection (b) of this section, the Commissioner shall consider the following factors:

(1) The seriousness of the violation;

(2) The good faith of the violator;

(3) The violator's history of previous violations;

(4) The deleterious effect of the violation on the public and the industry involved;

(5) The assets of the violator; and

(6) Any other factors relevant to the determination of the financial penalty.

(d) Notice of any hearing under this section shall be given and the hearing shall be held in accordance with the Administrative Procedure Act.

§2–116.

(a) When it appears to the Commissioner that a person is about to engage in an act or practice constituting a violation of a law, regulation, rule, or order over which the Commissioner has jurisdiction, the Commissioner may bring an action in the circuit court of the county in which the person resides or transacts business to obtain one or more of the following remedies:

(1) A temporary restraining order; or

(2) A temporary or permanent injunction.

(b) When it appears to the Commissioner that a person has engaged in an act or practice constituting a violation of a law, regulation, rule, or order over which the Commissioner has jurisdiction, the Commissioner may bring an action in the circuit court of the county in which the person resides or transacts business to obtain one or more of the following remedies:

(1) A temporary restraining order;

(2) A temporary or permanent injunction;

(3) A civil penalty up to a maximum amount of $1,000 for a first violation and a maximum amount of $5,000 for each subsequent violation;

(4) A declaratory judgment;

(5) An order preventing access to the violator's assets;

(6) Rescission;

(7) Restitution; and

(8) Any other relief as the court deems just.

(c) The Commissioner may not be required to post a bond in an action under this section.

§2–117.

(a) Subject to subsections (b), (c), and (d) of this section, notwithstanding any other provision of State laws or regulations, the Commissioner may:

(1) Enter into cooperative and information sharing agreements with any federal or state regulatory agency having authority over financial institutions or with any federal or state law enforcement agency, provided that the agreements prohibit the agency from disclosing any shared information without prior written consent from the Commissioner regarding disclosure of the particular information; and

(2) Exchange information about a financial institution, including information obtained during an examination, with any federal or state regulatory agency having authority over the financial institution or with any federal or state law enforcement agency.

(b) If the Commissioner receives a record from an agency under a cooperative and information sharing agreement authorized by subsection (a)(1) of this section and the agency expressly retains ownership of the record, either in writing or by law or regulation, the Commissioner:

(1) May not disclose the record to any person that requests the record under Title 4, Subtitles 1 through 5 of the General Provisions Article; and

(2) Shall forward the request for the record to the agency that owns the record for processing in accordance with the laws or regulations governing disclosure of the agency's records.

(c) Notwithstanding § 2–113(d) of this subtitle, an affiliate as defined in § 2–113(a) of this subtitle is subject to subsection (a) of this section if that affiliate maintains or is required to maintain a license issued by the Commissioner.

(d) This section does not authorize the Commissioner to share or exchange information in any way prohibited by federal law.

§2–118.

(a) In this section, "Fund" means the Banking Institution and Credit Union Regulation Fund established under this section.

(b) There is a Banking Institution and Credit Union Regulation Fund that consists of:

(1) All revenue received for the chartering and regulation of persons who engage in the business of a banking institution or credit union under this article; and

(2) Any other fee, assessment, or revenue received by the Commissioner from banking institutions and credit unions under this article.

(c) Notwithstanding subsection (b) of this section, the Commissioner shall pay all fines and penalties collected by the Commissioner from banking institutions and credit unions under this article into the General Fund of the State.

(d) The purpose of the Fund is to pay all the costs and expenses incurred by the Commissioner that are related to the regulation of banking institutions and credit unions under this article, including:

(1) Expenditures authorized under this article; and

(2) Any other expense authorized in the State budget.

(e) (1) All the costs and expenses of the Commissioner relating to the regulation of banking institutions and credit unions under this article shall be included in the State budget.

(2) Any expenditures from the Fund to cover costs and expenses of the Commissioner may be made only:

(i) By an appropriation from the Fund approved by the General Assembly in the annual State budget; or

(ii) By the budget amendment procedure provided for in § 7–209 of the State Finance and Procurement Article.

(3) If, in any given fiscal year, the amount of the revenue collected by the Commissioner and deposited into the Fund exceeds the actual appropriation for the Commissioner to regulate banking institutions and credit unions under this article, the excess amount shall be carried forward within the Fund.

(f) (1) The State Treasurer is the custodian of the Fund.

(2) The State Treasurer shall deposit payments received from the Commissioner into the Fund.

(g) (1) The Fund is a continuing, nonlapsing fund that is not subject to § 7–302 of the State Finance and Procurement Article, and may not be deemed a part of the General Fund of the State.

(2) Unless otherwise provided by law, no part of the Fund may revert or be credited to:

(i) The General Fund of the State; or

(ii) A special fund of the State.

§2–119.

(a) Beginning in fiscal year 2009, the Governor shall appropriate in the annual State budget funds to the Division of Financial Regulation for the purpose of regulating banking institutions and credit unions.

(b) An amount equal to the Governor's appropriation under subsection (a) of

this section shall be repaid by the Banking Institution and Credit Union Regulation Fund established under § 2–118 of this subtitle to the General Fund of the State on or before June 30, 2011.

§2–401.

Subject to the evaluation and reestablishment provisions of the Program Evaluation Act, the provisions of this article that create the office of the Commissioner of Financial Regulation or relate to the powers and duties of the Commissioner and any regulations adopted under these provisions shall terminate and be of no effect after July 1, 2022.

§3–101.

(a) In this title the following words have the meanings indicated.

(b) "Capital stock" includes both common and preferred stock of a commercial bank.

(c) "Debt instrument" means any capital note, debenture, bond, or certificate of beneficial interest issued by a commercial bank.

(d) "Inhabitants" means the population of a municipal area, as determined by the latest federal or State census.

(e) "Nondepository trust company" means a trust company that is not insured by the Federal Deposit Insurance Corporation.

(f) "State bank" means an institution that is incorporated under the laws of this State as a bank.

(g) "Trust company" means an institution that is incorporated under the laws of this State as a trust company.

§3–102.

Every trust company has the powers granted by, and is subject to, the provisions of this article that relate to trust companies. However, except as provided in § 3-209(b) of this title as to the establishment of branches, the provisions of this article do not repeal, modify, or affect any special right, privilege, or power given by charter to a trust company that was organized and doing business before April 8, 1910.

§3–103.

(a) This section applies to a commercial bank that:

(1) Is not in the business of accepting deposits or retaining funds in a deposit account as defined in § 5-509 of this article; and

(2) Is not controlled by or under common control with a banking institution or a national banking association with its principal office located in this State.

(b) A commercial bank subject to this section shall operate in compliance with all requirements and standards for the exercise of fiduciary powers that are applicable under 12 C.F.R. Part 9 to a trust department of a State-chartered trust company that is in the business of accepting deposits or retaining funds in a deposit account as defined in § 5-509 of this article.

§3–201.

Five or more adult individuals, each of whom is a citizen of this State and the United States, may act as incorporators to form a State bank or a trust company under this subtitle.

§3–202.

(a) The incorporators shall sign and acknowledge two copies of articles of incorporation.

(b) The articles of incorporation shall include:

(1) The name and address of each incorporator;

(2) A statement that each incorporator is 18 years old or older and a citizen of this State and the United States;

(3) A statement that the incorporators are associating to form a State bank or a trust company under this subtitle;

(4) The name of the State bank or trust company, which may not be similar in any material respect to the name of any other bank or trust company in this State;

(5) The municipal area and county where the principal banking office of the State bank or trust company is to be located;

(6) The number of directors and the names and residence addresses of those who will serve as directors until their successors are elected and qualify; and

(7) As to its capital stock:

(i) The total number of shares that the State bank or trust company has authority to issue;

(ii) The par value of the shares, which may not be less than $10 a share; and

(iii) The total par value of all shares.

(c) The articles of incorporation may include:

(1) Any provision that requires for any purpose the concurrence of a greater proportion of the votes of all classes or of any class of capital stock than the proportion required by this article for that purpose; and

(2) Any provision that defines, limits, or denies the preemptive rights of stockholders to acquire additional stock of the State bank or trust company.

§3–203.

(a) The incorporators shall file with the Commissioner for examination the two copies of the articles of incorporation.

(b) The Commissioner shall investigate and determine if:

(1) The articles are framed in accordance with law;

(2) The character, responsibility, and general fitness of the incorporators and directors named in the articles command confidence and warrant belief that the business of the proposed commercial bank will be conducted honestly and efficiently, in accordance with the intent of this article; and

(3) Allowing the proposed commercial bank to engage in business:

(i) Will promote public convenience and advantage; and

(ii) Is expedient and desirable.

(c) After the investigation, the Commissioner may require any change in the articles of incorporation that the Commissioner considers necessary.

(d) (1) Within 6 months after the articles are filed for examination, the Commissioner shall sign, date, and endorse each copy of the articles as "approved" or "refused".

(2) If formation of the commercial bank is refused, the Commissioner shall return one of the endorsed copies of the articles to the incorporators.

(3) If formation of the commercial bank is approved, the Commissioner shall:

(i) Return one of the endorsed copies of the articles to the incorporators; and

(ii) Keep and record one of the endorsed copies.

§3–203.1.

(a) In this section, "executive officer" has the meaning stated in 12 C.F.R. § 215.2.

(b) In connection with the filing of articles of incorporation of a commercial bank with the Commissioner, each incorporator, executive officer, and director of a proposed or incorporated commercial bank shall provide fingerprints for use by the Federal Bureau of Investigation and the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services to conduct criminal history records checks.

(c) An individual required by this section to provide fingerprints shall pay any processing or other fee required by the Federal Bureau of Investigation or the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services.

§3–204.

(a) If the Commissioner approves the articles of incorporation, the incorporators shall file for record one of the endorsed copies of the articles with the State Department of Assessments and Taxation.

(b) Articles of incorporation that are filed for record are not effective unless the Commissioner has endorsed the articles as approved.

§3–205.

(a) When articles of incorporation are filed for record in accordance with § 3-204 of this subtitle, the commercial bank becomes a corporation.

(b) Notwithstanding any charter provision or provision of law, each commercial bank has the right to perpetual existence until forfeiture.

§3–206.

(a) Except as otherwise provided in this article, a commercial bank has all of the general powers granted to Maryland corporations under the Maryland General Corporation Law.

(b) In addition to the powers set forth elsewhere in this article, a commercial bank may:

(1) Receive deposits of money on which interest may be paid;

(2) Buy and sell coin and bullion;

(3) Buy and sell foreign and domestic exchange;

(4) Subject to § 3-604 of this title, accept drafts drawn on it;

(5) Issue letters of credit that authorize the holder to draw drafts on it or on its correspondents payable at sight or at a time not exceeding 1 year;

(6) Issue its debt instruments for money that is borrowed or received on deposit or for investment;

(7) Lend money on personal security or on real or personal property;

(8) Subject to § 3-605 of this title, become owner and lessor of personal property;

(9) Subject to § 5-503 of this article, buy, hold, lease, and convey real property;

(10) Pledge collateral to secure deposits of:

(i) The federal government or its agencies; or

(ii) Any state or its political subdivisions;

(11) Pledge securities to secure the money of an estate administered under the federal bankruptcy laws;

(12) Without being deemed a branch of a depository institution affiliate, act in accordance with § 101(d) of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994, as agent of any depository institution affiliate in:

(i) Receiving deposits;

(ii) Renewing time deposits;

(iii) Closing loans;

(iv) Servicing loans; or

(v) Receiving payments on loans and other obligations; and

(13) Exercise all of the powers usual in carrying on a banking business.

§3–207.

In addition to the powers set forth elsewhere in this article, a trust company may:

(1) Receive deposits of money, securities, and other personal property from any person;

(2) Act as the agent of any foreign or Maryland corporation for any lawful

purpose;

(3) Act as the fiscal or transfer agent of any state, any political subdivision of any state, or any corporation;

(4) Accept and execute any trust and any powers that are conferred on or entrusted to it in any manner, including any grant, assignment, transfer, devise, or bequest by any person or by order of a court;

(5) Accept and hold trust property;

(6) Act as trustee under a mortgage or bond issue of a corporation or political subdivision;

(7) Act as personal representative of the estate of any deceased individual; and

(8) Act as guardian, receiver, or trustee of the estate of any person under order or appointment of a court and as depositary of money paid to the court for the benefit of the person.

§3–208.

A commercial bank may not do business until it receives from the Commissioner a certificate of authority to do business.

§3–209.

(a) (1) Before the Commissioner issues a certificate to do business, the required capital stock and the required surplus shall be paid in full.

(2) A commercial bank shall have required capital stock that equals at least:

(i) $750,000, if it is in a municipal area with not more than 50,000 inhabitants; and

(ii) $1.5 million, if it is in a municipal area with more than 50,000 inhabitants.

(3) A commercial bank shall have a surplus in an amount that equals at least 20 percent of its required capital stock.

(b) (1) Before a commercial bank establishes a branch, the commercial bank shall have capital stock and surplus as provided in this subsection.

(2) For a branch that is to be located inside the municipal area of the principal banking office of the commercial bank, the commercial bank shall have capital stock and surplus that equal at least the sum of the amounts required by subsection

(a) of this section.

(3) For a branch that is to be located outside the municipal area of the principal banking office of the commercial bank, the commercial bank shall have capital stock and surplus that equal at least the sum of:

(i) The amount required by subsection (a) of this section; and

(ii) 1. $120,000, if it is in a municipal area with not more than 25,000 inhabitants;

2. $180,000, if it is in a municipal area with more than 25,000 and not more than 100,000 inhabitants;

3. $240,000, if it is in a municipal area with more than 100,000 and not more than 250,000 inhabitants; and

4. $900,000, if it is in a municipal area with more than 250,000 inhabitants.

(c) Unless otherwise provided by law, the unimpaired capital and surplus of a commercial bank include its debt instruments issued under § 3–312 of this title.

§3–211.

Except as otherwise provided by law, payment for capital stock and surplus shall be in money and may not be in notes, securities, or property.

§3–211.1.

(a) In this section, "receivership" means a proceeding in which:

(1) The Commissioner takes possession of a nondepository trust company in accordance with § 5–601, § 5–602, or § 5–602.1 of this article; and

(2) A receiver is appointed in accordance with § 5–605 of this article.

(b) (1) A nondepository trust company shall pledge securities or deliver a surety bond to the Commissioner, for the benefit of the Commissioner, to defray the costs of a receivership.

(2) The amount of the securities or surety bond shall be determined by the Commissioner in an amount that the Commissioner deems appropriate to defray such costs, but in no event shall the amount exceed:

(i) $1,000,000 for a nondepository trust company with a composite rating, using the Uniform Interagency Trust Rating System, of 1 or 2; or

(ii) $3,000,000 for a nondepository trust company with a composite

rating, using the Uniform Interagency Trust Rating System, of 3, 4, or 5.

(c) Subject to the provisions of Title 5, Subtitle 6 of this article, in the event of a receivership, the Commissioner or a receiver appointed under § 5–605 of this article may, without regard to any priorities, preferences, or adverse claims, reduce the pledged securities or the surety bond to cash and use the cash to defray the costs associated with the receivership.

(d) (1) If a nondepository trust company chooses to pledge securities to satisfy the requirement of subsection (b) of this section, the securities shall be held at a depository institution or a federal reserve bank approved by the Commissioner.

(2) The Commissioner may specify the types of securities that may be pledged.

(3) Any fees associated with holding pledged securities shall be the responsibility of the nondepository trust company.

(4) Securities pledged by a nondepository trust company may not be assets relied on by the nondepository trust company to meet the minimum capital requirements of § 3–209 of this subtitle.

(5) Any income earned on securities pledged by a nondepository trust company:

(i) Shall be paid to the nondepository trust company; and

(ii) May not be held by the Commissioner.

(e) (1) If a nondepository trust company chooses to purchase a surety bond to satisfy the requirement of subsection (b) of this section, the surety bond shall be issued by a bonding company that:

(i) Is authorized to do business in this State; and

(ii) Has a rating in one of the three highest grades as determined by a national rating service.

(2) The surety bond shall be in a form approved by the Commissioner.

(3) A nondepository trust company may not obtain a surety bond from any affiliate, as defined in § 5–401 of this article.

§3–212.

(a) After its articles of incorporation are filed for record and its required capital stock and surplus are paid in full, the commercial bank shall give to the Commissioner:

(1) Notice that the commercial bank has complied with all of the applicable

provisions of this title; and

(2) A certified list of all of its stockholders, including their names and residence addresses and the number of shares of capital stock for which each paid.

(b) The Commissioner shall examine the condition of the commercial bank to determine:

(1) The name and residence of each director;

(2) If the required capital stock and surplus are paid in full; and

(3) If the commercial bank has complied with all other applicable provisions of this title.

(c) If, after examination, it appears that the commercial bank lawfully is entitled to do business, the Commissioner shall issue the certificate of authority to do business.

(d) (1) If, after examination, it appears that the required capital stock and surplus have not been paid in full, the Commissioner may not issue the certificate of authority to do business.

(2) If, after examination, the Commissioner has reason to believe that the stockholders formed the commercial bank for any purpose other than legitimate business under this article, the Commissioner, with the advice and consent of the Secretary of Labor, Licensing, and Regulation, may withhold the certificate.

§3–213.

(a) Any commercial bank may amend its charter, in any manner not inconsistent with law, as provided in this section.

(b) A proposed amendment shall be approved at a meeting called for that purpose, by the affirmative vote of the holders of two thirds of the capital stock of the commercial bank.

(c) If the proposed amendment is to authorize the issuance of preferred stock, the proposed amendment shall be approved by the affirmative vote of the holders of a majority of the capital stock of the commercial bank.

(d) After an amendment is approved by the stockholders:

(1) The president of the commercial bank and either its cashier or treasurer shall certify the amendment; and

(2) The amendment shall be signed, filed with the Commissioner for examination, and, if approved by the Commissioner, filed for record as required for

articles of incorporation.

(e) On filing the amendment for examination, the commercial bank shall pay to the Commissioner an examination fee of $20.

§3–301.

(a) A subscription for the original capital stock of a commercial bank shall conform, to the extent applicable, to the provisions of the Maryland General Corporation Law that relate to stock subscriptions.

(b) An increase in the outstanding capital stock of a commercial bank is not valid unless:

(1) The commercial bank has sufficient surplus so that after the increase in capital stock its surplus will equal at least 20 percent of its capital stock; or

(2) The amount of the increase is subscribed for and paid as required for subscription for original capital stock.

(c) (1) Each share of common stock is entitled to one vote.

(2) A stockholder may vote in person or by proxy the capital stock that the stockholder owns of record.

§3–302.

(a) If the Commissioner approves, a commercial bank may issue preferred stock, in the amount and with the par value that the Commissioner approves, as provided in this section.

(b) Unless otherwise provided by law, preferred stock issued under this section is not valid until the commercial bank receives the purchase price in an amount that equals at least par value.

(c) If the Commissioner approves, preferred stock may be convertible into common stock on the terms and conditions that the charter provides. However, preferred stock is not convertible:

(1) Into common stock of a greater total par value; or

(2) At any time when the commercial bank would not have a surplus in an amount that equals at least 20 percent of its capital stock outstanding immediately after the conversion.

(d) (1) The holder of preferred stock is entitled to cumulative dividends at a rate not exceeding six percent a year of its par value.

(2) Dividends on common stock may not be declared or paid until the

cumulative dividends on the preferred stock are fully paid.

(e) Each holder of preferred stock has the voting rights that the charter provides and the Commissioner approves.

(f) (1) A commercial bank may retire preferred stock in the manner and on the terms and conditions that the charter provides and the Commissioner approves.

(2) If the Commissioner approves, the commercial bank may retire its preferred stock out of any surplus above that required by this title.

(3) The commercial bank may not have at any time less than its required capital stock.

(g) If a commercial bank dissolves voluntarily or a receiver is appointed for it, the holders of its common stock may not be paid until the holders of its preferred stock are paid, for each of their shares:

(1) The amount that the charter provides, but not more than the purchase price under subsection (b) of this section and not less than the par value; and

(2) All accumulated and unpaid dividends.

§3–303.

A commercial bank may not make any loan the proceeds of which are to be used to pay for any part of a subscription to its capital stock unless the loan is secured adequately by other collateral.

§3–304.

(a) Except as necessary to prevent a loss on a loan previously made in good faith, a commercial bank may not:

(1) Make any loan secured by any of its outstanding capital stock; or

(2) Buy or hold any of its outstanding capital stock.

(b) If a commercial bank buys or holds any of its outstanding capital stock, the commercial bank shall sell the stock at public or private sale within:

(1) 1 year after the date of acquisition; or

(2) Any longer period that the Commissioner authorizes.

§3–305.

(a) A reduction of the outstanding capital stock of a commercial bank:

(1) Is not valid unless approved by the Commissioner; and

(2) May not be made to an amount that is less than that required in § 3-209(b) of this title.

(b) The Commissioner shall base approval on a finding that the assets of the commercial bank remaining after the proposed reduction of its capital stock will be sufficient to pay all of the claims of existing creditors.

§3–306.

(a) If the surplus of a commercial bank at any time is less than 100 percent of its capital stock, then, until the surplus is 100 percent of the capital stock, the commercial bank:

(1) Shall transfer to its surplus annually at least 10 percent of its net earnings; and

(2) May not declare or pay any cash dividends that exceed 90 percent of its net earnings.

(b) Any losses of a commercial bank that exceed its undivided profits may be charged to its surplus.

§3–307.

(a) The board of directors of a commercial bank may declare a cash dividend only from the following, after providing for due or accrued expenses, losses, interest, and taxes:

(1) Its undivided profits; or

(2) With the prior approval of the Commissioner, its surplus in excess of 100 percent of its required capital stock.

(b) If any stockholder receives a cash dividend that was declared or paid in violation of this section or § 3-306 of this subtitle, the stockholder is liable to the commercial bank for the full amount of the dividend to the extent that the capital and surplus of the commercial bank fails to meet the requirements of § 3-306 of this subtitle.

(c) If any director of a commercial bank votes for or assents to the declaration of any cash dividend when the director knows that the commercial bank is insolvent or is in danger of insolvency or when the director does not have reason to believe that there are sufficient undivided profits or surplus properly available to pay the dividend under this section, the director is liable, individually and jointly with all other directors so voting or assenting, to the persons who were creditors of the commercial bank when the dividend was declared for the amount by which these creditors remain unpaid, but

not more than twice the amount of the dividend.

§3–308.

(a) The board of directors of a commercial bank may not declare a stock dividend unless its surplus, after the increase in capital stock, is equal to at least 20 percent of the outstanding capital stock as increased.

(b) If the surplus of the commercial bank, after the increase in capital stock, is less than 100 percent of its capital stock as increased, the commercial bank annually shall transfer to surplus at least 10 percent of its net earnings until the surplus is 100 percent of its capital stock as increased.

§3–309.

(a) (1) Each commercial bank shall keep a stock ledger, which shall contain the name and address of each stockholder and the number of shares of stock that the stockholder holds.

(2) In any proceeding, the stock ledger is presumptive evidence of the facts stated in it.

(b) (1) Any stockholder, director, or officer of a commercial bank may inspect the stock ledger during usual business hours.

(2) Failure to show the stock ledger to an individual on that individual's rightful demand subjects the officer responsible for the failure to a civil penalty of $50, payable to the Commissioner.

§3–310.

(a) The annual meeting of the stockholders of a commercial bank shall be held at the time and place that the bylaws provide.

(b) (1) In addition to any other required notice, at least one notice of the annual meeting shall be published at least 10 days before the meeting in a newspaper published or circulated in the county where the commercial bank has its principal banking office.

(2) The board of directors need not publish notice of the annual meeting if every stockholder entitled to vote at the meeting executes a written waiver of the notice before the date set for the publication.

§3–311.

(a) On demand of a stockholder, a person may not vote any share of capital stock that, on the stock ledger of a commercial bank, appears to have been transferred within the preceding year, unless the person takes an oath as provided in this section.

(b) The challenged voter shall take an oath, before the judges of election or other officers of the meeting:

(1) That the voter is the true owner of the capital stock and that, without any understanding that the capital stock be transferred to the party from whom it was received, the voter:

(i) Bought and paid or secured payment for it with full consideration; or

(ii) Received it by inheritance, bequest, survivorship, distribution, or gift; or

(2) If the challenged voter is voting for a principal, by proxy or power of attorney:

(i) That the voter believes the principal bought and paid or secured payment for the capital stock with full consideration; or

(ii) That, to the best of the voter's knowledge and belief, the principal is the true owner of the capital stock, having received it by inheritance, bequest, survivorship, distribution, or gift.

(c) This section does not prevent a stockholder from voting any share of capital stock that is pledged in good faith for a loan but has not been sold.

§3–312.

(a) If the Commissioner approves, a commercial bank may issue and sell debt instruments that are repayable on the terms and bear the rate of interest, if any, stated in the instruments.

(b) The issuance of a debt instrument does not impair the capital stock of a commercial bank if the amount of the debt instrument is represented by cash or sound assets that exceed the impairment determined by the Commissioner.

(c) The holder of a debt instrument is not subject to any liability imposed on stockholders under any law of this State.

(d) In the event of liquidation, a debt instrument is:

(1) Subordinate to the claims of any depositor or creditor; and

(2) Preferred to the claim of any stockholder.

(e) (1) Each holder of a debt instrument has the voting rights that the charter provides and the Commissioner approves.

(2) A reference in this article to a required vote of the holders of the capital

stock of a commercial bank includes holders of debt instruments to the extent that they are entitled to vote under this subsection.

(f) Before a commercial bank retires or pays any debt instrument:

(1) It shall obtain the approval of the Commissioner; and

(2) Any existing deficit in its capital, disregarding any debt instrument to be retired, shall be paid in cash so that the sound capital assets of the commercial bank are at least equal to its capital stock.

§3–314.

(a) (1) In this section the following words have the meanings indicated.

(2) "Bank holding company" has the meaning stated in the Federal Bank Holding Company Act of 1956.

(3) "Stock acquisition" means:

(i) An acquisition of the outstanding voting stock of a commercial bank or bank holding company in this State, if the acquisition will affect the power to direct or to cause the direction of the management or policy of any banking institution or bank holding company; or

(ii) An acquisition of any voting stock of a commercial bank, if the acquisition will give any one person control of 25 percent or more of the voting stock of the commercial bank.

(b) Except as provided in this section, a person may not make a stock acquisition.

(c) (1) A person who intends to make a stock acquisition shall apply to the Commissioner for approval, at least 60 days before the acquisition becomes effective.

(2) The application shall include:

(i) A description of the proposed stock acquisition; and

(ii) All other information that is available to inform the Commissioner of the effect of the acquisition on the power to direct or to cause direction of the management or policy of a banking institution or bank holding company.

(3) If there is any doubt as to whether the stock acquisition will affect the power to direct or cause direction of the management or policy of a commercial bank or bank holding company, the doubt shall be resolved in favor of reporting to the Commissioner.

(d) The Commissioner may deny approval for a stock acquisition that the Commissioner determines to be anticompetitive or to threaten the safety or soundness of a banking institution.

(e) Voting stock that is acquired in violation of this section may not be voted for 5 years.

(f) The provisions of this section do not apply to an acquisition for which an application is required under § 5-904 of this article.

§3–315.

(a) Except as provided in subsection (b) of this section, the chief executive officer of a commercial bank shall report to the Commissioner as soon as the officer becomes aware that any person has applied for or has received a loan from the commercial bank that is to be secured by 25 percent or more of the voting stock of any commercial bank.

(b) This section does not apply if:

(1) The loan applicant or borrower has been the owner of record of the stock for at least 1 year; or

(2) The stock is stock of a newly organized but not yet opened commercial bank.

(c) A report required by this section shall describe the loan transaction and contain whatever information is available to inform the Commissioner of the effect of the loan on the power to direct or cause direction of the management or policy of the commercial bank whose stock is involved.

(d) The chief executive officer of a commercial bank may not knowingly:

(1) Fail to make promptly a report required by this section; or

(2) Make a report under this section that contains any statement that the officer knows to be false.

§3–316.

(a) Unless the charter provides otherwise, a stockholder does not have any preemptive rights with respect to:

(1) Stock issued to obtain any of the capital required to initiate the enterprise of the State bank or trust company;

(2) Stock issued for at least its fair value in exchange for consideration other than money;

(3) Stock remaining unsubscribed for after being offered to stockholders;

(4) Treasury stock sold for at least its fair value;

(5) Stock issued or issuable under an agreement of merger;

(6) Stock which is not presently entitled to be voted in the election of directors issued for at least its fair value;

(7) Stock, including treasury stock, issued to an officer or other employee of the State bank or trust company or its subsidiary on terms and conditions approved by the stockholders by the affirmative vote of two-thirds of all the votes entitled to be cast on the matter; and

(8) Any other issuance of shares if the applicability of preemptive rights is impracticable.

(b) In the absence of actual fraud or gross disparity in the determination, the fair value of stock determined by the board of directors and recorded in the resolution authorizing the issuance is conclusive.

(c) Unless the articles of incorporation provide otherwise, holders of the following securities do not have any preemptive rights:

(1) Bonds, notes, debentures, or other obligations convertible into stock; and

(2) Stock not presently entitled to be voted in the election of directors.

§3–401.

The business and affairs of a commercial bank shall be managed under the direction of a board of directors.

§3–402.

Each commercial bank shall have at least 5 and not more than 30 directors, as its charter or bylaws provide.

§3–403.

(a) (1) After the initial issuance of capital stock by a commercial bank, each of its directors shall own in good faith and of record unencumbered shares of the capital stock of:

(i) The commercial bank; or

(ii) A corporation that owns more than 80 percent of the capital stock of the commercial bank.

(2) The unencumbered capital stock owned by the director shall be in the

amount of at least:

(i) $500; or

(ii) $250, if the commercial bank is a State bank that has $50,000 or less in capital stock.

(3) To determine the amount of capital stock owned by a director:

(i) Based on the value of the stock on the date of purchase or on the date the director took office, whichever is greater, any 1 or more of the following may be considered:

1. Aggregate par value in the amount required under either paragraph (2)(i) or (ii) of this subsection;

2. Aggregate shareholder's equity in the amount required under either paragraph (2)(i) or (ii) of this subsection; or

3. Aggregate fair market value in the amount required under paragraph (2)(i) or (ii) of this subsection; and

(ii) Debt instruments of the commercial bank or corporation may not be considered.

(b) A majority of the directors of a commercial bank shall be residents of this State.

§3–404.

Each director of a commercial bank shall take an oath:

(1) To perform diligently and honestly the duties of the office; and

(2) Not to violate knowingly or permit knowingly a violation of any law that relates to the commercial bank.

§3–405.

(a) Until successors are elected and qualify, the board of directors of a commercial bank consists of the individuals named as directors in the articles of incorporation.

(b) (1) Except as provided in paragraph (2) of this subsection, at each annual meeting of stockholders, the stockholders shall elect directors to hold office until the earlier of:

(i) The next annual meeting of stockholders and until their successors are elected and qualify; or

(ii) The time provided in the terms of any class or series of stock pursuant to which the directors are elected.

(2) (i) Subject to subparagraphs (ii) and (iii) of this paragraph, if the directors are divided into classes, the term of office may be provided in the bylaws.

(ii) The term of office of a director may not be longer than 5 years or, in the case of an initial or substitute director, shorter than the period between annual meetings.

(iii) The term of office of at least one class of directors shall expire each year.

§3–407.

(a) Subject to the limitation in § 3-402 of this subtitle, at any meeting of the stockholders of a commercial bank, the stockholders may create up to two additional directorships.

(b) The stockholders may leave the two additional directorships vacant, to be filled in the discretion of the board of directors.

§3–408.

(a) Each director of a commercial bank shall attend at least one half of the regularly scheduled board meetings that are held during the director's term of office.

(b) (1) Any director who fails to attend meetings of the board of directors as required by this section is disqualified automatically from serving as director for a succeeding term.

(2) The Commissioner may waive the disqualification of a director if the director shows to the Commissioner good cause for the failure to attend the meetings.

§3–409.

The board of directors of a commercial bank may fill any vacancy on the board by electing an individual to serve until the next annual meeting of the stockholders and until a successor is elected and qualifies.

§3–410.

(a) A majority of the directors of a State bank then serving is a quorum.

(b) The articles of incorporation or bylaws of a trust company may specify the number of directors that is a quorum, but the number shall be at least the greater of one third of the directors or four directors.

§3–411.

(a) Within 15 days after the annual meeting of the stockholders and after the directors-elect have qualified, the board of directors of a commercial bank shall meet and elect the officers of the commercial bank.

(b) Unless the bylaws provide otherwise, each officer serves for a term of 1 year and until a successor is elected and qualifies.

(c) The board of directors may remove any officer at any time.

§3–501.

(a) In this subtitle the following words have the meanings indicated.

(b) "Common trust fund" means a fund that a trust company maintains under this subtitle solely for the collective investment of money held by the trust company as fiduciary.

(c) "Fund plan" means a written plan for the establishment and administration of a common trust fund.

(d) "Trust company" includes a national banking association that has powers similar to those given to a trust company under the laws of this State.

(e) "Valuation date" means a date as of which a trust company determines the value of the assets in a common trust fund that it administers.

§3–502.

A trust company may establish and administer one or more common trust funds in accordance with the requirements of this subtitle.

§3–503.

The fiduciary capacities of a trust company referred to in this subtitle include all of those capacities in which a trust company may act under this article.

§3–504.

(a) A trust company shall establish and maintain a common trust fund only in accordance with a fund plan that is approved:

(1) By resolution of the board of directors of the trust company; and

(2) By legal counsel.

(b) Notwithstanding any provision of law that applies to a participating fiduciary account, a fund plan controls:

(1) Participations in the fund; and

(2) The rights and benefits in participating accounts of all persons who have interests in the fund.

§3–505.

Except as provided in § 3-507 of this subtitle, a fund plan shall state the name of the fund and include detailed provisions, not inconsistent with this subtitle, as to:

(1) The intervals at which the trust company will determine the value of the assets in the fund;

(2) The intervals at which the trust company will have an audit made of the fund;

(3) The manner in which the fund is to be operated;

(4) The investment powers of the trust company with respect to the fund;

(5) The terms and conditions that govern entry in and withdrawal from the fund;

(6) The auditing and settling of accounts of the trust company with respect to the fund;

(7) The basis and method to be used for valuing fund assets;

(8) The circumstances and manner in which the fund may be terminated; and

(9) Any other matters that are necessary to define clearly the rights and duties of the trust company and fund participants.

§3–506.

(a) A fund plan may provide for:

(1) The amortization of premiums on bonds or other obligations;

(2) The disposition of discounts, profits, stock rights, stock dividends, and extraordinary dividends;

(3) The allocation or apportionment between principal or income of the items specified in item (2) of this subsection; and

(4) Any other similar matters.

(b) To the extent that a fund plan does not provide otherwise as to the

determination, allocation, and apportionment of principal and income, the principles of Titles 14 and 14.5 of the Estates and Trusts Article apply.

§3–507.

Notwithstanding any other provision of this subtitle, a trust company may provide in a fund plan that the fund shall be administered in accordance with those federal rules and regulations that relate to the collective investment of trust funds by national banking associations.

§3–508.

(a) A copy of the fund plan and any amendments to it shall be filed at the principal banking office of the trust company, where it shall be available during regular business hours for inspection by any cofiduciary or person who has an interest in a participating account.

(b) On a reasonable request, a copy of the fund plan shall be provided to any cofiduciary or person who has an interest in a participating account.

§3–509.

A fund plan may be amended only:

(1) Prospectively; and

(2) By written amendments that are approved by resolution of the board of directors of the trust company.

§3–510.

A trust company, acting in a fiduciary capacity, may invest money in one or more common trust funds if:

(1) The trust company holds the money for investment; and

(2) The instrument or authorization that created the fiduciary relationship does not contain any terms inconsistent with this type of investment.

§3–511.

(a) A trust company may invest in a common trust fund money from an account that it administers as a cofiduciary if the trust company:

(1) Otherwise may do so under § 3-510 of this subtitle; and

(2) First obtains the written consent of all other cofiduciaries of that account.

(b) A trust company that administers a common trust fund, in which an account held by the trust company as cofiduciary participates, is solely responsible for management and control of the fund.

(c) A cofiduciary, other than the trust company, who consents in good faith to the participation of an account in a common trust fund is not liable to the beneficiaries for the management of the fund.

(d) On receipt of the written request of a cofiduciary to do so, the trust company shall withdraw the participation of a fiduciary account in a common trust fund at the earliest date that the fund plan permits.

§3–512.

(a) Except as otherwise provided in this section, a trust company may not:

(1) Invest its own funds in a common trust fund that it administers; or

(2) Have any interest, other than its fiduciary interest, in the assets in a common trust fund that it administers.

(b) If, because of a creditor relationship or otherwise, a trust company acquires an interest in a participation in a common trust fund that it administers, the participation shall be withdrawn on the next valuation date allowed by the fund plan.

(c) A trust company does not have a prohibited interest in the assets of a common trust fund that it administers merely because the trust company owns in its own right any stocks, bonds, or other obligations issued by a person from whom the fund also holds stocks, bonds, or other obligations.

§3–513.

(a) Entry into and withdrawal from participation in a common trust fund may occur only on a valuation date, or, if provided by the plan, within 2 business days after a valuation date.

(b) Participation shall be based on the valuation as of the valuation date associated with the entry or withdrawal.

(c) When participation is withdrawn from a common trust fund, the trust company may make distribution in cash, ratably in kind, or both, but all distributions associated with a valuation date shall be made in the same way.

§3–514.

(a) (1) A trust company that administers a common trust fund may issue a certificate of participation for each participating account.

(2) A certificate of participation is not assignable and may not be issued in any form that purports to be negotiable or assignable.

(b) In any report or accounting required from the trust company by law, a statement that is signed and verified by one of its officers as to the existence, extent, and value of a participation in a common trust fund that it administers may be accepted as evidence of those facts by any court, trust clerk, or supervisory authority.

§3–515.

(a) The trust company that establishes a common trust fund has exclusive management and control of the fund, including the sole right to transfer, change, or dispose of the assets in the fund.

(b) (1) Except as otherwise provided in paragraph (2) of this subsection, a trust company may not:

(i) Charge a fee for the management of a common trust fund; or

(ii) Receive from the fund or from any participating account any additional fee, commission, or compensation of any kind because of the participation of the account in the fund.

(2) A trust company may reimburse itself, from a common trust fund that it administers, for:

(i) Those reasonable expenses incurred in the administration of the fund that could have been charged to a separate fiduciary account if that account were not participating in the fund; and

(ii) Reasonable expenses incurred for audits of the fund by independent certified public accountants or court auditors as permitted or required under the fund plan or as otherwise required by law.

§3–516.

(a) For each common trust fund that it administers, a trust company shall set valuation dates at regular intervals of not more than 3 months.

(b) At regular intervals of not more than 12 months, a trust company shall have an audit of each common trust fund by an independent certified public accountant who shall report directly to the board of directors of the trust company.

(c) (1) A trust company that administers a common trust fund may apply to a court for approval of an accounting of the fund.

(2) A petition for approval of an accounting under this section shall be made to the court of equity for the county where the trust company has its principal

banking office.

(3) A court may impose conditions and notice requirements before approving an accounting under this section.

§3–517.

(a) The ownership of and title to the individual assets in a common trust fund are solely in the trust company, as trustee of the fund.

(b) A trust company shall show clearly on its records:

(1) The name of each fiduciary account on behalf of which the trust company holds a participation in a common trust fund; and

(2) The extent of the interest held for that fiduciary account.

§3–518.

(a) A trust company may register in the name of a nominee any assets of a common trust fund that it administers.

(b) The nominee may be either an individual or a partnership.

(c) A trust company that registers assets in the name of a nominee shall:

(1) Show the assets and the name of the nominee on its records; and

(2) If the nominee is operated or controlled by the trust company, supervise any possession or control of the assets by the nominee.

(d) A transfer agent or registrar of a corporation whose stocks, bonds, securities, or other obligations are registered in the name of a nominee under this section is not required to investigate and may not be held liable for treating the nominee as the owner of the assets.

§3–519.

A trust company may invest the assets of a common trust fund in any investment in which a fiduciary who is not restricted by investment limitations under the governing instrument or authorization may invest under the laws of this State.

§3–520.

(a) A transfer agent or a transferee of an asset held in the name of a trustee of a common trust fund may presume conclusively that the trustee has an absolute right to transfer or assign the asset.

(b) (1) A transfer agent or a transferee of an asset held in the name of a trustee

of a common trust fund is not chargeable with any duty in relation to the fund, a participating account, or any beneficiary of a participating account.

(2) A transferee of an asset held in the name of a trustee of a common trust fund is not liable for the application of any purchase money paid to the trustee.

§3–601.

(a) This section does not apply to:

(1) Any readily marketable bond or like obligation that is held by a commercial bank as an investment;

(2) Any loan that is made to this State or to a political subdivision and that matures in less than 1 year;

(3) Any loan of $3,500 or less, unless that loan exceeds 20 percent of the unimpaired capital and surplus of the commercial bank; or

(4) Any liability lawfully incurred before June 1, 1937.

(b) The total of all liabilities of any one person to a commercial bank, including all liabilities referred to in this section, may not exceed at any time 30 percent of the unimpaired capital and surplus of the commercial bank.

(c) (1) In this subsection, "loan":

(i) Includes an obligation under a standby letter of credit; and

(ii) Does not include any discount or obligation that is subject to subsection (d) or (e) of this section.

(2) The total liability of any one person to a commercial bank for loans may not exceed at any time:

(i) 10 percent of the unimpaired capital and surplus of the commercial bank; or

(ii) 30 percent of the unimpaired capital and surplus of the commercial bank if the excess over 10 percent is approved by a two-thirds vote of the board of directors and is secured by currency or obligations of the United States or obligations of this State or any political subdivision.

(d) (1) In this subsection, "commercial paper" means any commercial paper issued in connection with a commercial transaction or any chattel paper, if the person negotiating the commercial paper or chattel paper owns it.

(2) The total liability of any one person to a commercial bank for discounts of commercial paper may not exceed at any time 25 percent of the unimpaired capital

and surplus of the commercial bank.

(e) (1) In this subsection, "obligations secured by goods" means obligations that are drawn in good faith against actual existing values and are:

(i) Secured by goods in the process of shipment; or

(ii) When accepted, accompanied by documents of title for these goods.

(2) The total liability of any one person to a commercial bank for obligations secured by goods may not exceed at any time 25 percent of the unimpaired capital and surplus of the commercial bank.

(f) For purposes of this section, the rules set forth in subsections (g) through (j) of this section apply in computing the total liabilities of any one person to a commercial bank.

(g) (1) Except as provided in paragraph (2) of this subsection, the total liabilities of any individual to a commercial bank include:

(i) All liabilities to the commercial bank of any partnership or unincorporated association of which the individual is a member; and

(ii) All loans that the commercial bank makes for the benefit of the individual or for the benefit of any partnership or unincorporated association of which the individual is a member.

(2) If the individual holds only a limited interest in a limited partnership, the liabilities of the limited partnership and the loans made for its benefit that are included in the individual's total liabilities may not exceed the value of the individual's interest in the limited partnership.

(h) The total liabilities of any partnership or unincorporated association to a commercial bank include:

(1) All liabilities of its individual members to the commercial bank; and

(2) All loans that the commercial bank makes for the benefit of the partnership or association or for the benefit of any member of the partnership or association.

(i) The total liabilities of any corporation to a commercial bank include all loans that the commercial bank makes for the benefit of the corporation.

(j) For purposes of this section, a loan is considered to be made for the benefit of a corporation, partnership, or unincorporated association to the extent that the proceeds of the loan are transferred to the corporation, partnership, or association.

(k) For purposes of this section, "unimpaired surplus" of a commercial bank includes surplus, retained earnings, and 100 percent of the reserve for possible loan losses.

§3–604.

(a) A commercial bank may accept for payment at a later date a draft issued in connection with a transaction that involves the importation, exportation, or domestic shipment of goods, if the draft:

(1) Is payable not more than 6 months after the date of acceptance; and

(2) When accepted, is accompanied by a document of title.

(b) A commercial bank may accept a draft that a bank or banker in any foreign country or any possession or territory of the United States draws on the commercial bank to provide dollar exchange required by trade usage in the foreign country, possession, or territory if:

(1) The draft is payable not more than 3 months after the date of acceptance;

(2) The amount of the exchange does not exceed 50 percent of the unimpaired capital and surplus of the commercial bank; and

(3) For any exchange that exceeds 10 percent of the unimpaired capital and surplus of the commercial bank, the draft is accompanied by a document of title or other adequate security.

§3–605.

(a) This section does not apply to a leasehold interest in real property.

(b) Subject to the rules and regulations of the Commissioner, a commercial bank may become the owner and lessor of personal property if:

(1) The personal property is acquired on the specific request of and for the use of a customer; and

(2) The investment of the commercial bank in personal property does not exceed:

(i) For any one customer, 10 percent of the unimpaired capital and surplus of the commercial bank; and

(ii) For all of its customers, the total of its unimpaired capital and surplus.

§3–606.

(a) An officer, employee, or agent of a commercial bank may not certify any draft drawn on the commercial bank unless the drawer has on deposit an amount equal to at least the amount of the draft.

(b) If a draft is certified in violation of this section by a person who is authorized to certify drafts, it is a valid obligation of the commercial bank.

§3–607.

(a) (1) In this section the following words have the meanings indicated.

(2) "Demand deposit" means a deposit that is payable within 30 days.

(3) (i) "Time deposit" means a deposit that is payable after 30 days.

(ii) "Time deposit" includes a savings account or certificate of deposit that requires at least a 30–day notice before payment.

(b) This section does not apply to any deposit of public funds for which the commercial bank pledges collateral.

(c) (1) A commercial bank shall have at all times a reserve equal to at least 15 percent of its demand deposits.

(2) The board of directors of a commercial bank by resolution shall direct the commercial bank to keep the demand deposit reserve required by this section in:

(i) Cash on hand;

(ii) Demand deposits in a bank of good standing in any state; or

(iii) As to 5 percent of its demand deposits, on approval of the Commissioner:

1. Registered or coupon bonds; or

2. General obligations of or obligations guaranteed by the United States government, an agency of the United States government, this State, or any political subdivision.

(d) (1) A commercial bank shall have at all times a reserve equal to at least 3 percent of its time deposits.

(2) The board of directors of a commercial bank by resolution shall direct the commercial bank to keep the time deposit reserves required by this section in:

(i) Cash on hand;

(ii) Deposits in a bank of good standing in any state; or

(iii) Direct obligations of the United States government or of this State.

(e) (1) If the Commissioner determines that a change in the demand deposit reserve or in the time deposit reserve requirements is advisable to maintain sound banking practices or to prevent injurious credit expansion or contraction, the Commissioner may change the requirements as provided in this subsection.

(2) Subject to paragraph (3) of this subsection, the Commissioner may adopt rules or regulations to change the requirements as to reserves for commercial banks.

(3) The rules and regulations may:

(i) Increase the demand deposit reserve to an amount equal to not more than 30 percent of those deposits;

(ii) Increase the time deposit reserve to an amount equal to not more than 6 percent of those deposits;

(iii) Decrease the demand deposit reserve to an amount equal to not less than 15 percent of those deposits;

(iv) Decrease the time deposit reserve to an amount equal to not less than 3 percent of those deposits; and

(v) Notwithstanding items (i) through (iv) of this paragraph, increase or decrease the demand deposit reserve or time deposit reserve to conform to the reserve requirements that apply to a member bank of the Federal Reserve System.

§3–701.

(a) In this subtitle the following words have the meanings indicated.

(b) "Bank" means a commercial bank, a national banking association, an other-state bank, or a federally chartered savings bank or savings and loan association.

(c) "Constituent bank" means a party to a consolidation, merger, or transfer of assets.

(d) "Successor" means the bank that carries on the business of the constituent banks after a consolidation, merger, or transfer of assets.

(e) "Transfer assets", "transfer its assets", or "transfer of assets" means to sell, lease, exchange, or otherwise transfer all or substantially all of the property and assets

of a constituent bank.

§3–702.

(a) Any bank may, as provided in this subtitle:

(1) Consolidate with one or more other banks to form a new consolidated bank;

(2) Merge into another bank or have one or more other banks merged into it; or

(3) Transfer its assets to another bank.

(b) If the successor will be a commercial bank:

(1) The consolidation, merger, or transfer of assets shall be made in accordance with the provisions of this subtitle; and

(2) If one of the constituent banks is a national banking association or a federally chartered savings bank or savings and loan association, federal law governs its actions and the rights of its stockholders.

(c) If the successor will be a national banking association or a federally chartered savings bank or savings and loan association:

(1) Federal law governs:

(i) The actions of a constituent bank;

(ii) The rights of its stockholders; and

(iii) The effect of the consolidation, merger, or transfer of assets on its rights, franchises, interests, and fiduciary duties; and

(2) Except for this section and § 3-710 of this subtitle, the other provisions of this subtitle do not apply to the consolidation, merger, or transfer of assets.

(d) If one of the constituent banks is an other-state bank:

(1) Maryland law governs:

(i) The actions of the banking institution;

(ii) The rights of its stockholders; and

(iii) The effect of the consolidation, merger, or transfer of assets on its rights, franchises, interests, and fiduciary duties; and

(2) The law of the other state governs:

(i) The actions of the other-state bank;

(ii) The rights of its stockholders; and

(iii) The effect of the consolidation, merger, or transfer of assets on its rights, franchises, interests, and fiduciary duties.

§3–703.

(a) An agreement of consolidation, merger, or transfer of assets shall be approved by the affirmative vote of a majority of the full authorized membership of the board of directors of each constituent commercial bank.

(b) The agreement shall include:

(1) The name of each constituent bank and the address of its principal banking office;

(2) The terms of the proposed transaction;

(3) A statement that the agreement is subject to approval by the Commissioner and by the stockholders of each constituent bank;

(4) Provisions for disposing of any stock of the successor that is not taken by objecting stockholders of the constituent banks;

(5) As to the successor:

(i) The address of the proposed principal banking office;

(ii) The authorized capital stock, including the number of shares and the par value of each share of stock;

(iii) Whether it will issue preferred stock in the proposed transaction and, if so, the amount, terms, and preferences; and

(iv) Any amendments to its charter and bylaws; and

(6) Any other provisions that the Commissioner requires to carry out the Commissioner's duties with respect to the proposed transaction.

(c) After the board of directors of each constituent bank has approved the agreement, the following shall be filed with the Commissioner for approval:

(1) The agreement;

(2) The name and address of each office of the constituent banks and of

the successor;

(3) The name and residence address of each individual who will be a director when the proposed transaction becomes effective;

(4) The name and residence address of each individual who will be an officer when the proposed transaction becomes effective;

(5) A certified copy of the approving resolution of each board of directors, showing the required approval by the board; and

(6) Evidence of proper action by the board of directors of any constituent national banking association.

(d) (1) Except as otherwise provided by law, any person who knowingly submits false information to the Commissioner while complying with subsection (c) of this section is guilty of a misdemeanor.

(2) A person who violates this section is subject to a fine of not more than $1,000, or imprisonment for not more than 5 years, or both.

§3–704.

(a) (1) Except as provided in subsection (b) of this section, the Commissioner shall publish a notice of the filing of the agreement.

(2) The notice shall be published in the Maryland Register as provided in the State Documents Law.

(b) Subject to confirmation by the Secretary of Labor, Licensing, and Regulation, the Commissioner may approve an agreement without the notice required by this section if:

(1) The agreement and proposed transaction meet the requirements of § 3-706 of this subtitle;

(2) The financial condition or stability of one of the constituent banks is such that a delay of the proposed transaction will cause an economic hardship to it; and

(3) Approval of the agreement is in the public interest.

§3–705.

Within 6 months after the papers specified in § 3–703(c) of this subtitle have been filed with the Commissioner, the Commissioner shall approve or disapprove the agreement.

§3–706.

(a) The Commissioner shall approve the agreement if:

(1) The successor meets the requirements of State law for the formation of a new commercial bank;

(2) The agreement provides an adequate capital structure, including surplus, for the successor in relation to its deposit liabilities and other activities;

(3) The agreement is fair; and

(4) The proposed transaction is not against the public interest.

(b) If the successor will not exercise trust powers, the Commissioner may not approve the agreement until the Commissioner is satisfied that successor fiduciaries have been provided adequately for all fiduciary positions held by the constituent banks.

§3–707.

If the Commissioner disapproves an agreement, the Commissioner shall give the constituent banks written notice of the reasons for the disapproval and an opportunity to amend the agreement.

§3–708.

(a) The agreement shall be submitted to the stockholders of each constituent bank for approval by them at a meeting called for that purpose.

(b) (1) In addition to any other required notice, the directors of each constituent bank shall give 2 weeks' public notice of the meeting of stockholders.

(2) The public notice shall be published once in at least one newspaper published in the county where the constituent bank has its principal banking office.

(3) Each notice of the meeting of stockholders shall state that objecting stockholders will be entitled to payment of the fair value of only those shares of stock that are voted against approval of the agreement.

(c) The agreement shall be approved by the stockholders of each constituent bank by the affirmative vote of two thirds of all the votes entitled to be cast on the matter.

§3–709.

(a) When the executed agreement and a copy of the resolution of the stockholders of each constituent bank, certified by its secretary or cashier, have been filed with the Commissioner and the Commissioner has approved the transaction, the Commissioner shall issue to the successor a certificate of consolidation, merger, or

transfer of assets that sets forth the name of each constituent bank and the name of the successor.

(b) The constituent banks may designate an effective date and time, not earlier than the date of the certificate, to be included in the certificate of consolidation, merger, or transfer of assets.

(c) Unless the certificate of consolidation, merger, or transfer of assets specifies a later effective date and time, the consolidation, merger, or transfer of assets becomes effective upon issuance of the certificate by the Commissioner.

(d) This certificate is conclusive evidence of the consolidation, merger, or transfer of assets and of the correctness of all proceedings relating to it.

§3–710.

(a) The successor shall act promptly to file and record the agreement in the same manner as required for articles of incorporation.

(b) One of the following certificates may be recorded in any office where deeds are recorded to evidence the new name in which the property of the constituent banks is held:

(1) A certificate of consolidation, merger, or transfer of assets that the Commissioner issues;

(2) A certificate that the Comptroller of the Currency of the United States or the Director of the Office of Thrift Supervision issues to effect a merger or consolidation in which a national banking association or a federally chartered savings bank or savings and loan association is the successor; or

(3) A certificate of consolidation, merger, or transfer of assets issued by the bank supervisory agency of the State by which an other-state bank is chartered.

§3–711.

The stockholders' approval of a merger agreement constitutes the adoption of the charter and bylaws of the successor, including any amendments set forth in the agreement.

§3–712.

(a) Consummation of a consolidation or merger has the effects provided in this section.

(b) The separate existence of each constituent bank, except the successor, ceases.

(c) (1) The successor shall be considered the same business and corporate entity as each of the constituent banks and has all of the rights, powers, and duties of each constituent bank, except:

(i) As limited by the successor's charter or bylaws; and

(ii) As limited by the Commissioner or the bank supervisory agency of the state by which an other-state bank is chartered under subsection (e) of this section.

(2) Each constituent bank's rights, franchises, and interests in any property become the property of the successor without any deed, transfer, or other action.

(3) The successor has the same powers that each constituent bank had as to any property held in any fiduciary capacity, without any deed, transfer, or other action. The successor may be removed or replaced as fiduciary in the same manner and to the same extent as the constituent bank.

(d) (1) Unless this construction would be unreasonable, any reference to any constituent bank in any writing, whether executed or taking effect before or after the consolidation or merger, shall be interpreted as a reference to the successor.

(2) The successor may use the name of any constituent bank if it can do any act more conveniently under that name.

(e) If a constituent bank has assets or engages in business activities that do not conform to the law governing the successor, the Commissioner or the bank supervisory agency of the state by which an other-state bank is chartered may allow a reasonable time for the successor to conform to that law.

(f) Unless the Commissioner approves, the successor may not carry on its books an asset received from a constituent bank at a higher value than that on the books of the constituent bank at the time of the last examination by a State or federal bank examiner before the effective date of the consolidation or merger.

§3–713.

Consummation of a transfer of assets has the effects provided in § 3-115 of the Corporations and Associations Article.

§3–718.

(a) The successor in a consolidation, merger, or transfer of assets may offer to pay in cash to the objecting stockholders of a constituent bank not more than what it considers to be the fair value of their shares of stock as of the time of the stockholders' meeting approving the transaction.

(b) An objecting stockholder who accepts the offer is barred from receiving the appraised fair value of the shares of stock under § 3-719 of this subtitle.

§3–719.

(a) The owner of shares of stock that were voted against a consolidation, merger, or transfer of assets is entitled to receive the fair value of those shares, in cash, if the transaction becomes effective.

(b) A stockholder who desires to receive payment of the fair value for shares under this section, within 30 days after the transaction becomes effective, shall:

(1) Make a written demand on the successor for payment; and

(2) Surrender the stock certificates.

§3–720.

(a) The fair value of the shares of stock shall be determined as of the date of the stockholders' meeting approving the consolidation, merger, or transfer of assets.

(b) (1) The determination of fair value shall be made by three appraisers as follows:

(i) One chosen by the owners of two thirds of the shares involved;

(ii) One chosen by the board of directors of the successor; and

(iii) The third chosen by the other two appraisers.

(2) The fair value to which any two appraisers agree shall govern.

(3) The appraisers shall give notice of the fair value determination to the successor and to each stockholder who has made demand for the determination under § 3-719 of this subtitle.

(c) (1) Within 5 days after the appraisers give the notice of the fair value determination, a stockholder who is dissatisfied with that value may notify the Commissioner.

(2) The Commissioner shall have the shares reappraised.

(3) This reappraisal is final and binding as to the value of the shares of stock of that stockholder.

(d) (1) If the appraisal to be made under subsection (b) of this section is not completed within 90 days after the consolidation, merger, or transfer of assets becomes effective, the Commissioner shall have an appraisal made.

(2) This appraisal is final and binding as to the value of the shares of stock of all objecting stockholders.

(e) The successor shall pay the expenses of each appraisal made under this section.

§3–721.

Any amount due to an objecting stockholder under this Part II is a debt of the successor.

§3–801.

(a) (1) In this section the following words have the meanings indicated.

(2) "Capital stock" includes both common and preferred stock.

(3) "Converting institution" means a national banking association, a federal stock savings and loan association, or a federal stock savings bank.

(4) "Federal stock savings and loan association" means an institution that is incorporated under federal law as a savings and loan association that has authority to issue capital stock.

(5) "Federal stock savings bank" means an institution that is incorporated under federal law as a savings bank that has authority to issue capital stock.

(6) "National banking association" has the meaning stated in § 1-101(o) of this article.

(b) A converting institution that is located in this State may convert into a commercial bank as provided by federal law and this section.

(c) (1) The converting institution shall meet the requirements of this title for incorporation of a commercial bank.

(2) The procedures for incorporation may be modified as required by the difference between incorporation and conversion.

(3) Pursuant to regulations adopted by the Commissioner, any interested person may request that the Commissioner conduct a hearing regarding the conversion.

(d) The consenting stockholders of the converting institution shall sign, acknowledge, and file articles of incorporation. The articles shall state that the conversion has been approved by the stockholders in the manner required by federal law.

(e) The requirement for cash payment for stock may be met by exchanging shares of the new commercial bank for those of the converting institution valued at

not more than fair cash market value.

(f) (1) The new commercial bank shall be considered the same business and corporate entity as the converting institution and, except as limited by this article or by its charter or bylaws, has all of the rights, powers, and duties of the converting institution.

(2) The converting institution's rights, franchises, and interests in any property become the property of the new commercial bank, subject to the liabilities of the converting institution that exist at the time of the conversion.

(g) (1) Unless this construction would be unreasonable, any reference to the converting institution in any writing, whether executed or taking effect before or after the conversion, shall be interpreted as a reference to the new commercial bank.

(2) The new commercial bank may use the name of the converting institution if it can do any act more conveniently under that name.

(h) If a converting institution has assets or engages in business activities that do not conform to the law governing commercial banks, the Commissioner may allow a reasonable time for the new commercial bank to conform to that law.

§3–802.

(a) Any commercial bank may convert into a national banking association as provided by federal law.

(b) When a commercial bank applies to the Comptroller of the Currency for conversion into a national banking association, it shall file with the Commissioner a written notice of its intent to convert.

(c) When the Comptroller of the Currency issues a certificate of authority to do business as a national banking association, the charter of the commercial bank terminates and the new national banking association shall:

(1) Take all property of the commercial bank, subject to all of its liabilities that exist at the time of conversion;

(2) Notify the Commissioner of the conversion and the taking of property; and

(3) File with the Commissioner a copy of the certificate of authority issued by the Comptroller of the Currency.

(d) The Commissioner shall file a copy of the certificate of authority with the State Department of Assessments and Taxation.

§3–803.

(a) A commercial bank may dissolve voluntarily, if the stockholders of the commercial bank and the Commissioner approve the dissolution as provided in this section.

(b) A proposed voluntary dissolution shall be approved by the affirmative vote of the stockholders of the commercial bank who own two thirds of its capital stock.

(c) (1) After a proposed voluntary dissolution is approved by the stockholders, the board of directors of the commercial bank shall give the following notices.

(2) The board shall give written notice to the Commissioner of the intended dissolution. This notice shall be certified under the corporate seal of the commercial bank by its president and by its cashier or treasurer.

(3) The board also shall give notice to creditors of the commercial bank to present for payment any claim against it. This notice shall be published once each week for 8 consecutive weeks in a newspaper published in the county where the commercial bank has its principal banking office.

(d) The Commissioner may approve the intended dissolution only if the Commissioner determines that the commercial bank is solvent.

§3–804.

In the distribution of the general assets of a trust company that dissolves voluntarily, the person who succeeds the trust company as a personal representative, guardian, trustee, receiver, or other fiduciary has a preference for all debts and accounts that are due to or held by it as fiduciary over all other debts and liabilities, including salaries and wages of employees.

§4–101.

(a) In this title the following words have the meanings indicated.

(b) (1) "Savings bank" means an institution that:

(i) Is incorporated under the laws of this State as a savings bank; and

(ii) Engages only in the business of savings banking.

(2) The term "savings bank" includes a subsidiary savings bank for the purpose of applying the provisions of this article.

(c) "Subsidiary savings bank" means an institution that:

(1) Is incorporated under the laws of this State as a subsidiary savings

bank, all of the stock of which is owned by a mutual holding company;

(2) Engages only in the business of savings banking;

(3) Is a member of the Federal Deposit Insurance Corporation; and

(4) Is organized to receive assets and liabilities of a mutual holding company in accordance with this subtitle and Subtitle 9 of this title.

(d) "Mutual holding company" means the corporation which holds more than 50% of the stock of a subsidiary savings bank pursuant to a reorganization under Subtitle 8 of this title.

§4–201.

Fifteen or more adult individuals, each of whom is a citizen of this State and the United States, may act as incorporators to form a savings bank under this subtitle.

§4–202.

(a) The incorporators shall sign and acknowledge two copies of articles of incorporation.

(b) The articles of incorporation shall include:

(1) The name and address of each incorporator;

(2) A statement that each incorporator is 18 years old or older and a citizen of this State and the United States;

(3) A statement that the incorporators are associating to form a savings bank under this subtitle;

(4) The name of the savings bank, which may not be similar in any material respect to the name of any other bank, savings bank, or trust company in this State;

(5) The municipal area and county where the principal banking office of the savings bank is to be located;

(6) The name and residence address of each member; and

(7) The number of directors and the names and residence addresses of those who will serve until their successors are elected and qualify.

§4–203.

(a) The incorporators shall:

(1) File with the Commissioner for examination the two copies of the articles of incorporation; and

(2) Pay to the Commissioner an examination fee of $1,500.

(b) The Commissioner shall investigate and determine if:

(1) The articles are framed in accordance with law;

(2) The character, responsibility, and general fitness of the incorporators and directors named in the articles command confidence and warrant belief that the business of the proposed savings bank will be conducted honestly and efficiently, in accordance with the intent of this article; and

(3) Allowing the proposed savings bank to engage in business:

(i) Will promote public convenience and advantage; and

(ii) Is expedient and desirable.

(c) After the investigation, the Commissioner may require any change in the articles of incorporation that the Commissioner considers necessary.

(d) (1) Within 6 months after the articles are filed for examination, the Commissioner shall sign, date, and endorse each copy as "approved" or "refused".

(2) If formation of the savings bank is refused, the Commissioner shall return one of the endorsed copies of the articles to the incorporators.

(3) If formation of the savings bank is approved, the Commissioner shall:

(i) Return one of the endorsed copies of the articles to the incorporators; and

(ii) Keep and record one of the endorsed copies.

§4–204.

(a) If the Commissioner approves the articles of incorporation, the incorporators shall file for record one of the endorsed copies of the articles with the State Department of Assessments and Taxation.

(b) Articles of incorporation that are filed for record are not effective unless the Commissioner has endorsed the articles as approved.

§4–205.

(a) When articles of incorporation are filed for record in accordance with § 4-204 of this subtitle, the savings bank becomes a corporation.

(b) Notwithstanding any charter provision or provision of law, each savings bank has the right to perpetual existence until forfeiture.

§4–206.

(a) Except as otherwise provided in this article, a savings bank has all of the general powers granted to Maryland corporations under the Maryland General Corporation Law.

(b) In addition to the powers set forth elsewhere in this article, a savings bank may:

(1) Receive deposits of money from:

(i) Any person;

(ii) The federal government or its agencies; and

(iii) Any state or its political subdivisions;

(2) Pledge collateral to secure the deposits of:

(i) The federal government or its agencies; or

(ii) Any state or its political subdivisions;

(3) On good security:

(i) Invest deposits; and

(ii) Make loans from deposits;

(4) Subject to § 4-603 of this title:

(i) Borrow money; and

(ii) Pledge its assets to secure the debt;

(5) Rent its vaults or safe-deposit boxes and, in accordance with the rental agreement, permit deposits of property;

(6) Subject to § 5-503 of this article, buy, hold, and convey real property;

(7) Subject to § 4-604 of this title, act as trustee under:

(i) The federal Self-Employed Individuals Tax Retirement Act of 1962; or

(ii) The federal Employee Retirement Income Security Act of 1974;

(8) With the prior approval of the Commissioner, exercise the powers granted under § 3-207 of this article to a trust company; and

(9) Exercise all of the powers usual in carrying on a business of savings banking.

§4–207.

A savings bank may not do business until it receives from the Commissioner a certificate of authority to do business.

§4–208.

(a) Before the Commissioner issues a certificate to do business, a savings bank shall have an initial guaranty fund that equals at least:

(1) The minimum amount of capital stock required for formation of a commercial bank in the municipal area of the proposed savings bank; and

(2) Any greater amount that the Commissioner determines is necessary to keep the savings bank solvent.

(b) (1) Before a savings bank establishes a branch, the savings bank shall have a guaranty fund as provided in this subsection.

(2) For a branch that is to be located inside the municipal area of the principal banking office of the savings bank, the savings bank shall have a guaranty fund of not less than 5 percent of its total deposits.

(3) For a branch that is to be located outside the municipal area of the principal banking office of the savings bank, the savings bank shall have a guaranty fund of not less than the sum of:

(i) 5 percent of its total deposits; and

(ii) The minimum capital and surplus that is required for formation of a commercial bank in the municipal area of the proposed branch.

§4–209.

(a) Payment to the initial guaranty fund shall be:

(1) Made in money; and

(2) Evidenced by transferable deferred payment certificates.

(b) The approval of the Commissioner is required as to:

(1) The form of the transferable deferred payment certificates;

(2) The rate of interest that the holder of a certificate will be entitled to receive; and

(3) The terms under which and the pro rata installments by which the holder of a certificate will be repaid.

§4–210.

(a) Any savings bank may amend its charter in any manner not inconsistent with law, as provided in this section.

(b) A proposed amendment shall be approved at a meeting called for that purpose by:

(1) The affirmative vote in person or by proxy of two thirds of the members; or

(2) If there are no members, the affirmative vote of two thirds of the board of directors.

(c) After an amendment is approved by the members or the directors:

(1) The president of the savings bank and either its cashier or treasurer shall certify the amendment; and

(2) The amendment shall be signed, filed with the Commissioner for examination, and, if approved by the Commissioner, filed for record as required for articles of incorporation.

(d) On filing the amendment for examination, the savings bank shall pay to the Commissioner an examination fee of $20.

§4–301.

(a) If a savings bank has a guaranty fund that is less than 5 percent of its total deposits, the savings bank:

(1) May not make any payment on the principal of the transferable deferred payment certificates that evidence payments to the initial guaranty fund; and

(2) May not pay interest on the certificates unless the Commissioner approves the payment and the rate of interest.

(b) If a savings bank has a guaranty fund that is less than 5 percent of its total deposits, the savings bank shall add to its initial guaranty fund, at the end of each fiscal year, at least 10 percent of its net earnings, calculated before interest on the transferable deferred payment certificates.

§4–302.

(a) Except as provided in this section, a savings bank may not reduce its guaranty fund.

(b) If the Commissioner determines that the guaranty fund of a savings bank exceeds 5 percent of its total deposits and approves a reduction, the savings bank may reduce its fund by the amount of the excess.

(c) If a savings bank abandons a branch and the Commissioner approves a reduction, the savings bank may reduce its guaranty fund by the amount of its addition to the fund required for establishment of the branch.

(d) (1) This subsection applies if the guaranty fund:

(i) Has reached 5 percent of the total deposits of the savings bank; and

(ii) Later falls below that amount.

(2) A savings bank may not pay any interest on its deposits so long as its guaranty fund is less than 5 percent of its total deposits, unless the savings bank adds to the fund, from net earnings for the year, money that equals at least 0.25 percent of its total deposits.

(3) If the Commissioner determines that a savings bank does not have a guaranty fund equal to 5 percent of its total deposits, the Commissioner may require the savings bank:

(i) To add to the fund from its net earnings an amount of money, not to exceed in any year 0.25 percent of its total deposits, that is sufficient to restore the fund to 5 percent of its total deposits; and

(ii) Until the fund is restored, to reduce, by that amount, the interest paid or payable to depositors of the savings bank.

(4) The Commissioner may evaluate the assets of a savings bank by a method that the Federal Deposit Insurance Corporation or any other appropriate federal authority adopts.

§4–303.

(a) A savings bank may pay interest on its deposits only from its profits, after deducting expenses for management, losses, necessary credits to premium accounts, taxes, and required additions to the guaranty fund.

(b) In determining its profits, a savings bank is not required, as to any bond that it buys or holds, to charge off from the premium of the bond more than an amount

proportionate to the life of the bond.

§4–401.

Unless organized as a subsidiary savings bank, as defined in this title, a savings bank is a mutual association and may not have any capital stock.

§4–402.

(a) The bylaws of a savings bank shall provide for annual meetings of the members to:

(1) Elect directors;

(2) Elect members, unless the charter of the savings bank provides for a different method of electing members; and

(3) Transact other business.

(b) The bylaws of a subsidiary savings bank shall provide for annual meetings of the stockholders to:

(1) Elect directors; and

(2) Transact other business.

§4–501.

The business and affairs of a savings bank shall be managed under the direction of a board of directors.

§4–502.

Each savings bank shall have at least 5 and not more than 30 directors, as its charter or bylaws provide.

§4–503.

Each director of a savings bank shall be a member of the savings bank.

§4–504.

Each director of a savings bank shall take an oath:

(1) To perform diligently and honestly the duties of the office; and

(2) Not to violate knowingly or permit knowingly a violation of any law that relates to the savings bank.

§4–505.

(a) Until successors are elected and qualify, the board of directors of a savings bank consists of the individuals named as directors in the articles of incorporation.

(b) (1) Except as provided in paragraph (2) of this subsection, at each annual meeting of the members of a savings bank or the stockholders of a subsidiary savings bank, the members or stockholders shall elect directors to hold office until the next annual meeting and until their successors are elected and qualify.

(2) (i) Subject to subparagraphs (ii) and (iii) of this paragraph, if the directors are divided into classes, the term of office may be provided in the bylaws.

(ii) The term of office of a director may not be longer than 5 years or, in the case of an initial or substitute director, shorter than the period between annual meetings.

(iii) The term of office of at least one class of directors shall expire each year.

§4–507.

(a) Each director of a savings bank shall attend at least one half of the regularly scheduled board meetings that are held during the director's term of office.

(b) (1) Any director who fails to attend meetings of the board of directors as required by this section is disqualified automatically from serving as director for a succeeding term.

(2) The Commissioner may waive the disqualification of a director if the director shows to the Commissioner good cause for the failure to attend the meetings.

§4–508.

The board of directors of a savings bank may fill any vacancy on the board by electing an individual to serve until the next annual meeting of the members or the stockholders of a subsidiary bank and until a successor is elected and qualifies.

§4–509.

Unless the charter or bylaws of a savings bank provide for a greater number, a majority of the directors then serving is a quorum.

§4–601.

(a) A depositor of a savings bank may withdraw the deposit as the bylaws of the savings bank permit.

(b) The bylaws of a savings bank:

(1) May require a depositor to give notice of an intent to withdraw any part of a deposit; and

(2) May not require more than 90 days' notice.

§4–603.

(a) (1) Unless a savings bank has the prior approval of the Commissioner, the total amount of all of its outstanding debts, other than those incurred for purposes of repaying its depositors, may not exceed 5 percent of its deposits.

(2) When the directors of a savings bank authorize it to borrow money for which approval is required, the savings bank immediately shall send a copy of the board's resolution to the Commissioner.

(b) A savings bank may not borrow money for periods that total more than:

(1) 1 year; and

(2) Any additional renewal period that the Commissioner approves in writing for payment of an unpaid balance.

§4–604.

(a) In this section, "federal act" means:

(1) The federal Self-Employed Individuals Tax Retirement Act of 1962; or

(2) The federal Employee Retirement Income Security Act of 1974.

(b) A savings bank may act as trustee of a plan under either federal act, as provided in this section.

(c) A savings bank may:

(1) Accept a trust under a plan that:

(i) Constitutes a qualified plan under a federal act and the rules and regulations adopted under it; and

(ii) Requires the exclusive investment of trust funds in deposits of a mutual savings institution; and

(2) Continue as trustee of a plan that is determined not to be or ceases to be a qualified plan, if, when the savings bank accepted the trust, the savings bank judged the plan to be a qualified plan.

(d) A savings bank that is acting as trustee of a plan under a federal act:

(1) May integrate the trust funds with its other deposits; and

(2) Shall keep appropriate, detailed records of all transactions in which it engages as trustee.

§4–701.

(a) In this section, "transfer assets", "transfer its assets", or "transfer of assets" means to sell, lease, exchange, or otherwise transfer all or substantially all of the property and assets of a savings bank.

(b) (1) A savings bank may consolidate with, merge into, or transfer its assets to any banking institution in this State, any other bank in this State, or any State or federal savings and loan association in this State if the Commissioner gives written consent to the transaction.

(2) A savings bank may have any banking institution in this State, any other bank in this State, or any State or federal savings and loan association in this State merge into the savings bank if the Commissioner gives written consent to the transaction.

(c) The transaction shall be approved at a meeting called for that purpose, by the affirmative vote of:

(1) Two thirds of the members of the savings bank, voting in person or by proxy; or

(2) If there are no members, the board of directors of the savings bank.

(d) An agreement that sets forth the terms and conditions of the proposed transaction shall be:

(1) Signed and acknowledged by the president and treasurer of each party to the transaction; and

(2) Filed with the Commissioner.

(e) (1) Except as provided in subsection (f) of this section, the Commissioner shall publish a notice of the filing of the agreement.

(2) The notice shall be published in the Maryland Register as provided in the State Documents Law.

(f) Subject to confirmation by the Secretary of Labor, Licensing, and Regulation, the Commissioner may approve an agreement without the notice in the Maryland Register if:

(1) The financial condition or stability of one of the parties to the proposed

transaction is such that a delay of the proposed transaction will cause an economic hardship to it; and

(2) Approval of the agreement is in the public interest.

§4–701.1.

(a) (1) In this section the following words have the meanings indicated.

(2) "Converting institution" means a federal mutual savings bank.

(3) "Federal mutual savings bank" means an institution that:

(i) Is incorporated under federal law as a savings bank; and

(ii) Is a mutual association.

(b) A converting institution that is located in this State may convert into a savings bank as provided by federal law and this section.

(c) (1) The converting institution shall meet the requirements of this title for the incorporation of a savings bank.

(2) The procedures for incorporation may be modified as required by the difference between incorporation and conversion.

(3) In accordance with regulations adopted by the Commissioner, any interested person may request that the Commissioner conduct a hearing regarding the conversion.

(d) (1) The board of directors of the converting institution shall sign, acknowledge, and file articles of incorporation.

(2) The articles of incorporation shall state that the conversion has been approved by the members or board of directors in the manner required by subsection (e) of this section.

(e) The conversion shall be approved at a meeting called for that purpose, by the affirmative vote of:

(1) Two–thirds of the members of the converting institution, voting in person or by proxy; or

(2) If there are no members, the board of directors of the converting institution.

(f) The new savings bank resulting from the conversion:

(1) Shall be considered the same business and corporate entity as the

converting institution; and

(2) Except as limited by this article or by its charter or bylaws, has all of the rights, powers, and duties of the converting institution.

(g) The converting institution's rights, franchises, and interests in any property become the property of the new savings bank, subject to the liabilities of the converting institution that exist at the time of the conversion.

(h) Unless this construction would be unreasonable, any reference to the converting institution in any writing, whether executed or taking effect before or after the conversion, shall be interpreted as a reference to the new savings bank.

(i) If a converting institution has assets or engages in business activities that do not conform to the law governing savings banks, the Commissioner may allow a reasonable time for the new savings bank to conform to that law.

§4–702.

(a) A savings bank may dissolve voluntarily as provided in this section.

(b) A proposed voluntary dissolution shall be approved by:

(1) The affirmative vote, in person or by proxy, of two thirds of the members; or

(2) If there are no members, the unanimous vote of the board of directors.

(c) (1) After a proposed dissolution is approved, the board of directors of the savings bank shall give the following notices.

(2) The board shall give written notice to the Commissioner of the impending dissolution. This notice shall be certified under the corporate seal of the savings bank by its president and by its treasurer.

(3) The board also shall give notice to creditors of the savings bank to present for payment any claim against it. This notice shall be published once each week for 8 consecutive weeks in a newspaper published in the county where the savings bank has its principal banking office.

(d) After publication of the required notice to creditors, the directors of a savings bank shall execute and file with the Commissioner a statement that the savings bank is dissolved.

§4–703.

(a) A savings bank may convert to a capital stock commercial bank with the approval of its members and the Commissioner.

(b) The Commissioner shall adopt regulations to govern the conversion of savings banks to capital stock commercial banks.

§4–801.

In this subtitle, "savings and loan association" means a savings and loan association organized under Title 9 of this article and insured by the Maryland Deposit Insurance Fund Corporation.

§4–802.

(a) (1) Notwithstanding any other provision of law, any savings bank may be reorganized in order to become a mutual holding company by submitting to the Commissioner an application for approval of reorganization.

(2) A reorganization submitted for approval shall have been approved by the savings bank under the procedures described in § 4-701(c) of this title.

(b) The application for approval of reorganization shall contain:

(1) A brief statement summarizing a plan of reorganization;

(2) 3 copies of the proposed articles of incorporation of the subsidiary savings bank acknowledged by the incorporators of the subsidiary savings bank;

(3) A statement that the plan of reorganization was advised, authorized, and approved by the savings bank in the manner and by the vote required by its charter and the laws of this State; and

(4) A statement of the manner of approval.

(c) The plan of reorganization shall provide that:

(1) A subsidiary savings bank shall be incorporated pursuant to Subtitle 9 of this title;

(2) The savings bank shall transfer a substantial part of its assets to the subsidiary savings bank and the subsidiary savings bank shall assume a substantial part of the savings bank's liabilities, including all depository liabilities;

(3) As a result of the reorganization of the savings bank into a mutual holding company, the mutual holding company shall hold more than 50% of the stock of the subsidiary savings bank; and

(4) After transfer and assumption, persons with prior corresponding rights as depositors or creditors against a savings bank shall have the same rights with respect to the mutual holding company and the subsidiary savings bank.

(d) The plan of reorganization:

(1) May contain any other provision not inconsistent with law; and

(2) Shall set forth the necessary corporate steps for the savings bank to reorganize into a mutual holding company, including:

(i) All required charter amendments; and

(ii) A description of the corporate management of the reorganized mutual holding company.

(e) (1) Except as provided in subsection (f) of this section, the Commissioner shall publish a notice of filing of the application for approval of the plan of reorganization.

(2) The notice of filing of application shall be published in the Maryland Register as provided in the State Documents Laws.

(f) Subject to confirmation by the Secretary of Labor, Licensing, and Regulation, the Commissioner may approve an application without publication of the notice of filing of application in the Maryland Register if:

(1) The financial condition or stability of one of the parties to the proposed reorganization is such that a delay of the proposed reorganization will cause an economic hardship to the party; and

(2) Approval of the application is in the public interest.

§4–803.

(a) The savings bank shall:

(1) File with the Commissioner for examination the application for approval of reorganization; and

(2) At the time of filing of an application for approval of reorganization, pay to the Commissioner a fee of $1,500.

(b) The Commissioner shall investigate the proposed articles of incorporation of the subsidiary savings bank and determine if:

(1) The articles are framed in accordance with law;

(2) The character, responsibility, and general fitness of the incorporators and directors named in the articles command confidence and warrant belief that the business of the proposed subsidiary savings bank will be conducted honestly and efficiently in accordance with the intent of this article; and

(3) Allowing the proposed subsidiary savings bank to engage in business:

(i) Will promote public convenience and advantage; and

(ii) Is expedient and desirable.

(c) After investigating the proposed articles of incorporation of the subsidiary savings bank, the Commissioner may require any change in the articles of incorporation that the Commissioner considers necessary.

(d) As to the proposed articles of incorporation of the subsidiary savings bank:

(1) Within 3 months after the application is filed for examination, the Commissioner shall sign, date, and endorse each copy of the articles of incorporation as "approved" or "refused".

(2) If formation of the subsidiary savings bank is refused, the Commissioner shall return one of the endorsed copies of the articles of incorporation to the incorporators.

(3) If formation of the subsidiary savings bank is approved, the Commissioner shall:

(i) Return one of the endorsed copies of the articles of incorporation to the incorporators; and

(ii) Keep and record one of the endorsed copies.

(e) Within 3 months after the application for approval of reorganization is filed for examination, the Commissioner shall approve or reject the application. The Commissioner may not approve the application unless the Commissioner determines:

(1) That the plan of reorganization is:

(i) Reasonably required to protect the welfare of the general economy of this State;

(ii) Not detrimental to the public interest or the savings bank; and

(iii) In compliance with the regulations and conditions that the Commissioner adopts;

(2) That if the reorganization is pursuant to an acquisition by the mutual holding company of all the stock of a savings and loan association:

(i) Exigent circumstances exist that make the acquisition necessary to maintain the viability or prevent the probable failure of the savings and loan association acquired; and

(ii) The mutual holding company agrees to obtain federal insurance for the deposits of the acquired savings and loan association within the time limitation

imposed by the Commissioner;

(3) That immediately before the reorganization, the depositors of the savings bank are entitled to deposits in the subsidiary savings bank of like amounts, interest rates, and other terms, without interruption of interest;

(4) That all deposits continue to be insured by the Federal Deposit Insurance Corporation up to the maximum amount provided by law; and

(5) That the applicant has met all the requirements of this subtitle and Subtitle 9 of this title.

§4–804.

(a) In connection with the reorganization of a savings bank into a mutual holding company pursuant to this subtitle and with the approval of the Commissioner, the mutual holding company may retain assets to the extent that they are not then required by the subsidiary savings bank to satisfy State or federal capital or reserve requirements.

(b) After reorganization pursuant to this subtitle, a mutual holding company shall:

(1) Continue to possess and may exercise all general corporate powers; and

(2) Be subject to all limitations not inconsistent with this section, of a savings bank under the laws of this State.

(c) A mutual holding company shall hold more than 50% of the stock of a subsidiary savings bank or savings and loan association acquired pursuant to this subtitle.

(d) Without limiting any powers it may have under this section or any other laws of this State, a mutual holding company may acquire the assets or stock of a savings and loan association with the prior approval of the Commissioner pursuant to the determinations required under § 4-803(e)(2) of this subtitle.

(e) A mutual holding company may not take deposits.

§4–805.

A mutual holding company shall be subject to the provisions of the federal Bank Holding Company Act of 1956, as amended, and all the provisions of this article governing bank holding companies.

§4–805.1.

A mutual holding company is a mutual association and may not have any capital

stock.

§4–806.

The Commissioner may adopt regulations to carry out the provisions of this subtitle.

§4–807.

A mutual holding company shall be subject to the provisions of Subtitles 4, 5, and 7 of this title.

§4–901.

Five or more adult individuals, each of whom is a resident of this State and a citizen of the United States, may act as incorporators to form a subsidiary savings bank under this subtitle.

§4–902.

(a) The incorporators of a subsidiary savings bank shall sign and acknowledge 2 copies of the articles of incorporation.

(b) The articles of incorporation shall include:

(1) The name and address of each incorporator;

(2) A statement that each incorporator is 18 years old or older, a resident of this State, and a citizen of the United States;

(3) A statement that the incorporators are associated to form a subsidiary savings bank under this subtitle;

(4) The name of the subsidiary savings bank, which may not be similar in any material respect to the name of any other bank or trust company in this State, except that the name of the subsidiary savings bank may be similar to the name of a savings bank reorganized pursuant to this title that is affiliated with the subsidiary savings bank;

(5) The municipal area and county where the principal banking office of the subsidiary savings bank is to be located;

(6) The number of directors and the names and residence addresses of those who will serve as directors until their successors are elected and qualify; and

(7) A statement that more than 50% of the shares of capital stock issued shall be held by the mutual holding company.

(c) The minimum capital requirements of a subsidiary savings bank shall be

governed by §§ 3-209 and 3-211 of this article.

(d) The articles of incorporation may include any other provision not inconsistent with law.

§4–903.

(a) If the Commissioner approves the articles of incorporation of the subsidiary savings bank, the incorporators shall file for record with the State Department of Assessments and Taxation one endorsed copy of the articles of incorporation.

(b) Unless the Commissioner has endorsed the articles of incorporation as approved, articles of incorporation that are filed for record may not be effective.

§4–904.

(a) When the articles of incorporation are filed for recording in accordance with § 4–903 of this subtitle, the subsidiary savings bank becomes a corporation.

(b) Notwithstanding any charter provision or provision of law, a subsidiary savings bank has the right to perpetual existence until forfeiture.

§4–905.

(a) Except as otherwise provided in this article, a subsidiary savings bank has all of the general powers granted to Maryland corporations under the Maryland General Corporation Law.

(b) Except as otherwise provided in this article, a subsidiary savings bank may exercise all rights, powers, and privileges and shall be subject to all duties and obligations of a savings bank under the laws of this State.

(c) Any reference to savings bank in any other law of this State shall be applicable to a subsidiary savings bank.

(d) A subsidiary savings bank shall be subject to all the provisions of Title 3, Subtitle 3 of this article regarding its stock.

§4–906.

A subsidiary savings bank may not do business until:

(1) The subsidiary savings bank receives from the Commissioner a certificate of authority to do business; and

(2) The required capital stock and the required surplus are paid in full.

§4–907.

(a) After its articles of incorporation are filed for record and its required capital stock and surplus are paid in full, the subsidiary savings bank shall give to the Commissioner notice that the subsidiary savings bank has complied with all of the applicable provisions of this subtitle.

(b) The Commissioner shall examine the condition of the subsidiary savings bank to determine:

(1) The name and residence of each director;

(2) If the required capital stock and surplus are paid in full; and

(3) If the subsidiary savings bank has complied with all other applicable provisions of this title.

(c) If, after examination, it appears that the subsidiary savings bank lawfully is entitled to do business, the Commissioner shall issue the certificate of authority to do business.

(d) (1) If, after examination, it appears that the required capital stock and surplus have not been paid in full, the Commissioner may not issue the certificate of authority to do business.

(2) If, after examination, the Commissioner has reason to believe that the stockholders formed the subsidiary savings bank for any purpose other than legitimate business under this article, the Commissioner, with the advice and consent of the Secretary of Labor, Licensing, and Regulation, may withhold the certificate.

§4–908.

After providing for due or accrued expenses, losses, interest, and taxes, the board of directors of a subsidiary savings bank may declare a cash dividend only from the following:

(1) Its undivided profits; or

(2) With the approval of the Commissioner, its surplus in excess of 100 percent of its required capital stock.

§4–909.

The Commissioner may evaluate the assets of a subsidiary savings bank by a method that the Federal Deposit Insurance Corporation or any other appropriate federal authority adopts for the evaluation of such assets.

§4–910.

A subsidiary savings bank may dissolve in accordance with § 3-803 of this article and subject to any rights provided for in § 4-802(c)(4) of this title.

§5–101.

(a) In this title the following words have the meanings indicated.

(b) "CAMELS" means the composite rating adopted by the federal Financial Institutions Examination Council to evaluate the adequacy of capital, quality of assets, capability of management, quality and level of earnings, adequacy of liquidity, and sensitivity to market risk.

(c) "Capital stock" includes both common and preferred stock of a commercial bank.

(d) "Examiner" means:

(1) The Commissioner; and

(2) An individual whom the Commissioner designates as examiner.

(e) "Federal banking authority" means, as the context requires:

(1) The Federal Deposit Insurance Corporation;

(2) The Federal Reserve Bank of Richmond; or

(3) Any other appropriate federal banking authority.

(f) "Nondepository trust company" means a trust company that is not insured by the Federal Deposit Insurance Corporation.

(g) "Savings bank" means an institution that:

(1) Is incorporated under the laws of this State as a savings bank; and

(2) Engages only in the business of savings banking.

(h) "Trust company" means an institution that is incorporated under the laws of this State as a trust company.

§5–201.

(a) An examiner shall visit each banking institution and examine its business:

(1) At least once during each calendar year, unless the Commissioner determines that, during a calendar year, an examination is unnecessary, in which

event an examination shall occur no less frequently than once every 18 months;

(2) When asked to do so by the board of directors of the institution; or

(3) At any other time that the Commissioner considers necessary.

(b) The examiner shall determine:

(1) The condition of the institution; and

(2) Whether it is complying with the law.

(c) During an examination, the examiner, in the presence of an officer of the banking institution, shall have access to all of the vaults and records of the institution.

§5–202.

(a) The Commissioner or deputy Commissioner may:

(1) Summon any officer, manager, trustee, employee, or agent of any banking institution and any other witness that the Commissioner thinks proper;

(2) Administer an oath to that person; and

(3) Question that person about the affairs of the institution.

(b) The Commissioner or deputy Commissioner may not delegate the powers granted by subsection (a) of this section.

(c) (1) A person may not:

(i) Obstruct the Commissioner or any person acting for the Commissioner in the performance of the duties of the Commissioner; or

(ii) Refuse to appear or testify without good cause when summoned under this section.

(2) Any person who violates any provision of this subsection 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.

§5–203.

(a) The Commissioner shall impose annual assessments on each banking institution as provided in this section, to cover the expense of regulating banking institutions.

(b) (1) Except as provided in paragraph (2) of this subsection, the Commissioner shall assess each banking institution the sum of:

(i) $8,000; plus

(ii) 1. 12 cents for each $1,000 of the assets of the institution over $50,000,000, but not more than $250,000,000;

2. 10 cents for each $1,000 of assets over $250,000,000, but not more than $500,000,000;

3. 9 cents for each $1,000 of assets over $500,000,000, but not more than $1,000,000,000;

4. 8 cents for each $1,000 of assets over $1,000,000,000, but not more than $10,000,000,000; and

5. 7 cents for each $1,000 of assets over $10,000,000,000.

(2) If a banking institution is not in the business of accepting deposits or retaining funds in a deposit account as defined in § 5–509 of this title, the Commissioner shall assess the banking institution the sum of:

(i) $5,000; plus

(ii) 1. 0.3 cents for each $1,000 of managed assets held in a fiduciary capacity up to $5,000,000,000;

2. 0.2 cents for each $1,000 of managed assets held in a fiduciary capacity over $5,000,000,000, but not more than $20,000,000,000;

3. 0.1 cent for each $1,000 of managed assets held in a fiduciary capacity over $20,000,000,000 up to $27,500,000,000;

4. 0.2 cents for each $1,000 of nonmanaged and custodial assets held in a fiduciary capacity up to $5,000,000,000; and

5. 0.1 cent for each $1,000 of nonmanaged and custodial assets held in a fiduciary capacity over $5,000,000,000 up to $20,000,000,000.

(3) The assessments shall be based on assets stated in a banking institution's most recent financial report.

(c) Notwithstanding subsection (b) of this section, for a banking institution with a composite CAMELS rating of 3, 4, or 5 for its most recent examination, the annual assessment imposed under this section shall be increased by an additional 25%.

(d) A banking institution shall pay the assessment imposed under this section to the Commissioner on or before the April 15 after it is imposed.

§5–204.

Instead of making an examination under this subtitle, the Commissioner may accept a copy of the report of a reasonably recent examination of the banking institution by a federal banking authority.

§5–205.

The directors of a banking institution shall have a certified public accountant audit the institution at least once every 5 years.

§5–206.

(a) At least twice a year, the Commissioner shall ask every banking institution to submit a financial report that shows in detail the assets and liabilities of the institution as of the close of the business day that the Commissioner specifies.

(b) The Commissioner shall:

(1) Provide forms that conform as closely as practicable to the forms that the federal banking authorities use; or

(2) Accept from a banking institution a copy of a reasonably recent report that the institution submitted to a federal banking authority.

(c) (1) Within 30 days after a banking institution receives the request for a financial report, the institution shall submit the report.

(2) Each report shall be signed and verified by the president, vice president, cashier, or treasurer of the banking institution.

(d) Upon the written request of a banking institution, the Commissioner may permit the financial reports required by this section to be electronically submitted provided that:

(1) The appropriate federal banking authority has approved electronic submission of the report as satisfactory for its requirements;

(2) The report is submitted through a federally approved vendor; and

(3) The banking institution retains, for at least 2 years, a copy of the report, signed and verified by the president, vice president, cashier, or treasurer of the banking institution.

§5–206.1.

(a) Within 30 days of receipt, a national banking association located in the State, a banking institution, or an other-state bank that maintains a branch in this State shall submit to the Commissioner a copy of the public portion of its most

recent Community Reinvestment Act performance evaluation prepared by the federal regulatory agency that examines the association, institution, or bank, together with a copy of any written response to the evaluation prepared by the association, institution, or bank for its public Community Reinvestment Act file.

(b) (1) Upon request, the Commissioner shall make available to the public a copy of the documents submitted under this section.

(2) The Commissioner may charge a reasonable fee to a person requesting a copy to help defray the costs of providing copies of the documents to the public.

§5–207.

(a) At any time that the Commissioner considers necessary, the Commissioner may ask a banking institution or an other-state bank that maintains a branch in this State to submit a special financial report.

(b) Each report under this section shall be made in the same manner as provided in § 5-206 of this subtitle.

§5–208.

(a) If a banking institution or an other–state bank fails to make any report or submit proof of publication as required by this article, the banking institution or other–state bank is subject, in the discretion of the Commissioner, to a civil penalty not exceeding $500 for each day that the report or proof is overdue.

(b) The Commissioner may institute proceedings to enforce this section.

§5–209.

(a) Except as otherwise provided in this article, the Commissioner and the employees of and the attorney for the Commissioner's office may not disclose:

(1) The name of any debtor of a banking institution;

(2) Any information about the private accounts with or transactions of a banking institution;

(3) Any information obtained in the course of examining a banking institution; or

(4) Any confidential information obtained from a federal banking authority.

(b) This section does not apply to any information that a person discloses:

(1) In performing a public duty to report on or take special action about the business of a banking institution;

(2) In testifying as a witness in a criminal proceeding; or

(3) In informing any director or authorized officer, employee, or agent of a banking institution under examination of the results of that examination.

(c) (1) As provided in this subsection, the Commissioner may give a federal banking authority a copy of any examination of a banking institution, a copy of any report made by the banking institution, and any other information that the Commissioner has about the banking institution.

(2) The Commissioner may give the Federal Deposit Insurance Corporation information about a banking institution if:

(i) The institution is insured by the Corporation; or

(ii) The institution:

1. Is applying for insurance from the Corporation; and

2. Asks the Commissioner to do so.

(3) The Commissioner may give the Federal Reserve Bank of Richmond information about a banking institution if:

(i) The institution is a member of the Federal Reserve System; or

(ii) The institution:

1. Is applying for membership in the System; and

2. Asks the Commissioner to do so.

(d) Except as otherwise provided by law, all confidential information disclosed to any person as permitted under this section:

(1) Remains the property of the Commissioner; and

(2) May not be further disclosed by that person without the written permission of the Commissioner.

(e) Any person who violates any provision of this section is guilty of a misdemeanor and on conviction is subject to:

(1) Forfeiture of the office or employment; and

(2) A fine not exceeding $1,000 or imprisonment not exceeding 2 years or both.

§5–210.

An examiner shall have access to all the records of a subsidiary savings bank, its mutual holding company, or other related entity including the records of any controlling person, director, officer, agent, or employee of the subsidiary savings bank, its mutual holding company, or other related entity that relate to the business of the subsidiary savings bank, its mutual holding company, or other related entity.

§5–301.

Any banking institution may offer time account services to its customers.

§5–302.

(a) (1) As to the interest bearing account of each depositor in a banking institution, the banking institution shall generally make available to any customer with an existing account, in addition to actually giving to the customer, on the opening of the interest bearing account and, later, on demand of the customer:

(i) Written notice of:

1. The annual rate of simple interest currently in effect;

2. The dates, if any, on which the current rate of interest may be changed, and the terms and conditions under which each successive interest rate will be applied;

3. The date or point in time on which the deposit begins to earn interest;

4. The method of determining the account balance on which interest earned is calculated, including the methods for day of deposit to day of withdrawal and low periodic balance;

5. Whether interest is compounded and where applicable, the period for compounding;

6. The annual percentage yield in 1 year based on the rate of simple interest and compounding method;

7. The date or point in time when interest earned is credited to the account;

8. The amount of loss of accumulated earned interest if an account is closed before the date on which interest is regularly credited;

9. The policy on the availability of deposited funds; and

10. Any fees, charges, or penalties which may be applied and

the conditions under which the fees, charges, or penalties may be assessed; and

(ii) The following written notice:

"Under Maryland law, all funds remaining in this interest bearing account become the property of this State after the account has been inactive for 5 years and notice is sent to the depositor at that depositor's last known address. This account will be considered inactive if the owner has not: (1) increased or decreased the amount in the account; (2) presented the passbook or other similar evidence of the account for the crediting of interest; (3) written to this financial institution about the account; or (4) otherwise indicated an interest in the account as evidenced by a memorandum on file with this financial institution."

(2) Not less than 30 days before a banking institution adopts any change regarding any information required under paragraph (1)(i) of this subsection, the banking institution shall inform each customer of the change in the banking institution's periodic statement or by written notice.

(b) A banking institution shall pay interest on each interest bearing account that is instituted for a specific purpose, including "Christmas" or "vacation" accounts, for a period of 1 year or less at an annual rate not less than the weekly average yield on United States Treasury securities adjusted to a constant maturity of 1 year, as published by the Federal Reserve in "Selected Interest Rates (Daily) – H.15", as of the first business day of the calendar year.

(c) A banking institution that fails to comply with subsection (a) or (b) of this section shall be liable to any customer of the banking institution who sustains any injury or loss as the result of the failure to comply for:

(1) All foreseeable losses incurred by the customer; and

(2) Reasonable attorney's fees.

(d) (1) Subject to paragraph (2) of this subsection, on or after October 1, 1992, a banking institution shall comply with the requirements in:

(i) Subsection (a) of this section; or

(ii) Final regulations adopted by the Federal Reserve Board pursuant to § 269 of Public Law 102-242.

(2) On or after the date when compliance with the final regulations adopted by the Federal Reserve Board pursuant to § 269 of Public Law 102-242 is mandatory, a banking institution shall comply with the requirements in those final regulations and subsection (a) of this section shall be null and void.

§5–305.

If a deposit in a banking institution is made by and in the name of a minor:

(1) The institution shall hold the money for the exclusive benefit of the minor or that minor's creditors;

(2) The minor may withdraw money from the account; and

(3) A receipt signed by the minor discharges the institution for the withdrawal.

§5–306.

(a) Except as provided in subsection (b) of this section, a banking institution is not required to recognize or take any action on any claim to a deposit or to money or property held by it or contained in a safe-deposit box, if that claim is adverse to the interests of any person who, on its records, appears to be entitled to the deposit, money, or property.

(b) If, in an action to which the adverse claimant is a party, a court order or decree involving a claim to the deposit, money, or property is served on the banking institution, the banking institution may or, if required by the court, shall impound the deposit, money, or property, subject to further order of the court, without any liability on its part to anyone for doing so.

§5–307.

A banking institution is liable to the depositor for the loss of any check that the institution loses or misplaces before the check clears the clearinghouse.

§5–308.

A banking institution may not impose a service charge on any deposit if withdrawals are restricted by law or by any rule or regulation of the Commissioner.

§5–309.

(a) In this section, "payor institution" means a bank, credit union, or savings and loan association by which an item is payable as drawn or accepted.

(b) As to each account of each depositor in a banking institution, the banking institution shall give to the customer, on opening of the account and on any later demand of the customer, written notice of the time after which the funds represented by an item deposited to the account shall be available for withdrawal as of right, for each of the situations where the banking institution:

(1) Is also the payor institution;

(2) Is located in the same state as the payor institution; and

(3) Is located in a different state from that in which the payor institution is located.

(c) The notice shall also state the time after which the funds represented by an item become available for withdrawal as of right where the item is issued by:

(1) The Maryland State Government or any agency thereof;

(2) The United States Treasury; and

(3) Any agency of the federal government.

(d) The notice shall be printed in type no smaller than elite typewriter characters.

§5–310.

(a) Any checks provided directly or indirectly by a banking institution or trust company for use in connection with a personal checking account shall have the numerical month and year in which the account was opened printed on the face of the checks, except as provided in subsection (b) of this section.

(b) The provisions of subsection (a) of this section shall not apply under certain conditions:

(1) If an individual personal checking account is closed at a particular bank and a joint personal account is opened at the same bank, that includes one of the customers who previously had the individual personal account, then the numerical month and year printed on the face of the checks shall be the numerical month and year in which the individual personal account was established.

(2) If a joint personal account is closed at a particular bank and an individual personal account is opened at the same bank by one of the customers who previously was included under the joint account, then the numerical month and year printed on the face of the checks shall be the numerical month and year in which the joint account was established.

(3) If a customer with an individual personal account or with a joint personal account opens an additional account at the same bank, then the numerical month and year printed on the face of the checks shall be the numerical month and year in which the initial account was established.

(4) In the case of a personal checking account that is closed and a new personal checking account opened simultaneously on the advice of the bank, the checks for the new account shall have the numerical month and year in which the closed account was originally opened printed on the face of the checks.

(5) If the closed account was opened prior to July 1, 1987, a date is not required to be printed on the checks.

(c) A check, draft, or order provided on the opening of any personal checking account for use by the customer until printed checks have been prepared is not required to have the numerical month and year in which the account was opened printed on the face of the check, draft, or order.

(d) (1) The banking institution and the check printer may not be held liable for unintentional errors in the month and year printed on the face of the checks.

(2) The customer may not be charged for the reprinting of the checks when the checks are reprinted due to error in the month and year printed on the face of the checks.

§5–401.

(a) In this subtitle the following words have the meanings indicated.

(b) "Affiliate" means any association, corporation, business trust, statutory trust, or other similar organization that:

(1) Is not a bank service corporation and is controlled by a banking institution through:

(i) Direct or indirect ownership or control of more than 50 percent of the voting rights;

(ii) Control of the election of a majority of the management;

(iii) Direct or indirect ownership or control of more than 50 percent of the voting rights exercised at the last election of the management;

(iv) Directors of the banking institution constituting a majority of the management of the organization; or

(v) Any direct or indirect control by stockholders of the banking institution, if the stockholders own or control:

1. More than 50 percent of the voting rights in the banking institution; or

2. More than 50 percent of the voting rights exercised at the last election of directors of the banking institution; or

(2) Controls a banking institution through:

(i) Direct or indirect ownership or control of more than 50 percent of the voting rights;

(ii) Control of the election of a majority of the directors of the banking institution;

(iii) Direct or indirect ownership or control of more than 50 percent of the voting rights exercised at the last election of the directors; or

(iv) The holding of substantially all of the capital stock of the banking institution by trustees for stockholders of the organization.

(c) "Bank service corporation" means a corporation:

(1) At least some of the stock of which is owned by a banking institution; and

(2) That is organized to perform bank service corporation activities of the type permitted under applicable provisions of Title 12 of the United States Code to a bank service corporation owned exclusively by national banking associations.

(d) "Management" means the directors, trustees, or other persons exercising similar functions of an association, corporation, business trust, statutory trust, or other similar organization.

§5–402.

This subtitle does not:

(1) Affect any affiliate, if the affiliation existed on June 1, 1935; or

(2) Apply to a purchase by a banking institution of the stock of a small business investment company under the federal Small Business Investment Act of 1958, except that the value at which the purchased shares are carried on the books of the banking institution may not exceed 2 percent of its unimpaired capital and surplus.

§5–403.

(a) Subject to this section, a banking institution may have an affiliate that:

(1) Provides a financial, fiduciary, or insurance service to the banking institution, its other affiliates, or the public; or

(2) If it is an affiliate under § 5–401(b)(1)(i) of this subtitle, conducts an activity that is permissible for a banking institution.

(b) Except as provided in subsections (d) and (e) of this section, a banking institution that intends to acquire or establish an affiliate, or to conduct a new activity in an existing affiliate, shall apply to and receive the prior approval of the Commissioner.

(c) On application of the banking institution, an affiliate shall be approved if:

(1) The Commissioner determines that the approval is:

(i) Reasonably required to protect the welfare of the general economy of this State and of the banking institution; or

(ii) Not detrimental to the public interest or to the banking institution;

(2) The approval imposes the same conditions that federal law requires or permits as to a national banking association; and

(3) The transaction complies with the rules, regulations, and conditions that the Commissioner adopts.

(d) Except as provided in subsection (e) of this section, if a banking institution is rated CAMELS 1 or 2 and remains well capitalized in accordance with the requirements of the Federal Deposit Insurance Act, the banking institution may acquire or establish an affiliate, or conduct a new activity in an existing affiliate if:

(1) Within 10 days after acquiring or establishing the affiliate or commencing the activity, the banking institution provides notice to the Commissioner of the acquisition or establishment of the affiliate or the activity; and

(2) The affiliate only engages in any of the following activities:

(i) Holding and managing assets acquired by the banking institution through foreclosure or otherwise in good faith to compromise a doubtful claim, or in the ordinary course of collecting a debt previously contracted;

(ii) Providing direct services to the banking institution or other affiliates;

(iii) Making, purchasing, selling, or servicing for others loans or other extensions of credit; or

(iv) Leasing personal property.

(e) No application or notice is required if the activities of a new affiliate:

(1) Are limited to those activities previously reported by the banking institution to the Commissioner in connection with the establishment or acquisition of a prior affiliate;

(2) Continue to be legally permissible for banking institutions; and

(3) Will be conducted subject to the same conditions imposed by the Commissioner for the prior affiliate.

(f) All activities and the establishment or acquisition of an affiliate under subsection (d) of this section are subject to:

(1) The same conditions that federal law requires or permits as to a national banking association; and

(2) The rules, regulations, and conditions that the Commissioner adopts.

§5–404.

The Commissioner has the same authority to examine the business of an affiliate that the Commissioner has as to a banking institution.

§5–405.

(a) Except as provided in this section, or otherwise expressly provided by State law, a banking institution may not have a bank service corporation.

(b) If the Commissioner approves, a banking institution may have a bank service corporation.

(c) On application of the banking institution, a bank service corporation shall be approved if:

(1) The Commissioner determines that approval is:

(i) Reasonably required to protect the welfare of the general economy of the State and of the banking institution; and

(ii) Not detrimental to the public interest or to the banking institution;

(2) The approval imposes the same conditions that federal law requires or permits as to a bank service corporation owned exclusively by national banking associations; and

(3) The transaction complies with the rules, regulations, and conditions that the Commissioner adopts.

(d) This section does not apply to any bank service corporation organized before July 1, 1984.

§5–406.

The Commissioner has the same authority to examine the business of a bank service corporation that the Commissioner has as to a banking institution.

§5–407.

A banking institution may not permit any bank services to be performed for it, whether by contract or otherwise, unless the banking institution and the person performing the bank services give the Commissioner satisfactory assurances that the performance of the bank services will be subject to regulation and examination by the Commissioner to the same extent as if the banking institution itself were performing the bank services.

§5–503.

(a) A banking institution may buy and hold real property only as provided in this section.

(b) (1) Subject to the limitations in paragraph (3) of this subsection, a banking institution may buy or hold any real property that is necessary for the convenient transaction of its business.

(2) In addition to its offices, this property may include:

(i) A parking lot that the banking institution provides, with or without charge, primarily for the use of its customers; and

(ii) Any rental space that is located in the bank building or on adjoining land.

(3) Except as provided in paragraph (4) of this subsection, a banking institution may not invest in its bank building and furnishings more than an amount that equals 50 percent of its unimpaired capital and surplus or guaranty fund.

(4) If a banking institution is rated CAMELS 1 or 2 and remains well capitalized in accordance with the requirements of the Federal Deposit Insurance Act, it may invest in its bank building and furnishings an amount equivalent to 75 percent of its:

(i) Unimpaired capital, surplus, and undivided profits; or

(ii) Guaranty fund and undivided profits.

(c) (1) Subject to the limitations in paragraphs (2) and (3) of this subsection, a banking institution may hold any real property that the banking institution acquires:

(i) In satisfaction of a debt contracted in the course of its business; or

(ii) At sale on a judgment, decree, or mortgage foreclosure under a security that it holds.

(2) At a sale, a banking institution may not bid more than the amount of money that is necessary to satisfy the secured debts and costs.

(3) A banking institution:

(i) May not hold property acquired under this subsection for more than:

1. 8 years; and

2. Under conditions that the Commissioner sets, 2 additional years; and

(ii) Within 1 year after that period, shall:

1. Sell the property; or

2. Reduce the value of the property on its books to a value that the Commissioner approves.

§5–504.

(a) Notwithstanding any other provision of the laws or regulations of this State, if the Commissioner approves, banking institutions may engage in any additional activity, service, or other practice in which, under federal law, national banking associations may engage.

(b) The Commissioner may grant an approval under this section only if:

(1) The Commissioner determines that approval is:

(i) Reasonably required to protect the welfare of the general economy of this State and of banking institutions; or

(ii) Not detrimental to the public interest or to banking institutions; and

(2) The approval imposes the same conditions that federal law requires or permits as to national banking associations.

§5–506.

Before a banking institution makes an unsecured loan of $10,000 or more to any person, the banking institution shall obtain sufficient financial information from the person to support the loan.

§5–507.

(a) If a banking institution rejects an application for a residential mortgage

loan, the banking institution shall give the applicant, at the applicant's request, written notice of the rejection.

(b) The applicant may use this written notice as evidence of rejection for purposes of the Maryland Home Financing Program.

§5–508.

If a banking institution holds a first mortgage on residential property and a private mortgage insurance corporation partially insures the mortgage, the banking institution shall eliminate all charges to the mortgagor for mortgage insurance premiums when the mortgage is reduced to the level at which the federal Homeowners Protection Act of 1998 requires termination of the private mortgage insurance insuring the mortgage.

§5–509.

(a) Each banking institution shall be a member of the Federal Deposit Insurance Corporation unless the institution is not in the business of accepting deposits or retaining funds in a deposit account. A banking institution is not in the business of accepting deposits if it accepts a deposit as a trustee or custodian and is not in the business of retaining deposits if the deposits do not remain in a deposit account of the institution for more than two consecutive banking days. Any institution which is not in the business of accepting deposits or retaining funds in a deposit account as defined in this section shall not be bound by the provisions of § 5–403(c)(2) of this title.

(b) If approved by a majority of its directors, a banking institution may:

(1) Become and participate as a member of the Federal Reserve System; or

(2) Withdraw from the system.

§5–511.

(a) Banking institutions may not have common directors unless the Commissioner finds that a common directorship is in the public interest and not detrimental to either banking institution.

(b) (1) An individual who now is a director of more than one banking institution may complete the term of office of each directorship and may be reelected to each directorship.

(2) This section does not prohibit any person from being an officer, employee, director, or trustee of a mutual holding company and its subsidiary savings bank, shares of which are owned by the same mutual holding company.

§5–512.

(a) (1) In this section the following words have the meanings indicated.

(2) "Commercial loan" means a loan that is made:

(i) Solely to acquire or carry on a business or commercial enterprise; or

(ii) To any business or commercial organization.

(3) "Consumer loan" means a loan that is made primarily for personal, family, or household purposes.

(4) "Executive officer" has the meaning stated in Title 12 of the Code of Federal Regulations, § 215.2.

(b) Unless the loan is approved or exempted from approval as provided in this section, the following persons may not borrow, directly or indirectly, any money from a banking institution:

(1) Any director, officer, or employee of the banking institution;

(2) Any partnership of which the director, officer, or employee is a member; or

(3) Any corporation in which the director, officer, or employee is an officer or owns the majority interest.

(c) This section does not require approval of:

(1) A commercial loan that is made to:

(i) A director of the banking institution, unless the director also is an officer or employee of the banking institution;

(ii) A partnership of which the director is a member, unless an officer or employee of the banking institution also is a member of that partnership; or

(iii) A corporation in which the director holds any interest, unless an officer or employee of the banking institution is an officer or owns the majority interest in that corporation; or

(2) A loan that is:

(i) A consumer loan; and

(ii) Is made to an employee of a banking institution who is not an executive officer or director of the banking institution.

(d) (1) A loan to a director, officer, or employee of a banking institution may be made only if the loan has been approved by a resolution adopted at and recorded in the minutes of a meeting of:

(i) The board of directors of the banking institution; or

(ii) The executive committee of the banking institution, if that committee is authorized to make loans.

(2) If a loan is approved by an executive committee, the loan approval shall be reported to the board of directors at its next meeting.

(e) (1) A loan made under this section shall be reviewed every 6 months by the board of directors.

(2) The loan may not be renewed or extended unless the renewal or extension has been approved by a resolution adopted at a meeting of the board of directors and recorded in the minutes of the meeting.

(f) All loans to a director, officer, or employee of a banking institution are subject to the limitations imposed by § 3-601 of this article.

§5–513.

(a) (1) In this section the following words have the meanings indicated.

(2) "Check" means a draft that is drawn on a banking institution and payable on demand.

(3) "Check facsimile" means a copy of an original check reproduced through photographic, photostatic, microfilm, microcard, miniature photographic, optical imaging, electronic, digital, magnetic, wireless, electromagnetic, or other process that accurately reproduces or forms a durable medium for reproducing the original check.

(4) "Draft" has the meaning stated in § 3-104 of the Commercial Law Article.

(5) "Truncated account" means a checking, negotiable order of withdrawal, or similar deposit account for which the original checks drawn on the account are not returned to the customer on a regular basis.

(b) (1) (i) On request of a customer with a truncated account, a banking institution shall return any check the customer requires for tax audits or litigation or in connection with campaign finance reporting requirements under the Election Law Article, at no cost to the customer.

(ii) If a banking institution returns check facsimiles instead of

original checks to a customer under subparagraph (i) of this paragraph, on request of the customer, the banking institution shall return to the customer, at no additional cost to the customer, check facsimiles of the front and the back of the customer's original checks that are at least the same size as the customer's original checks.

(2) Subject to the requirements of subsection (c)(1) and (2) of this section, in all other instances, on request of a customer with a truncated account, the banking institution shall return a maximum of 2 checks per month, at no cost to the customer.

(3) A banking institution required to return a check to a customer under this subsection may return a check facsimile instead of the original check.

(c) (1) On request of a customer with a truncated account under which the customer does not receive check facsimiles on a regular basis, a banking institution shall return to the customer on a regular basis, at the banking institution's option, either the customer's original checks or check facsimiles of the front of the customer's original checks.

(2) On request of a customer with a truncated account under which the banking institution returns check facsimiles on a regular basis, a banking institution shall return to the customer on a regular basis, at no additional cost to the customer, check facsimiles of the front of the customer's original checks that are at least the same size as the customer's original checks.

§5–601.

(a) The board of directors of any banking institution may place the banking institution, including its property, records, and business, in the hands of the Commissioner by posting on the front door of each banking office of the institution a notice that states: "This institution is in the hands of the Maryland Commissioner of Financial Regulation".

(b) The banking institution immediately shall notify the Commissioner of its action, and the Commissioner immediately shall take possession of the institution.

§5–602.

(a) (1) If the Commissioner finds that the capital stock account of any commercial bank is impaired because of a loss or for any other reason, the Commissioner, by notice to the board of directors of the commercial bank, may require the commercial bank to correct the impairment.

(2) If the commercial bank fails to correct the impairment within 3 months after the board receives the notice, the Commissioner may take possession of the commercial bank, including its property, records, and business.

(b) (1) If the reserves of any commercial bank fall below the amount required under this article:

(i) The commercial bank may not increase its loans or discounts until the deficiency is corrected, except by discounting or buying drafts payable at sight or on demand; and

(ii) The Commissioner, by notice to the board of directors of the commercial bank, shall require the commercial bank to correct the deficiency.

(2) If the commercial bank fails to correct the deficiency within 30 days after the board receives the notice, the Commissioner may take possession of the commercial bank, including its property, records, and business.

§5–602.1.

(a) In this section, "insolvent" means:

(1) Incapable of meeting the demands of creditors; or

(2) Having liabilities that exceed assets.

(b) Notwithstanding the notice and timing requirements in § 5–602 of this subtitle, if the Commissioner determines that a nondepository trust company is insolvent, the Commissioner may take immediate possession of the nondepository trust company, including its property, records, and business, by:

(1) Posting on the front door of each banking office of the nondepository trust company a notice that states: "This institution is in the hands of the Maryland Commissioner of Financial Regulation"; and

(2) Immediately delivering written notice to the board of directors of the nondepository trust company that the Commissioner has taken possession of the nondepository trust company.

§5–603.

As long as the Commissioner has possession of a banking institution, the property, records, and business of the institution are not subject to attachment, lien, execution, or distraint of any kind.

§5–604.

After the Commissioner takes possession of a banking institution, the Commissioner promptly shall give notice of that fact to:

(1) Each person who has any asset of the institution; and

(2) The general public, by notice published in an appropriate newspaper.

§5–604.1.

(a) All necessary and reasonable expenses of the Commissioner that are court approved and related to the Commissioner's possession of a nondepository trust company, including costs associated with the receivership, reorganization, or liquidation of the nondepository trust company, shall be paid from the assets of the nondepository trust company, the proceeds of the sale of securities pledged under § 3–211.1 of this article, or recovery against a surety bond delivered under § 3–211.1 of this article.

(b) Any proceeds of a sale of pledged securities that remain after making the payments required under subsection (a) of this section and § 5–606(b)(2) of this subtitle shall be an asset of the nondepository trust company.

§5–605.

(a) Within a reasonable time after the Commissioner takes possession of a banking institution, the Commissioner, in the name of this State, shall petition an equity court in the county where the banking institution has its principal banking office to:

(1) Take jurisdiction over the banking institution; and

(2) Subject to subsection (b) of this section, appoint as receiver:

(i) An examiner; or

(ii) The Federal Deposit Insurance Corporation.

(b) (1) The Commissioner may petition for appointment of the Federal Deposit Insurance Corporation as receiver only of a banking institution that the Corporation insures.

(2) Appointment of the Federal Deposit Insurance Corporation becomes effective when the Corporation files with the court and the court approves a certificate of acceptance.

(c) A receiver shall provide any bond that the court requires.

(d) If an examiner is appointed receiver, the examiner:

(1) May not receive further compensation for services as receiver; but

(2) Subject to order of the court, is entitled to reimbursement for expenses for legal and clerical help and travel.

§5–606.

(a) (1) The receiver may appoint any clerks needed to carry out the

receivership.

(2) The salaries of these clerks shall be paid out of the funds of the banking institution.

(b) (1) Notwithstanding subsection (a) of this section, the receiver of a nondepository trust company may, as needed to carry out the receivership:

(i) Appoint any clerks, agents, counsel, employees, and assistants; and

(ii) Retain officers and employees of the nondepository trust company.

(2) The salaries and all other expenses of the individuals specified under paragraph (1) of this subsection that are court approved shall be paid from the assets of the nondepository trust company, the proceeds of the sale of securities pledged under § 3–211.1 of this article, or recovery against a surety bond delivered under § 3–211.1 of this article.

(3) Any proceeds of a sale of pledged securities that remain after making the payments required under paragraph (2) of this subsection and § 5–604.1(a) of this subtitle shall be an asset of the nondepository trust company.

(c) The receiver may borrow money and, with the approval of the court, pledge, mortgage, or encumber any of the institution's assets to:

(1) Pay the obligations of the institution;

(2) Pay dividends to the depositors or creditors of the institution; or

(3) Enable the institution to reopen or reorganize.

(d) (1) The receiver shall file with the court, in the form that the court requires, an itemized account of:

(i) All receipts, disbursements, and expenses; and

(ii) Any proposed distribution.

(2) The court shall accept the account to the same extent as if an auditor of the court had prepared and filed the account.

(e) (1) Except as provided in paragraph (2) of this subsection, the receiver may not make any distribution until the court ratifies the receiver's account.

(2) With the approval of the court, the receiver may pay in full each creditor whose total claims do not exceed $5.

§5–607.

(a) All money received by the receiver shall be deposited to the receiver's credit in any bank or trust company that the receiver chooses.

(b) (1) To safekeep and to secure payment of the money deposited with it, the depository bank or trust company shall deposit with the office of the Commissioner general obligations of or obligations guaranteed by the federal government, this State, or any of its political subdivisions.

(2) These obligations shall be valued at the lower of market value or par value, and their value always shall be at least equal to the deposits of the receiver in the bank or trust company.

(c) The receiver may waive this requirement for obligations for any money remaining more than 6 months after the dividend checks are mailed to the creditors and depositors.

§5–608.

If the court appoints an attorney to advise the receiver, the receiver shall set the attorney's fees, subject to approval by the court.

§5–609.

Within 6 months after taking possession of any banking institution, the Commissioner shall file with the court a complete and detailed report on the institution.

§5–610.

As long as an examiner is in possession of any banking institution, the Commissioner may permit the institution to reopen under the conditions that the Commissioner approves and take the steps necessary to wind up any pending court proceeding.

§5–611.

(a) The board of directors or the depositors representing not less than 25 percent of the deposit liability of any banking institution that is in the possession of a receiver may:

(1) Propose a plan of reorganization for the reorganization and reopening of the banking institution or for the establishment of a new State banking institution, national banking association, or other corporation that they consider necessary; and

(2) Choose a committee to represent them to carry out the plan.

(b) (1) The plan for reorganization of a commercial bank may provide for:

(i) The voluntary surrender or exchange of all or part of the outstanding capital stock of the commercial bank and the resale of that stock;

(ii) The sale of additional authorized stock;

(iii) The voluntary subscription or contribution by depositors and creditors to a guaranty fund; and

(iv) Any other protection for the depositors and creditors.

(2) The plan for reorganization of a savings bank may provide only for the voluntary subscription or contribution by depositors and creditors to a guaranty fund.

§5–612.

(a) The plan of reorganization shall be filed with the Commissioner.

(b) (1) The Commissioner may approve or disapprove the plan without a hearing.

(2) If the Commissioner is satisfied that the proposed plan is in the best interests of the depositors and creditors of the banking institution, the Commissioner shall:

(i) Approve the plan; and

(ii) Publish a notice of the approval in the Maryland Register as provided in the State Documents Law.

(3) The provisions of §§ 3-209, 3-211, and 3-301 of this article, to the extent that they require the capital stock and surplus of a commercial bank to be paid in full and in money, do not apply to the reorganization and reopening of a banking institution or the establishment of a new banking institution under this section.

(c) (1) Within 5 days after approval by the Commissioner, the banking institution or the proponents of the plan shall send a notice to each depositor or other creditor at the address shown on the books of the institution.

(2) The notice shall:

(i) State that the plan has been filed with and is open to inspection at the office of the Commissioner; and

(ii) Include a summary of the important provisions of the plan.

(3) Failure to notify any party in interest does not affect the validity of the plan or its implementation.

(4) A certificate of the banking institution's president or of the proponents of the plan that the notice has been given is prima facie proof of compliance with this subsection.

(d) (1) Within 30 days after the first publication of the Commissioner's notice, any party in interest who did not approve the plan may apply to the court for the value of that party's interest.

(2) Unless depositors and other unsecured creditors holding one third or more of the dollar amount of all claims apply for the value of their interests, the court may pass an order approving the plan and setting the terms and conditions for termination of receivership.

(3) If sufficient creditors apply, the court shall:

(i) Determine the present cash value of the nonapproving party's interest on the basis of a judicial liquidation of the banking institution and order payment to the party of that amount, in money or in kind; or

(ii) Apportion to the nonapproving party a distributive share in the assets of the banking institution.

(4) If the court apportions the assets of the banking institution:

(i) Assets divisible in kind shall be apportioned between the institution and the nonapproving parties; and

(ii) Assets not divisible in kind shall be apportioned by allotting to the nonapproving parties shares of stock, securities, or certificates of interest that are issued by a corporation or trustee and that represent the nonapproving parties' interests in the indivisible assets, and the entire amount allotted to the nonapproving parties shall be delivered and paid to the receiver for liquidation for their benefit.

(e) Within 10 days after the final decision of the court, the proponents of the plan of reorganization may abandon it.

§5–613.

With the consent of the local governing body of any political subdivision that has money deposited with a banking institution, its treasurer or similar fiscal officer may:

(1) Consent to a plan of reorganization proposed under this subtitle; and

(2) Bind the political subdivision to limit withdrawals from the institution as provided in the plan.

§5–614.

(a) If the Federal Deposit Insurance Corporation is receiver of a banking institution, the Corporation may:

(1) Operate the trust department of the institution; and

(2) Liquidate the institution as provided in this subtitle or under federal law.

(b) (1) This subsection applies whether or not the Federal Deposit Insurance Corporation is the receiver of the banking institution.

(2) If the Federal Deposit Insurance Corporation pays the insured deposit liabilities of a banking institution, it is subrogated to the rights of the depositors against the institution to the same extent as it would be subrogated to the rights of the depositors against a closed national banking association under federal law.

(3) The rights of the depositors and creditors of the banking institution are governed by the laws of this State.

§5–615.

In the distribution of the general assets of a trust company that is liquidated or reorganized, the person who succeeds the trust company as a personal representative, guardian, trustee, receiver, or other fiduciary has a preference for all debts and accounts that are due to or held by it as fiduciary over all other debts and liabilities, including salaries and wages of employees.

§5–701.

(a) In this subtitle the following words have the meanings indicated.

(b) "Federal holiday" means, as to each corresponding legal holiday, the date that the federal government designates for observance of the holiday.

(c) "Optional bank holiday" means a day on which a banking institution is authorized to be closed.

§5–702.

For the purposes of this subtitle, the operation of an automated teller machine or the conduct of internal operations by a banking institution does not constitute being open for business.

§5–703.

(a) Except as provided in subsection (b) of this section, a banking institution shall be open for business on each day during the year except for the days on which the

banking institution is required or authorized by this subtitle to be closed.

(b) The Commissioner may approve the operation of a branch that is open for business fewer days than described in subsection (a) of this section if the Commissioner determines that:

(1) The branch will serve a customer base or community that has unique banking needs;

(2) At least 1 other branch of the banking institution is open for business as described in subsection (a) of this section; and

(3) The operation of the branch will not be detrimental to the public interest or to banking institutions.

§5–704.

Each banking institution shall be closed on Sunday.

§5–705.

(a) (1) Subject to paragraph (2) of this subsection, each banking institution shall be closed on the following legal holidays:

(i) New Year's Day;

(ii) Dr. Martin Luther King, Jr.'s Birthday;

(iii) Washington's Birthday;

(iv) Good Friday;

(v) Memorial Day;

(vi) Independence Day;

(vii) Labor Day;

(viii) Columbus Day;

(ix) Veterans' Day;

(x) Thanksgiving Day; and

(xi) Christmas Day.

(2) (i) When a legal holiday differs from the corresponding federal holiday, a banking institution:

1. May be closed on both holidays; and

2. Shall be closed on one of the holidays.

(ii) When there is no corresponding federal holiday for a legal holiday listed in paragraph (1) of this subsection, a banking institution:

1. May be closed on the legal holiday; or

2. May remain open on the legal holiday.

(b) (1) Each legal holiday that is not listed in subsection (a) of this section is an optional bank holiday.

(2) When, as to any optional bank holiday, the legal holiday differs from the corresponding federal holiday, a banking institution may be closed on:

(i) Both holidays;

(ii) The legal holiday; or

(iii) The federal holiday.

§5–706.

(a) Saturday is an optional bank holiday.

(b) A banking institution that opens for business on Saturday may close at noon.

§5–707.

(a) In this section, "emergency" has the meaning stated in § 14-307 of the Public Safety Article.

(b) (1) If the Governor proclaims that an emergency exists in a political subdivision and designates days for the general cessation of business in the subdivision, each banking office that is located within the subdivision shall be closed on those days.

(2) If the Governor proclaims that an emergency exists in a political subdivision, the Governor may designate days on which each banking office that is located within the subdivision may be closed.

(3) If the Governor proclaims that an emergency exists as to a particular banking office, that office may be closed on those days that the Governor designates.

(4) When the Governor authorizes, but does not require, the banking institution to be closed, the chairman of its board of directors or its president shall decide whether to close or remain open.

(c) (1) If an emergency exists and affects a banking institution and if it is not practical to obtain a proclamation from the Governor before closing the affected institution, the chairman of its board of directors or its president:

(i) May close the banking institution; and

(ii) As soon as possible, but within 24 hours after the closing, shall notify the Governor of the reasons for the closing.

(2) A banking institution may be closed under this subsection until the earlier of:

(i) Issuance by the Governor of a proclamation that relates to the emergency closing;

(ii) Notice to the banking institution that the Governor will not issue a proclamation;

(iii) Reopening of the banking institution by the chairman of its board of directors or by its president; or

(iv) 5 p.m. on the third day after the closing, except for Saturdays, Sundays, and legal holidays.

§5–708.

A banking institution shall be open for business or shall be closed on optional bank holidays, as the directors of the banking institution may specify by resolution.

§5–801.

(a) If the Commissioner believes that a director or officer of a banking institution has engaged in an unsafe or unsound banking practice, the Commissioner shall send a warning to the director or officer.

(b) (1) If the Commissioner finds that the director or officer has continued to engage in the unsafe or unsound practice, the Commissioner may report the facts to the Secretary of Labor, Licensing, and Regulation and the Attorney General.

(2) A copy of the report shall be sent by certified mail, return receipt requested, bearing a postmark from the United States Postal Service, to each director of the banking institution.

(c) (1) After giving the officer or director an opportunity to be heard, if the Commissioner finds that the unsafe or unsound practice continued after the warning, the Commissioner with the approval of the Secretary of Labor, Licensing, and Regulation may remove the officer or director.

(2) A copy of the removal order shall be served on the individual removed and the banking institution.

§5–802.

(a) If the Commissioner believes that a banking institution or any of its directors, officers, trustees, managers, agents, or employees has violated any provision of this article that relates to the institution, the Commissioner immediately shall report the violation to the Secretary of Labor, Licensing, and Regulation, who shall ask the Attorney General to take the appropriate steps to institute a prosecution for the violation.

(b) (1) The Commissioner shall send a warning to a director or officer of a banking institution who the Commissioner believes has violated any provision of this article that relates to the institution.

(2) If, after the warning, the director or officer continues to violate the law, the director or officer may be removed as provided in § 5-801 of this subtitle.

(c) Unless another penalty specifically is provided elsewhere in this article, any banking institution and any director, officer, trustee, manager, agent, or employee of a banking institution who violates any provision of this article that relates to the institution is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $3,000 or imprisonment not exceeding 5 years or both.

§5–803.

(a) An officer, director, or employee of a bank, trust company, or savings bank may not willfully and knowingly make or cause to be made a false statement or false entry in its records or, with the intent to deceive a person authorized to examine the affairs of the bank, trust company, or savings bank, sign or exhibit false records.

(b) Any officer, director, or employee who violates any provision of this section is guilty of a felony and on conviction is subject to a fine not exceeding $5,000 or imprisonment not exceeding 10 years or both.

§5–804.

(a) An officer or employee of a banking institution may not accept a deposit knowing that the institution is insolvent.

(b) An officer or employee who violates any provision of this section is guilty of a misdemeanor and on conviction is subject to imprisonment in the State Penitentiary for a period not exceeding 3 years.

§5–805.

(a) A person may not willfully make, circulate, or send to another any untrue

statement that is derogatory to the financial condition or affects the solvency or financial standing of any bank, trust company, or savings bank doing business in this State or counsel, aid, procure, or induce another to make, circulate, or send to another such a statement.

(b) Any 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 or imprisonment not exceeding 3 years.

§5–806.

(a) Except for a bank, trust company, savings bank, or savings and loan association that is authorized to do business in this State, a person may not use any name, title, or other words that represent that the person is authorized to do the business of banking in this State.

(b) (1) (i) In this subsection the following terms have the meanings indicated.

(ii) 1. "Bank" means any bank, trust company, savings bank, or savings and loan association that is authorized to do business in this State, and any subsidiary or affiliate of the entity.

2. "Bank" includes any Farm Credit System institution in this State.

(iii) "Name" means the name, trade name, trademark, service mark, logo, or tagline used by a bank to identify itself.

(2) Except with the consent of the bank, a person may not use the name of a bank or any term or design that is similar to the name of a bank in any marketing material provided to another person or in any solicitation of another person in a manner that may cause a reasonable person to be confused, mistaken, or deceived that the marketing material or solicitation:

(i) Originated from the bank;

(ii) Originated from someone affiliated, connected, or associated with the bank;

(iii) Is approved or sponsored by the bank; or

(iv) Is the responsibility of the bank.

(c) In addition to any other remedies a bank may have under any other provision of law, a bank that is affected by a violation of subsection (b) of this section may bring an action against the person that committed the violation to recover:

(1) Actual damages sustained as a result of the violation;

(2) Either:

(i) All profits attributable to the violation; or

(ii) $1,000 for each violation; and

(3) Court costs and reasonable attorney's fees.

(d) Any person who violates subsection (a) of this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $3,000 or imprisonment not exceeding 5 years or both.

§5–807.

(a) A banking institution may not:

(1) Issue an advertisement or make a representation that is false, misleading, or deceptive;

(2) Impose as a condition for a loan any restriction on obtaining credit, property, or service from a competitor unless the restriction is reasonably necessary to secure the loan;

(3) Impose as a condition for a service any restriction on obtaining credit, property, or service from a competitor; or

(4) Engage in an act or practice that is anticompetitive, unfair, deceptive, or injurious to public interest.

(b) The Commissioner may further define specific acts or practices that are anticompetitive, unfair, deceptive, or injurious to the public interest.

(c) A banking institution and any director, officer, trustee, manager, agent, or employee of a banking institution who violates any provision of this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $3,000 or imprisonment not exceeding 5 years or both.

§5–808.

(a) The Commissioner may order any banking institution to cease and desist from:

(1) An unsafe or unsound banking practice;

(2) A practice that is injurious to the public interest; or

(3) A violation of a law, rule, or regulation that relates to the

Commissioner's supervision of the institution.

(b) To protect depositors, stockholders, or the public, the Commissioner may include in a cease and desist order a restriction on the withdrawal of money from any banking institution.

(c) The Commissioner may include in a cease and desist order a requirement that the officers or directors of a banking institution act affirmatively to correct any violation or practice.

(d) (1) Before a cease and desist order takes effect, the Commissioner shall give the banking institution an opportunity for a hearing.

(2) Notice of the hearing shall be given and the hearing shall be held in accordance with the Administrative Procedure Act.

(e) If the Commissioner determines that the violation or practice under subsection (a) of this section requires immediate action to protect depositors, stockholders, or the public, the Commissioner:

(1) May issue a cease and desist order that is effective on service; and

(2) Shall give the banking institution an opportunity for a hearing to rescind the order.

§5–808.1.

(a) After notice and a hearing, the Commissioner may assess a civil penalty against a banking institution that the Commissioner determines has:

(1) Violated a cease and desist order issued by the Commissioner under § 5–808 of this subtitle; or

(2) Engaged in:

(i) An unsafe or unsound banking practice; or

(ii) A practice that is injurious to the public interest.

(b) The civil penalty may not exceed:

(1) $1,000 per violation; and

(2) $1,000 per violation for each day that the violation continues.

(c) (1) A civil penalty shall be assessed by written notice of assessment served on the person to be assessed.

(2) The notice of assessment shall state the:

(i) Amount of the civil penalty;

(ii) Legal authority for the assessment; and

(iii) Matters of fact or law constituting the grounds for the assessment.

(3) The notice of assessment shall constitute a final order for purposes of judicial review pursuant to § 10–221 of the State Government Article.

(d) In determining the amount of the civil penalty to be assessed, the Commissioner shall consider:

(1) The seriousness of the violation;

(2) The good faith of the violator;

(3) The violator's history of previous violations;

(4) The deleterious effect of the violation on the public and the banking industry;

(5) The assets of the violator; and

(6) Any other factors relevant to the determination of the civil penalty.

(e) (1) A civil penalty assessed under this section shall be due and payable within 30 days after the Commissioner issues the notice of assessment.

(2) The Commissioner may reduce or set aside a civil penalty.

(f) The Commissioner shall pay all civil penalties collected under this section into the General Fund of the State.

§5–808.2.

(a) In this section, "extraordinary circumstances" means a situation presenting specific concerns about the prompt withdrawal of money from, or the safety and soundness of, a banking institution.

(b) In extraordinary circumstances and with the consent of the banking institution, the Commissioner may close to the public a hearing concerning the assessment of a civil penalty, an order to cease and desist, or any other formal enforcement action by the Commissioner.

§5–809.

On application by the Commissioner, a court of competent jurisdiction may issue an injunction to restrain a banking institution from:

(1) An unsafe or unsound banking practice;

(2) A practice that is injurious to the public interest; or

(3) A violation of a law, rule, or regulation that relates to the Commissioner's supervision of the institution.

§5–901.

(a) In this subtitle the following words have the meanings indicated.

(b) "Acquire" means:

(1) For one bank holding company to merge or consolidate with another bank holding company;

(2) For a bank holding company to assume direct or indirect ownership or control of:

(i) More than 5 percent of any class of voting shares of another bank holding company or a bank; or

(ii) All or substantially all of the assets of another bank holding company or a bank; or

(3) To take any other action that results in the direct or indirect control by a bank holding company of another bank holding company or a bank.

(c) "Affiliate" has the meaning stated in § 5-401 of this title.

(d) "Bank" has the meaning stated in § 2(c) of the Bank Holding Company Act.

(e) "Bank holding company":

(1) Has the meaning stated in § 2(a) of the Bank Holding Company Act; and

(2) Unless the context requires otherwise, includes:

(i) A Maryland bank holding company;

(ii) An out-of-state bank holding company;

(iii) A foreign bank holding company; and

(iv) A corporation or other entity that becomes a bank holding company by making an acquisition under this subtitle.

(f) "Bank Holding Company Act" means the federal Bank Holding Company

Act of 1956.

(g) "Bank supervisory agency" means:

(1) The Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Board of Governors of the Federal Reserve System, and the Office of Foreign Assets Control, and any successor to these agencies;

(2) Any agency of another state with primary responsibility for chartering and supervising banks; and

(3) Any agency of a foreign country with primary responsibility for chartering and supervising banks.

(h) "Control" has the meaning stated in § 2(a) of the Bank Holding Company Act.

(i) "Deposit":

(1) With respect to any bank holding company other than a foreign bank holding company, has the meaning stated in 12 U.S.C. § 1813(l); and

(2) With respect to a foreign bank holding company, has the meaning stated in the law of the country in which the holding company is organized or incorporated.

(j) "Foreign bank holding company" means a bank holding company with its principal place of business outside the United States.

(k) "Insured depository institution" means any financial institution the deposits of which are insured by the Federal Deposit Insurance Corporation.

(l) "Maryland bank" means a bank that is:

(1) Organized under Title 3 or Title 4 of this article; or

(2) Organized under federal law and having its main office in this State.

(m) "Maryland bank holding company" means a bank holding company that:

(1) Had its principal place of business in this State on the later of July 1, 1966 or the date on which the company became a bank holding company; and

(2) Is not controlled by a bank holding company other than a Maryland bank holding company.

(n) (1) "Out-of-state bank holding company" means a bank holding company that is not a Maryland bank holding company.

(2) "Out-of-state bank holding company" includes a foreign bank holding company.

(o) "Principal place of business" means the jurisdiction in which the total deposits of a bank holding company's bank subsidiaries are the greatest.

(p) "State" means any state, territory, or other possession of the United States, including the District of Columbia.

(q) "Subsidiary" has the meaning stated in § 2(d) of the Bank Holding Company Act.

§5–902.

This subtitle sets forth the conditions under which a bank holding company may acquire a Maryland bank or a Maryland bank holding company.

§5–903.

(a) Except as otherwise expressly permitted by federal law, no bank holding company may acquire a Maryland bank holding company or a Maryland bank without the approval of the Commissioner.

(b) The prohibition in subsection (a) of this section shall not apply where the acquisition is made:

(1) Solely for the purpose of facilitating an acquisition otherwise permitted under this subtitle;

(2) In a transaction arranged by the Commissioner or another bank supervisory agency to prevent the insolvency or closing of the acquired bank; or

(3) In a transaction in which a bank forms its own bank holding company, if the ownership rights of the former bank shareholders are substantially similar to those of the shareholders of the new holding company.

(c) In a transaction for which the Commissioner's approval is not required under this section, the parties shall give written notice to the Commissioner at least 15 days before the effective date of the acquisition.

§5–904.

(a) A bank holding company that proposes to make an acquisition under this subtitle shall:

(1) File with the Commissioner an application in the form that the Commissioner requires;

(2) Pay to the Commissioner an application fee of $1,500; and

(3) Submit proof that the applicant has complied with all public notice and publication requirements applicable under the Bank Holding Company Act.

(b) To the extent consistent with the effective discharge of the Commissioner's responsibilities, the forms established under this subtitle for application, notice, and reporting shall conform to those established under the Bank Holding Company Act.

§5–905.

(a) In deciding whether to approve an application under § 5-904 of this subtitle, the Commissioner shall consider whether the acquisition:

(1) May be detrimental to the safety and soundness of the Maryland bank or Maryland bank holding company to be acquired; or

(2) May result in an undue concentration of resources or a substantial reduction of competition in the State.

(b) Except as provided in this section, the Commissioner may not approve an acquisition if on consummation of the transaction the applicant, including any insured depository institution affiliate of the applicant, would control 30 percent or more of the total amount of deposits of insured depository institutions in the State.

(c) The Commissioner may by regulation adopt a procedure by which the 30 percent deposit limit may be waived for good cause.

§5–906.

(a) The Commissioner shall decide whether to approve an application under § 5-904 of this subtitle within 60 days of receipt of a completed application.

(b) An application shall be deemed approved if the Commissioner takes no action on the application within the time limits specified in this section.

§5–907.

(a) To the extent specified by the Commissioner by regulation or written request, each bank holding company that controls a Maryland bank or a Maryland bank holding company shall submit to the Commissioner:

(1) Copies of reports filed for the preceding calendar year with a bank supervisory agency by each Maryland bank controlled by the bank holding company; and

(2) A report specifying as of the end of the preceding calendar year, for each branch of each Maryland bank controlled by the bank holding company:

(i) The location; and

(ii) The amount of deposits held.

(b) The reports specified in subsection (a) of this section:

(1) May consist of a copy of a report filed with another bank supervisory agency that contains substantially similar information; and

(2) May not be requested by the Commissioner unless the Commissioner determines that the information is not available from another bank supervisory agency.

(c) At the request of the Commissioner, to the extent permitted by applicable State or federal law, each bank holding company that controls a Maryland bank or a Maryland bank holding company shall provide to the Commissioner copies of reports of examination prepared by any bank supervisory agency in connection with the examination of any Maryland bank.

§5–908.

The Commissioner may enforce the provisions of this subtitle by any appropriate action in the circuit courts of the State, including actions for injunctive relief and for divestment.

§5–909.

(a) In order to carry out the purposes of this article, the Commissioner may:

(1) Adopt regulations; and

(2) Subject to subsection (b) of this section, enter into cooperative or information–sharing agreements with any other bank supervisory agency.

(b) If the Commissioner receives a record from a bank supervisory agency under a cooperative or an information–sharing agreement authorized by subsection (a)(2) of this section and the bank supervisory agency expressly retains ownership of the record, either in writing or by law or regulation, the Commissioner:

(1) May not disclose the record to any person that requests the record under Title 4, Subtitles 1 through 5 of the General Provisions Article; and

(2) Shall forward the request for the record to the bank supervisory agency that owns the record for processing in accordance with the laws or regulations governing disclosure of the bank supervisory agency's records.

§5–910.

If any provision of this subtitle or the application thereof to any person or circumstance is held invalid for any reason in a court of competent jurisdiction, the invalidity does not affect other provisions or any other application of this subtitle that

can be given effect without the invalid provision or application.

§5–1001.

(a) In this subtitle the following words have the meanings indicated.

(b) "Affiliate" means any company that controls, is controlled by, or is under common control with another company.

(c) "Bank" has the meaning stated in the Federal Deposit Insurance Act, 12 U.S.C. § 1813(a)(1).

(d) "Bank supervisory agency" means:

(1) The Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Board of Governors of the Federal Reserve System, or any successor to these agencies; or

(2) An agency of another state with primary responsibility for chartering and supervising banks.

(e) (1) "Branch" means a bank office open to the public at which deposits are received, checks are paid, or money is lent.

(2) "Branch" includes a mobile branch or other special-purpose facility that performs a function of a branch.

(3) "Branch" does not include an automated teller machine as defined in § 1-401 of this article.

(f) "Commercial activities" means activities in which a bank holding company, a financial holding company, a national bank, or a national bank financial subsidiary may not engage under federal law.

(g) "De novo branch" means a branch of an out-of-state bank or banking institution that:

(1) Is originally established by the out-of-state bank or banking institution as a branch; and

(2) Does not become a branch of the out-of-state bank or banking institution as a result of:

(i) The acquisition by the out-of-state bank or banking institution of an insured depository institution or a branch of an insured depository institution; or

(ii) The conversion, merger, or consolidation of an insured depository institution or a branch of an insured depository institution.

(h) "Home state" means:

(1) As to a national banking association, the state in which its main office is located; and

(2) As to a state-chartered bank, the state by which it is chartered.

(i) "Home state regulator" means the agency in a bank's home state with primary responsibility for chartering and regulating banks.

(j) "Host state" means a state, other than the home state of a bank, in which the bank maintains or seeks to establish a branch.

(k) "Insured depository institution" means any financial institution the deposits of which are insured by the Federal Deposit Insurance Corporation.

(l) "National banking association" means a bank chartered under the National Bank Act.

(m) "Other-state bank" means a bank chartered and primarily regulated by another state.

(n) "Out-of-state bank" means:

(1) A national banking association with its main office in a state other than this State; or

(2) An other-state bank.

§5–1002.

This subtitle sets forth the conditions under which:

(1) An out-of-state bank may establish branches in this State; and

(2) A banking institution may establish branches within or outside this State.

§5–1003.

(a) A banking institution or an out–of–state bank may establish a branch in this State by:

(1) Subject to subsection (b) of this section, opening a de novo branch;

(2) Purchasing an existing branch from a bank or an insured depository institution; or

(3) Converting former headquarters or retaining former branches

following:

(i) The purchase of all or substantially all of the assets of a bank or an insured depository institution; or

(ii) A merger or a consolidation with a bank or an insured depository institution.

(b) An out–of–state bank may establish a de novo branch in this State under subsection (a)(1) of this section only if the home state of the out–of–state bank allows a banking institution to open a de novo branch in its state.

(c) A banking institution or an out–of–state bank may not establish or maintain a branch in this State on the premises or property of an affiliate if the affiliate engages in commercial activities.

§5–1004.

A banking institution may establish a branch in another state by any means permitted by the laws of that state or by federal law.

§5–1005.

(a) Except as provided in subsection (b) of this section, a banking institution that proposes to establish a branch in this State or in another state shall:

(1) File with the Commissioner, at least 30 days before the intended opening date, a notice of intention to open a branch; and

(2) Submit to the Commissioner any information the Commissioner requires in order to evaluate the proposed branch.

(b) A well–capitalized banking institution with a composite CAMELS rating of one or two may establish a branch in this State by filing with the Commissioner an expedited notice, in the form that the Commissioner requires, at least 30 days before the intended opening date.

§5–1006.

(a) Subject to subsection (b) of this section, in deciding whether to approve a branch of a banking institution, the Commissioner shall consider:

(1) If the branch is to be established in this State, whether the establishment of the branch will promote the public convenience;

(2) Whether the applicant has sufficient capital to support the branch; and

(3) Whether the applicant is generally operating in compliance with the provisions of this article.

(b) (1) Subject to paragraph (2) of this subsection, a well–capitalized banking institution with a composite CAMELS rating of one or two may open a branch in this State without the approval of the Commissioner 30 days after filing an expedited notice for the proposed branch under § 5–1005(b) of this subtitle.

(2) The Commissioner may:

(i) Require the submission of additional information regarding the proposed establishment of a branch during the 30–day period that the expedited notice is pending; and

(ii) Prohibit the establishment of the branch within the 30–day period if the Commissioner determines that establishment of the branch is not consistent with the standards set forth in subsection (a) of this section.

§5–1007.

(a) The Commissioner shall decide whether to approve the establishment of a branch of a banking institution within 30 days of receipt of the notice specified in § 5-1005 of this subtitle.

(b) A branch shall be deemed approved if the Commissioner takes no action on the notice within the time limit specified in this section.

§5–1008.

(a) A banking institution that establishes a branch in another state may exercise at that branch all powers and rights permitted to banks in that state unless the Commissioner determines that the exercise of a power or right would threaten the safety and soundness of the banking institution.

(b) An other-state bank that establishes a branch in this State may exercise at the branch all powers and rights permitted to banking institutions in this State notwithstanding any other law of this State to the contrary, unless that bank's home state regulator determines that the exercise of a power or right would threaten the safety and soundness of the other-state bank.

(c) Any person authorized by a law of this State to engage in business with banks located in this State, including the making of deposits, is authorized to engage in the same business with an other-state bank at that other-state bank's branch in this State.

§5–1009.

(a) Subject to § 5-1012 of this subtitle, the Commissioner shall have the power to examine every branch of an other-state bank located in this State for the same purposes and to the same extent as the Commissioner may examine a branch of a banking institution.

(b) The Commissioner may enter into agreements with bank supervisory agencies regarding the scope, timing, coordination, and frequency of examinations and other supervisory matters, including the sharing of information obtained through examination of other-state banks that maintain branches in this State.

(c) Supervisory and examination fees related to the Commissioner's oversight of Maryland branches of other-state banks and branches of banking institutions in other states may be imposed and shall be calculated in the manner agreed to between the Commissioner and the home state regulators.

§5–1010.

(a) Subject to § 5-1012 of this subtitle, if the Commissioner finds that a branch of an other-state bank in this State is being operated in an unsafe or unsound manner or there is any violation of Maryland law by the branch of the other-state bank, the Commissioner may undertake enforcement actions as otherwise authorized under provisions in this article governing banking institutions.

(b) The Commissioner may enter into joint enforcement actions with other bank supervisory agencies having concurrent jurisdiction over an other-state bank that has a branch in this State.

§5–1011.

Subject to § 5-1012 of this subtitle, the Commissioner may require a bank that maintains a branch in this State to submit to the Commissioner its consolidated reports of condition and income in the form specified by the Federal Financial Institutions Examination Council.

§5–1012.

With respect to the supervision, enforcement, and reporting requirements of §§ 5-1009, 5-1010, and 5-1011 of this subtitle, the Commissioner shall act primarily in cooperation with the home state regulator or federal regulator of the affected out-of-state bank.

§5–1013.

(a) Except as provided in this section, the Commissioner may not approve a transaction resulting in the establishment of a branch or branches by a bank, other than a de novo branch, if on consummation of the transaction the applicant, including any insured depository institution affiliate of the applicant, would control 30 percent or more of the total amount of deposits of insured depository institutions in this State.

(b) The Commissioner may by regulation adopt a procedure by which the 30 percent deposit limit may be waived for good cause.

§5–1014.

(a) An out-of-state bank that proposes to establish a branch in this State:

(1) Shall qualify under § 7-203 of the Corporations and Associations Article to do business in the State as a foreign corporation; and

(2) Within 15 days of filing a branch application with the appropriate bank supervisory agency, shall provide the Commissioner with a copy of the branch application.

(b) An out-of-state bank that does not have a branch in this State on September 29, 1995, may not establish a branch in this State before June 1, 1997, unless the laws of that bank's home state would permit a banking institution to establish a branch in that state under substantially similar conditions as those imposed by this subtitle.

(c) An out-of-state bank that has a branch in this State may establish additional branches in this State to the same extent as a banking institution or to the extent otherwise permitted by federal law.

§5–1015.

If any provision of this subtitle or the application thereof to any person or circumstance is held invalid for any reason in a court of competent jurisdiction, the invalidity does not affect other provisions or any other application of this subtitle that can be given effect without the invalid provision or application.

§5–1101.

(a) In this subtitle the following words have the meanings indicated.

(b) "Acquire" means to assume ownership or control, directly or indirectly, of any voting shares of, interest in, or all or a substantial portion of the assets and liabilities, including, unless otherwise determined in writing by the Director of the State of Maryland Deposit Insurance Fund Corporation to be in the best financial interest of the Fund, all savings accounts liabilities that are insured by the Fund, to the extent of the insurance, and liabilities to the State, of the following institutions:

(1) A savings and loan association;

(2) A newly-formed commercial bank chartered to consummate a transaction with a savings and loan association under this subtitle; or

(3) A commercial bank that results from the conversion of a savings and loan association.

(c) "Act" means the federal Bank Holding Company Act of 1956, as amended.

(d) "Maryland bank holding company" means a company that is defined as a bank holding company under the Act and that conducted its principal banking business in Maryland on July 1, 1966, or on the date on which the company became a bank holding company under the Act, whichever occurred later.

(e) "Out-of-state bank holding company" means a company that is defined as a bank holding company under the Act and that conducted its principal banking business in a jurisdiction of the United States other than Maryland on July 1, 1966, or on the date on which the company became a bank holding company under the Act, whichever occurred later.

(f) "Savings accounts" has the meaning stated in § 10-101(k) of this article.

(g) "Savings and loan association" means a corporation that is:

(1) Chartered under the laws of this State as a savings and loan association; and

(2) Insured by the State of Maryland Deposit Insurance Fund Corporation.

§5–1101.1.

The provisions of this subtitle which authorize an out-of-state bank holding company to acquire and hold certain institutions are only in effect through June 1, 1986. Any acquisition that was approved under this subtitle before June 1, 1986 remains subject to the terms and conditions that were in effect before that date, including the authorizations in § 5-1102(c) and (d) of this subtitle.

§5–1102.

(a) This subtitle sets forth the conditions under which an out-of-state bank holding company may acquire and hold:

(1) One or more savings and loan associations to be converted into one or more commercial banks; or

(2) One or more newly-formed commercial banks that have acquired or acquire one or more savings and loan associations.

(b) The acquisition of a commercial bank by an out-of-state bank holding company under this subtitle is authorized for purposes of § 3(d) of the Act.

(c) Notwithstanding any other provision of law, an out-of-state bank holding company that has made an acquisition under this subtitle subsequently shall be permitted, directly or indirectly, to acquire and hold Maryland bank holding companies or constituent banks, as defined in Title 3, Subtitle 7 of this article, in this State as if the out-of-state bank holding company were a bank holding company the operations of whose banking subsidiaries are principally conducted in this State for purposes of §

3(d) of the Act. Any merger with or acquisition of a Maryland bank holding company by an out-of-state bank holding company, directly or indirectly, or any consolidation with, merger with or transfer of assets to a constituent bank by an out-of-state bank holding company, directly or indirectly, shall be governed by the procedural requirements of Subtitle 10 of this title.

(d) Except for the procedural requirements of this section, an out-of-state bank holding company may acquire and hold Maryland bank holding companies or constituent banks in this State under subsection (c) of this section without regard to the restrictions found in Subtitle 10 of this title.

§5–1103.

(a) An out-of-state bank holding company may acquire one or more savings and loan associations and convert one or more of the acquired savings and loan associations into one or more commercial banks or one or more newly-formed commercial banks that have acquired or will acquire one or more savings and loan associations, if the out-of-state bank holding company and the entity to be acquired:

(1) File jointly an application and a plan of acquisition for approval with the Commissioner that contain the information the Commissioner may require;

(2) Submit with the application:

(i) The designation of a resident of this State as the applicant's agent for the service of any paper, notice, or legal process on the applicant in connection with matters arising out of this subtitle; and

(ii) A filing fee of $5,000; and

(3) Receive approval of the acquisition from the Commissioner after the Commissioner has received:

(i) Advice from the Director of the Division of Savings and Loan Associations and the Fund Director of the State of Maryland Deposit Insurance Fund Corporation; and

(ii) The concurrence of the Secretary of Labor, Licensing, and Regulation.

(b) (1) The plan of acquisition under this section shall contain sufficient information to allow the Commissioner to consider the following:

(i) The financial and managerial resources of the out-of-state bank holding company;

(ii) The future prospects and business plan for the successor commercial bank;

(iii) The financial history and future prospects of the out-of-state bank holding company;

(iv) The impact of the proposed acquisition on competition and concentration of financial resources in this State;

(v) Initial capital investments, loan policy, investment policy, dividend policy, and general plan of business, including the amount and cost of consumer and business services to be offered in this State; and

(vi) The corporate and regulatory steps necessary to consummate the acquisition.

(2) An out-of-state bank holding company that has made an acquisition under this subtitle shall, within 30 days of adoption, submit to the Commissioner a copy of its most recently adopted federal Community Reinvestment Act statement.

(3) Within 30 days of receipt, the holding company shall submit to the Commissioner a copy of the public portion of its most recent Community Reinvestment Act performance evaluation prepared by the federal regulatory agency that examines the holding company, together with a copy of any written response to the evaluation prepared by the holding company for its public Community Reinvestment Act file.

(4) (i) Upon request, the Commissioner shall make available to the public a copy of the documents submitted under this subsection.

(ii) The Commissioner may charge a reasonable fee to a person requesting a copy to help defray the costs of providing copies of the documents to the public.

(c) (1) Except as otherwise provided by law, any person who knowingly submits false information to the Commissioner while complying with this section is guilty of a misdemeanor.

(2) A person who violates this section is subject to a fine of not more than $1,000, or imprisonment for not more than 5 years, or both.

(d) The Commissioner may not grant approval of an acquisition and conversion under this subsection unless the Commissioner finds:

(1) One or more of the savings and loan associations to be acquired:

(i) Was placed into a conservatorship or receivership under Title 9, Subtitle 7 of this article before October 15, 1985, and continues to be under the control of a conservator or receiver at the time the plan of acquisition is filed; or

(ii) Before October 15, 1985, has been the subject of an executive order imposing limitations on withdrawals from savings accounts that are more

restrictive than those set forth in Executive Order 01.01.1985.11 (May 21, 1985), as amended;

(2) (i) The aggregate total savings account liability of the association or associations to be acquired was at least $450,000,000 on June 1, 1985; or

(ii) The aggregate total savings account liability is less than $450,000,000 but greater than $250,000,000 on June 1, 1985, and the approval is:

1. Reasonably required to protect the welfare of the general economy of this State and of the acquired association or associations;

2. Not detrimental to the public interest or to the acquired association or associations;

3. Consistent with the general need for banking services in the State; and

4. Concurred in by the Governor;

(3) Exigent circumstances exist such that the planned acquisition is necessary to maintain the viability or prevent the probable failure of one or more of the savings and loan associations to be acquired;

(4) The out-of-state bank holding company has sufficient financial strength to assume its obligations under paragraph (5) of this subsection;

(5) The application contains the unconditional undertaking of the out-of-state bank holding company to be bound by the provisions of § 5-1107 of this subtitle;

(6) The commercial bank to be formed will be a member of the Federal Reserve System; and

(7) That, upon the completion of any mergers, conversions, or acquisition to be made under the plan of acquisition, immediate access to savings accounts by account holders is provided subject to any terms and conditions governing those savings accounts.

(e) (1) Each merger, conversion, or acquisition to be made under the plan of acquisition:

(i) Except as provided in this subtitle, shall comply with Title 3 of the Corporations and Associations Article;

(ii) Shall be approved by the board of directors of each commercial bank and savings and loan association; and

(iii) Subject to the provisions of paragraph (3) of this subsection, requires approval by a majority vote of the total number of votes entitled to be cast on the matter.

(2) As to each conversion, the savings and loan association to be converted shall file with the Commissioner a bank charter and otherwise comply with § 3-203 of this article.

(3) Sufficient evidence of the approval required by paragraph (1)(iii) of this subsection is a written consent signed by the shareholders or members having not less than a majority of the votes that would be entitled to be voted at a meeting at which all shareholders or members were present.

(4) Notwithstanding any other provision of this section or any other law, the approval by the shareholders or members of a savings and loan association for which a receiver has been appointed under § 9-708 of this article of a merger, conversion, or acquisition involving that savings and loan association is not required if, after notice and a hearing, the circuit court administering the receivership determines that:

(i) The savings and loan association is insolvent; or

(ii) The merger, conversion, or acquisition will not result in the shareholders or members of the association receiving property of a lesser value in their capacity as shareholders or members than they otherwise would upon a complete liquidation of the savings and loan association in receivership.

(f) The provisions of Title 3, Subtitle 7 and Title 9, Subtitle 6 of this article do not apply to any consolidation, merger, transfer of assets, or conversion under this subtitle.

§5–1104.

If the Commissioner deems it appropriate in order to consummate an acquisition under this subtitle, the Commissioner may:

(1) Convert the charter, form of ownership, or operating powers of a savings and loan association into the charter, form of ownership, or operating powers of a commercial bank;

(2) Authorize the consolidation, merger, or transfer of assets of a savings and loan association into one or more savings and loan associations or commercial banks; and

(3) Charter a new commercial bank or savings and loan association to acquire all or a substantial portion of the assets and liabilities of an existing savings and loan association, including all savings accounts liabilities and liabilities to the State.

§5–1105.

(a) Except as provided in subsections (b), (c), (d), and (e) of this section, a commercial bank acquired under this subtitle may exercise all the powers of, and shall be subject only to those restrictions imposed on a commercial bank owned by a Maryland bank holding company under applicable State law.

(b) A commercial bank that results from a conversion of a savings and loan association or acquires a savings and loan association may hold assets or conduct business activities, other than insurance assets and insurance activities, that result from the acquisition of a savings and loan association and that do not conform with applicable law, unless a different period is authorized by federal regulatory agencies:

(1) For a period of 5 years after the acquisition; and

(2) If the Commissioner approves, for an additional period not exceeding 5 years.

(c) A commercial bank that results from a conversion of a savings and loan association or acquires a savings and loan association may hold insurance assets or conduct insurance activities that result from the acquisition of a savings and loan association and that do not conform with applicable law, unless a different period is authorized by federal regulatory agencies, for a period of 2 years after the date of acquisition.

(d) Except as provided in subsection (c) of this section, a commercial bank acquired under this subtitle may hold insurance assets or conduct insurance activities only to the extent permitted under applicable law to a Maryland commercial bank.

(e) A commercial bank that results from the conversion of a savings and loan association or acquires a savings and loan association that is subject to the provisions of this section may not exercise any rights afforded to a Maryland bank, a Maryland bank holding company, or an out-of-state bank holding company under any Maryland law authorizing reciprocal interstate banking acquisitions until such time as national reciprocal interstate banking is authorized under State law.

§5–1106.

(a) Notwithstanding any other provisions of law to the contrary, the Commissioner may:

(1) Exercise any State regulatory approval that may be required to complete a plan of acquisition under this subtitle; and

(2) Waive any procedural requirements, including publication and hearing procedures, if the Commissioner determines that prompt approval of the application protects the best interests of the depositors and creditors of the savings and loan association to be acquired under this subtitle and is in the public interest.

(b) The Commissioner shall give notice in the Maryland Register of the final action that has been taken on an application filed under this subtitle.

§5–1107.

Upon and after the acquisition of each savings and loan association or commercial bank successor to a savings and loan association to be acquired under this subtitle, the out-of-state bank holding company and the acquired institution shall, unless otherwise determined in writing by the Fund Director to be in the best financial interest of the Fund:

(1) Defend, indemnify, and hold harmless the State of Maryland, its agencies, instrumentalities, officials, agents, and employees from all claims of:

(i) Holders of savings accounts in that savings and loan association arising out of insurance of their accounts by the Maryland Savings-Share Insurance Corporation or the State of Maryland Deposit Insurance Fund Corporation; and

(ii) Parties to loan agreements, loan commitments, lines of credit, or letters of credit of that savings and loan association arising solely out of the failure of the commercial bank to honor within a reasonable period of time after its acquisition by the out-of-state bank holding company the terms of a legally binding written commitment entered into by that savings and loan association;

(2) Relinquish any right to and release the State of Maryland Deposit Insurance Fund Corporation from any obligation to return any part of the capital deposit required for membership in the Fund; and

(3) Provide for repayment of any indebtedness incurred by an acquired savings and loan association to the former Maryland Savings-Share Insurance Corporation or the State of Maryland Deposit Insurance Fund Corporation.

§6–101.

(a) In this title the following words have the meanings indicated.

(b) "Board" means the board of directors of a credit union.

(c) (1) "Branch" means a credit union office at which shares or deposits are received, share drafts or checks are paid, or money is lent.

(2) "Branch" includes a mobile branch or other special-purpose facility that performs a function of a branch.

(3) "Branch" does not include an automated teller machine as defined in § 1-401(d) of this article.

(d) "Credit union" means a cooperative, nonprofit financial institution

organized under this title to conduct business in the State.

(e) "Credit union service organization" means an entity formed to engage in activities that:

(1) Are incidental to the conduct of the business of a credit union;

(2) Advance or facilitate the purposes of a credit union; and

(3) Primarily serve a credit union and its members.

(f) (1) "Credit union share guaranty corporation" means a corporation engaged in the business of guaranteeing or insuring payment of a credit union share or deposit account.

(2) "Credit union share guaranty corporation" includes the Credit Union Insurance Corporation established under Title 7 of this article.

(g) "Deposit account" means a balance held by a credit union on which a contractual rate of interest may be paid as a debt owed by the credit union to the depositor.

(h) "Fixed assets" include land, buildings, leasehold improvements, furniture, fixtures, and equipment used in the conduct of the regular business of a credit union.

(i) "Member in good standing" means a member who:

(1) Owns at least one share in a credit union;

(2) Is current on all credit obligations to the credit union; and

(3) Has not caused the credit union a credit or deposit loss that is currently outstanding.

(j) "Officer" means any officer that a Maryland corporation is required or permitted to have under § 2-412 of the Corporations and Associations Article.

(k) "Official" means:

(1) A director;

(2) A member of a credit committee; or

(3) A member of a supervisory committee.

(l) "Out-of-state credit union" means:

(1) A federal credit union with its main office in a state other than this State; or

(2) A credit union chartered and primarily regulated by another state.

(m) "Share" or "share account" means a balance held by a credit union on which a dividend may be paid and which confers membership and voting rights on the member.

§6–201.

Except as otherwise indicated in this title, Titles 3 through 5 of this article do not apply to credit unions.

§6–202.

Credit unions are subject to the supervision of the Commissioner.

§6–203.

A credit union incorporated under the laws of this State, including its income, net worth, and other funds are exempt from all taxes imposed by this State or by any of its political subdivisions to the same extent as federal credit unions are exempt.

§6–204.

A credit union may exercise all the rights, privileges, and incidental powers necessary or appropriate to exercise its specific powers and to accomplish the purposes for which the credit union is organized.

§6–205.

This title shall be construed liberally to effectuate its purpose.

§6–206.

This title may be cited as the Maryland Credit Union Act.

§6–301.

(a) In this section, "organization" includes any trade, profession, club, union, religious congregation, society, association, fraternal group, or cooperative.

(b) Seven or more adult individuals, each of whom is a resident of this State, may act as incorporators to form a credit union under this subtitle with one of the following field of membership types:

(1) Single common bond;

(2) Multiple common bond; or

(3) Community common bond.

(c) (1) Except as otherwise provided in this subtitle, the following provisions shall govern the field of membership types.

(2) A single common bond credit union may serve one group of individuals all of whom as a common bond:

(i) Belong to the same recognized organization;

(ii) Are employed by a single corporation or other person;

(iii) Are employed by a single corporation or other person with at least a 10% ownership interest in or by another single corporation or person;

(iv) Are employed by a single corporation or other person that is related to another person, such as by contract and possessing a strong dependency relationship; or

(v) Are employed by or attend the same school.

(3) A multiple common bond credit union may serve one or more groups of individuals, as described in paragraph (2) of this subsection, as long as:

(i) Within each group all individuals have a common bond of organization or occupation; and

(ii) Each group is within reasonable geographic proximity and has access to a branch of the credit union.

(4) (i) Subject to the provisions of subparagraphs (ii) and (iii) of this paragraph and subsection (d) of this section, a community credit union may serve a group of individuals, all members of which, as a common bond, live, work, worship, or attend school within a single or two or more contiguous well-defined local communities, neighborhoods, rural districts, or counties.

(ii) If the common bond is within a single well-defined local community, neighborhood, rural district, or county, the total population at the time of the formation of the credit union may not exceed 300,000.

(iii) If the common bond is within two or more contiguous well-defined local communities, neighborhoods, rural districts, or counties, the total population at the time of the formation of the credit union may not exceed 200,000.

(d) Notwithstanding the provisions of subsection (c)(4) of this section, any credit union, without regard to its field of membership type, may include in its field of membership, without regard to location, a community, neighborhood, rural district, or county if:

(1) The Commissioner determines that the community, neighborhood,

rural district, or county is:

(i) An "investment area" as defined in 12 U.S.C. § 4702(16) of the Community Development Banking and Financial Institutions Act of 1994; and

(ii) Underserved by other depository financial institutions based on data of the Commissioner, the federal credit union and banking regulatory agencies, or other data sources; and

(2) The credit union establishes and maintains an office or branch in the community, neighborhood, rural district, or county at which credit union services are available within 2 years after the inclusion of the community, neighborhood, rural district, or county in the field of membership of the credit union.

(e) (1) Except as provided in paragraph (2) of this subsection, only a group with fewer than 3,000 members, excluding individuals who are eligible under § 6-302(b)(4) or (5) of this subtitle, shall be eligible to be included in the membership of a multiple common bond credit union.

(2) The numerical limitation in paragraph (1) of this subsection does not apply with respect to a group:

(i) That the Commissioner determines could not feasibly or reasonably establish a new single common bond credit union;

(ii) Transferred from another credit union in connection with:

1. A merger or consolidation approved by the Commissioner based on safety and soundness concerns; or

2. A liquidation approved by the Commissioner; or

(iii) Transferred through the merger or consolidation of two credit unions, both of which served the group immediately before the merger or consolidation.

§6–302.

(a) In this section, "immediate family relative" means:

(1) A spouse;

(2) A child;

(3) A sibling;

(4) A parent;

(5) A grandparent;

(6) A grandchild;

(7) A stepparent;

(8) A stepchild;

(9) A step-sibling; or

(10) Any adopted relative.

(b) A member of a credit union may be:

(1) An individual who shares with other members of the credit union one of the common bonds within the field of membership types approved by the Commissioner;

(2) An employee of the credit union;

(3) An entity that is composed primarily of individuals who are eligible for membership;

(4) An individual living in the same residence and maintaining a single economic unit with an individual who is eligible for membership; and

(5) An immediate family relative of an individual who is eligible for membership.

(c) A person that is eligible for membership under subsection (b) of this section becomes a member when the person:

(1) Subscribes to and pays for at least one share; and

(2) Meets all of the other requirements of the bylaws of the credit union.

(d) Once an individual who is eligible for membership under subsection (b)(4) or (5) of this section becomes a member, then an immediate family relative of the member is eligible to become a member.

(e) A member remains a member of a credit union until the member:

(1) Chooses to withdraw from the membership of the credit union; or

(2) Is expelled by the board under § 6-319 of this subtitle.

§6–303.

(a) (1) Subject to the provisions of § 6-301(c) and (e) of this subtitle, a multiple common bond credit union may add to its field of membership a group of over 750 potential members, excluding individuals who are eligible for membership under § 6-302(b)(4) or (5) of this subtitle, if:

(i) The members have approved the necessary amendment to the bylaws, as required under § 6-320(a) of this subtitle;

(ii) The credit union files with the Commissioner an application and any other documents that the Commissioner deems necessary to make a determination; and

(iii) The Commissioner determines that:

1. The credit union has not engaged in any material unsafe or unsound practice during the 1-year period preceding the date of filing the application;

2. The credit union has adequate net worth;

3. The credit union has the administrative capability to serve the potential members of the group and the financial resources to meet the need for additional staff and assets to serve the potential members of the group;

4. Any potential harm that the expansion may have on any other credit union and its membership is clearly outweighed in the public interest by the probable beneficial effect of the expansion in meeting the convenience and needs of the potential members of the group;

5. Formation of a separate credit union by the group is not practicable and consistent with reasonable safety and soundness standards; and

6. The group is within reasonable geographic proximity to a branch of the credit union.

(2) Unless the Commissioner notifies the credit union that a different time period is necessary, within 60 days after the application is filed, the Commissioner shall notify the credit union of the determination on the application.

(b) Subject to the provisions of § 6-301(c) and (e) of this subtitle, a multiple common bond credit union may add to its field of membership a group of 750 or less potential members, excluding individuals who are eligible under § 6-302(b)(4) or (5) of this subtitle, if:

(1) The board approves the addition of the group;

(2) The credit union notifies the Commissioner in writing within 30 days after the board approves the addition of the group;

(3) The requirements of subsection (a)(1)(iii) of this section are met; and

(4) The addition of the group has not been disapproved by the Commissioner within 30 days of the notification required under item (2) of this subsection.

§6–304.

(a) A credit union may convert to another field of membership type, as described in § 6–301 of this subtitle, if:

(1) The credit union:

(i) Meets the common bond requirements of the proposed field of membership type; and

(ii) Files with the Commissioner an application and any other documents that the Commissioner deems necessary to make a determination on the application; and

(2) The Commissioner determines that approval:

(i) Is in the best interest of the existing and proposed memberships;

(ii) Provides a means for better service to the existing membership;

(iii) Is in accordance with sound credit union practices; and

(iv) Does not expose the funds of the existing members to unnecessary risk.

(b) Unless the Commissioner notifies the credit union that a different time period is necessary, within 120 days after the application is filed, the Commissioner shall notify the credit union of the determination on the application.

(c) (1) No less than 30 days before the effective date of the conversion, the credit union shall give notice of the conversion to all groups of potential members of the credit union that will be removed from the field of membership as a result of the conversion.

(2) On and after the effective date of the conversion, the credit union:

(i) May not continue to serve groups within the field of membership of the credit union that no longer qualify for membership in the credit union as a result of the conversion; and

(ii) May continue to serve members of a group identified under item (i) of this paragraph who are members before the effective date of the conversion.

§6–305.

(a) The incorporators shall sign and acknowledge three copies of articles of incorporation.

(b) The articles of incorporation shall include:

(1) The name and residential address of each incorporator;

(2) A statement that each incorporator is 18 years of age or older;

(3) A statement that the incorporators are associating to form a credit union under this title;

(4) The name of the credit union;

(5) The field of membership type as described in § 6-301 of this subtitle;

(6) The municipal area and county where the credit union is to be located;

(7) The par value of the shares of the credit union;

(8) The number of shares to which each incorporator subscribes;

(9) The name and address in the State of the resident agent of the credit union for purposes of service of process in accordance with the Maryland General Corporation Law; and

(10) The number of directors and the names and residential addresses of the individuals who will serve as directors on the board until their successors are elected and qualify.

§6–306.

(a) The incorporators shall adopt bylaws for the credit union and shall sign and acknowledge two copies of them.

(b) The bylaws of the credit union shall include:

(1) The name and purpose of the credit union;

(2) Provisions for annual and special meetings of members and the manner of notification for and conduct of the meetings;

(3) The number of members that constitute a quorum and provisions that relate to voting;

(4) A detailed description of the field of membership;

(5) The qualifications for membership;

(6) The number of directors on the board and their powers and duties;

(7) The powers and duties of its credit committee, if any, and supervisory committee;

(8) The powers and duties of its officers;

(9) The number of and qualifications for directors emeriti, if any;

(10) The par value of its shares and the conditions for issuance, payment, transfer, and withdrawal;

(11) The conditions on which deposits may be received and withdrawn; and

(12) Provisions for determining and paying dividends on shares and interest on deposits.

§6–307.

(a) The incorporators shall:

(1) File with the Commissioner for examination three copies of the articles of incorporation and two copies of the bylaws; and

(2) Pay to the Commissioner a fee of $500.

(b) The Commissioner shall investigate and determine if:

(1) The articles and bylaws are framed in accordance with law and are reasonable;

(2) The character, responsibility, and general fitness of the incorporators command confidence and warrant belief that the business of the proposed credit union will be conducted honestly and efficiently, in accordance with the intent of this title; and

(3) Allowing the proposed credit union to engage in business:

(i) Will promote public convenience and advantage; and

(ii) Is expedient and desirable.

(c) After the investigation, the Commissioner may require any change in the articles of incorporation or bylaws that the Commissioner considers necessary.

(d) (1) Unless the Commissioner notifies the applicant that a different time period is necessary, within 120 days after the articles and bylaws are filed, the Commissioner shall sign, date, and endorse each copy of the articles and bylaws as "approved" or "refused".

(2) If formation of the credit union is refused, the Commissioner shall notify the incorporators in writing of the reason for the refusal.

(3) If formation of the credit union is approved, the Commissioner shall:

(i) Return to the incorporators two of the endorsed copies of the articles and one of the endorsed copies of the bylaws; and

(ii) Keep one of the endorsed copies of the articles and the bylaws.

§6–308.

(a) If the Commissioner approves the articles and bylaws, the incorporators shall file for record with the State Department of Assessments and Taxation one of the endorsed copies of the articles of incorporation.

(b) When the articles of incorporation are filed for record in accordance with the provisions of subsection (a) of this section, the credit union becomes a corporation.

§6–309.

(a) When filing the articles of incorporation and bylaws with the Commissioner under § 6-307 of this subtitle, the incorporators shall file with the Commissioner an initial application on a form that the Commissioner requires.

(b) The initial application shall include:

(1) The field of membership type requested;

(2) A detailed description of the field of membership;

(3) A mission statement;

(4) A detailed business plan that includes the items that the Commissioner reasonably requires; and

(5) Any other information that the Commissioner reasonably requires.

(c) (1) In connection with an initial application and at any other time the Commissioner requests, each incorporator and director shall provide fingerprints for use by the Federal Bureau of Investigation and the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services to conduct criminal history records checks.

(2) Any incorporator or director required by this subsection to provide fingerprints shall pay any processing or other fee required by the Federal Bureau of Investigation or the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services.

(3) The fingerprinting and criminal history records check requirements shall apply to any other official or officer of the credit union as requested by the Commissioner.

§6–312.

In addition to the powers set forth elsewhere in this title, a credit union may:

(1) Receive the shares and deposits of its members;

(2) Lend money to its members;

(3) Invest funds as provided in this title; and

(4) Undertake other activities that:

(i) Are consistent with this title;

(ii) Relate to its purposes; and

(iii) Are authorized by its bylaws.

§6–313.

(a) Notwithstanding any other provision of the laws or regulations of the State, on approval of the Commissioner, a credit union may engage in any additional activity, service, or other practice in which, under federal law or regulation, federal credit unions may engage.

(b) The Commissioner may grant an approval under this section only if:

(1) The Commissioner determines that approval:

(i) Reasonably is required to protect the welfare of the general economy of the State and of credit unions; or

(ii) Is not detrimental to the public interest or to credit unions; and

(2) The approval imposes the same conditions that federal law or regulation requires or permits as to federal credit unions.

§6–314.

(a) Without being required to take any action to perfect a lien, a credit union has a lien and a right to a setoff on the shares and deposits of a member in any individual, multiple party, or other type of account, including any dividends or interest payable on those shares or deposits, to the extent of any delinquency or default of the member on:

(1) Any outstanding loan, whether or not matured, on which the member is liable to the credit union as maker, comaker, surety, or endorser; and

(2) Any dues, charges, fees, fines, or other amount payable by the member.

(b) If a member resigns or is expelled, the credit union may cancel that member's shares and apply their withdrawal value against any amount owed to the credit union by the member.

(c) A credit union may allow a withdrawal of a member's shares or deposits without affecting the credit union's lien or right to a setoff.

(d) A credit union may refuse to allow a withdrawal of a member's shares or deposits to the extent of any delinquency or default of the member to the credit union.

§6–317.

(a) (1) The annual meeting of the members shall be held as provided by the bylaws and at the time and place that the board determines.

(2) Special meetings of members shall be held:

(i) On order of the directors or the supervisory committee; or

(ii) At the request of 10 percent of the members.

(3) Notice of each meeting shall be given as the bylaws provide.

(b) (1) Each member in good standing has one vote, notwithstanding the number of shares that the member holds.

(2) A member may not vote by proxy. However, a member that is not an individual may be represented by an individual authorized in writing by the member to represent it.

(3) A member may not vote or hold office if the member is less than 18 years of age.

(c) (1) At any meeting of the members, the members may:

(i) Decide any question of interest to the credit union;

(ii) Except for any instance where, in the judgment of the board, it would result in damage to the credit union's financial soundness or would otherwise force the board to abrogate their fiduciary responsibility, overrule any decision of the board; and

(iii) Amend the bylaws or articles of incorporation as provided in § 6-320 of this subtitle.

(2) At the annual meeting of the members, the members shall elect directors, unless they are elected as provided in § 6-329 of this subtitle or as provided in the bylaws for mail balloting.

§6–318.

(a) The provisions of this section do not apply to:

(1) An action authorized under § 6-329 or § 6-321 of this subtitle;

(2) A voluntary dissolution under § 6-804 of this title; or

(3) An authorization of compensation under § 6-331 of this subtitle.

(b) The board of a credit union:

(1) May authorize by resolution any question, proposal, or other matter requiring membership approval to be voted on by mail ballot; and

(2) Shall establish a sequence of dates by which the voting procedures are initiated and completed.

(c) The secretary of the credit union shall mail to each member in good standing who is eligible to vote:

(1) A printed ballot;

(2) An explanation of the question, proposal, or other matter to be voted on; and

(3) A postage pre-paid and pre-addressed return envelope.

(d) Unless otherwise provided in this title, the printed ballot shall be mailed to each member in good standing who is eligible to vote, not more than 30 days nor less than 7 days before the date set by the board for the filing of the mail ballot.

(e) (1) The question, proposal, or other matter is adopted only if approved by a majority of the ballots timely received from the members eligible to vote and in good standing and voting.

(2) The credit union shall report the results of the mail ballot to the members.

§6–319.

(a) Subject to the applicable provisions of the bylaws, the board may expel any member of the credit union who:

(1) Defaults on the payment of any monetary obligation to the credit union;

(2) Is convicted of a criminal offense involving dishonesty or breach of trust;

(3) Neglects or refuses to comply with the provisions of this title or of the bylaws of the credit union;

(4) Habitually neglects to pay debts or becomes insolvent or bankrupt; or

(5) Subject to the provisions of subsection (b) of this section, violates a written expulsion policy adopted by the board.

(b) (1) The board shall post conspicuously at each office of the credit union a notice of any expulsion policy adopted by the board.

(2) A person expelled by the board may request a reconsideration of the expulsion.

§6–320.

(a) (1) The board may amend the articles of incorporation only if the members approve the amendment.

(2) (i) Except as provided in subparagraph (ii) of this paragraph, the board may amend the bylaws without approval of the members.

(ii) The board may amend the bylaws only with the approval of the members for any amendment that addresses one of the following subjects:

1. The manner or method by which a meeting of the members can be convened;

2. Quorum requirements for a meeting of the members;

3. The voting rights of members;

4. Except as provided in § 6-303(b) of this subtitle, any change in the field of membership;

5. Requirements for the number, classifications, qualifications, and term of office for directors;

6. Procedures for removing directors;

7. Procedures for filling vacancies on the board; and

8. Any other issue as determined by the Commissioner.

(b) At any meeting of the members, the members may amend the articles of incorporation or, may approve an amendment to the bylaws as provided in subsection (a)(2)(ii) of this section, if:

(1) The notice of the meeting specifies the amendment to be considered;

and

(2) Two-thirds of the members present vote for the amendment.

(c) (1) An amendment to the articles of incorporation does not become effective until:

(i) The amendment is approved by the Commissioner in writing no later than 60 days after the date of submission of the proposed amendment, unless the Commissioner and the credit union agree to a longer period of time; and

(ii) A copy of the amendment certified by the Commissioner is filed with the State Department of Assessments and Taxation.

(2) Whether approved only by the board or by the members as required under subsection (a)(2)(ii) of this section, an amendment to the bylaws does not become effective until the amendment is approved by the Commissioner in writing no later than 60 days after the date of submission of the proposed amendment, unless the Commissioner and the credit union agree to a longer period of time.

(d) The action of the Commissioner on the proposed amendment to the articles of incorporation or the bylaws under subsection (c)(1)(i) or (2) of this section shall be based on a finding as to whether or not the proposed amendment:

(1) Is in the best interest of the membership;

(2) Provides means for better service to the membership;

(3) Is in accord with sound credit union practices; and

(4) Exposes the members' funds to unnecessary risk.

(e) The board shall report an amendment to the members of the credit union no later than the next meeting of the members after the Commissioner approves the amendment.

§6–321.

(a) The board:

(1) By resolution may authorize an amendment to the bylaws or articles of incorporation to be voted on by mail ballot; and

(2) Shall establish a sequence of dates by which the voting procedures are initiated and completed.

(b) The secretary of the credit union shall mail to each member in good standing:

(1) A printed ballot;

(2) A copy of any old bylaw or article of incorporation affected by the proposed amendment; and

(3) A copy of the proposed bylaw or article of incorporation.

(c) (1) The amendment is adopted only if approved by two-thirds of the mail ballots timely received from the members in good standing and voting.

(2) The credit union shall report the results of the mail ballot to the credit union members.

§6–324.

The board shall have the authority and responsibility for the business affairs, funds, and records of a credit union.

§6–325.

(a) Each credit union shall have at least five directors.

(b) Each director:

(1) Shall be a member of the credit union;

(2) Shall be bonded;

(3) May not have:

(i) Defaulted on the payment of any monetary obligation to the credit union;

(ii) Been convicted of any criminal offense involving dishonesty or breach of trust;

(iii) Habitually neglected to pay debts;

(iv) Become insolvent or bankrupt; or

(v) Been removed by any state or federal regulatory agency from office as an officer, official, or employee of a financial institution; and

(4) Shall comply with any other qualifications set forth in the credit union bylaws.

(c) A director holds office for the term that the bylaws provide, which may not exceed 3 years, and until a successor is elected and qualifies.

(d) Each director shall take an oath that the director:

(1) Will diligently and honestly perform the duties as director in administering the credit union's affairs;

(2) Will remain responsible for the performance of the duties of the director even if the director delegates the performance of the duties; and

(3) Will not knowingly or willfully permit the violation of an applicable law or regulation.

(e) The chairman and, if any, vice chairman of the board shall be elected by and from the directors.

§6–326.

(a) The office of a director becomes vacant if the director:

(1) Dies;

(2) Resigns; or

(3) Is removed.

(b) A director may be removed from office:

(1) By the board, in accordance with the bylaws, if the director:

(i) Does not possess or maintain the qualifications required to serve on the board; or

(ii) Is absent from three consecutive regular meetings of the board unless excused; or

(2) By the members.

(c) (1) Unless the bylaws provide otherwise, the remaining directors by majority vote shall fill a vacancy.

(2) A director elected by the board to fill a vacancy holds office as the bylaws provide.

§6–327.

(a) If the bylaws provide, a director emeritus may advise and consult with the board and aid the board in carrying out the board's duties and responsibilities.

(b) The bylaws shall provide for:

(1) The number of directors emeriti; and

(2) The qualifications for a director emeritus.

(c) A director emeritus:

(1) Shall be a member of the credit union; and

(2) May not be an officer or an official.

(d) A director emeritus may not:

(1) Participate in any board or committee deliberations;

(2) Make motions; or

(3) Vote on any matter before the board.

§6–328.

(a) In addition to any power or duty provided for by law, the board shall:

(1) Act on each application for membership;

(2) Approve the amount of any blanket fidelity bond and any appropriate insurance or surety bond;

(3) Limit the number of shares or deposits that a member or depositor may hold;

(4) Limit the amount that the credit union may lend to any one member and establish the interest rate on all loans;

(5) Determine the interest rate on deposits and the manner of calculation;

(6) In the absence of a credit committee, appoint one or more loan officers and delegate to those officers the power to approve or disapprove loans and lines of credit in accordance with written policies established by the board;

(7) In the absence of a credit committee and upon written request of a member, review a loan application denied by a loan officer or establish a subcommittee of the board for this purpose;

(8) Fill any vacancy on the supervisory committee or, if any, a credit committee;

(9) Manage the investment of credit union funds in accordance with written investment policies established by the board;

(10) Set the amount of compensation for the president;

(11) Appoint standing or special committees, as necessary, to carry on the business of the credit union and prescribe conditions and limitations for any committee that the board appoints;

(12) Approve an annual operating budget for the credit union;

(13) Establish and adopt written policies necessary to implement the powers and duties of the credit union, including policies on:

(i) Loans and lending;

(ii) Investments;

(iii) Employment and personnel;

(iv) Funds management;

(v) Collections;

(vi) Charge offs; and

(vii) Expulsion of members;

(14) Make adequate provision for:

(i) Investment losses;

(ii) The statutory reserve account;

(iii) Any special reserve account; and

(iv) The allowance for a loan and lease loss account;

(15) Determine the amount, if any, that may be assessed for late fees or other charges;

(16) Delegate to the officers, employees, or committees duties as the board may deem appropriate;

(17) Establish and maintain a system of internal controls consistent with safety and soundness and generally accepted accounting principles; and

(18) Except for any instance where, in the judgment of the board, it would result in damage to the credit union's financial soundness or would otherwise force the board to abrogate their fiduciary responsibility, perform every other duty that the members require.

(b) (1) Subject to the provisions of paragraphs (2) and (3) of this subsection, the board may suspend a member of the supervisory committee.

(2) The suspension:

(i) Shall be by a two-thirds vote of the board; and

(ii) Takes effect immediately and remains in effect until the board convenes a meeting of the members to vote on the suspension.

(3) Immediately after the board votes to suspend a member of the supervisory committee, the board shall:

(i) Call a meeting of the members, to be held no later than 15 days after the date of the suspension, for the purpose of voting on the suspension; and

(ii) Notify the Commissioner in writing about the suspension.

§6–329.

(a) Subject to the provisions of this section, the directors may be elected exclusively by mail ballot or electronically in accordance with regulations adopted by the Commissioner, if:

(1) The board of the credit union, by resolution posted conspicuously at the principal office of the credit union at least 90 days before the annual meeting of the members of the credit union, authorizes the election of directors exclusively by mail ballot or electronically; or

(2) (i) The bylaws provide for the election of directors exclusively by mail ballot or electronically; and

(ii) Notice of the election and the annual meeting is posted conspicuously at the principal office of the credit union at least 90 days before the date of the annual meeting.

(b) (1) At least 75 days before the annual meeting, the board of the credit union shall appoint a nominating committee of at least three members.

(2) The nominating committee shall nominate at least one member for each vacancy on the board, after determining that a proposed nominee agrees to permit the nomination and, if elected, to accept the office.

(3) The nominating committee shall file its nominations with the secretary of the credit union at least 60 days before the annual meeting.

(4) The secretary shall post these nominations conspicuously at the principal office of the credit union at least 55 days before the annual meeting.

(c) (1) (i) The lesser of 1 percent or 500 of the members in good standing, but in any case no less than 20, may nominate candidates for directorships by signing

a petition.

(ii) Each page of the petition shall include:

1. The name of the credit union; and

2. The name of the nominee.

(iii) Each petition shall contain:

1. The printed or typed names, signatures, date, and account numbers of those members in good standing signing the petition; and

2. A certificate by each nominee that the nominee agrees to permit the nomination and, if elected, to accept the office.

(iv) The nominating committee shall determine the validity of any petition.

(2) Petitioners shall file their nomination with the secretary of the credit union at least 55 days before the annual meeting.

(3) The secretary shall post these nominations conspicuously at the principal office of the credit union at least 20 days before the annual meeting.

(d) (1) When only one member is nominated for a position to be filled, the chairman may:

(i) Take a voice vote; or

(ii) Declare the nominee elected by general consent or acclamation at the annual meeting.

(2) If the nominations of the nominating committee and any petitioners provide more than one nominee for each directorship to be filled, the secretary:

(i) For an election of directors conducted by mail ballot, shall mail to each member in good standing, at least 20 days before the annual meeting:

1. A printed ballot, clearly identified as a ballot, on which appears the name of each nominee, in alphabetical order, and on which, in the form that the board approves, may appear after a nominee's name:

A. A brief statement of the nominee's qualifications and biographical information; and

B. If applicable, a notation that the nominee is the incumbent;

2. A postage prepaid and preaddressed envelope clearly

marked with instructions to place the completed ballot and the identification form in the envelope and seal the envelope; and

3. An identification form to be completed to include the name, address, signature, and credit union account number of the voter; and

(ii) For an election of directors conducted electronically, shall provide the information and identification form required under item (i) of this paragraph as provided in regulations adopted by the Commissioner.

(3) One form may be printed or provided electronically that represents a combined ballot and identification form.

(e) The board shall appoint the tellers of the election.

(f) The tellers of an election may not count a ballot unless it is:

(1) Mailed or electronically submitted to the tellers; and

(2) Received by the tellers not later than midnight of the 7th day before the date of the annual meeting.

(g) The tellers of the election shall:

(1) Verify or cause to be verified the name of each voter and the credit union account number of the voter as it appears on the identification form;

(2) Authenticate any questionable or challenged identification form;

(3) Keep the verified identification form and ballot for safekeeping pending the count of the vote;

(4) Keep separate any questionable or challenged identification form and ballot until the authentication, verification, or challenge is resolved;

(5) Determine that each eligible voter does not vote more than once and is a member in good standing; and

(6) After the time set in subsection (f)(2) of this section, tally the votes and report the results to the board.

(h) The board shall report the results of the election at the annual meeting of the members.

(i) The Commissioner shall establish by regulation procedures for conducting an election of directors electronically, including procedures for:

(1) Providing notice of the election to each member in good standing;

(2) Providing the information and identification form specified in subsection (d)(2)(i)1 of this section;

(3) Providing instructions on how to access and use the electronic election system; and

(4) Allowing a member to opt out of using the electronic election system and vote by mail ballot.

§6–330.

(a) Within 15 days after the annual meeting of the members and after the directors-elect have qualified, the board shall meet and elect the officers of the credit union.

(b) Unless the bylaws provide otherwise:

(1) Each officer serves for a term of 1 year and until a successor is elected and qualifies; and

(2) The president shall be the chief executive officer who shall be responsible for the day to day operations of the credit union.

(c) Subject to the provisions of an enforceable employment contract, if any, the board may remove an officer at any time.

§6–331.

(a) In this section, "compensation" means anything of value given to an official that is:

(1) In exchange for services performed as an official; and

(2) Reportable as income to the Internal Revenue Service or the Comptroller of the State.

(b) Each official is entitled to the compensation that:

(1) Subject to the provisions of subsection (c) of this section, the members authorize; and

(2) Except as provided in subsection (d)(2) of this section, is approved by the Commissioner.

(c) (1) All compensation to be paid under subsection (b) of this section shall be authorized by a vote of the members at the annual meeting of the membership in accordance with § 6-317 of this subtitle.

(2) Written disclosure of the proposed compensation and each official's

expenses shall be made to all members in good standing not less than 30 days and not more than 90 days before the annual meeting of members.

(3) The written disclosure required under paragraph (2) of this subsection shall contain at least the following information:

(i) The proposed dollar amount of compensation that will be paid to each official on a per meeting or other applicable basis;

(ii) The aggregate dollar amount of compensation paid to all officials for the 12 months immediately preceding the date of the notice of the annual meeting of members;

(iii) 1. A reasonable estimate of the aggregate dollar amount of compensation to be paid to all officials for the following 12 month period assuming:

A. That the proposed compensation is approved; and

B. The same number of meetings as were held during the 12 months immediately preceding the date of the notice of the annual meeting of members; or

2. A statement that the compensation to be paid to all officials will remain the same as it was during the 12 months immediately preceding the date of the notice of the annual meeting of members; and

(iv) The aggregate dollar amount of all officials' expenses, excluding compensation, for the 12 months immediately preceding the date of the notice of the annual meeting of members.

(4) (i) The written disclosure shall be conspicuously set apart from other information provided to the members.

(ii) The written disclosure may be included in:

1. The notice of the annual meeting of the members;

2. A separate mailing;

3. A periodic statement of account; or

4. A periodic publication of the credit union.

(d) (1) All requests for the Commissioner's approval under subsection (b) of this section shall:

(i) Be made in writing; and

(ii) Contain a certification by the president of the credit union

that the compensation has been authorized by the membership in accordance with subsection (c) of this section.

(2) The Commissioner's approval is not required if the credit union:

(i) Was rated "1" or "2" as of the last examination conducted by the Commissioner; and

(ii) Has a positive net income as of the end of the previous calendar year.

§6–332.

(a) A board may call a special meeting of the members to act on a report or recommendation of the supervisory committee that concerns the suspension from office of a member of the credit committee, a director, or an officer.

(b) The notice of the special meeting shall be given within 7 days after the board receives the report or recommendation.

§6–333.

(a) The board shall prepare a plan for educating each official as to the duties and responsibilities that accompany the official's position.

(b) The education plan may include requiring an official to:

(1) Read materials;

(2) Attend seminars, conferences, or workshops; or

(3) Review films or tapes.

(c) The preparation of and compliance with an education plan developed under this section may not be construed to limit the civil or criminal liability of an official arising from an act or omission by the official in the performance of any duty or responsibility of the official.

§6–401.

(a) Each credit union shall have a supervisory committee.

(b) The board shall appoint the members of the supervisory committee at:

(1) The first meeting of the board following the annual meeting of the members; and

(2) Any time there is a vacancy.

(c) (1) Subject to the provisions of paragraph (2) of this subsection, the board shall determine the number of members on the supervisory committee.

(2) The supervisory committee shall have at least three and not more than seven members.

(d) (1) Each member of the supervisory committee shall be appointed from among the members of the credit union.

(2) Not more than one member of the supervisory committee may be a director.

(3) An officer of the credit union, a member of the credit committee, or an employee of the credit union may not be a member of the supervisory committee.

(4) At least one member of the supervisory committee shall have experience in:

(i) Accounting;

(ii) Auditing; or

(iii) General business.

(5) Each member of the supervisory committee:

(i) Shall be bonded;

(ii) May not have been convicted of any criminal offense involving dishonesty or breach of trust;

(iii) May not have habitually neglected to pay any debts;

(iv) May not become insolvent or bankrupt while serving on the supervisory committee; and

(v) May not have been removed by the Commissioner or any state or federal regulatory agency as an officer, official, or employee of a financial institution.

(e) The members of the supervisory committee shall elect the chairman of the supervisory committee:

(1) At the beginning of each term of appointment to the committee; and

(2) At any time there is a vacancy and the board is notified.

(f) A member of the supervisory committee serves for 1 year and until a successor is appointed and qualifies.

(g) Each member of the supervisory committee shall take an oath to perform faithfully the duties of the office.

(h) (1) The board shall appropriate funds:

(i) For an audit conducted by an outside auditor; and

(ii) If required, for an internal auditing function.

(2) The supervisory committee has the sole authority to engage or terminate outside and internal auditors.

§6–402.

(a) The supervisory committee is responsible for ensuring that the officials and officers:

(1) Meet required financial reporting objectives; and

(2) Establish practices and procedures sufficient to safeguard members' assets.

(b) To meet its responsibilities, the supervisory committee shall determine whether:

(1) Internal controls are:

(i) Established and effectively maintained to achieve the credit union's financial reporting objectives; and

(ii) Sufficient to satisfy the requirements of the supervisory committee audit, verification of members' accounts, and the supervisory committee's additional responsibilities;

(2) The credit union's accounting records and financial reports are promptly prepared and accurately reflect operations and results;

(3) The relevant plans, policies, and control procedures established by the board are properly administered; and

(4) The board's plans, policies, and control procedures are sufficient to safeguard against error, carelessness, conflict of interest, self-dealing, and fraud.

(c) (1) The supervisory committee shall submit:

(i) A report on the annual audit to the board; and

(ii) A summary of the report on the annual audit to the members at the annual meeting of the members.

(2) The supervisory committee shall conduct or cause to be conducted and shall submit to the board, supplementary audits as the supervisory committee deems necessary.

(3) The supervisory committee shall submit written reports periodically to the board addressing activities since the last report.

(d) (1) The supervisory committee audit of a credit union shall occur at least once each calendar year and shall cover the period elapsed since the last audit period.

(2) The supervisory committee annual audit shall meet the following minimum guidelines:

(i) A credit union with assets over $250,000,000 shall have an opinion audit of the credit union's financial statements performed by an independent licensed certified public accountant; and

(ii) A credit union with assets of less than $250,000,000 may satisfy the audit requirements by:

1. An opinion audit of the credit union's financial statements performed by an independent licensed certified public accountant;

2. In accordance with the provisions of paragraph (3) of this subsection, an agreed upon procedures engagement performed by a qualified person with appropriate knowledge of auditing concepts and credit union procedures; or

3. An audit performed by the supervisory committee or the credit union's internal auditors.

(3) The following minimum procedures shall be satisfied under paragraphs (2)(ii)2 and (2)(ii)3 of this subsection:

(i) Determine that the reserve fund is sufficient in accordance with § 6-703 of this title;

(ii) Determine that the credit union meets minimum net worth requirements in accordance with § 6-702 of this title;

(iii) Review and test the bank statement reconciliations by testing for mathematical accuracy and ensuring that reconciling items are reasonable and clear promptly;

(iv) Perform an unannounced cash count at some time during the period covered by the audit and ensure that the amount of cash counted agrees to the general ledger;

(v) Review a sufficient number of current and delinquent loans to

determine whether or not they are in accordance with the credit union's underwriting policies and procedures as established by the board;

(vi) Determine that the trial balance listing of loans agrees with the general ledger;

(vii) Determine that the allowance for the loan and lease loss account meets the minimum standards required under § 6-704 of this title;

(viii) Determine that all loans that are delinquent 60 days or more are reported to the board monthly;

(ix) Determine that the investment subsidiary or list of investments agrees with the general ledger by performing the following procedures:

1. Compare the balance of investments and accrued interest receivable from the subsidiary ledger to the general ledger;

2. Choose a sample of investments and compare the market value per the subsidiary ledger to an outside source;

3. Test the accrued interest and compare it to the subsidiary ledger;

4. Test a sample of investment purchases or sales during the audit period for proper authorization to make sure that the accounting treatment is correct, compare the terms of the transactions to a broker advice, and make sure that the investment is in accordance with board policy; and

5. Confirm all investments with any depository institution, broker, or third party safekeeping agent, or inspect the original certificate, if it is in the possession of the credit union;

(x) Determine that the trial balance listing of shares and deposits agrees with the general ledger;

(xi) Perform a minimum of 20 share and deposit dividend and interest calculations paid during the audit period;

(xii) Obtain a list of all overdrawn share and deposit accounts and determine that management is attempting to collect these items;

(xiii) Obtain a listing of other asset and other liability accounts, make a selection of five of these accounts including any suspense or clearing accounts, and perform the following procedures:

1. Obtain reconciliations of the selected accounts and compare the balance to the general ledger;

2. Test the mathematical accuracy of the reconciliation; and

3. Determine whether any reconciling items have been outstanding for more than 30 days;

(xiv) Perform a minimum of 20 loan interest calculations collected during the audit period;

(xv) Review the minutes of the board meetings to ensure that they document relevant decisions, including decisions about charged off loans, interest rate changes, policy changes, interest and dividend rates, personnel issues, and the annual budget; and

(xvi) Other auditing procedures as are deemed necessary by the board, the Commissioner, or the supervisory committee.

(e) (1) At least once every 2 years the supervisory committee or its designee shall verify the accounts of the members in accordance with paragraph (2) of this subsection.

(2) The verification shall be performed using one of the following methods:

(i) A 100% verification of the share and loan accounts of all members;

(ii) A statistical sampling of member share and loan accounts done in connection with an opinion audit of the financial statements performed by a licensed certified public accountant; or

(iii) A statistical sampling method that provides a random selection that is expected to be representative of the membership.

(f) (1) A credit union with assets in excess of $250,000,000 shall have an internal audit function in accordance with paragraph (2) of this subsection.

(2) The supervisory committee shall:

(i) Hire one or more internal auditors to assist the supervisory committee in the performance of the audit duties of the supervisory committee;

(ii) Adopt and execute an annual internal audit plan that adheres to board policies and includes:

1. An evaluation of internal controls; and

2. Operational procedures; and

(iii) Direct the duties of the internal auditor.

(g) Any agreement between the supervisory committee and an outside auditor shall be documented by an engagement letter that specifies the terms, conditions, and objectives of the arrangement.

(h) (1) All work performed by the supervisory committee, outside auditors, or internal auditors shall be documented by appropriate work papers.

(2) The Commissioner shall have access to the work papers for a period of up to 3 years after the completion of the audit procedure.

(i) (1) At any time, by a unanimous vote, the supervisory committee may suspend a director, an officer, or a member of the credit committee for cause.

(2) (i) Subject to the provisions of subparagraph (ii) of this paragraph, the suspension will take effect immediately and stay in force until the board convenes a special meeting of the members to act on the suspension.

(ii) The meeting of the members shall take place no later than 15 days from the date of the vote to suspend, for the purpose of voting on the suspension.

(3) The supervisory committee shall notify the Commissioner in writing immediately at the time of the suspension of the director, officer, or member of the credit committee.

(j) The supervisory committee shall send promptly to the Commissioner a copy of the annual audit and all recommendations, charges, and significant findings that the supervisory committee presents to the board.

§6–403.

(a) In this section, "examiner" means:

(1) The Commissioner; and

(2) An individual whom the Commissioner designates as examiner.

(b) An examiner shall visit each credit union and examine its business:

(1) At least once during each calendar year, unless the Commissioner determines that, during a calendar year, an examination is unnecessary, in which event an examination shall occur no less frequently than once every 18 months;

(2) When requested by the board or supervisory committee of the credit union; and

(3) At any other time that the Commissioner considers necessary.

§6–404.

(a) On or before March 31 of each year, each credit union shall report to the Commissioner on the business of the credit union during the preceding calendar year.

(b) The Commissioner may require any other reports from a credit union that the Commissioner considers necessary.

(c) Each report made under this section shall be:

(1) On the form that the Commissioner provides; and

(2) Signed and acknowledged by:

(i) A majority of the members of the supervisory committee; and

(ii) The president, vice-president, secretary, or treasurer of the credit union.

(d) If a credit union fails to make any report as required by this title, the credit union shall pay to the Commissioner $50 for each day that the report is overdue.

§6–405.

(a) If the Commissioner finds that the supervisory committee of a credit union is not performing its duties properly, the Commissioner may require the credit union to have a certified public accountant audit the credit union for any period of time that the Commissioner considers necessary.

(b) The audit required under subsection (a) of this section shall be made at the expense of the credit union.

§6–406.

(a) The board may call a meeting of the members of the credit union to act on any practice of the credit union that the supervisory committee considers unsafe or unauthorized.

(b) The board shall give the Commissioner advance notice of a meeting of the members that is called under subsection (a) of this section.

§6–407.

In order to carry out the purposes of this title, the Commissioner may enter into cooperative and information sharing agreements with any other credit union supervisory agency.

§6–501.

As to each interest bearing or share account of each member or depositor in a credit union, the credit union shall generally make available to any member or depositor with an existing account, in addition to actually giving to the member or depositor, on the opening of the interest bearing or share account and, later, on demand of the member or depositor the following written notice:

"Under Maryland law, all funds remaining in this interest bearing or share account become the property of this State after the account has been inactive for 3 years and notice is sent to the member or depositor at that member's or depositor's last known address. This account will be considered inactive if the member or depositor has not: (1) increased or decreased the amount in the account; (2) presented the passbook or other similar evidence of the account for the crediting of interest or dividends; (3) written to this credit union about the account; (4) engaged in any credit, share, or other deposit transaction with the credit union; or (5) otherwise indicated an interest in the account as evidenced by a memorandum on file with this credit union."

§6–502.

(a) (1) Except as otherwise provided in this section, the board may declare and pay dividends from its available net earnings or undivided earnings at the close of any accounting period after providing for accrued expenses and interest.

(2) Dividends paid or accrued are to be treated as an expense.

(b) The board shall set the dividend rate and any terms and conditions regarding the dividend.

(c) A credit union may not declare a dividend:

(1) Unless the required amount of earnings has been credited to the reserve fund of the credit union; or

(2) If the known losses at the close of a fiscal year would exceed the sum of the balances of the reserve fund, surplus, and undivided earnings after payment of the dividend.

§6–503.

(a) Any share drafts or checks provided directly or indirectly by a credit union for use in connection with a personal account shall have the numerical month and year in which the account was opened printed on the face of the drafts or checks, except as provided in subsection (b) of this section.

(b) The provisions of subsection (a) of this section shall not apply under the following conditions:

(1) If an individual personal account is closed at a particular credit union and a joint personal account is opened at the same credit union that includes one of the customers who previously had the individual personal account, then the numerical month and year printed on the face of the share drafts or checks shall be the numerical month and year in which the individual personal account was established.

(2) If a joint personal account is closed at a particular credit union and an individual personal account is opened at the same credit union by one of the customers who previously was included under the joint account, then the numerical month and year printed on the face of the share drafts or checks shall be the numerical month and year in which the joint account was established.

(3) If a customer with an individual personal account or with a joint personal account opens an additional account at the same credit union, then the numerical month and year printed on the face of the share drafts or checks shall be the numerical month and year in which the initial account was established.

(4) In the case of a personal account that is closed and a new personal account opened simultaneously on the advice of the credit union, the share drafts or checks for the new account shall have the numerical month and year in which the closed account was originally opened printed on the face of the share drafts or checks.

(5) If the closed account was opened prior to July 1, 1987, a date is not required to be printed on the share drafts or checks.

(c) A share draft or check provided on the opening of a personal account for use by the customer until printed share drafts or checks have been prepared is not required to have the numerical month and year in which the account was opened printed on the face of the share draft or check.

(d) (1) The credit union and the share draft or check printer may not be held liable for unintentional errors in the month and year printed on the face of the share draft or check.

(2) The customer may not be charged for the reprinting of the share drafts or checks when the share drafts or checks are reprinted due to error in the month and year printed on the face of the share draft or check.

§6–601.

(a) Subject to the provisions of this subtitle, a credit union may make loans and extend lines of credit to its members in accordance with written policies established by the board.

(b) Notwithstanding subsection (e) of this section, § 6-606(d) of this subtitle, and § 12-913.1 of the Commercial Law Article, on or after October 1, 1994, a revolving credit plan and extensions of credit under a revolving credit plan offered and extended by a credit union to a member are made under and are subject to Title 12, Subtitle 9 of

the Commercial Law Article.

(c) Notwithstanding subsection (e) of this section, § 6-606(d) of this subtitle, and § 12-1013.1 of the Commercial Law Article, on or after October 1, 1994, a closed end loan made by a credit union to a member is made under and is subject to Title 12, Subtitle 10 of the Commercial Law Article.

(d) Except as provided in subsection (e) of this section and § 6-606(d) of this subtitle, and except as otherwise provided under the express terms of the agreement, note, or other evidence of an extension of credit or loan, the provisions of Title 12, Subtitle 1, 3, 4, 5, 6, 9, or 10 of the Commercial Law Article do not apply to an extension of credit or loan made by a credit union before October 1, 1994.

(e) (1) This subsection does not apply to an extension of credit or loan made by a credit union on or after October 1, 1994.

(2) Except as otherwise expressly provided in this title, a credit union may not charge interest on any loan to a member at a rate of more than 1.5% a month on the unpaid balance.

(3) Notwithstanding the provisions of paragraph (1) of this subsection, a credit union may charge interest on a loan to a member made on or after July 1, 1982, at 2% a month on the unpaid balance provided, with respect to the loan, that:

(i) If the loan is a renewal or refinancing of a loan made prior to July 1, 1982, the lender complies with § 12-116 of the Commercial Law Article;

(ii) If the loan includes a provision for a rate of interest which may be adjusted by the lender during the term of the loan, the lender complies with § 12-118 of the Commercial Law Article;

(iii) Upon the borrower's default, if the loan is secured by personal property, the lender complies with § 12-115 of the Commercial Law Article concerning repossession and redemption of the goods securing the loan;

(iv) If the loan is for the purchase of consumer goods, the loan contract complies with § 12-117 of the Commercial Law Article; and

(v) The loan does not include a balloon payment, unless payment in full is due on demand or in 1 year or less.

(f) Notwithstanding any provision of Title 12 of the Commercial Law Article, if the credit agreement provides, a credit union may make loans or extend credit to its members incorporating the same terms and conditions as a federal credit union is permitted under federal law and regulations relating to:

(1) Over the limit fees for credit cards; and

(2) Fees for ancillary and administrative services requested by the member, including:

(i) Researching account records;

(ii) Providing duplicate statements and other documents; and

(iii) Expedited issuance of a duplicate or original credit card or device.

§6–602.

(a) If the bylaws so provide, a credit union may have a credit committee.

(b) The board shall appoint the members of the credit committee.

(c) (1) Subject to the provisions of paragraph (2) of this subsection, the board shall determine the number of members on the credit committee.

(2) The credit committee shall have at least three and not more than seven members.

(d) (1) Each member of the credit committee shall be appointed from among the members of the credit union.

(2) Not more than one member of the credit committee may be a director.

(3) The treasurer of the credit union may not be a member of the credit committee.

(e) (1) At least one member of the credit committee shall have a minimum of 3 years experience in lending, credit, or general business.

(2) Each member of the credit committee:

(i) Shall be a member of the credit union for the period of time required under the bylaws;

(ii) Shall be bonded;

(iii) May not have defaulted on the payment of any monetary obligation to the credit union;

(iv) May not have been convicted of any criminal offense involving dishonesty or breach of trust;

(v) May not have habitually neglected to pay any debts;

(vi) May not have been insolvent or bankrupt within 5 years of becoming a member and may not become insolvent or bankrupt while serving as a

member; and

(vii) May not have been removed by the Commissioner or any state or federal regulatory agency as an officer, official, or employee of a financial institution.

(f) A member of the credit committee serves for 1 year and until a successor is appointed and qualifies.

(g) The credit committee shall fill any vacancy on the committee by appointing an individual to serve until the next regular meeting of the board.

(h) The members of the credit committee shall elect the chairman of the credit committee at the beginning of each term and at any other time that a vacancy may occur in the position of the chairman.

(i) The board shall remove any member of the credit committee who fails:

(1) To attend three consecutive regular meetings of the credit committee without good cause; or

(2) To perform any of the duties of the office.

(j) Each member of the credit committee shall take an oath to perform faithfully the duties of the office.

§6–603.

(a) (1) Except as provided in subsection (b) of this section, and in § 6-328 (7) and (8) of this title, a loan may not be made to any member of a credit union unless it is approved unanimously by those members of the credit committee who are present at a meeting that is attended by a majority of the members of the credit committee.

(2) If the bylaws of the credit union so provide, an applicant for a loan that is not approved by the credit committee may appeal to the board of directors.

(b) (1) (i) The credit committee or the president may appoint loan officers.

(ii) The appointment of loan officers by the president shall be subject to confirmation by the credit committee.

(iii) The credit committee shall supervise loan officers and delegate to them the power to approve or disapprove loans in accordance with written instructions or policies adopted by the board.

(2) Not more than one loan officer may be a member of the credit committee.

(3) A loan made by a loan officer in accordance with the written instructions or policies of the board does not have to be approved by the credit

committee.

(4) (i) Each loan officer shall give the credit committee the record of each loan that the officer approves or disapproves within 7 days after a loan application is made.

(ii) The credit committee shall act on each loan application where the decision of the loan officer has been appealed by the credit union member.

(5) A loan officer may not disburse credit union funds for any loan that the loan officer approved.

(c) The credit committee shall meet as often as necessary.

§6–604.

The total of all loans made by a credit union directly or indirectly to any one member may not exceed 10 percent of the total assets of the credit union.

§6–605.

(a) A credit union may make a loan, including a business loan, to a member with or without security in accordance with the written lending policies established by the board that cover all secured and unsecured loans.

(b) A credit union may accept as security for a loan:

(1) An endorsed note;

(2) A note secured by a lien on real, leasehold, or personal property;

(3) An assignment of shares or deposits in the credit union; or

(4) Any other kind of security that is approved by the Commissioner.

(c) The Commissioner may review the lending policies of the credit union and order changes.

§6–606.

(a) A credit union may make a loan to a member that is secured by real or leasehold property in accordance with written real estate lending policies established by the board as provided in this section.

(b) A loan under this section shall be:

(1) Secured by a deed of trust or mortgage on real or leasehold property; and

(2) Amortized over a period of 30 years or less.

(c) The Commissioner may review the lending policies of the credit union and order changes.

(d) (1) This subsection does not apply to an extension of credit or loan made by a credit union on or after October 1, 1994.

(2) A loan under this section that is secured by a first mortgage may be made at any rate of interest that does not exceed the rate authorized by Title 12, Subtitle 1 of the Commercial Law Article for mortgage loans.

(3) A loan under this section that is secured by a second mortgage may be made at any rate of interest that does not exceed the rate authorized by Title 12, Subtitle 4 of the Commercial Law Article.

§6–607.

(a) Subject to the provisions of subsection (b) of this section, a credit union may participate with a depository financial institution or a credit union service organization for purposes of making a loan to a credit union member in accordance with the lending policies of the board.

(b) A credit union may participate in a loan under subsection (a) of this section provided that the credit union that originates the loan retains an interest of at least 10% of the face amount of the loan.

§6–608.

A credit union may make a loan that is insured or guaranteed by the federal government, a state government or local government, or a unit of the federal government or of any state or local government.

§6–609.

(a) (1) In this section the following words have the meanings indicated.

(2) "Eligible obligation" means a loan or a group of loans made to a member of a credit union by a lender other than the credit union to which the member belongs.

(3) "Student loan" means a loan that is:

(i) Granted to finance the borrower's attendance at an institution of higher education or at a vocational school; and

(ii) Secured by, and on which payment of the outstanding principal and interest has been deferred in accordance with, the insurance or guarantee of the federal government, a state government, or a unit of the federal government or of a

state government.

(b) (1) Subject to the provisions of paragraph (2) of this subsection, a credit union may purchase, in whole or in part, in accordance with the board's purchase policies:

(i) Eligible obligations of its members;

(ii) Eligible obligations of the individual members of a liquidating credit union, from the liquidating credit union;

(iii) Student loans if the credit union is granting student loans on an ongoing basis and if the purchase will facilitate the credit union's packaging of a pool of the loans to be sold or pledged on the secondary market; and

(iv) Real estate loans if the credit union is granting real estate loans under this subtitle on an ongoing basis and if the purchase will facilitate the credit union's packaging of a pool of the loans to be sold or pledged on the secondary mortgage market.

(2) A credit union may make a purchase under paragraph (1) of this subsection if:

(i) The board or investment committee approves the purchase;

(ii) A written agreement and a schedule of the eligible obligations covered by the agreement are retained by the credit union for inspection;

(iii) The aggregate of the unpaid balance of eligible obligations purchased under paragraph (1)(i) and (ii) of this subsection does not exceed 5% of the total assets of the credit union; and

(iv) For purchases of real estate loans under paragraph (1)(iv) of this subsection, the pool of loans to be sold or pledged on the secondary mortgage market:

1. Includes a substantial portion of the credit union's members' real estate loans, but no less than 20% of the aggregate principal amount of the loans purchased; and

2. Is sold promptly, but no later than 6 months after the purchase.

(c) A credit union may sell or pledge, in whole or in part, the eligible obligations or loans purchased under subsection (b)(1) of this section if:

(1) The board or investment committee approves the sale or pledge; and

(2) The written agreement covering the sale or pledge and a schedule of

the eligible obligations or loans covered by the agreement are retained by the credit union for inspection.

(d) A credit union may agree to service any eligible obligation the credit union purchases or sells in whole or in part.

§6–610.

(a) (1) A credit union may make a loan to an official of the credit union if the official takes no part in consideration of the loan application.

(2) A loan authorized under paragraph (1) of this subsection requires approval of the board if:

(i) The official is the debtor in the loan or is the guarantor, endorser, or cosigner of the loan; and

(ii) The loan, standing alone or when added to the aggregate of all outstanding loans for which the official is the debtor or acts as guarantor, endorser, or cosigner, or both, exceeds $25,000 plus pledged shares.

(b) The rates, terms, and conditions on any loan from a credit union to, or guaranteed, endorsed, or cosigned by, an official or officer of the credit union may not be more favorable than the rates, terms, and conditions for a comparable loan to another member of the credit union.

§6–611.

A credit union may not make a loan to any person except:

(1) A member of the credit union;

(2) Another credit union; or

(3) A credit union service organization.

§6–701.

(a) Each credit union incorporated under the laws of this State shall:

(1) Participate in and have its member accounts insured under the National Credit Union Administration Share Insurance Program; or

(2) Participate in and have its member accounts insured by a credit union share guaranty corporation that is approved by the Commissioner to at least the same extent and amount as provided by the National Credit Union Administration Share Insurance Program.

(b) (1) The Commissioner may examine any credit union share guaranty

corporation that insures the member accounts of a credit union that is subject to this title.

(2) The Commissioner may charge the reasonable cost of an examination conducted under paragraph (1) of this subsection to the credit union share guaranty corporation that is examined.

(c) A credit union share guaranty corporation, its members, and persons who have share and deposit accounts in credit unions are not subject to the provisions of the Insurance Article as a result of any of the activities of the credit union share guaranty corporation under this title.

(d) A credit union may not voluntarily terminate its insurance with the National Credit Union Administration Share Insurance Program or a credit union share guaranty corporation without prior approval of the Commissioner.

§6–702.

A credit union is subject to the provisions of 12 C.F.R., Part 702 (Prompt Corrective Action) and 12 U.S.C. § 1790d (Net Worth Provisions).

§6–703.

(a) In this section, "risk assets" means a credit union's total loans outstanding to its members.

(b) (1) Each credit union shall have a reserve fund to meet losses on loans and to meet other contingencies that the Commissioner specifies.

(2) The reserve fund may be distributed to the members of the credit union only on dissolution of the credit union.

(c) (1) After paying organization expenses, each credit union shall credit to its reserve fund all entrance fees, transfer fees, and fines.

(2) A credit union in operation for 4 years or more and having assets of $500,000 or more shall credit to the reserve fund, at the end of each accounting period:

(i) 10 percent of its gross income until the reserve fund equals 4 percent of its risk assets; and

(ii) Then, 5 percent of its gross income until the reserve fund equals 6 percent of its risk assets.

(3) A credit union in operation for less than 4 years or having assets of less than $500,000 shall credit to the reserve fund, at the end of each accounting period:

(i) 10 percent of its gross income until the reserve fund equals 7.5

percent of its risk assets; and

(ii) Then, 5 percent of its gross income until the reserve fund equals 10 percent of its risk assets.

(4) On recommendation of the board, the amount credited to the reserve fund may be increased.

(d) If the reserve fund falls below the amounts required by subsection (c)(2) or (3) of this section, it shall be restored by regular contributions.

§6–704.

(a) A credit union shall maintain an allowance for loan and lease loss account in accordance with generally accepted accounting principles.

(b) The balance of the allowance for loan and lease loss account shall include coverage for:

(1) Individually classified loans; and

(2) The historical reserve needs of the credit union.

§6–705.

(a) The assets of a credit union that are not committed for loans may be invested in:

(1) General obligations of or obligations guaranteed by the United States;

(2) Deposits, loans, shares, or stock of any federal reserve bank, federal home loan bank, or any central liquidity facility established under state or federal law;

(3) Securities, obligations, or other instruments of or issued by or fully guaranteed as to principal and interest by the federal government or a unit of the federal government;

(4) General obligations of a state or a federal territory or political subdivision, provided that the general obligation is rated in one of the three highest rating categories of a nationally recognized statistical rating organization as determined by the Commissioner;

(5) Deposits or federal funds of any financial institution that has federal deposit insurance;

(6) Shares or deposits of other credit unions;

(7) Mutual funds that invest solely in investments permissible for direct investment by the credit union;

(8) Repurchase transactions secured by investments permissible for direct investment by the credit union; or

(9) Any other investment that the Commissioner approves.

(b) (1) Subject to the provisions of paragraph (2) of this subsection, in addition to the investments authorized under subsection (a) of this section, a credit union may request authority from the Commissioner to make other investments, including investments authorized under the federal Credit Union Act or regulations of the National Credit Union Administration, on an ongoing basis.

(2) To obtain the Commissioner's approval for additional investment authority under paragraph (1) of this subsection, a credit union shall submit to the Commissioner an investment policy.

(c) The Commissioner may review the investment policies of the credit union and order changes.

§6–706.

(a) (1) With the prior approval of the Commissioner, as required under subsection (b) of this section, a credit union may organize a credit union service organization.

(2) A credit union that proposes to organize a credit union service organization shall:

(i) File with the Commissioner a notice of intention to organize a credit union service organization; and

(ii) Submit to the Commissioner any information the Commissioner requires in order to evaluate the proposed credit union service organization.

(3) In deciding whether to approve the organization of a credit union service organization, the Commissioner shall consider whether:

(i) The organization of the credit union service organization will promote the convenience of the members of the credit union;

(ii) The credit union has sufficient net worth to support the credit union service organization; and

(iii) The credit union generally is operating in compliance with the provisions of this title.

(4) Unless the Commissioner notifies the credit union that a different time period is necessary, within 60 days of receipt of the notice specified in paragraph (2) of this subsection, the Commissioner shall notify the credit union of the determination on

the approval of the organization of a credit union service organization.

(b) (1) Subject to the provisions of this subsection, a credit union may invest in and make loans to a credit union service organization.

(2) If an investment or loan by a credit union to a credit union service organization causes the aggregate of the credit union's investments or loans to exceed 2% of the credit union's total assets, the credit union shall:

(i) Notify the Commissioner as provided in paragraph (3) of this subsection; and

(ii) Receive the prior approval of the Commissioner for any investment in or loan to the credit union service organization that exceeds the limit imposed under this paragraph.

(3) A credit union that proposes to make any investment in or loan to the credit union service organization that exceeds the limit under paragraph (2) of this subsection shall:

(i) File with the Commissioner a notice of intention to exceed the limit; and

(ii) Submit to the Commissioner any information the Commissioner requires in order to evaluate the proposed intention to exceed the limit.

(4) In deciding whether to approve the investment or loan, the Commissioner shall consider whether:

(i) The investment or loan will promote the convenience of the members of the credit union;

(ii) The credit union has sufficient net worth to support the investment or loan; and

(iii) The credit union generally is operating in compliance with the provisions of this title.

(5) Unless the Commissioner notifies the credit union that a different time period is necessary, within 60 days of receipt of the notice specified in paragraph (2) of this subsection, the Commissioner shall notify the credit union of the determination on the approval of the investment or loan.

(c) As deemed necessary by the Commissioner, the Commissioner shall have complete:

(1) Access to the books and records of a credit union service organization; and

(2) Authority to review the internal controls of a credit union service organization.

(d) A credit union service organization may serve on a contractual basis more than one credit union and its members.

§6–707.

(a) (1) In addition to any other investment authorized under this subtitle, a credit union may purchase, construct, or acquire and hold, either individually or jointly with another credit union, fixed assets for the purpose of providing adequate facilities for the transaction of present and future business.

(2) A credit union may use fixed assets acquired under this section for:

(i) The principal office functions;

(ii) Branches; and

(iii) Any other activities in which the credit union engages.

(3) A credit union may rent excess space in a fixed asset acquired under this section as a source of income.

(4) A credit union's investment in fixed assets acquired under this section:

(i) May exceed 4% of the total assets of the credit union only with the prior approval of the Commissioner; and

(ii) May not exceed 6% of the total assets of the credit union.

(b) A credit union may purchase, lease, or acquire and hold tangible personal property, either individually or jointly with another credit union, as may be necessary or incidental to the operations of the credit union.

§6–708.

(a) (1) Subject to the provisions of paragraph (2) of this subsection, a credit union may borrow money for the purchase of fixed assets.

(2) The term of the loan may not exceed:

(i) 15 years for borrowings secured by real or leasehold property; and

(ii) 5 years for borrowings secured by other fixed assets.

(b) A credit union may borrow money for a purpose other than the purchase of fixed assets as long as the total borrowing does not exceed the greater of:

(1) Two times the net worth of the borrowing credit union; or

(2) 10% of the total assets of the borrowing credit union.

§6–709.

A credit union may change its place of business on written notice to the Commissioner.

§6–710.

The fiscal year of each credit union ends at the close of business on December 31.

§6–711.

(a) A credit union shall post its hours of operation prominently in its office.

(b) Each credit union shall be open for business during its posted hours, except that a credit union may close:

(1) On any State holiday; and

(2) At any other time if:

(i) Notice of the closing is posted prominently in its office 3 business days in advance;

(ii) Specifically authorized to close by the Commissioner; or

(iii) An emergency exists that affects the credit union and it is not practical to obtain authorization from the Commissioner before closing the affected credit union.

(c) If a credit union closes under the provisions of subsection (b)(2)(iii) of this section, the chairman of the board or the president of the affected credit union shall notify the Commissioner of the reason for the closing of the credit union as soon as possible but no later than 24 hours after the closing of the credit union.

§6–712.

(a) This section applies only to a credit union with assets of $300,000 or greater.

(b) (1) The Commissioner shall impose an annual assessment on each credit union as provided in this subsection to cover the expense of regulating credit unions.

(2) The Commissioner shall assess each credit union the sum of:

(i) $1,000; and

(ii) 8 cents for each $1,000 of the assets of the credit union over $1,000,000.

(3) The assessment shall be based on assets stated in the credit union's most recent financial report.

(c) A credit union shall pay the assessment imposed under this section to the Commissioner on or before the March 1 after the assessment is imposed.

§6–713.

If a credit union files an application with the Maryland Insurance Commissioner to purchase or make available, as an agent or otherwise, insurance for its members either on an individual or group basis, the credit union shall notify the Commissioner, within 10 days after filing the application, that the credit union has filed the application.

§6–714.

(a) As approved by the Commissioner, a credit union may enter into marketing arrangements with a person to facilitate the credit union's members' voluntary purchase of goods or other services from third parties, consistent with the purposes of the credit union.

(b) A credit union may be compensated for the services provided under subsection (a) of this section.

§6–715.

(a) A credit union shall keep the books and records that the Commissioner requires to determine compliance with this title.

(b) Unless a longer period is expressly required by State or federal law, a credit union shall retain the books and records required under subsection (a) of this section for a period of at least 5 years.

(c) A credit union may retain the books and records required under subsection (a) of this section at any location, provided that the credit union:

(1) Notifies the Commissioner in writing of the location of the books and records; and

(2) Makes the books and records available at the credit union's principal place of business, as agreed by the Commissioner and the credit union, within 7 days of a written request for examination by the Commissioner.

(d) A credit union shall retain the books and records required under subsection (a) of this section in one of the following ways:

(1) Original form;

(2) An electronic equivalent approved by the Commissioner; or

(3) A microphotographic copy approved by the Commissioner.

§6–801.

(a) Any State credit union may convert into a federal credit union as provided by federal law and as provided in this section.

(b) A majority of the board of a credit union proposing to convert shall:

(1) Adopt a resolution that declares that the conversion is advisable;

(2) Set a date for a vote on the proposed conversion by the members of the credit union at an annual or special meeting of the members or by mail ballot to be filed on or before that date;

(3) Comply with federal law regarding conversion; and

(4) File the required conversion application with the Commissioner.

(c) The Commissioner, at the request of the board, may:

(1) Waive the vote of the members; and

(2) Substitute any reasonable method of determining the approval by the members.

(d) Unless the Commissioner takes action under subsection (c) of this section, written notice of the proposed conversion and of the date set for the vote shall be delivered in person to each member or mailed to each member at the member's address as recorded by the credit union, not more than 30 days nor less than 7 days before the date set for the vote.

(e) (1) Unless the Commissioner takes action under subsection (c) of this section, the proposed conversion shall be approved by the affirmative vote of a majority of the members who vote on the proposal.

(2) Within 10 days after the vote, a statement of the results of the vote shall be filed with the Commissioner. The statement shall be verified by the chairman or vice chairman of the board and by the secretary of the credit union.

(f) (1) Within 90 days after a proposed conversion is approved by the members, the credit union shall take any action necessary under federal law to make it a federal credit union.

(2) Within 10 days after the credit union receives a federal credit union

charter, a copy of that charter shall be filed with the Commissioner and, when the copy is filed, the credit union ceases to be a State credit union.

(g) When the conversion from a State credit union to a federal credit union is complete:

(1) The converted credit union is no longer subject to the provisions of this title; and

(2) The successor federal credit union owns all the assets and is responsible for all the obligations of the former State credit union as though the conversion had not taken place.

§6–802.

(a) Any credit union organized under the laws of any other state or of the United States may convert to a State credit union as provided in this section.

(b) A credit union proposing to convert shall meet:

(1) All of the requirements of this title for the incorporation of a credit union in this State; and

(2) All of the requirements of the Commissioner, including any specific conditions that a credit union must meet in order to convert.

(c) A majority of the board of a credit union proposing to convert shall:

(1) Adopt a resolution that declares that the conversion is advisable; and

(2) Set a date for a vote on the proposed conversion by the members at an annual or special meeting of the members or by mail ballot to be filed on or before that date.

(d) The Commissioner, at the request of the board, may:

(1) Waive the vote of the members; and

(2) Substitute any reasonable method of determining the approval by the members.

(e) Unless the Commissioner takes action under subsection (d) of this section, written notice of the proposed conversion and of the date set for the vote shall be delivered in person to each member or mailed to each member at the member's address as recorded by the credit union, not more than 30 days nor less than 7 days before the date set for the vote.

(f) (1) Unless the Commissioner takes action under subsection (d) of this section, the proposed conversion shall be approved by the affirmative vote of a majority

of the members who vote on the proposal.

(2) Within 10 days after the vote, a statement of the results of the vote shall be filed with the Commissioner. The statement shall be verified by the chairman or vice chairman of the board and the secretary of the credit union.

(g) (1) A credit union may convert to a State credit union if:

(i) The converted credit union:

1. Meets the common bond requirements of the proposed field of membership type; and

2. Files with the Commissioner an application and any other documents that the Commissioner deems necessary to make a determination; and

(ii) The Commissioner determines that the conversion:

1. Is in the best interest of the existing and proposed membership;

2. Will likely result in better service to the existing membership;

3. Is in accordance with sound credit union practices; and

4. Does not expose the funds of the existing members to unnecessary risk.

(2) Unless the Commissioner notifies the credit union that a different time period is necessary, within 120 days after the application is filed, the Commissioner shall notify the credit union of the determination on the application.

(h) When the conversion is complete, the successor credit union owns all of the assets and is responsible for all the obligations of the credit union as though the conversion had not taken place.

§6–803.

(a) (1) In this section the following words have the meanings indicated.

(2) "Merging credit union" means a credit union that is absorbed or acquired by another credit union in a merger and ceases to exist after the merger.

(3) "Surviving credit union" means a credit union that absorbs or acquires another credit union in a merger and continues to exist after the merger.

(4) "New credit union" means a credit union that is created when two or more credit unions consolidate to form a newly created credit union.

(b) (1) (i) With the approval of the Commissioner, any credit union may merge or consolidate as provided in this section.

(ii) A merger or consolidation under this section may be with a credit union organized under the laws of the United States, this State, or any other state.

(2) (i) A single common bond credit union may merge or consolidate with another single common bond credit union resulting in a surviving or new single common bond credit union provided that the credit unions party to the merger or consolidation share the same single common bond, as defined under § 6-301(c)(2) of this title, prior and subsequent to the merger or consolidation.

(ii) A single common bond credit union may merge or consolidate with another single common bond credit union resulting in a surviving or new multiple common bond credit union provided that:

1. Prior to the merger or consolidation, one of the credit unions converts into a multiple common bond credit union, as provided under § 6-304 of this title, which includes in its field of membership the group served by the other single common bond credit union; and

2. The surviving or new multiple common bond credit union satisfies the requirements for multiple common bonds under § 6-301(c)(3) and (e) of this title.

(3) A single common bond credit union may merge or consolidate with a multiple common bond credit union resulting in a surviving or new multiple common bond credit union provided that:

(i) Prior to the merger or consolidation, the multiple common bond credit union includes or adds to its field of membership the group served by the single common bond credit union, as provided under § 6-303 of this title; and

(ii) The surviving or new multiple common bond credit union satisfies the requirements for multiple common bonds under § 6-301(c)(3) and (e) of this title.

(4) A multiple common bond credit union may merge or consolidate with another multiple common bond credit union resulting in a surviving or new multiple common bond credit union provided that:

(i) 1. Prior to a merger, the credit union that will become the surviving credit union includes or adds to its field of membership the groups served by the credit union that will become the merging credit union, as provided under § 6-303 of this title; or

2. In the case of a consolidation, the field of membership of the new credit union includes all groups that will be served by that new credit union; and

(ii) The surviving or new multiple common bond credit union satisfies the requirements for multiple common bonds under § 6-301(c)(3) and (e) of this title.

(5) A single or multiple common bond credit union may merge, as the merging credit union, with a community credit union, as the surviving credit union, provided that:

(i) 1. The merging credit union has a branch within the community boundaries of the surviving credit union; or

2. A majority of the members in the field of membership of the merging credit union would qualify for membership in the surviving credit union;

(ii) No less than 30 days before the effective date of the merger, the merging credit union gives notice of the merger to all groups of potential members of the merging credit union that will be removed from the field of membership as a result of the merger; and

(iii) On and after the effective date of the merger, the surviving credit union:

1. May not continue to serve groups within the field of membership of the merging credit union that are located outside the community boundaries of the surviving credit union; and

2. May continue to serve members of a group identified under item 1 of this paragraph who are members before the effective date of the merger.

(6) A community credit union may merge or consolidate with another community credit union provided that:

(i) The members of the surviving or new credit union remain within a single well-defined local community, neighborhood, rural district, or county; and

(ii) The surviving or new credit union is within reasonable geographic proximity to the members of the credit union party to the merger or consolidation.

(7) Except as provided in paragraphs (8) and (9) of this subsection, a community credit union may not merge, as a merging credit union, with a single or multiple common bond credit union.

(8) Notwithstanding the provisions of paragraph (2), (3), (4), or (5) of this subsection or the numerical limitations prescribed in § 6-301(e) of this title, the Commissioner may approve the merger or consolidation of any credit union with a multiple common bond credit union, as a new or surviving credit union, when safety and soundness concerns are present as determined by the Commissioner.

(9) Notwithstanding the provisions of paragraphs (2) through (8) of this subsection, the Commissioner may approve the merger or consolidation of any credit union, whether or not the credit unions party to the merger or consolidation have the same field of membership type, if:

(i) Any of the credit unions party to the merger or consolidation is insolvent or likely to become insolvent;

(ii) The merger or consolidation is in the best interest of the membership of the credit unions party to the merger or consolidation; and

(iii) The merger or consolidation will not adversely affect the financial condition of the surviving or new credit union.

(c) (1) If the surviving or new credit union will be a State credit union:

(i) The merger or consolidation shall be made in accordance with the provisions of this subtitle; and

(ii) If one of the credit unions is a federal credit union, federal law governs its actions and the rights of its members.

(2) If the surviving or new credit union will be a federal credit union:

(i) The merger or consolidation shall be made in accordance with federal law which governs its actions and the rights of its members; and

(ii) The merger or consolidation shall be made in accordance with the provisions of this subtitle for a State credit union and the rights of its members.

(3) If the surviving or new credit union will be another State credit union:

(i) The merger or consolidation shall be made in accordance with the provisions of this subtitle for the State credit union and the rights of its members; and

(ii) The merger or consolidation shall be made in accordance with the provisions of the other State laws for the other State credit union and the rights of its members.

(d) A majority of the board of each credit union proposing a merger or consolidation shall:

(1) Adopt a resolution that declares that the merger or consolidation is advisable; and

(2) Set a date for a vote on the proposed merger or consolidation by the members of each credit union party to the merger or consolidation at any annual or special meeting of the membership or by mail ballot to be filed on or before that date.

(e) The Commissioner, at the request of the board, may:

(1) Waive the vote of the members; and

(2) Substitute any reasonable method of determining the approval by the members.

(f) The merger or consolidation shall be in accordance with a plan that:

(1) States the field of membership type that the surviving or new credit union will have;

(2) Is agreed to by a majority of the board of each credit union party to the merger or consolidation; and

(3) Unless provided otherwise by the Commissioner, is approved by the members of each credit union party to the merger or consolidation, by the affirmative vote of a majority of the members of each credit union party to the merger or consolidation who vote on the proposal.

(g) (1) After agreement by the board and approval by the members of each credit union party to the merger or consolidation, two officers of each credit union party to the merger or consolidation shall execute a certificate of merger or consolidation.

(2) The certificate of merger or consolidation shall include as to each credit union party to the merger or consolidation:

(i) The time and place of the meeting of the board at which the plan was agreed to;

(ii) The vote by which the plan was agreed to by the board;

(iii) A copy of the resolution or other action by which the plan was agreed to by the board;

(iv) The date on or by which the plan was approved by the members of each credit union; and

(v) Unless provided otherwise by the Commissioner, the vote by which the plan was approved by the members of each credit union.

(h) (1) A credit union may merge or consolidate if:

(i) 1. The surviving or new credit union meets the common bond requirements of the proposed field of membership type; and

2. Each credit union party to the merger or consolidation files with the Commissioner:

A. The certificate of merger or consolidation;

B. A copy of the plan of merger or consolidation; and

C. Any other documents that the Commissioner deems necessary to make a determination on the application; and

(ii) The Commissioner determines that:

1. Each credit union party to the merger or consolidation has not engaged in any material unsafe or unsound practice during the 1-year period preceding the date of filing of the certificate of merger or consolidation;

2. The surviving or new credit union has adequate net worth;

3. The surviving or new credit union has the administrative capability to serve the members of the surviving or new credit union and the financial resources to meet the need for additional staff and assets to serve the surviving or new credit union; and

4. Any potential harm that the surviving or new credit union may have on any other credit union and its membership is clearly outweighed, in the public interest, by the probable beneficial effect of the merger or consolidation in meeting the convenience and needs of the members of the surviving or new credit union.

(2) Unless the Commissioner notifies the credit union that a different time period is necessary, within 60 days after the certificate of merger or consolidation is filed, the Commissioner shall:

(i) Notify each credit union party to the merger or consolidation of the determination on the application; and

(ii) Certify the certificate of merger or consolidation and return the certificate to each credit union party to the merger or consolidation.

(i) When the certificate is certified and sent back to the credit unions by the Commissioner:

(1) All of the property, property rights, and members' interest of the credit unions party to the merger or consolidation belong to the surviving or new credit union without deed, endorsement, or other instrument of transfer;

(2) All of the debts, obligations, and liabilities of the credit unions party to the merger or consolidation are assumed by the surviving or new credit union; and

(3) The rights and privileges of the members of the credit unions party to the merger or consolidation remain intact.

(j) (1) The surviving or new credit union shall act promptly to file and record the certified certificate and plan of merger or consolidation with the State Department of Assessments and Taxation.

(2) When the certificate and plan of merger or consolidation are filed with the State Department of Assessments and Taxation, the merger or consolidation takes effect.

§6–804.

(a) Any credit union may dissolve voluntarily, if the board, the members of the credit union, and the Commissioner approve the dissolution as provided in this section.

(b) A majority of the board of a credit union proposing to dissolve shall adopt a resolution that:

(1) Recommends that the credit union be dissolved voluntarily; and

(2) Directs that a proposal of dissolution be submitted to the members.

(c) (1) A proposed dissolution shall be approved at an annual or special meeting of the members or by mail ballot by the affirmative vote of two-thirds of the entire membership of the credit union.

(2) The Commissioner may substitute any reasonable method of determining the vote of the members.

(d) After a proposed dissolution is approved by the members, the credit union shall file with the Commissioner:

(1) A copy of the resolution of the board recommending voluntary dissolution, attested to by:

(i) The chairman or vice chairman of the board; and

(ii) The secretary or treasurer of the credit union;

(2) A verified statement of the names and addresses of the officers and directors of the credit union; and

(3) The vote by which the voluntary dissolution was approved by the members.

(e) (1) If the Commissioner finds that the credit union is solvent, the Commissioner shall issue to the credit union duplicate certificates stating that the credit union appears to have complied with this section.

(2) The credit union shall file one of the certificates with the State Department of Assessments and Taxation.

(f) When the certificate is filed with the State Department of Assessments and Taxation, the credit union is dissolved.

(g) (1) On dissolution, a credit union may operate only to wind up its business and affairs.

(2) Under the direction of the Commissioner, the liquidating agent of the dissolved credit union, appointed by the board, shall:

(i) Discharge its debts and obligations;

(ii) Collect and distribute its assets; and

(iii) Do anything else necessary to wind up its business and affairs.

(3) For 3 years after the dissolution becomes effective, the credit union, acting by its board and liquidating agent:

(i) Shall continue in existence for the purpose of winding up its business and affairs; and

(ii) May sue and be sued in its name.

§6–805.

(a) Any credit union voluntarily may place its business and assets in the hands of the Commissioner for liquidation as provided in this section.

(b) A majority of the board proposing a voluntary receivership shall:

(1) Adopt a resolution that declares that the voluntary receivership is advisable; and

(2) Set a date for a vote on the proposed voluntary receivership by the members of the credit union at an annual or special meeting of the members or by mail ballot to be filed on or before that date.

(c) The Commissioner, at the request of the board, may:

(1) Waive the vote of the members; and

(2) Substitute any reasonable method of determining the approval by the members.

(d) Unless the Commissioner takes action under subsection (c) of this section, the proposed voluntary receivership shall be approved by the affirmative vote of a majority of the members of the credit union who vote on the proposal.

(e) After the action is approved by the members, the proper officers of the

credit union shall certify the action of the members to the Commissioner, and the Commissioner shall post a notice at each office of the credit union that states: "This credit union is in the hands of the Maryland Commissioner of Financial Regulation for liquidation."

(f) If a credit union is placed in the hands of the Commissioner under this section, the Commissioner shall place the credit union in receivership for liquidation in the same manner as provided for a banking institution under Title 5, Subtitle 6 of this article.

§6–806.

With the approval of the Commissioner, a credit union may purchase the assets or assume the liabilities of another credit union whether or not the credit unions have the same field of membership type, if:

(1) The other credit union is insolvent or likely to become insolvent;

(2) The purchase or assumption is in the best interest of the membership of the other credit union; and

(3) The purchase or assumption will not adversely affect the financial condition of the credit union that makes the purchase or assumption.

§6–807.

(a) A credit union may establish a branch in the State in accordance with the provisions of this section.

(b) (1) A credit union that proposes to establish a branch in the State shall:

(i) File with the Commissioner, at least 30 days before the intended opening date, a notice of intention to open a branch;

(ii) Submit to the Commissioner any information the Commissioner requires in order to evaluate the proposed branch; and

(iii) Pay to the Commissioner a branch fee of $100.

(2) The branch fee may not apply to a branch that is acquired by a credit union through a merger or consolidation with, or transfer to the credit union of all or substantially all of the assets of, a credit union.

(c) In deciding whether to approve the establishment of a branch, the Commissioner shall consider whether:

(1) The establishment of the branch will promote the convenience of the members of the credit union;

(2) The applicant has sufficient net worth to support the branch; and

(3) The applicant generally is operating in compliance with the provisions of this title.

(d) (1) The Commissioner shall decide whether to approve the establishment of a branch within 30 days of receipt of the notice specified in subsection (b)(1) of this section.

(2) The establishment of a branch shall be deemed approved if the Commissioner takes no action on the notice within the time limit specified in this subsection.

§6–808.

(a) An out-of-state credit union shall provide the Commissioner, within 15 days of opening a branch in the State, with a notice of the opening of the branch.

(b) A credit union chartered and primarily regulated by another state that proposes to establish a branch in this State shall qualify under § 7-203 of the Corporations and Associations Article to do business in the State as a foreign corporation.

(c) An out-of-state credit union that has a branch in this State may establish additional branches in this State:

(1) To the same extent as a credit union; or

(2) To the extent otherwise permitted by federal law.

§6–809.

(a) A credit union may require not more than 60 days' notice of a member's intention to withdraw from a share account or deposit account.

(b) A requirement imposed under subsection (a) of this section shall:

(1) Apply to all members of the credit union; and

(2) Be included in each member's account agreement.

§6–901.

(a) (1) Except for a credit union authorized to do business in this State, a person may not:

(i) Use or advertise any name or title that contains the words "credit union" or any derivation of that term;

(ii) Represent itself as a credit union;

(iii) Conduct business as a credit union; or

(iv) Conduct business under a name or title that:

1. Indicates or reasonably implies that the person engages in or transacts the type of business conducted by a credit union; or

2. Is calculated to lead a person to believe that the business engaged in or transacted is the type of business conducted by a credit union.

(2) Any person who violates any provision of this subsection is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $3,000 or imprisonment not exceeding 5 years or both per occurrence.

(b) This section does not apply to an association or league of credit unions, whether or not the association or league is incorporated.

§6–902.

(a) A person may not willfully make, circulate, or send to another person any untrue statement that is derogatory to the financial condition or that affects the solvency or financial standing of any credit union doing business in the State, or counsel, aid, procure, or induce another to make, circulate, or send to another person such a statement.

(b) A person that violates any provision of this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $1,000 or imprisonment not exceeding 3 years or both.

§6–903.

(a) An officer, official, or employee of a credit union may not willfully and knowingly make or cause to be made a false statement or false entry in the records of the credit union or, with the intent to deceive a person authorized to examine the affairs of the credit union, sign or exhibit false records.

(b) An officer, official, or employee who violates any provision of this section is guilty of a felony and on conviction is subject to a fine not exceeding $5,000 or imprisonment not exceeding 10 years or both.

§6–904.

(a) An officer or official who in any way knowingly permits or participates in making a loan in violation of § 6-611 of this title is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $3,000 or imprisonment not exceeding 5 years or both, per occurrence.

(b) If a loan is made in violation of § 6-611 of this title, the credit union may recover the amount of the loan from:

(1) Any borrower; or

(2) Any officer or official who knowingly permitted or participated in making the loan.

§6–905.

(a) The Commissioner may order a credit union, or enter into an agreement with a credit union, to take corrective action if the Commissioner finds that the credit union:

(1) Has failed to file a report when due;

(2) Is insolvent;

(3) Has violated any provision of this title; or

(4) Is engaged in an unsafe or unauthorized practice.

(b) (1) Before the order becomes effective, the Commissioner shall give the credit union an opportunity for a hearing.

(2) Notice of the hearing shall be given and the hearing shall be held in accordance with Title 10 of the State Government Article.

(c) If the Commissioner determines that the violation or practice under subsection (a) of this section requires immediate action to protect depositors or members, the Commissioner:

(1) May issue a cease and desist order that is effective on service; and

(2) Shall give the credit union an opportunity for a hearing to rescind the order.

(d) If the credit union fails to comply with the order within 60 days after it becomes effective, the Commissioner may:

(1) Take possession of the business and assets of the credit union and operate it until the Commissioner permits it to resume business or until the Commissioner orders its liquidation under item (3) of this subsection;

(2) Order the credit union share guaranty corporation that insures the credit union to take possession of the business and assets of the credit union and operate it in accordance with the Commissioner's instructions until the Commissioner permits it to resume business or until the Commissioner orders its liquidation under item (3) of this subsection; or

(3) Place the credit union in receivership for liquidation in the same manner as provided for a banking institution under Title 5, Subtitle 6 of this article.

§6–906.

(a) The Commissioner shall order any credit union to cease and desist from:

(1) An unsafe or unsound practice;

(2) A practice that is injurious to the public interest; or

(3) A violation of laws or rules or regulations that relate to the Commissioner's supervision of the credit union.

(b) To protect depositors or members, the Commissioner may include in a cease and desist order a restriction on the withdrawal of money from any credit union.

(c) The Commissioner may include in a cease and desist order a requirement that the officers or officials act affirmatively to correct any violation or practice.

(d) (1) Before a cease and desist order takes effect, the Commissioner shall give the credit union an opportunity for a hearing.

(2) Notice of the hearing shall be given and the hearing shall be held in accordance with Title 10 of the State Government Article.

(e) If the Commissioner determines that the violation or practice under subsection (a) of this section requires immediate action to protect depositors or members, the Commissioner:

(1) May issue a cease and desist order that is effective on service; and

(2) Shall give the credit union an opportunity for a hearing to rescind the order.

§6–906.1.

(a) After notice and a hearing, the Commissioner may assess a civil penalty against a credit union that the Commissioner determines has:

(1) Violated a cease and desist order issued by the Commissioner under § 6–906 of this subtitle; or

(2) Engaged in:

(i) An unsafe or unsound practice; or

(ii) A practice that is injurious to the public interest.

(b) The civil penalty may not exceed:

(1) $1,000 per violation; and

(2) $1,000 per violation for each day that the violation continues.

(c) (1) A civil penalty shall be assessed by written notice of assessment served on the person to be assessed.

(2) The notice of assessment shall state the:

(i) Amount of the civil penalty;

(ii) Legal authority for the assessment; and

(iii) Matters of fact or law constituting the grounds for the assessment.

(3) The notice of assessment shall constitute a final order for purposes of judicial review pursuant to § 10–221 of the State Government Article.

(d) In determining the amount of the civil penalty to be assessed, the Commissioner shall consider:

(1) The seriousness of the violation;

(2) The good faith of the violator;

(3) The violator's history of previous violations;

(4) The deleterious effect of the violation on the public and the credit union industry;

(5) The assets of the violator; and

(6) Any other factors relevant to the determination of the civil penalty.

(e) (1) A civil penalty assessed under this section shall be due and payable within 30 days after the Commissioner issues the notice of assessment.

(2) The Commissioner may reduce or set aside a civil penalty.

(f) The Commissioner shall pay all civil penalties collected under this section into the General Fund of the State.

§6–906.2.

(a) In this section, "extraordinary circumstances" means a situation presenting specific concerns about the prompt withdrawal of money from, or the safety and

soundness of, a credit union.

(b) In extraordinary circumstances and with the consent of the credit union, the Commissioner may close to the public a hearing concerning the assessment of a civil penalty, an order to cease and desist, or any other formal enforcement action by the Commissioner.

§6–907.

(a) (1) If the Commissioner believes that an officer or official has engaged in an unsafe or unsound practice, the Commissioner shall send a warning to the officer or official.

(2) If the Commissioner finds that the officer or official has continued to engage in the unsafe or unsound practice, the Commissioner may report the facts to the Secretary of Labor, Licensing, and Regulation and the Attorney General.

(3) A copy of the report shall be sent by certified mail, return receipt requested, bearing a postmark from the United States Postal Service, to each director of the credit union.

(b) (1) If the Commissioner finds that the unsafe or unsound practice continues after the warning and the officer, official, agent, or employee was provided an opportunity to be heard, the Commissioner may remove the officer, official, agent, or employee with the approval of the Secretary of Labor, Licensing, and Regulation.

(2) Notice of the hearing shall be given and the hearing shall be held in accordance with Title 10 of the State Government Article.

(c) A copy of the removal order shall be served on the individual removed and the credit union.

(d) If the Commissioner determines that the unsafe or unsound practice under subsection (a) of this section requires immediate action to protect depositors or members, the Commissioner:

(1) May issue a cease and desist order that is effective on service; and

(2) Shall give the officer or official an opportunity for a hearing to rescind the order.

§6–908.

(a) If the Commissioner believes that any officer, official, agent, or employee of a credit union has violated any provision of this title, the Commissioner may report the violation directly to the Secretary of Labor, Licensing, and Regulation and to the Attorney General who shall take the appropriate steps to institute a prosecution for the violation.

(b) (1) The Commissioner shall send a written warning to an officer, official, agent, or employee of a credit union who the Commissioner believes has violated any provision of this title.

(2) If after a warning the violation continues, the officer, official, agent, or employee may be removed as provided in § 6-907(b) of this subtitle.

(3) Unless otherwise specified, any officer, official, agent, or employee of a credit union who violates the provisions of this title is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $3,000 or imprisonment not exceeding 5 years.

(c) If the Commissioner determines that the violation under subsection (a) of this section requires immediate action to protect depositors or members, the Commissioner:

(1) May issue a cease and desist order that is effective on service; and

(2) Shall give the officer, official, agent, or employee an opportunity for a hearing to rescind the order.

§6–909.

(a) Except as otherwise provided in this article, the Commissioner and the employees of and the attorney for the Commissioner's office may not disclose:

(1) The name of any debtor of a credit union;

(2) Any information about the private accounts with or transactions of a credit union;

(3) Any information obtained in the course of examining a credit union; or

(4) Any confidential information obtained from a credit union authority.

(b) This section does not apply to any information that a person discloses:

(1) In performing a public duty to report on or take special action about the business of a credit union;

(2) In testifying as a witness in a criminal proceeding; or

(3) In informing any official, officer, employee, or agent of a credit union under examination of the results of that examination.

(c) (1) The Commissioner may give a credit union share guaranty corporation information about a credit union if:

(i) The credit union is insured by the credit union share guaranty

corporation; or

(ii) The credit union:

1. Is applying for insurance from the credit union share guaranty corporation; and

2. Requests the Commissioner to provide the information.

(2) The Commissioner may give the National Credit Union Administration Share Insurance Program information about a credit union if:

(i) The credit union is insured by the National Credit Union Administration Share Insurance Program; or

(ii) The credit union:

1. Is applying for insurance from the National Credit Union Administration Share Insurance Program; and

2. Requests the Commissioner to provide the information.

(d) Except as otherwise provided by law, all confidential information disclosed to any person as permitted under this section:

(1) Remains the property of the Commissioner; and

(2) May not be further disclosed by that person without the written permission of the Commissioner.

(e) A person that violates any provision of this section is guilty of a misdemeanor and on conviction is subject to:

(1) Forfeiture of the person's office or employment; and

(2) A fine not exceeding $1,000 or imprisonment not exceeding 2 years or both.

§7–101.

(a) In this subtitle the following words have the meanings indicated.

(b) "Corporation" means the Credit Union Insurance Corporation.

(c) "Credit union" means:

(1) Any credit union that is incorporated under the laws of this State; and

(2) Any other credit union that is authorized to do business in this State

and has its principal office in this State.

§7–102.

(a) There is a Credit Union Insurance Corporation, established as a nonprofit, nonstock corporation, the members of which are credit unions that are accepted for membership under this part.

(b) (1) The Corporation is not and may not be deemed a department, unit, agency, or instrumentality of the State for any purpose.

(2) All debts, claims, obligations, and liabilities of the Corporation, whenever incurred, shall be the debts, claims, obligations, and liabilities of the Corporation only and not of the State, its agencies, instrumentalities, officers, or employees.

(3) The Corporation moneys may not be considered part of the General Fund of the State.

(4) The debts, claims, obligations, and liabilities of the Corporation may not be considered to be a debt of the State or a pledge of its credit.

§7–103.

The purposes of the Corporation are to:

(1) Insure and guarantee the share and deposit accounts of member credit unions;

(2) Improve and stimulate the ability of credit unions to provide low-cost consumer loans;

(3) Promote the elasticity and flexibility of the resources of credit unions;

(4) Make loans for liquidity purposes to credit unions;

(5) Discount notes of credit unions;

(6) Provide a State service of lending among credit unions;

(7) Help rehabilitate and stabilize credit unions;

(8) Help liquidate credit unions in an orderly manner when necessary;

(9) Help strengthen and develop credit unions serving low-income individuals; and

(10) Cooperate with and assist credit unions, organizations of credit unions, the Commissioner, the National Credit Union Administration, and others in improving

the general welfare of the people through credit unions.

§7–104.

(a) The Corporation exercises its powers and performs its duties subject to the authority of the Commissioner.

(b) Except as otherwise provided in this subtitle, the Corporation has all of the powers, privileges, and immunities granted to Maryland corporations under the Maryland General Corporation Law.

(c) Subject to the provisions of Part III of this subtitle, the Corporation has perpetual existence.

(d) The Corporation may:

(1) Lend money to any credit union;

(2) Guarantee, endorse, or act as surety on the obligations of or otherwise assist financially any credit union; and

(3) Establish and regulate the terms and conditions of and charges for any loans or financial assistance to credit unions.

(e) (1) The Corporation may buy, lease, or otherwise acquire and sell, mortgage, lease, or otherwise dispose of real or personal property on the terms that its Board of Directors considers advisable.

(2) The Corporation may acquire any real or personal property in satisfaction of debts or enforcement of obligations and may dispose of that property.

(f) The Corporation may:

(1) Assist in the merger, stabilization, consolidation, or liquidation of credit unions; and

(2) Take possession of and operate the business and assets of any credit union if ordered to do so by the Commissioner under § 6-905 of this article.

(g) The Corporation may become a member of the National Association of Share Insurance Corporations or any comparable organization.

(h) The Corporation may invest any of its funds in:

(1) Cash or deposits in checking or savings accounts with or certificates of deposit of:

(i) Any bank that is a member of the Federal Deposit Insurance Corporation; and

(ii) Any savings and loan association whose deposits are insured by the Federal Deposit Insurance Corporation;

(2) Cash or deposits in share or deposit accounts with or certificates of deposit or notes of any credit union that is a member of the Corporation, the National Credit Union Administration Share Insurance Program, or a similar insurance program;

(3) Obligations of:

(i) The United States or any state or any political subdivision of any state;

(ii) Any commission, instrumentality, agency, or authority of the United States or any state; and

(iii) Any corporation that is incorporated under the laws of the United States or of any state;

(4) Readily marketable, dividend-paying shares of any corporation that is incorporated under the laws of the United States or of any state, except that it may not invest more than 10 percent of its total assets in these shares nor more than 3 percent of its total assets in the shares of any one corporation; and

(5) Any other investments, including common trust investments, that are permitted by law or authorized by the Commissioner for credit unions.

(i) The Corporation may:

(1) Borrow money and otherwise incur obligations for any of its purposes;

(2) Issue its secured or unsecured bonds, debentures, notes, or other evidences of obligation; and

(3) Secure these obligations by mortgage, pledge, or other lien on all or any part of its property, rights, and privileges.

§7–105.

(a) The Corporation shall insure and guarantee the share and deposit accounts of each member on the same basis, and to the same extent and amount as provided by the National Credit Union Administration Share Insurance Program.

(b) The Corporation may make contracts for reinsurance.

§7–106.

(a) (1) Subject to the provisions of Part III of this subtitle, any credit union may apply to the Corporation to become a member of the Corporation.

(2) The Corporation shall refer each application that it receives to the Commissioner.

(b) (1) On receipt of an application for membership, the Commissioner shall examine the affairs of the credit union.

(2) If the Commissioner finds that the credit union qualifies for membership under § 7–107 of this subtitle, the Commissioner shall certify that fact to the Corporation.

(c) The Corporation may not extend benefits to any credit union until the Corporation receives the certification of the Commissioner.

§7–107.

(a) (1) A credit union becomes a member of the Corporation when:

(i) The financial affairs, solvency, and management of a credit union have been certified by the Commissioner as approved for insurance of its share and deposit accounts; and

(ii) The application of the credit union is accepted by the Board of Directors of the Corporation.

(2) The Board of Directors of the Corporation may deny the application of a credit union only for good cause shown.

(b) Subject to the bylaws, rules, and regulations of the Corporation and except as provided in subsection (c) of this section and Part III of this subtitle, membership in the Corporation continues as long as the Corporation exists.

(c) (1) If the Board of Directors of the Corporation finds that unsafe or unsound practices or mismanagement of a member threatens loss to the Corporation or appears to affect adversely the solvency of the member, the Board may:

(i) Order the member to correct the situation; or

(ii) With the approval of the Commissioner and after giving the member notice and an opportunity for a hearing, revoke the membership of the credit union.

(2) A credit union that is organized under federal law or the laws of any other state may withdraw from the Corporation by:

(i) Giving written notice at least 1 year in advance; and

(ii) Complying with the bylaws, rules, and regulations of the Corporation.

(d) Each member of the Corporation shall make the investments and pay the assessments, premiums, and other charges required for participation in the Corporation.

§7–108.

(a) In the election of directors and in voting on any other matter at a meeting of the members of the Corporation, each member has one vote, to be cast by its delegate.

(b) A delegate may not vote on behalf of more than one member.

(c) A majority of the votes cast is sufficient to elect directors or decide any questions voted on by the members.

§7–109.

(a) The powers of the Corporation shall be exercised by its Board of Directors.

(b) The Board of Directors consists of 11 directors elected by the members of the Corporation.

(c) Each director shall be a resident of this State.

(d) (1) Each director serves for a term of 4 years and until a successor is chosen and qualifies.

(2) The terms of the directors shall be staggered as required by the terms provided for directors on July 1, 1988.

(3) If a vacancy occurs as to an elected director, the Board of Directors shall elect a successor to fill the vacancy until the next annual meeting of the members of the Corporation. At the annual meeting, the members of the Corporation shall elect a successor to serve for the rest of the term and until a successor is elected and qualifies.

(e) A majority of the full authorized membership of the Board of Directors is a quorum.

(f) Each director is entitled to reasonable compensation, as set by the Board of Directors with the approval of the Commissioner.

§7–110.

(a) (1) The Board of Directors of the Corporation:

(i) Shall elect one of its members as chairman of the Board; and

(ii) May appoint any officers and employees that it considers advisable.

(2) The manner of election of the chairman and appointment of officers and their terms of office shall be as the bylaws provide.

(b) In accordance with the bylaws of the Corporation, the Board of Directors shall set the amount of the fidelity bonds of the officers and employees of the Corporation.

§7–111.

(a) The Board of Directors of the Corporation shall adopt bylaws for the Corporation and rules and regulations to carry out the provisions of this title.

(b) (1) A bylaw, rule, or regulation becomes effective only after it is submitted to and approved by the Commissioner.

(2) A bylaw, rule, or regulation is considered approved if the Commissioner does not notify the Corporation of disapproval and the reasons for it within 30 days after submission of the bylaw, rule, or regulation.

(3) The Commissioner may disapprove a bylaw, rule, or regulation only if the Commissioner has reason to believe that:

(i) It is contrary to the principles or purposes of this title; or

(ii) It does not serve the best interests of the public.

§7–112.

The Corporation may require independent audits and investigations of any member to determine the member's financial condition as it relates to insurance of share and deposit accounts. These audits and investigations shall be made at the expense of the credit union.

§7–113.

(a) This section applies notwithstanding any other provisions of law.

(b) (1) The Corporation and the Commissioner may exchange information about credit unions.

(2) The Commissioner shall make available to the Corporation all examinations of credit unions that are members of the Corporation.

(c) If a credit union is not incorporated under the laws of this State, the credit union may not be accepted as a member of the Corporation unless it submits a written statement from the agency that regulates it stating that the agency will cooperate with the Commissioner in carrying out the provisions of this title.

§7–114.

The net earnings of the Corporation shall be accumulated and may not be returned to its members.

§7–115.

The Corporation, its members, and persons who have share and deposit accounts in credit unions are not subject to the provisions of the Insurance Article as a result of any of the activities of the Corporation under this title.

§7–116.

The Corporation is exempt from all taxes imposed by this State or any of its political subdivisions under §§ 20–101, 20–104, 20–108, 20–113 through 20–127, 20–601, 20–603 through 20–609, 20–805, and 20–806, and Title 20, Subtitles 3 through 5 of the Local Government Article, Title 6, Subtitle 1 of the Insurance Article, the Tax – General Article, or the Tax – Property Article.

§7–117.

This title does not, and the Corporation may not, pledge the faith or credit of this State.

§7–118.

(a) The Corporation may not accept an application from a credit union for new membership on or after the date that the Commissioner issues the first certificate of authority under § 7-203 of this title.

(b) The Commissioner shall notify the Corporation of the date that the Commissioner issues the first certificate of authority under § 7-203 of this title.

§7–119.

(a) A credit union that is a member of the Corporation shall obtain primary share guaranty insurance with:

(1) The National Credit Union Administration Share Insurance Program; or

(2) A credit union share guaranty corporation regulated under Subtitle 2 of this title that is approved by the Commissioner to provide primary share guaranty insurance at least to the same extent and amount as provided by the National Credit Union Administration Share Insurance Program.

(b) A credit union that is a member of the Corporation shall comply with the provisions of subsection (a) of this section within 2 years after the date that the

Commissioner issues the first certificate of authority under § 7-203 of this title.

§7–120.

(a) (1) In this section, "assets" means:

(i) All net earnings of the Corporation accumulated under § 7–114 of this subtitle; and

(ii) All real or tangible or intangible personal property of the Corporation.

(2) In this section, "assets" does not include member deposits.

(b) Within 2 years after the date that the Corporation no longer has any members, the Corporation shall complete the dissolution of the Corporation in accordance with the provisions of this section.

(c) (1) When the Corporation no longer has any members, the Corporation shall file articles of dissolution with the Commissioner and the State Department of Assessments and Taxation.

(2) Except as provided in subsection (d) of this section, the Corporation is dissolved when the Commissioner accepts the Corporation's articles of dissolution.

(d) (1) The Corporation continues to exist for the purpose of collecting money owing to the Corporation, paying, satisfying, and discharging any existing debts or obligations, collecting and distributing the Corporation's assets, and doing all other acts required to liquidate and wind up the business and affairs of the Corporation.

(2) After paying, satisfying, and discharging any existing debts or obligations, the Corporation shall transfer its remaining assets to a corporation that satisfies the requirements of subsection (e) of this section.

(e) The corporation receiving the assets under subsection (d)(2) of this section shall:

(1) Be a nonprofit corporation that is exempt from federal taxation under § 501(c)(3) of the Internal Revenue Code;

(2) Have been organized:

(i) For educational and charitable purposes; and

(ii) To promote and publicize the interest and welfare of credit unions and their members in this State; and

(3) Have been in existence and operating under a charter that includes the following purposes for at least 10 years:

(i) Promoting the ideals of the credit union movement, including the cooperative nonprofit aspect, democratic aspect, the common bond, volunteerism, personalized service, cooperative spirit, and the encouragement of thrift and the creation of a source of credit at fair and reasonable rates;

(ii) Helping to strengthen and develop credit unions serving low–income individuals;

(iii) Improving and stimulating the ability of credit unions to provide low–cost consumer loans;

(iv) Promoting the elasticity and flexibility of the resources of credit unions;

(v) Conducting or funding research on all aspects of credit union operations and the credit union movement in general;

(vi) Cooperating and assisting credit unions and local and national organizations and credit unions to improve the general welfare of the people through credit unions;

(vii) Providing scholarships and awards to professionals and volunteers in the credit union movement; and

(viii) Furthering the credit union movement and performing all necessary and properly related services and activities.

(f) The Corporation shall promptly notify the Commissioner following the completion of the liquidation and the winding up of the business and affairs of the Corporation.

§7–121.

The Commissioner may require the Corporation to provide any information that the Commissioner deems necessary to determine whether the phase-out and dissolution of the Corporation are in accordance with the provisions of this part.

§7–201.

(a) In this subtitle the following words have the meanings indicated.

(b) Unless the context requires otherwise, "credit union" has the meaning stated in § 6-101(d) of this article.

(c) "Credit union share guaranty corporation" means a corporation that is:

(1) Engaged in the business of providing primary share guaranty insurance for the share and deposit accounts of a credit union; and

(2) Regulated under this subtitle.

(d) "Participating credit union" means a credit union that has applied for and been admitted to participation in a credit union share guaranty corporation and whose participation has not terminated.

§7–202.

The provisions of this subtitle do not apply to the Credit Union Insurance Corporation established under Subtitle 1 of this title.

§7–203.

(a) A person may not conduct business as a credit union share guaranty corporation unless the person has a certificate of authority issued by the Commissioner under this subtitle.

(b) A certificate of authority issued by the Commissioner under this subtitle is not transferrable.

§7–204.

(a) A credit union share guaranty corporation shall insure and guarantee the share and deposit accounts of each participating credit union to at least the same extent and amount as provided by the National Credit Union Administration Share Insurance Program.

(b) A credit union share guaranty corporation may make contracts for reinsurance.

§7–205.

(a) To qualify for a certificate of authority under this subtitle, an applicant shall satisfy the Commissioner that the applicant:

(1) Is trustworthy and reputable;

(2) Has a good business reputation;

(3) If domiciled outside the State, is currently licensed and authorized to engage in the credit union share guaranty business in its state of domicile;

(4) Has and will maintain retained earnings or equity capital of at least $5,000,000, computed in accordance with generally accepted accounting principles;

(5) Is in compliance with:

(i) Its charter and this subtitle; and

(ii) If domiciled outside the State, all laws and regulations applicable to credit union share guaranty corporations in its state of domicile;

(6) Will conduct the credit union share guaranty business in the State in a manner that will adequately protect the share and deposit accounts of its participating credit unions; and

(7) Will maintain reserves for guaranty losses in compliance with § 7-217 of this subtitle.

(b) A person may not be authorized to engage in the credit union share guaranty business in the State if the person has or uses a name that is so similar to the name of a credit union share guaranty corporation already issued a certificate of authority under this subtitle as to tend to cause uncertainty or confusion or to deceive or mislead.

§7–206.

(a) (1) To apply for a certificate of authority, an applicant shall sign and submit to the Commissioner an application made under oath on the form that the Commissioner requires.

(2) The application shall include:

(i) The applicant's corporate name, business address, and any trade names under which the applicant conducts business;

(ii) The name and business address of each of the applicant's officers and directors;

(iii) The address at which the business is to be conducted;

(iv) The name and address of the applicant's proposed resident agent in the State; and

(v) Any other information that the Commissioner reasonably requires.

(b) With the application, the applicant shall submit:

(1) A certified copy of its articles of incorporation with all amendments;

(2) A certified copy of its bylaws with all amendments;

(3) A copy of the applicant's annual financial statements as of the immediately preceding December 31, prepared in accordance with generally accepted accounting principles and audited and certified by an independent certified public accountant;

(4) If domiciled outside the State, a copy of the applicant's most recent

report of examination, if any, made by the responsible supervisory official in its state of domicile;

(5) If domiciled outside the State, certification by the responsible supervisory official in its state of domicile showing that the applicant is authorized to engage in the credit union share guaranty business in that state;

(6) A copy of the applicant's current standard written contract with participating credit unions containing the rights and obligations of the parties; and

(7) Any other information and documents that the Commissioner reasonably requires.

(c) With the application, the applicant shall pay to the Commissioner a nonrefundable application fee of $5,000.

§7–207.

(a) When an applicant for a certificate of authority files the application and pays the application fee required under § 7-206 of this subtitle, the Commissioner shall conduct an investigation to determine if the applicant meets the requirements of § 7-205 of this subtitle.

(b) Unless the Commissioner notifies the applicant that a different time period is necessary, the Commissioner shall approve or deny each application for a certificate of authority within 120 days after the complete application is filed and the application fee is paid.

(c) The Commissioner shall issue a certificate of authority to any applicant who meets the requirements of this subtitle.

§7–208.

(a) If an application for a certificate of authority is denied, the notification of the denial shall:

(1) Be in writing; and

(2) State the applicant's right to a hearing held in accordance with the Administrative Procedure Act.

(b) An applicant who seeks a hearing on an application denial shall file a written request for a hearing within 30 days following receipt of the notice of the applicant's right to a hearing.

§7–209.

(a) The Commissioner may suspend or revoke the certificate of authority of a

credit union share guaranty corporation if the credit union share guaranty corporation or a director or officer of the credit union share guaranty corporation:

(1) Makes a material misstatement in an application for a certificate of authority;

(2) Is convicted under the laws of the United States or any state of:

(i) A felony; or

(ii) A misdemeanor that is directly related to the activities authorized by the certificate of authority;

(3) In connection with any credit union share guaranty transaction:

(i) Commits a fraud;

(ii) Engages in an illegal or dishonest activity; or

(iii) Misrepresents or fails to disclose a material fact to a person entitled to that information;

(4) Violates any provision of this subtitle, any rule or regulation adopted under this subtitle, or any other law regulating credit union share guaranty business in the State, or fails to comply with an order of the Commissioner;

(5) Is found by the Commissioner to be in unsound condition or in a condition that renders further transaction of credit union share guaranty business hazardous to participating credit unions, the members of the participating credit unions, or the public;

(6) Refuses or delays payment of amounts due claimants without just cause;

(7) Refuses to be examined or to produce records or files for examination by the Commissioner when required;

(8) Refuses to provide additional information reasonably requested by the Commissioner; or

(9) Otherwise demonstrates unworthiness, bad faith, dishonesty, or any other quality that indicates that the business of the credit union share guaranty corporation has not been or will not be conducted honestly, fairly, and equitably.

(b) In determining whether the certificate of authority of a credit union share guaranty corporation should be suspended or revoked for a conviction listed in subsection (a)(2) of this section, the Commissioner shall consider:

(1) The nature of the crime;

(2) The relationship of the crime to the activities authorized by the certificate of authority;

(3) The relevance of the conviction to the fitness and qualification of the credit union share guaranty corporation to engage in the credit union share guaranty business;

(4) The length of time since the conviction; and

(5) The behavior and activities of the credit union share guaranty corporation since the conviction.

(c) (1) The Commissioner may enforce the provisions of this subtitle and any rule or regulation adopted under this subtitle by:

(i) Issuing an order to the credit union share guaranty corporation or entering into an agreement under which the credit union share guaranty corporation agrees:

1. To cease and desist from the violation and any further similar violations; and

2. To take affirmative action to correct the violation, including the restitution of money or property to any person aggrieved by the violation; and

(ii) Imposing a civil penalty not exceeding $1,000 for each violation.

(2) If a violator fails to comply with an order or agreement under this subsection, the Commissioner may impose a civil penalty not exceeding $1,000 for each violation from which the violator failed to cease and desist or for which the violator failed to take affirmative corrective action.

(d) The Commissioner may file a petition in the circuit court for a county seeking enforcement of an order issued under this section.

(e) In determining the amount of financial penalty to be imposed under subsection (c) of this section, the Commissioner shall consider:

(1) The seriousness of the violation;

(2) The good faith of the violator;

(3) The violator's history of previous violations;

(4) The deleterious effect of the violation on the public and holders of credit union share or deposit accounts;

(5) The assets of the violator; and

(6) Any other factors relevant to the determination of the financial penalty.

(f) (1) Before the Commissioner takes any action under subsection (a) or (c) of this section, the Commissioner shall give the credit union share guaranty corporation an opportunity for a hearing.

(2) A hearing under this subtitle shall be held in accordance with the Administrative Procedure Act.

(3) The hearing notice shall be sent by certified mail, return receipt requested, to the credit union share guaranty corporation to the principal place of business of the credit union share guaranty corporation at least 30 days before the hearing.

§7–210.

(a) (1) The Commissioner:

(i) Shall examine the business of each credit union share guaranty corporation at least once every 24 months; and

(ii) May examine the business of each credit union share guaranty corporation at any time that the Commissioner reasonably considers necessary.

(2) The Commissioner may enter into agreements with third parties and delegate the authority to conduct an examination required or permitted under this subsection.

(3) In lieu of performing an examination of a credit union share guaranty corporation, the Commissioner may accept an examination report from the responsible supervisory official of the credit union share guaranty corporation's state of domicile.

(b) (1) A person aggrieved by the conduct of a credit union share guaranty corporation under this subtitle in connection with the credit union share guaranty business may file a written complaint with the Commissioner who may investigate the complaint.

(2) The Commissioner may make any other investigation of any person if the Commissioner has reasonable cause to believe that the person has violated any provision of this subtitle, any regulation adopted under this subtitle, or any other law regulating credit union share guaranty corporations in the State.

(c) In connection with an examination or investigation made under this section, the Commissioner may:

(1) Examine the books and records of any credit union share guaranty corporation or of any other person who the Commissioner believes has violated any

provision of this subtitle, any regulation adopted under this subtitle, or any other law regulating credit union share guaranty corporations in the State;

(2) Subpoena documents or other evidence; or

(3) Summon and examine under oath any individual whose testimony the Commissioner requires.

(d) If any person fails to comply with a subpoena or summons issued by the Commissioner under this section, the Commissioner may file a petition for enforcement in the appropriate circuit court.

§7–211.

(a) A credit union share guaranty corporation shall pay all reasonable expenses for transportation, lodging, and meals associated with:

(1) An examination required or permitted under § 7-210 of this subtitle; and

(2) Any other examination or investigation conducted under this article that results in the discovery of a violation of this subtitle by the credit union share guaranty corporation.

(b) (1) A credit union share guaranty corporation shall pay an annual assessment of $5,000.

(2) A credit union share guaranty corporation shall pay the assessment imposed under paragraph (1) of this subsection to the Commissioner on or before February 15 after the assessment is imposed.

§7–212.

(a) (1) On or before April 1 of each year, unless the Commissioner extends the time for good cause, each credit union share guaranty corporation shall file with the Commissioner an annual report for the immediately preceding calendar year.

(2) The annual report shall include:

(i) The annual financial statement of the credit union share guaranty corporation prepared in accordance with generally accepted accounting principles and audited and certified by an independent certified public accountant that contains:

1. A balance sheet;

2. An income statement;

3. A statement of cash flows;

4. A statement of changes of the credit union share guaranty corporation's equity; and

5. Notes to the financial statement;

(ii) The following information regarding all participating credit unions, as appropriate, regardless of the state in which a participating credit union is domiciled:

1. The composite CAMEL rating of each credit union if the composite CAMEL rating of a credit union is 4 or 5; and

2. Any current administrative action or any current plan for corrective action concerning each credit union initiated by the credit union share guaranty corporation or the responsible supervisory official in the credit union's state of domicile; and

(iii) An analysis of the components of the guaranty fund required under § 7-216 of this subtitle, including any reserves for guaranty losses established under § 7-217 of this subtitle.

(3) Unless the Commissioner extends the time for filing, a credit union share guaranty corporation that fails to file an annual report on or before April 10 shall pay a penalty of $100 for each day from April 1 to the day before the Commissioner receives the report.

(b) At any time, the Commissioner may require a credit union share guaranty corporation to file an interim report containing the information that the Commissioner considers necessary.

§7–213.

(a) This section applies notwithstanding any other provision of law.

(b) A credit union share guaranty corporation and the Commissioner may exchange information, including information obtained during an examination, about a participating credit union or a credit union that is applying for participation in the credit union share guaranty corporation.

(c) The Commissioner may exchange information, including information obtained during an examination, about a credit union share guaranty corporation with any state or federal agency having supervisory authority over the credit union share guaranty corporation.

§7–214.

(a) A credit union share guaranty corporation shall have a written contract with each participating credit union that clearly establishes the rights and obligations of the

parties.

(b) At least 30 days before the effective date of any material amendment to the standard written contract that is submitted under § 7-206(b) of this subtitle, the credit union share guaranty corporation shall file the amendment with the Commissioner.

§7–215.

A credit union share guaranty corporation shall provide written notice to the Commissioner of:

(1) The receipt from a credit union of an application for participation in the credit union share guaranty corporation;

(2) The credit union share guaranty corporation's underwriting decision regarding the application for participation; and

(3) The voluntary or involuntary termination of the participation of a credit union in the credit union share guaranty corporation.

§7–216.

(a) (1) Except as provided in paragraph (2) of this subsection, a credit union share guaranty corporation shall establish and maintain a guaranty fund of at least 1 percent of the aggregate shares and deposits of the participating credit unions.

(2) A credit union share guaranty corporation that is domiciled outside the State may maintain a guaranty fund at the level permitted by its state of domicile if the credit union share guaranty corporation:

(i) Has been domiciled in that state for at least 25 years immediately preceding the date of the credit union share guaranty corporation's completed application for a certificate of authority;

(ii) Has engaged in the credit union share guaranty business for at least 25 years immediately preceding the date of the credit union share guaranty corporation's completed application for a certificate of authority; and

(iii) The business of the credit union share guaranty corporation is subject to regulation by its state of domicile.

(b) The guaranty fund shall be comprised of the following:

(1) The account for each participating credit union;

(2) Retained earnings; and

(3) Any reserves established under § 7-217 of this subtitle.

(c) The amount of the account of each participating credit union shall be carried on the books of the participating credit union as an asset.

(d) Notwithstanding any other provision of this subtitle, a credit union share guaranty corporation may require a participating credit union to make additional capital contributions to maintain the normal operating level during any calendar year in which the fund has been reduced below the minimum operating level as a result of payment of any deficiencies in credit union share accounts.

(e) Within 60 days of the assessment, a credit union share guaranty corporation shall file with the Commissioner a report of each capital contribution that the credit union share guaranty corporation requires under subsection (d) of this section.

(f) (1) If a participating credit union fails to pay an annual capital contribution, premium, fee, or assessment when due, the credit union share guaranty corporation:

(i) Within 10 days after the failure, shall report the failure in writing to the Commissioner; and

(ii) After 30 days' notice, may revoke the participating credit union's participation in the credit union share guaranty corporation, unless good cause is shown for the failure.

(2) The 30-day notice of revocation required under paragraph (1)(ii) of this subsection does not apply to the revocation of excess coverage.

(g) (1) Subject to the provisions of paragraph (2) of this subsection, a credit union share guaranty corporation shall refund to a participating credit union an amount equal to the balance of the participating credit union's capital contribution account, less any outstanding debts owed to the credit union share guaranty corporation, if the participating credit union:

(i) Voluntarily dissolves;

(ii) Obtains primary share guaranty insurance from the National Credit Union Administration Share Insurance Program or another credit union share guaranty corporation regulated under this subtitle; or

(iii) Merges or consolidates with another credit union that results in the share and deposit accounts of the surviving or new credit union being insured by the National Credit Union Administration Share Insurance Program or another credit union share guaranty corporation regulated under this subtitle.

(2) A credit union share guaranty corporation shall make a refund under paragraph (1) of this subsection only if the guaranty fund equals or exceeds the guaranty fund's normal operating level as calculated without the account of the exiting credit union.

(h) If two or more participating credit unions merge or consolidate and the surviving or new credit union is to be insured by the credit union share guaranty corporation, the funds in the capital contribution account of each credit union shall be transferred to the account of the surviving or new credit union, less any outstanding debts owed to the credit union share guaranty corporation.

(i) If a credit union share guaranty corporation is dissolved, the net assets after paying all liabilities and all costs of dissolution shall be distributed to the participating credit unions in accordance with their share and deposit balances, less any outstanding debts owed to the credit union share guaranty corporation.

§7–217.

(a) (1) A credit union share guaranty corporation shall establish reserves for guaranty losses on an incurred basis in accordance with generally accepted accounting principles during the period in which the losses become evident.

(2) The reserves shall provide for:

(i) Losses reported to the credit union share guaranty corporation;

(ii) Losses incurred but not previously reported; and

(iii) Estimated losses on the collection of notes and other guarantees to participating credit unions.

(b) The reserves shall be maintained until the losses for which the reserves were established have been satisfied.

§7–218.

(a) The Commissioner shall give prompt notice to the applicable credit union share guaranty corporation whenever the Commissioner:

(1) Takes possession of the property and assets of a participating credit union; and

(2) Determines to liquidate the property and assets of a participating credit union.

(b) Notwithstanding the provisions of §§ 5-605 and 6-905(d) of this article, the Commissioner may petition a court of competent jurisdiction to appoint the applicable credit union share guaranty corporation as receiver of the participating credit union.

(c) When the property and business of a participating credit union has been liquidated or is in the process of liquidation and the proceeds of liquidation distributed are insufficient to pay the full guaranteed amount of each credit union share or deposit account, the credit union share guaranty corporation shall pay each deficiency up to

the guaranteed amount within 30 days after the date the credit union share or deposit account balance is verified.

(d) When any participating credit union share or deposit account is paid, the credit union share guaranty corporation shall be subrogated to all rights of the member or depositor, up to the amount paid by the credit union share guaranty corporation to the member or depositor.

§7–219.

(a) A credit union share guaranty corporation may terminate the participation of a participating credit union for any of the following reasons:

(1) The participating credit union fails to satisfy the risk eligibility standards established by the credit union share guaranty corporation and applicable to all participating credit unions;

(2) The participating credit union operates in an unsafe and unsound manner as determined by the credit union share guaranty corporation;

(3) The participating credit union fails to furnish financial statements, delinquent loan reports, or other information considered necessary by the credit union share guaranty corporation;

(4) The participating credit union fails to remedy in a timely manner a qualification arising from an audit permitted or required under the written contract between the participating credit union and the credit union share guaranty corporation;

(5) The participating credit union fails to pay when due a capital contribution or applicable premium, fee, or assessment under this subtitle;

(6) The participating credit union fails to comply with any provision of this article or the articles of incorporation or bylaws of the credit union share guaranty corporation that are material to the safety and soundness of the participating credit union; or

(7) Continued participation by the participating credit union would result in a violation of this subtitle or other applicable state or federal law by the credit union share guaranty corporation.

(b) (1) At least 30 days before the effective date of any termination, the credit union share guaranty corporation shall send written notice of the pending termination and the reasons for the termination to:

(i) The participating credit union whose participation is to be terminated; and

(ii) The Commissioner.

(2) The 30-day notice required under paragraph (1) of this subsection does not apply to the termination of excess coverage.

§7–220.

A person who violates any provision of this subtitle is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $5,000 or imprisonment not exceeding 5 years or both.

§7–221.

Nothing in this subtitle creates any liability on the State for the payment of any funds to any participating credit union or other person by reason of:

(1) An act or omission of a credit union share guaranty corporation; or

(2) A deficiency of a participating credit union in the event a credit union share guaranty corporation is unable to pay the deficiency.

§7–222.

A credit union share guaranty corporation, its participating credit unions, and persons who have share or deposit accounts in the participating credit unions are not subject to the provisions of the Insurance Article as a result of any of the activities of the credit union share guaranty corporation under this subtitle.

§7–223.

A credit union share guaranty corporation that is a nonprofit corporation exempt from federal taxation under § 501(c)(6) of the Internal Revenue Code is exempt from all taxes imposed by the State or any of its subdivisions under:

(1) §§ 20–101, 20–104, 20–108, 20–113 through 20–127, 20–601, 20–603 through 20–609, 20–805, and 20–806, and Title 20, Subtitles 3 through 5 of the Local Government Article;

(2) Title 6, Subtitle 1 of the Insurance Article;

(3) The Tax – General Article; or

(4) The Tax – Property Article.

§7–224.

The Commissioner may adopt rules and regulations to carry out this subtitle.

§8–101.

(a) In this title and in Title 9, the following words have the meanings indicated.

(b) "Affiliate" means any corporation, business trust, statutory trust, association, partnership, sole proprietorship, or other similar organization or person of which an association or any officer, director, or controlling person of an association, directly or indirectly:

(1) Owns or controls either a majority of the voting shares or controls in any manner the election of a majority of its directors, trustees, or other persons exercising similar functions; or

(2) Otherwise controls the management of that organization.

(c) "Control" means the ability of a person to direct the management or policies of an association or entity or elect a majority of a board of directors or the ownership of more than 10 percent of the outstanding shares of any class of securities of an association or interest in an entity.

(d) "Controlling person" means any person or entity, acting directly or indirectly, individually or in concert with one or more other persons or entities, or through one or more subsidiaries, who:

(1) Owns, controls, holds with power to vote, or holds proxies representing 10 percent or more of the voting shares, rights, or interests of any association or corporation; or

(2) Controls in any manner the election or appointment of a majority of the directors of that association or corporation.

(e) "Division Director" means the Director of the Division of Savings and Loan Associations.

(f) "Holding company" means any company or other entity which directly or indirectly controls any other company, or other entity.

(g) "Immediate family" means a spouse, child, child's spouse, parent, sibling, grandparent, or grandchild.

(h) "Related entity" means an affiliate, holding company, or subsidiary of a savings and loan association.

(i) "Savings and loan association" or "association" means, unless the context clearly requires otherwise, a corporation that is chartered under the laws of this State as a savings and loan association.

(j) "Secretary" means the Secretary of Labor, Licensing, and Regulation.

(k) "Subsidiary" means any company or other entity which is directly or indirectly controlled by any controlling person.

§8–102.

(a) In Title 9 of this article and this title the policy of this State is to provide for:

(1) The protection of the interests of customers in savings and loan associations and the general public in the soundness and preservation of the industry;

(2) The safety and soundness of the business of savings and loan associations;

(3) The conservation of assets of savings and loan associations; and

(4) Adequate rulemaking power and administrative discretion so that regulation and supervision of savings and loan associations may be flexible and readily responsive to changes in economic conditions and to changes in savings and loan priorities.

(b) Title 9 of this article and this title embody standards to be observed by the Division Director in the exercise of the Director's discretionary powers, in the adoption of regulations, in the examination and supervision of associations subject to Title 9, and in all matters of construction and application of Title 9 of this article and this title required for any determination or action of the Division Director.

§8–103.

Subject to the evaluation and reestablishment provisions of the Program Evaluation Act, the provisions of this subtitle relating to the Division of Savings and Loan Associations and relating to the regulation of savings and loan associations are of no effect and may not be enforced after July 1, 1992.

§8–301.

There is a Division of Savings and Loan Associations in the Department of Labor, Licensing, and Regulation.

§8–302.

(a) The Secretary of Labor, Licensing, and Regulation shall appoint the Division Director with the approval of the Governor and the advice and consent of the Senate.

(b) The Division Director serves at the pleasure of the Secretary.

(c) The Division Director shall have experience in State or national regulation or management of financial organizations, which may include service as a bank or savings and loan association director or officer.

(d) The Division Director is entitled to the salary provided in the State budget.

§8–303.

(a) The Division Director shall adopt regulations necessary to accomplish the policies set forth in § 8–102 of this title.

(b) Without limiting the authority conferred by subsection (a) of this section, the Division Director may adopt regulations consistent with the provisions of this title and Title 9 of this article with respect to:

(1) Any powers conferred on the Division Director in this title and Title 9 of this article;

(2) Reserve requirements;

(3) Stock ownership and dividends;

(4) Stock transfers (change of control);

(5) Incorporators, controlling persons, directors, officers, employees, and agents of a savings and loan association;

(6) Bylaws;

(7) Related entities;

(8) The structure of the office of the Division;

(9) The operation, conduct, and management of savings and loan associations;

(10) Withdrawable accounts, savings accounts and plans, and contracts for savings programs;

(11) Loans and loan expenses, including underwriting procedures;

(12) Investments;

(13) Forms and definitions;

(14) Types of financial records to be maintained by savings and loan associations;

(15) Retention periods of various financial records of savings and loan associations;

(16) Internal control procedures of savings and loan associations;

(17) Chartering and branching;

(18) Liquidations;

(19) Mergers;

(20) Conversions;

(21) Reports which may be required by the Division Director;

(22) Conflicts of interest;

(23) Accounting rules;

(24) Issuance of orders;

(25) Removal of directors, officers, and employees;

(26) Advertising; and

(27) Enforcement remedies relating to limitations on interest rates on deposits.

(c) Without limiting the authority conferred by subsection (a) of this section, directors and officers of savings and loan associations shall develop and implement, by December 31, 1989, written:

(1) Real estate appraisal policies; and

(2) Procedures pertaining to the hiring and performance of real estate appraisers.

(d) The procedures required under subsection (c)(2) of this section shall set forth specific factors to be considered by the savings and loan association's directors and officers, including but not limited to:

(1) Whether the appraiser is licensed or certified under the Business Occupations and Professions Article; and

(2) The real estate appraiser's:

(i) Professional education; and

(ii) Experience in real estate appraising.

(e) Real estate appraisal policies and procedures shall be submitted by the savings and loan associations to the Division Director for review and approval.

(f) The regulations adopted by the Division Director may include reasonable requirements and limitations on the types and amounts of investments, the manner of raising capital, and the nature and amounts of reserves, irrespective of their effects on

free economic competition.

(g) If the Division Director believes that a savings and loan association or any of its controlling persons, directors, officers, agents, or employees has violated any provision of this title or Title 9 that relates to the association, the Division Director immediately shall report the violation to:

(1) The Secretary of Labor, Licensing, and Regulation;

(2) The Governor; and

(3) The Attorney General, who shall take the appropriate steps to institute an investigation or other appropriate action for the violation.

(h) The Division Director may provide advisory opinions on conflicts of interest on request.

§8–305.

(a) With the approval of the Secretary, the Division Director may appoint the staff provided in the State budget.

(b) Except as provided in subsection (c) of this section or otherwise by law, the Division Director shall appoint and remove all personnel in accordance with the provisions of the State Personnel and Pensions Article.

(c) The deputy director is in the management service of the State Personnel Management System.

§8–306.

Before taking office, the Division Director shall take the oath required by Article I, § 9 of the Maryland Constitution.

§8–307.

(a) The Division Director shall devote full time to the duties of the office.

(b) The Division Director and staff may not be officers, directors, employees, auditors, agents of, or attorneys for, nor retained in any manner by, nor have any ownership interest or deposit whatsoever in, any savings and loan association or related entity.

(c) The Division Director, Division staff, and members of the immediate families of the Division Director and Division staff, as defined in § 5–101 of the General Provisions Article may not accept, directly or indirectly, any gift, gratuity, or remuneration of any type from any savings and loan association or related entity or from any director, officer, controlling person, employee, or agent of any savings and

loan association or related entity.

(d) (1) The Division Director, Division staff, and members of the immediate families of the Division Director and Division staff as defined in § 5–101 of the General Provisions Article may not become indebted to any association or related entity that is subject to the jurisdiction of the Division Director.

(2) Any person who violates any provision of this section is subject to forfeiture of that person's office or employment in addition to any other penalty prescribed by law.

(e) (1) Subject to paragraph (2) of this subsection, nothing in this section may be construed to affect any contractual obligation, including a savings account, in existence before January 15, 1986.

(2) (i) All contractual obligations, including savings accounts, in existence before January 15, 1986, and the corresponding dollar amounts shall be fully disclosed to the Secretary of Labor, Licensing, and Regulation.

(ii) The Secretary of Labor, Licensing, and Regulation shall file each disclosure with the State Ethics Commission.

(f) For a period of 2 years after termination of employment with the Division of Savings and Loan Associations, if the Division Director or former deputy division director is employed by a Maryland savings and loan association or becomes a director, officer, attorney, or agent of a Maryland savings and loan association, that individual may not:

(1) Represent, formally or informally, the association in any judicial, administrative, or other proceeding in which:

(i) The Division of Savings and Loan Associations is a party; and

(ii) The former Division Director or former deputy division director substantially participated;

(2) Participate in any application submitted to the Division for the Division's approval; or

(3) Attempt to influence, or make any oral or written communication, on behalf of the association in any matter before the Division relating to the association in which the individual participated personally and substantially as Division Director or former deputy division director.

§8–308.

After notifying the Secretary, the Division Director may:

(1) Subpoena witnesses and administer oaths or affirmations in the examination of any controlling person, director, officer, employee, or agent of an association or related entity, or of any other person in relation to the affairs, transactions, and conditions of the association or related entity;

(2) Require the production of records, books, papers, contracts, and other documents; and

(3) Issue subpoenas duces tecum.

§8–309.

(a) (1) On June 30 of each year, or at the discretion of the Division Director or as circumstances warrant, the Division Director shall provide a written report to the Governor, the President of the Senate, the Speaker of the House of Delegates, and the Secretary of Labor, Licensing, and Regulation on:

(i) The operations of the Division Director's office;

(ii) The condition of the savings and loan industry, including any violations of this subtitle or Title 9 of this article and the regulations adopted under those titles; and

(iii) As to the laws that the Division Director administers, amendments that the Division Director considers desirable.

(2) The report is confidential and is not subject to disclosure in accordance with the provisions of Title 4, Subtitle 3, Part III of the General Provisions Article.

(b) (1) On June 30 of each year, the Division Director shall submit a report to the General Assembly in accordance with § 2-1246 of the State Government Article describing:

(i) The operations of the Division Director's office;

(ii) The general condition of the savings and loan industry; and

(iii) Any recommended legislative changes.

(2) The report may include a summary of final enforcement actions taken by the Division Director but may not include pending investigations of violations of law reported under subsection (a) of this section.

§8–310.

Subject to the evaluation and reestablishment provisions of the Program Evaluation Act, the provisions of this subtitle relating to the Division of Savings and Loan Associations and relating to the regulation of savings and loan associations are

of no effect and may not be enforced after July 1, 1992.

§8–401.

(a) The Division Director may issue orders:

(1) To compel a savings and loan association or related entity to comply with its charter or bylaws, any applicable law, or any rule or regulation;

(2) To direct a savings and loan association or related entity to cease and desist from any unsafe or unsound business practice including, but not limited to, unsound or unsafe interest rates, any practice injurious to the public interest, or any violation of State law or regulation relating to savings and loan associations; or

(3) To direct a savings and loan association or related entity to remove any officer, director, or employee who has participated in or consented to any violation of law, regulation, or order relating to savings and loan associations, any unsafe or unsound business practice in the operation of the association, any insider loan not authorized by § 9-307 of this article, or any repeated violation of the association's charter or bylaws.

(b) An order issued by the Division Director under this section to a savings and loan association, or related entity shall:

(1) Be in writing and signed by the Division Director;

(2) State the alleged violation in detail and the facts that constitute the violation;

(3) Direct the association or related entity to discontinue the violation or to take the ordered remedial action; and

(4) State that the association or related entity has a right to a hearing with respect to matters set forth in the order if it submits a request for hearing within 20 days of the date of the order.

(c) Upon receipt of such request, a hearing shall be scheduled promptly before the Division Director or the Division Director's designee and notice of the date, time, and place of the hearing shall be provided to the association, holding company, or subsidiary in writing by the Division Director.

(d) An order shall be sent by certified mail, return receipt requested, bearing a postmark from the United States Postal Service, to:

(1) The president of the savings and loan association or related entity at its principal office in this State; or

(2) Whomever the association or related entity designates to the Division

Director.

(e) (1) (i) In addition to an order issued under subsection (a) of this section, the Division Director may issue an emergency order with respect to any matter set forth in subsection (a) of this section if the Division Director determines that the protection of depositors, members, or stockholders of the association or the protection of the public requires immediate corrective action.

(ii) Emergency orders shall:

1. Be effective on receipt;

2. Specify the charges and a hearing date within 30 days; and

3. Notify the recipient that, upon application, a hearing to abate the order will be scheduled within 10 days.

(2) By its terms, an emergency order may be continued in effect until the effective date of a final order.

§8–402.

(a) Unless issued under § 8–401(e) of this subtitle, an order issued under this subtitle may not become effective until the savings and loan association or related entity named in the order has been given an opportunity for a hearing before the Division Director or the Division Director's designee.

(b) If the savings and loan association or related entity does not request a hearing within the time specified in § 8–401(b)(4) of this subtitle or does not appear at the scheduled hearing, the order becomes final.

(c) (1) After notifying the Secretary, the Division Director or the deputy division director may issue subpoenas compelling the attendance of witnesses or the production of records and documents at the hearing.

(2) If any person fails to comply with the subpoena, the Division Director or deputy division director may apply to the Circuit Court for Baltimore City for an order holding the person in contempt. If the court finds that, without reasonable cause, the person has failed to comply with the subpoena, the court may find the person in contempt and punish the person as if for contempt of court.

(3) The Division Director, the deputy division director, or the Division Director's designee may administer an oath to witnesses.

(4) The Division Director shall maintain a record of the testimony and exhibits admitted at the hearing.

(5) The Division Director may adopt rules of procedure governing the

conduct of hearings.

(6) If the Division Director determines by regulation that a procedure required by Title 10, Subtitle 2 (Administrative Procedure Act – Contested Cases) of the State Government Article does not apply to hearings before the Division, hearings scheduled by the Division may be conducted without regard to the procedure.

(7) The issuance of emergency orders in accordance with § 8–401(e) of this subtitle is not subject to Title 10, Subtitle 2 (Administrative Procedure Act – Contested Cases) of the State Government Article.

(d) After the savings and loan association or related entity has been given an opportunity for a hearing, the Division Director or the Division Director's designee shall issue a final order within 30 days after the conclusion of the hearing. The order:

(1) Shall be mailed as provided in § 8–401 of this subtitle; and

(2) Becomes final 30 days after issuance of the order.

§8–403.

(a) Any party aggrieved by a final order of the Division Director may appeal from the order to the Circuit Court for Baltimore City under Title 10, Subtitle 2 (Administrative Procedure Act - Contested Cases) of the State Government Article.

(b) The filing of an appeal may not stay the effectiveness of the final order.

§8–404.

Subject to the evaluation and reestablishment provisions of the Program Evaluation Act, the provisions of this subtitle relating to the Division of Savings and Loan Associations and relating to the regulation of savings and loan associations are of no effect and may not be enforced after July 1, 1992.

§9–101.

(a) In this title the following words have the meanings indicated.

(b) "Capital stock" means capital stock issued by a capital stock association.

(c) "Capital stock association" means a savings and loan association that has authority under this title to issue capital stock.

(d) "Claim" means:

(1) A right to payment, whether or not the right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured; or

(2) A right to an equitable remedy for breach of performance if the breach gives rise to a right to payment, whether or not the right to an equitable remedy is reduced to judgment, fixed, contingent, matured, unmatured, disputed, undisputed, secured, or unsecured.

(e) "Deposit association" means a savings and loan association that has savings deposit accounts.

(f) "Division Director" means the Commissioner.

(g) "Employee" does not include a controlling person, director, or officer of an association.

(h) "Federal association" means:

(1) A savings and loan association that is incorporated under the laws of the United States; or

(2) A federal savings bank that operates under the jurisdiction of the Federal Home Loan Bank Board and whose accounts are insured by the Federal Savings and Loan Insurance Corporation.

(i) "Fund Director" means the Director of the State of Maryland Deposit Insurance Fund Corporation.

(j) "Mutual association" means a savings and loan association that does not have authority to issue capital stock.

(k) "Net worth certificate" means a capital instrument issued by a savings and loan association for the purpose of increasing or maintaining the capital of the association.

(l) (1) "Savings account" means that part of the savings liability of a savings and loan association that is credited to the account of the holder of the account.

(2) "Savings account" includes a savings certificate account or any other fixed term account.

(m) "Savings and loan association" has the meaning stated in § 8–101 of this article.

(n) "Savings deposit account" means a savings account that:

(1) Is a liability of a deposit association to the extent of its withdrawal value; and

(2) Is not a share interest in a savings and loan association.

(o) "Savings liability" means the aggregate amount of savings accounts of

savings account holders, including earnings credited to the accounts.

(p) "Savings share account" means a savings account that is a share interest in a savings and loan association.

(q) "Secretary" has the meaning stated in § 8–101 of this article.

(r) "Statutory merger" means the transfer of all or substantially all of the assets of a corporation which transfer is:

(1) Subject to all or substantially all of the liabilities of the transferor; and

(2) Followed by the dissolution of the transferor corporation.

(s) "Unsecured days funds" has the meaning stated in the rules and regulations of the Federal Home Loan Bank Board that apply to savings associations insured by the Federal Savings and Loan Insurance Corporation.

§9–102.

(a) Only a corporation that complies with this title and § 1-201 of this article may conduct the business of a savings and loan association or do business under any name or make any representation that implies that it is a savings and loan association.

(b) On application by the Division Director, a court of competent jurisdiction may issue an injunction to restrain any person from violating this section.

(c) Any person who is convicted of knowingly or willfully violating subsection (a) of this section is subject to imprisonment in the penitentiary for not more than 10 years for each offense, or a fine of not more than $100,000 for each offense, or both.

(d) This section does not apply to the use of a similar name by any corporation or association formed only to promote the interests of savings and loan associations, the membership of which is made up of savings and loan associations, their officers, or other representatives.

§9–201.

A savings and loan association shall be organized for the purpose of receiving funds and making loans authorized by this title.

§9–202.

(a) Subject to the provisions of this subtitle, five or more adult individuals, each of whom is a resident of this State and a citizen of the United States, may act as incorporators to form a savings and loan association under this title.

(b) The incorporators shall elect a chairman from among themselves.

§9–203.

The name of a savings and loan association:

(1) Need not indicate that it is a corporation;

(2) Shall contain one of the following phrases or any combination of the words:

(i) "Savings association";

(ii) "Building association";

(iii) "Savings and loan association"; or

(iv) "Building and loan association";

(3) May not be similar in any material or misleading respect to the name of any other State or federal savings and loan association, except that a savings and loan association in operation before July 1, 1980 may continue to operate under its existing name; and

(4) May not include the words "commercial", "federal", "government", "guaranteed", "insured", "Maryland", "national", "trust", "trustee", or "United States", except that a savings and loan association in operation before July 1, 1986 may continue to operate under its existing name.

§9–204.

(a) The articles of incorporation of a savings and loan association shall set forth:

(1) The name of the association;

(2) The county in which the association's first principal place of business is to be located;

(3) A precise and accurate statement of the purpose or purposes for which the association is organized, as well as a statement that it is organized in compliance with State law;

(4) The term for which the association is to exist, which may be perpetual;

(5) The name, occupation, citizenship, place of residence, and post office address of each incorporator;

(6) The name, occupation, citizenship, place of residence, and post office address of each of the first directors; and

(7) If the association is a capital stock association, provisions for the

issuance of capital stock.

(b) The proposed bylaws of the association shall provide for:

(1) (i) The dates of regular meetings of shareholders, if any;

(ii) The notice of the regular meetings to be given;

(iii) The qualification of voters and the manner of voting;

(iv) The manner of calling special meetings;

(v) The number of members that constitute a quorum; and

(vi) The date of the annual meeting;

(2) (i) The number of directors and their qualifications, other than those specified in this title;

(ii) The terms of office of the directors which may not be less than 1 year or more than 3 years;

(iii) If the terms of office are more than 1 year, the method of division into classes for the purpose of electing, as nearly as may be, an equal number of directors each year; and

(iv) The removal or suspension of directors;

(3) (i) The meetings of the board of directors; and

(ii) The powers and duties of the board of directors;

(4) (i) The officers;

(ii) The manner of election of the officers;

(iii) The terms of office, duties, and compensation of the officers; and

(iv) The bonds required of officers;

(5) (i) The classes of shares that may be issued;

(ii) The issuance of shares, whether issued in series or otherwise;

(iii) The times when shares may be issued; and

(iv) The matured value of shares;

(6) The manner in which evidence of share ownership shall be issued to

members;

(7) The time and manner of apportioning, crediting, and paying dividends;

(8) The conditions upon which shares may be transferred, matured, withdrawn, retired, or suspended and forfeited; and

(9) The manner and conditions under which the bylaws may be altered or amended.

(c) (1) By January 1, 1987, the Division Director shall adopt model articles of incorporation and bylaws of savings and loan associations that are not inconsistent with the provisions of subsections (a) and (b) of this section.

(2) An association may modify or alter its articles of incorporation or bylaws to be consistent with the model.

§9–205.

To organize as a savings and loan association, the incorporators shall submit to the Division Director:

(1) A written application on the form that the Division Director requires;

(2) The executed articles of incorporation and a conformed copy;

(3) The proposed bylaws;

(4) Any other exhibits the Division Director requires; and

(5) A filing fee of $1,000.

§9–206.

(a) (1) On receipt of the items listed in § 9-205 of this subtitle, the Division Director shall publish a notice of the filing.

(2) The notice shall state that:

(i) A public hearing may be held on a date that is at least 30 days and not more than 60 days after the filing;

(ii) Written protests to the application shall be received no later than 10 days before the scheduled hearing; and

(iii) If the Division Director does not receive any written protest within the time provided in the notice, the hearing may be canceled.

(b) The notice shall be published:

(1) For at least 2 successive weeks in a newspaper of general circulation in the political subdivision where the principal office of the proposed savings and loan association in this State is to be located; and

(2) In the Maryland Register as provided in the State Documents Law.

(c) The Division Director may prohibit testimony by any person who did not file a protest that complies with subsection (a)(2)(ii) of this section.

§9–207.

The Division Director shall determine from the available information if:

(1) The name of the proposed savings and loan association:

(i) Is the same as an existing association or so similar to the name of an existing association as to mislead the public; and

(ii) Complies with § 9-203 of this subtitle;

(2) The character, responsibility, and general fitness of the incorporators, board of directors, officers and controlling persons of the proposed association qualifies those individuals to act as incorporators, directors, officers, or controlling persons;

(3) The establishment of the proposed association and its location will promote the public interest; and

(4) The proposed association, if a stock association, has subscription for capital stock in an amount determined by the Division Director to be sufficient for the safe and proper operation of the association, which in no event may be less than $1,000,000.

§9–208.

(a) The Division Director may require any change in the proposed articles of incorporation or bylaws that the Division Director considers necessary.

(b) (1) Not later than 60 days after application, the Division Director shall pass a preliminary order in writing approving or refusing the application to organize.

(2) The Division Director shall issue a final written order of approval for incorporation when the Division Director receives the surety bond under this subtitle and is satisfied that the initial accounts required under this subtitle are funded in cash.

(c) An applicant aggrieved by the final order of the Division Director may appeal under § 8–403 of this article.

(d) (1) After the time for appeal of the order expires or on final determination of any appeal taken, the Division Director shall endorse and date each copy of the

articles “approved” or “refused”.

(2) If the Division Director approves the articles, the Division Director shall:

(i) Return the endorsed, executed articles to the chairman of the incorporators; and

(ii) Keep the conformed copy.

(3) If the Division Director refuses the articles, the Division Director shall return the endorsed, executed articles to the chairman of the incorporators.

§9–208.1.

(a) Except as provided in subsection (b) of this section, the Division Director may not approve any applications seeking incorporation of a newly formed savings and loan association under this title on or after July 1, 1990.

(b) The Division Director may approve an application seeking incorporation of a newly formed savings and loan association under this title if:

(1) The application provides that the newly formed association will, immediately after filing its articles of incorporation with the State Department of Assessments and Taxation, convert to a commercial bank under the provisions of §§ 9-631 through 9-639 of this title or convert to a federally chartered savings and loan association under §§ 9-613 through 9-615 of this title;

(2) The association does not operate as a savings and loan association under this title; and

(3) All other requirements set forth in this title and imposed by the Commissioner are satisfied.

§9–209.

(a) On final approval of the articles of incorporation by the Division Director, the chairman of the incorporators of a savings and loan association shall file for record with the State Department of Assessments and Taxation the endorsed, executed articles of incorporation.

(b) When the State Department of Assessments and Taxation accepts the articles of incorporation for record in accordance with subsection (a) of this section, the savings and loan association becomes a corporation.

(c) The chairman of the incorporators shall send to the Division Director a copy of the certificate that acknowledges that the articles of incorporation have been accepted for record.

§9–210.

(a) In this section, "business" means receiving funds or making loans.

(b) A savings and loan association forfeits its charter for nonuse if it:

(1) Has not begun business within 180 days of the acceptance for record of its articles of incorporation, except that the Division Director may grant one extension of not more than 180 days; or

(2) After beginning business, does not engage actively in business during any continuous period of 180 days.

(c) The charter of the savings and loan association is void when the State Department of Assessments and Taxation receives a certified copy of a final order, issued by the Division Director, that:

(1) Finds there is no just cause for the failure to begin or engage in business; and

(2) Directs the savings and loan association to dissolve its business.

§9–211.

(a) The charter of a savings and loan association may be amended as provided in Title 2, Subtitle 6 of the Corporations and Associations Article and this section.

(b) Articles of amendment shall be filed and approved as required by this subtitle for articles of incorporation, except that:

(1) A notice of the filing need not be published; and

(2) A filing fee is not required.

§9–212.

(a) A savings and loan association that forfeits its charter may revive the charter in accordance with Title 3, Subtitle 5 of the Corporations and Associations Article only if:

(1) The Division Director approves the proposed articles of revival; and

(2) The charter was forfeited for:

(i) Failure to file an annual report with the State Department of Assessments and Taxation; or

(ii) Nonpayment of taxes.

(b) Not later than 30 days after a savings and loan association files articles of revival with the Division Director for examination, the Director shall pass an order approving or refusing the articles of revival.

§9–213.

At the written request of the Division Director, a savings and loan association shall file a certified copy of its current bylaws with the Division Director within 10 days of the request.

§9–216.

(a) (1) In this section the following words have the meanings indicated.

(2) "Acquire" means to obtain legal or beneficial ownership of shares, or voting rights of shares, whether directly or indirectly, through an intermediary or otherwise.

(3) "Beneficial ownership" includes:

(i) Ownership by another person who controls, is controlled by, or is under common control with a person; and

(ii) Ownership by a member of the immediate family.

(4) "Control" means the ability of a person to direct the management or policies of an association or entity or elect a majority of a board of directors or the ownership of more than 10 percent of the outstanding shares of any class of securities of an association or interest in an entity.

(b) Except as provided in subsection (g) of this section, without the prior written approval of the Division Director under this section, a person may not acquire control of an association or control of an entity which, directly or indirectly, controls or is controlled by an association.

(c) If the approval of the Division Director is required under subsection (b) of this section, a person who intends to acquire shares of an association or interest in an entity that controls or is controlled by an association shall:

(1) File an application for approval in the form that the Division Director requires;

(2) Deliver to the Division Director any other information that the Division Director requires with the certification of financial information and any verification by oath or affirmation of other data that the Division Director specifies; and

(3) Except in the case of an applicant that is a domestic corporation or a foreign corporation qualified to do business in Maryland, deliver to the Division

Director a written consent to service of process in any action or suit arising out of or in connection with the proposed acquisition through service of process on the Secretary of Labor, Licensing, and Regulation.

(d) (1) Upon receipt of an application for approval and other items required under subsection (c) of this section, the Division Director shall conduct an investigation to determine whether the acquisition, its purposes and probable effects would be consistent with purposes of Title 8 of this article and of this title, whether:

(i) The applicant, or its directors, officers, or controlling persons, and any proposed new officers, directors, or controlling persons of the association involved would satisfy the test for incorporators, officers, directors, and controlling persons of a new association under § 9-207 of this subtitle; and

(ii) The proposed acquisition would be prejudicial to the interests of the depositors, creditors, beneficiaries of fiduciary accounts, or shareholders of the association involved.

(2) Except for information that the Division Director determines should be kept confidential, as part of the investigation the Division Director shall transmit to the association or entity a copy of the application and all other information received from the applicant for the purpose of receiving comments from the association or entity.

(e) (1) Within 60 days after receipt of an application under subsection (c) of this section or within a longer period not in excess of 30 days after receipt from the applicant of additional information required by the Division Director, the Division Director shall:

(i) Approve or disapprove the proposed acquisition; and

(ii) Give written notice of its decision to the applicant and the association or entity.

(2) If the Division Director approves a proposed acquisition that may result in a change of control of the association or entity, the Division Director may impose conditions to be observed after the acquisition with respect to:

(i) Transactions between the association involved and the applicant or affiliate of the applicant;

(ii) Dividends or distributions by the association; or

(iii) Other matters as the Division Director considers advisable on the basis of the purposes of this title and Title 8 of this article.

(f) A person may not make, directly or indirectly, any untrue statement of a material fact or omit a material fact in order to mislead any person in connection with any acquisition or sale of, or proposal to acquire or sell, shares within the scope of this

section or in any application or submission of information to the Division Director under subsection (c) of this section.

(g) Approval under this section is not required for an acquisition in the case of either:

(1) An acquisition of shares by the issuer of the shares or by a person who, at the time of acquisition, controls the association or entity whose shares or interest are proposed to be acquired;

(2) A merger or consolidation which requires the approval of the Division Director, Commissioner, or the Federal Home Loan Bank Board;

(3) A transaction by a broker-dealer who does no more than perform the customary broker's function in transactions on a stock exchange or in the over-the-counter market, who receives no more than the customary broker's commission and who does not solicit, or arrange for the solicitation of orders; or

(4) A transfer through testate or intestate succession, as long as the acquiring party advises the Division Director in writing within 30 days of the acquisition and provides the information that the Division Director requires.

(h) A person who is not a citizen of the United States may not directly or indirectly acquire control of an association.

(i) (1) Any person who directly or indirectly acquires shares of an association or interest in an entity which controls an association in violation of this section, or who violates subsection (f) of this section shall be punished, upon conviction, by imprisonment in the penitentiary for a period not more than 10 years, or a fine not more than $100,000, or both.

(2) Any person who violates any provision of this section is liable civilly to any association, entity, shareholder, or other person damaged by the violation.

§9–216.1.

(a) To organize as a savings and loan association, the chairman of the incorporators shall:

(1) Obtain a surety bond as provided in § 9-217 of this subtitle; and

(2) Establish:

(i) The initial subscription for savings accounts; and

(ii) The expense fund.

(b) (1) In addition to subsection (a) of this section, the incorporators of a

capital stock association shall establish an initial subscription account for capital stock.

(2) (i) A capital stock association may use its paid-in surplus to provide amounts required for the expense fund.

(ii) Any paid-in surplus amounts that are allocated to the expense fund under subparagraph (i) of this paragraph may not be used for dividends to holders of capital stock or any other distribution to holders of capital stock except on liquidation.

§9–217.

The chairman of the incorporators shall deliver to the Division Director a bond issued by a surety company that is qualified to do business in this State. The bond shall:

(1) Be in the aggregate amount of the following funds, as may be applicable under § 9-216.1 of this subtitle:

(i) Initial subscription for savings accounts;

(ii) Expense fund; and

(iii) Initial subscription for capital stock account;

(2) Name the Division Director as obligee;

(3) Be in the form required by the Division Director; and

(4) Guarantee the safekeeping of the amounts collected in the initial accounts:

(i) For delivery to the savings and loan association if a certificate of incorporation is issued; or

(ii) If the attempt to incorporate is unsuccessful, the return to the incorporators or subscribers of the respective amounts each paid to the initial subscription for savings accounts, the initial subscription for capital stock account and, less expenses, the expense fund.

§9–218.

The incorporators of a savings and loan association shall deliver to their chairman, as savings accounts in the association, an aggregate amount in subscriptions of at least $1,000,000 or any greater amount that the Division Director determines is necessary to conduct a safe and sound operation at the proposed location of the principal office of the association in this State. The aggregate amount constitutes the initial subscription for savings accounts.

§9–220.

(a) The incorporators of a savings and loan association shall deliver to the credit of the chairman of the incorporators, as an expense fund, cash in an amount equal to at least 25 percent of the minimum initial subscriptions for savings accounts under § 9-218 of this subtitle.

(b) The expense fund shall be used to pay:

(1) Organizational expenses; and

(2) Operating expenses until earnings are sufficient to pay the operating expenses and any dividends or interest on savings accounts.

(c) Except as to withdrawal rights, priority of claims on liquidation, and the provisions of this section, an incorporator's contribution to the expense fund shall be treated as a savings account in the savings and loan association.

(d) Contributions of the incorporators to the expense fund may be repaid pro rata to them from the net earnings of the savings and loan association after providing for the required allocation to the general reserve fund and the payment of dividends or interest on the savings accounts of at least 2 percent a year.

(e) If the savings and loan association liquidates before repayment of the contributions, contributions shall be repaid pro rata to the incorporators from the unexpended expense fund after the payment of all:

(1) Liquidation expenses;

(2) Creditors; and

(3) The withdrawal value of savings accounts.

(f) Subsections (b), (c), and (d) of this section do not apply to any portion of an expense fund that is provided from the paid-in surplus of a capital stock association.

§9–221.

The incorporators of a capital stock association shall have subscriptions for capital stock in an aggregate of not less than $1,000,000, or any greater amount that the Division Director requires in order to conduct a safe and sound operation.

§9–222.

A capital stock association may use paid-in surplus if the expense fund is not sufficient to pay organizational and operating expenses, and dividends or interest on savings accounts.

§9–223.

If the attempt to incorporate a savings and loan association is unsuccessful:

(1) The chairman of the incorporators shall refund amounts paid to the initial accounts under this subtitle, except that the expense fund and paid-in surplus accounts are first subject to all reasonable expenses; and

(2) The Division Director shall release the surety bond of the chairman of the incorporators when the Director has satisfactory assurance that:

(i) All expenses have been paid; and

(ii) All amounts under item (1) of this section have been refunded.

§9–224.

(a) Notwithstanding any other provision of any law or regulation or any provision of the charter or bylaws of any savings and loan association:

(1) A savings and loan association is authorized to issue from time to time net worth certificates to the State of Maryland to the account of the Savings and Loan Association Stabilization Fund or to the State of Maryland Deposit Insurance Fund Corporation with the prior approval of the Secretary of Labor, Licensing, and Regulation and the Fund Director, in such amounts and upon such terms and conditions as approved solely by the Fund Director;

(2) The consideration for the issuance of a net worth certificate may consist of one or more of money, bond anticipation notes, or other obligations of this State or any other form of consideration approved by the Fund Director;

(3) A net worth certificate may provide for the payment of dividends and for redemption in such amounts, at such times and upon such terms and conditions as approved by the Fund Director;

(4) A net worth certificate may be convertible into stock of a capital stock association;

(5) The right and claim of any holder of a net worth certificate has priority over any claim or right arising out of any other equity interest in the savings and loan association in the event of a conservatorship, receivership, liquidation, or reorganization, subject to the prior payment of all savings liabilities, savings share accounts, savings deposit accounts, and debt obligations;

(6) During any period in which a capital stock association has any net worth certificate outstanding, it may not pay any dividend or make a distribution of any nature with respect to any capital stock of the association or repurchase or redeem any capital stock;

(7) During any period in which a savings and loan association has any net worth certificate outstanding, the Secretary of Labor, Licensing, and Regulation may:

(i) Increase the number of directors of the savings and loan association by any number and appoint directors to fill any newly created directorship;

(ii) Fix the compensation of and remove, without cause, any and all directors, officers, or employees of the savings and loan association and appoint successors to fill any vacancy that exists; and

(iii) Subject to prior approval by the Governor and without obtaining the recommendation of the board of directors or the approval of the stockholders or members of the association, sell, transfer, or assign all or substantially all of the assets of the association or merge or consolidate the association with or into any other association or corporation, on such terms as the Secretary directs; and

(8) Net worth certificates shall be deemed to be capital of the issuing association for all statutory, regulatory, and accounting purposes.

(b) (1) Any person who knowingly submits false information concerning a net worth certificate is guilty of a misdemeanor.

(2) A person who violates this section is subject to a fine of not more than $100,000, or imprisonment in the penitentiary for not more than 10 years, or both.

(3) Any person who violates this section is liable civilly to any association, entity, shareholder, the State, or other person damaged by the violation.

§9–301.

(a) A member of a savings and loan association means a holder, as shown on the association's records, of:

(1) One or more savings accounts, as to a mutual association; and

(2) One or more shares of capital stock, as to a capital stock association.

(b) (1) Multiple holders of a single account or share of capital stock shall be considered a single member.

(2) Notice to one holder of a multiple name account or share of capital stock is sufficient notice to all holders.

§9–302.

(a) The business and affairs of a savings and loan association shall be managed under the direction of a board of directors.

(b) A savings and loan association shall have at least 5 directors, as its charter

or bylaws provide.

(c) (1) Each director of a savings and loan association shall be:

(i) A citizen of the United States; and

(ii) A member of the association or the holder of a savings account in the association.

(2) At least two-thirds of the directors shall be residents of this State.

(3) Each nonresident director shall be approved by the Division Director as qualified to serve.

(d) Subsection (c)(1)(ii) of this section does not apply to any member of a board of directors who was serving on a board before July 1, 1980.

§9–303.

Except as otherwise provided by the charter or bylaws, each member of:

(1) A mutual association has one vote; and

(2) A capital stock association has one vote for each share of capital stock that the member owns of record.

§9–304.

(a) A savings and loan association shall notify each member of the time and place of any meeting of members at least 20 days before the meeting.

(b) The notice shall be given by mail or by publication in a newspaper of general circulation in the political subdivision where the principal business office of the association is located.

§9–305.

At any meeting of the members of a savings and loan association:

(1) Except as provided in the charter or bylaws, any number of members present in person or by proxy is a quorum; and

(2) Unless otherwise specifically provided by law, the charter, or the bylaws, a majority of all votes cast at which a quorum is present determines any question.

§9–306.

(a) A statement of the financial condition of a savings and loan association shall

be:

(1) Prepared quarterly;

(2) Submitted at a meeting of the board of directors of the association that is held within 30 days after the end of the quarter; and

(3) Submitted to the Division Director within 30 days after the end of the quarter.

(b) A savings and loan association shall:

(1) Send or provide the quarterly statement of financial condition to any person on request; and

(2) Within 20 days after the board of directors meeting:

(i) Have the quarterly statement of financial condition available at each of its offices in this State; and

(ii) Send a quarterly statement of the salaries, fees, dividends, compensation under § 9-307(i) of this subtitle, expense accounts, and any loans permitted under § 9-307(d) of this subtitle paid or made to each of the officers, directors, and controlling persons of the association and a current list of the names of the officers, directors, and controlling persons of the association, certified by an officer of the association, to the Division Director, who shall make them available to any member or depositor on request.

(c) (1) At least once each year, a savings and loan association shall:

(i) Publish a summary of the statement of financial condition in a newspaper published in the county where the association has its principal office; and

(ii) Submit proof of publication of the summary to the Division Director.

(2) Each summary of a report shall be in a form that the Division Director approves.

§9–307.

(a) Each director, officer, and controlling person of a savings and loan association shall:

(1) Act in a fiduciary capacity towards the association, and the association's members, stockholders, and depositors; and

(2) Discharge duties and their respective positions in good faith, and with the same diligence and care that an ordinarily prudent person would exercise under a

similar circumstance in a like position.

(b) A director, officer, controlling person, or employee of a savings and loan association may not place himself in a position that creates a conflict of interest.

(c) Except as otherwise provided in subsection (d) of this section, a savings and loan association or a related entity may not make or renew a loan or extension of credit directly or indirectly to:

(1) Any controlling person, director, officer, or employee of the association, or a member of any of their immediate families; or

(2) Any corporation, association, partnership, trust or other entity in which an interest of 10 percent or more is owned by the controlling persons, directors, officers, or employees of the association, or members of any of their immediate families.

(d) (1) Subject to the provisions of paragraphs (3) and (4) of this subsection, a loan by a savings and loan association or a related entity is not prohibited to any controlling person, director, officer, or employee of an association or a member of any of their immediate families if the loan is:

(i) Secured by the borrower's principal residence, including a principal residence under construction; or

(ii) Secured by the borrower's savings account in the association, subject to the requirement that the loan secured by a savings account does not exceed the withdrawal value of the account.

(2) Subject to the provisions of paragraph (4) of this subsection, a consumer loan by a savings and loan association or related entity is not prohibited to any employee of an association or a member of the employee's immediate family.

(3) With respect to loans permitted under paragraph (1)(i) of this subsection, the loan or loans in the aggregate:

(i) May not exceed 80 percent of the appraised value of the borrower's principal residence; or

(ii) May exceed 80 percent of the appraised value if:

1. The difference between that percentage and the total amount of the loan or loans does not exceed 15 percent; and

2. The difference is insured by an agency of the federal government or a private mortgage insurance company.

(4) Any loan permitted by paragraphs (1) and (2) of this subsection shall comply with the following requirements:

(i) The loans shall be in the ordinary course of business of the association or subsidiary, may not involve more than the normal risk of collectibility or present other unfavorable features, and may not exceed the loan amount that would be available to members of the general public of similar credit status applying for loans;

(ii) The loans shall be approved in advance by a resolution duly adopted after full disclosure by at least a majority of the entire board of directors of the association, but not including any director who has an interest in the loan transaction;

(iii) The disclosure of the loan transactions shall include whether the loan is made on substantially the same terms, including interest rate and collateral, as those prevailing at the time for comparable loans to members of the general public;

(iv) The interest rate on the loans shall be at least 100 basis points above the current cost of funds of the association, and the resolution required by subparagraph (ii) of this paragraph shall set forth the association's current cost of funds, including the elements of its computation; and

(v) In the case of a loan secured by a savings account, the interest rate shall be at least 100 basis points above the rate of return on the savings account, and the borrower may not withdraw funds from the account below the level of the amount of the outstanding balance of the loan.

(e) (1) A controlling person, director, officer, employee, or agent of a savings and loan association, or a member of any of their immediate families, directly, or indirectly may not assent to receive, or receive any money or other property of value as a fee, commission, gift, or remuneration of any type from any person or business entity, for procuring, endeavoring to procure, or performing any service, in connection with any loan from, investment by, or deposit in the association.

(2) This subsection does not prohibit an employee or agent of an association who is not a controlling person, director, or officer or a member of their immediate family from receiving fees in the nature of loan origination commissions from the association.

(f) (1) Except as provided in paragraph (2) of this subsection, a controlling person, director, officer, employee or attorney of a savings and loan association, or member of that individual's immediate family, directly or indirectly, may not purchase from, sell to, or lease from or to the association.

(2) The prohibition contained in paragraph (1) of this subsection does not apply if the Division Director makes a prior written determination that the purchase, sale, or lease to or from the association would be economically advantageous to, fair to, and in the best interest of the association.

(3) Nothing in this subsection may be construed to affect any bona fide lease, purchase order, or other contractual obligation entered into before June 1, 1986, between an association and a controlling person, director, officer, employee, or attorney

of an association or a member of that individual's immediate family.

(g) (1) Except as provided in paragraph (2) of this subsection, an association may not honor an overdraft to a controlling person, director, officer, or employee of the association or a member of any of their immediate families on any account or accounts at the association.

(2) If an employee has overdraft protection on an account with the association, an association may honor an overdraft to an employee or a member of the employee's immediate family to the extent of the maximum amount of the overdraft protection on the account.

(h) (1) A director, officer, or controlling person may not take advantage of a business opportunity for the director's, officer's, or controlling person's personal profit or the benefit or the personal profit or benefit of a member of the immediate family when the opportunity is:

(i) Within the corporate powers of the association or its service corporations; and

(ii) Of present or potential advantage to the association.

(2) Nothing in this subsection may be construed to affect any contractual obligations entered into before January 15, 1986 by a director, officer, or controlling person.

(i) An association, its holding company, subsidiaries, or affiliates may employ its officers, directors, and controlling persons in a capacity other than as officer or director only if the employment:

(1) Does not create a conflict of interest;

(2) Is for reasonable compensation; and

(3) Is in a capacity in which the officers, directors, and controlling persons are qualified.

(j) An association may not make a loan to, or transact business with, any person or entity for the purpose of frustrating or avoiding any prohibition in this section or any regulations adopted under this section.

(k) Any controlling person, director, officer, employee, or attorney who knowingly violates or causes a violation of this section on conviction is subject to imprisonment in the penitentiary for a period not more than 10 years, or a fine of not more than $100,000, or both.

§9–308.

(a) A savings and loan association shall provide a fidelity bond, in the amount that the Division Director requires, to cover each director, officer, employee, or agent of the association who has control over or access to cash or securities of the association.

(b) If a person fails to qualify for the bond required by subsection (a) of this section, the association shall remove the person from the position held by the person with the association.

§9–309.

(a) A savings and loan association may not establish or relocate any branch office or relocate a principal office unless the Division Director approves its application to do so.

(b) An application for the establishment or relocation of a branch office or relocation of a principal office shall include:

(1) An application fee of $500 unless the application is for relocation within a one-half mile radius of the existing site; and

(2) A statement of:

(i) The need for the establishment or relocation;

(ii) The address of the proposed location;

(iii) The services to be provided;

(iv) The estimated annual expense; and

(v) The source of payment for the annual expense.

(c) (1) The Division Director shall publish notice of the filing of an application under this section.

(2) The notice shall state:

(i) The scheduled date, place, and time of a public hearing at least 30 days and not more than 90 days after the filing;

(ii) That written protests to the application may be made by any savings and loan association located in the area where a savings and loan office is proposed, and that protests shall be received by the Division Director no later than 10 days before the scheduled hearing; and

(iii) That the hearing may be canceled if no written protest is received within the time provided in the notice.

(3) The notice shall be published:

(i) At least once each week for 2 successive weeks at the expense of the applicant in a newspaper of general circulation in the political subdivision where the proposed office is to be located;

(ii) In the Maryland Register, as provided in the State Documents Law; and

(iii) As the Division Director considers otherwise desirable.

(d) As provided in this section:

(1) Any savings and loan association located in the area where a proposed branch office of a savings and loan association is to be located or a principal office is proposed to be relocated may protest the requested approval of the Division Director; and

(2) The Division Director shall give any savings and loan association that protests under paragraph (1) of this subsection an opportunity to be heard.

(e) Not later than 30 days after the conclusion of the hearing or, if a hearing is not held, after the scheduled hearing date, the Division Director shall approve an application under this section if the Director finds that:

(1) The public interest will be promoted; and

(2) The office will be operated efficiently and in accordance with this title.

(f) The Division Director may not approve a new office or location for any savings and loan association that is not in compliance with Title 8 of this article and this title or any other law or regulation of this State relating to savings and loan associations.

(g) Any applicant may appeal any action or nonaction of the Division Director to the Circuit Court for Baltimore City.

§9–310.

(a) (1) In this section, "electronic terminal" means an automated electronic information processing device that:

(i) Stores information about a customer's account with a savings and loan association and transmits that information to an office of the association; and

(ii) Is activated by a machine-readable instrument issued to a customer.

(2) An electronic terminal is not a branch office of a savings and loan

association.

(b) If the Division Director approves the application of a savings and loan association under this section, an association may establish and maintain an electronic terminal at a location that may be other than its principal or any branch office.

(c) (1) The savings and loan association shall:

(i) File with the Division Director an application for general authority to establish one or more electronic terminals; and

(ii) Pay to the Division of Savings and Loan Associations a $100 filing fee.

(2) The application shall include as to proposed electronic terminals:

(i) The location of each;

(ii) The physical size and other characteristics;

(iii) The capital investment;

(iv) The security devices to be installed;

(v) The systems and safeguards to be used to insure confidentiality and privacy of the account information of customers; and

(vi) Evidence of sufficient fidelity, forgery, and other appropriate insurance to protect the interests of the association.

(3) The Division Director shall publish a notice of the filing in the Maryland Register as provided in the State Documents Law.

(d) Within 60 days after the application is filed, the Division Director shall approve an application only if the Division Director finds that the proposed terminal will:

(1) Promote the public interest; and

(2) Be operated efficiently and in accordance with this title.

(e) A savings and loan association may use an electronic terminal to enable a customer of the association to:

(1) Deposit money into an account of the customer of the association;

(2) Transfer money from any account of the customer to any other account;

(3) Withdraw money from an account or under an authorized line of credit

of a customer;

(4) Make payments on loans; and

(5) Execute any other transaction that the Division Director approves.

(f) A savings and loan association may verify by direct wire transmission or otherwise any transaction that is made by means of an electronic terminal.

(g) A savings and loan association may participate with any other financial institution doing business in this State in establishing and maintaining an electronic terminal.

(h) Any applicant aggrieved by any action or nonaction of the Division Director under this section may appeal to the circuit court for the county where the association has its principal business office in this State.

§9–311.

(a) (1) A savings and loan association shall have a president, a secretary, and a treasurer and other officers as it may authorize.

(2) Except for the president, who may not hold any other office than that of chairman of the board, the bylaws of an association may provide that the same individual may hold 2 offices.

(3) The president shall be a member of the board of directors.

(b) (1) Except as otherwise provided in the bylaws, the board of directors shall elect the officers, and fill all vacancies.

(2) By a vote of the majority of the board at any time, the board may remove any officer elected or appointed.

(c) The officers shall have the authority and perform the duties as are provided in the bylaws, or, in the absence of a provision in the bylaws, as are provided by the board.

§9–312.

(a) (1) Except as otherwise provided in the bylaws, the board of directors of an association or subsidiary has the responsibility for determining the compensation of officers of the association or subsidiary.

(2) Compensation determined under this section must be reasonable and commensurate with the duties and responsibilities of the officers.

(b) In making the determination concerning officers, the board of directors shall consider the following factors:

(1) The qualifications and experience of the person concerned;

(2) The compensation paid to other persons employed by the association or subsidiary;

(3) The compensation paid to persons having similar duties and responsibilities in other associations or subsidiaries;

(4) The size of the association or subsidiary, and the complexity of its operations;

(5) The financial condition, including income, of the association or subsidiary and the individual's contribution to the financial condition;

(6) Any amounts received, either directly or indirectly, by an officer whose principal occupation is with the association or subsidiary for other services performed for the association or subsidiary; and

(7) The value of personal fringe benefits provided to the officer.

(c) With respect to fees of outside accountants, appraisers, attorneys, or other professionals, the board of directors is responsible for a determination of whether those fees are reasonable and commensurate with the services being performed. This duty may be discharged by the establishment of standards for or ranges of reasonable fees with provision for periodic review by the board and the ability of the board to alter excessive fees.

(d) (1) In establishing fees to be paid to members of the board, the board of directors shall establish policies that protect the assets of the association.

(2) The board of directors shall use the same factors in setting its fees as it does in setting the officer's compensation.

(e) The minutes of the board of directors shall include the record of deliberations concerning compensation for officers and fees for accountants, attorneys, appraisers, other professionals, and directors.

§9–313.

(a) If its charter or bylaws provide, a savings and loan association that is not a deposit association may issue savings share accounts.

(b) Notwithstanding any provision in its charter or bylaws before July 1, 1980 on the number of savings share accounts, a savings and loan association that is not a deposit association may accept subscriptions and payment for an unlimited number of savings share accounts without other corporate action.

§9–314.

(a) Only a deposit association may issue savings deposit accounts.

(b) A savings and loan association may become a deposit association if:

(1) Its charter or bylaws provide; and

(2) The Division Director approves.

§9–315.

(a) The holder of a savings deposit account in a savings and loan association has the same claim priority in any distribution of assets on liquidation as a general creditor of the deposit association to the extent of the deposit account's withdrawal value.

(b) In addition to subsection (a) of this section, the holder of a savings deposit account has the same rights as the owner of a savings share account, including any membership or voting rights and the right to share in any distribution of remaining assets on liquidation.

§9–316.

If a savings and loan association becomes a deposit association:

(1) It may accept only savings deposit accounts;

(2) Existing savings share accounts in the association become savings deposit accounts;

(3) The conversion, for the purpose of computing interest on its savings accounts, shall be considered to have taken place on the immediately preceding regular distribution date if the effective date of the conversion to a deposit association is made on a date other than the date on which an association regularly distributes dividends; and

(4) The holder of any outstanding right to receive from the association a savings share account shall receive instead a savings deposit account.

§9–319.

If its charter provides, a savings and loan association may issue capital stock.

§9–320.

A capital stock association:

(1) Shall obtain the prior written approval of the Division Director for each prospectus, offering circular, or advertisement offering capital stock for sale or

subscription;

(2) Shall include in each prospectus offering capital stock a statement that shares of capital stock are not insured by the State of Maryland Deposit Insurance Fund Corporation or the Federal Savings and Loan Insurance Corporation;

(3) Except for stock issued under a plan of consolidation, merger, or reorganization approved under § 9-627 of this title, shall require that the consideration for its capital stock be paid in cash and in an amount not less than the par value of the stock;

(4) May issue stock options under a stock option plan approved by the Division Director;

(5) May not grant any loan which is secured in whole or in part by shares of its capital stock; and

(6) Unless the Division Director has given prior written approval, may not repurchase shares of capital stock for its own account.

§9–321.

(a) If the Division Director approves a plan of issuance under subsection (b) of this section, a capital stock association may issue capital stock that is additional to that of its initial offering.

(b) The Division Director shall approve a plan submitted under subsection (a) of this section if the plan:

(1) Is fair; and

(2) Conforms to this part of this subtitle.

(c) A dividend in the form of a savings and loan association's capital stock does not require approval of the Division Director.

(d) A split of the number of issued shares of capital stock of a savings and loan association into a greater or lesser number of shares without increasing the stated capital of the association requires the approval of the Division Director.

(e) Any applicant that is aggrieved by the action or nonaction of the Director may appeal to the Circuit Court for Baltimore City.

§9–322.

Capital stock shall:

(1) Have a par value of $1 a share, or any greater amount that the charter may provide;

(2) Be nonassessable, notwithstanding any provision in the charter or bylaws, or on the capital stock certificate;

(3) Be nonredeemable until each claim against and each liability of the capital stock association is satisfied fully, and each savings account is paid to its holder at its withdrawal value;

(4) Be entitled to payment of dividends but only after dividends or interest are paid on each savings account as provided in Subtitle 4 of this title;

(5) Be designated "capital stock" notwithstanding any charter or bylaw provision; and

(6) On each certificate that evidences capital stock, state that the shares are "capital stock" and are not insured by the State of Maryland Deposit Insurance Fund Corporation or the Federal Savings and Loan Insurance Corporation.

§9–323.

(a) Every stock association shall at all times keep an up-to-date list of the names of all its stockholders and those of its holding companies.

(b) Each year, or whenever requested by the Division Director, the association shall file with the Division Director a correct list of all its stockholders and those of its holding companies, the resident address of each, and the number of shares of each class of stock held by each stockholder.

(c) Except as provided in § 9-306(b)(2)(ii) of this subtitle, the Division Director shall keep confidential the list of stockholders.

§9–324.

(a) (1) For the purposes of this section, "net worth" includes:

(i) Capital stock;

(ii) Paid-in capital or paid-in surplus;

(iii) Retained income, retained earnings, earned surplus, and undivided profits;

(iv) Subordinated debt as defined by the Division Director;

(v) Preferred stock as defined by the Division Director; and

(vi) Other items or amounts as defined and deemed appropriate by the Director to achieve regulatory objectives.

(2) In this section, qualifying amounts shall be determined in accordance

with generally accepted accounting principles or accounting practices determined by the Division Director to be appropriate to achieve regulatory objectives and to assure that the interests of depositors, members, stockholders, and the public are protected.

(b) (1) The minimum net worth requirement shall be:

(i) An amount equal to at least 5 percent of liabilities as defined under generally accepted accounting principles, or accounting practices determined by the Division Director to be appropriate to achieve regulatory objectives, excluding that portion of subordinated debt included in net worth under subsection (a) of this section, plus

(ii) Any additional amounts deemed necessary by the Division Director to assure that the interests of depositors, members, stockholders, and the public are protected.

(2) Beginning on June 1, 1986, for those associations that do not meet the requirements of paragraph (1) of this subsection and, on May 31, 1986, were otherwise in compliance with the applicable general reserve requirement of 3 percent of savings and loan liabilities, as defined under laws and regulations in effect on May 31, 1986, regulatory net worth must be increased so that the requirements of paragraph (1) of this subsection are satisfied by July 1, 1989.

(c) Dividends on capital stock may not be declared or paid if the association, after the payment of the dividends, would not be in compliance with subsection (b)(1) of this section.

(d) In the event that an association is not in compliance with the requirements of this section, the Division Director may take any action necessary, as authorized under this title and Title 8 of this article to assure that the interests of depositors, members, stockholders, and the public are protected.

§9–328.

(a) Subject to regulation of the Division Director, the board of directors of each savings and loan association shall allocate the profits of the association, at least annually, at the times the bylaws provide.

(b) The board of directors of each savings and loan association shall:

(1) In accordance with generally accepted accounting principles, determine gross income for the association; and

(2) Exclude from gross income:

(i) Income received or accrued during the period of default for any asset upon which a default exists; and

(ii) Discounts that are amortized on securities upon which a default exists.

(c) To determine the amount of net profits, the board of directors shall deduct items from gross income in accordance with generally accepted accounting principles.

(d) By regulation the Division Director may permit or deny other items to be included in, or deducted from, gross income.

§9–329.

(a) In any distribution of assets on liquidation of a savings and loan association, the priority of claims is as follows:

(1) In a mutual association:

(i) General creditors and holders of savings deposit accounts;

(ii) Holders of savings share accounts; and

(iii) Contributors to the initial general reserve fund before June 1, 1986 and to the expense fund under Subtitle 2 of this title; and

(2) In a capital stock association:

(i) General creditors (other than those who are capital stockholders) and holders of savings deposit accounts;

(ii) Holders of savings share accounts;

(iii) Contributors to the initial general reserve fund before June 1, 1986 and to the expense fund under Subtitle 2 of this title unless the funds were provided by paid-in surplus; and

(iv) Capital stockholders.

(b) Notwithstanding any other provision of law, in the case of the liquidation of a savings and loan association for which a receiver has been appointed under § 9-708 of this title:

(1) The determination of whether the association's savings accounts constitute savings deposit accounts or savings share accounts for purposes of subsection (a) of this section shall be made as of the date that the receiver is appointed by the court administering the receivership; and

(2) If, as of that date, the savings and loan association in receivership constitutes a deposit association under § 9-314 of this subtitle, then all of its savings accounts shall constitute savings deposit accounts for purposes of subsection (a) of this section.

§9–401.

A savings and loan association may classify its savings accounts according to the character, amount, duration, or regularity of additions to the accounts.

§9–402.

In accordance with rules and regulations of the Division Director, a savings and loan association may issue a savings certificate account or any other fixed term savings account.

§9–403.

(a) (1) As to the interest bearing account of each depositor in a savings and loan association, the savings and loan association shall generally make available to any depositor with an existing account, in addition to actually giving to the depositor, on the opening of the interest bearing account and, later, on demand of the depositor:

(i) Written notice of:

1. The annual rate of simple interest currently in effect;

2. The dates, if any, on which the current rate of interest may be changed, and the terms and conditions under which each successive interest rate will be applied;

3. The date or point in time on which the deposit begins to earn interest;

4. The method of determining the account balance on which interest earned is calculated, including the methods for day of deposit to day of withdrawal and low periodic balance;

5. Whether interest is compounded and, where applicable, the period for compounding;

6. The annual percentage yield in 1 year based on the rate of simple interest and compounding method;

7. The date or point in time when interest earned is credited to the account;

8. The method of determining the amount of loss of accumulated earned interest if an account is closed before the date on which interest is regularly credited;

9. The policy on the availability of deposited funds; and

10. Any fees, charges, or penalties which may be applied and

the conditions under which the fees, charges, or penalties may be assessed; and

(ii) The following written notice:

"Under Maryland law, all funds remaining in this interest bearing account become the property of this State after the account has been inactive for 5 years and notice is sent to the depositor at that depositor's last known address. This account will be considered inactive if the depositor has not: (1) increased or decreased the amount in the account; (2) presented the passbook or other similar evidence of the account for the crediting of interest; (3) written to this savings and loan association about the account; or (4) otherwise indicated an interest in the account as evidenced by a memorandum on file with this savings and loan association."

(2) Not less than 30 days before a savings and loan association adopts any change regarding any information required under paragraph (1)(i) of this subsection, the association shall inform each depositor of the change in the association's periodic statement or by written notice.

(b) A savings and loan association shall pay at least 3 percent annual interest on each interest bearing account that is instituted for a specific purpose, including "Christmas" or "vacation" accounts, for a period of 1 year or less.

(c) A savings and loan association that fails to comply with subsection (a) or (b) of this section shall be liable to any depositor of the association who sustains any injury or loss as the result of the failure to comply for:

(1) All foreseeable losses incurred by the depositor as a result of the association's failure to comply with those subsections; and

(2) Reasonable attorney's fees.

§9–404.

(a) Subject to this title and its bylaws, a savings and loan association may:

(1) Pay a dividend on savings share accounts or interest on savings deposit accounts;

(2) Agree in advance to pay an additional or different rate of dividend or interest on all savings accounts in the same classification subject to the requirement that each savings account in the same classification receive the same ratable portion of dividends or interest; and

(3) Provide for penalties in a savings account contract, subject to approval of the Division Director.

(b) The board of directors of a savings and loan association, by resolution, shall determine as to dividends or interest on savings accounts:

(1) The rate;

(2) The method of calculation; and

(3) The payment date.

(c) Dividends or interest on savings accounts may be paid only from current earnings, earned surplus, the expense fund, or as otherwise provided in this title.

§9–405.

(a) Dividends or interest on a savings certificate account or other type of fixed term account shall be:

(1) Subject to the approval of the Division Director; and

(2) In accordance with the rules and regulations of the Division Director.

(b) Within 45 days of the request, the Division Director shall approve an association's request to pay a dividend or interest under this section if:

(1) Earnings of the association are sufficient to pay the proposed dividend for a period of at least 1 year; and

(2) The public interest is protected.

(c) An applicant aggrieved by the action or nonaction of the Division Director under this section may appeal to the appropriate circuit court.

§9–406.

(a) Except as required by subsection (b) of this section, a savings and loan association is not required to pay any dividend or interest on special purpose accounts such as "Christmas" or "vacation" accounts.

(b) A savings and loan association shall pay at least 5 percent annual interest or dividend on savings accounts that are for:

(1) A period of 1 year or less; and

(2) A special purpose, such as "Christmas" or "vacation" accounts.

§9–407.

(a) As to any savings account that has a withdrawal value of less than $25, a savings and loan association:

(1) Need not pay a dividend or interest on the account; and

(2) May not charge a penalty or service charge.

(b) This section does not apply to a negotiable or transferable order of withdrawal account.

§9–408.

(a) At any time, a holder of a savings account in a savings and loan association may request to withdraw all or any part of the money in the account of the holder and, for certain classes of accounts, the request may be made by a negotiable or transferable order.

(b) (1) A savings and loan association may permit withdrawals from a savings account to be made by negotiable or transferable order.

(2) As to any savings account from which withdrawal may be made by a negotiable or transferable order of withdrawal, a savings and loan association:

(i) Need not pay any dividend or interest on the account; and

(ii) May impose a service charge on any account in accordance with the regulations of the Division Director.

(c) (1) As long as a written withdrawal request remains on file, a member who is a holder of a savings account in a savings and loan association who has requested a withdrawal from the account remains a member of the association until the withdrawal request is paid.

(2) A holder of a savings share account in a savings and loan association who has requested a withdrawal from the account is not a creditor of the association, either before or after the request to withdraw money, unless an association defaults in any payment due under this section.

(d) This section does not prevent a savings and loan association from restricting by contract a withdrawal from an account of $100,000 or over, or any account that is pledged to the association.

§9–412.1.

(a) Any checks or drafts provided directly or indirectly by a savings and loan association for use in connection with a personal checking or draft account shall have the numerical month and year in which the account was opened printed on the face of the checks or drafts, except as provided in subsection (b) of this section.

(b) The provisions of subsection (a) of this section shall not apply under certain conditions:

(1) If an individual personal checking account is closed at a particular

savings and loan and a joint personal account is opened at the same savings and loan that includes one of the customers who previously had the individual personal account, then the numerical month and year printed on the face of the checks or drafts shall be the numerical month and year in which the individual personal account was established.

(2) If a joint personal account is closed at a particular savings and loan and an individual personal account is opened at the same savings and loan by one of the customers who previously was included under the joint account, then the numerical month and year printed on the face of the checks or drafts shall be the numerical month and year in which the joint account was established.

(3) If a customer with an individual personal account or with a joint personal account opens an additional account at the same savings and loan, then the numerical month and year printed on the face of the checks or drafts shall be the numerical month and year in which the initial account was established.

(4) In the case of a personal checking or draft account that is closed and a new personal checking or draft account opened simultaneously on the advice of the savings and loan association, the checks or drafts for the new account shall have the numerical month and year in which the closed account was originally opened printed on the face of the checks or drafts.

(5) If the closed account was opened prior to July 1, 1987, a date is not required to be printed on the checks or drafts.

(c) A check, draft, or order provided on the opening of a personal checking or draft account for use by the customer until printed checks or drafts have been prepared is not required to have the numerical month and year in which the account was opened printed on the face of the check, draft, or order.

(d) (1) The savings and loan association and the check printer may not be held liable for unintentional errors in the month and year printed on the face of the check.

(2) The customer may not be charged for the reprinting of the checks when the checks are reprinted due to error in the month and year printed on the face of the check.

§9–416.

(a) Except as provided in subsection (b) of this section, a savings and loan association is not required to recognize or take any action on any claim to a deposit or to money or property held by the association or contained in a safe deposit box if that claim is adverse to the interests of any person who, on its records, appears to be entitled to the deposit, money, or property.

(b) If, in an action to which an adverse claimant is a party, a court order or decree involving a claim to the deposit, money, or property is served on a savings and

loan association, the association may, or if required by the court, shall impound the deposit, money, or property, subject to further order of the court, and without any liability for these actions.

§9–419.

(a) Subject to § 9-420 of this subtitle and the regulations of the Division Director, a savings and loan association may invest in any of the following types of investments:

(1) Any mortgage on real property that is a first or second lien on property, but only if the requirements of § 9-420 of this subtitle are satisfied in the case of an acquisition, development, or construction loan;

(2) Any participation interest in a mortgage, but only if the requirements of § 9-420 of this subtitle are satisfied;

(3) Any loan that is secured by any savings accounts in the association to the extent of the withdrawal value of the respective account;

(4) Any ground rent in this State;

(5) Any general obligation of, or obligation guaranteed as to principal and interest by, or other instrument of:

(i) This State or any of its political subdivisions or agencies; or

(ii) The federal government or any of its agencies or instrumentalities;

(6) Any general obligation of, or obligation guaranteed as to principal and interest by, any other state if:

(i) The Division Director approves; and

(ii) The investment is not more than 5 percent of the association's savings liability;

(7) Real property that is:

(i) Reasonably anticipated to be necessary or convenient to conduct its business, whether or not the property is also income producing in part. Unless the Division Director has given his prior written approval, an investment enumerated in this subparagraph may not be made by the association in real property that the association occupies for its offices and transaction of its business;

(ii) Bought at auction sale if the association has any lien or claim on the property;

(iii) Accepted in satisfaction of an obligation;

(iv) Acquired by the association in an exchange for any other interest in real property owned by the association; or

(v) Acquired in connection with salvaging the value of an investment by the association;

(8) Furnishings and equipment necessary to conduct its business;

(9) Any loan to members of cooperative housing projects if the loan is secured by the assignment of the member's interest in a unit of the project, notwithstanding a prior lien on the project;

(10) Deposits, including unsecured days funds, in any financial institution insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation to the same extent and subject to the same conditions as a federal savings and loan association;

(11) Securities, obligations, or other instruments, including participations, of:

(i) The Federal National Mortgage Association;

(ii) The Student Loan Marketing Association;

(iii) The Federal Savings and Loan Insurance Corporation;

(iv) The State of Maryland Deposit Insurance Fund Corporation;

(v) The Federal Home Loan Bank;

(vi) The Government National Mortgage Association;

(vii) The Federal Home Loan Mortgage Corporation; or

(viii) Any other agency that the Division Director approves;

(12) Stock or obligations of a corporation if:

(i) One or more financial institutions own all the corporation's stock; and

(ii) The corporation's activities substantially consist of:

1. Originating, buying, selling, or servicing loans on real property or any participating interest in loans on real property;

2. Clerical functions primarily for financial institutions; or

3. Any other activity the Division Director approves;

(13) Any secured or unsecured education loan;

(14) Any secured or unsecured home improvement loans;

(15) Any secured or unsecured consumer loan but only if the loan complies with § 9-420 of this subtitle; and

(16) Any mobile home financing loan.

(b) The Division Director may provide by regulation that specific investments permissible for a federally-chartered savings and loan association are permitted for a State-chartered savings and loan association.

(c) Savings and loan associations may make commercial loans, but only if the loans comply with § 9-420 of this subtitle and regulations adopted by the Division Director.

(d) A savings and loan association may accept any additional security on any investment authorized by this section.

(e) A savings and loan association shall make investments in first and second mortgages for owner-occupied residences equal to not less than 25 percent of the assets of the association, unless the Division Director approves in writing otherwise, upon a determination that another percentage does not affect the safety and soundness of the association.

(f) (1) Except for investments authorized under subsection (a)(11) of this section, an association that is insured by the Maryland Deposit Insurance Fund may invest directly or indirectly under this section in real estate located in this State, the Commonwealth of Pennsylvania, the Commonwealth of Virginia, the State of Delaware, the State of West Virginia, and the District of Columbia.

(2) An association that is insured by the Federal Savings and Loan Insurance Corporation may invest, directly or indirectly, in real estate located in this State and no more than 20 percent of their assets in real estate located in the states of Alabama, Arkansas, Delaware, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, and West Virginia, the Commonwealths of Pennsylvania and Virginia, and the District of Columbia.

(3) Except as to those states and jurisdictions enumerated in paragraphs (1) and (2) of this subsection, an association that is insured by the Federal Savings and Loan Insurance Corporation may invest, directly or indirectly, no more than 10 percent of their assets in real estate located in states within the United States.

(g) Nothing in this section may be construed to affect the validity of any investment made by a savings and loan association before June 1, 1986, in accordance with the provisions of this section as they existed before June 1, 1986.

§9–420.

(a) (1) An association may not, directly or indirectly, grant loans to any one individual or business entity in a total amount in excess of 5 percent of its assets.

(2) In computing the total amount of loans made by an association to an individual, all loans made by the association to any entity in which that individual is a controlling person shall be included.

(3) In computing the total amount of loans made by an association to a partnership or other unincorporated association, the following loans shall be included:

(i) All loans to the association's individual members;

(ii) All loans made for the benefit of the partnership or other unincorporated association; and

(iii) All loans to or for the benefit of any entity of which the partnership or unincorporated association, or any member of the partnership or unincorporated association, is a controlling person.

(4) In computing the total amount of loans made by an association to a corporation, the following loans shall be included:

(i) All loans made for the benefit of the corporation;

(ii) All loans to or for the benefit of any person or entity who is a controlling person of the corporation; and

(iii) All loans to or for the benefit of any entity of which the corporation is a controlling person.

(b) (1) (i) An association may make secured or unsecured loans for personal, family, or household purposes, and may invest in, sell, or hold commercial paper and corporate debt securities subject to regulations promulgated by the Division Director.

(ii) The total of these loans and investments may not exceed 20 percent of the assets of the association.

(2) Loans to dealers in consumer goods to finance inventory and floor planning shall be treated as commercial loans.

(c) An association may invest in, sell, purchase, participate in, or otherwise deal in loans for commercial, corporate, business, or agricultural purposes, but only if at any one time the total investment made under this section does not exceed 10 percent of the association's assets.

(d) (1) An association may participate in mortgages and participate with other lenders in originating and making any type of mortgage loan that the association is authorized to make under the provisions of § 9-419 of this subtitle.

(2) The amount that an association may have invested in privately placed mortgage backed securities cannot exceed 10 percent of the association's assets.

(e) (1) Except as provided in paragraph (2) of this subsection, a loan made for the purpose of acquiring real estate, financing the development of real estate, the construction of structures on real estate, or the rehabilitation of real estate is subject to the provisions of this section and regulations adopted by the Division Director.

(2) This subsection does not apply to a loan made for the purchase of real estate that has or will have not more than one dwelling designed principally as a residence with accommodations for not more than 4 families.

(3) The loans may not exceed the loan-to-value ratios provided by regulation.

(4) (i) The Division Director shall adopt regulations establishing terms for the repayment of loans authorized by this subsection.

(ii) The regulations adopted by the Division Director may not be less restrictive than those applicable to federally-chartered savings and loan associations.

(iii) Unless otherwise provided by regulations adopted by the Division Director, the loans shall be repayable within a term that is applicable to federally-chartered savings and loan associations.

(5) Loan documentation for development loans shall contain:

(i) A preliminary development plan that is satisfactory to the association; and

(ii) A projection that not less than the investment in the loan will be recovered.

(6) The recognition of income and the amortization method used by the association originating the loans shall be in accordance with generally accepted accounting principles.

(7) (i) The total amount of loans for acquisition, development, or construction cannot exceed 10 percent of the assets of the association.

(ii) Loans to one borrower made under this subsection for any one development project may not exceed 50 percent of an association's net worth or 2 percent of its assets, whichever is less.

(f) Nothing in this section may be construed to affect the validity of any loans made before June 1, 1986 by any savings and loan association in accordance with the provisions of law relating to loans by savings and loan associations in effect before June 1, 1986.

§9–421.

(a) In accordance with the regulations of the Division Director, a savings and loan association may permit borrowers to repay indebtedness on a loan by any method of repayment or plan, including a plan or repayment of indebtedness on a loan that is other than a direct monthly reduction of principal plan that has a fixed interest rate, level payments, and full amortization.

(b) If a savings and loan association offers any alternative mortgage instrument on an owner-occupied residential loan in addition to a standard direct monthly reduction of principal plan, as required by the Division Director, the association shall give each prospective borrower information on the alternative plan and the standard plan.

§9–422.

A savings and loan association shall take title to all its investments in its own name, except as may be permitted by regulation or order of the Division Director to assign or grant a security interest in collateral given by a savings and loan association to any State or federal government agency or instrumentality, including the State of Maryland Deposit Insurance Fund Corporation, a federal reserve bank, or a federal home loan bank, to secure loans to the savings and loan association.

§9–423.

If a savings and loan association holds an investment that was permitted under this subtitle at the time the investment was made, and the Division Director later withdraws the authorization, the association may continue to hold the investment.

§9–424.

(a) A savings and loan association may require a borrower to pay all charges in connection with a loan to the borrower.

(b) At each settlement, a savings and loan association shall give the borrower a memorandum of settlement that details each charge made in connection with the settlement.

(c) This section does not modify the usury laws of this State.

§9–425.

(a) A savings and loan association may:

(1) Act as a depository of funds of:

(i) The federal government and its agencies; and

(ii) This State and any of its political subdivisions;

(2) Pledge collateral to secure deposits; and

(3) Comply with the terms required by the depositor.

(b) Depositors under this section are general creditors under § 9-329 of this title ("Priority of claims").

§9–426.

If the Division Director approves its application, a savings and loan association may act as a trustee or custodian under any pension or retirement act of the federal government or of any state.

§9–428.

With the written approval of the Division Director, a savings and loan association may operate a business, manage or deal in property, or take any other action over any period of time as determined by the Division Director that may be reasonably necessary to avoid loss on a loan or investment made or obligation created in good faith.

§9–501.

In this subtitle, "savings and loan association" includes a service company or related entity of a savings and loan association.

§9–502.

(a) (1) (i) At least once every year and at any other time that the Division Director considers appropriate, the Division Director shall have an examination made into the business of each savings and loan association not insured by the Federal Savings and Loan Insurance Corporation. The costs, as computed by the Division Director, of any examination made by the Division Director shall be paid by the association.

(ii) As to a savings and loan association insured by the Federal Savings and Loan Insurance Corporation, the Division Director shall have an examination made into the business of such association at such time as the Division Director considers appropriate, but at least every 18 months. The costs, as computed by the Division Director, of any examination made by the Division Director shall be paid by the association.

(2) (i) Within 2 months from the completion of every examination, the

Division Director shall communicate in writing the result of the examination to the president of the association examined and to each member of the board of directors of the association.

(ii) The board of directors shall promptly report corrective action taken to the Division Director and the State of Maryland Deposit Insurance Fund Corporation or the Federal Savings and Loan Insurance Corporation, as applicable.

(3) The directors, officers, controlling persons, employees, and agents of the association shall exhibit its books, accounts, papers, and records to the Division Director in order to conduct the examination of the association. A savings and loan association may not delay or obstruct an examination in any fashion.

(b) (1) At least once every calendar year, every association shall have its books and records audited and certified in accordance with generally accepted auditing standards by a certified public accountant who is in good standing under the laws of this State or a certified public accounting firm, according to the American Institute of Certified Public Accountants (AICPA) guidelines. Any person or firm who is currently suspended from practice before the Securities and Exchange Commission or other governmental agency is not qualified for purposes of this subsection.

(2) If an association makes written application to the Division Director showing reasonable cause, the Division Director may extend in writing, within 30 days after receipt of application, the time for compliance with this audit requirement.

(3) The audit shall commence no later than 30 days after the end of the period for which the audit is prepared. The audit shall be completed within 60 days after the date on which it is commenced, unless the association makes written application to the Division Director, showing reasonable cause for an extension and the Division Director extends the time for completion.

(4) Each association shall cause a copy of the certified audit report to be furnished to the Division Director within 30 days of the completion of the fieldwork of the audit. The certified audit shall include any supplemental reports that are an integral part of the audit report.

(5) The costs of the audit required by this subsection shall be paid by the association.

(c) (1) Instead of an examination or audit under subsection (a) or (b) of this section, the Division Director may accept a copy of a reasonably recent examination or audit made or accepted by a federal home loan bank, the Federal Home Loan Bank Board, or by the Federal Savings and Loan Insurance Corporation.

(2) A substituted audit under paragraph (1) of this subsection shall be signed and certified by the auditor.

(d) (1) The Division Director may:

(i) Make any further investigation of a savings and loan association;

(ii) Require any other report from an association, including an appraisal of assets, that the Division Director considers necessary; and

(iii) Investigate any related entity.

(2) If an appraisal of assets is not done in a manner satisfactory to the Division Director, the Director may cause an appraisal to be made at the expense of the association.

(3) The Division Director may accept any appraisal caused to be made by the federal home loan bank, the Federal Home Loan Bank Board, the Federal Savings and Loan Insurance Corporation, or by the State of Maryland Deposit Insurance Fund Corporation.

(e) All books and records of an association and any related entity shall disclose fully and accurately all of the assets and liabilities of the association and any related entity.

(f) The Division Director shall inform the Secretary of any significant issues about a savings and loan association that are disclosed in an examination or audit.

§9–503.

The Division Director and any examiner from, or agent of, the Division of Savings and Loan Associations shall have access to all the records of a savings and loan association, or related entity including the records of any controlling person, director, officer, agent, or employee of the association or related entity that relate to the business of the association or related entity.

§9–504.

(a) Except as provided in this section, the Division Director and any authorized representative of the Division Director shall keep confidential any information about a savings and loan association and its business that is:

(1) Obtained in an examination of or report by a savings and loan association; or

(2) Reported to the Division Director by a federal or State regulatory or insuring agency.

(b) This section does not apply to information disclosed:

(1) In performing a public duty to report and take official action about the business of a savings and loan association;

(2) As required by law; or

(3) As collected general or statistical information about associations.

(c) If the Division Director considers it to be in the public interest, the results of an examination of or report by a savings and loan association may be published in a newspaper of general circulation in any political subdivision where the association is located or doing business.

(d) This section does not apply to a proper exchange of information about a savings and loan association and its business that is exchanged between the Division Director and the State of Maryland Deposit Insurance Fund Corporation, the Federal Home Loan Bank Board, the Federal Savings and Loan Insurance Corporation, or any similar agency that regulates or insures the business of savings and loan associations, the Attorney General's Office, the Department of Labor, Licensing, and Regulation, and the Office of the Governor of Maryland.

(e) Upon the request of a standing committee of the General Assembly with subject matter jurisdiction, the Division Director shall provide the standing committee with necessary confidential information.

§9–505.

(a) Within 30 days of adoption, a federal association located in the State or a savings and loan association shall submit to the Director a copy of its most recently adopted federal Community Reinvestment Act statement.

(b) Within 30 days of receipt, the association shall submit to the Director a copy of the public portion of its most recent Community Reinvestment Act performance evaluation prepared by the federal regulatory agency that examines the association, together with a copy of any written response to the evaluation prepared by the association for its public Community Reinvestment Act file.

(c) (1) Upon request, the Director shall make available to the public a copy of the documents submitted under this section.

(2) The Director may charge a reasonable fee to a person requesting a copy to help defray the costs of providing copies of the documents to the public.

§9–601.

A mutual association may convert to a capital stock association if:

(1) Its members approve;

(2) Its charter is amended; and

(3) The Division Director approves.

§9–602.

To convert to a capital stock association, a mutual association shall deliver to the Division Director:

(1) A filing fee of $1,000;

(2) An application for conversion;

(3) A certified copy of the resolution of the board of directors that authorizes the conversion;

(4) The proposed amended charter and bylaws amendments;

(5) The proposed notice of the meeting to consider conversion, and the time and manner in which notice will be given to members;

(6) The proposed proxy statement;

(7) The proposed plan of conversion; and

(8) A certified audit of the association.

§9–603.

A proposed plan of conversion to a capital stock association shall provide:

(1) That each savings account holder will receive a withdrawable savings account in the converted association that is equal in amount to the withdrawable savings account in the mutual association;

(2) That all savings accounts will remain insured;

(3) That each savings account holder shall receive, without payment, nontransferable subscription rights to capital stock in the converted association;

(4) The number of shares of stock that will be sold;

(5) That subscription rights shall be on a basis pro rata to the member's interest in the mutual association, however, fractional shares need not be issued;

(6) That the conversion to a capital stock association does not result in any reduction of the converting association's reserves and net worth;

(7) An independent evaluation of the converting association's pro forma market value as converted to support the offering of stock to the converting association's members;

(8) The business purposes to be accomplished by the conversion;

(9) The manner in which capital stock in the converted association will be sold and distributed;

(10) A statement that capital stock is not insured; and

(11) That all earned surplus shall be distributed to members on a basis pro rata to the member's interest in the mutual association. However, prior to such a distribution, there shall be set aside sufficient earned surplus in order to insure satisfying the requirements of §§ 9–218, 9–220, 9–221 and 9–324 of this title.

§9–604.

The Division Director:

(1) Shall review an application for conversion to a capital stock association;

(2) Shall determine:

(i) Whether the plan is fair to the members of the converting association and the general public;

(ii) That insurance of the savings accounts will remain in effect after the conversion;

(iii) That, after conversion, the association will be in sound financial condition and will be soundly managed;

(iv) That conversion will not impair the capital of the association nor adversely affect the association's operations; and

(v) That no person will receive any inequitable gain or advantage by reason of the conversion; and

(3) May require any changes that are necessary to ensure full disclosure of all material facts.

§9–605.

Within 60 days of the filing of an application, if the Division Director finds that the mutual association has met the requirements of § 9-604 of this subtitle, the Division Director shall issue to the converting association a letter of preliminary approval of the conversion.

§9–606.

(a) On receipt of the Division Director's letter of preliminary approval, the board of directors of the converting association shall call a meeting of the members for the purpose of considering the plan of conversion to a capital stock association.

(b) At least 10 days, but not more than 90 days, before the meeting, the converting association shall mail notice of the meeting to all members entitled to vote.

§9–607.

A proposed plan of conversion to a capital stock association and proposed charter amendments to conform to the conversion require approval by a majority vote of the total number of votes eligible to be cast by the members of a mutual association.

§9–608.

(a) The board of directors of the converting association shall deliver to the Division Director:

(1) A certified copy of the minutes of the meeting at which the conversion was approved; and

(2) The executed charter amendments and a conformed copy.

(b) On receipt of the minutes and charter amendments under subsection (a) of this section, the Division Director shall:

(1) Endorse the executed copy of the charter amendments as approved; and

(2) Send to the converting association:

(i) The endorsed copy; and

(ii) A final order of approval of the conversion to a capital stock association.

§9–609.

Any applicant aggrieved by the action or nonaction of the Division Director under § 9-605 or § 9-608 of this subtitle may appeal to the Circuit Court for Baltimore City.

§9–610.

(a) After the final order of approval, the board of directors of the converting association shall file the endorsed charter amendments with the State Department of Assessments and Taxation.

(b) When the State Department of Assessments and Taxation accepts the charter amendments for record, the mutual association becomes a capital stock association.

§9–611.

(a) In this section, "savings and loan association" means a savings and loan association organized under this title as a mutual association.

(b) Notwithstanding any other provision of this title, the Division Director may approve a conversion of a savings and loan association to a capital stock association that deviates from the standard requirements of this title if the circumstances of the conversion would, under federal law, permit the Federal Home Loan Bank Board to authorize a modified conversion.

(c) The Division Director may approve a modified conversion only if:

(1) The Division Director determines that:

(i) The stability of the savings and loan association is threatened by severe financial difficulties;

(ii) The conversion to a capital stock form is likely to improve the financial condition of the savings and loan association;

(iii) The association will be viable after the conversion; and

(iv) The approval of the conversion is not detrimental to the public interest; and

(2) The approval imposes the same conditions that federal law requires or permits.

(d) (1) The Division Director may adopt rules and regulations for a modified conversion, including:

(i) Procedures for application and approval; and

(ii) Conditions for approval of the Division Director in the final order.

(2) The Division Director may approve the chartering of a capital stock corporation to acquire the assets of, or merge with, a mutual association under this section.

(e) A conversion under this section is not subject to the requirements contained in the following sections of this title:

(1) §§ 9-206 through 9-208, inclusive;

(2) §§ 9-216 through 9-222, inclusive;

(3) §§ 9-601 through 9-609, inclusive; and

(4) §§ 9-627 through 9-630, inclusive.

§9–612.

(a) In this section, "savings and loan association" means a savings and loan association organized under this title as a mutual association.

(b) Notwithstanding any other provision of this title, the Division Director may approve the voluntary conversion of a savings and loan association to a capital stock association and the sale of the association's newly issued capital stock to a third party or parties in a transaction in which the association members have no rights of approval or participation and no rights to the continuance of any legal or beneficial ownership interest in the converted association if the circumstances of the conversion and sale would, under federal law, permit the Federal Home Loan Bank Board to authorize a voluntary supervisory stock conversion.

(c) The Division Director may approve a voluntary supervisory stock conversion only if:

(1) The Division Director determines that:

(i) The Division Director would have grounds to seek the appointment of a conservator or receiver under this title;

(ii) No equity value would be realized by the savings and loan association's mutual account holders after liquidation of the association;

(iii) Severe financial conditions exist that threaten the financial stability of the savings and loan association;

(iv) The conversion to a capital stock form is likely to improve the financial condition of the savings and loan association;

(v) The association will be viable after the conversion; and

(vi) The approval of the conversion is not detrimental to the public interest; and

(2) The approval imposes the same conditions that federal law requires or permits.

(d) (1) The Division Director may adopt rules and regulations for a voluntary supervisory stock conversion, including:

(i) Procedures for application and approval; and

(ii) Conditions for approval of the Division Director in the final order.

(2) The Division Director may approve the chartering of a capital stock

corporation to acquire the assets of, or merge with, a mutual association under this section.

(e) A conversion under this section is not subject to the requirements contained in the following sections of this title:

(1) §§ 9-206 through 9-208, inclusive;

(2) §§ 9-216 through 9-222, inclusive;

(3) §§ 9-601 through 9-609, inclusive; and

(4) §§ 9-627 through 9-630, inclusive.

§9–613.

A Maryland savings and loan association may convert to a federal association if:

(1) It is eligible to become a member of the federal home loan bank system;

(2) Its members approve;

(3) Within 6 months after member approval, the association acts to convert in the manner required by federal law; and

(4) It receives a federal charter.

§9–614.

(a) If a savings and loan association wishes to convert to a federal association, the board of directors shall call a meeting of the members of the savings and loan association for the purpose of considering the proposal to convert.

(b) The savings and loan association shall give notice of the meeting as provided in Title 2, Subtitle 5 of the Corporations and Associations Article.

§9–615.

A proposal to convert to a federal association requires approval by a majority vote of the total number of votes eligible to be cast by the members of the savings and loan association.

§9–618.

A federal association may convert to a Maryland savings and loan association if:

(1) Its principal office is in this State;

(2) Its members approve;

(3) The Division Director approves; and

(4) Immediately upon filing its articles of incorporation with the State Department of Assessments and Taxation, the association will convert to a commercial bank under the provisions of §§ 9-631 through 9-639 of this subtitle or convert to a federally chartered savings and loan association under §§ 9-613 through 9-615 of this subtitle.

§9–619.

A proposal to convert to a Maryland savings and loan association requires approval by a majority vote of the total number of votes eligible to be cast by the members of the federal association.

§9–620.

To convert to a Maryland savings and loan association, the board of directors of a federal association shall deliver to the Division Director:

(1) A written application in the form that the Division Director requires;

(2) The executed copy of the proposed articles of incorporation and a conformed copy;

(3) The proposed bylaws;

(4) Any additional exhibits the Division Director requires; and

(5) A filing fee of $1,000.

§9–621.

(a) (1) When the Division Director receives the items listed in § 9-620 of this subtitle, the Division Director shall publish a notice of the filing.

(2) The notice shall state that a public hearing is scheduled on a date that is not more than 45 days after the filing.

(b) The notice shall be published:

(1) At least once each week for 2 successive weeks in a newspaper of general circulation in the political subdivision where the principal business office of the converting federal association is located; and

(2) In the Maryland Register as provided in the State Documents Law.

§9–622.

The Division Director shall approve an application if the Division Director finds:

(1) The converting federal association has met the requirements of Subtitle 2 of this title that relate to the formation of a savings and loan association;

(2) The character, responsibility, and general fitness of the officers and directors of the converting federal association command confidence and warrant belief that the business of the converting association will be conducted honestly and efficiently in accordance with the intent of this title; and

(3) Allowing the federal association to convert to a Maryland savings and loan association will promote the public interest.

§9–623.

(a) The Division Director may require any change in the proposed articles of incorporation or bylaws that the Division Director considers necessary.

(b) Within 60 days after the scheduled hearing, the Division Director shall pass an order approving or denying the application to convert.

(c) Any applicant aggrieved by the order of the Division Director may appeal to the Circuit Court for Baltimore City.

(d) (1) After the time for appeal of the order expires or on final determination of any appeal taken, the Division Director shall endorse and date each copy of the article "approved" or "denied".

(2) If the Division Director approves the articles, the Division Director shall:

(i) Return the endorsed, executed articles to the chairman of the board of directors; and

(ii) Keep the endorsed, conformed copy.

§9–624.

(a) On final order of approval of the articles of incorporation by the Division Director, the board of directors of the converting association shall file for record with the State Department of Assessments and Taxation the endorsed, executed articles of incorporation.

(b) When the State Department of Assessments and Taxation accepts the articles of incorporation for record, the federal association becomes a Maryland savings and loan association.

(c) The board of directors of the converted association shall send a copy of the certificate acknowledging acceptance of the articles of incorporation to the Division Director.

§9–627.

(a) A savings and loan association may consolidate with, merge with or into, or transfer its assets to any other savings and loan association, any savings bank, or any out-of-state association as defined in § 9-1001(i) of this title if:

(1) It complies with Title 3 of the Corporations and Associations Article;

(2) The Division Director approves the plan of consolidation, merger, or transfer of assets; and

(3) The out-of-state association complies with § 9-1004 of this title.

(b) Notwithstanding any other provision of this section or any other law, the approval by the shareholders or members of a savings and loan association for which a receiver has been appointed under § 9-708 of this title of a plan of consolidation, merger, or transfer of assets of that savings and loan association is not required if, after notice and a hearing, the circuit court administering the receivership determines that:

(1) The savings and loan association is insolvent; or

(2) Consummation of the transactions contemplated by the plan of consolidation, merger, or transfer of assets will not result in the shareholders or members of the savings and loan association receiving property of a lesser value in their capacity as shareholders or members than they otherwise would upon a complete liquidation of the savings and loan association in receivership.

§9–628.

A savings and loan association may effect a statutory merger into any other savings and loan association, any savings bank, or any out-of-state association as defined in § 9-1001(i) of this title if the plan of statutory merger:

(1) Complies with Title 3 of the Corporations and Associations Article;

(2) Is approved by:

(i) The board of directors of both the successor and the transferor;

(ii) The shareholders or members of a transferor association; and

(iii) The Division Director; and

(3) The out-of-state association complies with § 9-1004 of this title.

§9–629.

A savings and loan association may reorganize, partially liquidate, or dissolve if:

(1) It complies with Title 3 of the Corporations and Associations Article; and

(2) The Division Director approves the plan of reorganization, partial liquidation, or dissolution.

§9–630.

(a) To consolidate, merge, transfer assets, effect a statutory merger, reorganize, partially liquidate, or dissolve, a savings and loan association shall deliver to the Division Director the proposed plan of the respective action.

(b) (1) Except as provided in paragraph (3) of this subsection, the Division Director shall publish notice of the filing of a plan of consolidation, merger, transfer of assets, statutory merger, reorganization, partial liquidation, or dissolution.

(2) The notice shall be published:

(i) In a newspaper of general circulation in the political subdivision in which the principal office of each savings and loan association named in the plan is located; and

(ii) In the Maryland Register as provided in the State Documents Law.

(3) Subject to the confirmation of the Secretary of Labor, Licensing, and Regulation, the Division Director may approve a plan of consolidation, merger, reorganization, transfer of assets, statutory merger, partial liquidation, or dissolution without the required notice if a delay of such a plan would result in economic hardship to either party to a merger.

(c) The Division Director shall examine any plan submitted under subsection (a) of this section and shall determine if:

(1) (i) The successor savings and loan association, if it is an association chartered under the laws of this State, satisfies the requirements of Subtitle 2 of this title that relate to organization as a savings and loan association; or

(ii) The successor savings and loan association, if it is a savings and loan association not chartered under the laws of this State, satisfies the requirements of the laws of the jurisdiction in which it is organized that relate to the organization of savings and loan associations in that jurisdiction; and

(2) The plan would be consistent with adequate and sound savings and loan practices and in the public interest. In making the determination required by this paragraph, the Division Director shall consider:

(i) The financial history and condition of the parties to the plan;

(ii) Their prospects;

(iii) The management of the association;

(iv) The effect of the plan on competition; and

(v) The convenience and needs of the area in this State primarily to be served by the resulting association.

(d) (1) Within 60 days of the filing, the Division Director shall approve or disapprove any plan submitted under subsection (a) of this section.

(2) The Division Director shall give priority consideration to any plan for the acquisition of a savings and loan association which, on or before July 1, 1987, was not insured by the Federal Savings and Loan Insurance Corporation, had not received conditional approval for federal insurance, and was not substantially likely to qualify for federal insurance.

(3) If the Division Director approves the plan of consolidation, merger, transfer of assets, statutory merger, partial liquidation, dissolution, or reorganization, the Division Director shall certify each document that the State Department of Assessments and Taxation requires.

(e) Any applicant aggrieved by the action or nonaction of the Division Director may appeal to the Circuit Court for Baltimore City.

§9–631.

A capital stock savings and loan association may convert to a commercial bank if:

(1) Its stockholders approve;

(2) Its charter is amended;

(3) The Commissioner approves;

(4) All deposits will be insured throughout the conversion;

(5) The depositors of the capital stock savings and loan association immediately prior to the conversion shall be entitled to deposits in the commercial bank of like amounts, interest rate and other terms, without interruption of interest;

(6) All deposits shall be insured by the Federal Deposit Insurance Corporation up to the maximum amount provided by law;

(7) It complies with Title 3 of the Corporations and Associations Article; and

(8) It has met all the requirements of this part and other applicable

provisions in this article.

§9–632.

To convert to a commercial bank, a capital stock savings and loan shall deliver to the Commissioner:

(1) A filing fee of $1,000;

(2) An application for conversion;

(3) A certified copy of the resolution of the board of directors that authorizes the conversion;

(4) The proposed amended charter and bylaws amendments;

(5) The proposed notice of the meeting to consider conversion, and the time and manner in which notice will be given to stockholders;

(6) The proposed proxy statement;

(7) The proposed plan of conversion; and

(8) Any additional documents required by the Commissioner.

§9–633.

The Commissioner:

(1) Shall review an application for conversion to a commercial bank;

(2) Shall determine:

(i) Whether the plan is fair to the stockholders of the converting association and the general public;

(ii) That insurance of the savings accounts will remain in effect after the conversion;

(iii) That, after conversion, the commercial bank will be in sound financial condition and will be soundly managed;

(iv) That conversion will not impair the capital of the association nor adversely affect the association's operations; and

(v) That no person, member, employee, or otherwise will receive any inequitable gain or advantage by reason of the conversion;

(3) May require any changes that are necessary to ensure full disclosure

of all material facts;

(4) May not issue a certificate of authority to commence business to a commercial bank unless all the requirements of this article governing a commercial bank have been met;

(5) May modify the initial capitalization requirements of the commercial bank if the Commissioner determines that a modification is:

(i) Reasonably required to protect the welfare of the commercial bank; and

(ii) Not detrimental to the public interest or to the commercial bank; and

(6) May adopt regulations to carry out the provisions of this part.

§9–634.

Within 60 days of the filing of an application, if the Commissioner finds that the stock association has met the requirements of § 9-633 of this subtitle, the Commissioner shall issue to the converting association a letter of preliminary approval of the conversion.

§9–635.

(a) On receipt of the Commissioner's letter of preliminary approval, the board of directors of the converting association shall call a meeting of the members for the purpose of considering the plan of conversion to a commercial bank.

(b) At least 10 days, but not more than 90 days, before the meeting, the converting association shall mail notice of the meeting to all members entitled to vote.

§9–636.

A proposed plan of conversion to a commercial bank and proposed charter amendments to conform to the conversion require approval by a majority vote of the total number of votes eligible to be cast by the stockholders of a stock association.

§9–637.

(a) The board of directors of the converting association shall deliver to the Commissioner:

(1) A certified copy of the minutes of the meeting at which the conversion was approved; and

(2) The executed charter amendments and a conformed copy.

(b) On receipt of the minutes and charter amendments under subsection (a) of this section, the Commissioner shall:

(1) Endorse the executed copy of the charter amendments as approved; and

(2) Send to the converting association:

(i) The endorsed copy; and

(ii) A final order of approval of the conversion to a commercial bank.

§9–638.

Any applicant aggrieved by the action or nonaction of the Commissioner under this subtitle may appeal to the Circuit Court for Baltimore City.

§9–639.

(a) After the final order of approval, the board of directors of the converting association shall file the endorsed charter amendments with the State Department of Assessments and Taxation.

(b) When the State Department of Assessments and Taxation accepts the charter amendments for record, the stock association becomes a commercial bank.

§9–640.

(a) Except as provided in subsections (b), (c), and (d) of this section, a capital stock savings and loan association converted under this part to a commercial bank may exercise all the powers of, and shall be subject to all the restrictions imposed on, a commercial bank under this article.

(b) A commercial bank that results from a conversion of a capital stock savings and loan association may hold assets or conduct business activities, other than insurance assets and insurance activities, that result from the conversion and that do not conform with applicable law, unless a different period is authorized by federal regulatory agencies:

(1) For a period of 5 years after the conversion; and

(2) If the Commissioner approves, for an additional period not exceeding 5 years.

(c) A commercial bank resulting from a conversion of a capital stock savings and loan association may hold insurance assets or conduct insurance activities that were held or conducted before the conversion and that do not conform with applicable law, for a period of 2 years after the date of conversion, unless a different period is

authorized by federal regulatory agencies.

(d) Except as provided in subsection (c) of this section, a commercial bank resulting from the conversion of a capital stock savings and loan association may hold insurance assets or conduct insurance activities only to the extent permitted under applicable law for a Maryland commercial bank.

§9–701.

(a) With the prior written approval of the Secretary, the Division Director may institute proceedings in the circuit court in the county where the principal office of a savings and loan association is located for the appointment of a conservator if:

(1) The savings and loan association or related entity fails to comply with a final order of the Division Director; or

(2) The Division Director considers that the appointment of a conservator is in the public interest.

(b) Subject to § 9-709 of this subtitle, a court may appoint the Division Director, deputy division director, or an examiner from the Division of Savings and Loan Associations as conservator if the court finds that a savings and loan association or related entity is:

(1) In an impaired or insolvent condition;

(2) In substantial violation of any law or regulation;

(3) Concealing any of its assets or records or refusing to submit its records or affairs for inspection to an examiner or lawful agent or the Division Director;

(4) Conducting an unsafe or unsound operation;

(5) In violation of any final order;

(6) In need of the appointment of a conservator in order to preserve the assets of the savings and loan association for the benefit of the depositors and creditors; or

(7) Eligible for conservatorship under the provisions of Title 10 of this article.

§9–702.

(a) A conservator shall endeavor to correct the irregularities in the operation of a savings and loan association.

(b) In addition to the powers set forth in this subtitle and the powers granted by order of the court, a conservator may exercise any or all of the following powers:

(1) If authorized by the court, exercise the powers, rights, and privileges of the officers, directors, members, and stockholders of the savings and loan association;

(2) Recommend for the court's adoption a plan of reorganization, composition, or rearrangement of business, including its liabilities and capital structure;

(3) Remove any director, officer, or employee of the savings and loan association;

(4) Borrow from, pledge assets to, and repay a Federal Reserve Bank or other lenders;

(5) Make wire transfers;

(6) To the extent authorized by law or court order, pay withdrawals of deposits;

(7) Pay negotiated order of withdrawal drafts and cashiers checks either directly or repay financial institutions on which the cashiers checks may be drawn;

(8) Receive new deposits including direct deposit of United States Treasury, Social Security, and other payments;

(9) Pay a Federal Reserve Bank or other bank cash to fund withdrawals;

(10) Pay employees and necessary day-to-day operating expenses of the institution;

(11) If authorized by the court, approve, in place of shareholders or members, a merger, conversion, transfer of assets, reorganization, or acquisition of the savings and loan association; and

(12) If authorized by the court, request a stay of proceedings in other courts.

§9–703.

(a) (1) If a court appoints a conservator, each director, officer, and employee of a savings and loan association may remain in the respective office or position unless removed in accordance with this subtitle.

(2) A member, director, officer, or controlling person may not have or exercise any power, right or privilege or act in connection with any of the association's assets or property unless otherwise approved in writing by the conservator.

(b) The court may order that members of a savings and loan association:

(1) Shall continue to make payments in accordance with any contract with the association; and

(2) May withdraw money from their savings accounts in accordance with the order of the court.

(c) The conservator may accept new accounts and additions to existing accounts. Any amounts received under this subsection:

(1) May be segregated; and

(2) If provided by order of the court, may not be:

(i) Subject to offset; or

(ii) Used to liquidate any indebtedness that existed at the time the conservator was appointed or that was incurred to liquidate indebtedness that existed at the time the conservator was appointed.

§9–704.

(a) A savings and loan association shall pay the expenses of operation during its conservatorship.

(b) Except as provided in subsection (c) of this section, a savings and loan association shall pay its conservator the compensation that the court determines.

(c) The Division Director or an examiner from the Division of Savings and Loan Associations may not receive additional compensation as conservator of a savings and loan association.

(d) Unless authorized by the court, the conservator of a savings and loan association may not:

(1) Retain special counsel;

(2) Incur other than normal operating expenses; or

(3) Liquidate any assets except in the normal course of operation.

§9–708.

(a) With the prior written approval of the Secretary, the Division Director may institute proceedings in the circuit court of the county where the principal office of a savings and loan association is located for the appointment of a receiver if:

(1) (i) The savings and loan association or related entity fails to comply with a final order of the Division Director;

(ii) The irregularities giving rise to a conservatorship are not corrected;

(iii) An emergency exists; or

(iv) The savings and loan association or related entity is conducting an unsafe and unsound operation; and

(2) The Division Director considers the appointment of a receiver to be in the public interest.

(b) Subject to the provisions of § 9-709 of this subtitle, a court may appoint a receiver if it finds that a savings and loan association or related entity is:

(1) In an impaired or insolvent condition;

(2) In substantial violation of any law or regulation;

(3) Concealing any of its assets or records or refusing to submit its records or affairs for inspection to an examiner or lawful agent;

(4) Conducting an unsafe and unsound operation;

(5) In violation of any final order; or

(6) Eligible for receivership under the provisions of Title 10 of this article.

(c) A receiver has:

(1) All the powers and authority of the conservator;

(2) The power to liquidate; and

(3) Any other powers and authority as may be expressed in the order of any court of competent jurisdiction.

(d) In addition to the specific powers set forth in this title and any powers granted by order of the court, a receiver appointed under this section has and may exercise all powers necessary or appropriate to liquidate the business and affairs of the savings and loan association, including all of the powers granted by law to the conservator of a savings and loan association and all of the powers granted by law to the receiver of a Maryland corporation that is in the process of voluntary or involuntary dissolution.

(e) (1) Except to the extent otherwise provided in this subsection, Title 13 of the Maryland Rules applies to the estate of a savings and loan association for which a receiver is appointed under this section.

(2) On motion of the receiver any other interested party, or on the court's own initiative, the court may, after notice and a hearing, waive compliance with or modify one or more of the requirements of Subtitle BP relating to the timing of, method of, or procedures for providing notices, providing claims, or administering

distributions from the receivership estate, if the waiver or modification relates to the preservation of the confidentiality of savings account holders, or a reduction in the cost of administration of the receivership estate.

(3) Any waiver or modification made under paragraph (2) of this subsection only shall apply prospectively to actions taken by the receiver or any other person after adoption by the court.

§9–709.

The Federal Savings and Loan Insurance Corporation or the State of Maryland Deposit Insurance Fund Corporation has an absolute right to be appointed conservator or receiver of a savings and loan association insured by it.

§9–710.

(a) (1) Notwithstanding any other provision of law and to the maximum extent permitted under the federal and State constitutions, the circuit court administering a conservatorship or receivership under this title shall have exclusive and plenary jurisdiction over all claims, actions, and proceedings that are brought by any person and that are related to the assets, property, powers, rights, privileges, duties, and liabilities of:

(i) The savings and loan association and its subsidiaries, affiliates, or holding company;

(ii) The receivership or conservatorship estate; and

(iii) The State of Maryland Deposit Insurance Fund Corporation in its capacity as receiver or conservator of the savings and loan association.

(2) A court other than a court administering a conservatorship or receivership under this title may exercise jurisdiction over claims and actions if:

(i) The court would have jurisdiction over the claims or actions but for this section; and

(ii) The court administering the conservatorship or receivership approves:

1. The initiation and prosecution, or the continued prosecution, of the claims or actions in the other court by the conservator or receiver; or

2. The continued prosecution of claims or actions in the other court by any person other than the conservator or receiver.

(b) Except as otherwise ordered by the court administering the conservatorship

or receivership, any action or proceeding described in subsection (a)(1) of this section that is pending at the time the conservatorship or receivership is established under this title shall be transferred to the circuit court administering the conservatorship or receivership.

§9–711.

(a) The circuit court administering a conservatorship or receivership under this title has full power to approve and allow or to reject and disallow claims against the conservatorship or receivership estate.

(b) In a receivership, the court administering the receivership may estimate for purposes of allowance:

(1) Any contingent, unliquidated, unmatured, or disputed claim, the fixing, liquidation, maturation, or settlement of the dispute of which would delay the administration of the receivership; or

(2) Any right to payment arising from a right to an equitable remedy for breach of performance.

(c) (1) In a conservatorship or receivership, a court may reconsider for cause according to the equities of the case a claim that has been allowed or disallowed.

(2) A reconsideration under this subsection:

(i) Must be filed within 60 days from the date of the court's initial determination; and

(ii) Does not affect the validity of any payment or transfer from the receivership estate that is made to a holder of an allowed claim on account of the allowed claim that is not reconsidered.

(3) This subsection does not alter or otherwise prejudice the right of the conservator or receiver to recover any excess payment or transfer made to a creditor.

§9–712.

(a) In this section, savings and loan association includes its affiliates, subsidiaries, or a holding company.

(b) (1) Upon application of the conservator or receiver, if the court, after notice and a hearing, determines that the consideration to be received from a transaction is fair and reasonable, the circuit court administering a conservatorship or receivership under this title may approve any transfer, sale, or pledge of any or all of the assets of the savings and loan association or the conservatorship or receivership estate.

(2) To the extent that a proposed transfer of any assets is accompanied

by the assumption of certain liabilities of the savings and loan association without an assumption by a transferee of a like percentage or amount of other liabilities of the association that are in parity with those liabilities assumed, the court may approve the transaction if it determines that the assumption is consistent with the estimated distributions to claimants under a complete liquidation under § 9–711 of this subtitle or is otherwise fair and reasonable.

(c) (1) By order, the court may transfer any asset of the savings and loan association to a transferee under subsection (b) of this section free and clear of any liens, claims, pledges, security interests, charges, or other encumbrances.

(2) The order shall state that any liens, claims, pledges, security interests, charges, or other encumbrances that attached to the asset before the transfer, after the transfer, either shall:

(i) Attach to the proceeds received by the conservatorship or receivership estate from the transfer; or

(ii) Attach to other assets specified in the court's order that have a value equivalent to the value of the assets to which they attached before the transfer.

(d) (1) Unless the order of the court approving a transaction under subsection (b) or (c) of this section is appealed in the manner provided in this subsection within 30 days from the date of entry, the order shall become final and nonappealable.

(2) Notwithstanding any other provision of law, the Court of Appeals shall have exclusive and plenary jurisdiction over an appeal of any order of a State court approving a transaction under subsection (b) or (c) of this section. To the extent possible, any appeal of an order of a State court approving a transaction under subsection (b) or (c) of this section shall be heard by the Court of Appeals on an expedited basis.

(e) The conservator or receiver may transfer, sell, use, lease, or encumber any assets of the savings and loan association or of the conservatorship or receivership estate in the ordinary course of business without obtaining the approval of the court.

(f) In any distribution of assets on liquidation of a savings and loan association for which a receiver has been appointed under § 9–708 of this Part II of this subtitle:

(1) All unsecured claims of any class of priority shall be paid in full, or provision made for payment, before any claims of lesser priority are paid, and if there are insufficient funds to pay any class of claims of one priority in full, distribution to claimants in such class shall be made pro rata;

(2) Notwithstanding the provisions of item (1) of this subsection, and subject to approval of the court administering the receivership of the savings and loan association, the receiver may at any time prior to the payment in full of all claims of a class with higher priority, make distributions to some or all claimants of a class with a lower priority, if a determination is made that at the time of the distribution, adequate

funds exist or will be recovered during the receivership to pay in full all claims of any class with a higher priority; and

(3) The court administering the receivership of the savings and loan association may, after notice and a hearing:

(i) Under principles of equitable subordination, subordinate for purposes of distribution all or part of an allowed claim to all or part of another allowed claim or claims; or

(ii) Order that any lien securing the subordinated claim be transferred to the receivership estate.

§9–801.

In this subtitle, "foreign association" means any savings and loan association other than:

(1) A savings and loan association incorporated under the laws of this State; or

(2) A savings and loan association incorporated under the laws of the United States that has its principal office in this State.

§9–802.

(a) Except as provided under subsection (b) of this section, a foreign association or a savings and loan association that maintains its principal office outside this State may not:

(1) Have an office for business in this State except for an office that was open for business in this State before June 1, 1955;

(2) Have an electronic terminal in this State; or

(3) Be admitted to do business in this State.

(b) The prohibitions under subsection (a) of this section may not apply to any foreign association that:

(1) (i) In furtherance of an agreement with the State of Maryland Deposit Insurance Fund Corporation entered into on or before January 1, 1987, becomes a successor in interest to an association that:

1. Was not federally insured on or before May 18, 1985;

2. Was a "major association", as defined under Title 10 of this article, on or before May 19, 1985; and

3. Is not federally insured on or before April 1, 1986; and

(ii) Operates the association as a federal association in this State;

(2) Makes an acquisition in accordance with the provisions of Subtitle 10 of this title; or

(3) Was operating an office for business in this State on July 1, 1987 in accordance with applicable State or federal law.

§9–803.

(a) Subject to § 9-309 of this title and the approval of the Division Director, a foreign association or any savings and loan association that maintains its principal office outside this State may relocate an existing office in this State if:

(1) The office was open on or before March 1, 1955; and

(2) The relocation is within:

(i) The same county; and

(ii) A one-mile radius of the office to be relocated.

(b) Any aggrieved foreign association or savings and loan association that applies to relocate its office under subsection (a) of this section may appeal a final order of the Division Director to the Circuit Court for Baltimore City.

§9–804.

(a) For the purposes of this article and the Corporations and Associations Article, in addition to the activities listed in §§ 7–103 and 7–104 of the Corporations and Associations Article, the following activities of a foreign association do not constitute doing business or having tax situs in this State:

(1) Making or investing in loans on property in this State;

(2) Purchasing, acquiring, holding, selling, assigning, transferring, collecting, or enforcing by foreclosure or otherwise any whole or partial interest in any obligation secured by a mortgage or similar instrument, covering property in this State; or

(3) Employing an attorney, surveyor, or appraiser in connection with any activity permitted by this section or the servicing and collection of any investment in this State through a corporation that is authorized to do business in this State.

(b) Nothing in this section exempts a foreign corporation from the licensing requirements of Title 11, Subtitle 5 of this article.

§9–805.

Except for a foreign association incorporated under the laws of the United States, the Division Director may examine the Maryland offices of any foreign association as provided in Subtitle 5 of this title.

§9–901.

A savings and loan association shall become and participate as a member in and have its savings accounts insured by the Maryland Deposit Insurance Fund Corporation or the Federal Savings and Loan Insurance Corporation. If membership in both corporations ceases, the association shall be placed in receivership in accordance with § 9-708 of this title.

§9–902.

If a savings and loan association rejects an application for a residential mortgage, the association shall give the applicant, on request, written notice of the rejection.

§9–903.

If a savings and loan association holds a first mortgage on residential property, and the mortgage is partially insured by a private mortgage insurance company, the association shall eliminate all charges to the mortgagor for mortgage insurance premiums when the mortgage is reduced to the level at which the federal Homeowners Protection Act of 1998 requires termination of the private mortgage insurance insuring the mortgage.

§9–904.

The sale of savings accounts of any savings and loan association in this State is exempt from all provisions of law of this State that provide for the supervision and regulation of the sale of securities. The sale of any accounts does not require any action by any official who supervises the sale of securities.

§9–905.

(a) The Division Director shall regulate promotional activities by savings and loan associations.

(b) An association may not publish or cause to be published any misleading advertisement, notice, or announcement of any type or format.

§9–906.

An association or related entity may not require as a condition of making a loan that the borrower contract with any specific individual, corporation, business entity, or organization for particular services.

§9–908.

Subject to the evaluation and reestablishment provisions of the Program Evaluation Act, the provisions of this title that relate to the Division of Savings and Loan Associations and that relate to the regulation of savings and loan associations are of no effect and may not be enforced after July 1, 1992.

§9–909.

(a) In this section, "payor institution" means a bank, credit union, or savings and loan association by which an item is payable as drawn or accepted.

(b) As to each account of each depositor in a savings and loan association, the savings and loan association shall give to the customer, on opening of the account and on any later demand of the customer, written notice of the time after which the funds represented by an item deposited to the account shall be available for withdrawal as of right, for each of the situations where the association:

(1) Is also the payor institution;

(2) Is located in the same state as the payor institution; and

(3) Is located in a different state from that in which the payor institution is located.

(c) The notice shall also state the time after which the funds represented by an item become available for withdrawal as of right where the item is issued by:

(1) The Maryland State Government or any agency thereof;

(2) The United States Treasury; and

(3) Any agency of the federal government.

(d) The notice shall be printed in type no smaller than elite typewriter characters.

§9–911.

(a) Except with the written consent of the Division Director, a person who has been convicted, or who is convicted, of any crime involving dishonesty or a breach of trust, may not ever serve as an officer or director of an association.

(b) However, the pendency of an appeal from the conviction stays the operation of the prohibition of subsection (a) of this section until the appeal is decided or dismissed.

§9–912.

(a) (1) Any director, officer, controlling person, or employee of a savings and loan association or related entity who is found to have violated any provision of this title or Title 8 of this article, whether willfully or as a result of gross negligence or recklessness, may be ordered to pay a civil penalty to the State of up to $10,000 for each violation.

(2) In determining the amount of financial penalty to be imposed, the Division Director shall consider the following:

(i) The seriousness of the violation;

(ii) The good faith of the violator;

(iii) The violator's history of previous violations;

(iv) The deleterious effect of the violation on the public and the savings and loan industry; and

(v) The assets of the violator.

(b) Prior to assessing a civil penalty, the Division Director shall serve by certified mail, return receipt requested, on the person to be charged, a notice containing:

(1) The specifications of the charge; and

(2) The time and place for a hearing to be held with respect to the charges, which may be not less than 20 days from the date of mailing the notice.

(c) The Division Director shall conduct a hearing on the charges in accordance with the terms of § 8-402 of this article and rules adopted by the Division Director.

(d) Following the hearing, or if the person charged does not appear, following the date of the hearing, the Division Director shall issue a final order pursuant to § 8-402 of this article.

(e) An appeal may be taken from a final order of the Division Director to the Circuit Court for Baltimore City.

(f) In addition to any of the other penalties and remedies set forth in this section, any person who is found to have financially gained from the violation of any provision of this title or Title 8 of this article, or regulations adopted by the Division Director, shall be required to forfeit the gain.

(g) This section may not be construed to prevent any person damaged by a director, officer, controlling person, or employee of an association from bringing a

separate cause of action in a court of competent jurisdiction.

§9–913.

(a) Except as otherwise provided in this section and in this title, any violation of any provision of this title or any regulation adopted in accordance with this title by a director, officer, controlling person, or employee of an association is punishable by a fine not to exceed $10,000, or imprisonment in the penitentiary for not more than 18 months, or both.

(b) (1) In addition to any of the remedies provided by this title or Title 8 of this article, the willful omission, making, or concurrence in making or publishing a written report, exhibit, or entry in a financial statement on the books of the association, which contains a material statement known to be false, upon conviction, is punishable by a fine not more than $100,000, or imprisonment in the penitentiary for not more than 10 years, or both.

(2) For purposes of this subsection, "material" means "substantial and important as to influence a reasonable and prudent businessman or investor".

(c) In addition to any other remedies provided by this title or Title 8 of this article, the knowing declaration of a dividend in violation of § 9–324 of this title, upon conviction, is punishable by a fine not more than $100,000, or imprisonment in the penitentiary for not more than 10 years, or both.

(d) Any officer, director, controlling person, agent, or employee of an association who makes a loan for his own use and benefit with an attempt to conceal that from the Division of Savings and Loan Associations, upon conviction, shall be fined not more than $100,000, or imprisoned in the penitentiary for not more than 10 years, or both.

(e) Any officer, director, controlling person, agent, or employee connected in any capacity with an association who makes a false statement to an employee or agent of the Division of Savings and Loan Associations with the intent to deceive, upon conviction, shall be fined not more than $100,000, or imprisoned in the penitentiary for not more than 10 years, or both.

(f) Any person who aids or abets any other person in the violation of the provisions of this title or Title 8 of this article as described in subsections (b), (c), (d), and (e) of this section, upon conviction, shall be fined not more than $10,000, or imprisoned in the penitentiary for not more than 1 year, or both.

(g) The Division Director shall furnish to the Attorney General, or the proper prosecuting attorney, information obtained by the Division Director evidencing a violation of the laws relating to savings and loan associations and related entities.

§9–914.

(a) A controlling person, officer, or director may not withdraw funds or cause his

funds or those of his immediate family or any other depositor to be withdrawn knowing that due to financial difficulties the association is about to suspend operations or go into conservatorship, receivership, reorganization, or liquidation.

(b) Any controlling person, officer, or director who violates subsection (a) of this section, upon conviction, shall:

(1) Be sentenced to imprisonment in the penitentiary for not more than 10 years;

(2) Be fined not more than $100,000; and

(3) Make full restitution.

§9–915.

(a) In any appeal of an order of the Division Director under this title or Title 8 of this article, the Division Director shall be considered a party and has the right to appeal any decision to the Court of Special Appeals or petition the Court of Appeals for a writ of certiorari.

(b) Whether or not a hearing has been held on an order issued by the Division Director, the scope of judicial review of an appeal of an order of the Division Director shall be the same as provided in § 10-215 of the State Government Article.

§9–916.

Notwithstanding any provision of law, a savings and loan association, holding company, or subsidiary may not indemnify any person who is fined under any criminal penalty provision of this title or Title 8 of this article or subject to any civil penalty under this title or Title 8 of this article.

§9–917.

In the interpretation and construction of this title and Title 8 of this article:

(1) A reference to a statute or to a regulation issued by a government agency includes the statute or regulation with all amendments and supplements to the statute and any new statute or regulation substituted for such statute or regulation, as in force at the time of application of the provision in which such reference is made, unless the specific language or the context of the reference clearly includes only the statute or regulation as in force on the effective date of this section.

(2) (i) A power of an association provided in this title and Title 8 of this article that is subject to regulation of the Division Director may be exercised, subject to the provisions of this title and Title 8 of this article, in the absence of such regulation.

(ii) A power of an association provided in this title and Title 8 of this

article that is subject to approval of the Division Director may not be exercised in the absence of such written approval.

§9–918.

On June 1, 1992 any savings and loan association that is chartered under the provisions of this title shall be placed in receivership in accordance with § 9-708 of this title.

§9–1001.

(a) In this subtitle the following words have the meanings indicated.

(b) "Acquire" means:

(1) To merge or consolidate one savings and loan association with another savings and loan association or one savings and loan holding company with another savings and loan holding company;

(2) For a savings and loan association or savings and loan holding company to assume direct or indirect ownership or control of voting shares of another savings and loan association or savings and loan holding company if, after assumption of ownership or control, the 1st savings and loan association or savings and loan holding company directly or indirectly owns or controls more than 5 percent of any class of voting shares of the other savings and loan association or savings and loan holding company;

(3) For a savings and loan association or savings and loan holding company to assume directly or indirectly ownership or control of all or substantially all of the assets of another savings and loan association or savings and loan holding company; or

(4) To take any other action that results in direct or indirect control by a savings and loan association or savings and loan holding company of another savings and loan association or savings and loan holding company.

(c) (1) "Control" means:

(i) For a person directly or indirectly or acting in concert with 1 or more other persons, or through 1 or more subsidiaries, to own, control, or hold with power to vote, or to hold proxies representing, more than 5 percent of the voting shares of a savings and loan association, or to control in any manner the election of a majority of the directors of a savings and loan association;

(ii) For a person directly or indirectly or acting in concert with 1 or more other persons, or through 1 or more subsidiaries, to own, control, or hold with power to vote, or to hold proxies representing more than 5 percent of the voting shares or rights of another company, or to control in any manner the election or appointment

of a majority of the directors or trustees of another company, or to be a general partner in or have contributed more than 25 percent of the capital of another company; or

(iii) For a person to be a trustee of a trust.

(2) A person shall be deemed to have control over a savings and loan association or any other company if the Division Director determines, after reasonable notice and opportunity for hearing, that the person directly or indirectly exercises a controlling influence over the management or policies of the savings and loan association or other company.

(d) (1) "Deposit" means any demand, negotiable order of withdrawal, time certificate, or savings deposit or savings share account made by an individual, corporation, partnership, State or federal governmental unit, or any other organization, without regard to the location of the depositor, except:

(i) A deposit by a savings and loan association; or

(ii) A deposit by a foreign government or foreign official institution.

(2) The amount of deposits shall be determined by reference to regulatory reports made by or to State or federal regulatory authorities.

(e) (1) "Deposit-taking office" means any savings and loan association, branch of a savings and loan association, or any other fixed location where a savings and loan association accepts deposits.

(2) "Deposit-taking office" does not include:

(i) An unmanned automatic teller machine, point of sale terminal, or other similar unmanned electronic banking facility at which deposits may be accepted;

(ii) A fixed location established for the purposes of loan production or representation;

(iii) Any other fixed location where deposits are not accepted; or

(iv) A fixed location outside the United States.

(f) "Interstate association" means an out-of-state association:

(1) That is not chartered under the laws of the United States; and

(2) That has deposit-taking offices in Maryland.

(g) (1) "Maryland association" means:

(i) A savings and loan association organized under this title; or

(ii) A savings and loan association or savings bank organized under the laws of the United States or of another state that has more than 80 percent of the total deposits of its deposit-taking offices held by deposit-taking offices located in Maryland.

(2) "Maryland association" does not include any savings and loan association acquired under Title 5, Subtitle 11 of this article.

(h) "Maryland savings and loan holding company" means a savings and loan holding company:

(1) That has its principal place of business in this State;

(2) That has more than 80 percent of the total deposits of savings and loan association subsidiaries held by savings and loan association subsidiaries, other than savings and loan association subsidiaries acquired by it in accordance with § 9-1005(b)(2) of this subtitle, located within the region; and

(3) That is not controlled by a savings and loan holding company other than a Maryland savings and loan holding company.

(i) "Out-of-state association" means a savings and loan association other than a Maryland association:

(1) That has its principal place of business in a jurisdiction within the region that allows acquisition on a reciprocal basis;

(2) That has more than 80 percent of the total deposits of its deposit-taking offices held by deposit-taking offices located within the region, excluding for purposes of applying this 80 percent requirement deposits in deposit-taking offices acquired by it in accordance with § 9-1005(b)(2) of this subtitle; and

(3) That is not controlled by a savings and loan holding company other than an out-of-state savings and loan holding company.

(j) "Out-of-state savings and loan holding company" means a savings and loan holding company other than a Maryland savings and loan holding company:

(1) That has its principal place of business in a jurisdiction within the region that allows acquisition on a reciprocal basis;

(2) That has more than 80 percent of the total deposits of savings and loan association subsidiaries held by savings and loan association subsidiaries located within the region, excluding for purposes of applying this 80 percent requirement deposits in savings and loan association subsidiaries acquired by it in accordance with § 9-1005(b)(2) of this subtitle; and

(3) That is not controlled by a savings and loan holding company other

than an out-of-state savings and loan holding company.

(k) "Principal place of business":

(1) Of a savings and loan association, means the jurisdiction in which the total deposits of the savings and loan association are the greatest; and

(2) Of a savings and loan holding company, means the jurisdiction in which the total deposits of savings and loan association subsidiaries of the savings and loan holding company are the greatest.

(l) "Reciprocal basis" means that, in conjunction with the laws of this State:

(1) The laws of the jurisdiction where the out-of-state association or out-of-state savings and loan holding company has its principal place of business permit Maryland associations and Maryland savings and loan holding companies to acquire savings and loan associations and savings and loan holding companies in that jurisdiction; and

(2) The laws of the jurisdiction where the out-of-state association or out-of-state savings and loan holding company has its principal place of business permit the out-of-state association or out-of-state savings and loan holding company to be acquired by the Maryland association or Maryland savings and loan holding company sought to be acquired.

(m) "Region" means the states of Alabama, Arkansas, Delaware, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, North Carolina, Pennsylvania, South Carolina, Tennessee, Virginia, and West Virginia, and the District of Columbia.

(n) "Savings and loan association":

(1) Means a corporation that is chartered under the laws of the United States or any state as a savings and loan association, building association, or savings bank, whether organized as a capital stock association or a mutual association; and

(2) Does not include a savings bank organized under Title 4 of this article.

(o) "Savings and loan holding company" means a company that controls a savings and loan association or controls any other company which is a savings and loan holding company.

(p) "Subsidiary" means a company that a savings and loan association or savings and loan holding company controls.

§9–1002.

(a) This subtitle sets forth the conditions under which an out-of-state association or out-of-state savings and loan holding company may acquire a Maryland

association, a Maryland savings and loan holding company, an interstate association, or an out-of-state savings and loan holding company having a Maryland association subsidiary.

(b) This subtitle does not authorize any acquisition other than an acquisition by an out-of-state association or an out-of-state savings and loan holding company.

§9–1003.

(a) (1) An out-of-state savings and loan holding company not having a Maryland association subsidiary is authorized to acquire a Maryland association, a Maryland savings and loan holding company, an interstate association, or an out-of-state savings and loan holding company having a Maryland association subsidiary, if the out-of-state savings and loan holding company and entity being acquired:

(i) Comply with all applicable provisions of § 9-216 of this title;

(ii) Comply with all applicable provisions of Title 3, Subtitle 6 of the Corporations and Associations Article;

(iii) File an application for approval with the Division Director containing information the Division Director may by regulation require;

(iv) Submit with the application:

1. The designation of a resident of this State as the applicant's agent for the service of any paper, notice, or legal process on the applicant in connection with matters arising out of this subtitle; and

2. A filing fee of $5,000; and

(v) Receive approval of the acquisition from the Division Director.

(2) The Division Director may not grant approval of an acquisition under this subsection unless the Division Director shall find:

(i) The laws of the jurisdiction where the out-of-state savings and loan holding company has its principal place of business permit Maryland savings and loan holding companies to acquire savings and loan associations and savings and loan holding companies in that jurisdiction;

(ii) The laws of the jurisdiction where the out-of-state savings and loan holding company has its principal place of business permit the out-of-state savings and loan holding company to be acquired by the Maryland association, Maryland savings and loan holding company, or interstate association sought to be acquired;

(iii) The out-of-state savings and loan holding company seeks to

acquire:

1. A Maryland association that has been in existence and continuously operated for more than 4 years;

2. An interstate association that has deposit-taking offices which have been continuously operated in Maryland for more than 4 years; or

3. A Maryland savings and loan holding company or an out-of-state savings and loan holding company in which:

A. All Maryland association subsidiaries have been in existence and continuously operated for more than 4 years; and

B. All interstate association subsidiaries have deposit-taking offices that have been continuously operated in Maryland for more than 4 years;

(iv) The acquisition is subject to any additional conditions, restrictions, requirements, or other limitations, including without limitation any longevity requirements, that apply to the acquisition by a Maryland association or a Maryland savings and loan holding company of a savings and loan association or savings and loan holding company in the jurisdiction where the out-of-state savings and loan holding company has its principal place of business but do not apply to acquisitions by savings and loan associations, all of whose deposit-taking offices, and savings and loan holding companies all of whose savings and loan association subsidiaries, are located in that jurisdiction; and

(v) If necessary to apply the test required by subparagraph (ii) of this paragraph, a Maryland association shall be treated as if it were a Maryland savings and loan holding company.

(3) In deciding whether to approve an acquisition under subsection (a) of this section, the Division Director shall consider:

(i) The financial and managerial resources of the out-of-state savings and loan holding company;

(ii) The future prospects of the Maryland association, Maryland savings and loan holding company, interstate association, or Maryland subsidiary of an out-of-state savings and loan holding company that will be acquired;

(iii) The financial history and future prospects of the out-of-state savings and loan holding company;

(iv) Whether the acquisition may result in an undue concentration of resources or substantial reduction of competition in this State; and

(v) Initial capital investments, loan policy, investment policy,

dividend policy, and the general plan of business, including the cost of services to be offered.

(4) When considering loan policy and the general plan of business under paragraph (3)(v) of this subsection, the Division Director shall:

(i) Consider specific steps that will be taken to meet the home financing needs of individuals in the community to be served, including low and moderate income residents consistent with safe and sound operation of the institution; and

(ii) Assess the record, if any, of the applicant in meeting the credit needs of the communities served in the past, including low and moderate income residents, consistent with the safe and sound operation of the institution.

(b) (1) An out-of-state savings and loan holding company having a Maryland association subsidiary, a Maryland savings and loan holding company subsidiary, or an interstate association subsidiary is authorized to acquire another Maryland association, Maryland savings and loan holding company, interstate association, or out-of-state savings and loan holding company having a Maryland association subsidiary upon approval by the Division Director.

(2) The Division Director may not grant approval of an acquisition under this subsection unless the Division Director shall find that the out-of-state savings and loan holding company seeks to acquire:

(i) A Maryland association that has been in existence and continuously operated for more than 4 years;

(ii) An interstate association that has deposit-taking offices which have been continuously operated in Maryland for more than 4 years; or

(iii) A Maryland savings and loan holding company or an out-of-state savings and loan holding company in which:

1. All Maryland association subsidiaries have been in existence and continuously operated for more than 4 years; and

2. All interstate association subsidiaries have deposit-taking offices which have been continuously operated in Maryland for more than 4 years.

(3) The approval by the Division Director shall be subject to:

(i) The laws and regulations applicable to the acquisitions of Maryland associations and Maryland savings and loan holding companies by a savings and loan holding company all of whose savings and loan association subsidiaries are located in this State; and

(ii) Any additional conditions, restrictions, requirements, or other limitations, including without limitation any longevity requirements, that apply to the acquisition by a Maryland savings and loan holding company of a savings and loan association or savings and loan holding company in the jurisdiction where the out-of-state savings and loan holding company has its principal place of business, but do not apply to acquisitions by savings and loan holding companies all of whose savings and loan association subsidiaries are located in that jurisdiction.

(c) If the acquisition has otherwise been approved under this subtitle, this section does not prohibit the acquisition by an out-of-state association or out-of-state savings and loan holding company of all or substantially all of the shares of a savings and loan association organized solely to facilitate the acquisition of a savings and loan association that has been in existence and continuously operated for more than 4 years.

(d) The period of existence of any deposit-taking institution which has merged into, consolidated with, converted into, transferred all or substantially all of its assets to, or been a party to any other form of a corporate reorganization with another savings and loan association shall be included in the period of existence and continuous operation of the successor Maryland association for purposes of satisfying the longevity requirements of this section.

(e) The Division Director may approve the acquisition of a Maryland savings and loan association or a Maryland savings and loan holding company only if all of the association subsidiaries of the out-of-state holding company which will be located in Maryland, or which will have deposit-taking offices in Maryland after the proposed acquisition takes place, will be organized under the laws of the United States.

§9–1004.

(a) (1) An out-of-state association that has not acquired a Maryland association or an interstate association is authorized to acquire a Maryland association or an interstate association, if the out-of-state association and entity being acquired:

(i) Comply with all applicable provisions of § 9-216 of this title;

(ii) Comply with all applicable provisions of Subtitle 6 of this title;

(iii) Comply with all applicable provisions of Title 3, Subtitle 6 of the Corporations and Associations Article;

(iv) File an application for approval with the Division Director containing information the Division Director may by regulation require;

(v) Submit with the application:

1. The designation of a resident of this State as the applicant's

agent for the service of any paper, notice, or legal process on the applicant in connection with matters arising out of this subtitle; and

2. A filing fee of $5,000; and

(vi) Receive approval of the acquisition from the Division Director.

(2) The Division Director may not grant approval of an acquisition under this subsection unless the Division Director shall find:

(i) The laws of the jurisdiction where the out-of-state association has its principal place of business permit Maryland associations to acquire savings and loan associations in that jurisdiction;

(ii) The laws of the jurisdiction where the out-of-state association has its principal place of business permit the out-of-state association to be acquired by the Maryland association sought to be acquired;

(iii) The out-of-state association seeks to acquire:

1. A Maryland association that has been in existence and continuously operated for more than 4 years; or

2. An interstate association that has deposit-taking offices which have been continuously operated in Maryland for more than 4 years; and

(iv) The acquisition is subject to any additional conditions, restrictions, requirements, or other limitations, including without limitation any longevity requirements, that apply to the acquisition by a Maryland association of a savings and loan association in the jurisdiction where the out-of-state association has its principal place of business, but do not apply to acquisitions by savings and loan associations, all of whose deposit-taking offices are located in that jurisdiction.

(3) In deciding whether to approve an acquisition under subsection (a) of this section, the Division Director shall consider:

(i) The financial and managerial resources of the out-of-state association;

(ii) The future prospects of the Maryland association or interstate association that will be acquired;

(iii) The financial history and future prospects of the out-of-state association;

(iv) Whether the acquisition may result in an undue concentration of resources or substantial reduction of competition in this State; and

(v) Initial capital investments, loan policy, investment policy, dividend policy, and the general plan of business, including the cost of services to be offered.

(4) When considering loan policy and the general plan of business under paragraph (3)(v) of this subsection, the Division Director shall:

(i) Consider specific steps that will be taken to meet the home financing needs of individuals in the community to be served, including low and moderate income residents consistent with safe and sound operation of the institution; and

(ii) Assess the record, if any, of the applicant in meeting the credit needs of the communities served in the past, including low and moderate income residents, consistent with the safe and sound operation of the institution.

(b) (1) An out-of-state association having a Maryland association subsidiary or an interstate association is authorized to acquire another Maryland association or interstate association upon approval by the Division Director.

(2) The Division Director may not grant approval of an acquisition under this subsection unless the Division Director shall find that the out-of-state association seeks to acquire:

(i) A Maryland association that has been in existence and continuously operated for more than 4 years; or

(ii) An interstate association that has deposit-taking offices which have been continuously operated in Maryland for more than 4 years.

(3) The approval by the Division Director shall be subject to:

(i) The laws and regulations applicable to the acquisitions of Maryland associations by Maryland associations; and

(ii) Any additional conditions, restrictions, requirements, or other limitations, including without limitation any longevity requirements, that apply to the acquisition by a Maryland association of a savings and loan association in the jurisdiction where the out-of-state association has its principal place of business, but do not apply to acquisitions by out-of-state associations all of whose deposit-taking offices are located in that jurisdiction.

(c) If the acquisition has otherwise been approved under this subtitle, this section does not prohibit the acquisition by an out-of-state association of all or substantially all of the shares of a savings and loan association organized solely to facilitate the acquisition of a savings and loan association that has been in existence and continuously operated for more than 4 years.

(d) The period of existence of any deposit-taking institution which has merged into, consolidated with, converted into, transferred all or substantially all of its assets to, or been a party to any other form of a corporate reorganization with another savings and loan association shall be included in the period of existence and continuous operation of the successor Maryland association for purposes of satisfying the longevity requirements of this section.

(e) The Division Director may approve the acquisition of a Maryland savings and loan association or a Maryland savings and loan holding company only if all of the association subsidiaries of the out-of-state holding company which will be located in Maryland, or which will have deposit-taking offices in Maryland after the proposed acquisition takes place, will be organized under the laws of the United States.

§9–1005.

(a) Except as expressly permitted by federal law or Title 5, Subtitle 11 of this article, a savings and loan association or savings and loan holding company that is not a Maryland association, an interstate association, an out–of–state association, a Maryland savings and loan holding company, or an out–of–state savings and loan holding company may not acquire a Maryland association, a Maryland savings and loan holding company, an interstate association, or an out–of–state savings and loan holding company having a Maryland association subsidiary.

(b) (1) Except as provided in paragraph (2) of this subsection, if a Maryland association, interstate association, Maryland savings and loan holding company, or out–of–state savings and loan holding company ceases to be a Maryland association, interstate association, Maryland savings and loan holding company, or out–of–state savings and loan holding company, as defined in this subtitle, the association or savings and loan holding company shall, within 2 years, divest itself of all deposit–taking offices in Maryland, Maryland associations, and Maryland savings and loan holding companies.

(2) A Maryland association, an interstate association, a Maryland savings and loan holding company, or an out–of–state savings and loan holding company may not be required to divest its deposit–taking offices in Maryland, Maryland associations, or Maryland savings and loan holding companies if:

(i) An institution in another jurisdiction not within the region is acquired under § 116 or § 123 of the Garn–St. Germain Depository Institutions Act of 1982, as amended or 12 U.S.C. § 1823(f);

(ii) A savings and loan association or savings and loan holding company having deposit–taking offices in a jurisdiction other than within the region is acquired in the regular course of securing or collecting a debt previously contracted in good faith, and the savings and loan association or savings and loan holding company divests the securities or assets acquired within 2 years of the date of acquisition; or

(iii) An increase in deposits in deposit–taking offices or in savings and loan association subsidiaries not within the region is not the result of an acquisition of a savings and loan association or savings and loan holding company.

(c) Any acquisition which would result in an association chartered under this title, or under the laws of any other state, having a deposit–taking office in Maryland is prohibited.

(d) (1) The Division Director may enforce the provisions of this section through the imposition of penalties up to $500 per day each day the violation continues to exist, the issuance of cease and desist orders under § 8–401 of this article, and any other remedies as are provided by law.

(2) In determining the amount of financial penalty to be imposed, the Division Director shall consider the following:

(i) The seriousness of the violation;

(ii) The good faith of the violator;

(iii) The violator's history of previous violations;

(iv) The deleterious effect of the violation on the public and the savings and loan industry; and

(v) The assets of the violator.

§9–1006.

(a) An interstate association or an out–of–state savings and loan holding company that controls a Maryland association, a Maryland savings and loan holding company, an interstate association, or an out–of–state savings and loan holding company having a Maryland association subsidiary shall be subject to and be entitled to the benefits of those laws of this State and to the rules of its units relating to the acquisition, ownership, and operation of deposit–taking offices in Maryland, Maryland associations, and Maryland savings and loan holding companies.

(b) An interstate association or an out–of–state savings and loan holding company that controls a Maryland association, a Maryland savings and loan holding company, an interstate association, or an out–of–state savings and loan holding company having a Maryland association subsidiary shall:

(1) File with the Division Director copies of all regular and periodic reports that the savings and loan association or savings and loan holding company is required to file under § 13 or § 15(d) of the Securities Exchange Act of 1934, as amended, excluding any portions not required to be made available to the public;

(2) Within 30 days of adoption, file with the Division Director a copy of its

most recently adopted federal Community Reinvestment Act statement; and

(3) File with the Division Director any other information the Division Director shall require by regulation, including the items required under the minimum reporting standards specified under § 9–1008(d) of this subtitle.

(c) Within 30 days of receipt, the association or holding company shall submit to the Division Director a copy of the public portion of its most recent Community Reinvestment Act performance evaluation prepared by the federal regulatory agency that examines the association or holding company, together with a copy of any written response to the evaluation prepared by the association or holding company for its public Community Reinvestment Act file.

(d) The Division Director shall promptly notify the General Assembly as provided under § 2–1246 of the State Government Article, and the Department of Legislative Services of any interstate association or out–of–state savings and loan holding company that controls a Maryland association, an interstate association, a Maryland savings and loan holding company, or an out–of–state savings and loan holding company wishing to acquire or having acquired a Maryland association subsidiary that fails to, or refuses to, submit information as required in this section.

(e) (1) Upon request, the Division Director shall make available to the public a copy of the documents submitted under subsections (b) and (c) of this section.

(2) The Division Director may charge a reasonable fee to a person requesting a copy to help defray the costs of providing copies of the documents to the public.

§9–1007.

(a) The Division Director may enter into cooperative agreements with any other savings and loan regulatory unit to facilitate the regulation of savings and loan associations and savings and loan holding companies doing business in this State.

(b) The Division Director may accept reports of examinations and other records from any other unit instead of conducting its own examinations of interstate associations and associations controlled by savings and loan holding companies located in other jurisdictions.

(c) The Division Director may take any action jointly with any other regulatory unit having concurrent jurisdiction over savings and loan associations and savings and loan holding companies in this State or may take action independently to carry out the responsibilities of the Division Director.

(d) The Division Director may adopt regulations necessary to carry out the provisions of this subtitle.

§9–1008.

(a) It is the purpose of this subtitle to permit orderly development of savings and loan association operations on a regional reciprocal basis. It is not the purpose of this subtitle to authorize interstate savings and loan association operations on any basis other than as provided in this subtitle.

(b) Except as provided in subsection (c) of this section, if any of the provisions of this subtitle relating to the terms, conditions, and limitations under which interstate acquisitions of Maryland associations, interstate associations, Maryland savings and loan holding companies, and out-of-state savings and loan holding companies having Maryland association subsidiaries are permitted are declared invalid for any reason by any state or federal court of competent jurisdiction and if the action of the court would substantially impair the purpose of this subtitle, then on the entry of a final nonappealable order or the expiration of time for appeal, this subtitle shall be null and void in its entirety and shall cease to be of any force or effect from the effective date of the order or the expiration of the time for appeal.

(c) Any transaction that has been lawfully approved under this subtitle prior to a determination of invalidity under subsection (b) of this section shall be unaffected by a determination of invalidity.

(d) (1) The Division Director shall closely monitor the results of regional savings and loan operations and report to the General Assembly, as provided under § 2-1246 of the State Government Article, and the Department of Legislative Services on October 1 of each year, on the effects of regional reciprocal savings and loan operations.

(2) The report shall include at a minimum:

(i) Initial or proposed capital investments, loan policies, investment policies, dividend policies, and the general plan of business, including the cost of services that are offered by any interstate association or any savings and loan holding company operating in Maryland or are to be offered by any interstate association or out-of-state savings and loan holding company seeking to operate in Maryland;

(ii) Specific steps taken or proposed to be taken to meet the credit needs of individuals, including low and moderate income residents in the community to be served;

(iii) The financial and managerial resources of the interstate association or out-of-state savings and loan holding company;

(iv) The financial history and future prospects of the interstate association or out-of-state savings and loan holding company;

(v) The resultant concentration of resources and amount of total assets and total deposits to be held by the interstate association or out-of-state savings and loan holding company after a merger or acquisition;

(vi) The impact of regional reciprocal savings and loan association operations on competition;

(vii) The availability of home financing for all groups, including low and moderate income groups;

(viii) The availability of credit for loans;

(ix) Rates charged for credit;

(x) Any fees charged for credit;

(xi) Any other information the Division Director may consider relevant or that the General Assembly may request;

(xii) Number of applications submitted, approved and denied; and

(xiii) The impact of regional savings and loan operations on existing savings and loan associations.

§9–1009.

(a) An out-of-state association's status as an out-of-state association shall not be affected by its conversion from a federal charter to a charter issued by a region jurisdiction, or by conversion from a charter issued by a region jurisdiction to a federal charter, so long as the out-of-state association otherwise continues to qualify as an out-of-state association in accordance with § 9-1001(i) of this subtitle.

(b) An out-of-state association that is not a federally chartered association on and after June 30, 1992 shall divest itself of any deposit-taking offices in Maryland, in accordance with § 9-1006 of this subtitle.

§9–1101.

In this subtitle, "mutual association" means an association that:

(1) Is a corporation chartered under the laws of the State as a savings and loan association that does not have the authority to issue capital stock;

(2) Is insured by the State of Maryland Deposit Insurance Corporation; and

(3) Has assets of $15,000,000 or less or had total assets of less than $15,000,000 as of May 18, 1985.

§9–1102.

A mutual association may convert to a credit union if:

(1) Its members approve; and

(2) Approval is granted by:

(i) The Division Director; and

(ii) The Commissioner.

§9–1103.

(a) If a mutual association wishes to convert to a credit union, the board of directors of the mutual association shall call a meeting of the members of the mutual association for the purpose of considering the proposal to convert.

(b) The mutual association shall give notice of the meeting as provided in Title 2, Subtitle 5 of the Corporations and Associations Article.

§9–1104.

A proposed plan of conversion to a credit union shall be approved by a majority vote of the total number of votes eligible to be cast by the members of the mutual association.

§9–1105.

(a) To convert to a credit union, the mutual association shall deliver to the Commissioner:

(1) A written application for conversion in the form that the Department of Labor, Licensing, and Regulation requires;

(2) Any additional exhibits the Department may require;

(3) Any filing fee set by the Department by regulation; and

(4) Its proposed amended articles and bylaws.

(b) Upon receipt of an application to convert, the Commissioner shall examine the mutual association.

(c) The examination shall include, but not be limited to, the following:

(1) The financial history and condition of the mutual association including:

(i) The identification of overvalued assets, undisclosed nonperforming loans, and understated liabilities;

(ii) The identification of assets that may become nonperforming assets upon conversion;

(iii) The identification of loans in default and loans past due over 60 days;

(iv) Review of material litigation affecting the mutual association, and the identification of significant judgments, orders or decrees affecting its financial status; and

(v) Review of mortgage contracts, participating loans, and other commitments.

(2) The management of the association.

(d) As a condition of approval of an application of conversion, the Commissioner may require a mutual association to have its books and records audited and certified under § 9-502 of this title.

§9–1106.

(a) In reviewing an application for conversion, the Commissioner shall determine:

(1) Whether, after conversion, the credit union will be in sound financial condition and will be soundly managed; and

(2) That no person will receive any inequitable gain or advantage by reason of the conversion.

(b) An application for conversion may only be approved if it is found that:

(1) The converting mutual association has met the requirements of Title 6 of this article;

(2) The converting mutual association will qualify for share insurance by the Credit Union Insurance Corporation or the National Credit Union Administration Share Program;

(3) The converting mutual association has credited to the reserve fund 6 percent of its risk assets; and

(4) The public interest will be promoted by allowing the mutual association to convert to a credit union.

§9–1107.

(a) On approval of the application for conversion, the applicant shall file an endorsed copy of the application with the State Department of Assessments and Taxation.

(b) The mutual association becomes a credit union when the application and

endorsed amended articles and bylaws by the State Department of Assessments and Taxation accepts the application for record.

(c) The credit union shall certify the acceptance of the application and endorsed amended articles and bylaws by the State Department of Assessments and Taxation within 10 days of receiving the acceptance to the Commissioner.

§9–1108.

(a) The Commissioner may require any changes to the application or exhibits that the Department considers necessary.

(b) If the application for conversion is denied, the Commissioner shall endorse and date a copy of the application "denied", return it to the mutual association, and certify this action to the State of Maryland Deposit Insurance Fund Corporation.

(c) If the application for conversion is approved, the Commissioner shall:

(1) Sign, date, and endorse each copy of the application for conversion as "approved";

(2) Keep and record 1 copy of each endorsed application; and

(3) Certify these actions taken to the share insurer.

§9–1109.

In addition to membership authorized in § 6-302 of this article, a credit union resulting from a conversion under this subtitle may permit individuals who, at the time of conversion, are members, savings account holders, directors, officers, employees, or borrowers of a mutual association, to become members of the resulting credit union.

§10–101.

(a) In this title the following words have the meanings indicated.

(b) "Association" means a corporation or mutual association that is chartered under the laws of this State as a savings and loan association.

(c) "Board" means the Board of Directors of the State of Maryland Deposit Insurance Fund Corporation.

(d) "Division Director" means the Director of the Division of Savings and Loan Associations.

(e) "Federal insurance" means insurance provided by the Federal Savings and Loan Insurance Corporation.

(f) "Fund" means the State of Maryland Deposit Insurance Fund Corporation.

(g) "Fund Director" means the Director of the State of Maryland Deposit Insurance Fund Corporation.

(h) "Insured institution" means:

(1) A national banking association, a federal savings bank, or a banking institution incorporated as a State bank, trust company, savings bank, or other similar institution, whether under the laws of this or any other state, the deposits of which are insured by the Federal Deposit Insurance Corporation; or

(2) A federal savings and loan association, a federal savings bank, a savings and loan association, a building and loan association, or a similar institution incorporated under the laws of this or any other state, the deposits of which are insured by the Federal Savings and Loan Insurance Corporation.

(i) "Major association" means an association with total assets of $40,000,000 or more.

(j) "Member association" means an association that is a member of the State of Maryland Deposit Insurance Fund Corporation.

(k) "Savings account" means a savings share account, a savings deposit account, or any other deposit in an association.

§10–102.

There is a State of Maryland Deposit Insurance Fund Corporation in the Department of Labor, Licensing, and Regulation.

§10–103.

(a) The Fund Director is appointed by the Governor.

(b) The Fund Director serves at the pleasure of the Secretary of Labor, Licensing, and Regulation.

(c) For a period of 2 years after termination of employment with the Fund, if the Fund Director is employed by a savings and loan association that is insured by the Fund, or becomes a director, officer, attorney, or agent of a savings and loan association that is insured by the Fund, that individual may not:

(1) Represent, formally or informally, the association in any judicial, administrative, or other proceeding in which:

(i) The Fund is a party; and

(ii) The former Fund Director substantially participated;

(2) Participate in any application submitted to the Fund for the Division's

approval; or

(3) Attempt to influence, or make any oral or written communication, on behalf of the association in any matter before the Fund relating to the association in which the individual participated personally and substantially as Fund Director.

(d) All of the corporate powers of the Fund shall be exercised by the Fund Director.

(e) (1) The Board consists of 11 members.

(2) Of the Board members:

(i) 3 shall be elected by the member associations, subject to the approval of the Secretary of Labor, Licensing, and Regulation; and

(ii) 8 shall be appointed by the Governor.

(3) (i) From among its members, the Board shall elect a chairman.

(ii) The Board may appoint officers as it considers advisable.

(4) No officer or director of the Fund, whether appointed or elected, shall be personally liable on any contract legally entered into on behalf of the Fund unless the contract, by its terms, expressly obligates that officer or director.

§10–103.1.

(a) The function of the Board is advisory.

(b) The Board shall give the Fund Director sound and impartial advice on:

(1) The approval or disapproval of applications by a member association;

(2) The administration of the State of Maryland Deposit Insurance Fund;

(3) Protection of the interest of the general public and of depositors in member associations; and

(4) Any other matter concerning the business of member associations.

(c) If the Fund Director does not follow the advice of the Board, the Fund Director shall send to the Board and the Secretary a written statement of the reason for the action.

§10–104.

(a) The Fund Director may employ a staff in accordance with the State budget. The Fund Director and staff of the Fund are entitled to the salaries provided in the

State budget. These salaries are not subject to the authority of the Secretary of Budget and Management.

(b) Technical and professional employees are special appointments in the State Personnel Management System.

§10–105.

The Fund Director exercises powers and performs duties subject to the authority of the Secretary of Labor, Licensing, and Regulation.

§10–106.

The Fund Director shall adopt an official seal. A description and impression of the seal shall be filed with the Secretary of State.

§10–107.

The Fund Director shall devote full time to the duties of the Fund.

§10–108.

(a) The Fund Director may not:

(1) Be an officer or director of any State or federal savings and loan association; or

(2) Engage in any other business relating to financial institutions.

(b) (1) The Fund Director may not own stock or be a depositor in any member association.

(2) The employees of the Fund may not own stock in any member association.

(c) Any person who violates any provision of this section is subject to dismissal.

§10–109.

(a) Except as provided in subsection (b) of this section, the Fund Director and employees of the Fund may not:

(1) Become indebted to any member association; or

(2) Engage or be interested in the sale of securities of or in the negotiation of loans for others to or with any member association.

(b) This section does not apply to a loan that a member association makes to a depositor if the loan is less than the amount of the deposit.

(c) Any person who violates any provision of this section is subject to dismissal.

§10–110.

(a) (1) (i) The moneys of the State of Maryland Deposit Insurance Fund Corporation shall be maintained in a special nonlapsing fund, to be called the "State of Maryland Deposit Insurance Fund".

(ii) In addition to the powers expressly provided in this title, the Fund shall have, and through the Fund Director may exercise to the extent of the moneys in and available to the Fund, all the corporate powers granted Maryland corporations under the Maryland General Corporation Law.

(2) The Fund Director shall administer the State of Maryland Deposit Insurance Fund for the purposes of:

(i) Insuring the savings accounts of member associations;

(ii) Purchasing capital instruments, including net worth certificates, issued by a member association to enable that member association to qualify for federal insurance;

(iii) Reimbursing savings account holders for loss incurred upon liquidation of a member association, up to the amount of insurance on any savings account;

(iv) Providing funds for liquidity to or issuing obligations against the Fund for, or acquiring securities of or from a member association, affiliate, or acquiring entity in an emergency as determined by the Fund Director or to facilitate an acquisition, consolidation, merger, or transfer of assets and obligations;

(v) Making capital contributions to member associations or entities acquiring, consolidating, or merging with, or acquiring assets and assuming obligations of, member associations, if the Fund Director determines that:

1. The amount of the capital contribution is substantially less than the cost that the Fund would incur if the member association were liquidated, including the cost of reimbursing each savings account holder in the insured amount of each savings account holder's deposit in the liquidated member association; and

2. The making of the capital contribution is necessary to facilitate the acquisition, consolidation, or mergers or transfers of assets and obligations;

(vi) Paying to a receiver of any member association in receivership under § 9-708 of this article at the time of final distribution of the assets of the member association a sum equal to the amount that the insurance liability of the Fund has been reduced by reason of withdrawals made during the pendency of a conservatorship

or receivership of the member association under any form of hardship withdrawal plan or partial distribution of assets approved by the court having jurisdiction over the receivership of the member association; and

(vii) Making payments to any insured institution that assumes savings deposit or share account liabilities of a savings and loan association in receivership in an amount up to the total amount of the liabilities assumed and with respect to any specific deposit or share account not in excess of the amount of insurance on the deposit or share account, and agreeing to indemnify any insured institution that assumes these liabilities against any further liabilities to the extent deemed appropriate by the Fund Director but not to exceed the assets of the Fund.

(3) (i) Notwithstanding any other provision in this section, the Fund Director shall notify the Legislative Policy Committee of any proposed action by the Fund Director regarding the making of a capital contribution under paragraph (2)(v) of this subsection or the making of a payment, or agreeing to an indemnification under paragraph (2)(vii) of this subsection at least 21 days before the action regarding the capital contribution, payment, or agreement to indemnify is taken.

(ii) The Legislative Policy Committee shall assign the proposed action by the Fund Director regarding the making of a capital contribution, payment, or agreement to indemnify for review by the appropriate standing committees.

(4) Any agreement specifying the terms and conditions of a capital contribution under this section shall retain all claims that the Fund may have against officers, directors, employees, or agents of any acquired savings and loan association. The Fund may condition the exercise of those claims only to the extent deemed necessary for the protection of the public interest and welfare and may provide for an indemnification for reasonable expenses.

(b) The amount of loss to be protected against for each depositor may not exceed the limit established from time to time by the rules and regulations of the Fund. This limit may not exceed the amount of federal insurance.

§10–110.1.

(a) Upon final liquidation of a member association, the Fund Director shall:

(1) Subject to subsection (b) of this section, determine the amount of insurable loss in the manner established by the rules and regulations of the Fund; and

(2) Make provision for the payment or assumption of any insurable loss to each depositor less any payments made to, or accounts made available to, a depositor under subsection (c) of this section.

(b) The determination of insurable loss under subsection (a)(1) of this section shall occur no later than 4 years from the date a member association is placed in receivership.

(c) Subject to any other conditions established under law, if the Fund Director is reasonably satisfied that an insurable loss will be incurred upon final liquidation, in order to facilitate the payment of deposit insurance to depositors of a member association and to reasonably reduce the administrative costs of a liquidation, including demands on any hardship withdrawal plan, the Fund may, either upon final liquidation or earlier, and either from available moneys in the Fund or from any other State funds advanced to the Fund for that purpose:

(1) Make a cash payment or payments or issue an obligation under a contract with one or more insured institutions with respect to the making available of insured accounts in an amount equal to all or any portion of the depositors' savings accounts to any or all of the depositors of a member association in receivership;

(2) Make a cash payment or payments, in an amount equal to all or any portion of the depositors' savings accounts, to any or all of the depositors of a member association in receivership; or

(3) Both.

(d) Upon making a cash payment pursuant to a contract under subsection (c)(1) of this section or directly to a depositor under subsection (c)(2) of this section, or otherwise in satisfaction of its insurance obligation with respect to any depositor, the Fund shall be subrogated to all rights of the depositor, including its rights against the assets of the member association, its shareholders, directors, or officers, to the extent of the payment.

(e) In proving its entitlement as a subrogee in any action, the Fund need only show proof of:

(1) Reimbursement of a savings account holder, in part or in full, under this title; or

(2) The making of payments or a capital contribution or the issuance of its obligations to an entity that assumes savings deposit or share account liabilities of a member association.

§10–110.2.

(a) Any moneys advanced by the State to the Fund from general or special funds or from the proceeds of general obligation bonds shall be maintained in a separate account and may not be subject to attachment or any other judicial process by any person.

(b) Any moneys recovered by the Fund as insurer, subrogee, conservator, or receiver, and not required for the purposes of the Fund under this title or for the purposes of the Fund as a conservator or receiver, shall be distributed to the General Fund of the State.

§10–111.

(a) (1) Any association or the incorporators of a proposed association may apply to the Fund Director to become a member association.

(2) The Fund Director shall refer each application received to the Division Director for certification of insurability.

(b) If the Division Director approves the financial affairs, solvency, management, and board of directors of an association or proposed association for insurance of savings accounts, the Division Director shall so certify to the Fund Director.

§10–112.

(a) An association becomes a member when its application is approved by the Fund Director.

(b) Subject to the terms and conditions adopted by the Fund Director, a member association may withdraw at any time from the Fund and have returned all or part of any capital advanced to the State of Maryland Savings-Share Insurance Corporation and all or part of any capital deposit required for membership in the Fund. All moneys and other assets of the former Maryland Savings-Share Insurance Corporation Central Reserve Fund shall continue to be segregated and maintained by the Fund to provide liquidity and are not subject to any insurance claim.

(c) The net earnings of the Fund shall be accumulated for the benefit of the State and may not be returned to any member association.

§10–113.

(a) The Fund Director shall adopt rules and regulations to carry out the provisions of this title.

(b) (1) Except as provided in subsection (c) of this section, the Fund Director may adopt rules and regulations providing for the payment of nonrefundable premiums instead of or in addition to capital deposits required for membership in the Fund and may issue instruments evidencing the interests of members in the Fund.

(2) Except as provided in subsection (c) of this section, the total of premiums and capital deposits imposed on a member association may not be less than the comparable premiums, assessments, and capital deposits imposed for federal insurance.

(c) If a member association withdraws from the Fund before the end of a period for which the association has been assessed or has paid an advance premium, the association shall receive a prorated credit or refund in an amount equal to the product of the premium paid or assessed multiplied by a fraction:

(1) The numerator of which is the number of days remaining in the period after the association's withdrawal; and

(2) The denominator of which is the total number of days in the period.

§10–114.

Section 9-504 of this article does not prevent the Division Director and the Fund Director from exchanging information about an association.

§10–115.

The Fund is not subject to the Insurance Article.

§10–116.

It is the policy of this State that funds will be appropriated to the Fund to the extent necessary to protect holders of savings accounts in member associations, and to enable the Fund to meet its obligations under a hardship withdrawal plan or partial distribution of assets.

§10–117.

(a) A major association is not eligible for new or continued membership in the Fund on or after June 1, 1985, unless it qualifies under subsection (b) of this section.

(b) A major association may remain a member of the Fund only under the following circumstances:

(1) If the major association has applied for federal insurance on or before June 1, 1985, it may remain a member:

(i) For a period after June 1, 1985, of not more than 7 months, as determined by the Fund Director, if the Fund Director determines that there is a substantial likelihood that the major association will qualify for federal insurance; and

(ii) For an extended period of not more than 3 months after its application for federal insurance has been denied, under terms and conditions as prescribed by the Fund Director, if the Fund Director determines that the interest of the savings account holders will not be jeopardized;

(2) Whether or not the major association has applied for federal insurance, it may remain a member for a period after June 1, 1985, of not more than 1 year, as determined by the Fund Director, if it is owned or controlled, directly or indirectly, by an institution that is insured by the Federal Savings and Loan Insurance Corporation or the Federal Deposit Insurance Corporation and if that institution:

(i) Guarantees the savings accounts of the major association; or

(ii) Has entered into an agreement to acquire or merge with the major association; or

(3) If the association was not a major association on the date it became a member of the Fund but later becomes a major association, for a period of not more than 1 year, as determined by the Director, from the date it became a major association.

(c) (1) If, at any time, the Fund Director determines that an association is being operated in an unsafe and unsound manner, or that there is not a substantial likelihood that a major association will qualify for federal insurance and that it is in the public interest, the Fund Director may exercise all of the powers of the Board of Savings and Loan Commissioners under Title 9, Subtitle 7 of this article to institute proceedings for the appointment of a conservator or a receiver.

(2) Notwithstanding subsection (a) of this section, if proceedings have been instituted under this subsection, the association shall remain a member of the Fund until conclusion of the proceedings.

(3) Notwithstanding subsection (a) of this section, a savings and loan association, the savings accounts of which are insured by the Maryland Savings-Share Insurance Corporation on May 16, 1985, that is a subsidiary of a corporation that owns another savings and loan association incorporated in another state, may continue to be insured by the Fund until July 1, 1987.

§10–118.

(a) (1) An association that is not a major association and had total assets of at least $15,000,000 but less than $40,000,000 as of May 18, 1985, is not eligible for new or continued membership in the Fund on or after July 1, 1987.

(2) An association that is not a major association and has total assets of less than $15,000,000 or had total assets of less than $15,000,000 as of May 18, 1985, is not eligible for new or continued membership in the Fund on or after July 1, 1989.

(b) Notwithstanding subsection (a)(1) of this section, an association is eligible for continued membership in the Fund beyond its scheduled date of termination, but in no event beyond October 30, 1987, if the Fund Director and the Secretary of Labor, Licensing, and Regulation find:

(1) The association has made a good faith effort to obtain insurance from the Federal Savings and Loan Insurance Corporation or other federal agency;

(2) There is a substantial likelihood that the association will qualify for federal insurance;

(3) The failure to obtain federal insurance is not attributable to unjustified delay on the part of the association; and

(4) The interest of the savings account holders will not be jeopardized.

(c) Notwithstanding subsection (a) of this section, if a proceeding has been instituted under Title 9, Subtitle 7 of this article, the association shall remain a member of the Fund until conclusion of the proceedings.

§10–119.

(a) Any person who knowingly submits false information to the Fund is guilty of a misdemeanor.

(b) A person who violates the provisions of subsection (a) of this section is subject to a fine of not more than $5,000, or imprisonment for not more than 5 years, or both.

§10–120.

(a) In addition to any other remedies available at law or equity, the Fund is vested with all claims and rights of the former Maryland Savings–Share Insurance Corporation against any person.

(b) Notwithstanding any other provision of law, in any action of the Fund as insurer, subrogee, conservator, or receiver against a shareholder, director, officer, employee, agent, or other person contributing to a loss at a member association or to enforce the terms of a net worth certificate or similar obligation:

(1) A judgment obtained by the Fund shall have priority over any other judgment lien on a defendant's real or personal property without need for further perfection or execution thereon;

(2) All attorneys' fees, costs, and expenses of the Fund for the litigation shall be assessed as part of any judgment in favor of the Fund; and

(3) All moneys recovered by the Fund as insurer or subrogee shall be first applied to repay any monetary advance by the State to the Fund, including any and all fees, costs, and expenses, to further the purposes of this title. Moneys so recovered shall be placed in a separate account and shall be transferred as specified under § 10–110.2 of this subtitle. The separate account is not subject to attachment or other judicial process by any person.

(c) All rights, claims, and liabilities of the Fund accrue to any successor entity and, if a successor entity is not created by law, to the Department of Labor, Licensing, and Regulation.

§10–121.

The Fund shall have the immunity from liability described under § 5-520 of the Courts and Judicial Proceedings Article.

§11–101.

(a) (1) In this section the following words have the meanings indicated.

(2) "Examination" means an examination or investigation performed by the Commissioner, or the Commissioner's designee, which is required or authorized under this article or Title 12 of the Commercial Law Article.

(3) "Licensee" means a person licensed by the Commissioner under this title.

(4) "Person" includes an individual, corporation, business trust, statutory trust, estate, partnership, association, two or more persons having a joint or common interest, or any other legal or commercial entity.

(b) Travel and living expenses reasonably incurred by the Commissioner or the Commissioner's designated examiners arising from the examination of a licensee whose place of business being examined is located outside the geographical boundaries of Maryland, shall be paid by the entity being examined.

(c) (1) Subsection (b) of this section does not apply if the licensee physically produces all documentation deemed by the Commissioner to be necessary or appropriate to the examination within Maryland at a location designated by the Commissioner.

(2) The production of documentation under this subsection, instead of an on-site examination, shall be made at the Commissioner's sole discretion.

§11–201.

(a) In this subtitle the following words have the meanings indicated.

(b) "License" means a license issued by the Commissioner under this subtitle to make loans under the Maryland Consumer Loan Law.

(c) "Loan" means any loan or advance of money or credit made under Title 12, Subtitle 3 of the Commercial Law Article, the Maryland Consumer Loan Law – Credit Provisions.

(d) "Maryland Consumer Loan Law" means this subtitle and Title 12, Subtitle 3 of the Commercial Law Article.

(e) "Person" includes an individual, corporation, business trust, statutory trust, estate, trust, partnership, association, two or more persons having a joint or common interest, or any other legal or commercial entity.

§11–202.

(a) The Maryland Consumer Loan Law does not change any powers conferred by law on any person who is not required or permitted to be licensed under this subtitle.

(b) The Commissioner may not license any bank, trust company, savings bank, credit union, or savings and loan association.

§11–203.

The Commissioner may adopt rules and regulations to carry out the provisions of this subtitle.

§11–204.

(a) Unless a person is licensed by the Commissioner, the person may not:

(1) Make a loan; or

(2) In any way use any advantage provided by the Maryland Consumer Loan Law.

(b) (1) A separate license is required for each place of business where a person makes a loan or transacts any business under the Maryland Consumer Loan Law.

(2) A person may not:

(i) Receive any application for a loan or allow any note or contract for a loan to be signed at any place of business for which the person does not have a license;

(ii) Conduct any business under the Maryland Consumer Loan Law under a name different from the name that appears on the person's license; or

(iii) Evade the application of this section by any device, subterfuge, or pretense of any kind.

(3) This subsection does not prohibit a licensee from accommodating a borrower, at the borrower's request, by making a loan by mail because of the borrower's sickness or hours of employment or for similar reasons.

(4) Notwithstanding paragraphs (2) and (3) of this subsection, for a loan that is to be secured by residential real property:

(i) A licensee may solicit and accept an application for a loan:

1. By mail;

2. By telephone or other electronic means; or

3. At any location requested by the prospective borrower;

(ii) Except as provided in subparagraph (iii) of this paragraph, the loan closing shall be conducted at:

1. The lender's licensed location;

2. The office of an attorney representing the licensee, the borrower, the title company, or title insurer in connection with the loan; or

3. The office of the title insurer or title agency performing closing services in connection with the loan; and

(iii) A licensee may conduct the loan closing at another location at the written request of the borrower or the borrower's designee to accommodate the borrower because of the borrower's sickness.

§11–205.

To qualify for a license, an applicant shall satisfy the Commissioner that:

(1) The applicant has at least $20,000 in liquid assets available to be used in the business to be covered by the license;

(2) The business will promote the convenience and advantage of the community in which the place of business will be located; and

(3) The applicant or, if the applicant is not an individual, the owners, officers, directors, or members have sufficient experience, character, financial responsibility, and general fitness to:

(i) Command the confidence of the public; and

(ii) Warrant the belief that the business will be operated lawfully, honestly, fairly, and efficiently.

§11–206.

(a) (1) To apply for a license, an applicant shall sign and submit to the Commissioner a verified application on the form that the Commissioner requires.

(2) The application shall include:

(i) The applicant's name and address and, if the applicant is not an individual, the names and addresses of each of its principal owners and each of its officers, directors, or members;

(ii) The address at which the business is to be conducted; and

(iii) Any other pertinent information that the Commissioner requires for an investigation and findings under § 11-207 of this subtitle.

(b) With the application, the applicant shall pay to the Commissioner:

(1) An investigation fee of $100; and

(2) A license fee of:

(i) $1,700 if the applicant applies for a license to be issued on or after January 1 and on or before December 31 of an even-numbered year;

(ii) Effective January 1, 1999, $850 if the applicant applies for a license to be issued on or after January 1 and on or before December 31 of an odd-numbered year; or

(iii) $1,700 if the applicant applies for a license to be issued on or after October 1, 1997 and on or before December 31, 1997.

(c) (1) With the application, the applicant shall file with the Commissioner a surety bond.

(2) The surety bond filed under this subsection shall run to this State for the benefit of this State and of any person who has a cause of action against the applicant under the Maryland Consumer Loan Law.

(3) The surety bond shall be:

(i) In an amount equal to twice the amount of the largest loan that may be made under the Maryland Consumer Loan Law;

(ii) With sureties that the Commissioner approves; and

(iii) Conditioned that the applicant will comply with the Maryland Consumer Loan Law and will pay to this State or to any person any money that the applicant may owe to this State or to that person under the Maryland Consumer Loan Law.

(d) For each license for which an applicant applies, the applicant shall:

(1) Submit a separate application;

(2) Pay a separate investigation fee and license fee; and

(3) File a separate bond.

§11–207.

(a) When an applicant for a license files the application and bond and pays the

fees required by § 11-206 of this subtitle, the Commissioner shall investigate the facts relevant to the application to determine if the applicant meets the requirements of this subtitle.

(b) Unless the Commissioner and an applicant agree in writing to extend the time, the Commissioner shall approve or deny each application for a license within 60 days after the date when the application and bond are filed and the fees are paid.

(c) The Commissioner shall issue a license to any applicant who meets the requirements of this subtitle.

(d) (1) If an applicant does not meet the requirements of this subtitle, the Commissioner shall:

(i) Deny the application;

(ii) Notify the applicant immediately of this fact;

(iii) Return the bond filed under § 11-206 of this subtitle;

(iv) Refund the license fee; and

(v) Keep the investigation fee.

(2) Within 10 days after the Commissioner denies an application, the Commissioner shall:

(i) File in the Commissioner's office written findings and a summary of the evidence supporting them; and

(ii) Send a copy of the findings and summary to the applicant.

§11–208.

(a) The Commissioner shall include on each license:

(1) The name of the licensee; and

(2) The address at which the business is to be conducted.

(b) (1) A license authorizes the licensee to do business under the license, at the licensed place of business and under the name stated on the license.

(2) Only one place of business may be maintained under any one license.

(c) The Commissioner may issue more than one license to an applicant who:

(1) Complies with § 11-206 of this subtitle; and

(2) Otherwise meets the requirements of this subtitle.

§11–209.

(a) A license issued before September 30, 1997 expires on the June 30 after its effective date, unless it is renewed on or before June 1 of the year of expiration for an additional term as provided in this section.

(b) A license issued on or after October 1, 1997 expires on December 31 in each odd-numbered year after December 31, 1997, unless it is renewed for a 2-year term as provided in this section.

(c) On or before December 1 of the year of expiration, a license may be renewed for an additional 2-year term, if the licensee:

(1) Otherwise is entitled to be licensed;

(2) Pays to the Commissioner a renewal fee of $1,700; and

(3) Submits to the Commissioner a renewal application on the form that the Commissioner requires.

(d) The Commissioner may waive the requirements of § 11-205(1) and (2) of this subtitle for the renewal of a license.

(e) The Secretary may determine that licenses issued under this subtitle shall expire on a staggered basis.

§11–210.

(a) A license is not transferable.

(b) Each licensee shall display the license conspicuously at the licensee's place of business.

§11–211.

(a) A licensee may not change the place of business for which a license is issued unless the licensee:

(1) Notifies the Commissioner in writing of the proposed change; and

(2) Receives the written consent of the Commissioner.

(b) If the Commissioner consents to a proposed change of place of business, the licensee shall attach the written consent to the license.

§11–213.

Each licensee shall keep:

(1) The books and records that the Commissioner considers necessary to determine compliance with the Maryland Consumer Loan Law; and

(2) For at least 2 years after the licensee makes the final entry on any loan in the licensee's business, the records of that entry, including cards used in a card system.

§11–214.

(a) To discover any violations of the Maryland Consumer Loan Law, the Commissioner, at any time and as often as the Commissioner considers appropriate, may investigate the loans made by and the business of:

(1) Any licensee; or

(2) Any other person who makes a loan or on whose behalf a loan is made, whether or not that person:

(i) Acts or claims to act as a principal, agent, or broker; or

(ii) Acts or claims to act under the Maryland Consumer Loan Law.

(b) For the purposes of this section, the Commissioner:

(1) Shall be given access to any books, papers, records, safes, or vaults of the person under investigation; and

(2) May examine under oath any person whose testimony the Commissioner requires.

§11–215.

(a) Subject to the hearing provisions of § 11-217 of this subtitle, the Commissioner may order a licensee or any other person to cease and desist from a course of conduct if the course of conduct results in an evasion or violation of the Maryland Consumer Loan Law or of any rule or regulation adopted under it.

(b) (1) Subject to the provisions of paragraph (2) of this subsection, when the Commissioner determines that a licensee or any other person is about to engage in an act or practice constituting an evasion or violation of the Maryland Consumer Loan Law or of any rule or regulation adopted under the Maryland Consumer Loan Law, and that immediate action against the licensee or person is in the public interest, the Commissioner may in the Commissioner's discretion issue, without a prior hearing, a summary order directing the licensee or person to cease and desist from engaging in

the act or practice.

(2) A summary cease and desist order issued under paragraph (1) of this subsection shall give the licensee or person:

(i) Subject to the hearing provisions of § 11-217 of this subtitle, notice of the opportunity for a hearing to determine whether the summary cease and desist order should be vacated, modified, or entered as final; and

(ii) Notice that the summary cease and desist order will be entered as final if the licensee or person does not request a hearing within 15 days of receipt of the summary cease and desist order.

§11–216.

(a) Subject to the hearing provisions of § 11-217 of this subtitle, the Commissioner may suspend or revoke the license of any licensee who:

(1) Violates any provision of the Maryland Consumer Loan Law; or

(2) Knowingly and repeatedly violates any provision of the Maryland Consumer Debt Collection Act.

(b) (1) The Commissioner shall revoke the license of any licensee who is convicted twice of violating § 12-316 of the Commercial Law Article if the second violation occurs after the first conviction.

(2) The Commissioner may not issue another license to any person whose license is revoked under this subsection.

(c) If the Commissioner suspends or revokes a license, the Commissioner shall file in the Commissioner's office:

(1) Findings; and

(2) A statement of all the facts on which the findings are based.

§11–217.

(a) Before the Commissioner takes any action under § 11-215 or § 11-216(a) of this subtitle, the Commissioner shall give the licensee an opportunity for a hearing before the Commissioner.

(b) Notice of the hearing shall be given and the hearing shall be held in accordance with the Administrative Procedure Act.

§11–218.

(a) Any applicant for a license or any licensee who is aggrieved by a decision of

the Commissioner to deny an application for or suspend or revoke a license may appeal:

(1) To the circuit court for the county in which the aggrieved person resides or did business; or

(2) To the Circuit Court for Baltimore City.

(b) An appeal shall be heard and decided on the record of the proceedings before the Commissioner. However, if the court finds that additional evidence is necessary, the court may permit that evidence to be introduced.

(c) If a decision of the Commissioner is appealed, the court may reverse, affirm, or modify the decision.

(d) The aggrieved applicant or licensee or the Commissioner may appeal the decision of the court to the Court of Special Appeals.

§11–219.

(a) A licensee may not sell a loan account to any person who is not licensed under this subtitle.

(b) A loan account that is acquired by a person who is not licensed under this subtitle is not enforceable.

§11–220.

The Commissioner shall report to the appropriate State's Attorney any alleged criminal violation of the Maryland Consumer Loan Law.

§11–221.

This subtitle shall be interpreted and construed to effectuate its general remedial purpose.

§11–222.

Any person who violates any provision of § 11-204(a) of this subtitle is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $5,000 or imprisonment not exceeding 3 years or both.

§11–223.

(a) This subtitle may be cited as the Maryland Consumer Loan Law – Licensing Provisions.

(b) This subtitle and the Maryland Consumer Loan Law – Credit Provisions may be cited jointly as the Maryland Consumer Loan Law.

§11–301.

(a) This subtitle does not apply to any loan or extension of credit:

(1) Between relatives;

(2) Between an employer and an employee;

(3) Between a landlord and a tenant; or

(4) Between a primary or secondary or nonprofit degree–granting postsecondary academic educational institution and a student or parents or guardian of that student, for tuition or other expenses of education at that institution.

(b) The licensing provisions of this subtitle do not apply to any of the following persons, if organized under the laws of this State or otherwise qualified to do business in this State:

(1) A banking institution;

(2) A national banking association;

(3) A federal or State savings and loan association;

(4) A federal or State credit union;

(5) A licensee under Subtitle 2 of this title;

(6) A seller of goods or services or both not engaged in:

(i) Making loans; or

(ii) Acting as a credit services business as defined under Title 14, Subtitle 19 of the Commercial Law Article;

(7) A licensee under Subtitle 5 of this title engaged solely in a mortgage lending business as defined in that subtitle; or

(8) An entity exempt from licensing as a mortgage lender under § 11–502(b)(10) of this title.

§11–302.

(a) In this section, "installment loan" means a loan or extension of credit made for consideration under § 12-103(a)(3) or (c), Title 12, Subtitle 9, or Title 12, Subtitle 10 of the Commercial Law Article.

(b) Unless the person is licensed by the Commissioner, a person may not:

(1) Engage in the business of making installment loans;

(2) Make more than 5 installment loans a year; or

(3) Engage in the business of a credit services business as defined under Title 14, Subtitle 19 of the Commercial Law Article.

§11–303.

A license under this subtitle shall be applied for and issued in accordance with, and is subject to, the licensing and investigatory provisions of Subtitle 2 of this title, the Maryland Consumer Loan Law – Licensing Provisions.

§11–304.

Any person who violates any provision of this subtitle is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $5,000 or imprisonment not exceeding 3 years or both.

§11–401.

(a) In this subtitle the following words have the meanings indicated.

(b) "Agreement" means an installment sale agreement, a renewed or extended installment sale agreement, and any renewal, extension, or refund agreement made in connection with an installment sale agreement.

(c) (1) "Buyer" means a person who buys or leases goods under an installment sale agreement, even though the person has entered into one or more renewal, extension, or refund agreements.

(2) "Buyer" includes a prospective buyer.

(d) (1) "Collateral security" means any security interest in, encumbrance on, or pledge of property or goods that is given to secure performance of an obligation of a buyer or a surety for a buyer under an agreement.

(2) "Collateral security" includes the undertaking of a surety for a buyer.

(3) "Collateral security" does not include any goods or interest in goods that are the subject of an installment sale agreement.

(e) (1) "Goods" means all tangible personal property that has a cash price of $25,000 or less.

(2) "Goods" does not include money or things in action.

(f) (1) "Installment sale agreement" means a contract for the retail sale of consumer goods, negotiated or entered into in this State, under which:

(i) Part or all of the price is payable in one or more payments after the making of the contract; and

(ii) The seller takes collateral security or keeps a security interest in the goods sold.

(2) "Installment sale agreement" includes:

(i) A prospective installment sale agreement;

(ii) A purchase money security agreement; and

(iii) A contract for the bailment or leasing of consumer goods under which the bailee or lessee contracts to pay as compensation a sum that is substantially equal to or is more than the value of the goods.

(3) "Installment sale agreement" does not include:

(i) A bona fide C.O.D. transaction or a layaway agreement as defined in § 14-1101(g) of the Commercial Law Article; or

(ii) A lease for industrial, commercial, or agricultural purposes.

(g) "License" means a license issued by the Commissioner under this subtitle to engage in business as a sales finance company.

(h) "Person" includes an individual, corporation, business trust, statutory trust, estate, trust, partnership, association, two or more persons having a joint or common interest, or any other legal or commercial entity.

(i) "Retail sale" means the sale of goods for use or consumption by the buyer or for the benefit or satisfaction that the buyer may derive from the use or consumption of the goods by another, but not for resale by the buyer.

(j) "Sales finance company" means a person who is engaged, whether by purchase, discount, pledge, loan, or otherwise, in the business of acquiring, investing in, or lending money or credit on the security of any interest in:

(1) An installment sale agreement made between other parties;

(2) A retail credit account transaction, as defined in § 12-501 of the Commercial Law Article, made between other parties; or

(3) A transaction that deals with home improvement, as defined in § 8-101 of the Business Regulation Article, made between other parties, if collateral security is required by and given to the contractor as a condition to the transaction.

(k) "Security interest" has the meaning stated in § 1-201(37) of the Commercial Law Article.

(l) "Seller" means a person who sells or leases or agrees to sell or lease goods under an installment sale agreement.

(m) (1) "Surety" includes a guarantor.

(2) "Surety" does not include a seller who sells, transfers, or assigns an agreement.

§11–402.

The licensing provisions of this subtitle do not apply to any banking institution, national banking association, or other-state bank having a branch in this State.

§11–403.

(a) Except as otherwise provided in this subtitle, a person may not engage in business as a sales finance company unless the person is licensed by the Commissioner.

(b) A separate license is required for each place of business where a person engages in business as a sales finance company.

(c) A political subdivision may not require a licensee to have a local license or pay a local fee for permission to engage in business as a sales finance company.

§11–404.

(a) (1) To apply for a license, an applicant shall sign and submit to the Commissioner a verified application on the form that the Commissioner requires.

(2) The application shall include:

(i) The name of the applicant;

(ii) The address at which the business is to be conducted, including, if applicable, the office building and room number;

(iii) The address of each branch, subsidiary, or affiliate that the applicant operates in this State;

(iv) If the applicant is a corporation, the date of its incorporation;

(v) The name and residence address of each owner of or partner in the applicant or, if the applicant is a corporation or association, the name and residence address of each of its directors or trustees, its principal officers, and each person who owns an interest of 20 percent or more in the applicant; and

(vi) Any other pertinent information that the Commissioner requires.

(b) With the application, the applicant shall pay to the Commissioner:

(1) An investigation fee of $100; and

(2) A license fee of $250.

(c) (1) For each license for which an applicant applies, the applicant shall:

(i) Submit a separate application; and

(ii) Pay a separate investigation fee and license fee.

(2) If an applicant applies for three or more licenses at the same time, the total investigation fee is $300.

§11–405.

The Commissioner may deny an application if the applicant or any current owner, director, officer, member, partner, employee, agent, or spouse of the applicant:

(1) Has had a license revoked under this subtitle;

(2) Was responsible for any act or omission that caused the revocation under this subtitle of the license of any person; or

(3) Was convicted of violating any provision of this subtitle or of any other law that regulates agreements.

§11–406.

(a) In addition to the investigation fee required by § 11-404 of this subtitle, if an applicant applies for a license for a place of business that is located outside of this State, the applicant shall pay to the Commissioner, on presentation by the Commissioner of a detailed account, the reasonable travel and living expenses incurred on account of the investigation.

(b) Except for the payments required by this section, the applicant may not offer or pay and the examiner may not solicit or accept any payment with regard to the investigation.

§11–407.

(a) The Commissioner shall approve or deny each application for a license within 60 days after the date when the application is made and the fees are paid.

(b) The Commissioner shall issue a license to any applicant who meets the requirements of this subtitle.

(c) (1) If the Commissioner denies an application, the Commissioner shall:

(i) Notify the applicant of the denial;

(ii) Refund the license fee to the applicant; and

(iii) Keep the investigation fee and any charges collected under § 11-406 of this subtitle.

(2) Within 20 days after the Commissioner denies an application, the Commissioner shall:

(i) File in the Commissioner's office a written decision and statement of the reasons for denying the application; and

(ii) Send a copy of the decision and statement to the applicant.

§11–408.

(a) The Commissioner shall include on each license that the Commissioner issues:

(1) The name of the licensee; and

(2) The address where the business will be conducted.

(b) (1) A license authorizes the licensee to do business under the license, at the licensed place of business and under the name stated on the license.

(2) Only one place of business may be maintained under any one license.

(c) The Commissioner may issue more than one license to an applicant who:

(1) Complies with § 11-406 of this subtitle; and

(2) Otherwise meets the requirements of this subtitle.

§11–409.

(a) (1) A license issued on or before September 30, 1997 expires on December 31 of the year in which it was issued.

(2) A license issued on or after October 1, 1997 expires on December 31 in each odd-numbered year after December 31, 1997.

(b) Before a license expires, the licensee may apply for a new license.

(c) The Secretary may determine that licenses issued under this subtitle shall expire on a staggered basis.

§11–410.

(a) A license is not transferable.

(b) Each licensee shall display the license conspicuously at the licensee's place of business.

§11–411.

(a) If a licensee changes the place of business, the licensee immediately shall notify the Commissioner in writing of the change.

(b) (1) On receiving notice under this section, the Commissioner, without charge, shall send the licensee an endorsement stating the change and its date.

(2) The licensee shall attach the endorsement to the license.

§11–412.

(a) A licensee may surrender the license by delivering to the Commissioner a written statement that the license is surrendered.

(b) The surrender of a license does not affect any civil or criminal liability of the licensee for acts committed before the license was surrendered.

§11–413.

(a) The Commissioner may not examine or audit any licensee or other person except as expressly provided in this section.

(b) (1) If a buyer has reason to believe that any person has violated any provision of this subtitle or of any other law that regulates agreements, the buyer may file with the Commissioner a written complaint that states the details of the alleged violation.

(2) On receipt of the written complaint, the Commissioner may inspect any books, records, letters, and contracts of any licensee, seller, or other person that relate to the complaint.

(c) In investigating a written complaint made under this section, the Commissioner may:

(1) Hold a hearing on the complaint at a time and place in this State that are reasonably convenient to the parties involved;

(2) Subpoena witnesses;

(3) Take depositions of witnesses who reside outside of this State in the same manner as provided for depositions to be taken in civil actions in courts of record;

(4) Pay witnesses the same fees and mileage for their attendance as provided for witnesses in civil actions in courts of record; and

(5) Administer oaths.

(d) (1) If any person fails to comply with an order or subpoena of the Commissioner under this subtitle or to appear as a witness and testify concerning any matter about which the person may be interrogated under this subtitle, the Commissioner may file a petition for enforcement with the circuit court for any county.

(2) On petition by the Commissioner, the court, if it finds it appropriate to do so, shall order the person to:

(i) Obey the order or subpoena; and

(ii) Produce any necessary records, documents, or other evidence.

(e) The Commissioner shall make findings on any written complaint made under this section and send a copy of the findings to each person involved in the complaint.

(f) A person may not knowingly refuse to permit the Commissioner to conduct any investigation or examination authorized by this section.

§11–414.

(a) Subject to the hearing provisions of § 11-415 of this subtitle, the Commissioner may suspend or revoke the license of any licensee, if:

(1) The licensee knowingly or without exercising due care:

(i) Violates any provision of this subtitle or of any other law that regulates agreements; or

(ii) Fails to comply with any demand or requirement that the Commissioner makes under this subtitle;

(2) The licensee makes any material misstatement in an application for a license;

(3) The licensee defrauds any buyer, to the buyer's damage;

(4) The licensee willfully fails to carry out any written agreement with a buyer;

(5) The licensee knowingly and repeatedly violates any provision of the Maryland Consumer Debt Collection Act;

(6) An officer, director, or trustee of or partner in the licensee is responsible for any act or omission that would be a ground for suspending or revoking a license; or

(7) Any agent or employee of the licensee is responsible for any act or omission that would be a ground for suspending or revoking a license, if the licensee:

(i) Approves or knows of that or similar acts or omissions; and

(ii) After giving approval or learning of the act or omission, keeps any benefit, proceeds, profit, or advantage resulting from the act or omission or otherwise ratifies the act or omission.

(b) If the licensee has more than one place of business, the Commissioner may suspend or revoke only the licenses of the places of business to which the grounds for suspension or revocation relate. However, if the Commissioner suspends or revokes the license of one place of business and finds that the grounds for that action apply to any other place of business, the Commissioner shall take the same action against the license for each other place of business to which the grounds apply.

§11–415.

(a) Before the Commissioner takes any action under § 11-414 of this subtitle, the Commissioner shall give the licensee an opportunity for a hearing before the Commissioner.

(b) Notice of the hearing shall be given and the hearing shall be held in accordance with the Administrative Procedure Act.

(c) The hearing notice to be given to the licensee shall be sent by certified mail, return receipt requested, bearing a postmark from the United States Postal Service, to the principal place of business of the licensee in this State at least 10 days before the hearing.

(d) An order suspending or revoking a license shall state the grounds on which it is based and is not effective until 10 days after written notice of the order is sent to the licensee by certified mail, return receipt requested, bearing a postmark from the United States Postal Service, to the principal place of business of the licensee in this State.

(e) The Commissioner shall adopt rules and regulations for:

(1) The conduct of hearings; and

(2) The form of findings and orders.

§11–416.

(a) Any person aggrieved by a decision of the Commissioner to deny an application for a license or to suspend or revoke a license may appeal to:

(1) The circuit court for the county where the licensee did or has applied

to do business; or

(2) The Circuit Court for Baltimore City.

(b) The Commissioner may stay an order that is appealed until the determination of the appeal.

(c) An appeal under this section shall be tried de novo.

(d) If a decision of the Commissioner is appealed, the court may reverse, affirm, or modify the decision.

(e) An aggrieved person or the Commissioner may appeal the decision of the court to the Court of Special Appeals.

§11–417.

(a) The surrender, suspension, or revocation of a license does not impair or affect any obligation under any agreement that the licensee entered into or acquired before the license was surrendered, suspended, or revoked.

(b) In enforcing an agreement and in dealing with the parties to that agreement, a person whose license has been surrendered, suspended, or revoked remains subject to this subtitle, including the authority of the Commissioner to examine and investigate under § 11-413 of this subtitle.

§11–418.

A person may not knowingly:

(1) Make an incorrect statement of material fact in any application, report, or other statement filed under this subtitle; or

(2) Fail to state any material fact that is necessary to give the Commissioner any information that the Commissioner requires under this subtitle.

§11–419.

Any person who violates or participates in the violation of any provision of this subtitle is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $500 or imprisonment not exceeding 6 months or both.

§11–501.

(a) In this subtitle the following words have the meanings indicated.

(b) "Borrower" means a person who makes a loan application for or receives a loan or other extension of credit that is or is intended to be secured in whole or in part by any interest in a dwelling or residential real estate located in Maryland.

(c) (1) "Dwelling" has the meaning stated in 15 U.S.C. § 1602(w).

(2) "Dwelling" does not include a residential structure or mobile home unless the residential structure or mobile home, or at least one unit contained in the residential structure or mobile home, is owner–occupied.

(d) (1) "Independent evidence of commercial purpose" means, where a mortgage loan is made for a commercial purpose to an individual, any and all documentation by which the mortgage lender, prior to the making or procurement of the loan, establishes that the borrower is seeking funds for a legitimate commercial enterprise.

(2) "Independent evidence of commercial purpose" does not include an affidavit of the borrower without supporting evidence, except where:

(i) The borrower is seeking funds to start a business and has not yet incorporated or prepared documentation or proof of ownership of a commercial enterprise; and

(ii) The affidavit states the purpose for which the proceeds of the mortgage loan are to be used and the nature of the business conducted or to be conducted by the borrower.

(e) "Interest in real estate" includes:

(1) A confessed judgment note or consent judgment required or obtained by any person acting as a mortgage lender for the purpose of acquiring a lien on a dwelling or residential real estate;

(2) A sale and leaseback required or obtained by any person acting as a mortgage lender for the purpose of creating a lien on a dwelling or residential real estate;

(3) A mortgage, deed of trust or lien other than a judgment lien, on a dwelling or residential real estate; and

(4) Any other security interest that has the effect of creating a lien on a dwelling or residential real estate in Maryland.

(f) "License" means a license issued by the Commissioner under this subtitle to authorize a person to engage in business as a mortgage lender.

(g) "Licensee" means a person who is licensed under the Maryland Mortgage Lender Law.

(h) (1) "Loan application" means any oral or written request for an extension of credit that is made in accordance with procedures established by a mortgage lender for the purpose of inducing the lender to seek to procure or make a mortgage loan.

(2) "Loan application" does not include the use of an account or line of credit to obtain a loan within a previously established credit limit.

(i) "Mortgage broker" means a person who:

(1) For a fee or other valuable consideration, whether received directly or indirectly, aids or assists a borrower in obtaining a mortgage loan; and

(2) Is not named as a lender in the agreement, note, deed of trust, or other evidence of the indebtedness.

(j) (1) "Mortgage lender" means any person who:

(i) Is a mortgage broker;

(ii) Makes a mortgage loan to any person; or

(iii) Is a mortgage servicer.

(2) "Mortgage lender" does not include:

(i) A financial institution that accepts deposits and is regulated under Title 3, Title 4, Title 5, or Title 6 of this article;

(ii) The Federal Home Loan Mortgage Corporation;

(iii) The Federal National Mortgage Association;

(iv) The Government National Mortgage Association;

(v) Any person engaged exclusively in the acquisition of all or any portion of a mortgage loan under any federal, State, or local governmental program of mortgage loan purchases; or

(vi) An affiliated insurance producer–mortgage loan originator licensed under § 11–603.1 of this subtitle.

(k) (1) "Mortgage lending business" means the activities set forth in the definition of "mortgage lender" in subsection (j) of this section which require that person to be licensed under this subtitle.

(2) "Mortgage lending business" includes the making or procuring of mortgage loans secured by a dwelling or residential real estate located outside Maryland.

(l) "Mortgage loan" means any loan primarily for personal, family, or household use that is secured by a mortgage, deed of trust, or other equivalent consensual security interest on a dwelling or residential real estate on which a dwelling is constructed or intended to be constructed.

(m) "Mortgage loan originator" has the meaning stated in § 11–601 of this title.

(n) "Mortgage servicer" means a person who:

(1) Engages in whole or in part in the business of servicing mortgage loans for others; or

(2) Collects or otherwise receives payments on mortgage loans directly from borrowers for distribution to any other person.

(o) "Nationwide Mortgage Licensing System and Registry" means a mortgage licensing system developed and maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators for the licensing and registration of licensed mortgage loan originators and mortgage lenders.

(p) "Person" means a natural person, corporation, limited liability company, partnership, business trust, statutory trust, or association.

(q) "Residential real estate" means any owner–occupied real property located in Maryland on which a dwelling is constructed or intended to be constructed.

(r) "State" means the State of Maryland.

§11–502.

(a) In this section, "affiliate" means any company that controls, is controlled by, or is under common control with an institution described in subsection (c) of this section.

(b) The provisions of this subtitle do not apply to:

(1) Any bank, trust company, savings bank, savings and loan association, or credit union incorporated or chartered under the laws of this State or the United States or any other–state bank having a branch in this State;

(2) Any insurance company authorized to do business in the State;

(3) Any corporate instrumentality of the Government of the United States including:

(i) The Federal Home Loan Mortgage Corporation;

(ii) The Federal National Mortgage Association; and

(iii) The Government National Mortgage Association;

(4) Any person who takes back a deferred purchase money mortgage in connection with the sale of:

(i) A dwelling or residential real estate owned by, and titled in the name of, that person; or

(ii) A new residential dwelling that the person built;

(5) A nonprofit charitable organization registered with the Maryland Secretary of State or a nonprofit religious organization;

(6) An employer making a mortgage loan to an employee;

(7) A person making a mortgage loan to a borrower who is the person's spouse, child, child's spouse, parent, sibling, grandparent, grandchild, or grandchild's spouse;

(8) A real estate broker who:

(i) Is licensed in the State; and

(ii) Makes a mortgage loan providing a repayment schedule of 2 years or less to assist the borrower in the purchase or sale of a dwelling or residential real estate through the broker;

(9) A home improvement contractor licensed under the Maryland Home Improvement Law who assigns a mortgage loan without recourse within 30 days after completion of the contract to a person licensed under this subtitle or to an institution that is exempt from this subtitle under item (1), (2), or (10) of this subsection;

(10) A subsidiary or affiliate of an institution described in subsection (c) of this section, which subsidiary or affiliate:

(i) Is subject to audit or examination by a regulatory body or agency of this State or the state where the subsidiary or affiliate maintains its principal office; and

(ii) Files with the Commissioner, prior to making mortgage loans, information sufficient to identify:

1. The correct corporate name of the subsidiary or affiliate;

2. An address and telephone number of a contact person for the subsidiary or affiliate;

3. A resident agent; and

4. Any additional information considered necessary by the Commissioner for protection of the public;

(11) Any employee benefit plan qualified under Internal Revenue Code § 401 or persons acting as fiduciaries with respect to such a plan, making mortgage loans

solely to plan participants from plan assets; or

(12) Employees acting within the scope of their employment with:

(i) A licensed mortgage lender; or

(ii) A person who is exempt from licensure under this subtitle.

(c) The exemption in subsection (b)(10) of this section applies to subsidiaries and affiliates of:

(1) Any bank, trust company, savings bank, savings and loan association, or credit union incorporated or chartered under the laws of this State; or

(2) Any other–state bank, as that term is defined in § 5–1001 of this article, having a branch that accepts deposits in this State.

(d) The exemptions provided in subsection (b) of this section do not apply to any person who has been denied a license to engage in business as a mortgage lender or real estate broker or whose license to engage in such activities has been suspended or revoked within the 3 immediately preceding calendar years.

§11–503.

The Commissioner may adopt rules and regulations to carry out the provisions of this subtitle.

§11–503.1.

(a) The Commissioner shall set by regulation the fees provided for in this subtitle.

(b) The fees established by the Commissioner under this section shall be reasonable and set in a manner that will produce funds sufficient to cover the actual direct and indirect costs of regulating licensees in accordance with the provisions of this subtitle.

(c) The Commissioner shall publish the fee schedule set by the Commissioner.

§11–504.

A person may not act as a mortgage lender unless the person is:

(1) A licensee; or

(2) A person exempted from licensing under this subtitle.

§11–505.

(a) A license issued under this subtitle authorizes the licensee to act as a mortgage lender under the license at the licensed place of business.

(b) Only 1 place of business may be maintained under any 1 license.

(c) A mortgage lender may maintain more than 1 license under this subtitle provided that a separate application for each license is made pursuant to § 11-507 of this subtitle and the Commissioner approves such application.

(d) (1) The Commissioner shall include on each license:

(i) The name of the licensee; and

(ii) The address at which the business is to be conducted.

(2) A person may not conduct any mortgage loan business at any location or under any name different from the address and name that appears on the person's license.

(e) (1) A licensee may not allow any note, or loan contract, mortgage, or evidence of indebtedness secured by a secondary mortgage or deed of trust on a dwelling or residential real estate to be signed or executed at any place for which the person does not have a license, except at the office of:

(i) The attorney for the borrower or for the licensee; or

(ii) A title insurance company, a title company, or an attorney for a title insurance company or a title company.

(2) Notwithstanding paragraph (1) of this subsection, a licensee may conduct the loan closing at another location at the written request of the borrower or the borrower's designee to accommodate the borrower because of the borrower's sickness.

(3) The Commissioner shall adopt regulations to ensure that the loan application process is conducted fairly and in a manner consistent with the best interests of both the borrower and mortgage lender.

(f) A license may be issued under this subtitle to a business entity whose principal office is located outside this State provided that the business entity maintains a resident agent within the State at all times during the term of the license, regardless of whether:

(1) The business entity maintains any office within the State; or

(2) The activities of the business entity constitute doing business or

having a tax situs in this State under the applicable provisions of the Corporations and Associations Article.

(g) A person exempt from licensing under this subtitle who employs a mortgage loan originator licensed under Subtitle 6 of this title shall be registered with the Nationwide Mortgage Licensing System and Registry.

§11–506.

(a) To qualify for a license, an applicant shall satisfy the Commissioner that the applicant is of good moral character and has sufficient financial responsibility, business experience, and general fitness to:

(1) Engage in business as a mortgage lender;

(2) Warrant the belief that the business will be conducted lawfully, honestly, fairly, and efficiently; and

(3) Command the confidence of the public.

(b) (1) To qualify for a license, the applicant shall satisfy the Commissioner that the applicant has at least 3 years of experience in the mortgage lending business.

(2) If the applicant is a sole proprietor, the applicant shall have the required experience.

(3) If the applicant is a joint venture, or general or limited partnership, at least one of the coventurers or general partners shall have the required experience.

(4) If the applicant is a business entity of any other kind, type, or classification, at least one of the principal officers or members shall have the required experience.

(c) (1) Except as provided in paragraph (2) of this subsection, the Commissioner may deny an application for a license to any person who has been officially reprimanded or has committed any act that would be a ground for suspension or revocation of a license under this subtitle.

(2) The Commissioner shall deny an application for a license filed by:

(i) An individual who has been convicted within the last 10 years of a felony involving fraud, theft, or forgery; and

(ii) An entity that has a director, officer, partner, member, or owner of 10 percent or more of the entity who has been convicted within the last 10 years of a felony involving fraud, theft, or forgery.

§11–506.1.

(a) In this section, "Central Repository" means the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services.

(b) This section does not apply to any corporation the securities of which are exempt from registration under § 11–601(8) or (12) of the Corporations and Associations Article.

(c) In connection with an initial application and at any other time the Commissioner requests, each applicant or licensee shall provide fingerprints for:

(1) Use by the Central Repository to conduct State criminal history records checks; and

(2) Submission to the Federal Bureau of Investigation, and any other governmental agency or entity authorized to receive this information, for a state, national, or international criminal history background check.

(d) In addition to the requirement under subsection (c) of this section, if the Commissioner requires in connection with an initial application, and at any other time the Commissioner requests, an applicant or licensee shall provide to the Nationwide Mortgage Licensing System and Registry information concerning the applicant's identity, including:

(1) Fingerprints for submission to the Federal Bureau of Investigation, and any other governmental agency or entity authorized to receive this information, for a state, national, or international criminal history background check; and

(2) Personal history and experience in a form prescribed by the Nationwide Mortgage Licensing System and Registry, including the submission of authorization for the Nationwide Mortgage Licensing System and Registry and the Commissioner to obtain:

(i) An independent credit report from a consumer reporting agency described in the federal Fair Credit Reporting Act, 15 U.S.C. § 1681a(p); and

(ii) Information related to any administrative, civil, or criminal findings by any governmental jurisdiction.

(e) The Commissioner may request from the Central Repository, the Federal Bureau of Investigation, or the Nationwide Mortgage Licensing System and Registry, as applicable, for each applicant or licensee who is required to provide fingerprints under subsection (c) or (d) of this section:

(1) (i) The state, national, or international criminal history records of the applicant or licensee; and

(ii) A printed statement listing any conviction or other disposition of, and any plea of guilty or nolo contendere to, any criminal charge;

(2) (i) An update of the initial criminal history records check or criminal history background check of the applicant or licensee; and

(ii) A revised statement listing any conviction or other disposition of, and any plea of guilty or nolo contendere to, any criminal charge occurring after the date of the initial criminal history records check or criminal history background check; and

(3) An acknowledged receipt of the application for a criminal history records check or criminal history background check of the applicant or licensee.

(f) An applicant or licensee who is required to provide fingerprints under subsection (c) or (d) of this section shall pay any processing or other fees required by the Central Repository, the Federal Bureau of Investigation, and the Nationwide Mortgage Licensing System and Registry.

(g) To implement this subtitle, the Commissioner may use the Nationwide Mortgage Licensing System and Registry as a channeling agent to request information from and distribute information to the Department of Justice, any other governmental agency with subject matter jurisdiction, and any other state licensing entity that has loan originators registered with the Nationwide Mortgage Licensing System and Registry.

§11–507.

(a) (1) To apply for a license, an applicant shall:

(i) Complete, sign, and submit to the Commissioner an application made under oath in the form, and in accordance with the process, that the Commissioner requires; and

(ii) Provide all information that the Commissioner requests.

(2) The applicant shall comply with all conditions and provisions of the application for licensure and be issued a license before acting as a mortgage lender at a particular location.

(b) With each application, the applicant shall pay to the Commissioner the following fees:

(1) A nonrefundable investigation fee set by the Commissioner; and

(2) A nonrefundable license fee set by the Commissioner.

(c) In addition to the license fee required under subsection (b)(2) of this section,

an applicant for an initial license shall pay to the Nationwide Mortgage Licensing System and Registry any fees that the Nationwide Mortgage Licensing System and Registry imposes in connection with the application.

(d) For each license for which an applicant applies, the applicant shall:

(1) Submit a separate application;

(2) Pay a separate nonrefundable license fee;

(3) Pay any application processing fee or other fees that the Nationwide Mortgage Licensing System and Registry imposes in connection with the application;

(4) If applicable, pay the surcharge; and

(5) File a separate surety bond or other financial guaranty under § 11–508 of this subtitle.

(e) In addition to any sanctions that may be imposed under this subtitle by the Commissioner, a nonrefundable surcharge of $500 shall be paid with an application if the applicant has begun acting as a mortgage lender without a license at the location for which an application is filed.

(f) A person who knowingly makes a false statement under oath on an application filed with the Commissioner under this section is guilty of perjury and on conviction is subject to the penalties of § 9–101 of the Criminal Law Article.

§11–508.

(a) An applicant for a new license or for the renewal of a license shall file a surety bond with each original application and any renewal application for the license.

(b) The surety bond shall:

(1) Run to the Commissioner and be for the benefit of any mortgage loan borrower who has been damaged by a violation committed by a licensee of any law or regulation governing the activities of mortgage lenders;

(2) Be issued by a surety company authorized to do business in the State;

(3) Be conditioned that the applicant shall comply with all Maryland laws regulating the activities of mortgage lenders and mortgage loan lending; and

(4) Be approved by the Commissioner.

(c) If an applicant has not conducted a mortgage lending business any time during the 36 months prior to the filing of an original application for a license, the applicant shall provide a sworn statement setting forth that fact.

(d) (1) If an applicant has conducted a mortgage lending business any time during the 36 months prior to the filing of an original or renewal application, the applicant shall provide a sworn statement setting forth the aggregate principal amount of mortgage loans secured or to be secured by property located in Maryland and applied for and accepted or mortgage loans secured or to be secured by property located in Maryland and applied for, procured, and accepted by the mortgage lender during the 12 months immediately preceding the month in which the application is filed.

(2) If an applicant has conducted a mortgage lending business any time during the 36 months prior to the filing of an original application, but during that time has not acted as a mortgage lender in Maryland, the applicant shall provide with the original application a sworn statement setting forth the aggregate principal amount of loans secured or to be secured by a dwelling or residential real estate located in states other than Maryland and applied for, procured, and accepted by the mortgage lender during the 12 months preceding the month in which the application is filed.

(3) Except as provided in subsection (e) of this section, the applicant shall file with the original or renewal application:

(i) Where the aggregate principal amount of loans set forth in the sworn statement was $3,000,000 or less, a surety bond in the amount of $50,000;

(ii) Where the aggregate principal amount of loans set forth in the sworn statement was more than $3,000,000 but not more than $10,000,000, a surety bond in the amount of $100,000; and

(iii) Where the aggregate principal amount of loans set forth in the sworn statement was more than $10,000,000, a surety bond in the amount of $150,000.

(e) Notwithstanding any other provisions of this section, and subject to approval by the Commissioner, if an applicant files five or more original or renewal applications at the same time, the applicant may provide a blanket surety bond for all licensed offices in the amount of $750,000.

(f) Subject to approval by the Commissioner, an applicant for license who files an application for a new license or for the renewal of a license may satisfy the bonding requirement under this section by establishing a trust account with or obtaining an irrevocable letter of credit from a financial institution insured by the Federal Deposit Insurance Corporation in an amount equal to the bond required under this section.

(g) The Commissioner may adopt regulations reasonably necessary to assure that the proper surety bond amount established by this section is maintained by each licensee throughout each licensing term. The regulations may provide for periodic reporting, recalculation, and enforcement of required bond amounts.

§11–508.1.

(a) An applicant for a new license or for the renewal of a license shall satisfy the Commissioner that the applicant or licensee has, and at all times will maintain, a minimum net worth computed according to generally accepted accounting principles or, with respect to an applicant or licensee described in item (1) of this subsection, any other recognized comprehensive basis of accounting approved by the Commissioner:

(1) In the case of an applicant or licensee that does not lend money secured by a dwelling or residential real estate, in the amount of $25,000; and

(2) In the case of an applicant or licensee that lends money secured by a dwelling or residential real estate, in the amount of:

(i) $25,000, if the applicant or licensee, in the 12 months prior to the license application or the renewal application, lent in the aggregate not more than $1,000,000 secured by a dwelling or residential real estate;

(ii) $50,000, if the applicant or licensee, in the 12 months prior to the license application or the renewal application, lent in the aggregate more than $1,000,000, but not more than $5,000,000 secured by a dwelling or residential real estate;

(iii) $100,000, if the applicant or licensee, in the 12 months prior to the license application or the renewal application, lent in the aggregate more than $5,000,000, but not more than $10,000,000 secured by a dwelling or residential real estate; and

(iv) $250,000, if the applicant or licensee, in the 12 months prior to the license application or the renewal application, lent in the aggregate more than $10,000,000 secured by a dwelling or residential real estate.

(b) (1) Subject to paragraphs (2) and (3) of this subsection, the minimum net worth requirements under subsection (a)(2) of this section may be satisfied by the applicant or licensee having:

(i) Cash on deposit with a bank or depository institution;

(ii) A line of credit from a bank or depository institution;

(iii) Other assets; or

(iv) A combination of cash, a line of credit, or other assets.

(2) If cash is used toward satisfying the minimum net worth requirements under subsection (a)(2) of this section, the applicant or licensee shall submit to the Commissioner a bank letter verifying:

(i) The account balance;

(ii) The type of account in which the funds are held; and

(iii) That the funds are not encumbered or hypothecated in any way.

(3) (i) If a line of credit is used toward satisfying the minimum net worth requirements under subsection (a)(2) of this section, the applicant or licensee shall submit to the Commissioner a copy of the line of credit agreement and the promissory note.

(ii) A line of credit may not be used toward satisfying more than 75% of the minimum net worth requirements under subsection (a)(2) of this section.

(c) A licensee shall provide to the Commissioner proof of satisfying minimum net worth requirements under subsection (a) of this section within 90 days after the last day of the licensee's most recent fiscal year.

§11–509.

(a) When an applicant for a license files the application and bond and pays the fees required by § 11-507 of this subtitle, the Commissioner shall investigate to determine if the applicant meets the requirements of § 11-506 of this subtitle.

(b) The Commissioner shall approve or deny each application for a license within 60 days after the date when the application and bond are filed and the fees are paid.

(c) The Commissioner shall issue a license to any applicant who meets the requirements of this subtitle.

§11–510.

(a) If an applicant does not meet the requirements of this subtitle, the Commissioner shall:

(1) Immediately notify the applicant in writing of this fact;

(2) Return the bond filed under § 11-508 of this subtitle;

(3) Refund the license fee; and

(4) Keep the investigation fee.

(b) Within 30 days after the Commissioner denies an application, the Commissioner shall:

(1) File in the Commissioner's office a written decision containing the findings and conclusions on which the denial was based;

(2) Send a copy of the decision to the applicant; and

(3) Advise the applicant by certified mail of the applicant's right to a hearing to be held in accordance with the Administrative Procedure Act.

(c) (1) An applicant who seeks a hearing on a license application denial shall file a written request for a hearing within 45 days following receipt of the advice to the applicant of the applicant's right to a hearing.

(2) A hearing date established in response to the filing of a notice under this subsection may be postponed only once for a period of up to 30 days after the initial hearing date.

§11–511.

(a) Subject to any regulations the Commissioner adopts in connection with the transition to the Nationwide Mortgage Licensing System and Registry, an initial license term shall:

(1) Begin on the day the license is issued; and

(2) Expire on December 31 of the year:

(i) The license is issued, if the license is issued before November 1; or

(ii) Succeeding the year that the license is issued, if the license is issued on or after November 1.

(b) At least 60 days before its expiration, a license may be renewed if the licensee:

(1) Otherwise is entitled to be licensed;

(2) Pays to the Commissioner a nonrefundable renewal fee set by the Commissioner;

(3) Files a bond or bond continuation certificate for the amount required under § 11–508 of this subtitle; and

(4) Submits to the Commissioner:

(i) A renewal application on the form that the Commissioner requires; and

(ii) Satisfactory evidence of compliance with any continuing education requirements set by regulations adopted by the Commissioner.

(c) Subject to any regulations the Commissioner adopts in connection with the

transition to the Nationwide Mortgage Licensing System and Registry, a renewal term shall:

(1) Be for a period of 1 year;

(2) Begin on January 1 of each year after the initial term; and

(3) Expire on December 31 of the year the renewal term begins.

(d) In addition to the license renewal fee required under subsection (b)(2) of this section, an applicant for a license renewal shall pay to the Nationwide Mortgage Licensing System and Registry any fees that the Nationwide Mortgage Licensing System and Registry imposes in connection with the renewal application.

(e) If a license is surrendered voluntarily, or is suspended or revoked, the Commissioner may not refund any part of the license fee regardless of the time remaining in the license term.

§11–511.1.

(a) By July 1, 2000, the Commissioner shall adopt regulations that set continuing education requirements as a condition to the renewal of licenses under this subtitle.

(b) Any continuing education requirements established by the Commissioner under this section shall apply to the first renewal of a license.

§11–512.

(a) (1) A licensee may not change the place of business for which a license is issued unless the licensee:

(i) Notifies the Commissioner in writing of the proposed change; and

(ii) Receives the written approval of the Commissioner.

(2) Within 60 days after receiving a request for approval of a proposed change in the place of business for a licensee, the Commissioner shall approve or deny the request.

(3) If the Commissioner does not approve or deny a request for approval of a proposed change in the place of business for a licensee as provided under paragraph (2) of this subsection, the request shall be deemed approved.

(b) (1) A licensee may not undergo a change in control unless the licensee:

(i) Notifies the Commissioner in writing of the proposed change;

(ii) Makes a written request that the Commissioner approve the

proposed change;

(iii) Provides any information the Commissioner may require under paragraph (3) of this subsection; and

(iv) Receives the written approval of the Commissioner.

(2) For purposes of this subsection:

(i) If the licensee is a corporation, "control" means direct or indirect ownership of, or the right to control, 25% or more of the voting shares of the licensee, or the ability to elect a majority of the directors or otherwise effect a change in policy; and

(ii) If the licensee is an entity other than a corporation, "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of the licensee, whether through the ownership of voting securities, by contract, or otherwise.

(3) Within 60 days after receiving a request for approval of a proposed change in control, the Commissioner may require the licensee to provide any information deemed necessary to determine whether a new application is required because of the proposed change in control.

(4) The Commissioner shall approve or deny a request for approval of a proposed change in control:

(i) Within 60 days after the date the Commissioner receives the request; or

(ii) If the Commissioner requests information from the licensee under paragraph (3) of this subsection, within 60 days after the date the information is received by the Commissioner.

(5) If the Commissioner does not approve or deny a request for approval of a proposed change in control as provided under paragraph (4) of this subsection, the request shall be deemed approved.

(c) In addition to any sanctions which may be imposed under this subtitle by the Commissioner, a licensee who fails to timely provide the notice required under subsection (a)(1) or (b)(1) of this section shall:

(1) For each such failure pay to the Commissioner a surcharge in the amount of $500; and

(2) File with the Commissioner an application for a new license, together with all applicable application and investigation fees.

§11–513.

(a) Each licensee shall keep and make available to the Commissioner at the licensee's place of business any books and records that the Commissioner, by rule or regulation, requires to enable the Commissioner to enforce:

(1) This subtitle;

(2) Any rule or regulation adopted under this subtitle; and

(3) Any other provision regulating the application, making, brokering, or servicing of mortgage loans under Titles 12 through 14 of the Commercial Law Article.

(b) Subject to approval by the Commissioner, nothing in this section is to be construed to prohibit a licensee from maintaining duplicate records or electronic equivalents at the licensee's place of business.

(c) Notwithstanding subsection (a) of this section, on approval of the Commissioner, a licensee need not keep at the licensee's place of business any books and records otherwise required by the Commissioner under subsection (a) of this section if the licensee:

(1) Makes the books and records available to the Commissioner at the licensee's place of business within 5 business days of the Commissioner's official request; and

(2) Retains the records for at least 25 months in a storage facility disclosed to the Commissioner.

§11–513.1.

(a) A licensee shall submit to the Nationwide Mortgage Licensing System and Registry a call report once each quarter on the date, in the form, and containing the information required by the Nationwide Mortgage Licensing System and Registry.

(b) A mortgage lender who is exempt from licensing under this subtitle shall submit the call reports required under subsection (a) of this section on behalf of its mortgage loan originators licensed under Subtitle 6 of this title.

§11–514.

(a) A licensee may surrender a license by sending to the Commissioner the license and a written statement that the license is surrendered.

(b) The surrender of a license does not affect any civil or criminal liability of a licensee for acts committed before the license was surrendered.

§11–515.

(a) (1) The Commissioner shall examine the business of each licensee:

(i) In accordance with a schedule established by the Commissioner; and

(ii) At any other time that the Commissioner reasonably considers necessary.

(2) The schedule established by the Commissioner under paragraph (1)(i) of this subsection shall:

(i) Take into account:

1. The length of time the licensee has been engaged in business as a mortgage lender;

2. Any prior violations by the licensee of the mortgage lending law or regulations;

3. The nature and number of any complaints made against the licensee; and

4. The result of findings from any prior examination of the licensee; and

(ii) Provide that:

1. New licensees shall be examined within 18 months of the date the license is issued; and

2. Each licensee shall be examined at least once during any 36-month period.

(b) (1) Any person aggrieved by the conduct of a licensee under this subtitle in connection with a mortgage loan may file a written complaint with the Commissioner who shall investigate the complaint.

(2) The Commissioner may make any other investigation of any person if the Commissioner has reasonable cause to believe that the person has violated any provision of this subtitle, of any regulation adopted under this subtitle, or of any other law regulating mortgage loan lending in the State.

(c) A licensee shall pay to the Commissioner a per–day fee set by the Commissioner for each of the Commissioner's employees engaged in:

(1) An examination required under subsection (a)(1) of this section; and

(2) Any other examination or investigation conducted under this section that the Commissioner reasonably considers necessary.

(d) In connection with an examination or investigation made under this section, the Commissioner may:

(1) Examine the books and records of any licensee or of any other person who the Commissioner believes has violated any provision of this subtitle, or any rule or regulation adopted under this subtitle, or of any other law regulating mortgage loan lending in the State;

(2) Subpoena documents or other evidence; and

(3) Summon and examine under oath any person whose testimony the Commissioner requires.

(e) (1) If any person fails to comply with a subpoena or summons of the Commissioner under this subtitle or to testify concerning any matter about which the person may be interrogated under this subtitle, the Commissioner may file a petition for enforcement with the circuit court for any county.

(2) On petition by the Commissioner, the court may order the person to attend and testify or produce evidence.

§11–516.

(a) If the Commissioner finds that the conduct of any other business conceals a violation or evasion of this subtitle or of any rule or regulation adopted under this subtitle, or of any law regulating mortgage loan lending in the State, the Commissioner may issue a written order to a licensee to:

(1) Stop doing business at any place in which the other business is conducted or solicited; or

(2) Stop doing business in association or conjunction with the other business.

(b) A licensee who violates an order of the Commissioner issued under this section shall be subject to the penalties provided by § 11-517 of this subtitle.

(c) The Commissioner may file a petition in the circuit court for any county seeking enforcement of an order under this section.

§11–517.

(a) Subject to the hearing provisions of § 11-518 of this subtitle, the Commissioner may suspend or revoke the license of any licensee if the licensee or any owner, director, officer, member, partner, stockholder, employee, or agent of the

licensee:

(1) Makes any material misstatement in an application for a license;

(2) Is convicted under the laws of the United States or of any state of:

(i) A felony; or

(ii) A misdemeanor that is directly related to the fitness and qualification of the person to engage in the mortgage lending business;

(3) In connection with any mortgage loan or loan application transaction:

(i) Commits any fraud;

(ii) Engages in any illegal or dishonest activities; or

(iii) Misrepresents or fails to disclose any material facts to anyone entitled to that information;

(4) Violates any provision of this subtitle or any rule or regulation adopted under it or any other law regulating mortgage loan lending in the State; or

(5) Otherwise demonstrates unworthiness, bad faith, dishonesty, or any other quality that indicates that the business of the licensee has not been or will not be conducted honestly, fairly, equitably, and efficiently.

(b) In determining whether the license of a licensee should be suspended or revoked for a reason described in subsection (a)(2) of this section, the Commissioner shall consider:

(1) The nature of the crime;

(2) The relationship of the crime to the activities authorized by the license;

(3) With respect to a felony, the relevance of the conviction to the fitness and qualification of the licensee to engage in the mortgage lending business;

(4) The length of time since the conviction; and

(5) The behavior and activities of the licensee since the conviction.

(c) (1) The Commissioner may enforce the provisions of this subtitle, regulations adopted under § 11–503 of this subtitle, and the applicable provisions of Title 12 of the Commercial Law Article by:

(i) Issuing an order:

1. To cease and desist from the violation and any further

similar violations; and

2. Requiring the violator to take affirmative action to correct the violation including the restitution of money or property to any person aggrieved by the violation; and

(ii) Imposing a civil penalty not exceeding $5,000 for each violation.

(2) If a violator fails to comply with an order issued under paragraph (1)(i) of this subsection, the Commissioner may impose a civil penalty not exceeding $5,000 for each violation from which the violator failed to cease and desist or for which the violator failed to take affirmative action to correct.

(d) The Commissioner may file a petition in the circuit court for any county seeking enforcement of an order issued under this section.

(e) In determining the amount of financial penalty to be imposed under subsection (c) of this section, the Commissioner shall consider:

(1) The seriousness of the violation;

(2) The good faith of the violator;

(3) The violator's history of previous violations;

(4) The deleterious effect of the violation on the public and mortgage industry;

(5) The assets of the violator; and

(6) Any other factors relevant to the determination of the financial penalty.

(f) The employment of a mortgage originator licensed under Subtitle 6 of this title by a mortgage lender does not relieve the mortgage lender of a responsibility under this subtitle, a rule or regulation adopted under this subtitle, or a law governing mortgage lending in the State.

§11–518.

(a) Before the Commissioner takes any action under § 11-516 or § 11-517 of this subtitle, the Commissioner shall give the licensee an opportunity for a hearing.

(b) Notice of the hearing shall be given and the hearing shall be held in accordance with the Administrative Procedure Act.

(c) The hearing notice to the licensee shall be sent by certified mail, return receipt requested, to the principal place of business of the licensee at least 30 days before the hearing.

§11–519.

The Commissioner may reinstate a suspended license or issue a new license to a person whose license has been revoked if, after investigation, the Commissioner is satisfied that the conditions that were the cause for the suspension or revocation have been corrected and are unlikely to recur.

§11–520.

A mortgage lender may not do business under any trade name that misrepresents or tends to misrepresent that the mortgage lender is:

(1) A bank, trust company, or savings bank;

(2) A savings and loan association;

(3) A credit union; or

(4) An insurance company.

§11–521.

(a) A mortgage lender shall require a borrower to provide the mortgage lender with independent evidence of the commercial purpose of the loan where the loan is:

(1) Secured, in whole or in part, by any interest in a dwelling or residential real estate in Maryland; and

(2) In excess of $75,000.

(b) Other than the requirements of subsection (a) of this section, a mortgage lender is not required to make an independent investigation to obtain independent evidence of the commercial purpose.

§11–523.

(a) Any person who willfully violates any provision of this subtitle or any rule or regulation adopted under it is guilty of a felony and on conviction is subject to a fine not exceeding $50,000 or imprisonment not exceeding 10 years or both.

(b) Any unlicensed person who is not exempt from licensing under this subtitle who makes or assists a borrower in obtaining a mortgage loan in violation of this subtitle may collect only the principal amount of the loan and may not collect any interest, costs, finder's fees, broker fees, or other charges with respect to the loan.

(c) Any mortgage lender or employee or agent of a mortgage lender who willfully misappropriates or intentionally and fraudulently converts to the mortgage lender's or to the mortgage lender's employee's or agent's own use moneys in excess of $300 rightfully belonging to a borrower, or who otherwise commits any fraudulent act in

the course of engaging in the mortgage lending business is guilty of a felony and on conviction is subject to a fine not to exceed $100,000 or imprisonment not exceeding 15 years or both.

§11–524.

This subtitle may be cited as the Maryland Mortgage Lender Law.

§11–601.

(a) In this subtitle the following words have the meanings indicated.

(b) "Borrower" has the meaning stated in § 11–501 of this title.

(c) "Clerical or support duties" includes the following activities relating to the processing or underwriting of a mortgage loan when performed subsequent to the receipt of a loan application:

(1) The receipt, collection, distribution, and analysis of information usual and customary for the processing or underwriting of a mortgage loan; and

(2) Communication with a consumer to obtain information necessary for the processing or underwriting of a mortgage loan, to the extent that the communication does not include offering or negotiating mortgage loan rates or terms, or counseling consumers about mortgage loan rates or terms.

(d) (1) "Depository institution" has the meaning stated in the Federal Deposit Insurance Act, 12 U.S.C. § 1813(c).

(2) "Depository institution" includes credit unions.

(e) "Federal banking agencies" means the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the National Credit Union Administration, and the Federal Deposit Insurance Corporation.

(f) "Fund" means the Mortgage Lender–Originator Fund established under § 11–610 of this subtitle.

(g) "Immediate family member" means a spouse, child, sibling, parent, grandparent, grandchild, stepparent, stepchild, and stepsibling.

(h) "Independent contractor" means a person whose compensation is paid without a deduction for federal or State income tax.

(i) "Individual" means a natural person.

(j) "Individual loan servicer" means an individual who on behalf of a note holder or mortgage loan servicer:

(1) Collects or receives payments, including payments of principal, interest, escrow amounts, and other amounts due on existing mortgage loan obligations owed to the note holder or mortgage loan servicer, at a time when the borrower is in default, or in reasonably foreseeable likelihood of default; and

(2) Working with the borrower and the note holder or mortgage loan servicer, collects data and makes decisions to modify, either temporarily or permanently, the terms of the mortgage loan obligations described in item (1) of this subsection or to proceed with collection efforts through foreclosure or other processes.

(k) "License" means a license issued by the Commissioner under this subtitle.

(l) "Licensee" means an individual who is licensed by the Commissioner under this subtitle.

(m) "Loan application" has the meaning stated in § 11–501 of this title.

(n) "Mortgage lender" means a person that is licensed as a mortgage lender under Subtitle 5 of this title.

(o) "Mortgage lending business" has the meaning stated in § 11–501 of this title.

(p) "Mortgage loan" has the meaning stated in § 11–501 of this title.

(q) (1) "Mortgage loan originator" means an individual who for compensation or gain, or in the expectation of compensation or gain:

(i) Takes a loan application; or

(ii) Offers or negotiates terms of a mortgage loan.

(2) "Mortgage loan originator" does not include an individual who:

(i) Acts solely as a mortgage loan processor or underwriter;

(ii) Performs only real estate brokerage activities and is licensed in accordance with Title 17 of the Business Occupations and Professions Article, unless the individual is compensated by a mortgage lender, mortgage broker, or other mortgage loan originator or by any agent of a mortgage lender, mortgage broker, or other mortgage loan originator; or

(iii) Is involved solely in extensions of credit relating to timeshare plans, as that term is defined in 11 U.S.C. § 101(53d).

(r) (1) "Mortgage loan processor or underwriter" means an individual who performs clerical or support duties as an employee of, at the direction of, and subject to the supervision and instruction of a person licensed, or exempt from licensing, under Title 5 of this article.

(2) "Mortgage loan processor or underwriter" does not include an individual who:

(i) Represents to the public, through advertising or other means of communication including the use of business cards, stationery, brochures, signs, rate lists, or other promotional items, that the individual can or will perform any of the activities of a mortgage loan originator; or

(ii) Performs mortgage loan processing or underwriting activities as an independent contractor.

(s) "Nationwide Mortgage Licensing System and Registry" has the meaning stated in § 11–501 of this title.

(t) "Nontraditional mortgage product" means any mortgage product other than a 30–year fixed rate mortgage loan.

(u) "Person" has the meaning stated in § 11–501 of this title.

(v) "Real estate brokerage activity" means any activity for which a license is required under Title 17 of the Business Occupations and Professions Article.

(w) "Registered mortgage loan originator" means any individual who:

(1) Is a mortgage loan originator;

(2) Is an employee of:

(i) A depository institution;

(ii) A subsidiary that is:

1. Owned and controlled by a depository institution; and

2. Regulated by a federal banking agency; or

(iii) An institution regulated by the Farm Credit Administration; and

(3) Is registered with, and maintains a unique identifier through, the Nationwide Mortgage Licensing System and Registry.

(x) "Residential real estate" has the meaning stated in § 11–501 of this title.

(y) "Unique identifier" means a number or other identifier assigned by the Nationwide Mortgage Licensing System and Registry.

§11–602.

(a) (1) The licensing provisions of this subtitle do not apply to independent

contractors.

(2) Independent contractors are subject to the licensing provisions of Subtitle 5 of this title unless exempt from licensing under that subtitle.

(b) Unless exempted from this subtitle under subsection (d) of this section, an individual may not engage in the business of a mortgage loan originator unless the individual holds a valid license issued under this subtitle.

(c) Each licensee shall obtain and maintain a valid unique identifier issued by the Nationwide Mortgage Licensing System and Registry:

(1) On obtaining an initial or renewal license on or after July 1, 2009; or

(2) If the Commissioner has not joined the Nationwide Mortgage Licensing System and Registry as of July 1, 2009, on or after the date that the Commissioner joins, as instructed by the Commissioner by notice to the licensee.

(d) The following individuals are exempt from this subtitle:

(1) A registered mortgage loan originator, when acting for an entity described in § 11–601(w) of this subtitle;

(2) An individual who offers or negotiates the terms of a mortgage loan with or on behalf of an immediate family member of the individual;

(3) An individual who offers or negotiates the terms of a mortgage loan secured by a dwelling that served as the individual's residence;

(4) A licensed attorney who negotiates the terms of a mortgage loan on behalf of a client as an ancillary matter to the attorney's representation of the client, unless the attorney is compensated by a mortgage lender, a mortgage broker, or a mortgage loan originator, or by an agent of a mortgage lender, mortgage broker, or mortgage loan originator; and

(5) Subject to subsection (e) of this section, an individual loan servicer.

(e) The exemption under subsection (d)(5) of this section is subject to modification by regulations that are adopted by the Commissioner and consistent with any applicable written interpretations of the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 by the United States Department of Housing and Urban Development presented through commentaries, guidelines, rules, regulations, or interpretive letters.

(f) The Commissioner may adopt regulations to carry out this subtitle.

§11–603.

(a) A license issued under this subtitle authorizes the licensee to act as a mortgage loan originator only when acting within the scope of employment with:

(1) A mortgage lender; or

(2) A person who is exempt from licensing as a mortgage lender.

(b) A licensee may not:

(1) Maintain more than one license under this subtitle; or

(2) Be employed by more than one mortgage lender or person who is exempt from licensing as a mortgage lender.

(c) (1) The Commissioner shall include on each license:

(i) The name of the licensee;

(ii) The name of the licensee's employer; and

(iii) The unique identifier of the licensee if the licensee has been issued a unique identifier.

(2) An individual may not act as a mortgage loan originator under a name or for an employer that is different from the name and employer that appear on the license unless the licensee:

(i) Notifies the Commissioner in writing in advance of a change in the licensee's name or the licensee's employer;

(ii) Pays to the Commissioner a license amendment fee set by the Commissioner for each notice provided under this paragraph; and

(iii) In the case of a new employer, amends the sponsorship information on the Nationwide Mortgage Licensing System and Registry by submitting the amendment, in the form required by the Commissioner, to indicate that the licensee is an employee of the new employer.

(3) If a licensee ceases to be employed by a licensed mortgage lender or by a person exempt from licensing as a mortgage lender, the licensee shall notify the Commissioner within 10 business days, and the license shall be placed into nonactive status.

(4) During the time that a license is in nonactive status, it is a violation of this subtitle for the licensee to engage in any activity for which a license is required under this subtitle.

(5) The license shall remain in nonactive status until the licensee:

(i) Notifies the Commissioner in writing that the licensee has obtained employment with a licensed mortgage lender or with a person exempt from licensing as a mortgage lender; and

(ii) Has complied with the requirements set forth in paragraph (2) of this subsection.

(d) A license may be issued under this subtitle to an individual who is not employed by a licensed mortgage lender or a person exempt from licensing as a mortgage lender provided the license is placed into and remains in nonactive status until the licensee:

(1) Notifies the Commissioner in writing that the licensee has obtained employment with a licensed mortgage lender or with a person exempt from licensing as a mortgage lender; and

(2) Has complied with the requirements set forth in subsection (c)(2) of this section.

(e) A license may be issued under this subtitle to an individual who is employed by a mortgage lender, or a person exempt from licensing as a mortgage lender, that has its principal office located outside the State if the mortgage lender or the person exempt from licensing as a mortgage lender maintains a resident agent within the State.

(f) This section does not apply to an affiliated insurance producer–mortgage loan originator licensed under § 11–603.1 of this subtitle.

§11–603.1.

(a) In this section, "affiliated insurance producer–mortgage loan originator" means an individual who:

(1) Originates mortgage loans only on behalf of a single financial institution that is:

(i) Described in § 11–502(b)(1) of this title; and

(ii) Approved by the Commissioner under subsection (b) of this section;

(2) Is a licensed insurance producer in good standing under § 10–103 of the Insurance Article; and

(3) Holds an appointment as an insurance producer for an insurer that controls, is controlled by, or is under common control with:

(i) The financial institution described in item (1) of this subsection; or

(ii) A mortgage lender licensee that:

1. Is approved by the Commissioner under subsection (c) of this section; and

2. Originates loans only on behalf of the financial institution described in item (1) of this subsection under an exclusive contract with the financial institution.

(b) The Commissioner shall approve a financial institution described in subsection (a)(1) of this section based on the following criteria:

(1) The financial institution is in good standing with its primary state or federal regulator; and

(2) The financial institution is in material compliance with applicable state and federal law.

(c) The Commissioner shall approve a mortgage lender licensee described in subsection (a)(3)(ii) of this section based on the following criteria:

(1) The mortgage lender licensee is in good standing with the Commissioner and any other regulator to which it is subject; and

(2) The mortgage lender licensee is in material compliance with applicable state and federal law.

(d) Approval by the Commissioner of a financial institution under subsection (b) of this section and a mortgage lender licensee under subsection (c) of this section shall be in writing.

(e) (1) An application for a license under this section shall be in the form approved by the Commissioner.

(2) The application shall require the identification of:

(i) The financial institution described in subsection (a)(1) of this section;

(ii) If applicable, the mortgage lender licensee described in subsection (a)(3)(ii) of this section; and

(iii) The insurer with which the applicant holds an appointment.

(3) An application for a license under this section shall be signed by an authorized representative of:

(i) The financial institution identified in the application; or

(ii) If a mortgage lender licensee is identified in the application, the mortgage lender licensee.

(f) Notwithstanding §§ 11–602(a) and 11–603 of this subtitle, and subject to the provisions of this section, a license issued under this section authorizes the licensee to act as a mortgage loan originator.

(g) An applicant for a license under this section and a licensee under this section shall comply with all other requirements for licensure as a mortgage loan originator under this subtitle.

(h) A licensee under this section shall limit the licensee's activities to originating mortgage loans only on behalf of a single financial institution approved by the Commissioner under subsection (b) of this section.

(i) The financial institution identified in a licensee's license application or, if a mortgage lender licensee is identified in a licensee's license application, the mortgage lender licensee shall:

(1) Supervise the licensee, including providing direction through written instructions or electronic means and by periodically examining the licensee's books, records, and other aspects of the licensee's business;

(2) Be held jointly and severally liable with the licensee for claims arising out of the licensee's mortgage loan origination activities; and

(3) Meet, or cause the licensee to meet, the surety bond requirements under § 11–619(c) of this subtitle.

(j) Except as provided in subsection (k) of this section, a licensee under this section may not:

(1) Aid or assist a borrower to obtain a mortgage loan from a financial institution other than the financial institution identified in the licensee's license application;

(2) Except for compensation based on the principal balance of a mortgage loan, be compensated by any person for mortgage loan origination activities on a basis that depends on the terms of the mortgage loan, including interest rate or fees;

(3) Receive a finder's fee, as defined in § 12–801 of the Commercial Law Article;

(4) Handle borrower or other third party funds in connection with the origination or closing of a mortgage loan;

(5) Refer a borrower to any other licensee under Subtitle 5 of this title; or

(6) Make or service a mortgage loan.

(k) A licensee under this section may forward a check to the financial institution identified in the licensee's license application if the check is:

(1) Made payable to the financial institution;

(2) From an applicant for a mortgage loan; and

(3) In connection with an application for a mortgage loan to cover costs for:

(i) An appraisal;

(ii) A credit report; or

(iii) Processing the application.

(l) (1) An individual may not act as an affiliated insurance producer–mortgage loan originator under a name or for an employer that is different from the name and employer that appear on the license unless the licensee:

(i) Notifies the Commissioner in writing in advance of a change in the licensee's name or the licensee's employer;

(ii) Pays to the Commissioner a license amendment fee set by the Commissioner for each notice provided under item (i) of this paragraph; and

(iii) In the case of a new employer, amends the sponsorship information on the Nationwide Mortgage Licensing System and Registry by submitting the amendment in the form required by the Commissioner to indicate that the licensee is an employee of the new employer.

(2) If a licensee ceases to be employed by a financial institution approved by the Commissioner under subsection (b) of this section, the licensee shall notify the Commissioner within 10 business days, and the license shall be placed into nonactive status.

(3) During the time that a license is in nonactive status, it is a violation of this subtitle for the licensee to engage in any activity for which a license is required under this subtitle.

(4) The license shall remain in nonactive status until the licensee:

(i) Notifies the Commissioner in writing that the licensee has obtained employment with a financial institution that is approved by the Commissioner under subsection (b) of this section; and

(ii) Has complied with the requirements set forth in paragraph (1) of this subsection.

(m) The Commissioner may issue a license under this subtitle to an individual who is not employed by a financial institution approved by the Commissioner under subsection (b) of this section, provided that the license is placed into and remains in nonactive status until the licensee:

(1) Notifies the Commissioner in writing that the licensee has obtained employment with a financial institution approved by the Commissioner under subsection (b) of this section; and

(2) Has complied with the requirements set forth in subsection (l)(1) of this section.

§11–604.

(a) In this section, "Central Repository" means the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services.

(b) (1) To apply for a license, an applicant shall:

(i) Complete, sign, and submit to the Commissioner an application made under oath in the form, and in accordance with the process, that the Commissioner requires; and

(ii) Provide all information as requested by the Commissioner.

(2) The applicant shall comply with all conditions and provisions of the application for a license.

(c) With each application, the applicant shall pay to the Commissioner:

(1) A nonrefundable investigation fee set by the Commissioner; and

(2) A nonrefundable license fee set by the Commissioner.

(d) In addition to the license fee required under subsection (c)(2) of this section, an applicant for an initial license shall pay to the Nationwide Mortgage Licensing System and Registry any fees that the Nationwide Mortgage Licensing System and Registry imposes in connection with the application.

(e) In connection with an initial application for a license under this section and at any other time the Commissioner requests, an applicant or licensee shall provide to the Nationwide Mortgage Licensing System and Registry information concerning the applicant's identity, including:

(1) Fingerprints for submission to the Federal Bureau of Investigation, and any other governmental agency or entity authorized to receive this information for a state, national, or international criminal history background check; and

(2) Personal history and experience in a form prescribed by the Nationwide Mortgage Licensing System and Registry, including the submission of authorization for the Nationwide Mortgage Licensing System and Registry and the Commissioner to obtain:

(i) An independent credit report from a consumer reporting agency described in the federal Fair Credit Reporting Act, 15 U.S.C. § 1681a(p); and

(ii) Information related to any administrative, civil, or criminal findings by any governmental jurisdiction.

(f) To implement this subtitle, the Commissioner may use the Nationwide Mortgage Licensing System and Registry as a channeling agent to request information from and distribute information to the Department of Justice, any other governmental agency with subject matter jurisdiction, and any other state licensing entity that has loan originators registered with the Nationwide Mortgage Licensing System and Registry.

(g) In addition to the requirement under subsection (e) of this section, in connection with an initial application for a license under this section, and at any other time that the Commissioner requests, an applicant or licensee shall provide fingerprints for use by the Central Repository to conduct criminal history records checks.

(h) An applicant or licensee who is required to provide fingerprints under subsection (e) or (g) of this section shall pay any processing or other fees required by the Central Repository, the Federal Bureau of Investigation, and the Nationwide Mortgage Licensing System and Registry.

(i) The Commissioner may request from the Central Repository, the Federal Bureau of Investigation, or the Nationwide Mortgage Licensing System and Registry, as applicable, for each applicant or licensee who is required to provide fingerprints under subsection (e) or (g) of this section:

(1) (i) The state, national, or international criminal history records of the applicant or licensee; and

(ii) A printed statement listing any conviction or other disposition of, and any plea of guilty or nolo contendere to, any criminal charge;

(2) (i) An update of the initial criminal history records check or criminal history background check of the applicant or licensee; and

(ii) A revised statement listing any conviction or other disposition of,

and any plea of guilty or nolo contendere to, any criminal charge occurring after the date of the initial criminal history records check or criminal history background check; and

(3) An acknowledged receipt of the application for a criminal history records check or criminal history background check of the applicant or licensee.

§11–605.

(a) The Commissioner may not issue a mortgage loan originator license unless the Commissioner makes, at a minimum, the following findings:

(1) The applicant has never had a mortgage loan originator license revoked in any governmental jurisdiction;

(2) The applicant has not been convicted of, or pled guilty or nolo contendere to, a felony in a domestic, foreign, or military court:

(i) During the 7–year period immediately preceding the date of the application for licensing; or

(ii) At any time preceding the date of application, if the felony involved an act of fraud, dishonesty, a breach of trust, or money laundering;

(3) The applicant has demonstrated financial responsibility, character, and general fitness sufficient to command the confidence of the community and to warrant a determination that the mortgage loan originator will operate honestly, fairly, and efficiently;

(4) The applicant has completed the prelicensing education requirement under § 11–606 of this subtitle and any prelicensing education requirements established by the Commissioner by regulation;

(5) The applicant has passed a test that meets the requirements established under § 11–606.1 of this subtitle and any prelicensing testing requirements established by the Commissioner by regulation; and

(6) The applicant has met the surety bond requirement under § 11–619 of this subtitle.

(b) A conviction for which a pardon has been granted is not a conviction for purposes of subsection (a)(2) of this section.

(c) A determination that an individual does not meet the requirements for financial responsibility under subsection (a)(3) of this section may not be based solely on:

(1) Debts arising from medical expenses, including judgments;

(2) Except for delinquent child support payments, debts, including judgments, arising from divorce proceedings or divorce settlements;

(3) Foreclosures on the applicant's principal residence;

(4) The applicant's credit score as reported by any consumer reporting agency, as defined in 15 U.S.C. § 1681a; or

(5) The applicant's involvement in a bankruptcy proceeding under Title 11 of the United States Code.

§11–606.

(a) To qualify for an initial license, an applicant shall complete at least 20 hours of prelicensing education that shall include:

(1) 3 hours of instruction on federal law and regulations relating to mortgage origination;

(2) 3 hours of instruction on ethics, including instruction on fraud, consumer protection, and fair lending issues; and

(3) 2 hours of training related to lending standards and loan terms for nontraditional mortgage products.

(b) (1) All prelicensing education courses shall be reviewed and approved by the Nationwide Mortgage Licensing System and Registry.

(2) Review and approval of a prelicensing education course shall include review and approval of the course provider by the Nationwide Mortgage Licensing System and Registry.

(c) Prelicensing education may be offered in a classroom, online, or by any other means approved by the Nationwide Mortgage Licensing System and Registry.

(d) An applicant's successful completion in another state of the prelicensing education requirements approved by the Nationwide Mortgage Licensing System and Registry, except prelicensing education requirements specific to that other state, shall be accepted by the Commissioner as credit toward completion of prelicensing education requirements in this State.

(e) This section does not preclude any prelicensing education course, as approved by the Nationwide Mortgage Licensing System and Registry, that is provided by the employer of the applicant or an entity that is affiliated with the applicant by an agency contract, or any subsidiary or affiliate of the employer or entity.

§11–606.1.

(a) To qualify for an initial license, an applicant shall pass a qualified written test developed by the Nationwide Mortgage Licensing System and Registry and administered by a test provider approved by the Nationwide Mortgage Licensing System and Registry.

(b) A written test shall not be treated as a qualified written test for purposes of subsection (a) of this section unless the test adequately measures the applicant's knowledge and comprehension in appropriate subject areas, including:

(1) Ethics;

(2) Federal law and regulations relating to mortgage origination;

(3) State law and regulations relating to mortgage origination; and

(4) Federal and State law and regulations relating to fraud, consumer protection, the nontraditional mortgage product marketplace, and fair lending issues.

(c) To pass a qualified written test, an applicant must receive a test score of at least 75 percent.

(d) An applicant may take a test three times, provided that each subsequent test occurs at least 30 days after the preceding test.

(e) After failing three tests, an applicant shall wait at least 6 months before taking the test again.

(f) (1) A licensee who fails to renew and maintain a valid license for a period of 5 years or longer shall retake the test and achieve a passing grade as set forth in subsection (c) of this section before obtaining a new license.

(2) Calculation of the time period during which an individual is unlicensed under paragraph (1) of this subsection shall exclude any time during which the individual is a registered mortgage loan originator.

(g) This section does not prohibit a test provider approved by the Nationwide Mortgage Licensing System and Registry from providing a test at the location of the employer of the applicant or any subsidiary or affiliate of the employer of the applicant, or any entity with which the applicant holds an exclusive arrangement to conduct the business of a mortgage loan originator.

§11–607.

(a) When an applicant for a license files the application and pays the fees required by § 11–604 of this subtitle, the Commissioner shall conduct an investigation to determine if the applicant meets the requirements of § 11–605 of this subtitle.

(b) The Commissioner shall issue a license to an applicant who meets the requirements of § 11–605 of this subtitle.

(c) If the Commissioner notifies an applicant that the application is incomplete:

(1) The Commissioner's notice shall itemize the steps which the applicant must take to complete the application; and

(2) The application shall not be approved until after the applicant supplies or completes all items and steps identified in the Commissioner's notice.

(d) The Commissioner may deny an application:

(1) If the applicant fails to qualify for a license under this subtitle; or

(2) For any reason that a license may be revoked or suspended under this subtitle or a mortgage lender license may be suspended or revoked under § 11–517 of this title.

(e) The Commissioner shall approve or deny an application within 60 days after the Commissioner receives a completed application.

§11–608.

(a) If the Commissioner denies an application, the Commissioner:

(1) Within 10 days, shall notify the applicant, in writing, of the denial; and

(2) Shall keep the license fee and the investigation fee.

(b) Within 30 days after the Commissioner denies an application, the Commissioner shall:

(1) Issue a written decision containing the specific factual findings and conclusions of law on which the denial was based;

(2) Send a copy of the written decision by certified mail to the applicant; and

(3) Advise the applicant by certified mail of the applicant's right to a hearing to be held in accordance with the Administrative Procedure Act.

(c) An applicant who seeks a hearing on an application denial shall file with the Commissioner's office a written request for a hearing within 45 days after receipt of the Commissioner's written decision and notice of the applicant's right to a hearing.

§11–609.

(a) Subject to any regulations the Commissioner adopts in connection with

the transition to the Nationwide Mortgage Licensing System and Registry, an initial license term shall:

(1) Be for a maximum period of 1 year;

(2) Begin on the first day the license is issued; and

(3) Expire on December 31 of the year the license is issued.

(b) On or before November 1 of the year of expiration, a license may be renewed if the licensee:

(1) Subject to subsections (e) and (f) of this section, meets the minimum standards for the issuance of a license and otherwise is entitled to be licensed;

(2) Pays to the Commissioner a renewal fee set by the Commissioner; and

(3) Submits to the Commissioner:

(i) A renewal application on the form that the Commissioner requires; and

(ii) Satisfactory evidence of compliance with any continuing education requirements under this subtitle or set by regulations adopted by the Commissioner.

(c) Subject to any regulations the Commissioner adopts in connection with the transition to the Nationwide Mortgage Licensing System and Registry, a renewal term shall:

(1) Be for a maximum period of 1 year;

(2) Begin on January 1 of each year after the initial term; and

(3) Expire on December 31 of the year the renewal term begins.

(d) In addition to the license renewal fee required under subsection (b)(2) of this section, an applicant for a license renewal shall pay to the Nationwide Mortgage Licensing System and Registry any fees that the Nationwide Mortgage Licensing System and Registry imposes in connection with the renewal application.

(e) Notwithstanding anything to the contrary in this section or § 11–605 of this subtitle, an applicant for renewal of a license who is duly licensed under this subtitle on July 1, 2009:

(1) May comply with the following requirements for renewal of the license on or before December 31, 2010:

(i) The fingerprinting and criminal history report requirement

under § 11–604 of this subtitle;

(ii) The surety bond coverage requirement under § 11–619 of this subtitle; and

(iii) The prelicensing testing requirement under § 11–606.1 of this subtitle; and

(2) Is deemed to have satisfied the prelicensing educational course requirement under § 11–606 of this subtitle if the applicant completed 20 hours of continuing education courses approved by the Commissioner within 5 years prior to the expiration date of the applicant's current license.

(f) If a license is surrendered voluntarily or is suspended or revoked, the Commissioner may not refund any part of the license fee regardless of the time remaining in the license term.

§11–610.

(a) There is a Mortgage Lender-Originator Fund that consists of:

(1) Revenue received for the licensing of individuals under this subtitle;

(2) Revenue received for the licensing of persons under Subtitle 5 of this title;

(3) Income from the investments that the State Treasurer makes for the Fund; and

(4) Any other fee, examination assessment, or revenue received by the Commissioner under Subtitle 5 of this title and this subtitle.

(b) Notwithstanding subsection (a) of this section, the Commissioner shall pay all fines and penalties collected by the Commissioner under Subtitle 5 of this title and this subtitle into the General Fund of the State.

(c) The purpose of the Fund is to pay the costs and expenses incurred by the Commissioner that are related to the regulation of mortgage lending and mortgage origination, including:

(1) Expenditures authorized under Subtitle 5 of this title or this subtitle; and

(2) Any other expense authorized in the State budget.

(d) (1) The annual State budget shall include the costs and expenses of the Commissioner relating to the regulation of mortgage lending and mortgage origination.

(2) Any expenditures from the Fund to cover costs and expenses of the

Commissioner may be made only:

(i) With an appropriation from the Fund approved by the General Assembly in the annual State budget; or

(ii) By the budget amendment procedure provided for in § 7-209 of the State Finance and Procurement Article.

(3) If, in any fiscal year, the amount of the revenue collected by the Commissioner and deposited into the Fund exceeds the actual appropriation for the Commissioner to regulate mortgage lending under Subtitle 5 of this title and mortgage origination under this subtitle, the excess amount shall be carried forward within the Fund.

(e) (1) The State Treasurer is the custodian of the Fund.

(2) The State Treasurer shall deposit payments received from the Commissioner into the Fund.

(f) (1) (i) The Fund is a special, nonlapsing fund that is not subject to § 7-302 of the State Finance and Procurement Article.

(ii) The Fund may not be deemed a part of the General Fund of the State.

(2) Unless otherwise provided by law, no part of the Fund may revert or be credited to:

(i) The General Fund of the State; or

(ii) Any other special fund of the State.

§11–611.

(a) Beginning in fiscal year 2006, the Governor shall appropriate in the annual State budget funds to the Division of Financial Regulation for the purpose of creating necessary positions to implement the provisions of this subtitle.

(b) An amount equal to the Governor's appropriation under subsection (a) of this section shall be repaid by the Fund to the General Fund of the State on or before June 30, 2008.

§11–612.

(a) Before applying for renewal of a license, a licensee shall complete at least 8 hours of continuing education, which shall include:

(1) 3 hours of instruction on federal law and regulations relating to mortgage origination;

(2) 2 hours of instruction on ethics, including instruction on fraud, consumer protection, and fair lending issues; and

(3) 2 hours of training related to lending standards for the nontraditional mortgage product marketplace.

(b) (1) All continuing education courses shall be reviewed and approved by the Nationwide Mortgage Licensing System and Registry.

(2) Review and approval of a continuing education course shall include review and approval of the course provider by the Nationwide Mortgage Licensing System and Registry.

(c) Continuing education may be offered in a classroom, online, or by any other means approved by the Nationwide Mortgage Licensing System and Registry.

(d) A licensee:

(1) Shall receive credit for a continuing education course only in the year in which the course is taken; and

(2) May not take the same continuing education course to meet the annual requirement for continuing education.

(e) A licensee who teaches an approved continuing education course may receive credit for the licensee's own annual continuing education requirement at the rate of 2 hours of credit for every 1 hour taught.

(f) A licensee's successful completion in another state of the continuing education requirements approved by the Nationwide Mortgage Licensing System and Registry, except continuing education requirements specific to that other state, shall be accepted by the Commissioner as credit towards completion of continuing education requirements in this State.

(g) This section does not preclude any continuing education course, as approved by the Nationwide Mortgage Licensing System and Registry, that is provided by the employer of the mortgage loan originator or an entity that is affiliated with the mortgage loan originator by an agency contract, or any subsidiary or affiliate of the employer or entity.

(h) The Commissioner may adopt regulations to implement this section.

§11–612.1.

(a) The Commissioner shall set by regulation the fees provided for in this subtitle.

(b) The fees established by the Commissioner under this section shall be

reasonable and set in a manner that will produce funds sufficient to cover the actual direct and indirect costs of regulating licensees in accordance with the provisions of this subtitle.

(c) The Commissioner shall publish the fee schedule set by the Commissioner.

§11–612.2.

(a) (1) In this section the following words have the meanings indicated.

(2) (i) "Military spouse" means the spouse of a service member or veteran.

(ii) "Military spouse" includes a surviving spouse of:

1. A veteran; or

2. A service member who died within 1 year before the date on which the license application, renewal, or change of status is submitted.

(3) "Service member" means an individual who is an active duty member of:

(i) The armed forces of the United States;

(ii) A reserve component of the armed forces of the United States; or

(iii) The National Guard of any state.

(4) (i) "Veteran" means a former service member who was discharged from active duty under circumstances other than dishonorable within 1 year before the date on which the license application, renewal, or change of status is submitted.

(ii) "Veteran" does not include an individual who has completed active duty and has been discharged for more than 1 year before the license application, renewal, or change of status is submitted.

(b) To expedite the renewal or change of status of a license for a service member, veteran, or military spouse, the Commissioner:

(1) Shall waive, as applicable, the State criminal history records check; and

(2) May waive or suspend any other licensing requirements to the extent that the waiver or suspension does not result in the failure to meet the minimum licensing standards set forth in 12 U.S.C. Chapter 51 and the regulations adopted under it.

(c) To expedite the issuance of a license to a service member, veteran, or

military spouse who holds a valid mortgage loan originator license in another state, the Commissioner:

(1) Shall waive the State criminal history records check; and

(2) May waive or suspend any other licensing requirements to the extent that the waiver or suspension does not result in the failure to meet the minimum licensing standards set forth in 12 U.S.C. Chapter 51 and the regulations adopted under it.

(d) The Commissioner shall publish prominently on the Commissioner's Web site, or have published on a third–party Web site used for licensing mortgage loan originators in the State, the expedited processes for the issuance, renewal, or change of status of a license under this section.

(e) The Commissioner may adopt regulations to carry out this section.

§11–612.3.

(a) To expedite the issuance of a license to an applicant who, within 45 days before the date of application for the license, was employed as a registered mortgage loan originator, the Commissioner shall waive, as applicable, the State criminal history records check.

(b) The Commissioner shall publish prominently on the Commissioner's Web site, or have published on a third–party Web site used for licensing mortgage loan originators in the State, the expedited process for the issuance of a license under this section.

(c) The Commissioner may adopt regulations to carry out this section.

§11–613.

(a) (1) Any person aggrieved by the conduct of a licensee under this subtitle in connection with a mortgage loan may file a written complaint with the Commissioner who shall investigate the complaint.

(2) The Commissioner may make any other investigation of a licensee if the Commissioner has reasonable cause to believe that the licensee has violated any provision of this subtitle, of any regulation adopted under this subtitle, or of any other law regulating mortgage lending or mortgage origination in the State.

(b) In addition to the requirements of this section, an affiliated insurance producer–mortgage loan originator licensed under § 11–603.1 of this subtitle shall be subject to the provisions of §§ 11–513 and 11–515 of this title:

(1) To the extent the Commissioner determines is necessary to enable the Commissioner to investigate and examine the mortgage loan origination activities of

the affiliated insurance producer–mortgage loan originator; and

(2) As specified in regulations adopted by the Commissioner.

(c) A licensee shall pay to the Commissioner a per–day fee set by the Commissioner for each of the Commissioner's employees engaged in any investigation conducted under this section that the Commissioner reasonably considers necessary.

(d) In connection with an investigation made under this section, the Commissioner may:

(1) Examine the books and records of a licensee or of any other person that the Commissioner believes has violated a provision of this subtitle, any rule or regulation adopted under this subtitle, or any other law regulating mortgage lending or mortgage origination in the State;

(2) Subpoena documents or other evidence; and

(3) Summon and examine under oath any person whose testimony the Commissioner requires.

(e) (1) If a person fails to comply with a subpoena or summons of the Commissioner under this subtitle or to testify concerning any matter about which the person may be interrogated under this subtitle, the Commissioner may file a petition for enforcement with the circuit court for a county.

(2) On petition by the Commissioner, the court may order the person to attend and testify or produce evidence.

§11–614.

(a) If the Commissioner finds that the conduct of any other business conceals a violation or evasion of this subtitle or any rule or regulation adopted under this subtitle, or any law regulating mortgage lending or mortgage origination in the State, the Commissioner may issue a written order to a licensee to stop doing business:

(1) At any place in which the other business is conducted or solicited; or

(2) In association or conjunction with the other business.

(b) A licensee who violates an order of the Commissioner issued under this section shall be subject to the penalties provided by § 11-615 of this subtitle.

(c) The Commissioner may file a petition in the circuit court for a county seeking enforcement of an order under this section.

§11–615.

(a) Subject to the hearing provisions of § 11–616 of this subtitle, and except as

provided in subsection (f) of this section, the Commissioner may suspend or revoke the license of any licensee if the licensee:

(1) Makes any material misstatement in an application for a license;

(2) Is convicted under the laws of the United States or of any state of a felony or a misdemeanor that is directly related to the fitness and qualification of the individual to act as a mortgage loan originator;

(3) In connection with any mortgage loan or loan application transaction:

(i) Commits any fraud;

(ii) Engages in any illegal or dishonest activities; or

(iii) Misrepresents or fails to disclose any material facts to a person entitled to that information;

(4) Violates any provision of this subtitle, any regulation adopted under this subtitle, or any other law regulating mortgage lending or mortgage origination in the State; or

(5) Otherwise demonstrates unworthiness, bad faith, dishonesty, or any other quality that indicates that the business of the licensee has not been or will not be conducted honestly.

(b) In determining whether a license shall be suspended or revoked for a reason described in subsection (a)(2) of this section, the Commissioner shall consider:

(1) The nature of the crime;

(2) The relationship of the crime to the activities authorized by the license;

(3) With respect to a felony, the relevance of the conviction to the fitness and qualification of the licensee to engage in the mortgage lending or mortgage origination business;

(4) The length of time since the conviction; and

(5) The behavior and activities of the licensee since the conviction.

(c) (1) The Commissioner may enforce the provisions of this subtitle, regulations adopted under this subtitle, and the applicable provisions of Title 12 of the Commercial Law Article by:

(i) Issuing an order:

1. To cease and desist from the violation and any further similar violations; and

2. Requiring the violator to take affirmative action to correct the violation, including the restitution of money or property to any person aggrieved by the violation; and

(ii) Imposing a civil penalty not exceeding $5,000 for each violation.

(2) If a violator fails to comply with an order issued under paragraph (1)(i) of this subsection, the Commissioner may impose a civil penalty not exceeding $5,000 for each violation from which the violator failed to cease and desist or for which the violator failed to take affirmative action to correct.

(d) The Commissioner may file a petition in the circuit court for a county seeking enforcement of an order issued under this section.

(e) In determining the amount of a civil penalty imposed under subsection (c) of this section, the Commissioner shall consider:

(1) The seriousness of the violation;

(2) The good faith of the violator;

(3) The violator's history of previous violations;

(4) The deleterious effect of the violation on the public and mortgage industry;

(5) The assets of the violator; and

(6) Any other factors relevant to the determination of the civil penalty.

(f) The Commissioner shall revoke the license of the licensee if the Commissioner determines that a licensee, while licensed, has:

(1) Been convicted of a felony; or

(2) Had a mortgage loan originator license revoked in any governmental jurisdiction.

§11–616.

(a) Before the Commissioner takes any action under § 11-614 or § 11-615 of this subtitle, the Commissioner shall give the licensee an opportunity for a hearing.

(b) Notice of the hearing shall be given and the hearing shall be held in accordance with the Administrative Procedure Act.

(c) The hearing notice to the licensee shall be sent by certified mail, return receipt requested, to the principal place of business of the licensee at least 30 days before the hearing.

§11–617.

Any person who willfully violates the provisions of this subtitle is guilty of a felony and, on conviction, is subject to a fine not exceeding $25,000 or imprisonment not exceeding 5 years or both.

§11–618.

The employment of a mortgage originator licensed under this subtitle by a mortgage lender does not relieve the mortgage lender of a responsibility under this subtitle or under Subtitle 5 of this title, a rule or regulation adopted under this subtitle or under Subtitle 5 of this title, or a law governing mortgage lending in the State.

§11–619.

(a) Each mortgage loan originator shall be covered by a surety bond in accordance with this section.

(b) (1) A mortgage loan originator who is an employee of a person subject to licensure under Subtitle 5 of this title may use the surety bond of that person to meet the mortgage loan originator's surety bond requirement.

(2) A mortgage loan originator who is an employee of a person exempt from licensure under Subtitle 5 of this title may use a surety bond of the person to meet the mortgage loan originator's surety bond requirement, provided the surety bond meets the requirements, based on mortgage loan volume, under § 11–508 of this title.

(c) A licensee who is an affiliated insurance producer–mortgage loan originator shall be deemed in compliance with this section if the licensee:

(1) Holds a surety bond that would satisfy the surety bond requirements under § 11–508 of this title if the affiliated insurance producer–mortgage loan originator were a licensee under Subtitle 5 of this title; or

(2) Is covered under a blanket surety bond held by the financial institution or mortgage lender licensee identified in § 11–603.1(a)(3) of this subtitle if the blanket surety bond:

(i) Covers all affiliated insurance producer–mortgage loan originators; and

(ii) Is in the amount of $1,000,000 or another amount as required by the Commissioner by regulation.

§11–620.

(a) (1) Except as otherwise provided in 12 U.S.C. § 5111, the requirements under any federal law and Title 4, Subtitles 1 through 5 of the General Provisions

Article regarding the privacy or confidentiality of information or material provided to the Nationwide Mortgage Licensing System and Registry, and any privilege arising under federal or state law, including the rules of any federal or state court with respect to that information or material, shall continue to apply to that information or material after the information or material has been disclosed to the Nationwide Mortgage Licensing System and Registry.

(2) The information and material may be shared with all state and federal regulatory officials having mortgage industry oversight authority without the loss of privilege or the loss of confidentiality protections provided by federal law or Title 4, Subtitles 1 through 5 of the General Provisions Article.

(b) The Commissioner may enter into information sharing agreements with other governmental agencies, the Conference of State Bank Supervisors, the American Association of Residential Mortgage Regulators, or other associations representing governmental agencies.

(c) Information or material that is subject to a privilege or confidentiality under subsection (a) of this section may not be subject to:

(1) Disclosure under any federal or state law governing the disclosure to the public of information held by an officer or agency of the federal government or a state that has received the information or material; or

(2) Subpoena, discovery, or admission into evidence, in any private civil action or administrative process, unless with respect to any privilege held by the Nationwide Mortgage Licensing System and Registry the person to whom the information or material pertains waives, in whole or in part, that privilege.

(d) Any provisions of Title 4, Subtitles 1 through 5 of the General Provisions Article relating to the disclosure of any information or material described in subsection (a) of this section that are inconsistent with subsection (a) of this section shall be superseded by the requirements of this section.

(e) This section does not apply to information or material relating to the employment history of, and publicly adjudicated disciplinary and enforcement actions against, mortgage loan originators that is included in the Nationwide Mortgage Licensing System and Registry and designated for access by the public.

§11–621.

Nonfederally insured credit unions that employ mortgage loan originators shall register these employees with the Nationwide Mortgage Licensing System and Registry by providing the information concerning the employees' identity set forth in 12 U.S.C. § 5106(a)(2).

§11–622.

(a) Notwithstanding Title 4, Subtitles 1 through 5 of the General Provisions Article, and subject to § 11–620 of this subtitle, the Commissioner shall report adjudicated enforcement actions and other relevant information to the Nationwide Mortgage Licensing System and Registry.

(b) The Commissioner shall adopt regulations establishing a process by which a licensee or an applicant for a license may challenge information entered by the Commissioner into the Nationwide Mortgage Licensing System and Registry.

§11–623.

The unique identifier of a mortgage loan originator shall be clearly displayed as required by the Commissioner by regulation.

§11–624.

(a) A person subject to this subtitle may not, in connection with a mortgage loan or loan application:

(1) Make a payment, threat, or promise, directly or indirectly, to another person for the purpose of influencing the person to violate any federal or State law, or any standard of professional practice recognized by the federal or State government; or

(2) Make a payment, threat, or promise, directly or indirectly, to an appraiser of residential real estate for the purpose of influencing the independent judgment of the appraiser with respect to the value of the residential real estate, or engage in any other act or practice that impairs or attempts to impair an appraiser's independence, objectivity, or impartiality, including:

(i) Withholding or threatening to withhold payment for an appraisal with the intent to coerce the appraiser to agree to a value, range of values, or minimum value for the residential real estate;

(ii) Conditioning the payment of an appraisal fee on the opinion, conclusion, or valuation to be reached by the appraiser; or

(iii) Requesting the appraiser to report a predetermined opinion, conclusion, or valuation.

(b) This section does not prohibit a person subject to this subtitle from:

(1) Requesting another person to:

(i) Consider additional appropriate information;

(ii) Provide additional details, substantiation, or explanation of a

conclusion made by the other person; or

(iii) Correct errors in an appraisal report or other mortgage document; or

(2) Withholding payment for an appraisal pending resolution of an action before a federal or State court or licensing board relating to the appraisal.

§12–101.

(a) In this subtitle the following words have the meanings indicated.

(b) "Exempt entity" means an entity that is exempt from all requirements of licensing as provided under § 12-103(b) and (c) of this subtitle.

(c) "License" means, unless the context requires otherwise, a license issued by the Commissioner under this subtitle to provide check cashing services.

(d) "Licensee" means, unless the context requires otherwise, a person that is licensed by the Commissioner under this subtitle to provide check cashing services.

(e) "Mobile unit" means a motor vehicle or other movable means from which check cashing services are provided.

(f) (1) "Payment instrument" means a check or a draft ordering a person to pay money.

(2) "Payment instrument" includes a money order.

(g) "Provide check cashing services" means to accept or cash, for compensation, a payment instrument regardless of the date of the payment instrument.

§12–102.

(a) This subtitle does not apply to check cashing services:

(1) (i) For which a fee of up to 1.5% of the face amount of the payment instrument is charged per payment instrument; and

(ii) That are incidental to the retail sale of goods or services by the person that is providing the check cashing services;

(2) In which a customer presents a payment instrument for the exact amount of a purchase; or

(3) Involving foreign currency exchange services or the cashing of a payment instrument drawn on a financial institution other than a federal, State, or other state financial institution.

(b) (1) This subtitle does not apply to a transaction that is subject to the Maryland Consumer Loan Law (Title 12, Subtitle 3 of the Commercial Law Article and Title 11, Subtitle 2 of this article), including a transaction in which an additional fee is charged to defer the presentment or deposit of a payment instrument until a subsequent date.

(2) A check cashing service is not subject to the Maryland Consumer Loan Law if:

(i) The fee charged for the check cashing service does not exceed the fee permitted under this subtitle;

(ii) No additional fee is charged to defer the presentment or deposit of the payment instrument; and

(iii) The check cashing service is not subject to renewal or extension by any means.

§12–103.

(a) This subtitle does not apply to:

(1) Any bank, trust company, savings bank, savings and loan association, or credit union incorporated or chartered under the laws of this State or the United States that maintains its principal office in this State;

(2) Any out-of-state bank, as defined in § 5-1001 of this article, having a branch that accepts deposits in this State; and

(3) Any institution incorporated under federal law as a savings association or savings bank that does not maintain its principal office in this State but has a branch that accepts deposits in this State.

(b) A subsidiary or affiliate of an institution described in subsection (a) of this section is exempt from all requirements of licensing under this subtitle provided the subsidiary or affiliate:

(1) Is subject to audit or examination by a regulatory body or agency of this State, the United States, or the state where the subsidiary or affiliate maintains its principal office; and

(2) Submits to the Commissioner in writing and prior to providing check cashing services the following information:

(i) The subsidiary's or affiliate's name and address, and the names and addresses of each:

1. Owner who owns 5% or more of the subsidiary or affiliate;

and

2. Officer, director, or principal of the subsidiary or affiliate;

(ii) 1. Each address at which check cashing services will be provided; and

2. If a mobile unit will be used to provide check cashing services, the vehicle identification number of the mobile unit and the geographic area in which the mobile unit will be operating; and

(iii) Any other information that the Commissioner requests.

(c) (1) An exempt entity is not subject to the provisions of §§ 12-106 through 12-112, inclusive, and § 12-122 of this subtitle.

(2) An exempt entity is subject to:

(i) The provisions of §§ 12-113 through 12-121, inclusive, and §§ 12-123 through 12-127, inclusive, of this subtitle; and

(ii) Any regulation, except to the extent the regulation concerns licensing, adopted under this subtitle.

§12–104.

The Commissioner may adopt regulations to carry out the provisions of this subtitle.

§12–105.

(a) Except as provided in § 12-102(a) of this subtitle, a person may not provide check cashing services unless the person is licensed under this subtitle or is an exempt entity.

(b) A separate license is required for each place of business at which, or mobile unit from which, a person provides check cashing services.

§12–106.

To qualify for a license, an applicant shall satisfy the Commissioner that:

(1) The applicant's business will promote the convenience and advantage of the community in which the applicant's place of business, or mobile unit, will be located; and

(2) The applicant or, if the applicant is not an individual, each of the owners, officers, directors, or principals of the entity:

(i) Has sufficient experience, character, financial responsibility, and general fitness to:

1. Command the confidence of the public; and

2. Warrant the belief that the business will be operated lawfully, honestly, fairly, and efficiently; and

(ii) Has not committed any act that would be a ground for suspension or revocation of a license under this subtitle.

§12–107.

(a) With an application and at any other time the Commissioner requires, an applicant or licensee shall provide fingerprints for use by the Federal Bureau of Investigation and the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services to conduct a criminal history records check.

(b) An applicant or licensee required under this section to provide fingerprints shall pay any processing or other required fee.

(c) If the applicant or licensee is a corporation, the fingerprinting and criminal history records check requirements shall apply to the president, and any other officer, director, principal, or owner of the corporation as required by the Commissioner.

§12–108.

(a) (1) To apply for a license, an applicant shall submit to the Commissioner an application on the form that the Commissioner requires.

(2) The application shall include:

(i) The applicant's name and address and, if the applicant is not an individual, the names and addresses of each:

1. Owner who owns 5% or more of the entity; and

2. Officer, director, or principal of the entity;

(ii) 1. The address at which check cashing services will be provided; or

2. If the license is for a mobile unit, the vehicle identification number of the mobile unit and the geographic area in which the mobile unit will be operating; and

(iii) Any other information that the Commissioner requires for an investigation and findings under § 12-109 of this subtitle.

(b) With the application, the applicant shall pay to the Commissioner:

(1) An investigation fee of $100; and

(2) A license fee of:

(i) $1,000 if the applicant applies for a license to be issued on or after January 1 and on or before December 31 of an even-numbered year; or

(ii) $500 if the applicant applies for a license to be issued on or after January 1 and on or before December 31 of an odd-numbered year.

(c) (1) Subject to the provisions of paragraph (2) of this subsection, if an applicant applies for more than one license, as to each license the applicant shall:

(i) Submit a separate application; and

(ii) Pay a separate investigation fee and license fee.

(2) An applicant that applies for more than one license is not required to provide fingerprints for a criminal history records check for more than one application.

§12–109.

(a) When an applicant for a license files the application and pays the fees required by § 12-108 of this subtitle, the Commissioner shall investigate the facts relevant to the application to determine if the applicant meets the requirements of this subtitle.

(b) Unless the Commissioner and an applicant agree in writing to extend the time, the Commissioner shall approve or deny each application for a license within 60 days after the date when the complete application is filed and the fees are paid.

(c) The Commissioner shall issue a license to any applicant who meets the requirements of this subtitle.

(d) (1) If an applicant does not meet the requirements of this subtitle, the Commissioner shall:

(i) Deny the application;

(ii) Notify the applicant immediately of the denial;

(iii) Refund the license fee; and

(iv) Retain the investigation fee.

(2) Within 10 days after the Commissioner denies an application, the Commissioner shall:

(i) File in the Commissioner's office written findings and a summary of the evidence supporting them; and

(ii) Send a copy of the findings and summary to the applicant.

§12–110.

(a) The Commissioner shall include on each license:

(1) The name of the licensee; and

(2) (i) The address at which check cashing services will be provided; or

(ii) If the license is for a mobile unit, the vehicle identification number of the mobile unit and the geographic area in which check cashing services will be provided.

(b) (1) A license authorizes the licensee to provide check cashing services under the name stated on the license and at the address at which, or if the license is for a mobile unit the geographic area in which, check cashing services will be provided.

(2) Only one place of business, or one mobile unit, may be maintained under a license.

(c) The Commissioner may issue more than one license to an applicant who:

(1) Complies with § 12-108 of this subtitle; and

(2) Otherwise meets the requirements of this subtitle.

§12–111.

(a) A license expires on December 31 in each odd-numbered year unless it is renewed for a 2-year term as provided in this section.

(b) On or before December 1 of the year of expiration, a license may be renewed for an additional 2-year term, if the licensee:

(1) Otherwise is entitled to be licensed;

(2) Pays to the Commissioner a renewal fee of $1,000; and

(3) Submits to the Commissioner a renewal application on the form that the Commissioner requires.

(c) The Commissioner shall determine if the requirements of § 12-106 of this subtitle to qualify for a license continue to apply.

(d) The Commissioner may determine that licenses issued under this subtitle

shall expire on a staggered basis.

§12–112.

(a) A license is not transferable.

(b) A licensee shall display the license conspicuously at the licensee's place of business or mobile unit.

§12–113.

(a) A licensee may not change the place of business for which a license is issued unless the licensee:

(1) Notifies the Commissioner in writing of the proposed change; and

(2) Receives the written consent of the Commissioner prior to the change.

(b) If the Commissioner consents to a proposed change of place of business, the licensee shall attach the written consent to the license.

§12–114.

(a) A licensee shall keep the books and records that the Commissioner requires to determine compliance with this subtitle.

(b) Unless a longer period is expressly required by State or federal law, a licensee shall retain the records required under this subtitle for a period of at least 2 years.

(c) A licensee may retain the records required under this subtitle at any location, provided that the licensee:

(1) Notifies the Commissioner in writing of the location of the records; and

(2) Makes the records available at a place of business for which a license has been issued or at the licensee's principal place of business, as agreed by the Commissioner and the licensee, within 7 days of a written request for examination by the Commissioner.

(d) In addition to any other books and records that the Commissioner may require, a licensee shall retain:

(1) A chronological register of all payment instruments cashed by the licensee showing:

(i) The name of the customer;

(ii) The transaction date;

(iii) The type and amount of payment instrument;

(iv) The amount of fee charged; and

(v) A complete description of the identification presented by the customer; and

(2) The licensee's bank statements and canceled checks.

(e) A licensee shall retain the records required under this section in one of the following ways:

(1) Original form;

(2) An electronic equivalent approved by the Commissioner; or

(3) A microphotographic copy approved by the Commissioner.

§12–115.

(a) At any time and as often as the Commissioner considers appropriate, the Commissioner may investigate the records and business operations of a licensee or a person who acts on behalf of a licensee.

(b) For the purposes of this section, the Commissioner:

(1) Shall be given access to any books, papers, records, safes, or vaults of the person under investigation; and

(2) May examine under oath a person whose testimony the Commissioner requires.

§12–116.

Before a licensee deposits a payment instrument in or presents a payment instrument to a financial institution, the licensee shall endorse the payment instrument with the name under which the licensee is licensed to provide check cashing services.

§12–117.

A licensee shall comply with all federal and State laws concerning money laundering.

§12–118.

A licensee shall conspicuously post, in 48 point or larger type, at each place of business at which, or mobile unit from which, the licensee provides check cashing services, a notice of the fees for check cashing services.

§12–119.

(a) A licensee shall pay a customer, in United States currency, the face amount of the payment instrument received less the fee charged.

(b) (1) A licensee may not provide check cashing services to a customer unless the customer presents a form of customarily acceptable identification.

(2) Acceptable forms of identification include:

(i) A valid driver's license with photograph issued by a state government;

(ii) A valid identity card with photograph issued by a state government;

(iii) A valid United States passport or alien registration card; and

(iv) A valid military identification card.

§12–120.

(a) Except as provided in § 15-802(b) of the Commercial Law Article and subsection (b) of this section, a licensee may not charge any other fee, including late fees or other service fees, for accepting or cashing a payment instrument in excess of the greater of:

(1) 2% of the face amount of the payment instrument or $3, if the payment instrument is issued by the federal government or a state or local government;

(2) 10% of the face amount of a payment instrument or $5, if the payment instrument is a personal check; or

(3) 4% of the face amount of the payment instrument or $5, for any other payment instrument.

(b) A licensee may charge a customer a one-time membership fee not to exceed $5.

§12–121.

Subject to the hearing provisions of § 12-123 of this subtitle, the Commissioner may order a licensee to cease and desist from a course of conduct if the course of conduct results in an evasion or violation of this subtitle or a regulation adopted under this subtitle.

§12–122.

(a) Subject to the hearing provisions of § 12-123 of this subtitle, the

Commissioner may suspend or revoke the license of any licensee if the licensee or any owner, director, officer, member, partner, stockholder, employee, or agent of the licensee:

(1) Makes any material misstatement in an application for a license;

(2) Is convicted under the laws of the United States or of any other state of:

(i) A felony; or

(ii) A misdemeanor that is directly related to the fitness and qualification of the person to provide check cashing services;

(3) In connection with any check cashing service:

(i) Commits any fraud;

(ii) Engages in any illegal or dishonest activities; or

(iii) Misrepresents or fails to disclose any material facts to anyone entitled to that information;

(4) Violates any provision of this subtitle or any rule or regulation adopted under this subtitle, or any other law regulating check cashing services in the State; or

(5) Otherwise demonstrates unworthiness, bad faith, dishonesty, or any other quality that indicates that the business of the licensee has not been or will not be conducted honestly, fairly, equitably, and efficiently.

(b) In determining whether the license of the licensee should be suspended or revoked for a reason listed in subsection (a)(2) of this section, the Commissioner shall consider:

(1) The nature of the crime;

(2) The relationship of the crime to the activities authorized by the license;

(3) With respect to a felony, the relevance of the conviction to the fitness and qualification of the licensee to provide check cashing services;

(4) The length of time since the conviction; and

(5) The behavior and activities of the licensee since the conviction.

§12–123.

(a) Before the Commissioner takes any action under § 12-121, § 12-122, or § 12-126 of this subtitle, the Commissioner shall give the licensee an opportunity for a

hearing before the Commissioner.

(b) Notice of the hearing shall be given and the hearing shall be held in accordance with Title 10, Subtitle 2 of the State Government Article.

§12–124.

The Commissioner shall report to the appropriate State's Attorney or the Attorney General any alleged criminal violation of this subtitle.

§12–125.

A person who knowingly violates this subtitle is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $5,000 or imprisonment not exceeding 3 years or both.

§12–126.

(a) The Commissioner may impose a civil penalty against a person who violates this subtitle in an amount not exceeding:

(1) $1,000 for a first offense; and

(2) $5,000 for each subsequent offense.

(b) In determining the amount of civil penalty to be imposed under subsection (a) of this section, the Commissioner shall consider the following:

(1) The seriousness of the violation;

(2) The good faith of the violator;

(3) The violator's history of previous violations;

(4) The deleterious effect of the violation on the public;

(5) The assets of the violator; and

(6) Any other factor relevant to the determination of the civil penalty.

§12–127.

(a) A person who is injured by a violation of this subtitle may file an action to recover damages or for injunctive relief.

(b) A court may award a prevailing plaintiff under this section:

(1) Up to 3 times the amount of actual damages; and

(2) An amount at least equal to the amount paid by the plaintiff to the defendant, reasonable attorney's fees, and costs.

§12–201.

(a) In this subtitle the following words have the meanings indicated.

(b) "Affiliated corporation" means any corporation, whether incorporated under the laws of this State or of any other jurisdiction, of which 25 percent or more of the outstanding voting shares are owned of record or beneficially by:

(1) A foreign bank; or

(2) Persons who own of record or beneficially 25 percent or more of the outstanding voting shares of a foreign bank.

(c) "Bank holding company" means a corporation that owns of record or beneficially 25 percent or more of the outstanding voting shares of:

(1) A state banking institution that has its principal banking office in this State; or

(2) A national banking association that has its principal banking office in this State.

(d) "Foreign bank" means any bank or trust company other than:

(1) A state banking institution that has its principal banking office in this State; and

(2) A national banking association that has its principal banking office in this State.

(e) "Foreign banking corporation" means:

(1) A foreign bank; or

(2) Any corporation that:

(i) Is controlled by a foreign bank;

(ii) Controls a foreign bank; or

(iii) Is controlled by persons who control a foreign bank or foreign bank holding company.

§12–207.

(a) Except as provided in subsection (b) of this section, a foreign banking

corporation may not have an office in this State for any purpose unless:

(1) The foreign banking corporation obtains from the Commissioner a permit for the office; or

(2) The office is authorized under:

(i) The Riegle–Neal Interstate Banking and Branching Efficiency Act of 1994 or other federal law; or

(ii) Title 5, Subtitle 9 or Subtitle 10 of this article.

(b) A foreign banking corporation that maintains another license issued by the Commissioner is exempt from obtaining a permit under this section.

§12–208.

(a) To apply for a permit for an office, a foreign banking corporation shall submit to the Commissioner an application on the form that the Commissioner requires.

(b) The application shall state:

(1) The location of each proposed office;

(2) A specific description of the proposed operations; and

(3) The services to be performed for the public.

§12–209.

On application for a permit, the Commissioner shall issue the permit, if the Commissioner determines that the establishment and operations of the proposed office will not violate any law of this State that applies to banks and banking.

§12–210.

(a) A permit expires on the third anniversary of its effective date, unless the permit is renewed for a 3–year term as provided in this section.

(b) Before its permit expires, the foreign banking corporation may renew the permit for additional 3–year terms if the foreign banking corporation:

(1) At least 30 days before its permit expires submits to the Commissioner a renewal application on the form that the Commissioner requires; and

(2) Meets the requirements for issuance of a permit under § 12–209 of this subtitle.

(c) The Commissioner shall renew the permit of each foreign banking

corporation that meets the requirements of this section.

§12–211.

The Commissioner shall set the application and renewal fees in amounts that reasonably relate to the cost of processing the applications.

§12–401.

(a) In this subtitle the following words have the meanings indicated.

(b) (1) "Accelerated mortgage payment service" means the service of receiving funds from a mortgagor for the purpose of making mortgage payments to a mortgagee on behalf of the mortgagor in order to exceed the regularly scheduled minimum payment obligation under the terms of the mortgage.

(2) "Accelerated mortgage payment service" does not include the collection by a mortgagee of accelerated payments from the mortgagee's own mortgagors.

(c) (1) "Authorized delegate" means a person who is authorized by a licensee to engage in the business of money transmission under the name of the licensee at any location other than the place of business specified in the license.

(2) "Authorized delegate" does not include a branch location of a licensee.

(d) (1) "Bill payer service" means the service of receiving funds from an obligor for the purpose of paying the obligor's bills, invoices, mortgages, or accounts.

(2) "Bill payer service" does not include the service described in paragraph (1) of this subsection that is provided by a nonprofit organization that is exempt from taxation under § 501(c)(3) of the Internal Revenue Code.

(e) (1) "Branch location" means any location other than the principal executive office of a licensee or license applicant at which money transmission services are, or will be on licensure, conducted in the State or with a person in the State.

(2) "Branch location" does not include an authorized delegate.

(f) "Control" means:

(1) If the licensee is a corporation:

(i) The direct or indirect ownership of, or the right to control, 25% or more of the voting shares of the licensee; or

(ii) The ability to elect a majority of the directors or otherwise effect a change in policy of the licensee; and

(2) If the licensee is a person other than a corporation, the possession,

directly or indirectly, of the power to direct or cause the direction of the management and policies of the licensee, whether through ownership, by contract, or otherwise.

(g) (1) "Control person" means a person who has the power, directly or indirectly, to direct the management or policies of a money transmitter, whether through ownership of securities, by contract, or otherwise.

(2) "Control person" includes a person who:

(i) Is a general partner, an officer, or a director of a money transmitter, or a person who occupies a similar position or performs a similar function;

(ii) Directly or indirectly has the right to vote 10% or more of a class of voting securities, or has the power to sell or direct the sale of 10% or more of a class of voting securities, of a money transmitter; or

(iii) In the case of a partnership, a limited partnership, a limited liability partnership, a limited liability company, or any other business entity:

1. Has the right to receive on liquidation or dissolution of a money transmitter 10% or more of the capital of a money transmitter; or

2. Has contributed 10% or more of the capital of a money transmitter.

(h) "Deposit in lieu of a surety bond" means an investment in:

(1) Cash;

(2) Unless found by the Commissioner to be unacceptable, a certificate of deposit or other debt obligation, except a capital note, of a State–chartered or federally chartered financial institution, other–state bank, or foreign bank that:

(i) Is located in this State or maintains a branch in this State; and

(ii) Is authorized to maintain deposit or share accounts;

(3) Unless found by the Commissioner to be unacceptable:

(i) Obligations of or guaranteed by the United States, its departments, agencies, or instrumentalities, or obligations of any state, territory, or municipality or any political subdivision of any state, territory, or municipality;

(ii) Any investment securities, money market mutual funds, interest–bearing bills or notes, debentures, or stock traded on any national securities exchange or on a national over–the–counter market bearing a rating of one of the three highest grades as defined by a nationally recognized organization that rates such securities; and

(iii) Any demand borrowing agreement or agreements in an amount or aggregate amount which does not exceed 10% of the net worth of the company liable for payment under the agreement or agreements as shown on financial statements certified by a certified public accountant acceptable to the Commissioner, provided that the company is a corporation or a subsidiary of a corporation whose capital stock is listed on a national exchange and is not a licensee or authorized delegate of a licensee under this subtitle; or

(4) Any other investment that the Commissioner approves.

(i) "Executive officer" means a president, vice president, senior officer responsible for business operations, chief financial officer, or any other individual who performs similar functions.

(j) "License" means a license issued by the Commissioner under this subtitle to engage in the business of money transmission.

(k) "Material litigation" means litigation that according to generally accepted accounting principles:

(1) Is deemed significant to an applicant's or licensee's financial health; and

(2) Would be required to be referenced in the applicant's or licensee's annual audited financial statements, report to shareholders, or similar document.

(l) "Monetary value" means a medium of exchange whether or not redeemable in money.

(m) (1) "Money transmission" means the business of selling or issuing payment instruments or stored value devices, or receiving money or monetary value, for transmission to a location within or outside the United States by any means, including electronically or through the Internet.

(2) "Money transmission" includes:

(i) A bill payer service;

(ii) An accelerated mortgage payment service; and

(iii) Any informal money transfer system engaged in as a business for, or network of persons who engage as a business in, facilitating the transfer of money outside the conventional financial institutions system to a location within or outside the United States.

(n) "Outstanding payment instrument" means a payment instrument that has been sold or issued in the United States directly by a licensee or an authorized delegate of a licensee that has been reported as not yet paid by or for the licensee.

(o) "Nationwide licensing system" means a multistate uniform licensing system developed and maintained by the Conference of State Bank Supervisors, or by a subsidiary or an affiliate of the Conference of State Bank Supervisors, for the licensing of money services businesses, including money transmitters.

(p) (1) "Payment instrument" means any electronic or written check, draft, money order, traveler's check, or other electronic or written instrument or order for the transmission or payment of money, sold or issued to one or more persons, whether or not the instrument is negotiable.

(2) "Payment instrument" does not include any credit card voucher, letter of credit, or tangible object redeemable by the issuer in goods or services.

(q) "Permissible investment" means:

(1) Cash;

(2) Unless found by the Commissioner to be unacceptable, a certificate of deposit or other debt obligation, except a capital note, of a State–chartered or federally chartered financial institution, other–state bank, or foreign bank that:

(i) Is located in this State or maintains a branch in this State; and

(ii) Is authorized to maintain deposit or share accounts;

(3) Unless found by the Commissioner to be unacceptable:

(i) Obligations of or guaranteed by the United States, its departments, agencies, or instrumentalities, or obligations of any state, territory, or municipality or any political subdivision of any state, territory, or municipality;

(ii) Any investment securities, money market mutual fund, interest–bearing bills or notes, debentures or stock traded on any national securities exchange or on a national over–the–counter market bearing a rating of one of the three highest grades as defined by a nationally recognized organization that rates such securities; and

(iii) Any demand borrowing agreement or agreements in an amount or aggregate amount which does not exceed 10% of the net worth of the company liable for payment under the agreement or agreements as shown on financial statements certified by a certified public accountant acceptable to the Commissioner, provided that the company is a corporation or a subsidiary of a corporation whose capital stock is listed on a national exchange and is not a licensee or authorized delegate of a licensee under this subtitle;

(4) Receivables that are due to a licensee from its authorized delegates under a contract described in § 12–413 of this subtitle that are not past due or doubtful of collection; or

(5) Any other investment that the Commissioner approves.

(r) (1) "Stored value device" means a card or other tangible object used for the transmission or payment of money:

(i) That contains a microprocessor chip, magnetic stripe, or other means for the storage of information;

(ii) That is prefunded; and

(iii) The value of which is reduced after each use.

(2) "Stored value device" does not include any tangible object the value of which is redeemable only in the issuer's goods or services.

(s) "Surety device" means:

(1) A surety bond; or

(2) A deposit in lieu of a surety bond.

(t) "Unique identifier" means a number or another identifier assigned by the nationwide licensing system.

§12–402.

(a) The provisions of this subtitle do not apply to:

(1) Any banking institution;

(2) Any other-state bank;

(3) Any national banking association or savings bank;

(4) Any credit union;

(5) Any savings and loan association;

(6) The United States government or any of its departments, agencies, or instrumentalities;

(7) An accredited institution of higher education, as defined under § 10-101 of the Education Article;

(8) The sale of payment instruments by any person on behalf of any other person who is exempted by this subsection, if the payment instruments were received from the other person under a trust receipt for the specific purpose of sale;

(9) The provision of electronic transfer of government benefits for any

federal, state, or county governmental agency as defined in Federal Reserve Board Regulation E, by a contractor for and on behalf of the United States or any of its departments, agencies, or instrumentalities, or any state or any political subdivision of any state; or

(10) Any authorized delegate of a licensee, acting within the scope of authority conferred by a written contract as described in § 12-413 of this subtitle.

(b) Any person who is exempted by this section nevertheless may apply for and, if qualified, receive a license.

§12–403.

To carry out the provisions of this subtitle, the Commissioner may:

(1) Adopt rules and regulations;

(2) Enter into cooperative and information sharing agreements with any federal or State agency having supervisory responsibility over the business of money transmission; and

(3) Provide any federal or State agency having supervisory responsibility over money transmission with any documents or other information.

§12–404.

(a) In this section, "Fund" means the Money Transmission Fund established under this section.

(b) There is a Money Transmission Fund that consists of:

(1) All revenue received for the licensing of persons who engage in the business of money transmission under this subtitle;

(2) Income from the investments that the State Treasurer makes for the Fund; and

(3) Any other fee, examination assessment, or revenue received by the Commissioner under this subtitle.

(c) Notwithstanding subsection (b) of this section, the Commissioner shall pay all fines and penalties collected by the Commissioner under this subtitle into the General Fund of the State.

(d) The purpose of the Fund is to pay all the costs and expenses incurred by the Commissioner that are related to the regulation of the business of money transmission under this subtitle, including:

(1) Expenditures authorized under this subtitle; and

(2) Any other expense authorized in the State budget.

(e) (1) All the costs and expenses of the Commissioner relating to the regulation of the business of money transmission under this subtitle shall be included in the State budget.

(2) Any expenditures from the Fund to cover costs and expenses of the Commissioner may be made only:

(i) With an appropriation from the Fund approved by the General Assembly in the annual State budget; or

(ii) By the budget amendment procedure provided for in § 7-209 of the State Finance and Procurement Article.

(3) If, in any given fiscal year, the amount of the revenue collected by the Commissioner and deposited into the Fund exceeds the actual appropriation for the Commissioner to regulate the business of money transmission under this subtitle, the excess amount shall be carried forward within the Fund.

(f) (1) The State Treasurer is the custodian of the Fund.

(2) The State Treasurer shall deposit payments received from the Commissioner into the Fund.

(g) (1) The Fund is a continuing, nonlapsing fund and is not subject to § 7-302 of the State Finance and Procurement Article, and may not be deemed a part of the General Fund of the State.

(2) Unless otherwise provided by law, no part of the Fund may revert or be credited to:

(i) The General Fund of the State; or

(ii) A special fund of the State.

§12–405.

(a) A person may not engage in the business of money transmission if that person, or the person with whom that person engages in the business of money transmission, is located in the State unless that person:

(1) Is licensed by the Commissioner;

(2) Is an authorized delegate of a licensee under whose name the business of money transmission occurs; or

(3) Is a person exempted from licensing under this subtitle.

(b) Each licensee or license applicant shall obtain and maintain a valid unique identifier issued by the nationwide licensing system:

(1) On forming an account with the nationwide licensing system on or after November 1, 2012; or

(2) If the Commissioner has not joined the nationwide licensing system as of November 1, 2012, on or after the date that the Commissioner joins, as specified by the Commissioner by public notice.

(c) An applicant for an initial license or a license renewal shall apply for the license or renewal through the nationwide licensing system:

(1) On or after November 1, 2012; or

(2) If the Commissioner has not joined the nationwide licensing system as of November 1, 2012, on or after the date that the Commissioner joins, as specified by the Commissioner by public notice.

§12–406.

(a) To qualify for a license, an applicant shall satisfy the Commissioner that the applicant:

(1) Is of good moral character and has sufficient financial responsibility, business experience, and general fitness to:

(i) Engage in the business of money transmission;

(ii) Warrant the belief that the business of money transmission will be conducted lawfully, honestly, fairly, and efficiently; and

(iii) Command the confidence of the public;

(2) Will keep at all times the permissible investments required under § 12-418 of this subtitle;

(3) Has a net worth computed according to generally accepted accounting principles of at least $150,000, plus an additional net worth of $10,000 for each additional location or authorized delegate, up to a maximum of $500,000 as provided in subsection (b) of this section; and

(4) Has at least 3 years of experience in the business of money transmission or other related financial services business under the following conditions:

(i) If the applicant is a sole proprietor, the applicant shall have the required experience;

(ii) If the applicant is a joint venture or partnership, at least one of the coventurers or general partners shall have the required experience; and

(iii) If the applicant is any other type of business, at least one of the principal officers or members shall have the required experience.

(b) The Commissioner may require a net worth of up to $500,000, subject to consideration of the following:

(1) The nature and volume of the business or proposed business of the applicant;

(2) The amount, nature, quality, and liquidity of the assets of the applicant;

(3) The amount and nature of the liabilities, including contingent liabilities, of the applicant;

(4) The history of, and prospects for, the applicant to earn and retain income;

(5) The quality of the operations of the applicant;

(6) The quality of the management of the applicant;

(7) The nature and quality of the person that has control of the applicant; and

(8) Any other factor the Commissioner deems relevant.

§12–407.

(a) (1) To apply for a license, an applicant shall:

(i) Complete, sign, and submit to the Commissioner an application made under oath in the form, and in accordance with the process, that the Commissioner requires; and

(ii) Provide all information that the Commissioner requests.

(2) The applicant shall comply with all conditions and provisions of the application for a license.

(b) An applicant shall provide:

(1) The trade name of the applicant, as filed with the State Department of Assessments and Taxation under § 1–406 of the Corporations and Associations Article, and any fictitious or other name used by the applicant in the conduct of the applicant's business;

(2) The address of the principal executive office of the applicant and each branch location;

(3) The name, business address, and nature of the business of each authorized delegate to be appointed by the applicant;

(4) The most recent unconsolidated financial statement of the applicant that shall:

(i) Be prepared in accordance with generally accepted accounting principles applied on a consistent basis;

(ii) Be a certified opinion audit prepared by an independent certified public accountant;

(iii) Include a schedule of all permissible investments, if any, of the applicant; and

(iv) Be no older than 12 months before the date of the application;

(5) The name, address, and telephone number of the applicant's resident agent in the State;

(6) A history of material litigation against the applicant, if any, for the past 3 years; and

(7) Any other information that the Commissioner reasonably requires.

(c) An applicant that is a business entity shall provide:

(1) Certified copies of the applicant's certificate of incorporation, articles of incorporation, or articles of organization, or other instrument incorporating or forming the applicant, as amended, corrected, or supplemented; and

(2) The bylaws, operating agreement, or other equivalent internal governance documents, as amended or supplemented.

(d) An applicant shall provide a certificate of good standing from the state in which the applicant is incorporated or organized and a certificate of good standing from the State Department of Assessments and Taxation.

(e) With the application, the applicant shall pay to the Commissioner:

(1) A nonrefundable investigation fee of $1,000; and

(2) A nonrefundable license fee of $2,000.

(f) In addition to the license fee required under subsection (e) of this section, an applicant for an initial license shall pay to the nationwide licensing system the fee that

the nationwide licensing system imposes in connection with processing the application.

(g) With the application, the applicant shall file evidence of a surety device with the Commissioner as provided in § 12–412 of this subtitle.

(h) (1) In addition to any license required under §§ 12–405 and 12–410 of this subtitle, each person who engages in the business of money transmission shall obtain and maintain a license for its principal executive office.

(2) For each branch location license for which an applicant applies, the applicant shall:

(i) Submit a separate application;

(ii) Pay a separate nonrefundable license fee; and

(iii) Pay the application processing fee that the nationwide licensing system imposes in connection with processing the application for the branch location.

(3) If an applicant has or is applying for more than one license, the applicant may comply with subsection (g) of this section by filing evidence of only one surety device.

(4) If an applicant has or is applying for more than one license, the applicant is not required to pay a separate investigation fee.

§12–408.

(a) In this section, "Central Repository" means the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services.

(b) This section does not apply to any corporation the securities of which are exempt from registration under § 11–601(8) or (12) of the Corporations and Associations Article or any wholly owned subsidiary of the corporation.

(c) In connection with an initial application for a license under § 12–407 of this subtitle, and at any other time that the Commissioner requests, an applicant or licensee shall provide to the nationwide licensing system information concerning the applicant's identity, including:

(1) Fingerprints for submission to the Federal Bureau of Investigation, and any other governmental agency or entity, including the Central Repository, authorized to receive this information for a state, a national, or an international criminal history background check;

(2) In the case of a sole proprietorship, personal history and experience in a form prescribed by the nationwide licensing system, including the submission of

authorization for the nationwide licensing system and the Commissioner to obtain:

(i) An independent credit report from a consumer reporting agency described in the federal Fair Credit Reporting Act, 15 U.S.C. § 1681a(p); and

(ii) Information related to any administrative, civil, or criminal findings by any governmental jurisdiction; and

(3) In the case of a corporation or another business entity:

(i) Business history in a form prescribed by the nationwide licensing system, including:

1. The submission of a business credit report for the applicant that is no older than 3 months before the date of the application; and

2. Information related to any administrative, civil, or criminal findings by any governmental jurisdiction; and

(ii) For each control person, personal history in a form prescribed by the nationwide licensing system.

(d) Subject to § 12–408.1 of this subtitle, to implement this subtitle, the Commissioner may use the nationwide licensing system as a channeling agent to request information from and distribute information to the Department of Justice, any other governmental agency with subject matter jurisdiction, and any other state licensing entity that has money transmitters licensed or registered with the nationwide licensing system.

(e) In addition to the requirements under subsection (c) of this section, in connection with an initial application for a license under § 12–407 of this subtitle, and at any other time that the Commissioner requests, an applicant or a licensee shall provide fingerprints for use by the Central Repository to conduct criminal history records checks.

(f) An applicant or a licensee who is required to provide fingerprints under subsection (c) or (e) of this section shall pay the processing or other fees required by the Central Repository, the Federal Bureau of Investigation, and the nationwide licensing system.

(g) The Commissioner may request from the Central Repository, the Federal Bureau of Investigation, or the nationwide licensing system, as applicable, for each person who is required to provide fingerprints under subsection (c) or (e) of this section:

(1) (i) The state, national, or international criminal history records of the person; and

(ii) A printed statement listing any conviction or other disposition of,

and any plea of guilty or nolo contendere to, any criminal charge;

(2) (i) An update of the initial criminal history records check or criminal history background check of the person; and

(ii) A revised statement listing any conviction or other disposition of, and any plea of guilty or nolo contendere to, any criminal charge occurring after the date of the initial criminal history records check or criminal history background check; and

(3) An acknowledged receipt of the application for a criminal history records check or criminal history background check of the person.

(h) If the applicant or licensee is a corporation or another business entity, the fingerprinting and criminal history records check requirements under subsection (c) or (e) of this section shall apply to an executive officer, a general partner, or a managing member of, or an individual serving in a similar capacity with respect to, the corporation or other business entity, as requested by the Commissioner.

§12–408.1.

(a) (1) The requirements under any federal law and Title 4, Subtitles 1 through 5 of the General Provisions Article regarding the privacy or confidentiality of information or material provided to the nationwide licensing system, and any privilege arising under federal or state law, including the rules of any federal or state court with respect to that information or material, shall continue to apply to that information or material after the information or material has been disclosed to the nationwide licensing system.

(2) The information and material may be shared with all state and federal regulatory officials having oversight authority over the money transmission industry, including the Financial Crimes Enforcement Network, without the loss of privilege or the loss of confidentiality protections provided by federal law or Title 4, Subtitles 1 through 5 of the General Provisions Article.

(b) The Commissioner may enter into information–sharing agreements with other governmental agencies, the Conference of State Bank Supervisors, or other associations representing governmental agencies, including the Financial Crimes Enforcement Network.

(c) Information or material that is subject to a privilege or confidentiality under subsection (a) of this section may not be subject to:

(1) Disclosure under any federal or state law governing the disclosure to the public of information held by an officer or agency of the federal government or a state that has received the information or material; or

(2) Subpoena, discovery, or admission into evidence, in any private civil

action or administrative process, unless with respect to any privilege held by the nationwide licensing system, the person to whom the information or material pertains waives, in whole or in part, that privilege.

(d) Any provisions of Title 4, Subtitles 1 through 5 of the General Provisions Article relating to the disclosure of any information or material described in subsection (a) of this section that are inconsistent with subsection (a) of this section shall be superseded by the requirements of this section.

(e) This section does not apply to information or material relating to publicly adjudicated disciplinary and enforcement actions against a money transmitter or its authorized delegate that is included in the nationwide licensing system and designated for access by the public.

§12–409.

(a) After the filing of a complete application, the Commissioner shall investigate the financial condition and responsibility, financial and business experience, character, and general fitness of the applicant.

(b) (1) Unless the Commissioner notifies the applicant that a different time period is necessary, the Commissioner shall approve or deny each application for a license within 60 days after the date a complete application is filed.

(2) The applicant may by written request to the Commissioner withdraw the application at any time before the issuance of the license.

(c) The Commissioner shall issue a license to any applicant who meets the requirements of this subtitle.

(d) (1) If an applicant does not meet the requirements of this subtitle, the Commissioner shall:

(i) Notify the applicant immediately of this fact;

(ii) Subject to the hearing provisions of § 12–428 of this subtitle, deny the application;

(iii) Return the surety device filed under § 12–407 of this subtitle; and

(iv) Keep the license fee and the investigation fee.

(2) Within 30 days after the Commissioner denies an application, the Commissioner shall state the reasons for the denial in writing and mail them to the address listed in the application.

§12–410.

(a) The Commissioner shall include on each license:

(1) The trade name of the licensee; and

(2) The address at which the business is to be conducted.

(b) (1) A license authorizes the licensee to do business under the license, at the licensed place of business.

(2) A license does not authorize the licensee to accept deposits or engage otherwise in a banking business except as authorized in this subtitle.

(3) Only one place of business may be maintained under any one license.

(c) The Commissioner may issue more than one license to an applicant who:

(1) Complies with § 12-407 of this subtitle; and

(2) Otherwise meets the requirements of this subtitle.

(d) A license may not be transferred or assigned.

(e) (1) (i) If the licensee has its principal executive office in the State, the licensee shall prominently display the license and unique identifier in the location that is open to the public and at which the licensee engages in the business of money transmission.

(ii) If the licensee has its principal executive office outside the State, the licensee shall maintain the license in the principal executive office.

(2) Each authorized delegate shall display prominently at each location open to the public a notice in at least 48–point type that states the following:

"The Commissioner of Financial Regulation for the State of Maryland will accept all questions or complaints regarding this authorized delegate of (name of licensee, license number, and unique identifier) at (address of Commissioner), phone (toll–free phone number of the Commissioner)".

(3) A licensee that offers Internet money transmission services shall include the following notice on its website:

"The Commissioner of Financial Regulation for the State of Maryland will accept all questions or complaints from Maryland residents regarding (name of licensee, license number, and unique identifier) at (address of Commissioner), phone (toll–free phone number of the Commissioner)".

§12–411.

(a) Subject to any regulations the Commissioner adopts in connection with the transition to the nationwide licensing system, an initial license term shall:

(1) Begin on the day the license is issued; and

(2) Expire on December 31 of the year:

(i) The license is issued, if the license is issued before November 1; or

(ii) Succeeding the year that the license is issued, if the license is issued on or after November 1.

(b) On or after November 1 of each year, a license may be renewed for a 1–year term, if the licensee:

(1) Otherwise is entitled to be licensed;

(2) Files evidence of a surety device required under § 12–412 of this subtitle;

(3) Pays to the Commissioner a nonrefundable renewal fee of $2,000; and

(4) Submits to the Commissioner:

(i) A renewal application in the form and in accordance with the process that the Commissioner requires;

(ii) A financial statement that complies with the requirements of § 12–407(b)(4) of this subtitle; and

(iii) Any other information that the Commissioner reasonably requires to determine that the renewal applicant continues to be eligible to be licensed.

(c) In addition to the license renewal fee required under subsection (b)(3) of this section, an applicant for a license renewal shall pay to the nationwide licensing system the fee that the nationwide licensing system imposes in connection with the renewal application.

§12–412.

(a) In this section, "trust company" has the meaning stated in § 1-101 of the Estates and Trusts Article.

(b) With the application for a new or renewal license, the applicant shall file evidence of a surety device with the Commissioner as provided in this section.

(c) (1) A surety bond purchased to satisfy the provisions of subsection (b) of this section shall run to this State for the benefit of any individual who has been damaged by a violation of State law or regulation governing the business of money transmission committed by a licensee or an authorized delegate of a licensee.

(2) The surety bond shall be:

(i) In the amount required under subsection (e) of this section; and

(ii) Issued by a bonding, surety, or insurance company that is authorized to do business in this State.

(3) The surety bond shall be conditioned so that the licensee and any authorized delegate of the licensee shall comply with all State and federal laws and regulations governing the business of money transmission and shall fulfill all obligations to all parties to a money transmission.

(4) The liability of a surety:

(i) Is not affected by the insolvency or bankruptcy of the licensee or by any misrepresentation, breach of warranty, failure to pay a premium, or other act or omission of the licensee; and

(ii) Continues as to all transactions of the licensee or an authorized delegate, for no longer than 5 years after the licensee ceases, for any reason, to be licensed. However, the Commissioner may permit the surety bond to be reduced or eliminated prior to that time if the amount of the licensee's payment instruments outstanding in this State are reduced.

(5) A licensee or surety may cancel a surety bond by giving the Commissioner notice of the cancellation by certified mail, return receipt requested, bearing a postmark from the United States Postal Service. However, the cancellation is not effective until 90 days after the Commissioner receives the notice.

(d) (1) A deposit in lieu of a surety bond made to satisfy the provisions of subsection (b) of this section shall:

(i) Have a market value equal to the amount required under subsection (e) of this section; and

(ii) Be held by the Commissioner to secure the same obligations as are required to be secured by a surety bond under subsection (c) of this section.

(2) At any time, a licensee may exchange investments for other investments that meet the requirements of this subsection.

(3) The Commissioner may sell or transfer investments and distribute the proceeds on the same basis as provided for claims against a surety bond under

paragraph (c)(1) of this section.

(4) As long as a licensee is solvent, the licensee is entitled to receive any interest or dividends earned by the investments.

(5) (i) The Commissioner may place the investments in the custody of any qualified trust company in this State.

(ii) The licensee shall pay the compensation of this custodian.

(e) (1) The amount of the surety device shall be in an amount of not less than $150,000 and not more than $1,000,000, as determined by the Commissioner.

(2) In setting the amount of the surety device, the Commissioner shall consider:

(i) The financial condition of the licensee or applicant;

(ii) For a licensee, the average monthly outstanding payment instruments or outstanding money transmission liability for the previous 12 months;

(iii) For an applicant, the projected monthly payment instrument sales and money transmission volume in the State, the business experience, and any other factor deemed appropriate; and

(iv) The potential loss of buyers and holders of payment instruments or persons for whom or to whom money is transmitted if the applicant or licensee becomes financially impaired.

(f) (1) If the principal amount of a surety device is reduced by a payment of a claim or judgment, the licensee shall file with the Commissioner evidence of any new or additional surety device in the amount that the Commissioner sets.

(2) If the Commissioner at any time believes that the surety device is insufficient, exhausted, or otherwise unsatisfactory, the Commissioner may require evidence of an additional surety device to be filed by the licensee. Within 30 days after the Commissioner makes a written demand for the new surety device, the licensee shall file the evidence of the new surety device.

(g) A penalty imposed under § 12-426(e)(2) of this subtitle may be paid and collected from the proceeds of a surety device.

§12–413.

(a) (1) Each authorized delegate that a licensee appoints under a license is the designated agent of the licensee for all purposes in connection with the licensee's business under that license.

(2) Each licensee under this subtitle is liable for the payment of all money transmitted and payment instruments sold by the licensee, in whatever form, directly or through an authorized delegate.

(b) Each authorized delegate that a licensee appoints under a license shall be authorized by an express written contract, which shall provide:

(1) That the licensee appoints the person as its authorized delegate with authority to engage in the business of money transmission on behalf of the licensee;

(2) That neither the licensee nor the authorized delegate may authorize subagents or subdelegates without written consent of the Commissioner;

(3) That the authorized delegate is subject to supervision, examination, and regulation by the Commissioner; and

(4) That the authorized delegate will operate in full compliance with all applicable laws and regulations.

(c) The licensee shall provide to each authorized delegate a written copy of the licensee's operating policies and procedures, which shall be updated on a reasonable periodic basis.

(d) Copies of all contracts required under this section shall be made available to the Commissioner, upon request.

§12–413.1.

(a) (1) In this section the following words have the meanings indicated.

(2) "Agent" includes an authorized delegate, a subagent, and a subdelegate of a licensee.

(3) "Elder adult" has the meaning stated in § 1–306 of this article.

(4) "Financial abuse" has the meaning stated in § 1–306 of this article.

(5) "Financial exploitation" has the meaning stated in § 1–306 of this article.

(b) This section does not apply to a licensee or an agent that:

(1) Engages in the business of money transmission solely through the Internet; or

(2) (i) Engages in:

1. Selling or issuing stored value devices, traveler's checks, or money orders, or providing bill payer services; or

2. Any combination of selling or issuing stored value devices, traveler's checks, or money orders, or providing bill payer services; and

(ii) Does not engage in any other business regulated under this subtitle.

(c) On or before April 1 of each year, a licensee shall provide to each agent, through which it engages in the business of money transmission, training materials on how to:

(1) Recognize financial abuse and financial exploitation of an elder adult; and

(2) Respond appropriately if the agent suspects that the agent is being asked to engage in the business of money transmission for a fraudulent transaction in which an elder adult is the victim of financial abuse or financial exploitation.

(d) A licensee shall provide the training materials required under subsection (c) of this section to each newly appointed agent within 1 month after appointment of the agent.

(e) (1) A licensee shall include a clear, concise, and conspicuous fraud warning on all transmittal forms used by an individual to send money to another individual.

(2) The fraud warning shall include a toll–free telephone number for individuals to call to report fraud or suspected fraud.

(3) A licensee shall monitor the activities of its agents relating to transmittals by individuals.

(f) (1) (i) A licensee shall allow an individual to voluntarily be disqualified from sending money transmissions from or receiving money transmissions in the State.

(ii) A licensee may require an individual to provide written notice of the individual's disqualification to the licensee at the address on the licensee's license.

(iii) Unless extended under paragraph (2) of this subsection or terminated under paragraph (3) of this subsection, a disqualification is effective until January 1 of the year following the year in which notice of the individual's disqualification is given to the licensee.

(2) (i) Before a disqualification becomes ineffective, an individual may extend the disqualification by giving written notice of the extension to the licensee at the address on the licensee's license.

(ii) An extension of a disqualification under subparagraph (i) of this paragraph is effective until January 1 of the year following the year in which notice of the extension is given to the licensee.

(3) An individual may terminate a disqualification at any time by giving written notice of the termination to the licensee at the address on the licensee's license.

§12–414.

(a) An authorized delegate may not make any fraudulent or false statement or misrepresentation to a licensee or to the Commissioner.

(b) All money transmission services conducted by an authorized delegate shall be conducted strictly in accordance with the licensee's operating policies and procedures provided to the authorized delegate.

(c) An authorized delegate shall remit all funds owed to the licensee in accordance with the terms of the contract between the licensee and the authorized delegate.

(d) (1) All funds received by an authorized delegate from the sale of a payment instrument, less fees, shall constitute trust funds belonging to the licensee from the time the funds are received by the authorized delegate until the time when the funds are remitted to the licensee.

(2) If an authorized delegate commingles any of the funds received with any other funds or property owned or controlled by the authorized delegate, all commingled funds and other property shall be impressed with a trust in favor of the licensee in an amount equal to the amount of the funds due the licensee.

(e) An authorized delegate shall report to the licensee the theft or loss of a payment instrument within 24 hours after the theft or loss.

§12–415.

(a) (1) A licensee may not change the place of business for which a license is issued unless the licensee:

(i) Notifies the Commissioner in writing of the proposed change; and

(ii) Receives the approval of the Commissioner.

(2) Within 60 days after receiving a request for approval of a proposed change in the place of business for a licensee, the Commissioner shall approve or deny the request.

(3) If the Commissioner does not deny a request for approval of a proposed change in the place of business for a licensee as provided under paragraph (2) of this subsection, the request shall be deemed approved.

(b) (1) A licensee may not undergo a change in control unless the licensee:

(i) Notifies the Commissioner in writing of the proposed change;

(ii) Makes a written request that the Commissioner approve the proposed change;

(iii) Provides any information the Commissioner may require under paragraph (3) of this subsection; and

(iv) Receives the approval of the Commissioner.

(2) Within 60 days after receiving a request for approval of a proposed change in control, the Commissioner may require the licensee to provide any information deemed necessary to determine whether a new application is required because of the proposed change in control.

(3) The Commissioner shall approve or deny a request for approval of a proposed change in control:

(i) Within 60 days after the date the Commissioner receives the request; or

(ii) If the Commissioner requests information from the licensee under paragraph (2) of this subsection, within 60 days after the date the information is received by the Commissioner.

(4) If the Commissioner does not deny a request for approval of a proposed change in control as provided under paragraph (3) of this subsection, the request shall be deemed approved.

(c) In addition to any sanctions that may be imposed by the Commissioner under this subtitle, a licensee who fails to provide in a timely manner the notice required under subsection (a)(1) or (b)(1) of this section shall:

(1) For each failure, pay to the Commissioner a penalty in the amount of $500; and

(2) Apply for a new license, together with all appropriate application and investigation fees.

§12–416.

(a) Within 45 days of the end of each calendar semiannual period ending June 30 and December 31, the licensee shall file with the Commissioner a report that includes the following information on a form that the Commissioner requires:

(1) An unaudited, unconsolidated financial statement, including a balance sheet, income statement, statement of changes in equity, and statement of cash flows;

(2) A schedule of the permissible investments that the licensee holds as required under § 12-418 of this subtitle;

(3) A statement of outstanding payment instruments;

(4) A report of all authorized delegates that includes:

(i) An alphabetical list of all currently authorized delegates appointed by the licensee that includes the name, business address, business phone number, and business electronic mail address, if known to the licensee, of each authorized delegate;

(ii) An alphabetical list of all authorized delegates appointed by the licensee during the previous 6 months that includes the name, business address, business phone number, business electronic mail address, if known to the licensee, and date of appointment of each authorized delegate; and

(iii) An alphabetical list of all authorized delegates terminated by the licensee during the previous 6 months that includes the name, business address, business phone number, business electronic mail address, if known to the licensee, and date of termination of each authorized delegate; and

(5) A statement under oath by an executive officer of the licensee certifying the information to be true based on the executive officer's knowledge of the matters in the report.

(b) On or before 120 days after the close of the fiscal year of the licensee, each licensee shall file with the Commissioner an annual report that:

(1) Includes financial statements of the licensee audited by a certified public accountant and prepared in accordance with generally accepted accounting principles for the previous calendar year;

(2) States the number and aggregate dollar amount of payment instruments issued or sold and the aggregate number and dollar amount of money transmissions during the previous calendar year;

(3) Contains any other information the Commissioner reasonably requires;

(4) Is on a form that the Commissioner requires; and

(5) Is signed by an executive officer of the licensee who certifies under oath that the information in the report is true based on the executive officer's knowledge of the matters in the report.

(c) (1) Within 15 days after the occurrence of any of the following events, a licensee shall file a written report with the Commissioner describing the event and its

expected impact on the licensee's activities in the State:

(i) The filing for bankruptcy or reorganization by the licensee;

(ii) The institution of revocation or suspension proceedings against the licensee by any state or governmental authority with regard to the licensee's money transmission activities in any state;

(iii) Any felony indictment or conviction of the licensee or any of its officers or directors related to money transmission activities;

(iv) The commencement of any civil action by a buyer or holder of a payment instrument or person for whom or to whom money is transmitted against a licensee; and

(v) The filing of any material litigation against the licensee.

(2) The written report required under paragraph (1) of this subsection shall be sent to the Commissioner by certified mail, return receipt requested, bearing a postmark from the United States Postal Service, within 10 days after the action is begun and include details sufficient to identify the event.

(d) A licensee promptly shall file with the Commissioner any demand borrowing agreement or agreements into which the licensee may enter as a permissible investment or a deposit in lieu of a surety bond.

§12–417.

A licensee shall comply with all federal and State laws and regulations concerning the business of money transmission, money laundering, and abandoned property.

§12–418.

(a) (1) Subject to the provisions of paragraph (2) of this subsection, a licensee shall have at all times permissible investments having an aggregate market value, calculated in accordance with generally accepted accounting principles, of not less than the aggregate face amount of all outstanding payment instruments issued or sold by the licensee in the United States.

(2) The requirement imposed under paragraph (1) of this subsection may be waived by the Commissioner if the dollar volume of a licensee's outstanding payment instruments does not exceed the surety device filed in accordance with § 12-412 of this subtitle.

(b) A licensee shall require each authorized delegate, within 48 hours after the next regular business day after the authorized delegate receives the proceeds from a money transmission, to remit the proceeds to the licensee or the licensee's authorized representative, or deposit the proceeds in the licensee's account with a financial

institution.

(c) Deposit by the authorized delegate in an account with a financial institution of funds in advance of money transmissions, but in an amount not less than the amount that the authorized delegate would normally receive from money transmissions, constitutes compliance with this section.

§12–419.

(a) The original buyer of a payment instrument may request a duplicate of the instrument if the request is:

(1) In writing; and

(2) If required by the licensee, accompanied by:

(i) An affidavit that gives the reason for the request and states the facts relating to the loss of or other failure to produce the original payment instrument; and

(ii) A personal indemnity bond or, if the total amount of the payment instruments for which a duplicate is requested is $150 or more, a lost instrument corporate bond instead of a personal indemnity bond.

(b) Each licensee shall issue or refuse to issue a duplicate payment instrument within 30 days after a request for the duplicate is made under this section.

§12–420.

Except as permitted by § 17-308.1 of the Commercial Law Article, a licensee or its authorized delegate may charge a service fee, not to exceed $5, to any original buyer who redeems an unused payment instrument.

§12–421.

If the Commissioner finds that the books, records, and accounting procedures of a licensee are not adequate to enable the Commissioner to determine whether the licensee is in compliance with this subtitle, the Commissioner may require the licensee to have a certified public accountant audit the licensee for any period of time the Commissioner considers necessary or adopt standard, recognized accounting and bookkeeping procedures and records for this purpose.

§12–422.

(a) (1) A licensee may surrender a license by sending to the Commissioner a written statement that the license is surrendered.

(2) The statement shall provide a listing, by identifying number, face

amount, and place of issue, of all outstanding payment instruments, and the reasons for the license surrender.

(b) The surrender of a license does not:

(1) Affect any civil or criminal liability of the licensee for acts committed before the license is surrendered;

(2) Affect the surety device filed by the licensee; or

(3) Entitle the licensee to the return of any part of any fee.

§12–423.

(a) To discover any violations of this subtitle or to obtain any information required by this subtitle, the Commissioner at any time may investigate the business of:

(1) Any licensee;

(2) Any person who is engaged or participating in the business of money transmission, whether as authorized delegate, principal, agent, or otherwise; and

(3) Any other person who the Commissioner has cause to believe is violating this subtitle or any regulation adopted under this subtitle whether that person claims to be within or beyond the scope of this subtitle.

(b) For the purposes of this section, the Commissioner:

(1) Shall be given access to the place of business, books, papers, records, safes, and vaults of the person under investigation; and

(2) May summon and examine under oath any person whose testimony the Commissioner requires.

(c) (1) If a person fails to comply with a subpoena or summons of the Commissioner under this subtitle or to testify concerning any matter about which the person may be interrogated under this subtitle, the Commissioner may file a petition for enforcement with the circuit court for any county.

(2) On petition by the Commissioner, the court may order the person to attend and testify or produce evidence.

§12–424.

(a) The Commissioner may conduct an on–site examination of a licensee or authorized delegate with not less than 7 business days prior notice.

(b) With good cause, the Commissioner may conduct an on–site examination of

a licensee or authorized delegate with no prior notice.

(c) The licensee shall pay all reasonably incurred costs of an examination conducted under this section, including a per–day fee set by the Commissioner for each of the Commissioner's employees engaged in the examination.

(d) The on–site examination may be conducted in conjunction with an examination performed by a representative of a responsible supervisory agency of another state.

(e) (1) The Commissioner, in lieu of an on–site examination, may accept the examination report of a responsible supervisory agency of another state, or a report prepared by an independent accounting firm.

(2) A report accepted under paragraph (1) of this subsection is considered for all purposes as an official report of the Commissioner.

(f) The Commissioner may:

(1) Examine all books, accounts, and records the Commissioner determines are necessary to conduct a complete examination; and

(2) Examine under oath any officer, director, or employee of the licensee, or any other individual who may provide information on behalf of the licensee.

§12–425.

(a) Each licensee shall make and preserve the following books, accounts, and records for a period of at least 3 years:

(1) A record of each payment instrument sold or issued;

(2) A general ledger containing all assets, liability, capital, income, and expense accounts, which general ledger shall be posted at least monthly;

(3) Settlement sheets received from each authorized delegate;

(4) Bank statements and bank reconciliation records;

(5) Records of outstanding payment instruments;

(6) Records of each payment instrument paid within the 3–year period;

(7) A list of the names and addresses of all the licensee's authorized delegates, past and present; and

(8) A list of the dates that the training materials required under § 12–413.1 of this subtitle were provided to the licensee's authorized delegates, agents, and subdelegates.

(b) A licensee shall retain the records required under this section in:

(1) Original form; or

(2) Photographic, electronic, or other similar form.

(c) A licensee may retain the records required under this section at any location, provided that the licensee:

(1) Notifies the Commissioner in writing of the location of the records; and

(2) Makes the records available at a place of business for which a license has been issued, as agreed by the Commissioner and the licensee, within 7 days after a written request for examination by the Commissioner.

§12–426.

(a) Subject to the hearing provisions of § 12-428 of this subtitle, the Commissioner may suspend or revoke the license of any licensee if:

(1) The licensee or any owner, director, officer, member, coventurer, partner, stockholder, employee, or agent of the licensee:

(i) Makes any material misstatement in an application for a license;

(ii) Conducts the business of money transmission in an unsafe or unsound manner;

(iii) Refuses to permit the Commissioner to make an examination authorized under this subtitle;

(iv) Willfully fails to make a report required under this subtitle;

(v) Is convicted under the laws of the United States or any state of a felony or a misdemeanor that is directly related to the fitness and qualification of the person to engage in the business of money transmission;

(vi) In connection with any money transmission transaction:

1. Commits a fraud;

2. Engages in an illegal or dishonest activity; or

3. Misrepresents or fails to disclose a material fact to a governmental agency;

(vii) Violates any provision of this subtitle or any regulation adopted under this subtitle, or any other law regulating the business of money transmission; or

(viii) Otherwise demonstrates unworthiness, bad faith, dishonesty, or any other quality that indicates that the business of the licensee has not been or will not be conducted honestly, fairly, equitably, and efficiently; or

(2) The licensee:

(i) Has inadequate net worth and the licensee, after 10 days' written notice from the Commissioner, fails to take steps that the Commissioner deems necessary to remedy the deficiency;

(ii) Becomes insolvent;

(iii) Has suspended payment of its obligations, made an assignment for the benefit of its creditors, or admitted its inability to pay its debts as they become due; or

(iv) Has applied for an adjudication of bankruptcy, reorganization, arrangement, or other relief under any bankruptcy proceeding.

(b) In determining whether a license should be suspended or revoked for a reason identified in subsection (a)(1)(v) of this section, the Commissioner shall consider:

(1) The nature of the crime;

(2) The relationship of the crime to the activities authorized by the license;

(3) With respect to a felony, the relevance of the conviction to the fitness and qualification of the licensee to engage in the business of money transmission;

(4) The length of time since the conviction; and

(5) The behavior and activities of the licensee since the conviction.

(c) Subject to the hearing provisions of § 12-428 of this subtitle, the Commissioner may issue an order to the licensee to terminate its relationship with an authorized delegate if the Commissioner finds that:

(1) The authorized delegate or a director, officer, employee, or person that has control of the authorized delegate:

(i) Has violated any provision of this subtitle or any regulation adopted or order issued under this subtitle;

(ii) Has engaged or participated in an unsafe or unsound act with respect to the business of money transmission;

(iii) Has made or caused to be made in any application or report filed with the Commissioner or in a proceeding before the Commissioner, a statement which

was at the time and in the circumstances under which it was made, false or misleading with respect to a material fact, or has omitted to state in an application or report a material fact which is required to be stated; or

(iv) Has failed to cooperate with an examination or investigation by the Commissioner authorized by this subtitle; or

(2) The competence, experience, integrity, financial condition, or overall moral character of the authorized delegate, or a director, officer, employee, or person that has control of the authorized delegate, indicates that it would not be in the interest of the public to permit the person to engage in the business of money transmission.

(d) (1) The authorized delegate about whom an order is issued under this section may apply to the Commissioner to modify or rescind the order.

(2) The Commissioner may not grant an application filed under paragraph (1) of this subsection unless the Commissioner finds that:

(i) It is in the public interest to modify or rescind the order; and

(ii) It is reasonable to believe that the authorized delegate, if and when permitted to resume acting as an authorized delegate of a licensee, will comply with all applicable provisions of this subtitle and any regulation adopted or order issued under this subtitle.

(e) (1) The Commissioner may enforce the provisions of this subtitle by issuing an order:

(i) To cease and desist and to take affirmative action from the violation and any further similar violations; and

(ii) Requiring the violator to take affirmative action to correct the violation including the restitution of money or property to any person aggrieved by the violation.

(2) If a violator fails to comply with an order issued under paragraph (1) of this subsection, the Commissioner may impose a civil penalty of up to $1,000 for the first violation and $5,000 for each subsequent violation from which the violator failed to cease and desist or for which the violator failed to take affirmative action.

(f) The Commissioner may file a petition in the circuit court for any county seeking enforcement of an order issued under this section.

(g) In determining the amount of financial penalty to be imposed under subsection (e) of this section, the Commissioner shall consider the following:

(1) The seriousness of the violation;

(2) The good faith of the violator;

(3) The violator's history of previous violations;

(4) The deleterious effect of the violation on the public;

(5) The assets of the violator; and

(6) Any other factors relevant to the determination of the financial penalty.

§12–427.

A person that engages in the business of money transmission is subject to the enforcement provisions of §§ 2-114 through 2-116 of this article if the person:

(1) Is not licensed under this subtitle; or

(2) Is not an authorized delegate of a licensee.

§12–428.

(a) Before the Commissioner denies an application for a license under § 12-409 of this subtitle or takes any action under § 12-426 of this subtitle, the Commissioner shall give the applicant or licensee an opportunity for a hearing.

(b) Notice of the hearing shall be given and the hearing shall be held in accordance with the Administrative Procedure Act.

(c) For a hearing on the proposed suspension or revocation of a license, the hearing notice to be given to the licensee shall be sent by registered or certified mail at least 15 days before the hearing to the place of business stated in the license.

§12–429.

The State's Attorney for the county in which the violation occurs or the Attorney General may prosecute any violation of this subtitle.

§12–430.

Any person who knowingly and willfully violates any provision of this subtitle is guilty of a felony and on conviction is subject to a fine not exceeding $1,000 for the first violation and not exceeding $5,000 for each subsequent violation or imprisonment not exceeding 5 years or both.

§12–430.1.

(a) (1) Notwithstanding Title 4, Subtitles 1 through 5 of the General Provisions Article, and subject to § 12–408.1 of this subtitle, the Commissioner shall

report adjudicated enforcement actions against a money transmitter or its authorized delegate and other relevant information to the nationwide licensing system.

(2) The Commissioner shall adopt regulations establishing a process by which a licensee or an applicant for a license may challenge information entered by the Commissioner into the nationwide licensing system.

(b) The Commissioner may submit to the nationwide licensing system information regarding enforcement actions against persons engaged in the money transmission business who are not licensees or authorized delegates.

§12–431.

This subtitle may be cited as the Maryland Money Transmission Act.

§12–601.

(a) In this subtitle the following words have the meanings indicated.

(b) "Safe-deposit box" means a locked box or safe that is:

(1) In a vault under the control of a safe-deposit company; and

(2) Used by another person for the storage or safekeeping of property.

(c) "Safe-deposit company" means a person who is engaged in the business of renting safe-deposit boxes to others.

§12–602.

(a) In this section, "fiduciary" includes the fiduciary's successor.

(b) Except as provided in subsection (c) of this section, if a safe-deposit company rents a safe-deposit box to a fiduciary, the safe-deposit company may not permit access to the safe-deposit box:

(1) By any person other than the fiduciary; and

(2) If the safe-deposit box is rented to two or more fiduciaries, by less than all of the fiduciaries in person.

(c) The safe-deposit company may permit access to the safe-deposit box by:

(1) Any individual authorized by all of the fiduciaries, in accordance with a rental agreement, written power of attorney, or other written authority signed by each fiduciary and filed with the safe-deposit company; and

(2) Less than all of the fiduciaries, in accordance with a rental agreement, written power of attorney, or other written authority signed by the remaining

fiduciaries and filed with the safe-deposit company.

§12–603.

If the lessee of a safe-deposit box dies and, before a personal representative for the lessee's estate has been appointed, a person wishes to open the safe-deposit box to search for the lessee's will, a representative of the safe-deposit company shall be present when the safe-deposit box is opened.

§12–604.

(a) In a contract governing the use of a safe-deposit box by a customer, the safe-deposit company may limit its total liability for any loss resulting from its negligence to a maximum amount, which may not be less than 500 times the annual rental charged for the safe-deposit box.

(b) The safe-deposit company may provide in the contract that it will not be liable for the loss of any money, jewelry, or other items specified in the contract for this purpose.

(c) The safe-deposit company may provide in the contract that the fact that an item was left in a safe-deposit box by a customer and, on a subsequent entry by the customer to the safe-deposit box, the property was missing does not:

(1) Raise a presumption that the property was lost by any negligence or wrongdoing for which the safe-deposit company is responsible; or

(2) Place on the safe-deposit company the burden of proving that the loss was not its fault.

§12–701.

(a) A financial institution may apply to the Commissioner to be supervised and examined by the Commissioner to the same extent that a banking institution is supervised and examined under Title 5, Subtitle 2 of this article, other than § 5-203, if:

(1) The financial institution is a nonstock corporation under Title 5, Subtitle 2 of the Corporations and Associations Article which is recognized by the Internal Revenue Service as exempt from tax under § 501(c)(3) of the Internal Revenue Code, as amended;

(2) A majority and all controlling members of the financial institution are persons designated and approved by any banking institutions or national banking associations; and

(3) The financial institution is engaged solely in the extension of credit, making of loans and arranging of financing for socially or economically disadvantaged businesses for the purpose of:

(i) Encouraging and supporting the business and commercial development of such businesses; and

(ii) Participating in and supporting special State, federal, local or private industry programs intended to make available, offer, encourage, guarantee, or otherwise facilitate loan and other financing programs for socially or economically disadvantaged businesses.

(b) The Commissioner shall supervise and examine a financial institution that has applied to the Commissioner and has met the requirements set forth under paragraph (a) of this section.

§12–702.

To qualify for supervision and examination, the applicant shall satisfy the Commissioner that the applicant:

(1) Is trustworthy and reputable;

(2) Has a good business reputation; and

(3) Has sufficient business experience, moral character, financial responsibility, and genuine fitness to:

(i) Command the confidence of the public; and

(ii) Warrant the belief that the business will be operated lawfully, honestly, fairly and efficiently.

§12–703.

(a) (1) To apply for supervision and examination under this subtitle, an applicant shall sign and submit to the Commissioner a verified application on the form that the Commissioner requires.

(2) The applicant shall comply with all conditions and provisions within the application.

(3) The applicant shall submit any other information that the Commissioner may require.

(b) With the application, the applicant shall pay to the Commissioner an investigation fee of $100.00.

§12–704.

Any financial institution supervised and examined under this subtitle shall be subject to the same reporting requirements as a banking institution under Title 5, Subtitle 2 of this article, other than § 5-208.

§12–705.

(a) If the Commissioner believes that a financial institution supervised and examined under this subtitle has engaged in an unsafe or unsound banking practice, or has failed to comply with the law, the Commissioner shall send a warning to the financial institution.

(b) If the Commissioner finds that the financial institution has continued to engage in the unsafe or unsound practice, or that the failure to comply with the law has continued, subject to the hearing provisions of § 12-706 of this subtitle, the Commissioner may suspend or terminate its supervision and examination of the financial institution.

§12–706.

(a) If the Commissioner takes any action under § 12-705(b) of this subtitle, the Commissioner shall give the financial institution the opportunity for a hearing.

(b) Notice of the hearing shall be given and a hearing shall be held in accordance with the Administrative Procedure Act.

§12–707.

Any person who is aggrieved by any decision or finding of the Commissioner under this subtitle may appeal to the circuit court for the county in which the aggrieved person resides or has a principal place of business, or, if the aggrieved person resides or has a principal place of business in Baltimore City, to the Circuit Court for Baltimore City.

§12–708.

(a) The Commissioner, not more often than once per year, may impose annual assessments on each financial institution supervised and examined by the Commissioner under this subtitle, to cover the expense of supervising and examining that financial institution.

(b) (1) The Commissioner may assess each financial institution the sum of:

(i) $1,000; plus

(ii) 8 cents for each $1,000 of the assets of the financial institution over $1,000,000.

(2) The assessments shall be based on assets stated in the financial institution's most recent financial report.

(c) The financial institution shall pay any assessment imposed under this section to the Commissioner on or before the February 1 after it is imposed.

§12–709.

The Commissioner may adopt regulations to carry out the provisions of this subtitle.

§12–801.

It is the purpose of this subtitle to require certain reports and records of transactions involving currency where the reports and records have a high degree of usefulness in criminal investigations or proceedings which pertain to the subject of the report.

§12–802.

(a) In this subtitle the following words have the meanings indicated.

(b) "Currency" means currency and coin of the United States or any other country.

(c) "Department" means the Department of Labor, Licensing, and Regulation.

(d) (1) "Financial institution" means:

(i) A national banking association;

(ii) A State banking institution;

(iii) A credit union that is organized under the laws of this State or of the United States;

(iv) Any other organization that is organized under the banking laws of the State and subject to the supervision of the Commissioner;

(v) A savings and loan association that is organized under the laws of the State or of the United States; or

(vi) Persons engaged in the business of cashing checks for a fee unless performed incidental to the sale of goods or services.

(2) "Financial institution" does not include any person licensed by the Commissioner under Title 11 of this article.

(e) "Person" means an individual, partnership, firm, trust, estate, association, corporation, or other entity.

(f) "Secretary" means the Secretary of Labor, Licensing, and Regulation.

(g) "Transaction" includes the deposit, withdrawal, transfer, bailment, loan, pledge payment, or exchange of currency by, through, or to the financial institution.

§12–803.

(a) A financial institution shall keep a record of currency transactions in excess of $10,000 and shall file with the Department within 15 days of the date of the transaction pursuant to regulations adopted by the Secretary a complete report of currency transactions in excess of $10,000.

(b) The reporting requirements of this section are complied with if:

(1) A financial institution files with the Department a duplicate copy of the report required by 31 U.S.C. § 5313; or

(2) The information in the report required by 31 U.S.C. § 5313 is available to the Department from a federal agency.

(c) The Secretary shall adopt regulations to carry out the purposes of this subtitle and to provide for the exemption of transactions which are clearly of a legitimate nature and for which mandatory reporting would serve no useful purpose.

(d) A transaction that is exempt from reporting by a financial institution under federal law is also exempt from the reporting requirements of this subtitle.

§12–804.

(a) The Department of Public Safety and Correctional Services and the Office of the Attorney General shall have access to and shall be authorized to inspect and copy any reports filed with the Department under this article.

(b) The Department may make the contents of a report available to other criminal justice agencies only for purposes of investigation or prosecution of the subject of the report.

§12–805.

(a) The Secretary may assess a civil penalty against any financial institution and any officer, employee, agent, or director of the institution for each knowing and willful violation of this subtitle.

(b) (1) The civil penalty may not exceed $50 for each day the violation continues.

(2) For purposes of this section, a separate violation occurs at each office, branch, or place of business where a violation occurs or continues.

(3) The total civil penalty may not exceed $1,000.

(c) In the event of the failure of any person to pay any penalty assessed under this section, a civil action for recovery of the penalty may be brought by the State

against the person.

§12–806.

If the information required by § 12-803(a) of this subtitle has been available to the Department from a federal agency, a financial institution may not be subject to the civil penalties provided for in this subtitle unless the financial institution has been notified by the Department that:

(1) The information is no longer available; and

(2) The financial institution is now required to provide the information to the Department.

§12–901.

(a) In this subtitle the following words have the meanings indicated.

(b) "Annual gross revenue" means income or revenue from all sources, before any expenses or taxes, computed according to generally accepted accounting principles for the preceding fiscal year.

(c) "Consultation fee" means a fee paid by a consumer to a debt management services provider in connection with the processing of any application that the consumer makes for debt management services.

(d) "Consumer" means an individual who:

(1) Resides in the State; and

(2) Is seeking debt management services or has entered into a debt management services agreement.

(e) "Consumer education program" means a program or plan that:

(1) Seeks to improve the financial literacy of consumers regarding personal finance, budgeting, and credit and debt management; and

(2) Provides counseling tailored to the needs and circumstances of the consumer with regard to options and strategies for addressing the consumer's debt problems, including:

(i) Creating and maintaining a budget;

(ii) Establishing debt management payment plans with creditors;

(iii) Negotiating directly with creditors on payment or interest rate relief; and

(iv) Filing for bankruptcy.

(f) "Debt management counselor" means a permanent, temporary, or contractual employee of a debt management services provider or its agent who provides counseling to consumers on behalf of the debt management services provider.

(g) "Debt management services" means receiving funds periodically from a consumer under an agreement with the consumer for the purpose of distributing the funds among the consumer's creditors in full or partial payment of the consumer's debts.

(h) "Debt management services agreement" means a written contract, plan, or agreement between a debt management services provider and a consumer for the performance of debt management services.

(i) "Debt management services provider" means a person that provides or offers to provide debt management services to a consumer.

(j) "Fund" means the Debt Management Services Fund established under § 12–905 of this subtitle.

(k) "Licensee" means a person licensed under this subtitle to provide debt management services.

(l) "Maintenance fee" means a fee paid by a consumer to a debt management services provider for the maintenance or servicing of the consumer's accounts with the consumer's creditors in accordance with a debt management services agreement.

(m) "Relative" means any of the following who are related to an individual by blood, marriage, or adoption:

(1) A spouse;

(2) A child;

(3) A sibling;

(4) A parent;

(5) A grandparent;

(6) A grandchild;

(7) A stepparent;

(8) A stepchild;

(9) A stepsibling;

(10) An aunt; or

(11) An uncle.

(n) "Resident agent" means an individual residing in the State or a Maryland corporation whose name, address, and designation as a resident agent are filed or recorded with the State Department of Assessments and Taxation in accordance with the provisions of the Corporations and Associations Article.

(o) "Trust account" means an account that is:

(1) Established in a financial institution that is federally insured;

(2) Separate from the debt management services provider's operating account;

(3) Designated as a "trust account" or by another appropriate designation indicating that the funds in the account are not the funds of the licensee or its officers, employees, or agents;

(4) Unavailable to creditors of the debt management services provider; and

(5) Used to hold funds paid by consumers to a debt management services provider for disbursement to creditors of the consumers.

§12–902.

This subtitle does not apply to:

(1) The following persons when engaged in the regular course of their respective businesses and professions:

(i) An attorney at law;

(ii) An escrow agent;

(iii) A certified public accountant;

(iv) A banking institution, other-state bank, national banking association, credit union, or savings and loan association;

(v) A person that:

1. Provides bill payer services, as defined in § 12-401 of this title;

2. Does not initiate any contract with individual creditors of the debtor to compromise a debt or arrange a new payment schedule; and

3. Does not provide any debt counseling services;

(vi) A person that provides accelerated mortgage payment services, as defined in § 12-401 of this title;

(vii) A title insurer, title insurance agency, or abstract company; or

(viii) A judicial officer or a person acting under a court order;

(2) A person while performing services incidental to the dissolution, winding up, or liquidation of a partnership, corporation, or other business enterprise;

(3) A trade or mercantile association acting in the course of arranging the adjustment of debts with a business establishment; or

(4) A mortgage lender, as defined in § 11-501 of this article, that:

(i) Is licensed by the Commissioner; and

(ii) Does not receive funds from a consumer for the purpose of distributing the funds among the consumer's creditors in full or partial payment of the consumer's debts.

§12–903.

To carry out the provisions of this subtitle, the Commissioner may:

(1) Adopt rules and regulations;

(2) Enter into cooperative and information sharing agreements with any other federal or State agencies having supervisory responsibility over debt management services businesses; and

(3) Exchange information about a debt management services provider, including information obtained during an examination, with any State or federal agency having authority over the debt management services provider.

§12–904.

The Commissioner shall charge:

(1) (i) A fee for the issuance of an initial license under this subtitle in an even-numbered year as follows:

1. $1,000, if the applicant's annual gross revenue is not more than $3,000,000;

2. $2,000, if the applicant's annual gross revenue is more than $3,000,000 but not more than $6,000,000;

3. $4,000, if the applicant's annual gross revenue is more than $6,000,000 but not more than $15,000,000;

4. $6,000, if the applicant's annual gross revenue is more than $15,000,000 but not more than $30,000,000; or

5. $8,000, if the applicant's annual gross revenue is more than $30,000,000; and

(ii) A fee for the issuance of an initial license under this subtitle in an odd-numbered year as follows:

1. $500, if the applicant's annual gross revenue is not more than $3,000,000;

2. $1,000, if the applicant's annual gross revenue is more than $3,000,000 but not more than $6,000,000;

3. $2,000, if the applicant's annual gross revenue is more than $6,000,000 but not more than $15,000,000;

4. $3,000, if the applicant's annual gross revenue is more than $15,000,000 but not more than $30,000,000; or

5. $4,000, if the applicant's annual gross revenue is more than $30,000,000;

(2) A fee for renewal of a license issued under this subtitle as follows:

(i) $1,000, if the applicant's annual gross revenue is not more than $3,000,000;

(ii) $2,000, if the applicant's annual gross revenue is more than $3,000,000 but not more than $6,000,000;

(iii) $4,000, if the applicant's annual gross revenue is more than $6,000,000 but not more than $15,000,000;

(iv) $6,000, if the applicant's annual gross revenue is more than $15,000,000 but not more than $30,000,000; or

(v) $8,000, if the applicant's annual gross revenue is more than $30,000,000;

(3) A fee of $100, for each location in the State at which a licensee provides debt management services under this subtitle, payable at the time of application for an initial license and at each renewal of a license; and

(4) A fee of $1,000, for an investigation of an applicant under this subtitle,

payable at the time of application for an initial license.

§12–905. IN EFFECT

(a) There is a Debt Management Services Fund that consists of:

(1) All revenue received for the licensing of persons that provide debt management services under this subtitle;

(2) All revenue received for the registration of persons that provide debt settlement services under Subtitle 10 of this title;

(3) Income from investments that the Treasurer makes for the Fund; and

(4) Except as provided in subsection (b) of this section, any other fee or revenue received by the Commissioner under this subtitle or under Subtitle 10 of this title.

(b) The Commissioner shall pay all fines and penalties collected by the Commissioner under this subtitle and under Subtitle 10 of this title into the General Fund of the State.

(c) The purpose of the Fund is to pay all the costs and expenses incurred by the Commissioner that are related to the regulation of the debt management services business under this subtitle and that are related to the registration of debt settlement services providers under Subtitle 10 of this title, including:

(1) Expenditures authorized under this subtitle and Subtitle 10 of this title; and

(2) Any other expense authorized in the State budget.

(d) (1) The Treasurer is the custodian of the Fund.

(2) The Treasurer shall deposit payments received from the Commissioner into the Fund.

(e) (1) The Fund is a continuing, nonlapsing fund that is not subject to § 7–302 of the State Finance and Procurement Article, and may not be deemed a part of the General Fund of the State.

(2) Unless otherwise provided by law, no part of the Fund may revert or be credited to:

(i) The General Fund of the State; or

(ii) A special fund of the State.

(f) (1) All the costs and expenses of the Commissioner relating to the

regulation of the debt management services business under this subtitle and to the registration of debt settlement services providers under Subtitle 10 of this title shall be included in the State budget.

(2) Any expenditures from the Fund to cover costs and expenses of the Commissioner may be made only:

(i) By an appropriation from the Fund approved by the General Assembly in the annual State budget; or

(ii) By the budget amendment procedure provided for in § 7–209 of the State Finance and Procurement Article.

(3) If, in any fiscal year, the amount of the revenue collected by the Commissioner and deposited into the Fund exceeds the actual appropriation for the Commissioner to regulate the debt management services business under this subtitle and to register debt settlement services providers under Subtitle 10 of this title, the excess amount shall be carried forward within the Fund.

(g) The Office of Legislative Audits shall audit the accounts and transactions of the Fund under § 2–1220 of the State Government Article.

12–905. // EFFECTIVE JUNE 30, 2016 PER CHAPTERS 276 AND 277 OF 2014 //

(a) There is a Debt Management Services Fund that consists of:

(1) All revenue received for the licensing of persons that provide debt management services under this subtitle;

(2) Income from investments that the Treasurer makes for the Fund; and

(3) Except as provided in subsection (b) of this section, any other fee or revenue received by the Commissioner under this subtitle.

(b) The Commissioner shall pay all fines and penalties collected by the Commissioner under this subtitle into the General Fund of the State.

(c) The purpose of the Fund is to pay all the costs and expenses incurred by the Commissioner that are related to the regulation of the debt management services business under this subtitle, including:

(1) Expenditures authorized under this subtitle; and

(2) Any other expense authorized in the State budget.

(d) (1) The Treasurer is the custodian of the Fund.

(2) The Treasurer shall deposit payments received from the Commissioner into the Fund.

(e) (1) The Fund is a continuing, nonlapsing fund that is not subject to § 7–302 of the State Finance and Procurement Article, and may not be deemed a part of the General Fund of the State.

(2) Unless otherwise provided by law, no part of the Fund may revert or be credited to:

(i) The General Fund of the State; or

(ii) A special fund of the State.

(f) (1) All the costs and expenses of the Commissioner relating to the regulation of the debt management services business under this subtitle shall be included in the State budget.

(2) Any expenditures from the Fund to cover costs and expenses of the Commissioner may be made only:

(i) By an appropriation from the Fund approved by the General Assembly in the annual State budget; or

(ii) By the budget amendment procedure provided for in § 7–209 of the State Finance and Procurement Article.

(3) If, in any fiscal year, the amount of the revenue collected by the Commissioner and deposited into the Fund exceeds the actual appropriation for the Commissioner to regulate the debt management services business under this subtitle, the excess amount shall be carried forward within the Fund.

(g) The Office of Legislative Audits shall audit the accounts and transactions of the Fund under § 2–1220 of the State Government Article.

§12–906.

Whether or not the person maintains an office in this State, a person may not provide debt management services to consumers unless the person:

(1) Is licensed by the Commissioner under this subtitle; or

(2) Is exempt from licensing under this subtitle.

§12–907.

(a) To qualify for a license, an applicant shall satisfy the Commissioner that:

(1) The applicant and each of the owners, officers, directors, and principals of the applicant has sufficient experience, character, financial responsibility, and general fitness to:

(i) Engage in the business of providing debt management services;

(ii) Warrant the belief that the debt management services business will be conducted lawfully, honestly, fairly, and efficiently; and

(iii) Command the confidence of the public;

(2) Each agent acting on behalf of the applicant to manage a trust account required under § 12–917 of this subtitle has sufficient experience, character, financial responsibility, and general fitness to:

(i) Engage in the business of managing a trust account;

(ii) Warrant the belief that the management of the trust account will be conducted lawfully, honestly, fairly, and efficiently; and

(iii) Command the confidence of the public;

(3) The applicant has a net worth computed according to generally accepted accounting principles of at least $50,000, plus an additional net worth of $10,000 for each location at which debt management services will be provided to consumers, up to a maximum of $500,000 as provided in subsection (b) of this section; and

(4) Before providing counseling to a consumer, each debt management counselor employed by the applicant or the applicant's agent will receive comprehensive training in counseling skills, personal finance, budgeting, and credit and debt management.

(b) The Commissioner may require a net worth of up to $500,000, subject to a consideration of the following:

(1) The nature and volume of the business or proposed business of the applicant;

(2) The amount, nature, quality, and liquidity of the assets of the applicant;

(3) The amount and nature of the liabilities, including contingent liabilities, of the applicant;

(4) The history of and prospects for the applicant to earn and retain income;

(5) The quality of the operations of the applicant;

(6) The quality of the management of the applicant;

(7) The nature and quality of the person that has control of the applicant;

and

(8) Any other factor that the Commissioner considers relevant.

§12–908.

(a) To apply for a license, an applicant shall submit to the Commissioner an application on the form that the Commissioner provides.

(b) The application shall include:

(1) The applicant's name, business address, telephone number, electronic mail address, if any, and website address, if any;

(2) The address of each location in the State at which the applicant will provide debt management services;

(3) The name and address of each owner, officer, director, and principal of the applicant;

(4) The name, address, and telephone number of the applicant's resident agent in the State;

(5) A description of the ownership interest of any officer, director, agent, or employee of the applicant in any affiliate or subsidiary of the applicant or in any other business entity that provides any service to the applicant or any consumer relating to the applicant's debt management services business;

(6) The name and address of any agent acting on behalf of the applicant to manage a trust account required under § 12–917 of this subtitle;

(7) The applicant's federal employer identification number;

(8) A list of any state in which:

(i) The applicant engages in the business of providing debt management services;

(ii) The applicant is registered or licensed to provide debt management services; and

(iii) The applicant's registration or license has been suspended or revoked;

(9) A statement of whether any pending judgment, tax lien, material litigation, or administrative action by any government agency exists against the applicant;

(10) The most recent, unconsolidated financial statement of the applicant

that:

(i) Is prepared in accordance with generally accepted accounting principles applied on a consistent basis;

(ii) Includes a certified opinion audit prepared by an independent certified public accountant; and

(iii) Was prepared no more than 12 months before the date of application;

(11) If applicable, evidence of nonprofit status under § 501(c) of the Internal Revenue Code;

(12) If the applicant is a corporation, a detailed description of the applicant's corporate structure, including parent companies, subsidiaries, and affiliates;

(13) The applicant's business credit report;

(14) Evidence of general liability or fidelity insurance that insures against dishonesty, fraud, theft, or other malfeasance on the part of an employee of the applicant;

(15) A description of the applicant's consumer education program that is provided to consumers;

(16) A description of the applicant's financial analysis and initial budget plan, including any form or electronic model, that are used to evaluate the financial condition of consumers;

(17) A copy of the debt management services agreement that the applicant will use in its debt management services business;

(18) A copy of the applicant's plan to ensure that each debt management counselor is certified by an independent organization within 6 months after the debt management counselor is hired, and that any employee who is a supervisor or manager of a debt management counselor is certified by an independent organization within 3 months after the employee is hired;

(19) The most recent financial statement of each affiliate, subsidiary, or other person that provides services related to debt management services for the applicant or for any consumer;

(20) A copy of each contract or fee–for–service arrangement between the applicant and any person that provides services related to the debt management services business; and

(21) Any other information that the Commissioner reasonably requires.

(c) The Commissioner may refuse an application if it contains erroneous or incomplete information.

(d) With the application, the applicant shall pay to the Commissioner:

(1) A license fee in the amount established under § 12-904 of this subtitle; and

(2) A nonrefundable investigation fee in the amount established under § 12-904 of this subtitle.

(e) With the application, the applicant shall file a surety bond with the Commissioner as provided in § 12-914 of this subtitle.

§12–909.

(a) In connection with an initial application, a renewal application, and at any other time the Commissioner requests, an applicant or licensee shall provide fingerprints for use by the Federal Bureau of Investigation and the Maryland Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services to conduct criminal history records checks.

(b) An applicant or licensee required to provide fingerprints under this section shall pay any processing or other required fee.

(c) If the applicant or licensee is a corporation, the fingerprinting and criminal history records check requirements shall apply to the president and any other officer, director, principal, or owner of the corporation as required by the Commissioner.

(d) The Commissioner shall require any agent acting on behalf of a licensee to manage a trust account required under § 12-917 of this subtitle, and any agent of the licensee who has access to the account, to provide fingerprints for use by the Federal Bureau of Investigation and the Maryland Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services to conduct criminal history records checks.

§12–910.

(a) After an applicant for a license files a complete application, files a surety bond, and pays the license and investigation fees required under this subtitle, the Commissioner shall investigate the facts relevant to the application to determine if the applicant meets the requirements of this subtitle.

(b) Unless the Commissioner notifies an applicant that a different time period is necessary, the Commissioner shall approve or deny each application for a license within 60 days after the date on which the complete application is filed, the surety

bond is filed, and the fees are paid.

(c) The Commissioner shall issue a license to any applicant that meets the requirements of this subtitle.

(d) (1) If an applicant does not meet the requirements of this subtitle, the Commissioner:

(i) Subject to the hearing provisions of § 12-927 of this subtitle, shall deny the application;

(ii) Shall notify the applicant immediately of the denial;

(iii) Shall refund the license fee; and

(iv) Shall keep the investigation fee.

(2) Within 30 days after the Commissioner denies an application, the Commissioner shall state the reasons for the denial in writing and mail them to the applicant at the address listed in the application.

§12–911.

(a) The Commissioner shall include on each license:

(1) The name of the licensee;

(2) The address at which the business is to be conducted; and

(3) The debt management services license number of the licensee.

(b) A license authorizes the licensee to provide debt management services.

(c) A license may not be transferred, assigned, or pledged.

(d) (1) If the licensee has an office in the State, the licensee shall prominently display the license in a location that is open to the public and at which the licensee engages in the business of providing debt management services.

(2) If the licensee does not maintain an office in the State, the licensee shall maintain the license in the licensee's headquarters.

(e) A licensee that offers or provides debt management services through the Internet shall include the following notice on its website:

"The Commissioner of Financial Regulation for the State of Maryland will accept any questions and complaints from Maryland residents regarding (name and license number of the debt management services provider) at (address of Commissioner), phone (toll-free number of the Commissioner)".

§12–912.

(a) A license issued under this subtitle expires on December 31 of each odd-numbered year unless it is renewed for a 2-year term as provided in subsection (b) of this section.

(b) On or before December 1 of the year of expiration, a license may be renewed for a 2-year term if the licensee:

(1) Otherwise is entitled to be licensed;

(2) Pays to the Commissioner the renewal fee established under § 12-904 of this subtitle;

(3) Files with the Commissioner a surety bond renewal certificate or a new surety bond required under § 12-914 of this subtitle; and

(4) Submits to the Commissioner a renewal application on the form that the Commissioner requires.

(c) The Commissioner may determine that licenses issued under this subtitle shall expire on a staggered basis.

§12–913.

(a) (1) A licensee may surrender a license by sending to the Commissioner a written statement that the license is surrendered.

(2) The statement shall provide:

(i) The reason for the license surrender;

(ii) For each consumer for whom the licensee is providing debt management services, the following information:

1. The name of the consumer;

2. The total amount of funds held by the licensee for distribution to the consumer's creditors; and

3. The name of each creditor of the consumer that is receiving payments from the licensee for debts owed by the consumer to the creditor, and the outstanding balance owed to each creditor.

(b) The surrender of a license does not:

(1) Affect any administrative, civil, or criminal liability of the licensee for acts committed before the license is surrendered;

(2) Affect the surety bond required under § 12-914 of this subtitle; or

(3) Entitle the licensee to the return of any fee paid to the Commissioner under § 12-904 of this subtitle.

§12–914.

(a) With the application for a new or renewal license, the applicant or licensee shall file a surety bond or bond renewal certificate with the Commissioner as provided in this section.

(b) (1) A surety bond filed under this section shall run to the State for the benefit of any consumer who is injured by a violation of this subtitle or a regulation adopted under this subtitle committed by a licensee or an agent of a licensee, including an agent managing a trust account.

(2) The surety bond shall be:

(i) In an amount not less than $10,000 and not more than $1,000,000, as set by the Commissioner;

(ii) Issued by a bonding, surety, or insurance company that is authorized to do business in the State; and

(iii) Conditioned so that the licensee and its agent shall comply with all State and federal laws and regulations governing the business of providing debt management services.

(3) The liability of a surety:

(i) Is not affected by the insolvency or bankruptcy of the licensee or its agent or by any misrepresentation, breach of warranty, failure to pay a premium, or other act or omission of the licensee or its agent; and

(ii) Continues as to all transactions of the licensee, and transactions of its agent on behalf of the licensee, for no longer than 2 years after the licensee ceases, for any reason, to be licensed.

(4) The Commissioner may allow the amount of the surety bond to be reduced if the amount of the licensee's outstanding debt management services liabilities in the State is reduced.

(5) In setting the amount of the surety bond, the Commissioner shall consider:

(i) The financial condition and business experience of the applicant or licensee and the agent of the applicant or licensee;

(ii) For an applicant, the projected monthly and annual volume of debt management services to be provided in the State;

(iii) For a licensee, the average monthly and annual volume of debt management services provided in the State during the previous 12-month period;

(iv) The potential loss to consumers who remit funds to the applicant or licensee if the applicant or licensee becomes financially impaired; and

(v) Any other factor the Commissioner considers appropriate.

(c) If the principal amount of a surety bond is reduced by payment of a claim or judgment, the licensee shall file with the Commissioner any new or additional surety bond in the amount that the Commissioner sets.

(d) The Commissioner may waive the surety bond requirement under this section if the Commissioner determines that the volume of debt management services provided by the applicant or licensee does not warrant the need for a surety bond.

(e) A penalty imposed under § 12-928 or § 12-929 of this subtitle may be paid and collected from the proceeds of a surety bond required under this section.

§12–915.

(a) (1) A licensee shall give the Commissioner written notice of any change in the information required to be included in the licensee's application under § 12–908(b)(1) and (2) of this subtitle at least 30 days before the change is effective.

(2) The licensee shall provide with the notice evidence that, after the change described in the notice, the licensee will continue to satisfy the surety bond requirement under § 12–914 of this subtitle.

(b) Unless approved by the Commissioner, a licensee may not change an owner, officer, director, or principal of the licensee, or an agent who is acting on behalf of the licensee to manage a trust account, listed on the licensee's application under § 12–908(b)(3) and (6) of this subtitle.

(c) (1) To request approval of a proposed change described in subsection (b) of this section, the licensee shall notify the Commissioner in writing of the proposed change and submit any information that the Commissioner requires.

(2) For a proposed change in owner or agent acting on behalf of the licensee to manage a trust account, the Commissioner may determine that the filing of a new application for the issuance of a license is warranted.

(3) Unless the Commissioner notifies the licensee that a different time period is necessary, the Commissioner shall approve or deny a request for a change described in subsection (b) of this section within 60 days after the date the

Commissioner receives all information required under paragraph (1) of this subsection.

§12–916.

(a) (1) A licensee may not perform debt management services for a consumer unless:

(i) 1. The licensee provides the consumer with a consumer education program;

2. The licensee provides the consumer with a written summary of the counseling options and strategies for addressing the consumer's debt problems developed under § 12–901(e)(2) of this subtitle; and

3. The consumer signs an acknowledgment stating that the consumer has reviewed the written summary and has decided to proceed with entering into a debt management services agreement with the licensee;

(ii) The licensee, through a debt management counselor certified by an independent organization, has:

1. Prepared a financial analysis of and an initial budget plan for the consumer's debt obligations;

2. Provided a copy of the financial analysis and the initial budget plan to the consumer; and

3. Provided to the consumer, for all creditors identified by the consumer, a list of:

A. The creditors that the licensee reasonably expects to participate in the management of the consumer's debt under the debt management services agreement; and

B. The creditors that the licensee reasonably expects not to participate in the management of the consumer's debt under the debt management services agreement;

(iii) The licensee and the consumer have executed a debt management services agreement that describes the debt management services to be provided by the licensee to the consumer;

(iv) The licensee has a reasonable expectation based on the licensee's past experience that each creditor of the consumer that is listed as a participating creditor in the consumer's debt management services agreement will accept payment of the consumer's debts owed to the creditor as provided in the consumer's debt management services agreement;

(v) The licensee has made a determination, based on the licensee's analysis of the information provided by the consumer and otherwise available to it, that:

1. The debt management services are suitable for the consumer; and

2. The consumer will be able to meet the payment obligations under the debt management services agreement; and

(vi) A copy of the completed debt management services agreement has been provided to the consumer.

(2) (i) A licensee may provide to a consumer the materials required under paragraph (1)(ii) of this subsection using the Internet if:

1. A debt management counselor of the licensee has reviewed and approved the computer program or application used to create the financial analysis and initial budget plan; and

2. The consumer is:

A. Advised of the availability of counseling; and

B. Afforded the opportunity for counseling and for discussion of the financial analysis and initial budget plan with a debt management counselor at any time.

(ii) Title 21 of the Commercial Law Article applies to the provision of materials and associated transactions under this paragraph.

(3) In addition to the requirements under paragraph (1) of this subsection, before providing debt management services for a consumer, a debt management services provider shall provide a written notice to the consumer stating:

(i) That if the consumer elects to file for bankruptcy, the consumer will be required under federal bankruptcy law to receive pre–bankruptcy credit counseling services from a nonprofit credit counseling agency that is approved by the United States Trustee Program;

(ii) Whether the debt management services provider is approved by the United States Trustee Program to provide pre–bankruptcy credit counseling services; and

(iii) That the consumer should contact a federal bankruptcy court to obtain a list of credit counseling agencies that are approved by the United States Trustee Program.

(b) Each debt management services agreement shall:

(1) Be signed and dated by the licensee and the consumer; and

(2) Include, in at least 12 point type:

(i) The name, address, and phone number of the consumer;

(ii) The name, address, phone number, and license number of the licensee;

(iii) A description of the debt management services to be provided to the consumer and any fees to be charged to the consumer for the debt management services;

(iv) A disclosure of the existence of the surety bond required under § 12–914 of this subtitle;

(v) The name and address of the financial institution in which funds, paid by the consumer to the licensee for disbursement to the consumer's creditors, will be held;

(vi) A notice of the right of a party to the debt management services agreement to rescind the debt management services agreement at any time by giving written notice of rescission to the other party;

(vii) A schedule of payments that the consumer must make to the debt management services provider, including:

1. The amount of each payment and the date on which each payment is due; and

2. An itemization of the maintenance fees that will be retained by the debt management services provider, and the amount of money that will be paid to the consumer's creditors, from each payment the consumer makes to the debt management services provider;

(viii) A list of:

1. A. Each participating creditor of the consumer to which payments will be made under the debt management services agreement;

B. The amount owed to each creditor; and

C. A schedule of payments that the debt management services provider will make to each participating creditor from the consumer's payments, including the amount of each payment and the date on which each payment will be made; and

2. Each creditor that the licensee reasonably expects not to participate in the management of the consumer's debt under the debt management services agreement;

(ix) A disclosure that the licensee also may receive compensation from the consumer's creditors for providing debt management services to the consumer;

(x) A disclosure that the licensee may not, as a condition of entering into a debt management services agreement, require a consumer to purchase for a fee a counseling session, an educational program, or materials and supplies;

(xi) A disclosure that the licensee may not require a voluntary contribution from a consumer for any service provided by the licensee to the consumer;

(xii) A disclosure that, by executing the debt management services agreement, the consumer authorizes any financial institution in which the licensee has established a trust account for deposit of the consumer's funds to disclose to the Commissioner any financial records relating to the trust account during the course of any investigation or examination of the licensee by the Commissioner;

(xiii) A disclosure that execution of a debt management services agreement may impact the consumer's credit rating and credit scores; and

(xiv) The following notice:

"The Commissioner of Financial Regulation for the State of Maryland will accept questions and complaints from Maryland residents regarding (name and license number of the debt management services provider) at (address of the Commissioner) phone (toll–free number of the Commissioner). Do not sign this agreement before you read it. You must be given a copy of this agreement.".

(c) A debt management services agreement between a consumer and a person that is not a licensee under this subtitle shall be null and void, and all fees paid to the person under the debt management services agreement shall be recoverable by the consumer, together with reasonable attorney's fees.

§12–917.

(a) Within 2 business days after receipt, a licensee shall deposit, in a trust account established for the benefit of consumers, any funds paid to the licensee by or on behalf of a consumer for disbursement to the consumer's creditors.

(b) A licensee shall:

(1) Maintain separate records of account for each consumer to whom the licensee is providing debt management services;

(2) Disburse any funds paid by or on behalf of a consumer to the

consumer's creditors within 8 business days after receipt of the funds; and

(3) (i) Correct any misdirected payments resulting from an error by the licensee; and

(ii) Reimburse the consumer for any actual fees or other charges imposed by a creditor as a result of the misdirection.

(c) A licensee may not commingle any trust account established for the benefit of consumers with any operating accounts of the licensee.

§12–918.

(a) With respect to the provision of debt management services, a licensee may not impose any fees or other charges on a consumer, or receive any funds or other payments from a consumer or another person on behalf of a consumer:

(1) Except as provided in subsections (g)(3) and (i) of this section, until after the licensee and consumer have executed a debt management services agreement; and

(2) Only as allowed under this section.

(b) (1) A licensee may charge a consultation fee not exceeding $50.

(2) The cost of a credit report on a consumer shall be paid from the consultation fee paid by the consumer.

(c) (1) Subject to paragraph (2) of this subsection, a licensee may charge a monthly maintenance fee not exceeding $8 for each creditor of a consumer that is listed in the debt management services agreement between the licensee and the consumer.

(2) The total fees charged to a consumer under paragraph (1) of this subsection may not exceed $40 per month.

(d) A licensee may collect from or on behalf of a consumer the funds the consumer has agreed to pay to the licensee under the debt management services agreement.

(e) A licensee may not charge a fee to:

(1) Prepare a financial analysis or an initial budget plan for the consumer;

(2) Counsel a consumer about debt management;

(3) Provide a consumer with the consumer education program described in the licensee's license application; or

(4) Rescind a debt management services agreement.

(f) (1) A licensee may not require a voluntary contribution from a consumer for any service provided by the licensee to the consumer.

(2) A licensee may accept a voluntary contribution from a consumer for a debt management service provided by the licensee to the consumer if the aggregate amount of the voluntary contribution and any other fees received by the licensee from the consumer for debt management services does not exceed the total amount the licensee is authorized to charge the consumer under subsections (b) and (c) of this section.

(g) (1) Before providing debt management services to a consumer, a licensee shall provide the consumer a list of services and their charges describing:

(i) Those services that the licensee offers:

1. Free of charge if the consumer enters into a debt management services agreement with the licensee; and

2. For a charge if the consumer does not enter into a debt management services agreement with the licensee; and

(ii) Those services that the licensee offers for a charge that are not offered as a part of debt management services.

(2) A licensee may not, as a condition of entering into a debt management services agreement, require a consumer to purchase for a fee a counseling session, an educational program, or materials and supplies.

(3) A licensee may charge a consumer a fee for a counseling session, an educational program, or materials and supplies if the consumer does not enter into a debt management services agreement with the licensee.

(h) (1) In addition to any other right of rescission contained in the debt management services agreement, a consumer may modify or rescind a debt management services agreement if the consumer is notified of a creditor's nonparticipation under this subsection.

(2) If a creditor that is listed as participating in the debt management services agreement declines to participate in debt management services under the agreement, the licensee shall notify the consumer by certified mail, or other verifiable means approved by the consumer, at least 5 business days before the consumer's next scheduled payment under the agreement.

(3) The notice shall include:

(i) The identity of the creditor; and

(ii) The right of the consumer to modify or rescind the agreement.

(4) A consumer who rescinds a debt management services agreement under this subsection is entitled to a refund of all unexpended funds that the consumer has paid to the licensee for the reduction of the consumer's debt.

(i) If a payment by a consumer under this section to a licensee is dishonored, the licensee may charge the consumer the amount allowable for dishonored checks or other instruments under § 15-802 of the Commercial Law Article, whether or not the consumer has entered into a debt management services agreement with the licensee.

(j) With respect to the provision of debt management services, if a licensee imposes any fee or other charge or receives any funds or other payments not authorized under this section, except as a result of an accidental and bona fide error:

(1) The debt management services agreement shall be void; and

(2) The licensee shall return the amount of the unauthorized fees, charges, funds, or payments to the consumer.

§12–919.

(a) A licensee shall provide to each consumer with whom the licensee has a debt management services agreement a written accounting of:

(1) The amount of funds received from the consumer for payment to the consumer's creditors since the last report; and

(2) The amounts and dates of disbursements made to each creditor of the consumer since the last report.

(b) A licensee shall provide the accounting required under subsection (a) of this section:

(1) At least once during each calendar quarter; and

(2) On cancellation or termination of the debt management services agreement.

§12–920.

(a) A licensee may not:

(1) Purchase any debt or obligation of a consumer;

(2) Lend money or provide credit to a consumer;

(3) Obtain a mortgage or other security interest in property owned by a consumer;

(4) Operate as a collection agency, as defined in § 7–101 of the Business

Regulation Article;

(5) Structure a debt management services agreement in a manner that would result in a negative amortization of any of the consumer's debts;

(6) Make any false, misleading, or deceptive representations or omissions of information in connection with the offer, sale, or performance of any service;

(7) Offer, pay, or give a substantial gift, bonus, premium, reward, or other compensation to a person for referring a prospective customer to the licensee;

(8) Offer an incentive, including a gift, bonus, premium, reward, or other compensation, to a consumer for executing a debt management services agreement with the licensee;

(9) Charge for or provide credit insurance;

(10) Compromise any debts of a consumer unless the licensee has obtained the prior written approval of the consumer, and the compromise benefits the consumer;

(11) Enter into a contract or fee–for–service arrangement with a person owned, controlled by, or affiliated with an officer, a director, or an employee of the debt management services provider, or with a relative of an officer, a director, or an employee, that benefits an officer, a director, or an employee of the debt management services provider;

(12) Advertise, display, distribute, broadcast, televise, or otherwise publish debt management service rates, terms, or services in a false, misleading, or deceptive manner;

(13) Pay an incentive to an employee for enrolling a consumer in a debt management services plan or agreement; or

(14) Violate any provision of federal or State law governing debt management services or other related services.

(b) (1) Notwithstanding any other provision of State law, a licensee may not, directly or indirectly, collect any fee for referring, advising, procuring, arranging, or assisting a consumer in obtaining any extension of credit or other consumer service from a lender or service provider if the licensee, or any owner, officer, director, principal, or employee of the licensee, is an owner, partner, director, officer, or employee of the lender or service provider.

(2) This subsection does not prohibit a licensee from referring, advising, procuring, arranging, or assisting a consumer in obtaining any extension of credit or other consumer service from a lender or service provider of which the licensee, or any owner, officer, director, principal, or employee of the licensee, is an owner, partner, director, officer, or employee, if:

(i) The licensee does not directly or indirectly collect any fee; and

(ii) The consumer is provided with a written disclosure of the relationship.

§12–921.

(a) (1) On or before April 30 of each year, a licensee shall report to the Commissioner on the debt management services business of the licensee conducted during the preceding calendar year.

(2) The annual report shall be on the form that the Commissioner requires.

(3) The report shall include:

(i) An audited financial statement that is prepared in accordance with generally accepted accounting principles and includes a balance sheet, income statement, statement of changes in fund balances, and statement of cash flow;

(ii) An alphabetical list of all debt management counselors who provided services for the licensee during the previous calendar year;

(iii) The number of consumers for whom the licensee provided debt management services under a debt management services agreement during the preceding calendar year;

(iv) The number of consumers who signed new debt management services agreements with the licensee during the preceding calendar year;

(v) The highest number of consumers for whom the licensee provided debt management services under a debt management services agreement during any month in the preceding calendar year;

(vi) The amounts paid by consumers to the licensee, both in total and for each month, during the preceding calendar year, broken down by:

1. Payments to be disbursed to creditors; and

2. Payments for the licensee's services;

(vii) The percentage of all consumers who received a consumer education program and subsequently executed a debt management services agreement during the preceding calendar year;

(viii) The number of consumers who successfully completed a debt management plan during the preceding calendar year;

(ix) The number of consumers who ceased participating in a debt management plan without successfully completing the plan during the preceding

calendar year; and

(x) A representative sample of the written summary required under § 12–916(a)(1)(i)2 of this subtitle.

(b) (1) Within 15 days after the occurrence of any of the following events, a licensee shall file a written report with the Commissioner describing the event and its expected impact on the licensee's activities in the State:

(i) The filing for bankruptcy or reorganization by the licensee;

(ii) The institution of a revocation or suspension proceeding against the licensee by a governmental authority that is related to the licensee's debt management services business in any state;

(iii) A felony indictment or conviction of the licensee, or any of its officers, directors, or debt management counselors, that is related to the licensee's debt management services business;

(iv) The commencement of a civil action by a consumer against the licensee, or its owners, officers, directors, principals, or debt management counselors, that is related to the licensee's debt management services business;

(v) The filing of any material litigation against the licensee, or its owners, officers, directors, principals, or debt management counselors, that is related to the licensee's debt management services business; and

(vi) A list of all third-party vendors and other service providers that the licensee used in providing debt management services at any time in the preceding calendar year.

(2) The written report required under paragraph (1) of this subsection shall be sent to the Commissioner by certified mail, return receipt requested, and include details sufficient to identify the event.

(c) The Commissioner may require any other reports from a licensee that the Commissioner considers necessary.

(d) If a licensee fails to make any report required by this subtitle, the Commissioner may require the licensee to pay a surcharge not exceeding $50 for each day that the report is overdue.

§12–922.

(a) To enable the Commissioner to determine compliance with this subtitle, a licensee shall make and preserve the following books, accounts, and records for a period of at least 7 years:

(1) A general ledger containing all assets, liability, capital, income, and expense accounts;

(2) Each debt management services agreement between the licensee and a consumer;

(3) Books and records for each consumer with whom the licensee has a debt management services agreement;

(4) Bank statements and bank reconciliation records;

(5) A copy of each written summary required under § 12–916(a)(1)(i)2 of this subtitle; and

(6) A copy of each signed acknowledgment required under § 12–916(a)(1)(i)3 of this subtitle.

(b) A licensee may retain the books, accounts, and records required under this section at any location, provided that the licensee:

(1) Notifies the Commissioner in writing of the location of the books, accounts, and records; and

(2) Makes the books, accounts, and records available at a location in the State, as agreed by the Commissioner and the licensee, within 7 days after a written request for examination by the Commissioner.

(c) A licensee shall retain the books, accounts, and records required under this section in:

(1) Original form; or

(2) Photographic, electronic, or other similar form approved by the Commissioner.

(d) If the Commissioner finds that the books, accounts, and records of the licensee are insufficient to determine compliance with this subtitle, the Commissioner may require the licensee to have a certified public accountant audit the licensee, at the licensee's expense, for any period of time that the Commissioner considers necessary.

(e) (1) A licensee shall keep all books, accounts, and records relating to a consumer confidential, and may not disclose any information about a consumer except to a duly authorized government official, the consumer, or the consumer's representative.

(2) A duly authorized government official may disclose information obtained under paragraph (1) of this subsection only in accordance with Title 4 of the General Provisions Article.

(f) The requirements of this section also apply to books, accounts, and records in the possession of a subsidiary, affiliate, or other person that relate to the operation of and services provided by the licensee's debt management services business.

§12–923.

(a) To discover any violations of this subtitle or to obtain any information required by this subtitle, the Commissioner at any time may investigate the business of:

(1) A licensee;

(2) A person that is engaged or participating in the business of providing debt management services; and

(3) Any other person that the Commissioner has cause to believe is violating this subtitle or any regulation adopted under this subtitle, whether that person claims to be within or beyond the scope of this subtitle.

(b) For the purposes of this section, the Commissioner:

(1) Shall be given access to the place of business, books, papers, records, safes, and vaults of the person under investigation; and

(2) May summon and examine under oath any person whose testimony the Commissioner requires.

(c) If, after an investigation conducted under this subsection, the Commissioner finds that the person that was investigated violated this subtitle or any regulation adopted under this subtitle, the person shall pay all reasonably incurred costs of the investigation.

(d) (1) If a person fails to comply with a subpoena or summons of the Commissioner under this subtitle or to testify concerning any matter about which the person may be interrogated under this subtitle, the Commissioner may file a petition for enforcement with the circuit court for any county.

(2) On petition by the Commissioner, the court may order the person to attend and testify or produce evidence.

§12–924.

(a) The Commissioner may conduct an on-site examination of a licensee with or without prior notice.

(b) The licensee shall pay all reasonably incurred costs directly related to an examination conducted under this section, including the travel expenses, lodging expenses, and a per diem for examiners.

(c) An on-site examination may be conducted in conjunction with an examination performed by a representative of a responsible supervisory agency of another state.

(d) (1) The Commissioner, in lieu of an on-site examination, may accept the examination report of a responsible supervisory agency of another state.

(2) A report accepted under paragraph (1) of this subsection is considered for all purposes as an official report of the Commissioner.

(e) The Commissioner may:

(1) Examine all books, accounts, and records that the Commissioner determines are necessary to conduct a complete examination, including the books, accounts, and records in the possession of a subsidiary, affiliate, or other person that relate to the operation of and services provided by the licensee's debt management services business; and

(2) Examine under oath any owner, officer, director, principal, and employee of the licensee or any other individual who may provide information on behalf of the licensee.

§12–925.

A licensee shall include in any advertisement the licensee's debt management services license number.

§12–926.

(a) Except as provided in subsection (c) of this section, and subject to the hearing provisions of § 12-927 of this subtitle, the Commissioner may deny a license to an applicant, reprimand a licensee, or suspend or revoke the license of a licensee if the applicant or licensee or an owner, officer, director, or principal of the applicant or licensee:

(1) Fraudulently or deceptively obtains or attempts to obtain a license;

(2) Fraudulently or deceptively uses a license or debt management services license number;

(3) Presents or attempts to present the debt management services license number of another licensee as the applicant's or licensee's debt management services license number;

(4) Violates any provision of this subtitle or any regulation adopted under this subtitle;

(5) Is convicted under the laws of the United States or of any state of:

(i) A felony; or

(ii) A misdemeanor that is directly related to the fitness and qualification of the applicant or licensee to engage in the business of providing debt management services;

(6) In connection with the provision of debt management services:

(i) Commits a fraud;

(ii) Engages in an illegal or dishonest activity;

(iii) Has engaged or participated in an unsafe or unsound act; or

(iv) Misrepresents or fails to disclose a material fact to a person entitled to that information;

(7) Engages in false, misleading, or deceptive advertising; or

(8) Otherwise demonstrates unworthiness, bad faith, dishonesty, or any other quality that indicates that the business of the applicant or licensee has not been or will not be conducted honestly, fairly, and equitably.

(b) In determining whether to deny a license to an applicant, reprimand a licensee, or suspend or revoke the license of a licensee for a reason listed in subsection (a)(5) of this section, the Commissioner shall consider:

(1) The nature of the crime;

(2) The relationship of the crime to the activities authorized by the license;

(3) With respect to a felony, the relevance of the conviction to the fitness and qualification of the applicant or licensee to provide debt management services;

(4) The length of time since the conviction; and

(5) The behavior and activities of the applicant or licensee since the conviction.

(c) Subject to the hearing provisions of § 12-927 of this subtitle, the Commissioner shall deny a license to an applicant and suspend or revoke the license of a licensee if the applicant or licensee or an owner, officer, director, or principal of the applicant or licensee has:

(1) Committed a violation of subsection (a) of this section that directly results in property damage or monetary loss by any other person; and

(2) Has not restored the property or money to the person or paid the value of the property to the person.

§12–927.

(a) Before the Commissioner denies an application for a license under § 12-910 of this subtitle or takes any action under § 12-926 of this subtitle, the Commissioner shall give the applicant or licensee an opportunity for a hearing.

(b) Notice of the hearing shall be given and the hearing shall be held in accordance with Title 10, Subtitle 2 of the State Government Article.

§12–928.

(a) (1) The Commissioner may enforce the provisions of this subtitle and regulations adopted under this subtitle by:

(i) Issuing an order requiring the violator:

1. To cease and desist from the violation and any further similar violations; and

2. To take affirmative action to correct the violation, including the restitution of money or property to any person aggrieved by the violation; and

(ii) Imposing a civil penalty not exceeding $1,000 for each violation.

(2) An order issued under this subsection may apply to a licensee's agent that violates any provision of this subtitle or the regulations adopted under this subtitle.

(3) If a violator fails to comply with an order issued under paragraph (1)(i) of this subsection, the Commissioner may impose a civil penalty not exceeding $1,000 for each violation from which the violator failed to cease and desist or for which the violator failed to take corrective affirmative action.

(b) The Commissioner may file a petition in the circuit court for any county seeking enforcement of an order issued under this section.

(c) In determining the amount of financial penalty to be imposed under subsection (a) of this section, the Commissioner shall consider the following:

(1) The seriousness of the violation;

(2) The good faith of the violator;

(3) The violator's history of previous violations;

(4) The deleterious effect of the violation on the public;

(5) The assets of the violator; and

(6) Any other factors relevant to the determination of the financial penalty.

§12–929.

A person who knowingly and willfully violates any provision of this subtitle is guilty of a felony and on conviction is subject to a fine not exceeding $1,000 for the first violation and not exceeding $5,000 for each subsequent violation or imprisonment not exceeding 5 years or both.

§12–930.

In addition to any other remedies provided in this subtitle, a consumer may bring a civil action to recover for any damages caused by a violation of this subtitle, including court costs and reasonable attorney's fees.

§12–931.

This subtitle may be cited as the Maryland Debt Management Services Act.

§12–1001. IN EFFECT

// EFFECTIVE UNTIL JUNE 30, 2016 PER CHAPTERS 276 AND 277 OF 2014 //

(a) In this subtitle the following words have the meanings indicated.

(b) "Consumer" means an individual who:

(1) Resides in the State; and

(2) Is seeking debt settlement services or has entered into a debt settlement services agreement in connection with debts that are consumer debts, as defined in § 13–101 of the Commercial Law Article.

(c) "Debt management services" has the meaning stated in § 12–901 of this title.

(d) (1) "Debt settlement services" means any service or program represented, directly or by implication, to renegotiate, settle, reduce, or in any way alter the terms of payment or other terms of a debt between a consumer and one or more unsecured creditors or debt collectors, including a reduction in the balance, interest rate, or fees owed by a consumer to an unsecured creditor or debt collector.

(2) "Debt settlement services" does not include debt management services.

(e) "Debt settlement services agreement" means a written contract, plan, or agreement between a debt settlement services provider and a consumer for the performance of debt settlement services.

(f) "Debt settlement services fee" means a fee charged to a consumer by a debt

settlement services provider for providing debt settlement services for a consumer.

(g) "Debt settlement services provider" means a person that provides or offers to provide debt settlement services for a consumer regardless of whether the person provides the debt settlement services on a for–profit or not–for–profit basis.

(h) "Dedicated account" means an account described in § 12–1010(d) of this subtitle.

(i) "Offer, provide, or attempt to provide debt settlement services" means providing debt settlement services:

(1) To consumers through any means, including telephone telemarketing, Internet solicitation, and face–to–face meetings; and

(2) On an intrastate or interstate basis.

(j) "Principal amount of the debt" means the amount of a debt at the time the debt is included in a debt settlement services agreement.

(k) "Registrant" means a person registered under this subtitle to provide debt settlement services.

§12–1002. IN EFFECT

// EFFECTIVE UNTIL JUNE 30, 2016 PER CHAPTERS 276 AND 277 OF 2014 //

(a) Subject to subsection (b) of this section, the provisions of this subtitle are in addition to and not in substitution for any other provision of law.

(b) A person who periodically receives funds from consumers to be used in connection with providing debt settlement services is not engaged in providing debt management services, and is not subject to Subtitle 9 of this title, if the person:

(1) Complies with the requirements of this subtitle;

(2) (i) Negotiates to settle a consumer's debts by reducing the principal amount of the debts owed; and

(ii) Makes no more than six settlement payments for each debt; and

(3) Establishes a dedicated account that:

(i) Is separate from any trust account established by the person under § 12–917 of this title; and

(ii) Is not established solely for the purpose of holding consumer funds to be disbursed to the debt settlement services provider for fees.

§12–1003. IN EFFECT

// EFFECTIVE UNTIL JUNE 30, 2016 PER CHAPTERS 276 AND 277 OF 2014 //

This subtitle does not apply to:

(1) The following persons when engaged in the regular course of their respective businesses and professions:

(i) An attorney at law who is admitted to the Maryland Bar while the attorney at law is providing professional legal services in an attorney–client relationship;

(ii) An escrow agent;

(iii) A certified public accountant;

(iv) A banking institution, other–state bank, national banking association, credit union, or savings and loan association;

(v) A person that:

1. Provides a bill payer service, as defined in § 12–401 of this title;

2. Does not initiate any contract with individual creditors of a debtor to compromise a debt or arrange a new payment schedule; and

3. Does not provide any debt counseling services;

(vi) A person that provides an accelerated mortgage payment service, as defined in § 12–401 of this title;

(vii) A title insurer, title insurance agency, or abstract company; or

(viii) A judicial officer or a person acting under a court order;

(2) A person while performing services incidental to the dissolution, winding up, or liquidation of a partnership, corporation, or other business enterprise;

(3) A trade or mercantile association acting in the course of arranging the adjustment of debts with a business establishment;

(4) (i) A mortgage lender, as defined in § 11–501 of this article:

1. That is licensed by the Commissioner; and

2. While engaged in the mortgage lending business, as defined in § 11–501 of this article; or

(ii) An employee of a mortgage lender; or

(5) A collection agency, as defined in § 7–101 of the Business Regulation Article:

(i) That is licensed by the State Collection Agency Licensing Board; and

(ii) While engaged in the collection agency business, as defined in § 7–101 of the Business Regulation Article.

§12–1004. IN EFFECT

// EFFECTIVE UNTIL JUNE 30, 2016 PER CHAPTERS 276 AND 277 OF 2014 //

A person may not offer, provide, or attempt to provide debt settlement services unless the person:

(1) Is registered with the Commissioner under this subtitle; or

(2) Is exempt from registration under this subtitle.

§12–1005. IN EFFECT

// EFFECTIVE UNTIL JUNE 30, 2016 PER CHAPTERS 276 AND 277 OF 2014 //

To carry out the provisions of this subtitle, the Commissioner may:

(1) Adopt regulations;

(2) Enter into cooperative and information sharing agreements with any federal or State regulatory agency having authority over debt settlement services providers; and

(3) Exchange information about a debt settlement services provider, including information obtained during an examination, with any federal or State regulatory agency having authority over the debt settlement services provider.

§12–1006. IN EFFECT

// EFFECTIVE UNTIL JUNE 30, 2016 PER CHAPTERS 276 AND 277 OF 2014 //

A person registering as a debt settlement services provider with the Commissioner under this subtitle shall pay to the Commissioner a nonrefundable fee in the amount of:

(1) $1,000 for the issuance of a registration under this subtitle; and

(2) $1,000 for the renewal of a registration under this subtitle.

§12–1007. IN EFFECT

// EFFECTIVE UNTIL JUNE 30, 2016 PER CHAPTERS 276 AND 277 OF 2014 //

All fees collected by the Commissioner under this subtitle shall be:

(1) Deposited in the Debt Management Services Fund established under § 12–905 of this title; and

(2) Used to cover the costs and expenses incurred by the Commissioner that are related to the registration of debt settlement services providers.

§12–1008. IN EFFECT

// EFFECTIVE UNTIL JUNE 30, 2016 PER CHAPTERS 276 AND 277 OF 2014 //

(a) To apply for a registration, an applicant shall submit to the Commissioner an application on the form that the Commissioner provides.

(b) The application shall include:

(1) The applicant's legal name, trade name, if any, main office address, telephone number, electronic mail address, if any, and Web site address, if any;

(2) The name, address, and telephone number of the applicant's designated contact for receipt of complaints;

(3) The name, address, and telephone number of the applicant's resident agent in the State; and

(4) Any other information that the Commissioner reasonably requires.

§12–1009. IN EFFECT

// EFFECTIVE UNTIL JUNE 30, 2016 PER CHAPTERS 276 AND 277 OF 2014 //

(a) A registration issued under this subtitle expires on December 31 of each odd–numbered year unless the registration is renewed for a 2–year term as provided in subsection (b) of this section.

(b) On or before December 1 of the year of expiration, a registration may be renewed for a 2–year term if the registrant:

(1) Otherwise is entitled to be registered;

(2) Pays to the Commissioner the renewal fee established under § 12–1006 of this subtitle; and

(3) Submits to the Commissioner a renewal application on the form that

the Commissioner requires.

(c) A registration or a renewal of a registration with an expiration date of December 1, 2015, shall automatically extend and expire on June 1, 2016, without payment of an additional fee or submission of an application.

§12–1010. IN EFFECT

// EFFECTIVE UNTIL JUNE 30, 2016 PER CHAPTERS 276 AND 277 OF 2014 //

(a) Except as allowed under this subtitle, a registrant may not offer, provide, or attempt to provide debt settlement services in the State.

(b) (1) A registrant may charge a consumer a debt settlement services fee as provided under this section.

(2) A registrant may not:

(i) Charge a consumer a fee for consultation or for obtaining a consumer's credit report; or

(ii) Require a voluntary contribution from a consumer for any service provided by the registrant.

(c) Except as provided under subsection (d) of this section, a registrant may not charge a consumer a debt settlement services fee until after:

(1) A debt settlement services agreement has been executed between the registrant and the consumer;

(2) The registrant has renegotiated, settled, reduced, or otherwise altered the terms of at least one individual debt specified in the debt settlement services agreement; and

(3) The consumer has made at least one payment in accordance with the debt settlement services agreement.

(d) Subsection (c) of this section does not prohibit a registrant from requesting or requiring a consumer to deposit funds in an account to be used for debt settlement services fees and for payments to creditors or debt collectors in connection with a debt settlement services agreement, provided that:

(1) The funds are held in an account at an insured financial institution, as defined in § 1–101 of this article;

(2) The consumer owns the funds held in the account, including any accrued interest;

(3) The financial institution or entity administering the account is not

owned or controlled by, or in any way affiliated with, the registrant;

(4) The financial institution or entity administering the account does not pay or accept any money or other compensation in exchange for referrals of business involving the registrant, but may charge account related fees; and

(5) If the consumer requests to withdraw from the debt settlement services agreement, within 7 days after the consumer's request, all funds in the account, including accrued interest, less any debt settlement services fees earned by the registrant in compliance with this section, are paid to the consumer.

(e) (1) Subject to paragraph (2) of this subsection, for each individual debt, a debt settlement services fee shall:

(i) Bear the same proportional relationship to the debt settlement services fee for settling the total debt as the individual debt amount bears to the total debt; or

(ii) Be calculated as a percentage of the amount by which the principal amount of the debt exceeds the amount paid to the creditor or debt collector to settle the debt.

(2) The percentage charged under paragraph (1)(ii) of this subsection shall be the same for each individual debt.

(f) (1) A registrant shall allow a consumer to withdraw from a debt settlement services agreement at any time.

(2) If a consumer withdraws from the debt settlement services agreement, the registrant:

(i) May not charge the consumer a penalty; and

(ii) May collect debt settlement services fees earned by the registrant in compliance with this section.

§12–1011. IN EFFECT

// EFFECTIVE UNTIL JUNE 30, 2016 PER CHAPTERS 276 AND 277 OF 2014 //

A registrant may not misrepresent any material aspect of any debt settlement service.

§12–1012. IN EFFECT

// EFFECTIVE UNTIL JUNE 30, 2016 PER CHAPTERS 276 AND 277 OF 2014 //

(a) A debt settlement services agreement shall:

(1) Be signed and dated by the registrant and the consumer; and

(2) Include, in at least 12 point type:

(i) The name, address, and telephone number of the consumer;

(ii) The name, address, and telephone number of the registrant;

(iii) A description of the debt settlement services to be provided to the consumer;

(iv) 1. Any debt settlement services fees to be charged to the consumer; and

2. A statement that the registrant may not:

A. Charge the consumer a fee for consultation or for obtaining a consumer's credit report; or

B. Require a voluntary contribution from the consumer for any service provided by the registrant;

(v) The identity of each individual creditor or debt collector whose debts are included in the debt settlement services agreement and the principal amount of the debt owed to each individual creditor or debt collector;

(vi) The principal amount of the total debt included in the debt settlement services agreement;

(vii) A good faith estimate of the amount of time necessary to achieve the represented results;

(viii) To the extent that the debt settlement services may include a debt settlement offer to any of the consumer's creditors or debt collectors, a good faith estimate of:

1. The time by which the registrant will make a bona fide debt settlement offer to each of them; and

2. The amount of money or percentage of each debt that the consumer must accumulate before the registrant will make a bona fide debt settlement offer to each of them;

(ix) A statement that:

1. The consumer may withdraw from the debt settlement services agreement at any time; and

2. If a consumer withdraws from the debt settlement services

agreement, the registrant:

A. May not charge a penalty; and

B. May collect debt settlement services fees earned by the registrant;

(x) If the registrant requests or requires the consumer to deposit funds in a dedicated account, a statement that:

1. The consumer owns the funds held in the account, including any accrued interest; and

2. If the consumer requests to withdraw from the debt settlement services agreement, within 7 days after the request, all funds in the account, including accrued interest, less any debt settlement services fees earned by the registrant in compliance with § 12–1010 of this subtitle, must be paid to the consumer; and

(xi) A statement that the consumer may be required to pay taxes on the amount by which the consumer's debt is reduced.

(b) The disclosures required under subsection (a)(2)(vii) through (xi) of this section shall be provided to the consumer in a clear and conspicuous manner in the debt settlement services agreement.

§12–1013. IN EFFECT

// EFFECTIVE UNTIL JUNE 30, 2016 PER CHAPTERS 276 AND 277 OF 2014 //

An advertisement for debt settlement services shall include clearly and conspicuously a disclosure that, to the extent that any aspect of the debt settlement services relies on or results in the consumer's failure to make timely payments to the consumer's creditors or debt collectors, the use of the debt settlement services:

(1) Will likely adversely affect the consumer's creditworthiness;

(2) May result in the consumer being subject to collections or being sued by creditors or debt collectors; and

(3) May increase the amount of money the consumer owes due to the accrual of fees and interest by creditors or debt collectors.

§12–1014. IN EFFECT

// EFFECTIVE UNTIL JUNE 30, 2016 PER CHAPTERS 276 AND 277 OF 2014 //

(a) A registrant that establishes a dedicated account in accordance with § 12–1010(d) of this subtitle shall file a surety bond with the Commissioner at the time

the dedicated account is established.

(b) A surety bond filed under this section shall:

(1) Run to the Commissioner for the benefit of any consumer who is injured by a violation of this subtitle committed by a registrant;

(2) Be in the amount of $50,000;

(3) Be issued by a bonding, surety, or insurance company that is authorized to do business in the State; and

(4) Be conditioned so that the registrant shall comply with all State and federal laws and regulations governing the business of providing debt settlement services.

(c) If the amount of the surety bond initially filed with the Commissioner must be increased to meet the minimum requirements under subsection (b)(2) of this section, the registrant shall file with the Commissioner evidence of the increased bond amount in a form satisfactory to the Commissioner.

§12–1015. IN EFFECT

// EFFECTIVE UNTIL JUNE 30, 2016 PER CHAPTERS 276 AND 277 OF 2014 //

(a) On or before March 15 of each year, a registrant shall report to the Commissioner on the debt settlement services business of the registrant conducted during the preceding calendar year.

(b) The annual report shall be on the form that the Commissioner requires.

§12–1016. IN EFFECT

// EFFECTIVE UNTIL JUNE 30, 2016 PER CHAPTERS 276 AND 277 OF 2014 //

A violation of this subtitle is:

(1) An unfair or deceptive trade practice within the meaning of Title 13 of the Commercial Law Article; and

(2) Subject to the enforcement and penalty provisions of Title 13 of the Commercial Law Article.

§12–1017. IN EFFECT

// EFFECTIVE UNTIL JUNE 30, 2016 PER CHAPTERS 276 AND 277 OF 2014 //

This subtitle may be cited as the Maryland Debt Settlement Services Act.

§13–801.

(a) In this subtitle the following words have the meanings indicated, unless otherwise required by the context.

(b) "Bonds" means any bonds, notes, or other obligations of an issuer, the interest on which is exempt from federal taxation under the Code and the tax-exempt status of which is subject to the volume limitation established under § 146 of the Code.

(c) "Code" means the Internal Revenue Code of 1986, as amended, and the applicable regulations thereunder.

(d) "Community Development Administration" means that division of the Department of Housing and Community Development established under Title 4, Subtitle 2 of the Housing and Community Development Article.

(e) "County" means any county in the State of Maryland and the City of Baltimore.

(f) "Housing bonds" means any "qualified mortgage bonds" and bonds for any "qualified residential rental project" as those terms are defined in the Code.

(g) "Issuer" means any State issuer or local issuer.

(h) "Local issuer" means any county, municipality, or industrial development authority established under Title 12, Subtitle 1 of the Economic Development Article, or other agency with authority to issue bonds, other than a State issuer.

(i) "Maryland State ceiling" means the volume limitation established pursuant to § 146 of the Code on the aggregate dollar amount of bonds that may be issued by State and local issuers in any calendar year.

(j) "Minority business enterprise" means the minority business enterprises as defined in § 14-301 of the State Finance and Procurement Article.

(k) "Municipality" means any municipal corporation subject to the provisions of Article XI-E of the Maryland Constitution.

(l) "Secretary" means the Secretary of Business and Economic Development.

(m) "Secretary's reserve" means the allocation of the Maryland State ceiling initially made under § 13-802(4) of this subtitle and augmented under § 13-805 of this subtitle.

(n) "State issuer" means the State of Maryland or any agency of the State of Maryland with authority to issue bonds.

§13–802.

The Maryland State ceiling shall be initially allocated for the period from the first day of each calendar year through September 30 of the same year, as follows:

(1) (i) There is allocated to the counties a total of 50 percent of the Maryland State ceiling, consisting of 35 percent of the Maryland State ceiling designated initially for the issuance of housing bonds and 15 percent of the Maryland State ceiling designated for the issuance of bonds other than housing bonds.

(ii) The allocation to each county for housing bonds shall equal 35 percent of the Maryland State ceiling multiplied by a fraction, the numerator of which is the population of the county and the denominator of which is the population of the State of Maryland.

(iii) The allocation to each county for bonds other than housing bonds shall be composed of:

1. A minimum allocation equal to 12 percent of the Maryland State ceiling multiplied by a fraction, the numerator of which is the population of the county and the denominator of which is the population of the State of Maryland; and

2. A bonus allocation equal to 3 percent of the Maryland State ceiling multiplied by a fraction, the numerator of which shall be the average issuance of bonds other than housing bonds by the county for the immediately preceding 3 calendar years, and the denominator of which shall be the average issuance of bonds other than housing bonds by all counties for the immediately preceding 3 calendar years.

(iv) Any county may redesignate any portion of its housing bond allocation for the issuance of any other bonds for which an allocation is required under the Code if such redesignation is approved by the mayor, county executive, or board of county commissioners. Any transfer by a county of any portion of its housing bond allocation under this subtitle shall be conditioned upon its use by the transferee for housing bonds.

(v) No portion of the allocation to each county for other than housing bonds may be used for the issuance of housing bonds.

(2) (i) There is allocated to the Secretary for reallocation to municipalities 2.5 percent of the Maryland State ceiling. The Secretary shall process requests for allocations to municipalities in the order in which completed requests are received by the Secretary.

(ii) A completed request from a municipality shall include:

1. Evidence that the municipality has complied with the requirements for public notice, public hearing, and public approval established by the Code;

2. A copy of a letter from bond counsel for such proposed issue to the effect that an allocation would be necessary in order to issue such bonds as tax exempt under the Code; and

3. Any other information as the Secretary may require.

(iii) Any reservation of allocation pursuant to this paragraph shall remain effective until the earlier to occur of:

1. Receipt of notice to the Secretary from the municipality withdrawing its request for an allocation;

2. The end of the 60th calendar day following the date on which the reservation was made without the bonds having been issued, except that the Secretary, for good cause shown, may extend the expiration date for any such reservation of allocation; and

3. September 30 of the calendar year in which the reservation was issued without the bonds having been issued by such date.

(iv) Upon the issuance of any bonds pursuant to a reservation of allocation which remains effective on the date of such issuance, the reservation shall automatically convert to an allocation under this section.

(3) There is allocated to the Community Development Administration 25 percent of the Maryland State ceiling for the issuance of housing bonds.

(4) (i) There is allocated to the Secretary for the Secretary's reserve 22.5 percent of the Maryland State ceiling for use in accordance with this paragraph. The Secretary may at any time make any allocation of a portion of the Secretary's reserve to any State issuer or local issuer in any amount and in any order that the Secretary, in the Secretary's sole discretion, may determine will advance one or more of the goals described in subparagraph (iii) of this paragraph.

(ii) In making allocations from the Secretary's reserve, preference shall be given to projects of State issuers that advance one or more of the goals described in subparagraph (iii) of this paragraph.

(iii) The goals to be advanced by the issuance of bonds requiring allocations under this paragraph are:

1. Increasing the supply, quality, and geographic distribution of housing for low–income persons;

2. Expanding opportunities for homeownership;

3. Creating significant job opportunities;

4. Locating job–creating facilities in enterprise zones or areas of high unemployment, urban redevelopment, or planned unit development;

5. Reducing, recycling, or treating solid or hazardous wastes;

6. Assisting in the expansion or modernization of existing Maryland industry and the attraction of new and diverse firms to Maryland;

7. Promoting the health, safety, education, or welfare of the citizens of Maryland; and

8. Providing opportunities for minority business enterprise as borrower, lessee, or contractor or subcontractor for construction, services, or supplies.

(iv) Any application to the Secretary for an allocation from the Secretary's reserve shall describe how the project to be funded by the issuance of the bonds would advance one or more of the goals described in subparagraph (iii) of this paragraph and shall include such other information as the Secretary may require. In processing applications for allocations and in reserving allocations, the Secretary may give a preference for projects that demonstrate readiness to proceed.

(v) Upon the issuance of any bonds pursuant to a reservation of allocation under this paragraph which remains effective on the date of such issuance, such reservation shall automatically convert to an allocation pursuant to this section.

(vi) Except in the case of allocations to municipalities under paragraph (2) of this section, the Secretary may require any local issuer, other than a county, to submit a request for an allocation of the Maryland State ceiling to or through a county.

§13–803.

(a) Except as specifically provided in this section, an issuer receiving an allocation under this section may not transfer all or any portion of its allocation to any other issuer.

(b) (1) Any county may, at any time in its sole discretion, reallocate all or any portion of its allocation to any local issuer (including any agency of the county) within its jurisdiction.

(2) Any county which has reallocated all or any portion of its allocation to a local issuer may reduce or further reallocate such reallocation after 30 days' prior written notice to, or after receiving the consent of, such local issuer, unless such local issuer has used such reallocation for the issuance of bonds prior to the effective date of such reduction or further reallocation.

(c) (1) Notwithstanding any applicable law, charter, ordinance, or other corporate document, any issuer receiving an allocation may transfer all or any portion

of its allocation to a State issuer for the issuance of bonds.

(2) With the approval of the Secretary, any State issuer may transfer to any other issuer all or any portion of any allocation received by or transferred to it for any purpose. However, the Secretary may place any conditions on any such transfer as the Secretary deems appropriate.

(3) Any housing bond allocation transferred to the Community Development Administration by a local issuer may be transferred to any other issuer only with the approval of the Secretary and the local issuer that transferred the allocation to the Community Development Administration.

§13–804.

(a) On September 15 of each calendar year, each issuer shall submit a report, approved in writing by its bond counsel, to the Secretary containing the following information:

(1) The amount of the total allocation of the Maryland State ceiling allocated in that year to the issuer prior to September 15;

(2) The amount and type of bonds issued in that year pursuant to the total allocation to the issuer in that year;

(3) The amount and type of bonds not issued, but anticipated to be issued on or before September 30 of that year, pursuant to the total allocation to the issuer in that year; and

(4) Any other information that the Secretary may request.

(b) (1) Each issuer shall file with the Secretary a copy of each executed information report required by § 149(e)(2) of the Code to be filed with the federal Internal Revenue Service.

(2) Each such information report shall be filed by the earlier of 10 business days following the date of the issuance of the bonds or December 30 of the calendar year in which the bonds are issued. The Secretary may grant an extension of time for the filing of any such information report.

(3) Any bonds for which such executed information report is not filed with the Secretary in accordance with this subsection shall be deemed not to have received an allocation of the Maryland State ceiling.

(c) Each issuer shall provide the Secretary with such additional reports and other information regarding its allocation of the Maryland State ceiling and the use thereof as the Secretary may request.

§13–805.

(a) All allocations of the Maryland State ceiling previously made during any calendar year shall automatically revert to the Secretary's reserve on October 1 of such calendar year except with respect to allocations for which:

(1) Bonds have been issued;

(2) With the approval of the issuer, a preliminary official statement has been distributed by the underwriters in connection with the public offering of any bonds; or

(3) The issuer has transferred its allocation to a State issuer under § 13-803(c) of this subtitle.

(b) All allocations of the Maryland State ceiling for bonds to be issued in a public offering which did not revert to the Secretary's reserve on October 1 because of subsection (a)(2) of this section shall revert to the Secretary's reserve on November 15 of the same year if the bonds are not issued on or before November 14 of such year.

(c) The unused balance of the initial allocation to the Community Development Administration under § 13-802(3) of this subtitle shall be reallocated from the Secretary's reserve to the Community Development Administration.

(d) (1) All other allocations that have reverted to the Secretary's reserve shall be reallocated as provided in § 13-802(4) of this subtitle. The Secretary may also give priority in processing and granting reservations of allocation from the Secretary's reserve to the order in which requests for reallocation are received.

(2) No reallocation of the Secretary's reserve as provided in § 13-802(4) of this subtitle may be made until notice as to the availability and amount of funds has been given to each county executive of a charter county, the Mayor and City Council of Baltimore, the Chairman of the County Council of Wicomico County, and, for all other counties, the president or the chairman of the county commissioners. The failure of any such notice being given as required by this paragraph may not adversely affect the validity of any allocation made by the Secretary under this subtitle or of any bonds issued pursuant to this subtitle.

(3) Each request for reallocation shall be accompanied by such information as the Secretary may require.

(4) Each reservation of allocation made by the Secretary on or after October 1 of any year shall expire on the date specified in the reservation.

(e) (1) An issuer which has received an allocation from the Maryland State ceiling prior to October 1 of any year may not carry forward such allocation to any later year.

(2) All requests for a carry-forward allocation shall be submitted to the Secretary with such justifications and other information as the Secretary may require.

(3) The Secretary may provide for carry-forward allocations to the extent permitted by the Code.

§13–806.

(a) (1) The recipients of the proceeds of bonds shall make best efforts to use minority business enterprises in the construction of projects and the provision of services and supplies financed with such proceeds.

(2) State and local issuers shall monitor compliance with this requirement.

(b) The Secretary may provide guidance in connection with the efforts of such recipients to use minority business enterprises. Such recipients shall provide any information on their efforts to the issuer or to the Secretary that the issuer or the Secretary may request.

(c) (1) Any failure to comply with the provisions of this subtitle does not in any way affect the validity of any bonds issued pursuant to an allocation from the Maryland State ceiling under this subtitle or the tax-exempt status of any such bonds under the Code, including the tax-exempt status of interest on such bonds under the Code.

(2) Any failure to comply with the provisions of this subtitle may be taken into consideration by the Secretary in making allocations from the Secretary's reserve under §§ 13-802(4) and 13-805(d) of this subtitle.

§13–807.

(a) (1) The Secretary may make any and all allocations, apportionments, determinations, and findings required or permitted by this subtitle.

(2) Any allocations, apportionments, determinations, and findings of the Secretary shall be made in the Secretary's sole and absolute discretion, subject to the provisions of this subtitle, shall be conclusive, and are not subject to review or approval under either the Maryland Administrative Procedure Act or any other law of the State of Maryland or by any agency or political subdivision of the State of Maryland.

(b) At the request of any issuer or its bond counsel made in connection with the issuance of any bonds, and in order to show compliance with the requirements of the Code, the Secretary or such person as the Secretary shall designate by written order may issue such certifications as may be reasonably required in order to establish the existence of a valid allocation for the proposed bond issuance and to establish that the Maryland State ceiling has not been exceeded, and the Secretary or such person designated by the Secretary in accordance with this subsection shall be the State official designated by State law for the purpose of certifying in connection with the information

report required by § 149 of the Code that the bonds included in an issue meet the requirements of § 146 of the Code.

(c) The actual dollar amount of all allocations shall be determined by the Secretary. Allocations to issuers of the Maryland State ceiling under § 13-802 of this subtitle shall be based on the most recent census estimate of the resident populations of the State of Maryland and the counties released by the U.S. Bureau of the Census before January 1 of the year in which the allocations are made, as determined by the Secretary.

§13–1001.

(a) In this subtitle the following words have the meanings indicated.

(b) "Authority" means the Canal Place Preservation and Development Authority.

(c) "Bonds" means taxable or tax–exempt bonds, including refunding bonds, bond anticipation notes, notes in the nature of commercial paper, certificates, or any other evidence of obligation issued by the Authority.

(d) "Fund" means the Canal Place Preservation and Development Authority Financing Fund established under § 13–1017 of this subtitle.

(e) "Heritage Area" means the Canal Place Heritage Area, initially known as the Canal Place Historic Preservation District, the boundaries of which are described:

(1) In the addendum of January 1993, entitled "The Canal Place Historic Preservation District", to the report of May 1992 of the Maryland State Highway Administration entitled "The Canal Parkway Development – Station Square Project"; and

(2) In any revisions that are:

(i) Made by the Authority under § 13–1008(8) or (10) of this subtitle; and

(ii) Approved by the Maryland Heritage Areas Authority in accordance with § 13–1111 of this title.

(f) "Local jurisdiction" means:

(1) Any of the 23 counties of the State;

(2) The City of Baltimore; or

(3) Any municipal corporation subject to the provisions of Article XI–E of the Maryland Constitution.

(g) "Maryland Heritage Areas Authority" means the Maryland Heritage Areas Authority created under Subtitle 11 of this title.

(h) "Park corridor" means the land area within the Heritage Area the boundaries of which are described:

(1) In the report of May 1992 of the Maryland State Highway Administration entitled "The Canal Parkway Development – Station Square Project"; and

(2) In any revision that the Authority makes under § 13–1008(8) of this subtitle to the report of May 1992 of the Maryland State Highway Administration entitled "The Canal Parkway Development – Station Square Project".

§13–1002.

The General Assembly makes the following findings:

(1) The Chesapeake and Ohio Canal is one of the great historic waterways of the United States extending 185 miles from Georgetown in the District of Columbia to its western terminus in Cumberland, Maryland;

(2) The current physical condition of the Chesapeake and Ohio Canal in the City of Cumberland is one of severe deterioration with the last mile of the canal buried under a flood control project during the 1950s;

(3) An opportunity now exists to rediscover the value of this waterway by transforming the canal and adjacent areas to a showpiece of historic preservation that will enhance recreational, commercial, civic, transportation, educational, and ecological values;

(4) It is in the interest of the State, the local jurisdictions within and surrounding the Heritage Area, and the United States that the Heritage Area be preserved, developed, maintained, and used in a manner suitable to its significance, including the historic and cultural significance of the western terminus of the historic Chesapeake and Ohio Canal;

(5) To ensure suitable preservation, development, maintenance, and use of the Heritage Area, it is essential that there be developed and carried out a management plan for the Heritage Area as an entirety that will specify:

(i) The uses, both public and private, for the buildings, structures, and other property in the Heritage Area and any necessary acquisitions, construction, recreation, and other activities; and

(ii) The programming and financing for the rewatering of the Chesapeake and Ohio Canal;

(6) The responsibility for developing and implementing a management plan for the Heritage Area can best be carried out by vesting the requisite powers in a public corporation that can take maximum advantage of the public and private resources necessary to ensure success of the management plan; and

(7) Any management plan for the development of the Heritage Area should be prepared and implemented in cooperation with the United States Department of the Interior.

§13–1003.

This subtitle:

(1) Shall be liberally construed to effect its purposes; but

(2) May not be construed to be inconsistent with any applicable federal law or with the authority of any federal agency under that law.

§13–1004.

(a) There is a body corporate and politic known as the Canal Place Preservation and Development Authority.

(b) The Authority is an instrumentality of the State and a public corporation by that name, style, and title.

(c) The Authority is an independent unit in the Executive Branch of the State government.

(d) The exercise by the Authority of the powers conferred by this subtitle is the performance of an essential public function.

§13–1005.

(a) The Authority consists of:

(1) Six members appointed by the Governor with the advice and consent of the Senate;

(2) One representative of the United States Department of the Interior, as designated by the Department of the Interior;

(3) One representative of the Maryland Historical Trust; and

(4) One representative of the Mayor and City Council of the City of Cumberland.

(b) The Governor shall designate one of the members of the Authority as chairman.

(c) (1) The term of a member is 4 years.

(2) The terms of members appointed by the Governor are staggered as required by the terms of the members serving on July 1, 2001.

(3) At the end of a term, a member continues to serve until a successor is appointed and qualifies.

(4) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies.

(5) At the end of the term of a member or on the resignation or removal of a member, the Governor shall appoint a member to the Authority with the advice and consent of the Senate.

(d) The Governor may remove a nonfederal member for incompetence, misconduct, or failure to perform the duties of the position.

§13–1006.

(a) Five members of the Authority are a quorum.

(b) Actions of the Authority must receive the affirmative vote of at least four members.

(c) The Authority shall determine the times and places of its meetings.

(d) A member of the Authority:

(1) May not receive compensation; but

(2) Is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

§13–1007.

(a) With the approval of the Governor, the Authority shall appoint an Executive Director, who is the Chief Administrative Officer and Secretary of the Authority.

(b) The Executive Director serves at the pleasure of the Authority, subject to the concurrence of the Governor.

(c) The Executive Director shall:

(1) Direct and supervise the administrative affairs and activities of the Authority in accordance with its regulations and policies;

(2) Attend all meetings of the Authority;

(3) Keep minutes of all proceedings of the Authority;

(4) Approve:

(i) All accounts for salaries, per diem payments, and allowable expenses of the Authority and its employees and consultants; and

(ii) All expenses incidental to the operation of the Authority;

(5) Report and make recommendations to the Authority on the merits and status of any management plan for the Heritage Area; and

(6) Perform any other duty that the Authority requires for carrying out the provisions of this subtitle.

§13–1008.

In addition to the powers set forth elsewhere in this subtitle, the Authority may:

(1) Adopt and alter an official seal;

(2) Sue and be sued, plead, and be impleaded;

(3) Adopt bylaws to regulate its affairs and the conduct of its business;

(4) In accordance with Title 10, Subtitle 1 of the State Government Article, adopt regulations to carry out the provisions of this subtitle;

(5) Maintain an office at a place that the Authority designates;

(6) Employ, either as regular employees or as independent contractors, and fix the compensation of, accountants, architects, attorneys, construction experts and personnel, consultants, engineers, financial experts, managers, superintendents, and other professional personnel, personnel, and agents;

(7) Appoint advisory committees composed of local officials, representatives of the business community, and such other interests as may be appropriate;

(8) Subject to the requirements of this subtitle, adopt and implement a management plan for the Heritage Area;

(9) Determine the locations of, develop, establish, construct, erect, acquire, own, repair, remodel, add to, extend, improve, equip, rewater, operate, regulate, and maintain, and contribute to the maintenance and operating costs of land, water, buildings, and structures to accomplish the purposes of the Authority;

(10) By publishing a revised drawing or other boundary description in the Maryland Register, revise the boundaries of the Heritage Area or the park corridor with

the consent of:

(i) The governing body of each local jurisdiction which in whole or in part is to be added to or deleted from the Heritage Area; and

(ii) The Maryland Heritage Areas Authority;

(11) Subject to § 13-1009 of this subtitle, acquire, hold, lease, use, encumber, transfer, or dispose of real and personal property;

(12) Provide or contract to provide tourism marketing and promotional services for the Canal Place Heritage Area, and provide financial assistance for tourism marketing and promotion in Allegany County and its municipal jurisdictions, if the expenditures by the Authority for those purposes are matched equally with nonstate funds;

(13) Enter into contracts of any kind and execute all instruments necessary or convenient to carry out its powers under this subtitle;

(14) Make and participate in making loans or grants, or otherwise provide financial assistance for any project that serves to preserve, develop, maintain, or protect the Heritage Area;

(15) Through covenants, regulations, agreements, or otherwise, establish restrictions, standards, and requirements necessary to assure preservation, development, maintenance, and protection of the Heritage Area in accordance with a management plan that the Authority adopts;

(16) Fix and revise from time to time and charge and collect rates, rents, fees, or other charges for the use of, or for services rendered in connection with, buildings, structures, land, and water to accomplish the purposes of the Authority;

(17) (i) Borrow money from any source for any corporate purpose, including working capital for its operations, reserve funds, or interest;

(ii) Mortgage, pledge, or otherwise encumber the property and funds of the Authority; and

(iii) Contract with or engage the services of any person for any financing, including underwriters, placement agents, financial institutions, issuers of letters of credit, or insurers;

(18) Subject to Part III of this subtitle, issue bonds;

(19) Receive and accept from any public or private source contributions, gifts, or grants of money or property;

(20) Exercise all the corporate powers granted Maryland corporations

under the Maryland General Corporation Law; and

(21) Do all things necessary or convenient to carry out the powers granted by this subtitle.

§13–1008.1.

(a) The Authority may adopt and enforce regulations for the parking of motor vehicles in and on any facilities or property the Authority owns or controls.

(b) The regulations shall:

(1) Be reasonably necessary for the efficient operation of facilities or property owned or controlled by the Authority;

(2) Provide for a uniform system for accessible parking for individuals with disabilities, to enhance the safety of individuals with disabilities in conformity with the federal Uniform System for Parking for Persons with Disabilities and the federal Americans with Disabilities Act accessibility guidelines for buildings and facilities; and

(3) Include procedures for the voluntary payment of fines directly to the Authority in uncontested parking cases.

(c) The Maryland State Police or the Police Department of the City of Cumberland may issue citations for violations of the regulations adopted under this section.

(d) The issuance of citations under this section shall comply with the requirements of Title 26, Subtitle 3 of the Transportation Article.

(e) (1) A person who violates a parking regulation under this section is subject to a fine established by the Authority in accordance with paragraph (2) of this subsection.

(2) The Authority shall adopt regulations to establish fines that are equal to the fines that the City of Cumberland, by ordinance, may impose for similar parking violations.

(f) All regulations adopted under this section shall be posted conspicuously in a public place on facilities or property owned or controlled by the Authority.

(g) The Executive Director of the Authority may designate employees of the Authority or security personnel under contract with the Authority to issue citations, to the extent authorized by the Executive Director of the Authority, for violations of motor vehicle parking regulations adopted under this section.

(h) The Executive Director of the Authority, in consultation with the chief police officer of the Maryland State Police and the Maryland Police Training Commission,

shall adopt regulations establishing:

(1) Qualifications for individuals appointed under subsection (g) of this section, which may include prerequisites of character, training, experience, and education; and

(2) Standards for the performance of the duties assigned to individuals appointed under subsection (g) of this section.

§13–1009.

(a) This section does not affect the right of the Authority to acquire an option or institute any condemnation proceeding for later acquisition of property once the approval required by this section occurs.

(b) (1) Subject to annual appropriations and this subtitle, the Authority may acquire in its own name, by gift, purchase, or condemnation, any real or personal property, or interests in property, necessary or convenient to carry out its responsibilities under this subtitle.

(2) When acquiring in its own name any real or personal property, or interests in property as specified in paragraph (1) of this subsection, the Authority shall first attempt to acquire the property through negotiation and purchase.

(3) If it is not able to acquire property through negotiation and purchase, the Authority may exercise the powers of condemnation for private property, as provided in subsection (c) of this section.

(c) Subject to subsection (b) of this section, prior approval of the Board of Public Works, and review by the Legislative Policy Committee, the Authority may exercise the power of ordinary condemnation for any private property for any purpose of the Authority:

(1) In accordance with Title 12 of the Real Property Article; and

(2) In the park corridor only.

(d) (1) Subject to the prior approval of the Board of Public Works:

(i) The State, its agencies, and any local jurisdiction within the Heritage Area may lease, lend, grant, or otherwise convey to the Authority, at its request, any property or interest therein, including property devoted to public use, that is necessary or convenient for the purposes of this subtitle; or

(ii) The State may lease or sublease any property or interest therein from or to the Authority, whether or not any building or structure is constructed or usable thereon.

(2) Lease payments appropriated by the State to the Authority shall be transferred to the Fund.

(e) For any acquisition of real or personal property or interest in property in the City of Cumberland or in Allegany County, other than in the park corridor, the Authority shall comply with any applicable local planning, zoning, and development regulations to the same extent as a private commercial or industrial enterprise.

§13–1010.

The Authority shall:

(1) Administer the Heritage Area in accordance with this subtitle;

(2) Subject to § 13-1011 of this subtitle, develop a management plan for the Heritage Area;

(3) Preserve or assist in the preservation of buildings, structures, and settings of historic value in the Heritage Area;

(4) Conduct activities to educate the public about the history and significance of the Heritage Area;

(5) Provide for recreational uses of the Heritage Area for both active and passive pursuits;

(6) Facilitate economic development in the Heritage Area through public and private investment in adaptive reuse, interpretative attractions, or other activities;

(7) To the extent practicable, consult and coordinate its activities with the states of West Virginia and Pennsylvania and appropriate regional entities;

(8) Keep records consistent with sound business practices and accounting records consistent with generally accepted accounting principles;

(9) Cause an audit by an independent licensed certified public accountant to be made of the accounts and transactions of the Authority at the conclusion of each fiscal year;

(10) Be subject to audit and examination at any reasonable time by the Office of Legislative Audits of the Department of Legislative Services concerning the accounts and transactions of the Authority; and

(11) For inclusion for informational purposes in the State budget book, submit annually to the Department of Budget and Management a budget reflecting the operating and capital program of the Authority.

§13–1011.

Subject to § 13-1012 of this subtitle, within 18 months after the date on which the Authority conducts its first meeting, the Authority shall develop and submit to the Maryland Historical Trust a management plan that:

(1) Specifies the goals and objectives for the preservation, development, and management of the Heritage Area;

(2) Provides an inventory of the significant resources in the Heritage Area, including its cultural, historic, and natural resources;

(3) Identifies the types of public and private uses to be accommodated in the Heritage Area;

(4) Describes the educational, interpretative, and recreational programs and projects concerning the Heritage Area;

(5) Describes plans for encouraging and accommodating visitation to and economic development of the Heritage Area;

(6) Provides an economic assessment of the long and short term costs and benefits related to the implementation of the management plan, including an identification of expected sources of funding;

(7) Describes the specific techniques or means for the long term preservation and protection of the significant resources in the Heritage Area, including its cultural, historic, and natural resources;

(8) Describes the public and private organizational structure to be utilized for planning, development, and management of the Heritage Area; and

(9) Provides a schedule for the planning, development, and management of the Heritage Area.

§13–1012.

(a) At least 30 days before submitting a management plan to the Maryland Historical Trust under § 13-1011 of this subtitle, the Authority shall:

(1) Hold a public hearing in the City of Cumberland for the purpose of soliciting public comment; and

(2) Submit the management plan to, and obtain the preliminary approval of, the Mayor and City Council of the City of Cumberland.

(b) (1) At least 30 days before the public hearing required by subsection (a)(1) of this section, the Authority shall notify the Mayor and City Council of the

City of Cumberland of the hearing and advertise the notice in a newspaper of general circulation in the City of Cumberland.

(2) The notice shall include:

(i) A description of the management plan for the Heritage Area; and

(ii) The date, time, and location of the public hearing.

§13–1013.

(a) Within 90 days after receipt from the Authority of a management plan, the Maryland Historical Trust shall approve or disapprove the plan.

(b) (1) Unless the Maryland Historical Trust determines that a management plan would adequately carry out the purposes of this subtitle, it may not approve the management plan.

(2) In considering whether to approve a management plan, the Maryland Historical Trust shall consult with appropriate units of the State government, including the Department of Economic Competitiveness and Commerce, the Department of Natural Resources, and the Department of Planning.

(c) If the Maryland Historical Trust disapproves a management plan, the Trust shall advise the Authority of the reason for the disapproval and provide recommendations for a revision of the plan.

(d) The Maryland Heritage Areas Authority shall approve or disapprove any revisions to an existing management plan for the Heritage Area in accordance with § 13–1111(m) of this title.

§13–1014.

(a) Except as provided in subsection (b) of this section and notwithstanding any power vested in the Authority by this subtitle, the Authority may not make any expenditure until:

(1) The Maryland Historical Trust approves a management plan for the Heritage Area;

(2) The management plan has been adopted by the Authority;

(3) The Mayor and City Council of the City of Cumberland:

(i) Adopt the management plan through formal amendment of the City's comprehensive plan; and

(ii) Enact an ordinance that:

1. Consistent with Title 8 of the Land Use Article, creates a Historic District Commission for portions of the Heritage Area within the City of Cumberland;

2. Provides for membership on the Historic District Commission in accordance with the minimum professional requirements of the United States Department of the Interior for certifying local governments under 36 C.F.R. Part 61;

3. To the extent necessary to meet the requirements of items 1 and 2 of this subparagraph, provides for the appointment of members of the Historic District Commission who are not residents of the City of Cumberland;

4. Requires that within 18 months after the Historic District Commission conducts its first meeting, the Commission shall develop and submit for approval to the Maryland Historical Trust design standards and criteria applicable to all construction, preservation, rehabilitation, and restoration within the portions of the Heritage Area within the City of Cumberland; and

5. Provides that the Historic District Commission review and approve the design of all projects that the City of Cumberland conducts, assists, licenses, or permits that affect properties within the Heritage Area; and

(4) The Authority and the Mayor and City Council of the City of Cumberland execute a memorandum of agreement that specifies detailed policies and procedures for mutual notification and review and consultation regarding their respective actions and undertakings in the Heritage Area.

(b) Before the requirements of subsection (a) of this section occur, the Authority may make expenditures only to:

(1) Support the basic administrative operations of the Authority;

(2) Develop the management plan for the Heritage Area and related preliminary plans; and

(3) Acquire complete or partial interests in, or preserve or assist in the preservation of, properties within the park corridor that:

(i) Are listed on or determined to be eligible for listing on the Maryland Register of Historic Properties; and

(ii) Would be subject to demolition or major alteration in a manner that is inconsistent with the purposes of this subtitle, unless acquired, preserved, or assisted by the Authority.

§13–1015.

The City of Cumberland shall submit to the Authority for review and approval any plan for any activity the City proposes to conduct, assist, license, or permit that will affect property within the park corridor:

(1) After the Authority's adoption of a management plan for the Heritage Area in accordance with this subtitle; and

(2) Before the City implements its plan for the activity.

§13–1016.

For the purpose of reviewing the development of the management plan for the Heritage Area, the Authority shall appoint a task force that includes:

(1) Members of the General Assembly who reside in Allegany County;

(2) A representative of each of:

(i) The Board of County Commissioners of Allegany County;

(ii) The Chesapeake and Ohio Canal National Historical Park Commission;

(iii) The Department of Natural Resources;

(iv) The Maryland Historical Trust;

(v) The Mayor of the City of Cumberland;

(vi) The United States Department of the Interior, as designated by the Department of the Interior;

(vii) The Department of Planning; and

(viii) The State Highway Administration of the Department of Transportation;

(3) Residents and business representatives from the area within and adjacent to the Heritage Area; and

(4) Other representatives as the Authority deems appropriate.

§13–1017.

(a) There is a Canal Place Preservation and Development Authority Financing Fund.

(b) The Authority shall use the Fund as a continuing, nonlapsing, revolving fund for carrying out the purposes of this subtitle. No part of the Fund may revert or be credited to the General Fund or to any other special fund of the State.

(c) The Authority shall place all of the following receipts in the Fund:

(1) Proceeds from the sale of bonds;

(2) Revenues that the Authority collects or receives from any source under this subtitle; and

(3) Any additional revenue, gift, donation, or moneys received or paid to it from any other source authorized by law.

(d) The Authority shall pay all expenses and make all expenditures from the Fund.

(e) (1) The Authority may pledge and charge all or a portion of the receipts of the Fund for the payment of:

(i) Debt service on bonds of the Authority; and

(ii) All reasonable charges and expenses related to borrowing by the Authority and management of the obligations of the Authority.

(2) A pledge made under paragraph (1) of this subsection is effective as provided in § 13-1022 of this subtitle and any applicable resolution of the Authority.

(f) The State Treasurer shall:

(1) Invest and reinvest the Fund in the same manner as State funds; and

(2) Transfer any investment earnings to the credit of the Fund.

§13–1018.

(a) Subject to this part, the Authority may at any time and from time to time issue bonds for any corporate purpose, including the establishment of reserves and the payment of interest.

(b) The Authority:

(1) Shall by resolution authorize any bonds that it issues; and

(2) May secure the bonds by a trust agreement between the Authority and a corporate trustee or trustees, which may be any trust company or bank having the powers of a trust company within or without the State.

(c) The Authority shall notify the Board of Public Works of its intention to issue

bonds up to a stated amount.

§13–1019.

The bonds of any issue shall be payable solely from the property or receipts of the Authority, including, without limitation:

(1) Fees, charges, or other revenues payable to the Authority;

(2) Payments by financial institutions, insurance companies, or others pursuant to letters or lines of credit, policies of insurance, or purchase agreements;

(3) Investment earnings from funds or accounts maintained pursuant to a bond resolution or trust agreement;

(4) Proceeds of refunding bonds; and

(5) Any other source authorized by law.

§13–1020.

The bonds that the Authority issues shall:

(1) Be issued at, above, or below par value, for cash or other valuable consideration, and mature at a time or times, whether as serial bonds or as term bonds or both, not exceeding the maturity date established by the Authority;

(2) Bear interest at the fixed or variable rate or rates determined by the method provided in the resolution or trust agreement;

(3) Be payable at a time or times, in the denominations and form, either coupon or registered or both, and carry the registration and privileges as to conversion and for the replacement of mutilated, lost, or destroyed bonds as the resolution or trust agreement may provide;

(4) Notwithstanding any other law, be deemed a "security" within the meaning of § 8–102 of the Commercial Law Article, whether or not it is either one of a class or a series or by its terms is divisible into a class or series of instruments and negotiable for all purposes although payable from a limited source;

(5) Be payable in lawful money of the United States at a designated place;

(6) Be subject to the terms of purchase, payment, redemption, refunding, or refinancing that the resolution or trust agreement provides;

(7) Be executed by the manual or facsimile signatures of the officers of the Authority designated by the Authority, which signatures shall be valid at delivery even for an officer who has ceased to hold office; and

(8) Be sold in the manner and on the terms determined by the Authority, including private (negotiated) sale and be exempt from §§ 8–206, 8–208, and 8–209 of the State Finance and Procurement Article.

§13–1021.

(a) Any resolution or trust agreement the Authority adopts or enters into under § 13-1018(b) of this subtitle may contain provisions that:

(1) Pledge, assign, or direct the use, investment, or disposition of all or a portion of the receipts of the Authority or all or a portion of the proceeds or benefits of any contract and convey or otherwise secure any property or property rights;

(2) Set aside loan funding deposits, debt service reserves, capitalized interest accounts, cost of issuance accounts, and sinking funds, and regulate, invest, and dispose of these deposits, reserves, accounts, and funds;

(3) Limit the purpose to which or the investments in which the proceeds of sale of any issue of bonds may be applied and restrict the investment of revenues or bond proceeds as deemed necessary, which may include limiting investments to government obligations for which principal and interest are unconditionally guaranteed by the United States;

(4) Limit the issuance of additional bonds and specify the terms on which additional bonds may be issued, secured, and rank on parity with, or be subordinate or superior to, other bonds;

(5) Refund or refinance outstanding bonds;

(6) Establish any procedure concerning the manner in which the terms of any contract with bondholders may be altered or amended, the amount of bonds to which the holders must consent, and the manner in which the holders must consent;

(7) Define the acts or omissions that constitute a default in the duties of the Authority to holders of bonds and provide the rights and remedies of the holders in the event of a default, which may include provisions that restrict individual right of action by bondholders;

(8) Provide for guarantees, pledges of property, letters of credit, or other security, or insurance for the benefit of bondholders; and

(9) Provide for any other matter relating to the bonds that the Authority deems appropriate.

(b) Any provisions under subsection (a) of this section that the Authority includes in a resolution or trust agreement shall be part of the contract with the holders of the bonds.

§13–1022.

(a) A pledge by the Authority of revenues as security for an issue of bonds shall be valid and binding from the time when the documents evidencing the pledge are executed by the Authority.

(b) (1) The revenues that the Authority pledges are immediately subject to the lien of the pledge without any physical delivery or further act.

(2) The lien of any pledge of revenue is valid and binding against any person who has any claim in tort, contract, or otherwise against the Authority, whether or not the person has notice.

(c) In order to perfect the lien on the revenue pledged by the Authority against third persons, a resolution, trust agreement or financing statement, continuation statement, or other instrument that the Authority adopts or enters into need not be filed or recorded in any public record other than the records of the Authority.

§13–1023.

(a) No member of the Authority nor any person executing the bonds shall be liable personally on the bonds or subject to any personal liability by reason of the issuance of the bonds.

(b) Except as otherwise provided by an applicable resolution or trust agreement, a holder of bonds issued under this subtitle, or a trustee acting under a trust agreement entered into under this subtitle, may, by any suitable form of legal proceedings, protect and enforce any rights granted under the laws of this State or by any applicable resolution or trust agreement.

§13–1024.

(a) The Authority may issue bonds to refund any of its bonds then outstanding, including the payment of any redemption premium and any interest accrued or to accrue to the earliest or any subsequent date of redemption, purchase, or maturity of the bonds.

(b) Refunding bonds may be issued:

(1) (i) For the public purposes of realizing savings in the effective costs of debt service, directly or through a debt restructuring; or

(ii) For alleviating impending or actual default; and

(2) In one or more series in an amount in excess of that of the bonds to be refunded.

§13–1025.

(a) The Authority may enter into agreements with agents, banks, insurers, or others for the purpose of enhancing the marketability of, or as a security for, its bonds.

(b) Any financial institution, investment company, insurance company or association, and any personal representative, guardian, trustee, or other fiduciary, may legally invest any moneys belonging to them or within their control in any bonds issued by the Authority.

§13–1026.

The bonds of the Authority, their transfer, the interest payable on them, and any income derived from them, including any profit realized in their sale or exchange, are exempt at all times from every kind of taxation by this State or by any of its political subdivisions, municipal corporations, or public agencies.

§13–1027.

The Authority is exempt:

(1) From the payment of taxes or assessments of any kind;

(2) Except as provided in Title 12, Subtitle 4 and Title 14, Subtitle 3 of the State Finance and Procurement Article, from the provisions of Division II of the State Finance and Procurement Article; and

(3) From the provisions of Division I of the State Personnel and Pensions Article that govern the State Personnel Management System.

§13–1028.

For purposes of applying for, receiving, and entering into agreements in connection with loans, grants, insurance, or other forms of financial assistance, the Authority is a public body within the meaning of the Maryland Industrial Development Financing Authority Act.

§13–1029.

(a) Any unit of the State government that conducts or supports activities affecting the Heritage Area shall:

(1) Consult, cooperate, and, to the maximum extent possible, coordinate its activities with the Authority; and

(2) Conduct or support the activities of the unit in a manner that:

(i) To the maximum extent practicable, is consistent with the management plan established under § 13-1011 of this subtitle; and

(ii) As determined under §§ 5A-325 and 5A-326 of the State Finance and Procurement Article, does not have an adverse effect on the historic resources of the Heritage Area.

(b) A unit of the State government may not issue any license or permit to any person to conduct any activity within the Heritage Area unless the unit determines that the proposed activity:

(1) Will be conducted in a manner that is consistent with the management plan established under § 13-1011 of this subtitle; and

(2) As determined under §§ 5A-325 and 5A-326 of the State Finance and Procurement Article, does not have an adverse effect on the historic resources of the Heritage Area.

§13–1030.

If the Board of Public Works finds that the Authority or the City of Cumberland has failed to make good faith efforts to implement any responsibility under this Act or a management plan for the Heritage Area, the Board may refuse to obligate, expend, or approve any financial commitment on behalf of the Authority.

§13–1031.

This subtitle may be cited as the Canal Place Preservation and Development Authority Act.

§13–1101.

(a) In this subtitle the following words have the meanings indicated.

(b) "Authority" means the Maryland Heritage Areas Authority established under § 13-1103 of this subtitle.

(c) "Bonds" means revenue bonds, including refunding bonds or revenue anticipation notes, issued by the Authority.

(d) "Certified heritage area" means a heritage area designated in accordance with § 13-1111 of this subtitle.

(e) "Fund" means the Maryland Heritage Areas Authority Financing Fund established under § 13-1114 of this subtitle.

(f) "Heritage area" means a developed area of public and private uses that:

(1) Ranges in size from a portion of a county or municipal corporation to a regional area with a special coherence;

(2) Is distinguished by physical and cultural resources which have played

a vital role in the historic life and development of the community and contribute to the public through interpretive, educational, and recreational use;

(3) Is composed of contiguous or noncontiguous geographic areas; and

(4) May include traditional parks and historic places or property on the national or State register of historic properties.

(g) (1) "Local plan" means the policies, statements, goals, and interrelated plans for private and public land use, transportation, and community facilities documented in texts and maps which constitute the guide for the area's future development.

(2) "Local plan" includes a general plan, master plan, comprehensive plan, community plan, and the like as adopted in accordance with Title 1, Subtitle 4 or Title 3 of the Land Use Article.

(h) "Management plan" means a document prepared in accordance with § 13-1111 of this subtitle that includes a comprehensive statement in words, maps, illustrations, or other media of communication of the objectives, policies, and standards to guide public and private action for the preservation, interpretation, development, and use of the cultural, historic, natural, and architectural resources of a certified heritage area.

(i) "Recognized heritage area" means a heritage area that:

(1) The local jurisdictions within the heritage area have nominated for designation as a recognized heritage area under § 13-1110 of this subtitle; and

(2) The Heritage Areas Authority has designated as eligible to apply for designation as a certified heritage area under § 13-1111 of this subtitle.

(j) "Target investment zone" means a specific area:

(1) Located within a certified heritage area;

(2) Identified in a management plan approved by the Authority or through a process specified by the Authority; and

(3) Intended to attract significant private investment to the area in order to encourage demonstrable results and return on public investment within the area in a relatively short period of time.

§13–1102.

This subtitle:

(1) Shall be liberally construed to effect its purposes; and

(2) Shall be construed consistently with any applicable federal law or with the authority of any federal agency under that law.

§13–1103.

(a) There is a Maryland Heritage Areas Authority, established as:

(1) A body corporate and politic; and

(2) An instrumentality of the State.

(b) The Authority is an independent unit of government in the Executive Branch of government that operates in the Department of Planning.

(c) The exercise by the Authority of the powers conferred by this subtitle is the performance of an essential public function.

§13–1104.

(a) The Authority consists of:

(1) The Secretary of Housing and Community Development;

(2) The Secretary of Business and Economic Development;

(3) The Secretary of Higher Education;

(4) The Secretary of Transportation;

(5) The Secretary of Natural Resources;

(6) The Secretary of the Department of Planning;

(7) The State Historic Preservation Officer; and

(8) Ten members appointed by the Governor with the advice and consent of the Senate:

(i) Two of whom shall be elected officials or representatives of local jurisdictions;

(ii) Two of whom shall be appointed from names recommended by the President of the Maryland Senate;

(iii) Two of whom shall be appointed from names recommended by the Speaker of the House of Delegates;

(iv) One of whom is a public member of the Maryland Greenways Commission;

(v) One of whom is a public member of the Maryland Tourism Development Board;

(vi) One of whom is a member of the public who has significant education or experience in historic preservation; and

(vii) One of whom is a member of the public who has significant education or experience in heritage tourism.

(b) Of the elected officials or representatives from local jurisdictions, the Governor shall appoint:

(1) One elected official or representative from a list submitted by the Maryland Association of Counties; and

(2) One elected official or representative from a list submitted by the Maryland Municipal League.

(c) The members appointed to the Authority shall represent the gender, racial, and geographic makeup of the State.

(d) A member of the Authority may not also be a member of the board of directors or any other type of governing or oversight body of an organization qualifying for State funds as a recognized or certified heritage area.

(e) A cabinet member of the Authority may designate a representative to act in the absence of the cabinet member.

(f) (1) Except for State officials, the term of a member of the Authority is 4 years.

(2) The terms of members appointed by the Governor are staggered as required by the terms provided for members on October 1, 1996.

(3) At the end of a term, a member continues to serve until a successor is appointed and qualifies.

(4) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies.

(5) At the end of the term of a member or on the resignation or removal of a member, the Governor shall appoint a member to the Authority with the advice and consent of the Senate.

(g) The Secretary of Planning shall serve as chair of the Authority.

(h) The Governor may remove a member that a Governor appointed for incompetence, misconduct, or failure to perform the duties of the position.

§13–1105.

(a) Nine voting members of the Authority are a quorum.

(b) An action of the Authority must receive the affirmative vote of at least a majority of the voting members of the Authority.

(c) The Authority shall determine the times and places of its meetings.

(d) A member of the Authority:

(1) May not receive compensation; but

(2) Is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

§13–1106.

(a) In accordance with the State budget, the Maryland Historical Trust shall dedicate administrative staff for the Authority.

(b) (1) As the Authority considers appropriate, the Authority may request other units of State government to detail staff or provide technical assistance to recognized and certified heritage areas.

(2) On request of the Authority, other units of State government may detail staff or technical assistance to specific recognized or certified heritage areas.

§13–1107.

In addition to the powers set forth elsewhere in this subtitle, the Authority may:

(1) Recognize heritage areas in accordance with § 13-1110 of this subtitle and certify recognized heritage areas in accordance with § 13-1111 of this subtitle;

(2) Approve or reject management plans for certified heritage areas in accordance with § 13-1111 of this subtitle;

(3) Adopt and alter an official seal;

(4) Sue and be sued, plead, and be impleaded;

(5) Adopt bylaws to regulate its affairs and the conduct of its business;

(6) In accordance with Title 10, Subtitle 1 of the State Government Article, adopt regulations to carry out the provisions of this subtitle;

(7) Employ, either as regular employees or as independent contractors, and fix the compensation of, accountants, architects, attorneys, construction experts,

personnel consultants, engineers, financial experts, managers, superintendents, and other professional personnel and agents;

(8) Appoint advisory committees composed of local officials, representatives of the business and preservation communities, and representatives of other interests as the Authority deems appropriate;

(9) Subject to annual appropriations, acquire in its own name, by gift or purchase, any personal property or interests in personal property necessary or convenient to support a certified heritage area and carry out the responsibilities of the Authority under this subtitle;

(10) Subject to annual appropriation and to the prior approval of the Board of Public Works, acquire in its own name, by gift or purchase, any real property or interests in real property necessary or convenient to support a certified heritage area and carry out the responsibilities of the Authority under this subtitle;

(11) Enter into contracts of any kind and execute all instruments necessary or convenient to carry out its powers under this subtitle;

(12) Make and participate in making loans or grants, or otherwise provide financial assistance for any project that serves to preserve, develop, maintain, or protect a State designated heritage area;

(13) (i) Borrow money from any source for any purpose of this subtitle, including capital for its operations, reserve funds, or interest;

(ii) Mortgage, pledge, or otherwise encumber the property and funds of the Authority; and

(iii) Contract with or engage the services of any person for any financing, including underwriters, placement agents, financial institutions, issuers of letters of credit, or insurers;

(14) Subject to Part IV of this subtitle, issue bonds;

(15) Receive and accept from any public or private source contributions, gifts, or grants of money or property;

(16) Exercise all the corporate powers granted Maryland corporations under the Maryland General Corporation Law; and

(17) Subject to the limitations under this subtitle, do all things necessary or convenient to carry out the powers granted by this subtitle.

§13–1108.

The Authority shall:

(1) Meet at least twice each year;

(2) Develop and adopt standards, criteria, and guidance for its review and approval of recognized and certified heritage area designations, management plans, grants and loans, or other approvals required under this subtitle;

(3) Assist in coordinating State actions with the objectives of the system of heritage areas and assist and make recommendations necessary to carry out the purposes of this subtitle;

(4) (i) Review complaints made by local governments or other entities established to administer heritage areas that relate to activities undertaken by State agencies which may adversely affect heritage area resources; and

(ii) Resolve any disputes that may arise in connection with the exercise of its authority under this subtitle; and

(5) Not less than once a year, submit reports to the Governor and the General Assembly concerning progress toward implementing the heritage areas system, including recommendations for the future.

§13–1109.

There is a Maryland system of recognized heritage areas and certified heritage areas that:

(1) Reflects the cultural themes of the State's development; and

(2) Provides educational, inspirational, economic, and recreational benefits for present and future generations.

§13–1110.

(a) (1) The Authority may consider proposals submitted by local jurisdictions to designate a heritage area as a recognized heritage area.

(2) The Authority shall adopt regulations that specify criteria and procedures for designating recognized heritage areas.

(b) A proposal for the designation of a heritage area as a recognized heritage area shall:

(1) Be previously approved and submitted by the governing bodies of all of the local jurisdictions located within the specific boundaries proposed for the recognized heritage area;

(2) To the maximum extent practicable, be developed in consultation with affected State agencies;

(3) Specify the boundaries for the recognized heritage area;

(4) Identify the local entity responsible for coordinating development of the management plan required under § 13-1111 of this subtitle;

(5) Describe the cultural, historic, and natural resources which contribute to the special character of the heritage area;

(6) Specify the general goals and objectives for the preservation, development, and management of the heritage area;

(7) Identify the types of public and private uses to be accommodated in the heritage area;

(8) Describe strategies for encouraging and accommodating visitation to and compatible economic development of the heritage area;

(9) Provide an economic overview of the long and short term costs and benefits related to the development of the heritage area; and

(10) Describe the techniques and means to be instituted by the local jurisdictions to assure the long term preservation and protection of the cultural, historic, and natural resources within the heritage area, including zoning, subdivision controls, and other growth management techniques.

(c) The Authority may not designate a heritage area as a recognized heritage area unless the Authority finds that:

(1) The heritage area contains resources of statewide significance that have retained integrity of setting and a cohesive character;

(2) The heritage area contains at least one or more:

(i) Historic districts either listed in, or determined to be eligible for listing in, the Maryland Register of Historic Properties in accordance with § 5A-323 of the State Finance and Procurement Article; or

(ii) Natural or recreational resources determined by the Secretary of Natural Resources to be of statewide significance; and

(3) Public assistance for the heritage area is reasonably expected to produce additional private investments, job creation, and tourism revenues.

(d) (1) The boundaries for each recognized heritage area are the boundaries depicted on the map accompanying each proposal as approved by the Authority.

(2) After initial approval by the Authority of the boundaries of a recognized heritage area, the Authority may amend or revise the boundaries:

(i) With the approval of all of the local jurisdictions where the property to be added or removed is located; and

(ii) On publication of a revised drawing or boundary description in the Maryland Register.

(3) Boundary maps for each recognized heritage area shall be kept on file at the Authority and at the office of the county clerk where the recognized heritage area is located.

(e) Designation of a heritage area by the Authority as a recognized heritage area establishes eligibility for matching grant assistance for the development of management plans.

§13–1111.

(a) (1) The Authority may consider proposals submitted by the local jurisdictions within a recognized heritage area to designate recognized heritage areas as certified heritage areas.

(2) The sponsoring local jurisdictions shall prepare a proposal that includes a management plan for the recognized heritage area.

(3) The local jurisdictions shall develop the management plan in cooperation and consultation with the Authority and relevant private interests.

(4) On approval of the management plan by the Authority and all local jurisdictions within the recognized heritage area:

(i) The Authority shall designate the recognized heritage area as a certified heritage area; and

(ii) The management plan shall be the plan for purposes of implementing the certified heritage area for both the State and local jurisdictions.

(b) The Authority shall adopt regulations that specify the criteria and procedures for the consideration and adoption of a proposed management plan.

(c) The Authority may not designate more than two recognized heritage areas as certified heritage areas for each fiscal year.

(d) The Authority shall hold at least one public hearing concerning the proposed management plan for a recognized heritage area in each recognized heritage area proposed for designation as a certified heritage area.

(e) Before submission of a management plan to the Authority for approval, the management plan must be submitted for approval to the local governing body of each jurisdiction within the recognized heritage area in the form of an amendment to the

local plan.

(f) The management plan shall be submitted to the Authority within forty-five days after preliminary approval by all local jurisdictions within the recognized heritage area.

(g) A management plan for a certified heritage area shall include:

(1) An identification of:

(i) The boundaries of the recognized heritage area as set forth in the original designation or as proposed for revision by the management plan;

(ii) The land use recommendations of the local plans of all of the local jurisdictions within the recognized heritage area; and

(iii) The zones within the recognized heritage area for particular nature and intensity of use, including zones most appropriately devoted to public use and development by State or local government, and for private use;

(2) An inventory and evaluation of the significant natural and cultural resources within the recognized heritage area;

(3) An identification of the types of public and private uses to be encouraged within the recognized heritage area;

(4) An identification of properties, if any, to be acquired, in whole or in part;

(5) A description of the educational, interpretive, and recreational programs and projects to be undertaken in the recognized heritage area;

(6) A description of plans for encouraging and accommodating visitation to and compatible economic development of the recognized heritage area;

(7) An economic assessment of the long and short term costs and benefits related to the implementation of the management plan, including an identification of expected sources of funding;

(8) A description of the techniques or means for the preservation and protection of the natural and cultural resources within the recognized heritage area, including:

(i) Appropriate existing or proposed local legislation for the designation and protection of historic properties or natural areas to assure that future local actions and development will be consistent with the goals and objectives for the recognized heritage area; and

(ii) If the plan proposes the enactment of one or more ordinances to provide for one or more historic preservation commissions for specific sites, structures, or districts within the recognized heritage area, provisions that:

1. Are consistent with Title 8 of the Land Use Article;

2. Provide for membership on the Historic Preservation Commission in accordance with the minimum professional requirements of the United States Department of the Interior for certifying local governments under 36 C.F.R. Part 61; and

3. Provide that the Historic Preservation Commission review and approve the design of all projects that the local jurisdiction conducts, assists, licenses, or permits that affect designated historic properties within the recognized heritage area;

(9) A description of the organizational structure to be utilized for planning, development, and management of the heritage area, including the responsibilities and interrelationships of local and State agencies; and

(10) A schedule for the planning, development, and management of the recognized heritage area.

(h) Each management plan must demonstrate that the capability exists to implement and manage the recognized heritage area, including the capability:

(1) To accept and disburse funds;

(2) To acquire, improve, and dispose of property;

(3) To manage, operate, and maintain appropriate public facilities; and

(4) To adopt and enforce land use and preservation standards as required to protect the resources within the heritage area.

(i) If the Authority determines that information in a previously submitted management plan contains sufficient information to fulfill the purpose of the management plan, the Authority may waive in whole or in part selected individual requirements regarding the submission of the management plan.

(j) The Authority shall approve or disapprove the management plan within 90 days after the Authority receives a management plan from the local jurisdictions.

(k) The Authority may not approve a management plan unless the Authority determines that a management plan would adequately carry out the purposes of this subtitle.

(l) If the Authority disapproves a management plan, the Authority shall

advise the local jurisdictions in writing of the reason for the disapproval and provide recommendations for a revision of the plan.

(m) The Authority shall approve or disapprove any revisions to an existing management plan in the same manner as specified in subsections (j) through (l) of this section.

(n) Approval of a management plan by the Authority and final approval of the plan by all local jurisdictions within a recognized heritage area shall:

(1) Establish the designation of a recognized heritage area as a certified heritage area;

(2) Establish eligibility for the receipt of acquisition, development, and programming assistance from the State within the certified heritage area boundaries;

(3) Establish eligibility for qualifying properties and persons for certain tax incentives for activities within the defined heritage area boundaries; and

(4) For continuance of the certified heritage area, require appropriate local action to protect and safeguard the significant resources in the certified heritage area.

(o) The Canal Place Historic Preservation District established under Subtitle 10 of this title is the initial certified heritage area designated under this subtitle.

(p) After holding a public hearing in the certified heritage area that is the subject of the Authority's review, the Authority may withdraw its approval of a management plan if the Authority finds that a local jurisdiction responsible for the certified heritage area:

(1) Has taken actions which have had a significant adverse impact upon significant certified heritage area resources; or

(2) Has failed to implement its role under a management plan.

(q) If the Authority withdraws its approval of a management plan:

(1) The heritage area shall no longer be designated as a certified heritage area; and

(2) The Authority shall report its withdrawal of approval to the Governor and the General Assembly stating the reasons for the action of the Authority.

§13–1112.

(a) (1) The State officials under items (i) through (vii) of this subsection who have program responsibilities that affect aspects of the interpretation, preservation, development, and use of heritage area resources shall prepare a program statement

detailing actions in the areas of planning, development, use, assistance, and regulation that support and assist the establishment and management of certified heritage areas, as follows:

(i) Secretary of Planning regarding local government adoption of heritage area management plans and regarding historic preservation and museum programs;

(ii) Secretary of Housing and Community Development regarding housing and neighborhood revitalization;

(iii) Secretary of Business and Economic Development regarding the State tourism program and economic development and job creation activities;

(iv) Secretary of Natural Resources regarding outdoor recreation and the management of natural resources, including State greenways;

(v) Secretary of Higher Education regarding educational resources and their interpretation;

(vi) Secretary of Transportation regarding access to and transportation within certified heritage areas, including the scenic byways program and programs for special signage; and

(vii) Secretary of General Services regarding the management and disposition of State property.

(2) The State officials shall submit the program statements required under paragraph (1) of this subsection, and any revisions of the statements, to the Authority.

(b) Units of State government that conduct or support activities affecting a certified heritage area shall:

(1) Consult, cooperate, and to the maximum extent feasible, coordinate their activities with the unit or entity responsible for the management of each certified heritage area;

(2) To the maximum extent practicable, carry out the activities of the unit in a manner that is consistent with the approved management plan for the certified heritage area; and

(3) When conducting a review of activities under §§ 5A-325 and 5A-326 of the State Finance and Procurement Article, assure that the activities will not have an adverse effect on the historic and cultural resources of the certified heritage area, unless there is no prudent and feasible alternative.

§13–1113.

(a) As provided in the State budget, the Authority may award:

(1) Grants and loans to local jurisdictions or other appropriate entities for planning, design, acquisition, development, preservation, restoration, interpretation, marketing, and programming of certified heritage areas; and

(2) Grants to local jurisdictions or other appropriate entities to develop management plans in recognized heritage areas.

(b) A grant to develop a management plan may not exceed 50% of the cost of the management plan.

(c) (1) Except as provided in paragraph (2) of this subsection, the Authority may make acquisition and development grants only for projects in a target investment zone within a certified heritage area for a period of up to 10 years after the day on which the Authority first approves funding for acquisition or development grants in:

(i) The target investment zone; or

(ii) That portion of the target investment zone added through a boundary amendment approved by the Authority.

(2) The Authority may make acquisition or development grants for a project in a target investment zone after the 10–year period described in paragraph (1) of this subsection, or outside a target investment zone, if the Authority determines that the project is essential for the success of the management plan for the certified heritage area.

(3) An acquisition or development grant:

(i) May not be used for any purpose other than implementation of the certified heritage area in conformity with the approved management plan; and

(ii) May not exceed 50% of the total project cost for which the grant is awarded.

(d) (1) Subject to paragraph (2) of this subsection, the Authority may make program grants to local jurisdictions and other appropriate entities:

(i) To develop and present interpretive exhibits, materials or other appropriate products to further the educational and recreational objectives of the certified heritage areas program; and

(ii) To encourage revitalization of, and reinvestment in, certified heritage area resources.

(2) A program grant made by the Authority under paragraph (1) of this subsection may not exceed 50% of the estimated project cost.

(e) Through the resources of the members of the Authority and in cooperation with other State agencies, the Authority shall provide technical assistance to management entities implementing a management plan.

§13–1114.

(a) There is a Maryland Heritage Areas Authority Financing Fund.

(b) (1) The Authority shall use the Fund as a continuing, nonlapsing, revolving fund for carrying out the purposes of this subtitle.

(2) No part of the Fund may revert or be credited to the General Fund or to any other special fund of the State.

(c) The Authority shall place all of the following receipts in the Fund:

(1) Proceeds from the sale of bonds;

(2) Revenues that the Authority collects or receives from any source under this subtitle; and

(3) Any additional revenue, gift, donation, or moneys received or paid to it from any other source authorized by law.

(d) The Authority shall pay all expenses and make all expenditures from the Fund.

(e) (1) The Authority may pledge and charge all or a portion of the receipts of the Fund for the payment of:

(i) Debt service on bonds of the Authority; and

(ii) All reasonable charges and expenses related to borrowing by the Authority and management of the obligations of the Authority.

(2) A pledge made under paragraph (1) of this subsection is effective as provided in § 13-1119 of this subtitle and any applicable resolution of the Authority.

(f) The State Treasurer shall:

(1) Invest and reinvest the Fund in the same manner as State funds; and

(2) Transfer any investment earnings to the credit of the Fund.

(g) (1) In this subsection, "Program Open Space funds transferred to the Authority" means the moneys appropriated to the Fund from Program Open Space

funds under § 5–903(a) of the Natural Resources Article.

(2) Except as provided in paragraph (3) of this subsection, Program Open Space funds transferred to the Authority may not be used to pay the operating expenses of the Authority, debt service of bonds issued by the Authority, or administrative expenses related to bonds issued by the Authority.

(3) (i) Up to 10% of Program Open Space funds transferred to the Authority may be used to pay the operating expenses of the Authority.

(ii) Up to 50% of Program Open Space funds transferred to the Authority may be expended for debt service on bonds issued by the Authority.

(iii) For fiscal year 2012 only, an additional $500,000 of Program Open Space funds transferred to the Authority may be used to pay operating expenses in the Department of Planning.

§13–1115.

(a) (1) Subject to this part, the Authority may at any time and from time to time issue bonds for the purposes of this subtitle to obtain funds to provide financial assistance for or otherwise support a certified heritage area.

(2) The Authority may issue the bonds only if it determines that the issuance is necessary to achieve the purposes of this subtitle.

(3) The Authority may not issue tax-exempt private activity bonds that are subject to the volume cap under § 146 of the Internal Revenue Code.

(4) The Board of Public Works may not approve the issuance of bonds by the Authority that will result in more than $15,000,000 in an aggregate outstanding and unpaid principal balance of bonds for the Authority at any time.

(b) (1) The Authority shall submit each proposed issue of bonds to the Board of Public Works and shall obtain the approval of the Board of Public Works for the proposed issue prior to sale of the bonds.

(2) In submitting a proposal to issue bonds to the Board of Public Works, the Authority shall identify the source of revenue that supports the debt service on the bonds.

(c) The Authority:

(1) Shall by resolution authorize any bonds that it issues; and

(2) May secure the bonds by a trust agreement between the Authority and a corporate trustee or trustees, which may be any trust company or bank that has the powers of a trust company within or without the State.

(d) Except as otherwise expressly required by this subtitle, the Authority may issue the bonds or notes without:

(1) Obtaining the consent of any other unit of State government;

(2) Any proceedings; or

(3) The occurrence of any conditions.

§13–1116.

(a) The bonds of any issue shall be payable solely from the property or receipts of the Authority, including without limitation:

(1) Fees, charges, or other revenues payable to the Authority;

(2) Payments by financial institutions, insurance companies, or others pursuant to letters or lines of credit, policies of insurance, or purchase agreements;

(3) Investment earnings from funds or accounts maintained under a bond resolution or trust agreement;

(4) Proceeds of refunding bonds; and

(5) Any other source authorized by law.

(b) The bonds do not constitute a debt, liability, or pledge of full faith and credit of the State and may not be deemed to constitute a debt, liability, or pledge of the full faith and credit of the State.

§13–1117.

The bonds that the Authority issues shall:

(1) Be issued at, above, or below par value, for cash or other valuable consideration, and mature at a time or times, whether as serial bonds or as term bonds or both, not exceeding the maturity date established by the Authority;

(2) Bear interest at the fixed or variable rate or rates determined by the method provided in the resolution or trust agreement;

(3) Be payable at a time or times, in the denominations and form, either coupon or registered or both, registrable as to principal and interest alone or as to both and carry the registration and privileges as to conversion and for the replacement of mutilated, lost, or destroyed bonds as the resolution or trust agreement may provide;

(4) Notwithstanding any other law, be deemed a "security" within the meaning of § 8-102 of the Commercial Law Article, whether or not it is either one of a class or a series or by its terms is divisible into a class or series of instruments and

negotiable for all purposes although payable from a limited source;

(5) Be payable in lawful money of the United States at a designated place, including one or more banks or trust companies;

(6) Be subject to the terms of purchase, payment, redemption, refunding, or refinancing that the resolution or trust agreement provides;

(7) Be executed by the manual or facsimile signatures of the officers of the Authority designated by the Authority, which signatures shall be valid for all purposes at delivery even for an officer who has ceased to hold office; and

(8) Be sold in the manner and on the terms determined by the Authority, including private (negotiated) sale and be exempt from §§ 8-206, 8-208, and 8-209 of the State Finance and Procurement Article.

§13–1118.

(a) Any resolution or trust agreement the Authority adopts or enters into under § 13-1115 of this subtitle may contain provisions that:

(1) Pledge, assign, or direct the use, investment, or disposition of all or a portion of the receipts of the Authority or all or a portion of the proceeds or benefits of any contract and convey or otherwise secure any property or property rights;

(2) Set aside loan funding deposits, debt service reserves, capitalized interest accounts, cost of issuance accounts, and sinking funds, and regulate, invest, and dispose of these deposits, reserves, accounts, and funds;

(3) Limit the purpose to which or the investments in which the proceeds of sale of any issue of bonds may be applied and restrict the investment of revenues or bond proceeds as deemed necessary, which may include limiting investments to government obligations for which principal and interest are unconditionally guaranteed by the United States;

(4) Limit the issuance of additional bonds and specify the terms on which additional bonds may be issued, secured, and rank on parity with, or be subordinate or superior to other bonds;

(5) Refund or refinance outstanding bonds;

(6) Establish any procedure concerning the manner in which the terms of any contract with bondholders may be altered or amended, the amount of bonds to which the holders must consent, and the manner in which the holders must consent;

(7) Define the acts or omissions that constitute a default in the duties of the Authority to holders of bonds and provide the rights and remedies of the holders in the event of a default, which may include provisions that restrict individual right of

action by bondholders;

(8) Provide for guarantees, pledges of property, letters of credit, or other security, or insurance for the benefit of bondholders; and

(9) Provide for any other matter relating to the bonds that the Authority deems appropriate.

(b) Any provisions under subsection (a) of this section that the Authority includes in a resolution or trust agreement may be made part of the contract with the holders of the bonds.

§13–1119.

(a) A pledge by the Authority of revenues as security for an issue of bonds shall be valid and binding on and after the date when the documents evidencing the pledge are executed by the Authority.

(b) (1) The revenues that the Authority pledges may be made immediately subject to the lien of the pledge without any physical delivery or further act.

(2) The lien of any pledge of revenue is valid and binding against any person who has any claim in tort, contract, or otherwise against the Authority, whether or not the person has notice.

(c) In order to perfect the lien on the revenue pledged by the Authority against third persons, a resolution, trust agreement or financing statement, continuation statement, or other instrument that the Authority adopts or enters into need not be filed or recorded in any public record other than the records of the Authority.

§13–1120.

No member of the Authority nor any person executing the bonds of the Authority shall be liable personally on the bonds or subject to any personal liability by reason of the issuance of the bonds.

§13–1121.

(a) The Authority may issue bonds to refund any of its bonds then outstanding, including the payment of any redemption premium and any interest accrued or to accrue to the earliest or any subsequent date of redemption, purchase, or maturity of the bonds.

(b) Refunding bonds may be issued in the discretion of the Authority and for any purpose authorized by this subtitle, including:

(1) (i) For the public purposes of realizing savings in the effective costs of debt service, directly or through a debt restructuring;

(ii) For alleviating impending or actual default; or

(iii) For any other public purpose that the Authority determines is in the best interests of and consistent with the Authority's long-term financing plan;

(2) In one or more series; and

(3) In an amount in excess of that of the bonds to be refunded.

§13–1122.

(a) The Authority may enter into agreements with agents, banks, insurers, or others for the purpose of enhancing the marketability of, or as a security for, its bonds.

(b) Any financial institution, investment company, insurance company or association, any personal representative, guardian, trustee, or other fiduciary, and any other public officer or unit of the State or a subdivision of the State may legally invest any moneys belonging to them or within their control in any bonds issued by the Authority.

§13–1123.

The bonds of the Authority, their transfer, the interest payable on them, and any income derived from them, including any profit realized in their sale or exchange, are exempt at all times from every kind of taxation by this State or by any of its political subdivisions, municipal corporations, or public agencies.

§13–1124.

(a) In this section, "aggrieved person" means:

(1) A person that:

(i) Is a party to a dispute that the Authority resolves under § 13-1108(4)(ii) of this subtitle; and

(ii) Is aggrieved by the Authority's final action in resolving the dispute under § 13-1108(4)(ii) of this subtitle; or

(2) The local jurisdictions within a certified heritage area from which the Authority has withdrawn approval of a management plan under § 13-1111(p) of this subtitle.

(b) This section does not apply to:

(1) The failure of the Authority to designate:

(i) A heritage area as a recognized heritage area; or

(ii) A recognized heritage area as a certified heritage area through the approval of a management plan;

(2) Actions taken by the Authority under its powers to issue bonds under Part IV of this subtitle; or

(3) The failure of the Authority to award or enforce the terms of grants, loans, or other financing.

(c) An aggrieved person may appeal to the Office of Administrative Hearings for a hearing in accordance with Title 10, Subtitle 2 of the State Government Article.

(d) The decision of the Office of Administrative Hearings is the final administrative decision.

(e) The Office of Administrative Hearings may not modify the Authority's resolution of a dispute unless the aggrieved person shows by a preponderance of the evidence that:

(1) The final action of the Authority was arbitrary or capricious; or

(2) The Authority failed to follow its own procedures or regulations for resolving a dispute under § 13-1108(4)(ii) of this subtitle.