

LAWS  
OF THE  
STATE OF MARYLAND  
ENACTED

At the Session of the General Assembly Begun and Held in the  
City of Annapolis on the Fourteenth Day of January 2009  
and Ending on the Thirteenth Day of April 2009

Vetoes by the Governor following immediately after Acts

---

VOLUME I

---

The Department of Legislative Services  
General Assembly of Maryland  
prepared this document.

For further information concerning this document contact:

Library and Information Services  
Office of Policy Analysis  
Department of Legislative Services  
90 State Circle  
Annapolis, Maryland 21401

Baltimore Area: (410-946-5400) Washington Area: (301-970-5400)  
Other Areas: (1-800-492-7122)  
TTY: (410-946-5401) (301-970-5401)  
TTY users may also contact the  
Maryland Relay Service to contact the General Assembly

E-mail: [libr@mlis.state.md.us](mailto:libr@mlis.state.md.us)  
Home Page: <http://mlis.state.md.us>

The Department of Legislative Services does not discriminate on the basis of age, ancestry, color, creed, marital status, national origin, race, religion, gender, sexual orientation, or disability in the admission or access to its programs, services, or activities. The Department's Information Officer has been designated to coordinate compliance with the nondiscrimination requirements contained in Section 35.107 of the Department of Justice Regulations. Requests for assistance should be directed to the Information Officer at the telephone numbers shown above.

# Contents

## **Laws of Maryland**

Chapters  
Joint and Simple Resolutions

## **Vetoed Bills and Messages**

Vetoed Senate Bills  
Vetoed House Bills  
Vetoed Senate Bills and Messages  
Vetoed House Bills and Messages

## **Index to the Laws and Resolutions**

### **Senate Bills Enacted**

### **House Bills Enacted**

### **Joint Resolutions Passed and Approved**

### **Statute Index of Enacted Laws**

Public General Laws  
Public Local Laws

### **Amendments to Public Local Laws**

Code Counties (Appendix A)  
Charter Counties (Appendix B)  
Municipal Charters (Appendix C)

### **Index to Public Local Laws**

Code Counties and Charter Counties  
Municipal Charters

### **Statute Index to Public Local Laws**

Code Counties and Charter Counties  
Municipal Charters

### **Certifications and Proclamations**

### **Results of Referenda**

### **Statement of Revenues and Expenditures**



# Laws of Maryland

---

MARYLAND, Sct.:

At a Session of the General Assembly of Maryland, begun and held in the City of Annapolis on the Fourteenth Day of January 2009, and ending on the Thirteenth Day of April 2009, Martin O'Malley, being Governor of the State, the following laws were enacted, to wit:

## Chapter 1

(Senate Bill 107)

AN ACT concerning

### **Anne Arundel County and City of Annapolis – Alcoholic Beverages – Hours of Sale – Inauguration Day**

FOR the purpose of providing that in Anne Arundel County or the City of Annapolis, a certain establishment licensed for alcoholic beverages with an on-sale privilege that is open on Inauguration Day may remain open for a certain period past its normal closing time for on-premises consumption only on payment of a certain fee; making this Act an emergency measure; and generally relating to alcoholic beverages licenses in Anne Arundel County and the City of Annapolis.

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That in Anne Arundel County or the City of Annapolis, an establishment that is licensed for alcoholic beverages with an on-sale privilege and that is open on January 20, 2009, may remain open for up to 1 hour past its normal closing time for consumption on the premises only, if the license holder pays a fee of \$200 to the Anne Arundel County Board of License Commissioners or the City of Annapolis Alcoholic Beverage Control Board, as appropriate.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a ye and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

**Approved by the Governor, January 19, 2009.**

**Chapter 2****(Senate Bill 307)**

AN ACT concerning

**Judicial Compensation Commission**

FOR the purpose of providing that for the 2009 Session of the General Assembly only, the failure of the General Assembly to pass the joint resolution of the Judicial Compensation Commission by a certain day of that session may not be deemed to have made effective the salary increases recommended in the joint resolution; providing that the Commission shall, beginning in 2009 and every 4 years thereafter, meet to review judicial salaries and pensions and make written recommendations to the Governor and the General Assembly; making this Act an emergency measure; and generally relating to judicial compensation and the Judicial Compensation Commission.

BY repealing and reenacting, with amendments,  
Article – Courts and Judicial Proceedings  
Section 1–708  
Annotated Code of Maryland  
(2006 Replacement Volume and 2008 Supplement)

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

**Article – Courts and Judicial Proceedings**

1–708.

(a) The salaries and pensions of the judges of the Court of Appeals, the Court of Special Appeals, the circuit courts of the counties, and the District Court shall be established as provided by this section, §§ 1–701 through 1–707 of this subtitle, and Title 27 of the State Personnel and Pensions Article.

(b) (1) There is a Judicial Compensation Commission. The Commission shall study and make recommendations with respect to all aspects of judicial compensation, to the end that the judicial compensation structure shall be adequate to assure that highly qualified persons will be attracted to the bench and will continue to serve there without unreasonable economic hardship.

(2) The Commission consists of seven members appointed by the Governor. No more than three members of the Commission may be individuals admitted to practice law in this State. In nominating and appointing members, special consideration shall be given to individuals who have knowledge of compensation practices and financial matters. The Governor shall appoint:

(i) Two members from a list of the names of at least five nominees submitted by the President of the Senate;

(ii) Two from a list of the names of at least five nominees submitted by the Speaker of the House of Delegates;

(iii) One from a list of the names of at least three nominees submitted by the Maryland State Bar Association, Inc.; and

(iv) Two at large.

(3) A member of the General Assembly, officer or employee of the State or a political subdivision of the State, or judge or former judge is not eligible for appointment to the Commission.

(4) The term of a member is 6 years, commencing July 1, 1980, and until the member's successor is appointed. However, of the members first appointed to the Commission, the Governor shall designate, one of the members nominated by the President of the Senate to serve for 3 years and one for 6 years; one of the members nominated by the Speaker to serve for 4 years and one for 5 years; the member nominated by the Maryland State Bar Association, Inc., to serve for 3 years; and one of the members at large to serve for 2 years, and one for 6 years. A member is eligible for reappointment.

(5) Members of the Commission serve without compensation, but shall be reimbursed for reasonable expenses incurred in carrying out their responsibilities under this section.

(6) The members of the Commission shall elect a member as chairman of the Commission.

(7) The concurrence of at least five members is required for any formal Commission action.

(8) The Commission may request and receive assistance and information from any unit of State government.

(c) Beginning [in 2004] **ON SEPTEMBER 1, 2009**, and every 4 years thereafter, the Commission shall review the salaries and pensions of the judges of the courts listed in subsection (a) of this section[. Beginning in 2008, the Commission shall] **AND** make written recommendations to the Governor and General Assembly [every 4 years, accounting from September 1, 2004] **ON OR BEFORE THE NEXT ENSUING REGULAR SESSION OF THE GENERAL ASSEMBLY**. The Governor shall include in the budget for the next **ENSUING** fiscal year **THE** funding necessary to

implement those recommendations, contingent on action by the General Assembly under subsections (d) and (e) of this section.

(d) (1) The salary recommendations made by the Commission shall be introduced as a joint resolution in each House of the General Assembly not later than the fifteenth day of the session. The General Assembly may amend the joint resolution to decrease any of the Commission salary recommendations, but no reduction may diminish the salary of a judge during his continuance in office. The General Assembly may not amend the joint resolution to increase the recommended salaries. If the General Assembly fails to adopt or amend the joint resolution within 50 days after its introduction, the salaries recommended by the Commission shall apply. If the joint resolution is adopted or amended in accordance with this section within 50 days after its introduction, the salaries so provided shall apply. If the General Assembly rejects any or all of the Commission's salary recommendations, the salaries of the judges affected remain unchanged, unless modified under other provisions of law.

(2) The Governor or the General Assembly may not increase the recommended salaries, except as provided under § 1-703(b) of this subtitle.

(e) The recommendation of the Commission as to pensions shall be introduced by the presiding officers of the Senate and the House of Delegates in the form of legislation, and shall become effective only if passed by both Houses.

(f) Any change in salaries or pensions adopted by the General Assembly under this section takes effect as of the July 1 of the year next following the year in which the Commission makes its recommendations.

(g) This section does not affect § 1-702(b), § 1-703(b), or §§ 1-705 through 1-707 of this subtitle, or Title 27 of the State Personnel and Pensions Article.

SECTION 2. AND BE IT FURTHER ENACTED, That, notwithstanding the provisions of § 1-708(c) and (d) of the Courts Article, for the 2009 Session of the General Assembly only, the failure of the General Assembly to pass the joint resolution of the Judicial Compensation Commission by the 50th day of the 2009 Session may not be deemed to have made effective the increases in the salaries recommended in the joint resolution.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a yea and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

**Approved by the Governor, February 26, 2009.**

---



**Chapter 3****(Senate Bill 1072)**

AN ACT concerning

**Pimlico and Laurel Park Racetracks, Bowie Race Course Training Center,  
and Preakness Stakes – State Purchase or Condemnation**

FOR the purpose of authorizing the State to acquire by purchase or condemnation for public use with just compensation private property relating to the Pimlico Race Course, the track known as Laurel Park, the Bowie Race Course Training Center, the name, copyrights, service marks, trademarks, trade names, contract rights, business entities, stock, and horse racing events that are associated with the Preakness Stakes and its trophy, the Woodlawn Vase, and certain other private property; requiring that all proceedings for condemnation for public use of private property as authorized under this Act are to be in accordance with certain provisions of law and certain rules of procedure; authorizing the taking of certain private property immediately on payment for the property; authorizing the Maryland Economic Development Corporation to borrow money and issue bonds for certain purposes related to the condemnation authorized by this Act; requiring the Maryland Economic Development Corporation to submit certain reports to certain committees of the General Assembly; making this Act an emergency measure; stating legislative intent; requiring the Corporation to consult with certain persons regarding the disposition of certain property under certain circumstances; and relating generally to the authority of the State to purchase or condemn certain private property relating to certain tracks, the Bowie Race Course Training Center, and the Preakness Stakes.

BY repealing and reenacting, ~~with amendments~~ without amendments,

Article – Business Regulation

Section 11–520

Annotated Code of Maryland

(2004 Replacement Volume and 2008 Supplement)

BY adding to

Article – Business Regulation

Section 11–521

Annotated Code of Maryland

(2004 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,

Article – Economic Development

Section 10–117

Annotated Code of Maryland

(2008 Volume)

## Preamble

WHEREAS, The General Assembly finds and declares that the Preakness Stakes is a sporting event of historical and cultural importance to the State of Maryland that, although run only once a year, has a significant, positive economic development impact on Baltimore City and the State; and

WHEREAS, The General Assembly also finds and declares that, in addition to its storied history and tradition, horse racing in Maryland has a significant economic impact on the State; and

WHEREAS, The General Assembly also finds and declares that the retention of the operation of the Pimlico Race Course and Laurel Park tracks, the operation of the Bowie Race Course Training Center, and the running of the Preakness Stakes in the State of Maryland, are for valid public purposes, including continuing the economic benefits to the State and its citizens, protecting ~~the critical role enhancing, enhancing,~~ and continuing the State's highly valued racing industry as well as tourism and commerce in the State, furthering the State's regulation and licensing of the racing industry in order to promote the integrity, convenience, and safety of racing and associated wagering for the public and for the participants, and preserving the State's stature and quality of life; and

~~WHEREAS, The General Assembly also finds and declares that the retention of the operation of the Pimlico Race Course and Laurel Park racetracks and the running of the Preakness Stakes in the State of Maryland are a valid public purpose because of the economic benefits to the State and its citizens, the enhancement of our highly valued racing and tourism industries in the State, and the preservation of the State's stature and quality of life; and~~

WHEREAS, The General Assembly also finds and declares that if the State lacks necessary authority to move immediately to exercise its regulatory and eminent domain powers with respect to acquiring Pimlico Race Course and Laurel Park tracks, the Bowie Race Course Training Center, and the Preakness Stakes, the opportunity to do so and, thus, preserve those operational facilities and the running of the Preakness Stakes in Maryland may be lost; and

WHEREAS, The General Assembly also finds and declares that there is a heightened State interest in the strict regulation of gaming and wagering and the entities that conduct or are associated with the conduct of these activities, and that level of interest provides additional justification for the authority granted under this Act; and

WHEREAS, It is the intent of the General Assembly to establish the necessary statutory authority for the State to take appropriate steps to prevent the loss of the historically, culturally, and economically important Preakness Stakes from Maryland and to help preserve the continued operation of the Pimlico Race Course and Laurel Park racetracks as two of the premier thoroughbred racetracks in the country and the

Bowie Race Course Training Center as one of the premier training facilities; now, therefore,

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

**Article – Business Regulation**

11-520.

(a) The requirements of this section are established in recognition of the significance of the Preakness Stakes to the State.

(b) The Preakness Stakes may be transferred to another track in the State only as a result of a disaster or emergency.

(c) If the Preakness Stakes is transferred out of the State, the Commission may:

(1) revoke any racing days awarded to the Maryland Jockey Club of Baltimore City, Inc., or its successor; and

(2) award these racing days to another licensee, notwithstanding § 11-511(b) of this subtitle.

(d) (1) If the Preakness Stakes is offered for sale, the State has the option to buy the Preakness Stakes for the amount of any offer that the licensee wishes to accept.

(2) Within 30 days after receiving an offer that it wishes to accept, the licensee shall give the State notice of the offer.

(3) If the State wishes to exercise the option, it shall so notify the licensee within 60 days after it receives the notice.

**11-521.**

~~(E)~~ ~~(1)~~ **(A)** IN ADDITION TO THE OTHER PROVISIONS OF THIS ~~SECTION~~ SUBTITLE, IN ACCORDANCE WITH THE SOVEREIGN POWER OF THE STATE AND THE PROVISIONS OF ARTICLE III, §§ 40 AND 40A OF THE MARYLAND CONSTITUTION, AND SUBJECT TO ~~PARAGRAPHS (2) AND (3) OF THIS SUBSECTION~~ SUBSECTIONS (B) AND (C) OF THIS SECTION, THE STATE MAY ACQUIRE BY PURCHASE OR CONDEMNATION FOR PUBLIC USE WITH JUST COMPENSATION SOME OR ALL OF THE FOLLOWING REAL, TANGIBLE, AND INTANGIBLE PRIVATE PROPERTY, INCLUDING ANY CONTRACTUAL INTERESTS OR INTELLECTUAL PROPERTY:

~~(I)~~ (1) PIMLICO RACE COURSE, A RACETRACK LOCATED IN BALTIMORE CITY, INCLUDING ANY AND ALL PROPERTY OR PROPERTY RIGHTS ASSOCIATED WITH IT WHEREVER LOCATED, WHETHER TANGIBLE, INTANGIBLE, REAL, PERSONAL, OR MIXED, AND ANY BUSINESS ENTITY THAT OWNS IT;

~~(II)~~ (2) ~~THE RACECOURSE KNOWN AS~~ LAUREL PARK, A RACETRACK LOCATED IN ANNE ARUNDEL COUNTY, INCLUDING ANY AND ALL PROPERTY OR PROPERTY RIGHTS ASSOCIATED WITH IT WHEREVER LOCATED, WHETHER TANGIBLE, INTANGIBLE, REAL, PERSONAL, OR MIXED, AND ANY BUSINESS ENTITY THAT OWNS IT;

~~(III)~~ (3) BOWIE RACE COURSE TRAINING CENTER, A TRAINING CENTER LOCATED IN PRINCE GEORGE'S COUNTY, INCLUDING ANY AND ALL PROPERTY OR PROPERTY RIGHTS ASSOCIATED WITH IT WHEREVER LOCATED, WHETHER TANGIBLE, INTANGIBLE, REAL, PERSONAL, OR MIXED, AND ANY BUSINESS ENTITY THAT OWNS IT;

~~(IV)~~ (4) THE PREAKNESS STAKES TROPHY THAT IS KNOWN AS THE WOODLAWN VASE, INCLUDING ANY AND ALL PROPERTY OR PROPERTY RIGHTS ASSOCIATED WITH IT, WHETHER TANGIBLE, INTANGIBLE, REAL, PERSONAL, OR MIXED, AND ANY BUSINESS ENTITY THAT OWNS IT;

~~(V)~~ (5) THE NAME, COMMON LAW AND STATUTORY COPYRIGHTS, SERVICE MARKS, TRADEMARKS, TRADE NAMES, CONTRACTS, HORSE RACING EVENTS, AND OTHER INTANGIBLE AND INTELLECTUAL PROPERTY THAT ARE ASSOCIATED WITH THE PREAKNESS STAKES AND THE WOODLAWN VASE;

~~(VI)~~ (6) ALL PROPERTY OF THE MARYLAND JOCKEY CLUB OF BALTIMORE CITY, INC., OR ITS SUCCESSORS AND ASSIGNS, INCLUDING STOCK AND EQUITY INTERESTS IN IT, AND INCLUDING ANY AND ALL PROPERTY OR PROPERTY RIGHTS ASSOCIATED WITH IT, WHETHER TANGIBLE, INTANGIBLE, REAL, PERSONAL, OR MIXED, ~~AND ANY BUSINESS ENTITY THAT OWNS IT~~; AND

~~(VII)~~ (7) ALL PROPERTY OF THE LAUREL RACING ~~ASSOCIATION, INC., OR ITS ASSOC., INC., THE LAUREL RACING ASSOCIATION LIMITED PARTNERSHIP, OR THEIR RESPECTIVE~~ SUCCESSORS AND ASSIGNS, INCLUDING STOCK AND EQUITY INTERESTS, AND INCLUDING ANY AND ALL PROPERTY OR PROPERTY RIGHTS ASSOCIATED WITH ~~THEM~~, WHETHER TANGIBLE, INTANGIBLE, REAL, PERSONAL, OR MIXED, ~~AND ANY BUSINESS ENTITY THAT OWNS IT.~~

~~(2)~~ (B) ALL PROCEEDINGS FOR THE CONDEMNATION FOR PUBLIC USE OF THE PRIVATE PROPERTY DESCRIBED UNDER ~~PARAGRAPH (1) OF THIS SUBSECTION (A) OF THIS SECTION~~ SHALL BE IN ACCORDANCE WITH THE PROVISIONS OF TITLE 12 OF THE REAL PROPERTY ARTICLE AND TITLE 12, CHAPTER 200 OF THE MARYLAND RULES.

~~(3)~~ (C) PURSUANT TO THE PROVISIONS OF ARTICLE III, § 40A OF THE MARYLAND CONSTITUTION, AS APPLICABLE, THE PRIVATE PROPERTY DESCRIBED UNDER ~~PARAGRAPH (1) OF THIS SUBSECTION (A) OF THIS SECTION~~ MAY BE TAKEN IMMEDIATELY ON PAYMENT FOR THE PROPERTY CONSISTENT WITH THE PROCEDURES OF §§ 8-334 THROUGH 8-339 OF THE TRANSPORTATION ARTICLE.

### Article – Economic Development

10-117.

(A) The Corporation may:

- (1) borrow money and issue bonds to finance any part of the cost of a project or for any other corporate purpose of the Corporation;
- (2) secure the payment of any portion of the borrowing by pledge of or mortgage or deed of trust on property or revenues of the Corporation;
- (3) combine projects for financing, make agreements with or for the benefit of the bondholders or with others in connection with the issuance or future issuance of bonds, as the Corporation considers advisable; and
- (4) otherwise provide for the security of bonds and the rights of bondholders.

(B) IN ADDITION TO THE POWERS OF THE CORPORATION UNDER SUBSECTION (A) OF THIS SECTION, FOR THE PURPOSE OF FUNDING THE PURCHASE OR CONDEMNATION BY THE STATE FOR PUBLIC USE OF THE PROPERTY AS AUTHORIZED BY ~~§ 11-520(E)~~ §§ 11-520 AND 11-521 OF THE BUSINESS REGULATION ARTICLE, THE CORPORATION MAY BORROW MONEY AND ISSUE BONDS TO FINANCE THE COST OF ACQUIRING BY PURCHASE OR COMPLETING THE CONDEMNATION PROCESS BY THE STATE IN ACCORDANCE WITH APPLICABLE LEGAL STANDARDS.

SECTION 2. AND BE IT FURTHER ENACTED, That the Maryland Economic Development Corporation, in accordance with § 2-1246 of the State Government Article, shall report monthly to the Senate Budget and Taxation Committee, the House Environmental Matters Committee, and the Legislative Policy Committee on

the status of the State's business plan regarding the management and disposition of any assets acquired under this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That if the Maryland Economic Development Corporation acquires property under this Act, the Corporation shall, before disposing of the property, consult with the Governor, the President of the Senate, the Speaker of the House of Delegates, the State Comptroller, the State Treasurer, and the Minority Leaders of the Senate and the House of Delegates concerning the disposition of the property.

SECTION ~~2~~ ~~3~~ 4. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a ye and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

**Approved by the Governor, April 14, 2009.**

---

## Chapter 4

### (Senate Bill 269)

AN ACT concerning

#### **Financial Institutions – Mortgage Lenders and Mortgage Loan Originators**

FOR the purpose of altering certain provisions of law regulating mortgage lenders and mortgage loan originators to conform to the requirements of the federal Secure and Fair Enforcement for Mortgage Licensing Act of ~~2009~~ 2008; expanding the authority of the Commissioner of Financial Regulation to adopt regulations to facilitate implementation of a multistate automated licensing system; requiring certain applicants and licensees to provide certain information and pay certain fees to a certain multistate automated licensing system at certain times; authorizing the Commissioner to use the multistate automated licensing system to request information from and distribute information to certain ~~sources~~ governmental agencies and state licensing entities under certain circumstances; altering the required contents of an application for a mortgage lender license and a mortgage loan originator license; altering the terms of mortgage lender licenses and mortgage loan originator licenses; requiring a licensed mortgage lender to submit a certain annual report; increasing certain civil penalties; altering the circumstances under which a mortgage lender must require a borrower to provide certain information to the mortgage lender; prohibiting an individual from engaging in the business of a mortgage loan originator unless the individual holds a valid license or is exempt from certain provisions of law; establishing certain exemptions from the licensing requirement; providing that

a license issued under certain provisions of law authorizes the licensee to act as a mortgage loan originator when acting within the scope of employment of a person exempt from licensing as a mortgage lender; altering the information the Commissioner must include on a mortgage loan originator license; altering the actions a licensed mortgage loan originator must take before acting as a mortgage loan originator under a certain name or for a certain employer; establishing an affiliated insurance producer–mortgage loan originator license; specifying the circumstances under which the license will be issued; exempting an affiliated insurance producer–mortgage loan originator from certain provisions of law applicable to mortgage loan originator licensees; altering certain requirements for the issuance and renewal of a mortgage loan originator license; establishing certain education, testing, and surety bond requirements for certain applicants and licensees; authorizing certain licensees to comply with certain requirements on or before a certain date; authorizing the Commissioner to issue an interim mortgage loan originator license to certain individuals under certain circumstances; altering the circumstances under which the Commissioner must revoke the license of a mortgage loan originator; providing that certain requirements and privileges apply to certain information or material under certain circumstances; providing that certain information and material may be shared with certain regulatory officials without the loss of certain privilege or confidentiality protections; authorizing the Commissioner to enter into certain information sharing agreements; requiring certain nonfederally insured credit unions to register certain employees with a certain multistate automated licensing system in a certain manner; requiring the Commissioner to report certain enforcement actions and information to the multistate automated licensing system and adopt regulations establishing a process to challenge the information entered into the system; requiring a mortgage loan originator's unique identifier to be displayed in a certain manner and under certain circumstances; defining certain terms; altering and repealing certain definitions; providing that certain licensing requirements shall apply to retail sellers of manufactured homes under certain circumstances; establishing the circumstances under which certain prelicensing testing requirements shall be effective for certain licensees; requiring the Commissioner to notify certain licensees under certain circumstances; making stylistic and conforming changes; and generally relating to the regulation of mortgage lenders and mortgage loan originators.

BY repealing and reenacting, with amendments,

Article – Financial Institutions

Section 2–105.1(c), 11–501, 11–502(b), ~~11–505(d) and (e), 11–506(e)~~ 11–505(e), 11–506.1, 11–507, ~~11–508(b) and (d)~~ 11–508(d)(2), 11–508.1(a), 11–511, ~~11–513(a), 11–515(b) and (d), 11–516(a), 11–517(a) and (e)~~ 11–517(c), 11–521(a), ~~11–523(b)~~, 11–601, 11–602, 11–603, 11–605, 11–606, 11–607(a), 11–609, 11–612, ~~11–613(a)~~ 11–613, and 11–615(a), (c), and (f)

Annotated Code of Maryland

(2003 Replacement Volume and 2008 Supplement)

BY adding to

Article – Financial Institutions

Section 11–513.1, 11–603.1, 11–605.1, 11–606, 11–606.1, and 11–619 through 11–623

Annotated Code of Maryland

(2003 Replacement Volume and 2008 Supplement)

BY repealing

Article – Financial Institutions

Section 11–604

Annotated Code of Maryland

(2003 Replacement Volume and 2008 Supplement)

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

### Article – Financial Institutions

2–105.1.

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

(2) To facilitate implementation of a multistate automated licensing system, the Commissioner may adopt regulations that waive or modify the requirements of [§§ 11–507, 11–511, 11–606, and 11–609 of this article] **TITLE 11, SUBTITLES 5 AND 6 OF THIS ARTICLE.**

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 [property] **ESTATE** located in Maryland.

(c) **(1) “DWELLING” HAS THE MEANING STATED IN 15 U.S.C. § 1602(V).**

**(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.**



**[(c)] (D)** (1) “Independent evidence of commercial purpose” means, where a ~~RESIDENTIAL~~ 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 ~~RESIDENTIAL~~ mortgage loan are to be used and the nature of the business conducted or to be conducted by the borrower.

**[(d)] (E)** “Interest in real [property] 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 [property] 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 [property] ESTATE;

(3) A mortgage, deed of trust or lien other than a judgment lien, on A DWELLING OR residential real [property] ESTATE; and

(4) Any other security interest that has the effect of creating a lien on A DWELLING OR residential real [property] ESTATE in Maryland.

**[(e)] (F)** “License” means a license issued by the Commissioner under this subtitle to authorize a person to engage in business as a mortgage lender.

**[(f)] (G)** “Licensee” means a person who is licensed under the Maryland Mortgage Lender Law.

**[(g)] (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 ~~RESIDENTIAL~~ mortgage loan.

(2) [A loan application] “**LOAN APPLICATION**” does not include the use of an account or line of credit to obtain a loan within a previously established credit limit.

**[(h)] (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 ~~RESIDENTIAL~~ mortgage loan; and

(2) Is not named as a lender in the agreement, note, deed of trust, or other evidence of the indebtedness.

**[(i)] (J)** (1) “Mortgage lender” means any person who:

(i) Is a mortgage broker;

(ii) Makes a ~~RESIDENTIAL~~ mortgage loan to any person; or

(iii) [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] **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; ~~or~~

(v) Any person engaged exclusively in the acquisition of all or any portion of a ~~RESIDENTIAL~~ mortgage loan under any federal, State, or local governmental program of ~~RESIDENTIAL~~ mortgage loan purchases; **OR**

**(VI) AN AFFILIATED INSURANCE PRODUCER-MORTGAGE LOAN ORIGINATOR LICENSED UNDER § 11-603.1 OF THIS SUBTITLE.**

~~[(j)]~~ **(K)** (1) “Mortgage lending business” means the activities set forth in the definition of “mortgage lender” in subsection ~~(i)~~ **(J)** of this section which require that person to be licensed under this subtitle.

(2) “Mortgage lending business” includes the making or procuring of ~~RESIDENTIAL~~ mortgage loans secured by **A DWELLING OR** residential real **[property]** **ESTATE** located ~~[outside]~~ **WITHIN** Maryland.

**(k)** (1) “Mortgage loan” means any loan or other extension of credit that is:

(i) Secured, in whole or in part, by any interest in residential real property in Maryland; and

(ii) 1. If for personal, household, or family purposes, in any amount; or

2. If for commercial purposes, not in excess of \$75,000.

(2) “Mortgage loan” does not include any loan for commercial purposes that is:

(i) Secured, in whole or in part, by any interest in residential real property in Maryland;

(ii) In excess of \$75,000; and

(iii) Supported by independent evidence of the commercial purpose.]

**(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.**

~~(H)~~ **(M) “MORTGAGE LOAN ORIGINATOR” HAS THE MEANING STATED IN § 11-601 OF THIS TITLE.**

~~(M)~~ **(N) “MORTGAGE SERVICER” MEANS A PERSON WHO:**

**(1) ENGAGES IN WHOLE OR IN PART IN THE BUSINESS OF SERVICING ~~RESIDENTIAL~~ MORTGAGE LOANS FOR OTHERS; OR**

(2) COLLECTS OR OTHERWISE RECEIVES PAYMENTS ON ~~RESIDENTIAL~~ MORTGAGE LOANS DIRECTLY FROM BORROWERS FOR DISTRIBUTION TO ANY OTHER PERSON.

~~(N)~~ (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.

[(l)] ~~(O)~~ (P) “Person” [includes an individual, corporation, business trust, estate, trust, partnership, association, 2 or more persons having a joint or common interest, or any other legal or commercial entity] MEANS A NATURAL PERSON, CORPORATION, LIMITED LIABILITY COMPANY, PARTNERSHIP, BUSINESS TRUST, OR ASSOCIATION.

~~(P) “RESIDENTIAL 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)] (Q) “Residential real [property] ESTATE” means any owner-occupied real property located in Maryland [which property has a dwelling on it designed principally as a residence with accommodations for not more than 4 families, but does not include any real property held primarily for rental, investment, or the generation of income through any commercial or industrial enterprise] ON WHICH A DWELLING IS CONSTRUCTED OR INTENDED TO BE CONSTRUCTED.

[(n)] (R) “State” means the State of Maryland.

11-502.

(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:
- (i) Makes 3 or fewer ~~RESIDENTIAL~~ mortgage loans per calendar year; and
  - (ii) Brokers no more than one ~~RESIDENTIAL~~ mortgage loan per calendar year;
- (5) Any person who takes back a deferred purchase money mortgage in connection with the sale of:
- (i) **[Residential] A DWELLING OR RESIDENTIAL** real **[property] ESTATE** owned by, and titled in the name of, that person; or
  - (ii) A new residential dwelling that the person built;
- (6) A nonprofit charitable organization registered with the Maryland Secretary of State or a nonprofit religious organization;
- (7) An employer making a ~~RESIDENTIAL~~ mortgage loan to an employee;
- (8) A person making a ~~RESIDENTIAL~~ mortgage loan to a borrower who is the person's spouse, child, child's spouse, parent, sibling, grandparent, grandchild, or grandchild's spouse;
- (9) A real estate broker who:
- (i) Is licensed in the State; and
  - (ii) Makes a ~~RESIDENTIAL~~ 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 **[property] ESTATE** through the broker;
- (10) A home improvement contractor licensed under the Maryland Home Improvement Law who assigns a ~~RESIDENTIAL~~ 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 **[paragraphs] ITEM (1), (2), or (11)** of this subsection;

(11) 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, the United States, or the state where the subsidiary or affiliate maintains its principal office; and

(ii) Files with the Commissioner, prior to making ~~RESIDENTIAL~~ 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;

(12) Any employee benefit plan qualified under Internal Revenue Code § 401 or persons acting as fiduciaries with respect to such a plan, making ~~RESIDENTIAL~~ mortgage loans solely to plan participants from plan assets; or

(13) 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.

11-505.

~~(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 ~~RESIDENTIAL~~ 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.

~~11-506.~~

~~(e) (1) The Commissioner may issue a license to an applicant who is a sole proprietor and who does not meet the experience requirement under subsection (b) of this section if:~~

- ~~(i) The applicant:~~
  - ~~1. Is a licensed insurance producer in good standing under § 10-103 of the Insurance Article; and~~
  - ~~2. Holds an appointment as an insurance producer for an insurer that controls, is controlled by, or is under common control with a financial institution described in § 11-502(b)(1) of this subtitle;~~
- ~~(ii) The applicant agrees to limit the applicant's activities to brokering RESIDENTIAL mortgage loans made by the single financial institution identified under item (i)2 of this paragraph;~~
- ~~(iii) The financial institution and affiliated insurer with which the applicant holds a current appointment are identified in the applicant's application;~~
- ~~(iv) The Commissioner approves the selection of the financial institution 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 or federal law;~~

~~(v) The applicant meets all other requirements for licensure as a mortgage lender under this subtitle;~~

~~(vi) The applicant has successfully completed at least 20 hours of classroom instruction in residential mortgage lending courses as provided in regulations adopted by the Commissioner and achieved a passing grade on a written exam developed and administered by the person that conducts the classroom education course;~~

~~(vii) An authorized representative of the financial institution identified under item (i)2 of this paragraph signs the license application; and~~

~~(viii) The financial institution identified under item (i)2 of this paragraph agrees to:~~

~~1. Supervise the applicant, including providing direction through written instructions or electronic means and by periodically examining the applicant's books, records, and other aspects of the business; and~~

~~2. Be held jointly and severally liable with the applicant for claims arising out of the applicant's mortgage brokering activities.~~

~~(2) Except as provided in paragraph (3) of this subsection, a sole proprietor who is issued a license under this subsection may not:~~

~~(i) Aid or assist a borrower to obtain a loan from a financial institution other than the financial institution identified in the application for the license;~~

~~(ii) 1. Be compensated by any person for mortgage brokerage activities on a basis that depends on the loan amount, interest rate, fees, or other terms of the brokered loan; or~~

~~2. Receive a finder's fee, as defined under Title 12, Subtitle 8 of the Commercial Law Article;~~

~~(iii) Handle borrower or other third party funds in connection with the brokering or closing of RESIDENTIAL mortgage loans;~~

~~(iv) Refer a borrower to any other licensee under this subtitle; or~~

~~(v) Make OR SERVICE RESIDENTIAL mortgage loans.~~

~~(3) A sole proprietor who is issued a license under this subsection may forward a check to the financial institution identified under paragraph (1)(i)2 of this subsection if:~~



~~(i) The check is made payable to the financial institution from a borrower; and~~

~~(ii) The check is in connection with an application for a RESIDENTIAL mortgage loan to cover costs for:~~

~~1. An appraisal;~~

~~2. A credit report; or~~

~~3. Processing an application.~~

11-506.1.

(a) This section shall 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.

(b) In connection with an initial application and at any other time the Commissioner requests, each 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 criminal history records checks.

[(c) Any applicant or licensee 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.

(d) If the applicant or licensee is a corporation, the fingerprinting and criminal history records check requirements shall apply to the president and to any other officer, director, or principal of the corporation as requested by the Commissioner.]

**(C) IN ADDITION TO THE REQUIREMENT UNDER SUBSECTION (B) OF THIS SECTION, 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.**

**(D) 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, ~~AND ANY OTHER SOURCE AS DIRECTED BY THE COMMISSIONER~~ 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 complete, sign, and submit to the Commissioner an application made under oath on the form that the Commissioner requires.

(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.

[(3) The application shall include:

(i) If the applicant is an individual, the applicant's name, business address and telephone number, and residence address and telephone number;

(ii) If the applicant is a partnership or other noncorporate business association, the business name, business address and telephone number, and the residence address and telephone number of each:

1. General partner, if the applicant is a limited partnership;

2. General partner who holds an interest in the partnership of more than 10 percent, if the applicant is a general partnership; or

3. Member, if the applicant is another noncorporate business association;

(iii) If the applicant is a corporation:

1. The name, address, and telephone number of the corporate entity; and

2. The name, the business telephone number, and the residence address and telephone number of the president, senior vice presidents, secretary, and treasurer, each director, and each stockholder owning or controlling 10 percent or more of any class of stock in the corporation;

(iv) The name under which the mortgage lending business is to be conducted;

(v) The name and address of the applicant's resident agent, if any; and

(vi) Any other information that the Commissioner reasonably requires.]

(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 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.**

**[(c)] (D)** For each license for which an applicant applies, the applicant shall:

(1) Submit a separate application;

(2) Pay a separate 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;**

~~[(3)] (4)~~ If applicable, pay the surcharge; and

~~[(4)] (5)~~ File a separate surety bond or other financial guaranty under § 11-508 of this subtitle.

~~[(d)] (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.

~~[(e)] (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.

~~(b) The surety bond shall:~~

~~(1) Run to the Commissioner and be for the benefit of any RESIDENTIAL 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 RESIDENTIAL mortgage loan lending; and~~

~~(4) Be approved by the Commissioner.~~

~~(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 RESIDENTIAL mortgage loans secured or to be secured by property located in Maryland and applied for and accepted or RESIDENTIAL 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 [property] 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 (c) 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.~~

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:

(1) In the case of an applicant or licensee that does not lend money secured by **A DWELLING OR residential real [property] 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 [property] 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 [property] 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 [property] 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 [property] **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 [property] **ESTATE**.

11-511.

(a) [A license expires on the second anniversary of its date of issue.] **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 DAY THE LICENSE IS ISSUED; AND**
- (3) EXPIRE ON DECEMBER 31 OF THE YEAR THE LICENSE IS ISSUED.**

(b) At least 30 days before its 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 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 ~~IN~~ 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.

[(c)] (E) If a license is [issued for less than 2 full years and 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.

[(d)] The Secretary may determine that licenses issued under this subtitle shall expire on a staggered basis.]

~~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 RESIDENTIAL mortgage loans under Titles 12 through 14 of the Commercial Law Article.~~

11-513.1.

A LICENSEE SHALL SUBMIT TO THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY A REPORT OF CONDITION ONCE EACH CALENDAR YEAR ON THE DATE, IN THE FORM, AND CONTAINING THE INFORMATION REQUIRED BY THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY.

~~11-515.~~

~~(b) (1) Any person aggrieved by the conduct of a licensee under this subtitle in connection with a RESIDENTIAL 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 RESIDENTIAL mortgage loan lending in the State.~~

~~(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 RESIDENTIAL 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.~~

~~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 RESIDENTIAL 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.~~

~~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 RESIDENTIAL 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 RESIDENTIAL 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.~~

(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 ~~[\$1,000] \$10,000~~ **\$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 ~~[\$1,000] \$10,000~~ **\$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.

(a) A mortgage lender shall require a borrower to [furnish] **PROVIDE** the mortgage lender with independent evidence of the commercial purpose of the loan where the loan is~~§~~:

(1) Secured~~§~~ **SECURED**, in whole or in part, by any interest in A **DWELLING OR** residential real [property] **ESTATE** in Maryland~~§~~; and

(2) In excess of \$75,000~~§~~.

~~11-523.~~

~~(b) Any unlicensed person who is not exempt from licensing under this subtitle who makes or assists a borrower in obtaining a **RESIDENTIAL** 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.~~

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" INCLUDE THE FOLLOWING ACTIVITIES RELATING TO THE PROCESSING OR UNDERWRITING OF A ~~RESIDENTIAL~~ 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 ~~RESIDENTIAL~~ MORTGAGE LOAN; AND**

**(2) COMMUNICATION WITH A CONSUMER TO OBTAIN INFORMATION NECESSARY FOR THE PROCESSING OR UNDERWRITING OF A ~~RESIDENTIAL~~ MORTGAGE LOAN, TO THE EXTENT THAT THE COMMUNICATION DOES NOT INCLUDE OFFERING OR NEGOTIATING ~~RESIDENTIAL~~ MORTGAGE LOAN RATES OR TERMS, OR COUNSELING CONSUMERS ABOUT ~~RESIDENTIAL~~ 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.**

[(c)] (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.**

[(d)] (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.**

[(e)] ~~(J)~~ (K) **“License” means a license issued by the Commissioner under this subtitle.**

[(f)] ~~(H)~~ (L) **“Licensee” means an individual who is licensed by the Commissioner under this subtitle.**

[(g)] ~~(I)~~ (M) **“Loan application” has the meaning stated in § 11–501 of this title.**

[(h)] ~~(M)~~ (N) **“Mortgage lender” means a person that is licensed as a mortgage lender under Subtitle 5 of this title.**

~~[(i)]~~ ~~(N)~~ (O) “Mortgage lending business” has the meaning stated in § 11–501 of this title.

~~[(i)]~~ (P) “Mortgage loan” has the meaning stated in § 11–501 of this title.]

[(k) (1) “Mortgage originator” means an individual who:

(i) Is an employee of a mortgage lender that:

1. Is a mortgage broker as defined in § 11–501(h) of this title; or

2. Has or will have a net branch office at or out of which the individual works or will work;

(ii) Directly contacts prospective borrowers for the purpose of negotiating with or advising the prospective borrowers regarding mortgage loan terms and availability;

(iii) Receives from the mortgage lender compensation that is calculated:

1. As a percentage of the principal amount of mortgage loans originated by the individual; or

2. As a percentage of the interest, fees, and charges received by the mortgage lender that result from mortgage loan transactions originated by the individual; and

(iv) Is authorized to accept a loan application on behalf of the mortgage lender.

(2) “Mortgage originator” does not include an individual who:

(i) Owns a 25 percent or more interest in the mortgage lender; or

(ii) Is licensed under Subtitle 5 of this title.]

[(l) (1) “Net branch office” means a branch office of a mortgage lender that is separately licensed under Subtitle 5 of this title if:

(i) As a condition of establishing the net branch, the mortgage lender requires the mortgage originator who works in or out of the branch office, or a person controlled by the mortgage originator, to pay an application, licensing,

franchise, start-up, or other fee to the mortgage lender or directly to the Commissioner;

(ii) The overhead expenses of the net branch are paid in whole or in part by:

1. A mortgage originator who works in or out of the branch office; or

2. A person controlled by a mortgage originator who works in or out of the branch office; or

(iii) The mortgage lender is not:

1. An obligor on a lease of the premises of the branch location; or

2. An owner of the premises of the branch location.

(2) "Net branch office" does not include the mortgage lender's principal office.]

~~(Q)~~ **(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 ~~RESIDENTIAL~~ 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, A 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).

~~(P)~~ (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 ~~RESIDENTIAL~~ MORTGAGE LOAN PROCESSING OR UNDERWRITING ACTIVITIES AS AN INDEPENDENT CONTRACTOR.

~~(Q)~~ (S) “NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY” HAS THE MEANING STATED IN § 11-501 OF THIS TITLE.

~~(R)~~ (T) “NONTRADITIONAL MORTGAGE PRODUCT” MEANS ANY MORTGAGE PRODUCT OTHER THAN A 30-YEAR FIXED RATE MORTGAGE LOAN.

~~(S)~~ (U) “PERSON” HAS THE MEANING STATED IN § 11-501 OF THIS TITLE.

~~(T)~~ (V) “REAL ESTATE BROKERAGE ACTIVITY” MEANS ANY ACTIVITY FOR WHICH A LICENSE IS REQUIRED UNDER TITLE 17 OF THE BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE.

~~(U)~~ (W) “REGISTERED MORTGAGE LOAN ORIGINATOR” MEANS ANY INDIVIDUAL WHO:

(1) IS A MORTGAGE LOAN ORIGINATOR; AND

(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.

~~(V) "RESIDENTIAL MORTGAGE LOAN" HAS THE MEANING STATED IN § 11-501 OF THIS TITLE.~~

~~(W)~~ (X) "RESIDENTIAL REAL ESTATE" HAS THE MEANING STATED IN § 11-501 OF THIS TITLE.

~~(Y)~~ (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(U)~~ § 11-601(W) OF THIS SUBTITLE;

(2) AN INDIVIDUAL WHO OFFERS OR NEGOTIATES THE TERMS OF A ~~RESIDENTIAL~~ 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 ~~RESIDENTIAL~~ MORTGAGE LOAN SECURED BY A DWELLING THAT SERVED AS THE INDIVIDUAL'S RESIDENCE; ~~AND~~

(4) A LICENSED ATTORNEY WHO NEGOTIATES THE TERMS OF A ~~RESIDENTIAL~~ 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.

[(b)] ~~(E)~~ (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] 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; [and]

(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) [Unless the licensee notifies the Commissioner in writing in advance of a change in the licensee's name or the licensee's employer and pays to the Commissioner a license amendment fee set by the Commissioner for each notice provided under this paragraph, an] **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;**

**(III) RETURNS TO THE COMMISSIONER THE LICENSEE'S LICENSE, OR AN AFFIDAVIT STATING THAT THE LICENSE HAS BEEN LOST OR DESTROYED; AND**

**(IV) IN THE CASE OF A NEW EMPLOYER, SUBMITS TO THE COMMISSIONER A NOTARIZED STATEMENT FROM THE LICENSEE'S NEW EMPLOYER 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:

(I) 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 PARAGRAPH (C)(2) OF THIS SUBSECTION; OR

(II) THE LICENSE EXPIRES OR IS REVOKED.

(d) A license may be issued under this subtitle to an individual who is employed by a mortgage lender that has its principal office located outside the State if the mortgage lender maintains:

(1) A resident agent within the State; and

(2) An office within the State staffed by at least one employee authorized to originate ~~RESIDENTIAL~~ mortgage loans.

(e) Notwithstanding [paragraph] SUBSECTION (d)(2) of this section, a mortgage lender is not required to maintain an office in this State if the laws of the state in which its principal office is located authorize a mortgage lender from this State to engage in mortgage lending without maintaining an office in that 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) AN AFFILIATED INSURANCE PRODUCER-MORTGAGE LOAN ORIGINATOR WHO HOLDS A MORTGAGE LENDER LICENSE UNDER § 11-506(C) OF THIS TITLE ON JULY 1, 2009, MAY CONTINUE TO ORIGINATE MORTGAGES UNDER A VALID MORTGAGE LENDER LICENSE UNTIL DECEMBER 31, 2009, PROVIDED THAT THE AFFILIATED INSURANCE PRODUCER-MORTGAGE LOAN ORIGINATOR TAKES THE ACTIONS NECESSARY TO PARTICIPATE IN THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY, AS REQUIRED BY THE COMMISSIONER.**

[11-604.

Beginning on January 1, 2007, an individual may not act as a mortgage originator unless the individual is:

- (1) A licensee; or
- (2) Exempt from licensing under this subtitle or Subtitle 5 of this title.]

[11-606.] **11-604.**

(a) (1) To apply for a license, an applicant shall complete, sign, and submit to the Commissioner an application made under oath on the form that the Commissioner requires.

(2) The applicant shall comply with all conditions and provisions of the application for a license.

[(3) The application shall include:

(i) The applicant's name, Social Security number, business address and telephone number, residence address, residence telephone number, and electronic mail address;

(ii) The business name, business address, and telephone number of the applicant's employer or prospective employer;

(iii) The applicant's resume or work experience, including the names and addresses of previous employers and a description of each job or position held by the applicant with previous employers;

(iv) A written statement by the applicant's present or prospective employer that the applicant has been approved for employment as a mortgage originator;

(v) A written statement disclosing whether the applicant has been convicted of, pleaded guilty to, or pleaded nolo contendere to a felony or misdemeanor, except minor traffic offenses, within the preceding 10 years, a description of the nature and disposition of any disclosed criminal proceeding, and the name of the court where the proceeding took place; and

(vi) A written statement disclosing whether the Commissioner, or any other regulatory authority in the State or any other jurisdiction that governs the mortgage lending or mortgage loan origination business, with respect to the applicant or an entity in which the applicant has or had any ownership interest, has:

1. Denied an application for a license;

2. Revoked or suspended a license; or

3. Imposed any other formal order or regulatory sanction.]

(b) With each application, the applicant shall pay to the Commissioner:

(1) A nonrefundable investigation fee set by the Commissioner; and

(2) A 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) 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~~ 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) 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, ~~AND ANY OTHER SOURCE AS DIRECTED BY THE COMMISSIONER~~ WITH SUBJECT MATTER JURISDICTION, AND ANY OTHER STATE LICENSING ENTITY THAT HAS LOAN ORIGINATORS REGISTERED WITH THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY.

[(c)] (F) (1) In ADDITION TO THE REQUIREMENT UNDER SUBSECTION (D) 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 [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)] (G) An applicant or licensee required to provide fingerprints under this [subsection] SECTION shall pay any processing or other fees required by



the Federal Bureau of Investigation [or], **THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY, AND** the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services.

11-605.

[(a) To qualify for a license, an applicant shall satisfy the Commissioner that:

(1) The applicant:

(i) Has at least 3 years of experience in the mortgage lending business and has completed any required courses for continuing education established by the Commissioner; or

(ii) Has completed 40 hours of classroom education and achieved a passing grade on a written examination as required by regulation; and

(2) The applicant is of good moral character and has general fitness to warrant the belief that the applicant will act as a mortgage originator in a lawful, honest, fair, and efficient manner.

(b) (1) Except as provided in paragraph (2) of this subsection, the Commissioner may deny an application for a license filed by an individual who has committed an act that would serve as a sufficient ground for suspension or revocation of a license under this subtitle or a mortgage lender license under Subtitle 5 of this title.

(2) The Commissioner shall deny an application for a license filed by an individual who has been convicted within the last 10 years of a felony involving fraud, theft, or forgery.

(c) The Commissioner may not deny an application based solely on the applicant's financial condition, credit history, or net worth, or the involvement of the applicant in a bankruptcy proceeding under Title 11 of the United States Code.]

**(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 ~~HAS SHOWN A LACK OF~~ DOES NOT MEET THE REQUIREMENTS FOR FINANCIAL RESPONSIBILITY FOR PURPOSES OF UNDER SUBSECTION (A)(3) OF THIS SECTION MAY ~~INCLUDE~~ NOT BE BASED SOLELY ON:

(1) ~~CURRENT OUTSTANDING JUDGMENTS, EXCEPT JUDGMENTS SOLELY AS A RESULT OF~~ DEBTS ARISING FROM MEDICAL EXPENSES, INCLUDING JUDGMENTS;

(2) ~~CURRENT OUTSTANDING TAX LIENS OR OTHER GOVERNMENT LIENS AND FILINGS~~ EXCEPT FOR DELINQUENT CHILD SUPPORT PAYMENTS, DEBTS, INCLUDING JUDGMENTS, ARISING FROM DIVORCE PROCEEDINGS OR DIVORCE SETTLEMENTS;

**(3) ~~FORECLOSURES WITHIN THE PAST 3 YEARS; AND ON THE APPLICANT'S PRINCIPAL RESIDENCE;~~**

**(4) ~~A PATTERN OF SERIOUSLY DELINQUENT ACCOUNTS WITHIN THE PAST 3 YEARS~~ 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.**

**11-605.1.**

**(A) SUBJECT TO SUBSECTIONS (B) THROUGH (G) OF THIS SECTION, THE COMMISSIONER MAY ISSUE AN INTERIM MORTGAGE LOAN ORIGINATOR LICENSE TO AN INDIVIDUAL WHO PROVIDES TO THE COMMISSIONER WRITTEN PROOF, SATISFACTORY TO THE COMMISSIONER, THAT THE INDIVIDUAL:**

**(1) IS EMPLOYED BY A PERSON WHO:**

**(I) IS A LICENSED MORTGAGE LENDER, OR IS EXEMPT FROM LICENSING, UNDER SUBTITLE 5 OF THIS TITLE;**

**(II) MAKES ~~RESIDENTIAL~~ MORTGAGE LOANS; AND**

**(III) IS NOT A MORTGAGE BROKER; OR**

**(2) AS OF JULY 1, 2009, AND THE DATE OF APPLICATION FOR AN INTERIM LICENSE, OWNS A 25 PERCENT OR MORE INTEREST IN A MORTGAGE LENDER.**

**(B) THE COMMISSIONER MAY ACCEPT APPLICATIONS FOR INITIAL INTERIM MORTGAGE LOAN ORIGINATOR LICENSES THROUGH JULY 31, 2009.**

**(C) THE TERM OF AN INTERIM MORTGAGE LOAN ORIGINATOR LICENSE SHALL:**

**(1) BEGIN ON THE DATE THE LICENSE IS ISSUED; AND**

**(2) EXPIRE ON DECEMBER 31, 2010.**

**(D) AN APPLICANT FOR AN INTERIM MORTGAGE LOAN ORIGINATOR LICENSE SHALL MEET THE QUALIFICATIONS FOR LICENSURE AS REQUIRED BY THIS SUBTITLE, EXCEPT THAT THE APPLICANT OR INTERIM LICENSEE MAY COMPLY WITH THE FOLLOWING ON OR BEFORE JULY 31, 2010:**

(1) THE FINGERPRINTING AND CRIMINAL HISTORY REPORT REQUIREMENT UNDER § 11-604 OF THIS SUBTITLE;

(2) THE SURETY BOND COVERAGE REQUIREMENT UNDER § 11-619 OF THIS SUBTITLE;

(3) THE PRELICENSING EDUCATION REQUIREMENT UNDER § 11-606 OF THIS SUBTITLE; AND

(4) THE PRELICENSING TESTING REQUIREMENT UNDER § 11-606.1 OF THIS SUBTITLE.

(E) (1) THIS SUBSECTION DOES NOT APPLY TO AN INDIVIDUAL DESCRIBED IN SUBSECTION (A)(2) OF THIS SECTION.

(2) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, AN INDIVIDUAL HOLDING AN INTERIM MORTGAGE LOAN ORIGINATOR LICENSE:

(I) MAY ENGAGE ONLY IN TRANSACTIONS IN WHICH THE INDIVIDUAL'S EMPLOYER MAKES A ~~RESIDENTIAL~~ MORTGAGE LOAN; AND

(II) MAY NOT ENGAGE IN TRANSACTIONS IN WHICH THE INDIVIDUAL'S EMPLOYER ACTS AS A MORTGAGE BROKER, AS DEFINED IN § 11-501 OF THIS TITLE.

(3) THE RESTRICTIONS ON AN INDIVIDUAL'S ACTIVITIES UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL TERMINATE ON THE INDIVIDUAL'S COMPLIANCE WITH:

(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;

(III) THE PRELICENSING EDUCATION REQUIREMENT UNDER § 11-606 OF THIS SUBTITLE; AND

(IV) THE PRELICENSING TESTING REQUIREMENT UNDER § 11-606.1 OF THIS SUBTITLE.

(F) WITH EACH APPLICATION FOR AN INTERIM MORTGAGE LOAN ORIGINATOR LICENSE, THE APPLICANT SHALL PAY TO THE COMMISSIONER:

(1) THE NONREFUNDABLE INVESTIGATION FEE REQUIRED UNDER § 11-604(B)(1) OF THIS SUBTITLE;

(2) 150 PERCENT OF THE LICENSING FEE REQUIRED UNDER § 11-604(B)(2) OF THIS SUBTITLE; AND

(3) ANY FEES IMPOSED BY THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY UNDER § 11-604(C) OF THIS SUBTITLE.

(G) IN ADDITION TO ANY OTHER INFORMATION REQUIRED TO BE PLACED ON A LICENSE UNDER THIS SUBTITLE, THE COMMISSIONER SHALL PRINT THE WORDS "INTERIM MORTGAGE LOAN ORIGINATOR LICENSE" ON EACH LICENSE ISSUED UNDER THIS SECTION.

#### 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 ~~THE~~ NONTRADITIONAL MORTGAGE ~~PRODUCT~~ MARKETPLACE 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 § [11-606] **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.

11-609.

[(a) A license issued on or after October 1, 2006, expires on December 31 in each odd-numbered year after December 31, 2006, unless the license is renewed for a 2-year term as provided in this section.]

**(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 [December] **NOVEMBER** 1 of the year of expiration, a license may be renewed [for an additional 2-year term] if the licensee:

(1) [Otherwise] **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) Notwithstanding subsections (a) and (b) of this section, the Commissioner may determine that licenses issued under this subtitle shall expire on a staggered basis.]

**(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) A NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS SECTION OR § 11-605 OF THIS SUBTITLE, AN LICENSEE HOLDING A LICENSE THAT EXPIRES BETWEEN APPLICANT FOR RENEWAL OF A LICENSE WHO IS DULY LICENSED UNDER THIS SUBTITLE ON JULY 1, 2009, AND DECEMBER 31, 2010, MAY:~~

(1) MAY COMPLY WITH THE FOLLOWING REQUIREMENTS FOR RENEWAL OF THE LICENSE ON OR BEFORE DECEMBER 31, 2010:

~~(1)~~ (I) THE FINGERPRINTING AND CRIMINAL HISTORY REPORT REQUIREMENT UNDER § 11-604 OF THIS SUBTITLE;

~~(2)~~ (II) THE SURETY BOND COVERAGE REQUIREMENT UNDER § 11-619 OF THIS SUBTITLE; AND

~~(3)~~ (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) A LICENSEE HOLDING A LICENSE THAT EXPIRES BETWEEN JULY 1, 2009, AND DECEMBER 31, 2010, MAY COMPLY WITH THE PRELICENSING EDUCATION REQUIREMENT UNDER § 11-606 OF THIS SUBTITLE IF THE LICENSEE HAS COMPLETED, WITHIN THE 2-YEAR PERIOD IMMEDIATELY PRECEDING THE DATE OF THE RENEWAL APPLICATION, AT LEAST 20 HOURS OF CONTINUING EDUCATION APPROVED BY THE COMMISSIONER BY REGULATION.~~

[(c)] ~~(G)~~ (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.

11-612.

(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.**

**[(a)] (H)** The Commissioner [shall] MAY adopt regulations [that:

(1) Set continuing education requirements as a condition to the renewal of a license under this subtitle; and

(2) Prescribe rules for the classroom education requirement provided for in § 11-605(a) of this subtitle] **TO IMPLEMENT THIS SECTION.**

**[(b)]** Any continuing education requirement established by the Commissioner under this section shall apply to the first renewal of a license.]

11-613.

(a) (1) Any person aggrieved by the conduct of a licensee under this subtitle in connection with a ~~RESIDENTIAL~~ 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.**

**[(b)] (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.

**[(c)] (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.

**[(d)] (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.

11-615.

(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 ~~RESIDENTIAL~~ 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.

(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 ~~[\$1,000] \$10,000~~ \$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 ~~[\$1,000] \$10,000~~ \$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.

(f) **[If] THE COMMISSIONER SHALL REVOKE THE LICENSE OF THE LICENSEE IF** the Commissioner determines that a licensee, **WHILE LICENSED**, has **[been]:**

**(1) [convicted] BEEN CONVICTED** of a felony **[involving fraud, theft, or forgery while the licensee has been licensed, the Commissioner shall revoke the license of the licensee]; OR**

**(2) HAD A MORTGAGE LOAN ORIGINATOR LICENSE REVOKED IN ANY GOVERNMENTAL JURISDICTION.**

**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 ~~RESIDENTIAL~~ 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 §§ 10-611 THROUGH 10-628 OF THE STATE GOVERNMENT 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 §§ 10-611 THROUGH 10-628 OF THE STATE GOVERNMENT 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 §§ 10-611 THROUGH 10-628 OF THE STATE GOVERNMENT 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 §§ 10-611 THROUGH 10-628 OF THE STATE GOVERNMENT 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.

~~AS THE COMMISSIONER REQUIRES BY REGULATION, THE~~ THE UNIQUE IDENTIFIER OF A MORTGAGE LOAN ORIGINATOR SHALL BE CLEARLY DISPLAYED ~~ON LOAN APPLICATION FORMS, SOLICITATIONS, ADVERTISEMENTS, BUSINESS CARDS, WEBSITES, AND ANY OTHER FORMS OF COMMUNICATION SPECIFIED AS~~ REQUIRED BY THE COMMISSIONER BY REGULATION.

SECTION 2. AND BE IT FURTHER ENACTED, That licensing required under § 11-602 of the Financial Institutions Article, as enacted by Section 1 of this Act, shall apply to retail sellers of manufactured homes based on 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.

SECTION 3. AND BE IT FURTHER ENACTED, That the preclicensing testing requirement under § 11-609(e)(1)(iii) of the Financial Institutions Article, as enacted by Section 1 of this Act, for licensees described in § 11-609(e)(1) of the Financial Institutions Article, as enacted by Section 1 of this Act, shall be effective when and if the United States Department of Housing and Urban Development determines through commentaries, guidelines, rules, regulations, or interpretive letters that the requirement is applicable to those licensees. If it is determined that the preclicensing testing requirement is applicable to the licensees, the Commissioner of Financial Regulation shall notify the licensees of the necessity for compliance.

SECTION ~~2~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2009.

Approved by the Governor, April 14, 2009.

---

## Chapter 5

(Senate Bill 270)



AN ACT concerning

**Unemployment Insurance – Eligibility – Part–Time Work**

FOR the purpose of authorizing an individual who is able to work only part time to be deemed eligible for certain benefits under certain circumstances; clarifying that the Secretary of Labor, Licensing, and Regulation may not use the disability of a qualified individual with a disability in finding that an individual is not available for work, actively seeking work, or eligible for benefits under this Act; providing that a part–time worker is not considered to be unemployed if the part–time worker is working all hours for which the part–time worker is available; defining a certain term; making this Act an emergency measure; and generally relating to unemployment insurance benefits for part–time workers.

BY renumbering

Article – Labor and Employment  
Section 8–101(v), (w), (x), (y), and (z), respectively  
to be Section 8–101(w), (x), (y), (z), and (aa), respectively  
Annotated Code of Maryland  
(2008 Replacement Volume)

BY repealing and reenacting, without amendments,

Article – Labor and Employment  
Section 8–101(a)  
Annotated Code of Maryland  
(2008 Replacement Volume)

BY adding to

Article – Labor and Employment  
Section 8–101(v)  
Annotated Code of Maryland  
(2008 Replacement Volume)

BY repealing and reenacting, with amendments,

Article – Labor and Employment  
Section 8–801 and 8–903  
Annotated Code of Maryland  
(2008 Replacement Volume)

Preamble

WHEREAS, Many Maryland employers routinely offer certain permanent jobs only on a part–time basis; and

WHEREAS, Some workers who have been laid off from their jobs have a long and productive history of part–time employment; and

WHEREAS, Workers who are only available for part-time work do not qualify for unemployment insurance benefits; and

WHEREAS, A part-time worker who holds more than one part-time job is ineligible to receive unemployment insurance benefits despite the fact that each of the part-time worker's employers must contribute to the Unemployment Insurance Fund for the part-time worker; and

WHEREAS, Part-time workers who are laid off through no fault of their own should have parity with full-time workers with regard to eligibility to receive unemployment insurance benefits; and

WHEREAS, The achievement of employment security requires protection against unemployment directly attributable to, arising from, or connected with a part-time worker's employment; now, therefore,

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 8-101(v), (w), (x), (y), and (z), respectively, of Article – Labor and Employment of the Annotated Code of Maryland be renumbered to be Section(s) 8-101(w), (x), (y), (z), and (aa), respectively.

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

### **Article – Labor and Employment**

8-101.

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

**(v) “PART-TIME WORKER” MEANS AN INDIVIDUAL:**

**(1) WHOSE AVAILABILITY FOR WORK IS RESTRICTED TO PART-TIME WORK; AND**

**(2) WHO WORKS PREDOMINANTLY ON A PART-TIME BASIS THROUGHOUT THE YEAR FOR AT LEAST ~~15~~ 20 HOURS PER WEEK.**

8-801.

(a) To be eligible for benefits, an individual who files a claim for benefits shall be unemployed.

(b) An individual is considered to be unemployed in any week during which the individual:

- (1) does not perform work for which wages are payable; or
- (2) performs less than full-time work for which wages payable are less than the weekly benefit amount that would be assigned to the individual plus allowances for dependents.

**(C) NOTWITHSTANDING SUBSECTION (B)(2) OF THIS SECTION, A PART-TIME WORKER IS NOT CONSIDERED TO BE UNEMPLOYED IF THE PART-TIME WORKER IS WORKING ALL HOURS FOR WHICH THE PART-TIME WORKER IS AVAILABLE.**

8-903.

(a) (1) Except as otherwise provided in this section, to be eligible for benefits an individual shall be:

- (i) able to work;
- (ii) available for work; and
- (iii) actively seeking work.

(2) In determining whether an individual actively is seeking work, the Secretary shall consider:

(i) whether the individual has made an effort that is reasonable and that would be expected of an unemployed individual who honestly is looking for work; and

(ii) the extent of the effort in relation to the labor market conditions in the area in which the individual is seeking work.

**(3) THE SECRETARY MAY CONSIDER A PART-TIME WORKER AS MEETING THE REQUIREMENTS OF THIS SECTION IF THE PART-TIME WORKER:**

**(I) IS ELIGIBLE FOR BENEFITS UNDER § 8-803 OF THIS TITLE BASED ON WAGES THAT ARE PREDOMINANTLY EARNED FROM PART-TIME WORK;**

**(II) IS ACTIVELY SEEKING PART-TIME WORK;**

**(III) IS AVAILABLE FOR PART-TIME WORK FOR AT LEAST THE NUMBER OF HOURS WORKED AT THE PART-TIME WORKER'S PREVIOUS EMPLOYMENT;**

**(IV) DOES NOT IMPOSE ANY OTHER RESTRICTIONS ON THE PART-TIME WORKER'S ABILITY TO WORK OR AVAILABILITY FOR WORK; AND**

**(V) IS IN A LABOR MARKET IN WHICH A REASONABLE DEMAND EXISTS FOR PART-TIME WORK.**

(b) The Secretary may not use the disability of a qualified individual with a disability as a factor in finding that an individual is not able to work, **AVAILABLE FOR WORK, OR ACTIVELY SEEKING WORK** under subsection [(a)(1)(i)] **(A)(1) OR (3)** of this section.

(c) Notwithstanding any other provision of this section or § 8-904 or § 8-907(a) or (b) of this subtitle, an individual who otherwise is eligible to receive benefits and who is in training with the approval of the Secretary may not be denied benefits:

(1) for failure to meet the requirements of subsection (a)(1)(ii) and (iii) of this section to be available for work and actively seeking work; or

(2) for failure to apply for or refusal to accept suitable work under § 8-1005 of this title.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a ye and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

**Approved by the Governor, April 14, 2009.**

---

## Chapter 6

### (House Bill 310)

AN ACT concerning

#### Unemployment Insurance – Eligibility – Part-Time Work

FOR the purpose of authorizing an individual who is able to work only part time to be deemed eligible for certain benefits under certain circumstances; clarifying that the Secretary of Labor, Licensing, and Regulation may not use the disability of a qualified individual with a disability in finding that an individual is not available for work, actively seeking work, or eligible for benefits under this Act; providing that a part-time worker is not considered to be unemployed if the

part-time worker is working all hours for which the part-time worker is available; defining a certain term; making this Act an emergency measure; and generally relating to unemployment insurance benefits for part-time workers.

BY renumbering

Article – Labor and Employment  
Section 8–101(v), (w), (x), (y), and (z), respectively  
to be Section 8–101(w), (x), (y), (z), and (aa), respectively  
Annotated Code of Maryland  
(2008 Replacement Volume)

BY repealing and reenacting, without amendments,

Article – Labor and Employment  
Section 8–101(a)  
Annotated Code of Maryland  
(2008 Replacement Volume)

BY adding to

Article – Labor and Employment  
Section 8–101(v)  
Annotated Code of Maryland  
(2008 Replacement Volume)

BY repealing and reenacting, with amendments,

Article – Labor and Employment  
Section 8–801 and 8–903  
Annotated Code of Maryland  
(2008 Replacement Volume)

Preamble

WHEREAS, Many Maryland employers routinely offer certain permanent jobs only on a part-time basis; and

WHEREAS, Some workers who have been laid off from their jobs have a long and productive history of part-time employment; and

WHEREAS, Workers who are only available for part-time work do not qualify for unemployment insurance benefits; and

WHEREAS, A part-time worker who holds more than one part-time job is ineligible to receive unemployment insurance benefits despite the fact that each of the part-time worker's employers must contribute to the Unemployment Insurance Fund for the part-time worker; and

WHEREAS, Part-time workers who are laid off through no fault of their own should have parity with full-time workers with regard to eligibility to receive unemployment insurance benefits; and

WHEREAS, The achievement of employment security requires protection against unemployment directly attributable to, arising from, or connected with a part-time worker's employment; now, therefore,

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 8-101(v), (w), (x), (y), and (z), respectively, of Article – Labor and Employment of the Annotated Code of Maryland be renumbered to be Section(s) 8-101(w), (x), (y), (z), and (aa), respectively.

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

### **Article – Labor and Employment**

8-101.

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

**(v) “PART-TIME WORKER” MEANS AN INDIVIDUAL:**

**(1) WHOSE AVAILABILITY FOR WORK IS RESTRICTED TO PART-TIME WORK; AND**

**(2) WHO WORKS PREDOMINANTLY ON A PART-TIME BASIS THROUGHOUT THE YEAR FOR AT LEAST ~~15~~ 20 HOURS PER WEEK.**

8-801.

(a) To be eligible for benefits, an individual who files a claim for benefits shall be unemployed.

(b) An individual is considered to be unemployed in any week during which the individual:

(1) does not perform work for which wages are payable; or

(2) performs less than full-time work for which wages payable are less than the weekly benefit amount that would be assigned to the individual plus allowances for dependents.

**(c) NOTWITHSTANDING SUBSECTION (B)(2) OF THIS SECTION, A PART-TIME WORKER IS NOT CONSIDERED TO BE UNEMPLOYED IF THE**

**PART-TIME WORKER IS WORKING ALL HOURS FOR WHICH THE PART-TIME WORKER IS AVAILABLE.**

8-903.

(a) (1) Except as otherwise provided in this section, to be eligible for benefits an individual shall be:

- (i) able to work;
- (ii) available for work; and
- (iii) actively seeking work.

(2) In determining whether an individual actively is seeking work, the Secretary shall consider:

(i) whether the individual has made an effort that is reasonable and that would be expected of an unemployed individual who honestly is looking for work; and

(ii) the extent of the effort in relation to the labor market conditions in the area in which the individual is seeking work.

**(3) THE SECRETARY MAY CONSIDER A PART-TIME WORKER AS MEETING THE REQUIREMENTS OF THIS SECTION IF THE PART-TIME WORKER:**

**(I) IS ELIGIBLE FOR BENEFITS UNDER § 8-803 OF THIS TITLE BASED ON WAGES THAT ARE PREDOMINANTLY EARNED FROM PART-TIME WORK;**

**(II) IS ACTIVELY SEEKING PART-TIME WORK;**

**(III) IS AVAILABLE FOR PART-TIME WORK FOR AT LEAST THE NUMBER OF HOURS WORKED AT THE PART-TIME WORKER'S PREVIOUS EMPLOYMENT;**

**(IV) DOES NOT IMPOSE ANY OTHER RESTRICTIONS ON THE PART-TIME WORKER'S ABILITY TO WORK OR AVAILABILITY FOR WORK; AND**

**(V) IS IN A LABOR MARKET IN WHICH A REASONABLE DEMAND EXISTS FOR PART-TIME WORK.**

(b) The Secretary may not use the disability of a qualified individual with a disability as a factor in finding that an individual is not able to work, **AVAILABLE**

**FOR WORK, OR ACTIVELY SEEKING WORK** under subsection [(a)(1)(i)] **(A)(1) OR (3)** of this section.

(c) Notwithstanding any other provision of this section or § 8–904 or § 8–907(a) or (b) of this subtitle, an individual who otherwise is eligible to receive benefits and who is in training with the approval of the Secretary may not be denied benefits:

(1) for failure to meet the requirements of subsection (a)(1)(ii) and (iii) of this section to be available for work and actively seeking work; or

(2) for failure to apply for or refusal to accept suitable work under § 8–1005 of this title.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a yea and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

**Approved by the Governor, April 14, 2009.**

---

## Chapter 7

### (Senate Bill 7)

AN ACT concerning

#### State Government – Flags – Made in USA

FOR the purpose of requiring ~~a flag of the United States or a State flag~~ certain flags to be manufactured in the United States under certain circumstances.

BY adding to

Article – State Government

Section 13–206

Annotated Code of Maryland

(2004 Replacement Volume and 2008 Supplement)

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

#### Article – State Government

**13–206.**



**A FLAG OF THE UNITED STATES OR A STATE FLAG THAT IS DISPLAYED ON STATE PROPERTY AND PURCHASED WITH STATE MONEY MUST BE MANUFACTURED IN THE UNITED STATES.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

**Approved by the Governor, April 14, 2009.**

---

## Chapter 8

### (House Bill 7)

AN ACT concerning

#### State Government – Flags – Made in USA

FOR the purpose of requiring ~~a flag of the United States or a State flag~~ certain flags to be manufactured in the United States under certain circumstances, ~~clarifying a certain term, and generally relating to flags on State property.~~

BY adding to

Article – State Government

Section 13–206

Annotated Code of Maryland

(2004 Replacement Volume and 2008 Supplement)

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

#### Article – State Government

#### 13–206.

~~(A) IN THIS SECTION, WHEN CAPITALIZED, “STATE” MEANS MARYLAND.~~

~~(B)~~ **A FLAG OF THE UNITED STATES OR A STATE FLAG THAT IS DISPLAYED ON STATE PROPERTY AND PURCHASED WITH STATE MONEY MUST BE MANUFACTURED IN THE UNITED STATES.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, April 14, 2009.

---

## Chapter 9

### (Senate Bill 8)

AN ACT concerning

#### **Insurance – Unfair and Deceptive Practices – Limit on Offer, Promise, or Gift of Valuable Consideration Not Specified in a Contract or Policy**

FOR the purpose of altering the limit on the value of certain items that an insurer may offer, promise, or give that is not specified in ~~a certain contract~~ certain contracts or policies; and generally relating to insurance and unfair and deceptive practices.

BY repealing and reenacting, without amendments,  
Article – Insurance  
Section 27–201  
Annotated Code of Maryland  
(2006 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,  
Article – Insurance  
Section 27–209 and 27–212  
Annotated Code of Maryland  
(2006 Replacement Volume and 2008 Supplement)

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

#### **Article – Insurance**

27–201.

The commission of an act prohibited under this subtitle is defined as an unfair method of competition and an unfair and deceptive act or practice in the business of insurance.

27–209.

Except as otherwise expressly provided by law, a person may not knowingly:

- (1) allow, make, or offer to make a contract of life insurance or health insurance or an annuity contract or an agreement as to the contract other than as plainly expressed in the contract;
- (2) pay, allow, give, or offer to pay, allow, or give directly or indirectly as an inducement to the insurance or annuity:
  - (i) a rebate of premiums payable on the contract;
  - (ii) a special favor or advantage in the dividends or other benefits under the contract;
  - (iii) paid employment or a contract for services of any kind; or
  - (iv) any valuable consideration or other inducement not specified in the contract;
- (3) directly or indirectly give, sell, purchase, offer or agree to give, sell, or purchase, or allow as inducement to the insurance or annuity or in connection with the insurance or annuity, regardless of whether specified in the policy or contract, an agreement that promises returns and profits, or stocks, bonds, or other securities, or a present or contingent interest in or measured by stocks, bonds, or other securities, of an insurer or other corporation, association, or partnership, or dividends or profits accrued or to accrue on stocks, bonds, or other securities; or
- (4) offer, promise, or give any valuable consideration not specified in the contract, except for educational materials, promotional materials, or articles of merchandise that cost ~~less than~~ **[\$10] NO MORE THAN \$25**, regardless of whether a policy is purchased.

27-212.

(a) This section does not apply to life insurance, health insurance, and annuities.

(b) Except to the extent provided for in an applicable filing with the Commissioner as provided by law, an insurer, employee or representative of an insurer or insurance producer may not pay, allow, give, or offer to pay, allow, or give directly or indirectly as an inducement to insurance or after insurance has become effective:

(1) a rebate, discount, abatement, credit, or reduction of the premium stated in the policy;

(2) a special favor or advantage in the dividends or other benefits to accrue on the policy; or

(3) any valuable consideration or other inducement not specified in the policy.

(c) An insured named in a policy or an employee of the insured may not knowingly receive or accept directly or indirectly a rebate, discount, abatement, credit, reduction of premium, special favor, advantage, valuable consideration, or inducement described in subsection (b) of this section.

(d) Except as otherwise provided by law, a person may not knowingly offer, promise, or give any valuable consideration not specified in the policy, except for educational materials, promotional materials, or articles of merchandise that cost [less than \$10] NO MORE THAN \$25, regardless of whether a policy is purchased.

(e) (1) An insurer may not make or allow unfair discrimination between insureds or properties having like insuring or risk characteristics in:

(i) the premium or rates charged for insurance;

(ii) the dividends or other benefits payable on the insurance; or

(iii) any of the other terms or conditions of the insurance.

(2) Notwithstanding any other provision of this section, an insurer may not make or allow a differential in ratings, premium payments, or dividends for a reason based on the sex, physical handicap, or disability of an applicant or policyholder unless there is actuarial justification for the differential.

(f) This section does not prohibit an insurer from:

(1) paying commissions or other compensation to licensed insurance producers; or

(2) allowing or returning to its participating policyholders, members, or subscribers lawful dividends, savings, or unabsorbed premium deposits.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

**Approved by the Governor, April 14, 2009.**

---

## Chapter 10

### (Senate Bill 10)

AN ACT concerning

**Consumer Protection – False Advertising – Misrepresentations in Advertisements and Telephone Directory Listings – ~~Publication of Local Numbers by Nonlocal Businesses~~**

FOR the purpose of ~~prohibiting certain nonlocal businesses from publishing an advertisement containing a local telephone number in certain directories except under certain circumstances; prohibiting certain nonlocal businesses from listing or causing to be listed a local telephone number in certain directories except under certain circumstances; providing that a telephone company or directory provider is not liable for this Act by a nonlocal business; providing that a violation of this Act is an unfair or deceptive trade practice under the Maryland Consumer Protection Act and is subject to certain enforcement and penalty provisions; providing that a person is in violation of a certain provision of law prohibiting false advertising if the person causes an advertisement that misrepresents the location of the person to be published in a certain directory, or causes a telephone listing that misrepresents the location of the person to be listed in a certain directory; exempting publishers, printers, and distributors of certain advertisements or telephone listings from certain provisions of law governing false advertising; providing for the application of certain provisions of this Act; defining certain terms; and generally relating to the publication of local numbers in telephone directories by nonlocal businesses.~~ false advertising and misrepresentations in advertisements and telephone directory listings.

BY repealing and reenacting, with amendments,  
Article – Commercial Law  
Section ~~13-301(14)~~ 11-701 and 11-702  
Annotated Code of Maryland  
(2005 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, without amendments,  
Article – Commercial Law  
Section 11-703 and 11-705  
Annotated Code of Maryland  
(2005 Replacement Volume and 2008 Supplement)

BY adding to  
Article – Commercial Law  
Section ~~14-1322~~ 11-704.1  
Annotated Code of Maryland  
(2005 Replacement Volume and 2008 Supplement)

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

**Article – Commercial Law**

~~13-301.~~

~~Unfair or deceptive trade practices include any:~~

~~(14) Violation of a provision of:~~

~~(i) This title;~~

~~(ii) An order of the Attorney General or agreement of a party relating to unit pricing under Title 14, Subtitle 1 of this article;~~

~~(iii) Title 14, Subtitle 2 of this article, the Maryland Consumer Debt Collection Act;~~

~~(iv) Title 14, Subtitle 3 of this article, the Maryland Door-to-Door Sales Act;~~

~~(v) Title 14, Subtitle 9 of this article, Kosher Products;~~

~~(vi) Title 14, Subtitle 10 of this article, Automotive Repair Facilities;~~

~~(vii) Section 14-1302 of this article;~~

~~(viii) Title 14, Subtitle 11 of this article, Maryland Layaway Sales Act;~~

~~(ix) Section 22-415 of the Transportation Article;~~

~~(x) Title 14, Subtitle 20 of this article;~~

~~(xi) Title 14, Subtitle 15 of this article, the Automotive Warranty Enforcement Act;~~

~~(xii) Title 14, Subtitle 21 of this article;~~

~~(xiii) Section 18-107 of the Transportation Article;~~

~~(xiv) Title 14, Subtitle 22 of this article, the Maryland Telephone Solicitations Act;~~

~~(xv) Title 14, Subtitle 23 of this article, the Automotive Crash Parts Act;~~

~~(xvi) Title 10, Subtitle 6 of the Real Property Article;~~

~~(xvii) Title 14, Subtitle 25 of this article, the Hearing Aid Sales Act;~~

~~(xviii) Title 14, Subtitle 26 of this article, the Maryland Door-to-Door Solicitations Act;~~

~~(xix) Title 14, Subtitle 31 of this article, the Maryland Household Goods Movers Act;~~

~~(xx) Title 14, Subtitle 32 of this article, the Maryland Telephone Consumer Protection Act;~~

~~(xxi) Title 14, Subtitle 34 of this article, the Social Security Number Privacy Act;~~

~~(xxii) Section 14-1319 or § 14-1320 of this article;~~

~~(xxiii) Section 7-304 of the Criminal Law Article;~~

~~(xxiv) Title 7, Subtitle 3 of the Real Property Article, the Protection of Homeowners in Foreclosure Act;~~

~~(xxv) Title 6, Subtitle 13 of the Environment Article; [or]~~

~~(xxvi) Section 7-405(c)(2)(ii) of the Health Occupations Article; or~~

~~(XXVII) SECTION 14-1322 OF THIS ARTICLE; OR~~

~~14-1322.~~

11-701.

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

(b) (1) “Advertise falsely” means to use any advertisement, including a label, which is misleading in a material respect.

(2) “Advertise falsely” includes the use of an advertisement that contains an affirmative representation that the Maryland ~~Sales and Use Tax~~ *sales and use tax* will not be collected by the retailer on a particular transaction without notifying the purchaser of the purchaser’s duty to pay the sales and use tax directly to the Comptroller of this State.

(c) “Person” includes an individual, corporation, business trust, estate, trust, partnership, association, two or more persons having a joint or common interest, or any other legal or commercial entity.

**(D) “TELEPHONE COMPANY” HAS THE MEANING STATED IN § 1-101 OF THE PUBLIC UTILITY COMPANIES ARTICLE.**

11-702.

This subtitle does not apply to any:

(1) Television or radio broadcasting station which broadcasts an advertisement; [or]

(2) Publisher or printer of a newspaper, magazine, or other form of printed advertisement who publishes or prints an advertisement; OR

**(3) PUBLISHER, PRINTER, OR DISTRIBUTOR, INCLUDING A TELEPHONE COMPANY OR DIRECTORY PROVIDER, OF AN ADVERTISEMENT OR TELEPHONE LISTING IN A TELEPHONE DIRECTORY.**

11-703.

A person may not advertise falsely in the conduct of any business, trade, or commerce or in the provision of any service.

**11-704.1.**

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

**~~(2) (H) “LOCAL AREA” MEANS THE AREA IN AND FOR WHICH A TELEPHONE DIRECTORY IS DISTRIBUTED FREE OF CHARGE.~~**

**~~(H) A LOCAL AREA MAY CONSIST OF ONE OR MORE TOWNS, CITIES, COUNTIES, COMMUNITIES, OR OTHER GEOGRAPHICAL AREAS IN THE STATE.~~**

**~~(3)~~ (I) “LOCAL TELEPHONE CLASSIFIED ADVERTISING DIRECTORY” MEANS A TELEPHONE DIRECTORY THAT:**

- 1. CONTAINS CLASSIFIED ADVERTISEMENTS; AND**
- 2. IS DISTRIBUTED FREE OF CHARGE TO RESIDENTS IN THE STATE.**

**(II) “LOCAL TELEPHONE CLASSIFIED ADVERTISING DIRECTORY” INCLUDES A DIRECTORY DISTRIBUTED BY A PERSON OTHER THAN A TELEPHONE COMPANY.**



~~(4)~~ (3) (I) "LOCAL TELEPHONE DIRECTORY" MEANS A TELEPHONE DIRECTORY THAT IS:

1. AVAILABLE FREE OF CHARGE TO TELEPHONE SUBSCRIBERS IN AN AREA OF THE STATE; AND

2. DOES NOT CONTAIN CLASSIFIED ADVERTISEMENTS.

(II) "LOCAL TELEPHONE DIRECTORY" INCLUDES A DIRECTORY DISTRIBUTED BY A PERSON OTHER THAN A TELEPHONE COMPANY.

~~(5) "LOCAL TELEPHONE NUMBER" MEANS A TELEPHONE NUMBER THAT:~~

~~(I) HAS AN AREA CODE AND A THREE NUMBER EXCHANGE PREFIX TYPICALLY USED BY A LOCAL TELEPHONE COMPANY FOR TELEPHONE LINES PROVIDED WITHIN THE LOCAL AREA; AND~~

~~(II) THAT IS NOT REASONABLY IDENTIFIABLE AS THE NUMBER OF A BUSINESS THAT IS OR MAY BE LOCATED OUTSIDE THE LOCAL AREA.~~

~~(6) "NONLOCAL BUSINESS" MEANS A BUSINESS THAT DOES NOT HAVE A PHYSICAL PLACE OF BUSINESS IN THE LOCAL AREA THAT PROVIDES THE GOODS OR SERVICES THAT ARE THE SUBJECT OF THE ADVERTISEMENT OR LISTING.~~

~~(7) "TELEPHONE COMPANY" HAS THE MEANING STATED IN TITLE 1 OF THE PUBLIC UTILITIES ARTICLE.~~

(4) "LOCATION" MEANS ANY PART OF THE ADDRESS OF A PERSON, INCLUDING THE STREET, THE CITY, OR THE STATE.

(B) (1) THIS SECTION APPLIES ONLY TO BUSINESS TELEPHONE LISTINGS AND ADVERTISEMENTS.

(2) THIS SECTION DOES NOT APPLY TO 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.

(C) (1) A PERSON IS IN VIOLATION OF § 11-703 OF THIS SUBTITLE IF THE PERSON:

(1) (I) CAUSES TO BE PUBLISHED IN A LOCAL TELEPHONE CLASSIFIED ADVERTISING DIRECTORY AN ADVERTISEMENT THAT MISREPRESENTS THE LOCATION OF THE PERSON; OR

(2) (II) CAUSES TO BE LISTED IN A LOCAL TELEPHONE DIRECTORY A TELEPHONE LISTING THAT MISREPRESENTS THE LOCATION OF THE PERSON.

(2) FOR PURPOSES OF THIS SUBSECTION, A PERSON COMMITS A SEPARATE VIOLATION FOR EACH EDITION OF A LOCAL TELEPHONE DIRECTORY OR LOCAL TELEPHONE ADVERTISING DIRECTORY IN WHICH THE ADVERTISEMENT OR TELEPHONE LISTING IS PUBLISHED.

~~(B) A NONLOCAL BUSINESS MAY NOT PUBLISH AN ADVERTISEMENT CONTAINING A LOCAL TELEPHONE NUMBER FOR THE BUSINESS IN A LOCAL TELEPHONE CLASSIFIED ADVERTISING DIRECTORY UNLESS THE ADVERTISEMENT CLEARLY STATES THE NONLOCAL LOCATION OF THE BUSINESS.~~

~~(C) A NONLOCAL BUSINESS MAY NOT LIST OR CAUSE TO BE LISTED A LOCAL TELEPHONE NUMBER FOR THE BUSINESS IN A LOCAL TELEPHONE DIRECTORY IF:~~

~~(1) CALLS TO THE LOCAL TELEPHONE NUMBER ARE ROUTINELY FORWARDED OR TRANSFERRED TO THE NONLOCAL BUSINESS LOCATION THAT IS OUTSIDE THE LOCAL AREA COVERED BY THE LOCAL TELEPHONE DIRECTORY; AND~~

~~(2) THE TELEPHONE LISTING DOES NOT CLEARLY STATE THE LOCATION OF THE NONLOCAL BUSINESS.~~

~~(D) A TELEPHONE COMPANY OR DIRECTORY PROVIDER IS NOT LIABLE FOR A VIOLATION OF THIS SECTION BY A NONLOCAL BUSINESS.~~

~~(E) A VIOLATION OF THIS SECTION IS:~~

~~(1) AN UNFAIR OR DECEPTIVE TRADE PRACTICE UNDER TITLE 13 OF THIS ARTICLE; AND~~

~~(2) SUBJECT TO THE ENFORCEMENT AND PENALTY PROVISIONS CONTAINED IN TITLE 13 OF THIS ARTICLE.~~

11-705.

(a) Any person who violates any provision of this subtitle is subject to a penalty not exceeding \$500 for each violation, which penalty the Attorney General may recover for the State in a civil action.

(b) Before the Attorney General commences any action under this section, he shall give to the person against whom the action is proposed:

(1) Notice by registered or certified mail of the proposed action; and

(2) An opportunity to show cause orally or in writing why the action should not be commenced.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, April 14, 2009.

---

## Chapter 11

(House Bill 175)

AN ACT concerning

**Consumer Protection – False Advertising – Misrepresentations in Advertisements and Telephone Directory Listings – ~~Publication of Local Numbers by Nonlocal Businesses~~**

FOR the purpose of ~~prohibiting certain nonlocal businesses from publishing an advertisement containing a local telephone number in certain directories except under certain circumstances; prohibiting certain nonlocal businesses from listing or causing to be listed a local telephone number in certain directories except under certain circumstances; providing that a telephone company or directory provider is not liable for this Act by a nonlocal business; providing that a violation of this Act is an unfair or deceptive trade practice under the Maryland Consumer Protection Act and is subject to certain enforcement and penalty provisions;~~ providing that a person is in violation of a certain provision of law prohibiting false advertising if the person causes an advertisement that misrepresents the location of the person to be published in a certain directory, or causes a telephone listing that misrepresents the location of the person to be listed in a certain directory; exempting publishers, printers, and distributors of certain advertisements or telephone listings from certain provisions of law governing false advertising; providing for the application of certain provisions of

this Act; defining certain terms; and generally relating to the publication of local numbers in telephone directories by nonlocal businesses; false advertising and misrepresentations in advertisements and telephone directory listings.

BY repealing and reenacting, with amendments,

Article – Commercial Law

Section ~~13-301(14)~~ 11-701 and 11-702

Annotated Code of Maryland

(2005 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, without amendments,

Article – Commercial Law

Section 11-703 and 11-705

Annotated Code of Maryland

(2005 Replacement Volume and 2008 Supplement)

BY adding to

Article – Commercial Law

Section ~~14-1322~~ 11-704.1

Annotated Code of Maryland

(2005 Replacement Volume and 2008 Supplement)

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

### Article – Commercial Law

~~13-301.~~

~~Unfair or deceptive trade practices include any:~~

~~(14) Violation of a provision of:~~

~~(i) This title;~~

~~(ii) An order of the Attorney General or agreement of a party relating to unit pricing under Title 14, Subtitle 1 of this article;~~

~~(iii) Title 14, Subtitle 2 of this article, the Maryland Consumer Debt Collection Act;~~

~~(iv) Title 14, Subtitle 3 of this article, the Maryland Door-to-Door Sales Act;~~

~~(v) Title 14, Subtitle 9 of this article, Kosher Products;~~

- ~~Facilities;~~
- ~~(vi) Title 14, Subtitle 10 of this article, Automotive Repair~~
- ~~(vii) Section 14-1302 of this article;~~
- ~~Act;~~
- ~~(viii) Title 14, Subtitle 11 of this article, Maryland Layaway Sales~~
- ~~(ix) Section 22-415 of the Transportation Article;~~
- ~~(x) Title 14, Subtitle 20 of this article;~~
- ~~Enforcement Act;~~
- ~~(xi) Title 14, Subtitle 15 of this article, the Automotive Warranty~~
- ~~(xii) Title 14, Subtitle 21 of this article;~~
- ~~(xiii) Section 18-107 of the Transportation Article;~~
- ~~Solicitations Act;~~
- ~~(xiv) Title 14, Subtitle 22 of this article, the Maryland Telephone~~
- ~~Parts Act;~~
- ~~(xv) Title 14, Subtitle 23 of this article, the Automotive Crash~~
- ~~(xvi) Title 10, Subtitle 6 of the Real Property Article;~~
- ~~Act;~~
- ~~(xvii) Title 14, Subtitle 25 of this article, the Hearing Aid Sales~~
- ~~(xviii) Title 14, Subtitle 26 of this article, the Maryland~~
- ~~Door-to-Door Solicitations Act;~~
- ~~(xix) Title 14, Subtitle 31 of this article, the Maryland Household~~
- ~~Goods Movers Act;~~
- ~~(xx) Title 14, Subtitle 32 of this article, the Maryland Telephone~~
- ~~Consumer Protection Act;~~
- ~~(xxi) Title 14, Subtitle 34 of this article, the Social Security~~
- ~~Number Privacy Act;~~
- ~~(xxii) Section 14-1319 or § 14-1320 of this article;~~
- ~~(xxiii) Section 7-304 of the Criminal Law Article;~~

~~(xxiv) Title 7, Subtitle 3 of the Real Property Article, the Protection of Homeowners in Foreclosure Act;~~

~~(xxv) Title 6, Subtitle 13 of the Environment Article; [or]~~

~~(xxvi) Section 7-405(c)(2)(ii) of the Health Occupations Article; or~~

~~(xxvii) SECTION 14-1322 OF THIS ARTICLE; OR~~

~~14-1322.~~

11-701.

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

(b) (1) “Advertise falsely” means to use any advertisement, including a label, which is misleading in a material respect.

(2) “Advertise falsely” includes the use of an advertisement that contains an affirmative representation that the Maryland sales and use tax will not be collected by the retailer on a particular transaction without notifying the purchaser of the purchaser’s duty to pay the sales and use tax directly to the Comptroller of this State.

(c) “Person” includes an individual, corporation, business trust, estate, trust, partnership, association, two or more persons having a joint or common interest, or any other legal or commercial entity.

**(D) “TELEPHONE COMPANY” HAS THE MEANING STATED IN § 1-101 OF THE PUBLIC UTILITY COMPANIES ARTICLE.**

11-702.

This subtitle does not apply to any:

(1) Television or radio broadcasting station which broadcasts an advertisement; [or]

(2) Publisher or printer of a newspaper, magazine, or other form of printed advertisement who publishes or prints an advertisement; OR

**(3) PUBLISHER, PRINTER, OR DISTRIBUTOR, INCLUDING A TELEPHONE COMPANY OR DIRECTORY PROVIDER, OF AN ADVERTISEMENT OR TELEPHONE LISTING IN A TELEPHONE DIRECTORY.**

11-703.

A person may not advertise falsely in the conduct of any business, trade, or commerce or in the provision of any service.

11-704.1.

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

(2) ~~(I) "LOCAL AREA" MEANS THE AREA IN AND FOR WHICH A TELEPHONE DIRECTORY IS DISTRIBUTED FREE OF CHARGE.~~

~~(II) A LOCAL AREA MAY CONSIST OF ONE OR MORE TOWNS, CITIES, COUNTIES, COMMUNITIES, OR OTHER GEOGRAPHICAL AREAS IN THE STATE.~~

~~(3)~~ (I) "LOCAL TELEPHONE CLASSIFIED ADVERTISING DIRECTORY" MEANS A TELEPHONE DIRECTORY THAT:

1. CONTAINS CLASSIFIED ADVERTISEMENTS; AND
2. IS DISTRIBUTED FREE OF CHARGE TO RESIDENTS IN THE STATE.

(II) "LOCAL TELEPHONE CLASSIFIED ADVERTISING DIRECTORY" INCLUDES A DIRECTORY DISTRIBUTED BY A PERSON OTHER THAN A TELEPHONE COMPANY.

~~(4)~~ (3) (I) "LOCAL TELEPHONE DIRECTORY" MEANS A TELEPHONE DIRECTORY THAT IS:

1. AVAILABLE FREE OF CHARGE TO TELEPHONE SUBSCRIBERS IN AN AREA OF THE STATE; AND
2. DOES NOT CONTAIN CLASSIFIED ADVERTISEMENTS.

(II) "LOCAL TELEPHONE DIRECTORY" INCLUDES A DIRECTORY DISTRIBUTED BY A PERSON OTHER THAN A TELEPHONE COMPANY.

~~(5) "LOCAL TELEPHONE NUMBER" MEANS A TELEPHONE NUMBER THAT:~~

~~(I) HAS AN AREA CODE AND A THREE NUMBER EXCHANGE PREFIX TYPICALLY USED BY A LOCAL TELEPHONE COMPANY FOR TELEPHONE LINES PROVIDED WITHIN THE LOCAL AREA; AND~~

~~(II) THAT IS NOT REASONABLY IDENTIFIABLE AS THE NUMBER OF A BUSINESS THAT IS OR MAY BE LOCATED OUTSIDE THE LOCAL AREA.~~

~~(6) "NONLOCAL BUSINESS" MEANS A BUSINESS THAT DOES NOT HAVE A PHYSICAL PLACE OF BUSINESS IN THE LOCAL AREA THAT PROVIDES THE GOODS OR SERVICES THAT ARE THE SUBJECT OF THE ADVERTISEMENT OR LISTING.~~

~~(7) "TELEPHONE COMPANY" HAS THE MEANING STATED IN TITLE 1 OF THE PUBLIC UTILITIES ARTICLE.~~

(4) "LOCATION" MEANS ANY PART OF THE ADDRESS OF A PERSON, INCLUDING THE STREET, THE CITY, OR THE STATE.

(B) (1) THIS SECTION APPLIES ONLY TO BUSINESS TELEPHONE LISTINGS AND ADVERTISEMENTS.

(2) THIS SECTION DOES NOT APPLY TO 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.

(C) (1) A PERSON IS IN VIOLATION OF § 11-703 OF THIS SUBTITLE IF THE PERSON:

(I) CAUSES TO BE PUBLISHED IN A LOCAL TELEPHONE CLASSIFIED ADVERTISING DIRECTORY AN ADVERTISEMENT THAT MISREPRESENTS THE LOCATION OF THE PERSON; OR

(II) CAUSES TO BE LISTED IN A LOCAL TELEPHONE DIRECTORY A TELEPHONE LISTING THAT MISREPRESENTS THE LOCATION OF THE PERSON.

(2) FOR PURPOSES OF THIS SUBSECTION, A PERSON COMMITS A SEPARATE VIOLATION FOR EACH EDITION OF A LOCAL TELEPHONE DIRECTORY OR LOCAL TELEPHONE ADVERTISING DIRECTORY IN WHICH THE ADVERTISEMENT OR TELEPHONE LISTING IS PUBLISHED.



~~(B) A NONLOCAL BUSINESS MAY NOT PUBLISH AN ADVERTISEMENT CONTAINING A LOCAL TELEPHONE NUMBER FOR THE BUSINESS IN A LOCAL TELEPHONE CLASSIFIED ADVERTISING DIRECTORY UNLESS THE ADVERTISEMENT CLEARLY STATES THE NONLOCAL LOCATION OF THE BUSINESS.~~

~~(C) A NONLOCAL BUSINESS MAY NOT LIST OR CAUSE TO BE LISTED A LOCAL TELEPHONE NUMBER FOR THE BUSINESS IN A LOCAL TELEPHONE DIRECTORY IF:~~

~~(1) CALLS TO THE LOCAL TELEPHONE NUMBER ARE ROUTINELY FORWARDED OR TRANSFERRED TO THE NONLOCAL BUSINESS LOCATION THAT IS OUTSIDE THE LOCAL AREA COVERED BY THE LOCAL TELEPHONE DIRECTORY; AND~~

~~(2) THE TELEPHONE LISTING DOES NOT CLEARLY STATE THE LOCATION OF THE NONLOCAL BUSINESS.~~

~~(D) A TELEPHONE COMPANY OR DIRECTORY PROVIDER IS NOT LIABLE FOR A VIOLATION OF THIS SECTION BY A NONLOCAL BUSINESS.~~

~~(E) A VIOLATION OF THIS SECTION IS:~~

~~(1) AN UNFAIR OR DECEPTIVE TRADE PRACTICE UNDER TITLE 13 OF THIS ARTICLE; AND~~

~~(2) SUBJECT TO THE ENFORCEMENT AND PENALTY PROVISIONS CONTAINED IN TITLE 13 OF THIS ARTICLE.~~

11-705.

(a) Any person who violates any provision of this subtitle is subject to a penalty not exceeding \$500 for each violation, which penalty the Attorney General may recover for the State in a civil action.

(b) Before the Attorney General commences any action under this section, he shall give to the person against whom the action is proposed:

(1) Notice by registered or certified mail of the proposed action; and

(2) An opportunity to show cause orally or in writing why the action should not be commenced.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, April 14, 2009.

---

## Chapter 12

### (Senate Bill 12)

AN ACT concerning

**Tobacco Product Manufacturers – Settlement of State Claims –  
Nonparticipating Manufacturers – Deposit of Funds in Escrow – Codification  
of Model Statute**

FOR the purpose of codifying the provisions of the Model Statute enacted by Chapter 169 of the Acts of the General Assembly of 1999 as amended; providing for the termination of certain provisions of this Act under certain circumstances; providing for the construction of this Act; making certain technical, stylistic, and conforming changes; and generally relating to the codification of a certain prior enactment of the General Assembly relating to tobacco product manufacturers and certain required deposits of funds into escrow accounts.

BY repealing

Chapter 169 of the Acts of the General Assembly of 1999, as amended by Chapter 141 of the Acts of the General Assembly of 2001, Chapter 348 of the Acts of the General Assembly of 2004, and Chapter 538 of the Acts of the General Assembly of 2006

Section 1

BY repealing and reenacting, with amendments,

Article – Business Regulation

Section 16–401 to be under the amended subtitle “Subtitle 3B. Miscellaneous Prohibited Act; Penalty”; and 16–501(c), (e), (g), (j), (k), and (l), 16–503(d)(2), and 16–504(b)(2)

Annotated Code of Maryland

(2004 Replacement Volume and 2008 Supplement)

BY adding to

Article – Business Regulation

Section 16–401 through 16–403 to be under the new subtitle “Subtitle 4. Tobacco Product Manufacturers Escrow Act”

Annotated Code of Maryland

(2004 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,

Chapter 455 of the Acts of the General Assembly of 2003

## Section 2

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 1 of Chapter(s) 169 of the Acts of the General Assembly of 1999, as amended by Chapter 141 of the Acts of the General Assembly of 2001, Chapter 348 of the Acts of the General Assembly of 2004, and Chapter 538 of the Acts of the General Assembly of 2006 be repealed.

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

**Article – Business Regulation**

Subtitle [4.] **3B.** Miscellaneous Prohibited Act; Penalty.

**[16–401.] 16–3B–01.**

(a) A person may not violate a regulation adopted by the Comptroller that applies to a person who sells cigarettes at retail.

(b) A person who violates this section is guilty of a misdemeanor and, on conviction, is subject to a fine of \$100.

**SUBTITLE 4. TOBACCO PRODUCT MANUFACTURERS ESCROW ACT.**

**16–401.**

**(A) CIGARETTE SMOKING PRESENTS SERIOUS PUBLIC HEALTH CONCERNS TO THE STATE AND TO THE CITIZENS OF THE STATE. THE UNITED STATES SURGEON GENERAL HAS DETERMINED THAT SMOKING CAUSES LUNG CANCER, HEART DISEASE, AND OTHER SERIOUS DISEASES, AND THAT THERE ARE HUNDREDS OF THOUSANDS OF TOBACCO–RELATED DEATHS IN THE UNITED STATES EACH YEAR. THESE DISEASES MOST OFTEN DO NOT APPEAR UNTIL MANY YEARS AFTER THE PERSON IN QUESTION BEGINS SMOKING.**

**(B) CIGARETTE SMOKING ALSO PRESENTS SERIOUS FINANCIAL CONCERNS FOR THE STATE. UNDER CERTAIN HEALTH CARE PROGRAMS, THE STATE MAY HAVE A LEGAL OBLIGATION TO PROVIDE MEDICAL ASSISTANCE TO ELIGIBLE PERSONS FOR HEALTH CONDITIONS ASSOCIATED WITH CIGARETTE SMOKING, AND THOSE PERSONS MAY HAVE A LEGAL ENTITLEMENT TO RECEIVE THE MEDICAL ASSISTANCE.**

**(C) UNDER THESE PROGRAMS, THE STATE PAYS MILLIONS OF DOLLARS EACH YEAR TO PROVIDE MEDICAL ASSISTANCE FOR THESE PERSONS FOR HEALTH CONDITIONS ASSOCIATED WITH CIGARETTE SMOKING.**

(D) IT IS THE POLICY OF THE STATE THAT FINANCIAL BURDENS IMPOSED ON THE STATE BY CIGARETTE SMOKING BE BORNE BY TOBACCO PRODUCT MANUFACTURERS RATHER THAN BY THE STATE TO THE EXTENT THAT SUCH MANUFACTURERS EITHER DETERMINE TO ENTER INTO A SETTLEMENT WITH THE STATE OR ARE FOUND CULPABLE BY THE COURTS.

(E) ON NOVEMBER 23, 1998, LEADING UNITED STATES TOBACCO PRODUCT MANUFACTURERS ENTERED INTO A SETTLEMENT AGREEMENT, ENTITLED THE "MASTER SETTLEMENT AGREEMENT", WITH THE STATE. THE MASTER SETTLEMENT AGREEMENT OBLIGATES THESE MANUFACTURERS, IN RETURN FOR A RELEASE OF PAST, PRESENT, AND CERTAIN FUTURE CLAIMS AGAINST THEM AS DESCRIBED IN THE AGREEMENT, TO PAY SUBSTANTIAL SUMS TO THE STATE (TIED IN PART TO THEIR VOLUME OF SALES); TO FUND A NATIONAL FOUNDATION DEVOTED TO THE INTERESTS OF PUBLIC HEALTH; AND TO MAKE SUBSTANTIAL CHANGES IN THEIR ADVERTISING AND MARKETING PRACTICES AND CORPORATE CULTURE, WITH THE INTENTION OF REDUCING UNDERAGE SMOKING.

(F) (1) IT WOULD BE CONTRARY TO THE POLICY OF THE STATE IF TOBACCO PRODUCT MANUFACTURERS WHO DETERMINE NOT TO ENTER INTO SUCH A SETTLEMENT COULD USE A RESULTING COST ADVANTAGE TO DERIVE LARGE, SHORT-TERM PROFITS IN THE YEARS BEFORE LIABILITY MAY ARISE WITHOUT ENSURING THAT THE STATE WILL HAVE AN EVENTUAL SOURCE OF RECOVERY FROM THEM IF THEY ARE PROVEN TO HAVE ACTED CULPABLY.

(2) IT IS THUS IN THE INTEREST OF THE STATE TO REQUIRE SUCH TOBACCO PRODUCT MANUFACTURERS TO ESTABLISH A RESERVE FUND TO GUARANTEE A SOURCE OF COMPENSATION IN ORDER TO PREVENT THEM FROM DERIVING LARGE, SHORT-TERM PROFITS AND THEN BECOMING JUDGMENT-PROOF BEFORE LIABILITY MAY ARISE.

16-402.

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

(B) "ADJUSTED FOR INFLATION" MEANS INCREASED IN ACCORDANCE WITH THE FORMULA FOR INFLATION ADJUSTMENT SET FORTH IN EXHIBIT C TO THE MASTER SETTLEMENT AGREEMENT.

(C) (1) "AFFILIATE" MEANS A PERSON WHO DIRECTLY OR INDIRECTLY OWNS OR CONTROLS, IS OWNED OR CONTROLLED BY, OR IS UNDER COMMON OWNERSHIP OR CONTROL WITH, ANOTHER PERSON.

(2) FOR THE PURPOSES OF PARAGRAPH (1) OF THIS SUBSECTION:

(I) "OWNS", "IS OWNED", AND "OWNERSHIP" MEAN OWNERSHIP OF AN EQUITY INTEREST, OR THE EQUIVALENT THEREOF, OF 10 PERCENT OR MORE; AND

(II) "PERSON" MEANS AN INDIVIDUAL, PARTNERSHIP, COMMITTEE, ASSOCIATION, CORPORATION, OR ANY OTHER ORGANIZATION OR GROUP OF PERSONS.

(D) "ALLOCABLE SHARE" HAS THE MEANING THAT IS STATED IN THE MASTER SETTLEMENT AGREEMENT.

(E) (1) "CIGARETTE" MEANS ANY PRODUCT THAT CONTAINS NICOTINE, IS INTENDED TO BE BURNED OR HEATED UNDER ORDINARY CONDITIONS OF USE, AND CONSISTS OF OR CONTAINS:

(I) ANY ROLL OF TOBACCO WRAPPED IN PAPER OR IN ANY SUBSTANCE NOT CONTAINING TOBACCO;

(II) TOBACCO, IN ANY FORM, THAT IS FUNCTIONAL IN THE PRODUCT, WHICH, BECAUSE OF ITS APPEARANCE, THE TYPE OF TOBACCO USED IN THE FILLER, OR ITS PACKAGING AND LABELING, IS LIKELY TO BE OFFERED TO, OR PURCHASED BY, CONSUMERS AS A CIGARETTE; OR

(III) ANY ROLL OF TOBACCO WRAPPED IN ANY SUBSTANCE CONTAINING TOBACCO WHICH, BECAUSE OF ITS APPEARANCE, THE TYPE OF TOBACCO USED IN THE FILLER, OR ITS PACKAGING AND LABELING, IS LIKELY TO BE OFFERED TO, OR PURCHASED BY, CONSUMERS AS A CIGARETTE DESCRIBED IN ITEM (I) OF THIS PARAGRAPH.

(2) "CIGARETTE" INCLUDES "ROLL-YOUR-OWN" TOBACCO (I.E., ANY TOBACCO WHICH, BECAUSE OF ITS APPEARANCE, TYPE, PACKAGING, OR LABELING IS SUITABLE FOR USE AND LIKELY TO BE OFFERED TO OR PURCHASED BY CONSUMERS AS TOBACCO FOR MAKING CIGARETTES). FOR PURPOSES OF THIS DEFINITION OF "CIGARETTE", 0.09 OUNCES OF "ROLL-YOUR-OWN" TOBACCO SHALL CONSTITUTE ONE INDIVIDUAL "CIGARETTE".

(F) “MASTER SETTLEMENT AGREEMENT” MEANS THE SETTLEMENT AGREEMENT AND RELATED DOCUMENTS ENTERED INTO ON NOVEMBER 23, 1998, BY THE STATE AND LEADING UNITED STATES TOBACCO PRODUCT MANUFACTURERS.

(G) “QUALIFIED ESCROW FUND” MEANS AN ESCROW ARRANGEMENT WITH A FEDERALLY OR STATE CHARTERED FINANCIAL INSTITUTION HAVING NO AFFILIATION WITH ANY TOBACCO PRODUCT MANUFACTURER AND HAVING ASSETS OF AT LEAST \$1,000,000,000 WHERE SUCH ARRANGEMENT REQUIRES THAT SUCH FINANCIAL INSTITUTION HOLD THE PRINCIPAL OF THE ESCROWED FUNDS FOR THE BENEFIT OF RELEASING PARTIES AND PROHIBITS THE TOBACCO PRODUCT MANUFACTURER THAT PLACES THE FUNDS INTO ESCROW FROM USING, ACCESSING, OR DIRECTING THE USE OF THE PRINCIPAL OF THE FUNDS EXCEPT AS CONSISTENT WITH § 16-403(B) OF THIS SUBTITLE.

(H) “RELEASED CLAIMS” MEANS RELEASED CLAIMS AS THAT TERM IS DEFINED IN THE MASTER SETTLEMENT AGREEMENT.

(I) “RELEASING PARTIES” MEANS RELEASING PARTIES AS THAT TERM IS DEFINED IN THE MASTER SETTLEMENT AGREEMENT.

(J) (1) “TOBACCO PRODUCT MANUFACTURER” MEANS AN ENTITY THAT, AFTER JUNE 1, 1999, DIRECTLY (AND NOT EXCLUSIVELY THROUGH ANY AFFILIATE):

(I) MANUFACTURES CIGARETTES ANYWHERE THAT SUCH MANUFACTURER INTENDS THEM TO BE SOLD IN THE UNITED STATES, INCLUDING CIGARETTES INTENDED TO BE SOLD IN THE UNITED STATES THROUGH AN IMPORTER (EXCEPT WHERE SUCH IMPORTER IS AN ORIGINAL PARTICIPATING MANUFACTURER (AS THAT TERM IS DEFINED IN THE MASTER SETTLEMENT AGREEMENT) THAT WILL BE RESPONSIBLE FOR THE PAYMENTS UNDER THE MASTER SETTLEMENT AGREEMENT WITH RESPECT TO SUCH CIGARETTES AS A RESULT OF THE PROVISIONS OF SUBSECTION II(MM) OF THE MASTER SETTLEMENT AGREEMENT AND THAT PAYS THE TAXES SPECIFIED IN SUBSECTION II(Z) OF THE MASTER SETTLEMENT AGREEMENT, AND PROVIDED THAT THE MANUFACTURER OF SUCH CIGARETTES DOES NOT MARKET OR ADVERTISE THE CIGARETTES IN THE UNITED STATES);

(II) IS THE FIRST PURCHASER ANYWHERE FOR RESALE IN THE UNITED STATES OF CIGARETTES MANUFACTURED ANYWHERE THAT THE MANUFACTURER DOES NOT INTEND TO BE SOLD IN THE UNITED STATES; OR

(III) BECOMES A SUCCESSOR OF AN ENTITY DESCRIBED IN SUBPARAGRAPH (I) OR (II) OF THIS PARAGRAPH OR PARAGRAPH (2) OF THIS SUBSECTION.

(2) THE TERM "TOBACCO PRODUCT MANUFACTURER" SHALL NOT INCLUDE AN AFFILIATE OF A TOBACCO PRODUCT MANUFACTURER UNLESS SUCH AFFILIATE ITSELF FALLS WITHIN ANY PROVISIONS OF PARAGRAPH (1)(I), (II), OR (III) OF THIS SUBSECTION.

(K) "UNITS SOLD" MEANS THE NUMBER OF INDIVIDUAL CIGARETTES:

(1) SOLD IN THE STATE BY THE APPLICABLE TOBACCO PRODUCT MANUFACTURER, WHETHER DIRECTLY OR THROUGH A DISTRIBUTOR, RETAILER, OR SIMILAR INTERMEDIARY OR INTERMEDIARIES, DURING THE YEAR IN QUESTION; AND

(2) AS MEASURED BY EXCISE TAXES COLLECTED BY THE STATE ON PACKS (OR "ROLL-YOUR-OWN" TOBACCO CONTAINERS) BEARING THE EXCISE TAX STAMP OF THE STATE OR ON UNSTAMPED "ROLL-YOUR-OWN" TOBACCO CONTAINERS, WITH EACH 0.09 OUNCES OF "ROLL-YOUR-OWN" TOBACCO EQUALING ONE (1) UNIT SOLD. THE STATE COMPTROLLER SHALL PROMULGATE REGULATIONS NECESSARY TO ASCERTAIN THE AMOUNT OF STATE EXCISE TAX PAID ON THE CIGARETTES OF SUCH TOBACCO PRODUCT MANUFACTURER FOR EACH YEAR.

16-403.

(A) ANY TOBACCO PRODUCT MANUFACTURER THAT SELLS CIGARETTES TO CONSUMERS WITHIN THE STATE, WHETHER DIRECTLY OR THROUGH A DISTRIBUTOR, RETAILER, OR SIMILAR INTERMEDIARY OR INTERMEDIARIES, AFTER JUNE 1, 1999, SHALL EITHER:

(1) BECOME A PARTICIPATING MANUFACTURER, AS THAT TERM IS DEFINED IN SECTION II(JJ) OF THE MASTER SETTLEMENT AGREEMENT, AND GENERALLY PERFORM ITS FINANCIAL OBLIGATIONS UNDER THE MASTER SETTLEMENT AGREEMENT; OR

(2) PLACE INTO A QUALIFIED ESCROW FUND BY APRIL 15 OF THE YEAR FOLLOWING THE YEAR IN QUESTION THE FOLLOWING AMOUNTS, AS SUCH AMOUNTS ARE ADJUSTED FOR INFLATION:

(I) FOR 1999, \$.0094241 PER UNIT SOLD AFTER JUNE 1, 1999;

(II) FOR 2000, \$.0104712 PER UNIT SOLD;

(III) FOR EACH OF 2001 AND 2002, \$.0136125 PER UNIT SOLD;

(IV) FOR EACH OF 2003, 2004, 2005, AND 2006, \$.0167539 PER UNIT SOLD; AND

(V) FOR 2007 AND EACH YEAR THEREAFTER, \$.0188482 PER UNIT SOLD.

(B) (1) A TOBACCO PRODUCT MANUFACTURER THAT PLACES FUNDS INTO ESCROW IN ACCORDANCE WITH SUBSECTION (A)(2) OF THIS SECTION SHALL RECEIVE THE INTEREST OR OTHER APPRECIATION ON THE FUNDS AS EARNED.

(2) THE FUNDS THEMSELVES SHALL BE RELEASED FROM ESCROW ONLY UNDER THE FOLLOWING CIRCUMSTANCES:

(I) TO PAY A JUDGMENT OR SETTLEMENT ON ANY RELEASED CLAIM BROUGHT AGAINST SUCH TOBACCO PRODUCT MANUFACTURER BY THE STATE OR ANY RELEASING PARTY LOCATED OR RESIDING IN THE STATE. FUNDS SHALL BE RELEASED FROM ESCROW UNDER THIS SUBPARAGRAPH:

1. IN THE ORDER IN WHICH THEY WERE PLACED INTO ESCROW; AND

2. ONLY TO THE EXTENT AND AT THE TIME NECESSARY TO MAKE PAYMENTS REQUIRED UNDER SUCH JUDGMENT OR SETTLEMENT; OR

(II) TO THE EXTENT THAT A TOBACCO PRODUCT MANUFACTURER ESTABLISHES THAT THE AMOUNT IT WAS REQUIRED TO PLACE INTO ESCROW ON ACCOUNT OF UNITS SOLD IN THE STATE IN A PARTICULAR YEAR WAS GREATER THAN THE MASTER SETTLEMENT AGREEMENT PAYMENTS, AS DETERMINED PURSUANT TO SECTION IX(I) OF THAT AGREEMENT, INCLUDING AFTER FINAL DETERMINATION OF ALL ADJUSTMENTS, THAT SUCH MANUFACTURER WOULD HAVE BEEN REQUIRED TO MAKE ON ACCOUNT OF SUCH UNITS SOLD HAD IT BEEN A PARTICIPATING MANUFACTURER, THE EXCESS SHALL BE RELEASED FROM ESCROW AND REVERT BACK TO SUCH TOBACCO MANUFACTURER; OR



(III) TO THE EXTENT FUNDS ARE NOT RELEASED FROM ESCROW UNDER SUBPARAGRAPH (I) OR (II) OF PARAGRAPH (2) OF THIS SUBSECTION, FUNDS SHALL BE RELEASED FROM ESCROW AND REVERT TO SUCH TOBACCO PRODUCT MANUFACTURER 25 YEARS AFTER THE DATE ON WHICH THEY WERE PLACED INTO ESCROW.

(C) (1) EACH TOBACCO PRODUCT MANUFACTURER THAT ELECTS TO PLACE FUNDS INTO ESCROW PURSUANT TO SUBSECTION (A)(2) OF THIS SECTION SHALL ANNUALLY CERTIFY TO THE ATTORNEY GENERAL THAT IT IS IN COMPLIANCE WITH SUBSECTIONS (A)(2) AND (B) OF THIS SECTION.

(2) THE ATTORNEY GENERAL MAY BRING A CIVIL ACTION ON BEHALF OF THE STATE AGAINST ANY TOBACCO PRODUCT MANUFACTURER THAT FAILS TO PLACE INTO ESCROW THE FUNDS REQUIRED UNDER THIS SECTION.

(3) (I) ANY TOBACCO PRODUCT MANUFACTURER THAT FAILS IN ANY YEAR TO PLACE INTO ESCROW THE FUNDS REQUIRED UNDER THIS SECTION SHALL BE REQUIRED WITHIN 15 DAYS TO PLACE SUCH FUNDS INTO ESCROW AS WILL BRING THE MANUFACTURER INTO COMPLIANCE WITH THIS SECTION.

(II) THE COURT, UPON A FINDING OF A VIOLATION OF SUBSECTION (A)(2) OR (B) OF THIS SECTION, MAY IMPOSE A CIVIL PENALTY, TO BE PAID TO THE GENERAL FUND OF THE STATE:

1. IN AN AMOUNT NOT TO EXCEED 5 PERCENT OF THE AMOUNT IMPROPERLY WITHHELD FROM ESCROW PER DAY OF THE VIOLATION; AND

2. IN A TOTAL AMOUNT NOT TO EXCEED 100 PERCENT OF THE ORIGINAL AMOUNT IMPROPERLY WITHHELD FROM ESCROW.

(4) (I) IF A TOBACCO PRODUCT MANUFACTURER HAS KNOWINGLY VIOLATED SUBSECTION (A)(2) OR (B) OF THIS SECTION, THE MANUFACTURER SHALL BE REQUIRED WITHIN 15 DAYS TO PLACE SUCH FUNDS INTO ESCROW AS WILL BRING IT INTO COMPLIANCE WITH THIS SECTION.

(II) UPON A FINDING OF A KNOWING VIOLATION OF SUBSECTION (A)(2) OR (B) OF THIS SECTION, THE COURT MAY IMPOSE A CIVIL PENALTY, TO BE PAID TO THE GENERAL FUND OF THE STATE:

1. IN AN AMOUNT NOT TO EXCEED 15 PERCENT OF THE AMOUNT IMPROPERLY WITHHELD FROM ESCROW PER DAY OF THE VIOLATION; AND

2. IN A TOTAL AMOUNT NOT TO EXCEED 300 PERCENT OF THE ORIGINAL AMOUNT IMPROPERLY WITHHELD FROM ESCROW.

(5) IN THE CASE OF A SECOND KNOWING VIOLATION OF SUBSECTION (A)(2) OR (B) OF THIS SECTION, THE TOBACCO PRODUCT MANUFACTURER SHALL BE PROHIBITED FROM SELLING CIGARETTES TO CONSUMERS WITHIN THE STATE, WHETHER DIRECTLY OR THROUGH A DISTRIBUTOR, RETAILER, OR SIMILAR INTERMEDIARY OR INTERMEDIARIES, FOR A PERIOD NOT TO EXCEED 2 YEARS.

(6) EACH FAILURE TO MAKE THE ANNUAL DEPOSIT REQUIRED UNDER THIS SECTION SHALL CONSTITUTE A SEPARATE VIOLATION.

16-501.

(c) “Cigarette” has the meaning stated in [subsection 2(e) of the Escrow Act] **§ 16-402(E) OF THIS TITLE (THE ESCROW ACT)**.

(e) “Escrow Act” means [Chapter 169 of the Acts of the General Assembly of 1999 as amended by Chapter 141 of the Acts of the General Assembly of 2001] **SUBTITLE 4 OF THIS TITLE**.

(g) “Master Settlement Agreement” has the meaning stated in [subsection 2(f) of the Escrow Act] **§ 16-402(F) OF THIS TITLE (THE ESCROW ACT)**.

(j) “Qualified escrow fund” has the meaning stated in [subsection 2(g) of the Escrow Act] **§ 16-402(G) OF THIS TITLE (THE ESCROW ACT)**.

(k) “Tobacco product manufacturer” has the meaning stated in [subsection 2(j) of the Escrow Act] **§ 16-402(J) OF THIS TITLE (THE ESCROW ACT)**.

(l) “Units sold” has the meaning stated in [subsection 2(k) of the Escrow Act] **§ 16-402(K) OF THIS TITLE (THE ESCROW ACT)**.

16-503.

(d) (2) The certification shall include:

(i) the name, address and telephone number of the financial institution in which the nonparticipating manufacturer has established a qualified

escrow fund required under [subsection 3(a)(2) of the Escrow Act] **§ 16-403(A)(2) OF THIS TITLE (THE ESCROW ACT)** and all regulations adopted under it;

(ii) the account number of the qualified escrow fund and subaccount number for the State of Maryland;

(iii) the amount the nonparticipating manufacturer placed in the fund for cigarettes sold in the State during the preceding calendar year, the date and amount of each deposit, and any additional information the Attorney General considers necessary to confirm the information required by this subparagraph; and

(iv) the amount of and date of any withdrawal or transfer of funds the nonparticipating manufacturer made at any time from the fund or from any other qualified escrow fund into which the nonparticipating manufacturer made escrow payments under [subsection 3(a)(2) of the Escrow Act] **§ 16-403(A)(2) OF THIS TITLE (THE ESCROW ACT)** and all regulations adopted under that section.

16-504.

(b) (2) Neither a tobacco product manufacturer nor a brand family may be included or retained in the directory if the Attorney General concludes, in the case of a nonparticipating manufacturer, that:

(i) any escrow payment required under [subsection 3(a)(2) of the Escrow Act] **§ 16-403(A)(2) OF THIS TITLE (THE ESCROW ACT)** for any period for any brand family, whether or not listed by such nonparticipating manufacturer, has not been fully paid into a qualified escrow fund governed by a qualified escrow agreement that has been approved by the Attorney General; or

(ii) any outstanding final judgment, including interest on the judgment, for a violation of the Escrow Act has not been fully satisfied for the brand family or the manufacturer.

### Chapter 455 of the Acts of 2003

SECTION 2. AND BE IT FURTHER ENACTED, That if a court of competent jurisdiction finds that the provisions of this Act and of [Chapter 169 of the Acts of the General Assembly of 1999, as amended by Chapter 141 of the Acts of the General Assembly of 2001,] **TITLE 16, SUBTITLE 4 OF THE BUSINESS REGULATION ARTICLE** conflict and cannot be harmonized, then the provisions of [Chapter 169 of the Acts of the General Assembly of 1999, as amended by Chapter 141 of the Acts of the General Assembly of 2001,] **TITLE 16, SUBTITLE 4 OF THE BUSINESS REGULATION ARTICLE** shall control. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Act causes [Chapter 169 of the Acts of the General Assembly of 1999, as amended by Chapter 141 of the Acts of the General Assembly of 2001,] **TITLE 16, SUBTITLE 4 OF THE BUSINESS REGULATION**

**ARTICLE** to no longer constitute a Qualifying or Model Statute, as those terms are defined in the Master Settlement Agreement, then that portion of this Act shall not be valid. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Act is for any reason held by a court of competent jurisdiction to be invalid, unlawful, or unconstitutional, the decision of the court does not affect the validity of the remaining portions of this Act or any part of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That if Chapter 348 of the Acts of the General Assembly of 2004, or any portion of the amendment to § 16-403(b)(2)(ii) of the Business Regulation Article made by Chapter 348 of the Acts of the General Assembly of 2004, is held by a court of competent jurisdiction to be unconstitutional, then § 16-403(b)(2)(ii) of the Business Regulation Article shall be deemed to be repealed in its entirety. If § 16-403(b)(2)(ii) of the Business Regulation Article shall thereafter be held by a court of competent jurisdiction to be unconstitutional, then Chapter 348 of the Acts of the General Assembly of 2004 shall be deemed repealed, and § 16-403(b)(2)(ii) of the Business Regulation Article be restored as if no such amendments had been made. Neither any holding of unconstitutionality nor the repeal of § 16-403(b)(2)(ii) of the Business Regulation Article shall affect, impair, or invalidate any other portion of Title 16, Subtitle 4 of the Business Regulation Article or the application of Title 16, Subtitle 4 of the Business Regulation Article to any other person or circumstance, and such remaining portions of Title 16, Subtitle 4 of the Business Regulation Article shall at all times continue in full force and effect.

SECTION 4. AND BE IT FURTHER ENACTED, That it is the intention of the General Assembly that, except as expressly provided in this Act, this Act shall be construed as a nonsubstantive codification of Chapter 169 of the Acts of the General Assembly of 1999, as amended by Chapter 141 of the Acts of the General Assembly of 2001, Chapter 348 of the Acts of the General Assembly of 2004, and Chapter 538 of the Acts of the General Assembly of 2006, and may not otherwise be construed to render any substantive change in the law of the State.

SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

**Approved by the Governor, April 14, 2009.**

---

## **Chapter 13**

**(Senate Bill 19)**

AN ACT concerning

**Dorchester County – Sheriff – Salary**

FOR the purpose of establishing the salary for the Sheriff of Dorchester County for certain calendar years; repealing references to the County Commissioners of Dorchester County and substituting references to the County Council of Dorchester County; establishing that this Act does not apply to the salary or compensation of the incumbent Sheriff of Dorchester County; and generally relating to the salary of the Sheriff of Dorchester County.

BY repealing and reenacting, with amendments,  
 Article – Courts and Judicial Proceedings  
 Section 2–309(k)  
 Annotated Code of Maryland  
 (2006 Replacement Volume and 2008 Supplement)

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

**Article – Courts and Judicial Proceedings**

2–309.

(k) (1) (i) [Except as provided in subparagraphs (ii) and (iii) of this paragraph, the Sheriff of Dorchester County shall receive an annual salary of \$45,000 and be allowed the actual operating costs of the Sheriff's Office, including the maintenance of automobiles.

(ii) The Sheriff of Dorchester County shall receive an annual salary of:

1. ~~[\$62,500]~~ **\$65,500** for calendar year ~~[2006]~~ **2009**;
2. ~~[\$63,500]~~ **\$65,500** for calendar year ~~[2007]~~ **2010**;
3. ~~[\$64,500]~~ **\$85,000** for calendar year ~~[2008]~~ **2011**;
4. ~~[\$65,500]~~ **\$86,500** for calendar year ~~[2009]~~ **2012**;
5. **\$88,000 FOR CALENDAR YEAR 2013; AND**
6. **\$89,500 FOR CALENDAR YEAR 2014.**

[and]

(iii) (II) For calendar year ~~[2010]~~ **2015** and thereafter, the Sheriff of Dorchester County shall receive the same annual salary as paid in ~~[2009]~~ **2014**.

**(III) THE SHERIFF OF DORCHESTER COUNTY ~~IS ENTITLED~~  
~~TO~~ SHALL BE ALLOWED THE ACTUAL OPERATING COSTS OF THE SHERIFF'S  
OFFICE, INCLUDING THE MAINTENANCE OF AUTOMOBILES.**

(2) (i) The Sheriff shall appoint a chief deputy sheriff, or the managerial equivalent, who shall serve at the pleasure of the Sheriff.

(ii) If an employee of the Sheriff's Office is appointed as chief deputy sheriff and is subsequently removed from the chief deputy sheriff's position for other than cause, the person may resume the employment status held prior to the appointment to the chief deputy sheriff's position.

(iii) The chief deputy sheriff shall:

1. Perform all duties assigned by the Sheriff; and
2. If the Sheriff is temporarily incapacitated or there is a vacancy in the Office of the Sheriff, perform all legal functions of the Sheriff.

(iv) If the Sheriff becomes incapacitated and the position of chief deputy sheriff is vacant, the County [Commissioners] **COUNCIL** shall appoint an acting chief deputy sheriff to serve until the Sheriff is reactivated or replaced.

(v) The County [Commissioners] **COUNCIL** shall approve the salary of the chief deputy sheriff.

(3) (i) The Sheriff may appoint probationary deputy sheriffs, deputy sheriffs, investigators, communications officers, secretaries, supervisors, administrators, and other staff as approved in the county budget.

(ii) The County [Commissioners] **COUNCIL** shall approve the salaries for all staff appointed by the Sheriff.

(iii) The Sheriff may not refuse to reappoint a deputy sheriff without just cause.

SECTION 2. AND BE IT FURTHER ENACTED, That, pursuant to Article III, § 35 of the Maryland Constitution, this Act may not be construed to extend or apply to the salary or compensation of the Sheriff of Dorchester County in office on the effective date of this Act, but the provisions of this Act concerning the salary or compensation of the Sheriff of Dorchester County shall take effect at the beginning of the next following term of office.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, April 14, 2009.

---

## Chapter 14

### (Senate Bill 25)

AN ACT concerning

#### **City of Annapolis – Alcoholic Beverages – Administrative Proceedings and Fines**

FOR the purpose of adding the City of Annapolis to the list of jurisdictions in which the granting of probation before judgment to an alcoholic beverages licensee for selling or furnishing alcoholic beverages to an underaged individual does not bar the Board of License Commissioners from proceeding administratively against the licensee for the violation; altering a certain fine that the City of Annapolis may impose for a certain alcoholic beverages violation; and generally relating to alcoholic beverages in the City of Annapolis.

BY repealing and reenacting, without amendments,  
Article 2B – Alcoholic Beverages  
Section 12–108(a)  
Annotated Code of Maryland  
(2005 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,  
Article 2B – Alcoholic Beverages  
Section 12–108(f) and 16–507(c)(2)  
Annotated Code of Maryland  
(2005 Replacement Volume and 2008 Supplement)

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

#### **Article 2B – Alcoholic Beverages**

12–108.

(a) (1) A licensee licensed under this article, or any employee of the licensee, may not sell or furnish any alcoholic beverages at any time:

(i) To a person under 21 years of age for the underage person's own use or for the use of any other person; or

(ii) To any person who, at the time of the sale, or delivery, is visibly under the influence of any alcoholic beverage.

(2) Any licensee or any employee of the licensee who is charged with a violation of this subsection shall receive a summons to appear in court on a certain day to answer the charges placed against that person. The person charged may not be required to post bail bond pending trial in any court of this State.

(3) (i) A licensee or employee of the licensee violating any of the provisions of this subsection is guilty of a misdemeanor and, upon conviction, suffers the penalties provided by § 16-503 of this article.

(ii) A licensee or employee of the licensee who is charged with selling or furnishing any alcoholic beverages to a person under 21 years of age may not be found guilty of a violation of this subsection, if the person establishes to the satisfaction of the jury or the court sitting as a jury that the person used due caution to establish that the person under 21 years of age was not, in fact, a person under 21 years of age if a nonresident of the State.

(iii) The licensee or employee of the licensee may accept, as proof of a person's age:

1. If the person is a resident of the State, the person's driver's license or identification card as provided for in the Maryland Vehicle Law; or

2. A United States military identification card.

(iv) Except as otherwise provided in this section, if any licensee or employee of the licensee is found not guilty, or placed on probation without a verdict, of any alleged violation of this subsection, this finding operates as a complete bar to any proceeding by any alcoholic beverage law enforcement or licensing authorities against the licensee on account of the alleged violation.

(f) (1) This subsection applies in the following jurisdictions:

**(I) CITY OF ANNAPOLIS;**

**[(i)] (II) Cecil County;**

**[(ii)] (III) Dorchester County;**

**[(iii)] (IV) Garrett County;**

**[(iv)] (V) Howard County;**

**[(v)] (VI) Kent County;**



[(vi)] (VII) Montgomery County;

[(vii)] (VIII) St. Mary's County;

[(viii)] (IX) Washington County; and

[(ix)] (X) Wicomico County.

(2) The granting of probation before judgment to a licensee or employee of the licensee for violating subsection (a) of this section does not bar the Board of License Commissioners from proceeding administratively against the licensee for the violation.

16-507.

(c) (2) In the City of Annapolis, the Board of License Commissioners may impose a fine of not more than [ \$1,000 ] **\$2,000** in lieu of suspension of a license for any violation that is cause for suspension under the alcoholic beverage laws of the city.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

**Approved by the Governor, April 14, 2009.**

---

## Chapter 15

### (Senate Bill 65)

AN ACT concerning

#### **State Retirement and Pension System – Line of Duty Death Benefits – Maryland Transportation Authority Employees**

FOR the purpose of extending certain death benefits under certain circumstances to surviving spouses, certain minor children, or dependent parents of certain deceased members of the State Retirement and Pension System employed by the Maryland Transportation Authority; making this Act an emergency measure; and generally relating to line of duty death benefits for surviving spouses, minor children, and dependent parents of deceased members of the State Retirement and Pension System.

BY repealing and reenacting, with amendments,  
Chapter 519 of the Acts of the General Assembly of 2008

## Section 2

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

**Chapter 519 of the Acts of 2008**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply retroactively and shall be applied to and interpreted to affect any individual who died on or after January 1, 2007, while employed by the State Highway Administration **OR THE MARYLAND TRANSPORTATION AUTHORITY** as a member of the Employees' Retirement System or Employees' Pension System:

- (1) without willful negligence by the individual; and
- (2) with death arising out of or in the course of the actual performance of duty.

~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2009.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a yea and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

**Approved by the Governor, April 14, 2009.**

---

**Chapter 16**

**(Senate Bill 68)**

AN ACT concerning

**Corporations and Associations – Recording, Filing, or Other Fees – Returned Check Fee**

FOR the purpose of imposing a certain fee for nonpayment of a check presented to the State Department of Assessments and Taxation for certain purposes; and generally relating to fees imposed by the State Department of Assessments and Taxation.

BY adding to  
Article – Corporations and Associations

Section 1-203(b)(12)  
Annotated Code of Maryland  
(2007 Replacement Volume and 2008 Supplement)

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

**Article – Corporations and Associations**

1-203.

(b) (12) ~~THE IMPOSITION OF A~~ A FEE FOR THE NONPAYMENT OF A CHECK OR OTHER NEGOTIABLE INSTRUMENT THAT WAS PRESENTED TO THE DEPARTMENT AS PAYMENT FOR ANY OF THE OTHER FEES IMPOSED UNDER THIS SECTION IS \$30.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

**Approved by the Governor, April 14, 2009.**

---

**Chapter 17**

**(Senate Bill 73)**

AN ACT concerning

**Maryland Agricultural Land Preservation Foundation – Sale of Land  
Preservation Easements – Confidentiality of Records**

FOR the purpose of requiring that certain records relating to the sale of an agricultural land preservation easement to the Maryland Agricultural Land Preservation Foundation remain confidential until after a certain time; and generally relating to the sale of Maryland Agricultural Land Preservation Foundation easements.

BY adding to

Article – Agriculture  
Section 2-510(m)  
Annotated Code of Maryland  
(2007 Replacement Volume and 2008 Supplement)

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

**Article – Agriculture**

2–510.

**(M) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, FOR EACH OFFER CYCLE AS PROVIDED IN THIS SECTION, RECORDS RELATING TO A LANDOWNER’S RANKING, ASKING PRICE, OR FOUNDATION OFFER SHALL BE CONFIDENTIAL AND NOT SUBJECT TO PUBLIC INSPECTION UNTIL AFTER THE END OF THE CYCLE, AS DETERMINED BY THE FOUNDATION.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2009.

**Approved by the Governor, April 14, 2009.**

---

**Chapter 18**

**(Senate Bill 74)**

AN ACT concerning

**State Tobacco Authority – Repeal**

FOR the purpose of abolishing the State Tobacco Authority; specifying that the publisher of the Annotated Code of Maryland, in consultation with the Department of Legislative Services, shall correct certain cross–references and terminology rendered incorrect by this Act; and generally relating to the abolition of the State Tobacco Authority.

BY repealing

Article – Agriculture

Section 7–101 through 7–419 and the title “Title 7. Tobacco”

Annotated Code of Maryland

(2007 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,

Article – Agriculture

Section 2–106(a)

Annotated Code of Maryland

(2007 Replacement Volume and 2008 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 7–101 through 7–419 and the title “Title 7. Tobacco” of Article – Agriculture of the Annotated Code of Maryland be repealed.

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

**Article – Agriculture**

2–106.

(a) The following positions and units are included within the Department:

[(1) The Tobacco Authority of the State of Maryland;]

[(2) (1) The Maryland Agricultural Fair Board;

[(3) (2) The Chief of Weights and Measures;

[(4) (3) The State Chemist;

[(5) (4) The State Veterinarian;

[(6) (5) The State Board of Veterinary Medical Examiners;

[(7) (6) The State Soil Conservation Committee;

[(8) (7) The Board of Review of the Department of Agriculture;

[(9) (8) The Maryland Agricultural Commission;

[(10) (9) The Maryland Horse Industry Board;

[(11) (10) The Seafood Marketing and Aquaculture Development Program and Division of Market Development;

[(12) (11) The Seafood Marketing Advisory Commission;

[(13) (12) The Maryland Winery and Grape Growers' Advisory Board;

[(14) (13) The Aquaculture Review Board; and

[(15) (14) The Aquaculture Coordinating Council.

SECTION 3. AND BE IT FURTHER ENACTED, That any balance remaining in the Tobacco Authority Fund after the effective date of this Act shall revert to the General Fund.

SECTION 4. AND BE IT FURTHER ENACTED, That the publisher of the Annotated Code of Maryland, in consultation with and subject to the approval of the Department of Legislative Services, shall correct, with no further action required by the General Assembly, cross-references and terminology rendered incorrect by this Act or by any other Act of the General Assembly of 2009 that affects provisions enacted by this Act. The publisher shall adequately describe any such correction in an editor's note following the section affected.

SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

**Approved by the Governor, April 14, 2009.**

---

## Chapter 19

(Senate Bill 77)

AN ACT concerning

### Department of Agriculture – Organic Certification Program – Fees

FOR the purpose of repealing a requirement that the Department of Agriculture adopt certain regulations creating a certain Organic Certification Program that meets the requirements of a certain federal law; requiring the Organic Certification Program established by the Department to conform to a certain federal law; eliminating the limit at which the Secretary of Agriculture is authorized to set a certain fee; and generally relating to the Organic Certification Program within the Department of Agriculture.

BY repealing and reenacting, with amendments,

Article – Agriculture

Section 10–1401, 10–1402, 10–1404, and 10–1406

Annotated Code of Maryland

(2007 Replacement Volume and 2008 Supplement)

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

### Article – Agriculture

10–1401.

The Department shall establish [a certification program] **THE ORGANIC CERTIFICATION PROGRAM** governing the production and handling of organic agricultural commodities.

10-1402.

[The Department shall adopt regulations creating a program that meets] **THE ORGANIC CERTIFICATION PROGRAM ESTABLISHED BY THE DEPARTMENT SHALL CONFORM TO** the requirements of the federal Organic Food Production Act, 7 U.S.C. § 6501 et seq., **INCLUDING IMPLEMENTING FEDERAL REGULATIONS AND ALL SUBSEQUENT AMENDMENTS AND REVISIONS.**

10-1404.

(a) A person may not represent any uncertified commodity as certified under this subtitle.

(b) In addition to the denial, suspension, or revocation of a [permit] **CERTIFICATE** issued under this subtitle, the Secretary may impose a civil penalty of not more than \$1,000 for a violation of this section.

(c) Each uncertified commodity represented as certified constitutes a separate violation of this section.

(d) Penalties collected by the Secretary under this section shall be paid into the General Fund of the State.

10-1406.

The Secretary shall set a reasonable fee[, not to exceed \$500,] to defray the cost of conducting field inspections and laboratory analysis as required by the United States Department of Agriculture's Organic Food Program for accredited certifying agents.

**SECTION 2. AND BE IT FURTHER ENACTED,** That this Act shall take effect October 1, 2009.

**Approved by the Governor, April 14, 2009.**

---

## **Chapter 20**

**(Senate Bill 78)**

AN ACT concerning

**Practice of Veterinary Medicine – Students – Immunity**

FOR the purpose of providing that certain activities of certain veterinary medical students are not within the meaning of the practice of veterinary medicine when performed under the responsible direct supervision of a veterinary practitioner; extending certain immunity from liability to certain veterinary medical students under certain circumstances; and generally relating to the practice of veterinary medicine by certain students.

BY repealing and reenacting, without amendments,  
Article – Agriculture  
Section 2–301(c)  
Annotated Code of Maryland  
(2007 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,  
Article – Agriculture  
Section 2–301(g) and 2–314  
Annotated Code of Maryland  
(2007 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,  
Article – Courts and Judicial Proceedings  
Section 5–614  
Annotated Code of Maryland  
(2006 Replacement Volume and 2008 Supplement)

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

### **Article – Agriculture**

2–301.

(c) “Direct supervision” means that a veterinarian licensed and registered in the State is in the immediate vicinity where veterinary medicine is being performed and is actively engaged in the supervision of the practice of veterinary medicine.

(g) The term “practice of veterinary medicine” does not include or apply to:

(1) Any person practicing veterinary medicine in the performance of civil or military official duties in the service of the United States or of the State;

(2) Experimentation and scientific research of biological chemists or technicians engaged in the study and development of methods and techniques, directly or indirectly related or applicable to the problems of the practice of veterinary medicine;



(3) A person who advises with respect to or performs acts which the Board, by rule or regulation, has prescribed as accepted management practices in connection with livestock production;

(4) A physician licensed to practice medicine in the State or to his assistant while engaged in educational research;

(5) A person administering to the ills and injuries of his own animals if they otherwise comply with all laws, rules and regulations relative to the use of medicines and biologics;

(6) A farrier or a person actively engaged in the art or profession of horseshoeing as long as his actions are limited to the art of horseshoeing only;

(7) Any nurse, attendant, technician, intern, or other employee of a licensed and registered veterinarian when administering medication or rendering auxiliary or supporting assistance under the responsible direct supervision of a licensed and registered veterinarian;

(8) A person who floats (files) equine teeth or removes caps;

(9) A person who scales or cleans animal teeth;

(10) Except as otherwise provided by regulations adopted by the Board, a veterinary technician when performing the following procedures under the responsible direct supervision of a veterinary practitioner:

(i) Anesthesia induction by inhalation or intravenous injection if the veterinary practitioner is able to maintain direct visual contact of the veterinary technician's performance of the procedure;

(ii) Anesthesia induction by intramuscular injection;

(iii) Application of casts and splints;

(iv) Dental extractions; and

(v) Suturing of existing surgical skin incisions;

(11) A person practicing acupuncture in accordance with the principles of oriental medical theories if the person:

(i) Is licensed under Title 1A of the Health Occupations Article;

(ii) Is certified as an animal acupuncturist by the Board of Acupuncture;

- (iii) Practices only acupuncture, acupressure, and moxibustion;
  - (iv) Cooperates and consults with a veterinary practitioner by:
    - 1. Beginning acupuncture treatment on an animal only if the animal has been seen by a veterinary practitioner within the previous 14 days;
    - 2. Adhering to the terms and conditions of treatment decided by the veterinary practitioner, including the degree of communication and collaboration between the veterinary practitioner and the person practicing acupuncture;
    - 3. Reporting to the veterinary practitioner at the end of treatment or at monthly intervals, at the discretion of the veterinary practitioner; and
    - 4. Not working on an animal for which the person has not been appropriately trained, in accordance with regulations adopted by the Board of Acupuncture; and
  - (v) Has successfully completed a specialty training program in animal acupuncture that:
    - 1. Is approved by the Board of Acupuncture;
    - 2. Is offered by a school holding nationally recognized accreditation;
    - 3. Consists of at least 135 hours; and
    - 4. Enables the person to:
      - A. Design effective treatments of animals based on traditional acupuncture theories and principles, including appropriate knowledge of functional animal anatomy and physiology;
      - B. Handle and restrain animals to the extent appropriate in the practice of acupuncture;
      - C. Demonstrate sufficient knowledge of animal diseases and zoonoses that would require the immediate attention of a veterinary practitioner; and
      - D. Communicate effectively with a veterinary practitioner; [or]
- (12) A veterinarian licensed in another jurisdiction while consulting with a veterinary practitioner in this State; **OR**

**(13) A STUDENT OF VETERINARY MEDICINE PRACTICING VETERINARY MEDICINE WHO HAS SUCCESSFULLY COMPLETED 3 YEARS OF VETERINARY EDUCATION AT AN INSTITUTION APPROVED BY THE BOARD AND WHO WORKS UNDER THE RESPONSIBLE DIRECT SUPERVISION, AS DEFINED BY THE BOARD, OF A VETERINARY PRACTITIONER.**

2-314.

A person licensed by the State of Maryland to provide veterinary care **OR A STUDENT OF VETERINARY MEDICINE WHO WORKS UNDER THE RESPONSIBLE DIRECT SUPERVISION OF A VETERINARY PRACTITIONER AS DEFINED BY § 2-301(C) OF THIS SUBTITLE** who, for no fee or compensation, renders veterinary aid, care, or assistance in an emergency situation in which the owner or custodian of the animal is not available to grant permission shall have the immunity from liability described under § 5-614 of the Courts and Judicial Proceedings Article.

#### **Article – Courts and Judicial Proceedings**

5-614.

A person licensed by the State to provide veterinary care **OR A STUDENT OF VETERINARY MEDICINE WHO WORKS UNDER THE RESPONSIBLE DIRECT SUPERVISION OF A VETERINARY PRACTITIONER AS DEFINED BY § 2-301(C) OF THE AGRICULTURE ARTICLE** who, for no fee or compensation, renders veterinary aid, care, or assistance in an emergency situation in which the owner or custodian of the animal is not available to grant permission, is not liable for any civil damages as the result of any professional act or omission by the person not amounting to gross negligence.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

**Approved by the Governor, April 14, 2009.**

---

## **Chapter 21**

**(Senate Bill 82)**

AN ACT concerning

**Inflatable Amusement Attractions – Inspections**

FOR the purpose of requiring the annual inspection of inflatable amusement attractions; defining a certain term; exempting inflatable amusement attractions from certain inspections; providing that a certificate of inspection for an inflatable amusement attraction is valid for not more than a certain period of time; and generally relating to the inspection of amusement attractions.

BY repealing and reenacting, with amendments,  
Article – Business Regulation  
Section 3–101 and 3–402  
Annotated Code of Maryland  
(2004 Replacement Volume and 2008 Supplement)

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

**Article – Business Regulation**

3–101.

- (a) In this title the following words have the meanings indicated.
- (b) (1) “Amusement attraction” means:
  - (i) an amusement ride; or
  - (ii) a structure that gives amusement, excitement, pleasure, or thrills to people who move around, over, or through the structure without the aid of a moving device integral to the structure.
- (2) “Amusement attraction” does not include a structure that is devoted principally to exhibitions related to agriculture, the arts, education, industry, religion, or science.
- (c) “Amusement owner” means a person, the State, or a political subdivision of the State that owns an amusement attraction or, if the amusement attraction is leased, the lessee.
- (d) “Amusement park” means an area that is used principally for 1 or more permanently-erected amusement attractions.
- (e) “Amusement ride” means a device that is intended to give amusement, excitement, pleasure, or thrills to passengers whom the device carries:
  - (1) along or around a fixed or restricted course; or
  - (2) within a defined area.

(f) "Carnival" means an itinerant enterprise that consists principally of 1 or more temporarily-located amusement attractions.

(g) "Commissioner" means the Commissioner of Labor and Industry.

(h) "Fair" means an enterprise that:

(1) is devoted principally to periodic exhibitions related to agriculture, the arts, education, industry, religion, or science; and

(2) has 1 or more amusement attractions operated along with the exhibitions.

**(I) "INFLATABLE AMUSEMENT ATTRACTION" MEANS AN AIR-SUPPORTED AMUSEMENT ATTRACTION THAT:**

**(1) INCORPORATES A STRUCTURAL AND MECHANICAL SYSTEM;**  
**AND**

**(2) USES A HIGH STRENGTH FABRIC OR FILM THAT ACHIEVES ITS STRENGTH, SHAPE, AND STABILITY BY TENSIONING FROM INTERNAL AIR PRESSURE.**

3-402.

(a) The Commissioner shall inspect:

(1) each amusement attraction at an amusement park annually;

(2) **EACH INFLATABLE AMUSEMENT ATTRACTION ANNUALLY;**

**(3) [each] EXCEPT FOR AN INFLATABLE AMUSEMENT ATTRACTION, EACH** amusement attraction, if moved, before it begins operation at another location; and

**[(3)] (4)** each new or modified amusement attraction before it begins public operation.

(b) (1) An amusement owner shall notify the Commissioner before operating an amusement attraction that is new, modified, or reconstructed.

(2) An owner or lessee of a carnival or fair shall:

(i) notify the Commissioner in writing at least 30 days before opening the carnival or fair at each location; and

(ii) give the Commissioner immediate notice of a change in the schedule of locations or dates if the schedule changes after notification.

(c) The Commissioner shall issue to an amusement owner a certificate of inspection for each amusement attraction at a carnival, fair, or amusement park if:

(1) after inspection the Commissioner finds that the amusement attraction complies with this title and the regulations adopted under it; and

(2) the amusement owner submits to the Commissioner a certificate of insurance for the amusement attraction as required by § 3-403 of this subtitle.

(d) (1) A certificate of inspection for an amusement attraction at an amusement park expires not more than 1 year after the date of issuance.

(2) A certificate of inspection for an amusement attraction at a fair or carnival expires not more than 30 days after the date of issuance.

**(3) A CERTIFICATE OF INSPECTION FOR AN INFLATABLE AMUSEMENT ATTRACTION EXPIRES NOT MORE THAN 1 YEAR AFTER THE DATE OF ISSUANCE.**

(e) The certificate of inspection shall be posted in plain view on the amusement attraction.

(f) On information or notification of an accident or complaint that involves an amusement attraction, the Commissioner shall investigate the accident or complaint and inspect the amusement attraction.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

**Approved by the Governor, April 14, 2009.**

---

## Chapter 22

(Senate Bill 84)

AN ACT concerning

~~Medicare Supplement Plan A Policies – Individuals with a Disability – Rates~~  
Health Insurance – Medicare Coverage and Continuation Coverage –  
Provisions That Relate to Federal Laws and Programs

FOR the purpose of requiring a carrier that issues health benefit plans to small employers in accordance with certain provisions of law to allow an individual an extended election period for certain continuation coverage under certain circumstances; requiring the extended election period to continue for a certain period of time under certain circumstances; providing for the beginning and end of the continuation coverage; altering the minimum benefits a Medicare supplement policy must provide; requiring a carrier, under certain circumstances, to make available a Medicare supplement policy plan A to an individual who is eligible for Medicare due to a disability; prohibiting a carrier from charging individuals who, regardless of age, are eligible for Medicare due to a disability a higher rate for a Medicare supplement policy plan A than the rate charged by the carrier to certain individuals who are eligible for Medicare due to age; prohibiting a carrier from taking certain actions relating to a Medicare supplement policy plan A for certain reasons if an individual applies for the policy plan within a certain time period; applying certain provisions of this Act to health maintenance organizations; defining certain terms; making this Act an emergency measure; and generally relating to Medicare supplement ~~plan A~~ policies and continuation coverage under health insurance.

BY adding to

Article – Health – General

Section 19–706(ttt)

Annotated Code of Maryland

(2005 Replacement Volume and 2008 Supplement)

BY adding to

Article – Insurance

Section 15–409.1

Annotated Code of Maryland

(2006 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,

Article – Insurance

Section 15–906(a) and 15–909(b)

Annotated Code of Maryland

(2006 Replacement Volume and 2008 Supplement)

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

**Article – Health – General**

**19–706.**

**(TTT) THE PROVISIONS OF § 15–409.1 OF THE INSURANCE ARTICLE APPLY TO HEALTH MAINTENANCE ORGANIZATIONS.**

## Article – Insurance

15-409.1.

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

(2) “ACT” MEANS THE FEDERAL AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 (P.L. 111-5).

(3) “CARRIER” MEANS:

(I) AN INSURER;

(II) A NONPROFIT HEALTH SERVICE PLAN; OR

(III) A HEALTH MAINTENANCE ORGANIZATION.

(4) “SMALL EMPLOYER” HAS THE MEANING STATED IN § 15-1201 OF THIS TITLE.

(B) THIS SECTION APPLIES TO A CARRIER THAT ISSUES HEALTH BENEFIT PLANS TO SMALL EMPLOYERS IN ACCORDANCE WITH SUBTITLE 12 OF THIS TITLE.

(C) A CARRIER SHALL ALLOW AN EXTENDED ELECTION PERIOD FOR CONTINUATION COVERAGE UNDER § 15-409 OF THIS SUBTITLE IF THE INDIVIDUAL:

(1) WAS INVOLUNTARILY TERMINATED FROM EMPLOYMENT BY A SMALL EMPLOYER BETWEEN SEPTEMBER 1, 2008, AND FEBRUARY 16, 2009, INCLUSIVE, AS DESCRIBED IN § 3001(A)(3)(C) OF THE ACT;

(2) IS AN ASSISTANCE ELIGIBLE INDIVIDUAL, AS DEFINED IN § 3001(A)(3) OF THE ACT, OR WOULD BE AN ASSISTANCE ELIGIBLE INDIVIDUAL IF AN ELECTION OF CONTINUATION COVERAGE UNDER § 15-409 OF THIS SUBTITLE WAS IN EFFECT ON THE DATE OF ENACTMENT OF THE ACT; AND

(3) WAS ELIGIBLE FOR CONTINUATION COVERAGE UNDER § 15-409 OF THIS SUBTITLE AT THE TIME OF THE INDIVIDUAL’S TERMINATION OF EMPLOYMENT.

(D) THE EXTENDED ELECTION PERIOD PROVIDED UNDER THIS SECTION SHALL CONTINUE UNTIL 60 DAYS AFTER PROVISION OF THE NOTIFICATION



**REQUIRED BY § 3001(A)(7)(C) OF THE ACT IF THE NOTIFICATION DESCRIBES THE EXTENDED ELECTION PERIOD REQUIRED UNDER THIS SECTION.**

**(E) ANY CONTINUATION COVERAGE ELECTED BY AN INDIVIDUAL DURING AN EXTENDED ELECTION PERIOD UNDER THIS SECTION:**

**(1) SHALL BEGIN DURING THE FIRST PERIOD OF COVERAGE BEGINNING ON OR AFTER THE INDIVIDUAL'S ELECTION OF CONTINUATION COVERAGE; AND**

**(2) MAY NOT EXTEND BEYOND THE PERIOD OF CONTINUATION COVERAGE THAT WOULD HAVE BEEN REQUIRED UNDER § 15-409 OF THIS SUBTITLE IF THE COVERAGE HAD BEEN ELECTED AS REQUIRED UNDER THAT SECTION.**

15-906.

**(a) [At a minimum, a] A Medicare supplement policy shall provide THE MINIMUM BENEFITS REQUIRED BY FEDERAL LAW. [:**

**(1) to the extent not covered by Medicare, coverage of Medicare Part A eligible expenses for hospitalization from the 61st day through the 90th day of a Medicare benefit period;**

**(2) to the extent not covered by Medicare, coverage of Medicare Part A eligible expenses incurred as daily hospital charges during use of Medicare's lifetime hospital inpatient reserve days;**

**(3) after all Medicare hospital inpatient coverage is exhausted, including lifetime reserve days, subject to the lifetime maximum benefit of an additional 365 days, coverage of all Medicare Part A eligible expenses for hospitalization not covered by Medicare paid at the rate of the diagnostic related group (DRG) day outlier per diem or, if applicable, the per diem approved by the Health Services Cost Review Commission;**

**(4) coverage for the coinsurance amount of Medicare eligible expenses under Medicare Part B regardless of hospital confinement;**

**(5) unless replaced in accordance with federal regulations or already paid for under Medicare Part B, coverage under Medicare Part A for the reasonable cost in a calendar year of the first 3 pints of blood or, as defined by federal regulations, equivalent quantities of packed red blood cells; and**

**(6) unless replaced in accordance with federal regulations or already paid for under Medicare Part A and subject to the Medicare Part B deductible amount, coverage under Medicare Part B for the reasonable cost in a calendar year of the first 3**

pints of blood or, as defined by federal regulations, equivalent quantities of packed red blood cells.]

15-909.

(b) (1) If an application for a Medicare supplement policy or certificate is submitted during the 6-month period beginning with the first month in which an individual who is at least 65 years old first enrolls for benefits under Medicare Part B, a carrier:

(i) may not deny or condition the issuance or effectiveness of the Medicare supplement policy or certificate or discriminate in the pricing of the Medicare supplement policy or certificate because of the health status, claims experience, receipt of health care, or medical condition of the applicant; or

(ii) may not deny, reduce, or condition coverage or apply an increased premium rating to an applicant for a Medicare supplement policy because of the health status, claims experience, or medical condition of the applicant or the use of medical care by the applicant.

(2) Notwithstanding paragraph (1)(ii) of this subsection, a carrier may include in a Medicare supplement policy a provision that complies with subsection (d) of this section.

(3) (i) A carrier shall make available [both a Medicare supplement policy plan C and a Medicare supplement policy plan I] **MEDICARE SUPPLEMENT POLICY PLANS A, C, AND I** to an individual who is under the age of 65 years but is eligible for Medicare due to a disability, if an application for a Medicare supplement policy or certificate is submitted:

1. during the 6-month period following the applicant's enrollment in Part B of Medicare; or

2. for an individual terminated from the Maryland Health Insurance Plan as a result of enrollment in Part B of Medicare, during the 6-month period after the individual's termination.

(ii) For a Medicare supplement policy plan [C or a Medicare supplement policy plan I] **A, C, OR I** required to be made available under subparagraph (i) of this paragraph, a carrier:

1. may not deny or condition the issuance or effectiveness of a Medicare supplement policy plan [C or a Medicare supplement policy plan I] **A, C, OR I** because of the health status, claims experience, receipt of health care, or medical condition of the applicant; or

2. may not deny, reduce, or condition coverage to the applicant for a Medicare supplement policy plan [C or a Medicare supplement policy plan I] **A, C, OR I** because of the health status, claims experience, or medical condition of the applicant or the use of medical care by the applicant.

**(III) FOR A MEDICARE SUPPLEMENT POLICY PLAN A REQUIRED TO BE MADE AVAILABLE UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, A CARRIER MAY NOT CHARGE INDIVIDUALS WHO ARE UNDER THE AGE OF 65 YEARS, BUT ARE ELIGIBLE FOR MEDICARE DUE TO A DISABILITY, A RATE HIGHER THAN THE AVERAGE OF THE PREMIUMS PAID BY ALL POLICYHOLDERS AGE 65 AND OLDER IN THE STATE WHO ARE COVERED UNDER THAT PLAN A POLICY FORM.**

(4) A carrier may elect to offer Medicare supplement policy plans to individuals who are under the age of 65 years, but eligible for Medicare due to a disability, in addition to the Medicare supplement policy [plan C and the Medicare supplement policy plan I] **PLANS A, C, AND I** that are required to be offered under paragraph (3)(i) of this subsection.

(5) Nothing in paragraph (3) of this subsection may be construed to require a carrier to offer a Medicare supplement policy plan to individuals who are under the age of 65 years, but are eligible for Medicare due to a disability, if the plan is not offered to individuals who are eligible for Medicare due to age.

**SECTION 2. AND BE IT FURTHER ENACTED,** That a carrier that did not make available a Medicare supplement policy plan A to an individual who is under the age of 65 years but was eligible for Medicare due to a disability, or charged an individual who is under the age of 65 years but was eligible for Medicare due to a disability, a rate higher than the average of the premiums paid by all policyholders age 65 and older in the State who are covered under that plan A policy form between July 1, 2008, and the effective date of this Act may not deny or condition the issuance or effectiveness of a Medicare supplement policy plan A because of health status, claims experience, or medical condition of an individual who is under the age of 65 years but is eligible for Medicare due to a disability and is currently enrolled with that same carrier in a Medicare supplement policy plan C offered in the State, provided that the individual applies for a Medicare supplement policy plan A with that same carrier no later than 63 days after the policy plan C renewal date.

**SECTION 3. AND BE IT FURTHER ENACTED,** That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a ye and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

Approved by the Governor, April 14, 2009.

---

## Chapter 23

### (Senate Bill 85)

AN ACT concerning

#### **Insurance – Notice of Cancellation or Nonrenewal – Mailing Address**

FOR the purpose of requiring certain notices of cancellation or nonrenewal to be sent to the named insured at a certain address; and generally relating to notices of cancellation or nonrenewal.

BY repealing and reenacting, with amendments,  
Article – Insurance  
Section 12–106(f)  
Annotated Code of Maryland  
(2003 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,  
Article – Insurance  
Section 27–602(b), (c), and (d)  
Annotated Code of Maryland  
(2006 Replacement Volume and 2008 Supplement)

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

#### **Article – Insurance**

12–106.

(f) (1) Except as provided in paragraph (2) of this subsection, a notice of cancellation under this section shall:

- (i) be in writing;
- (ii) have an effective date not less than 15 days after mailing;
- (iii) state clearly and specifically the insurer’s actual reason for the cancellation; and
- (iv) be sent by certificate of mail **TO THE NAMED INSURED’S LAST KNOWN ADDRESS.**

(2) A notice of cancellation under this section for nonpayment of premium shall:

(i) be in writing;

(ii) have an effective date of not less than 10 days after mailing;

(iii) state the insurer's intent to cancel for nonpayment of premium; and

(iv) be sent by certificate of mail **TO THE NAMED INSURED'S LAST KNOWN ADDRESS**.

27-602.

(b) (1) Whenever an insurer, as required by subsection (c) of this section, gives notice of its intention to cancel or not to renew a policy subject to this section issued in the State or before an insurer cancels a policy subject to this section issued in the State for a reason other than nonpayment of premium, the insurer shall notify the insured of the possible right of the insured to replace the insurance under the Maryland Property Insurance Availability Act or through another plan for which the insured may be eligible.

(2) The notice required by paragraph (1) of this subsection must:

(i) be in writing;

(ii) contain the current address and telephone number of the offices of the appropriate plan; and

(iii) be sent to the **NAMED** insured **AT THE NAMED INSURED'S LAST KNOWN ADDRESS** in the same manner and at the same time as the first written notice of cancellation or of intention not to renew given or required by law, regulation, or contract.

(c) (1) At least 45 days before the date of the proposed cancellation or expiration of the policy, the insurer shall send to the **NAMED** insured **AT THE NAMED INSURED'S LAST KNOWN ADDRESS**, by certificate of mail, a written notice of intention to cancel for a reason other than nonpayment of premium or notice of intention not to renew a policy issued in the State.

(2) An insurer shall maintain proof of mailing in a form authorized or accepted by the United States Postal Service.

(3) Notice given to the insured by an insurance producer on behalf of the insurer is deemed to have been given by the insurer for purposes of this subsection.

(4) Notwithstanding paragraph (3) of this subsection, no notice is required under this section if the insured has replaced the insurance.

(d) At least 10 days before the date an insurer proposes to cancel a policy for nonpayment of premium, the insurer shall send to the **NAMED** insured, **AT THE NAMED INSURED'S LAST KNOWN ADDRESS**, by certificate of mail, a written notice of intention to cancel for nonpayment of premium.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

**Approved by the Governor, April 14, 2009.**

---

## Chapter 24

(Senate Bill 89)

AN ACT concerning

### **Maryland Agricultural Land Preservation Foundation – Imposition of Civil Penalties by Board of Trustees – Authorization**

FOR the purpose of authorizing the board of trustees of the Maryland Agricultural Land Preservation Foundation to impose certain penalties on owners of certain property for certain violations under certain circumstances; establishing that each day a violation occurs is a separate violation; establishing certain notice and hearing requirements; requiring the Foundation to provide an alleged violator a reasonable time to correct the alleged violation; establishing certain maximum penalties for certain violations; requiring the imposition of penalties to be assessed in accordance with certain considerations; requiring certain penalties to be deposited into the Maryland Agricultural Land Preservation Fund; requiring the Foundation to adopt certain regulations; providing for the application of this Act; and generally relating to the authority of the board of trustees of the Maryland Agricultural Land Preservation Foundation.

BY adding to

Article – Agriculture

Section 2–519

Annotated Code of Maryland

(2007 Replacement Volume and 2008 Supplement)

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

**Article – Agriculture**

**2-519.**

(A) (1) IN ADDITION TO ANY OTHER REMEDIES AVAILABLE AT LAW OR IN EQUITY AND AFTER AN OPPORTUNITY FOR A HEARING, THE BOARD OF TRUSTEES OF THE FOUNDATION MAY IMPOSE A PENALTY ON AN OWNER OF PROPERTY THAT IS SUBJECT TO AN EASEMENT GRANTED UNDER THIS SUBTITLE FOR A VIOLATION OF ANY PROVISION OF THIS SUBTITLE, ANY REGULATION ADOPTED IN ACCORDANCE WITH § 2-504 OF THIS SUBTITLE, OR AN EASEMENT ACQUIRED BY THE FOUNDATION.

(2) EACH DAY A VIOLATION OCCURS IS A SEPARATE VIOLATION FOR PURPOSES OF THIS SECTION.

(B) BEFORE TAKING ANY ACTION UNDER THIS SECTION, THE FOUNDATION SHALL PROVIDE THE ALLEGED VIOLATOR WITH WRITTEN NOTICE OF THE PROPOSED ACTION ~~AND~~, AN OPPORTUNITY FOR AN INFORMAL MEETING, AND A REASONABLE TIME TO CORRECT THE ALLEGED VIOLATION.

(C) THE PENALTY IMPOSED ON A PERSON UNDER THIS SECTION SHALL BE:

(1) UP TO \$2,500 FOR EACH VIOLATION;

(2) NOT MORE THAN \$50,000 TOTAL FOR ANY SINGLE ADMINISTRATIVE HEARING; AND

(3) ASSESSED WITH CONSIDERATION GIVEN TO THE WILLFULNESS OF THE VIOLATION AND THE EXTENT TO WHICH THE EXISTENCE OF THE VIOLATION WAS KNOWN TO THE VIOLATOR BUT UNCORRECTED BY THE VIOLATOR.

(D) PENALTIES COLLECTED BY THE FOUNDATION UNDER THIS SECTION SHALL BE PAID INTO THE MARYLAND AGRICULTURAL LAND PRESERVATION FUND ESTABLISHED UNDER § 2-505 OF THIS SUBTITLE.

(E) THE FOUNDATION SHALL ADOPT REGULATIONS TO CARRY OUT THE PROVISIONS OF THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to any violation occurring before the effective date of this Act.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

**Approved by the Governor, April 14, 2009.**

---

## **Chapter 25**

### **(Senate Bill 90)**

AN ACT concerning

#### **Maryland Agricultural Land Preservation Foundation – Valuation of Terminated Easements**

FOR the purpose of altering the appraisal method for determining the agricultural value of a terminated agricultural land preservation easement to be repurchased by the landowner from the Maryland Agricultural Land Preservation Foundation; and generally relating to the Maryland Agricultural Land Preservation Foundation.

BY repealing and reenacting, with amendments,  
Article – Agriculture  
Section 2–514(f)  
Annotated Code of Maryland  
(2007 Replacement Volume and 2008 Supplement)

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

#### **Article – Agriculture**

2–514.

(f) (1) If the request for termination is approved, an appraisal of the subject land shall be ordered by the Foundation at the expense of the landowner requesting termination of the easement.

(2) (i) No more than 180 days following the appraisal required under paragraph (1) of this subsection, the landowner may repurchase the easement



by paying to the Foundation the difference between the fair market value and the agricultural value of the subject land, as determined by the appraisal.

(ii) For purposes of this paragraph, the agricultural value **OF THE LAND** is **DETERMINED BY THE APPRAISAL METHOD THAT WAS IN EFFECT AT THE TIME THE EASEMENT WAS ACQUIRED BY THE FOUNDATION, EITHER BY THE AGRICULTURAL APPRAISAL FORMULA UNDER § 2-511(D) OF THIS SUBTITLE OR BY AN APPRAISAL THAT DETERMINES** the price as of the valuation date which a vendor, willing but not obligated to sell, would accept, and which a purchaser, willing but not obligated to buy, would pay for a farm unit with land comparable in quality and composition to the property being appraised[, but located in the nearest location where profitable farming is feasible].

(iii) 1. In the case of the termination of an easement that was originally purchased under a matching allotted purchase, the Foundation shall distribute to the contributing county a portion of the repurchase payment received under subparagraph (i) of this paragraph that is equal to the percentage of the original easement purchase price contributed by the county.

2. A. From the funds distributed to a county under this subparagraph, the county shall deposit in the county's special account for its agricultural land preservation program an amount that is at least equal to the percentage of the original easement purchase price that was paid out of the special account.

B. If any of the funds deposited in the county's special account have not been expended or committed within 3 years from the date of deposit into the special account, the county collector shall remit those funds to the Comptroller for deposit in the Maryland Agricultural Land Preservation Fund as provided in § 13-306(d) of the Tax – Property Article.

3. The county shall deposit the balance of the funds distributed to it under this subparagraph in the county's general fund.

4. If an easement is terminated, the Foundation shall deposit its portion of the repurchase payment in the Maryland Agricultural Land Preservation Fund as provided under § 2-505 of this subtitle.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

**Approved by the Governor, April 14, 2009.**

---

**Chapter 26****(Senate Bill 91)**

AN ACT concerning

**Lawn and Turf Grass Seed – Testing and Labeling Requirements**

FOR the purpose of establishing certain labeling requirements for certain lawn and turf grass seed; extending the time period for the validity of certain germination tests for certain lawn and turf grass seed; making a stylistic change; and generally relating to testing and labeling requirements for lawn and turf grass seed.

BY adding to

Article – Agriculture

Section 9–209.1

Annotated Code of Maryland

(2007 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,

Article – Agriculture

Section 9–210(a)

Annotated Code of Maryland

(2007 Replacement Volume and 2008 Supplement)

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

**Article – Agriculture****9–209.1.**

**COOL SEASON LAWN AND TURF GRASS SEED SHALL BE LABELED WITH A SELL BY DATE THAT MAY NOT BE MORE THAN 15 MONTHS FROM THE MONTH FOLLOWING THE DATE OF THE TEST.**

**9–210.**

(a) No person may sell, offer or expose for sale, or transport any agricultural, vegetable, herb, flower, tree, or shrub seed in the State:

(1) Unless the test to determine the percentage of germination required by §§ 9–207, 9–208, and 9–209 of this subtitle is completed within [nine] **9** months, **OR 15 MONTHS FOR COOL SEASON LAWN AND TURF GRASS SEED AS**

**DETERMINED BY THE SECRETARY**, exclusive of the month in which the test is completed, immediately prior to sale, exposure or offer for sale, or transportation;

(2) Not labeled in accordance with the provisions of this subtitle, or having a false or misleading labeling;

(3) Pertaining to which there has been a false or misleading advertisement;

(4) Containing prohibited noxious weed seeds;

(5) Containing restricted noxious weed seeds in excess of the number prescribed by rules and regulations adopted under this subtitle;

(6) Containing more than 2.50 percent by weight of all weed seeds;  
and

(7) Represented to be "approved seed", "certified seed", "registered seed", "foundation seed", or "breeder seed", unless it is produced and labeled in accordance with the procedures and in compliance with rules and regulations of an officially recognized seed certification agency.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

**Approved by the Governor, April 14, 2009.**

---

## Chapter 27

**(Senate Bill 104)**

AN ACT concerning

### **Baltimore County – Prospective Employees and Volunteers – Criminal History Records Check**

FOR the purpose of authorizing the County Administrative Officer of Baltimore County or a certain designee of the officer to request from the Central Repository a State and national criminal history records check for a prospective ~~or current~~ employee or volunteer of Baltimore County; requiring that the officer or designee of the officer submit certain sets of fingerprints and fees to the Central Repository as part of the application for a criminal history records check; requiring the Central Repository to forward to the prospective ~~or current~~ employee or volunteer and the officer or designee of the officer the prospective ~~or current~~ employee's or volunteer's criminal history record information under

certain circumstances; establishing that information obtained from the Central Repository under this Act is confidential, may not be redisseminated, and may be used only for certain purposes; authorizing the subjects of a criminal history records check under this Act to contest the contents of a certain printed statement issued by the Central Repository; requiring the governing body of Baltimore County to adopt guidelines to carry out this Act; defining a certain term; and generally relating to criminal history records checks in Baltimore County.

BY adding to

Article – Criminal Procedure  
Section 10–231.1  
Annotated Code of Maryland  
(2008 Replacement Volume)

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

**Article – Criminal Procedure**

**10–231.1.**

(A) IN THIS SECTION, “CENTRAL REPOSITORY” MEANS THE CRIMINAL JUSTICE INFORMATION SYSTEM CENTRAL REPOSITORY OF THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES.

(B) THE COUNTY ADMINISTRATIVE OFFICER OF BALTIMORE COUNTY OR A DESIGNEE OF THE OFFICER ~~OFFICER~~ COUNTY ADMINISTRATIVE OFFICER, WHICH SHALL BE THE DIRECTOR OF HUMAN RESOURCES OR THE DIRECTOR’S DESIGNEE, MAY REQUEST FROM THE CENTRAL REPOSITORY A STATE AND NATIONAL CRIMINAL HISTORY RECORDS CHECK FOR A PROSPECTIVE ~~OR~~ ~~CURRENT~~ EMPLOYEE OR VOLUNTEER OF BALTIMORE COUNTY.

(C) (1) AS PART OF THE APPLICATION FOR A CRIMINAL HISTORY RECORDS CHECK, THE COUNTY ADMINISTRATIVE OFFICER OF BALTIMORE COUNTY OR THE DESIGNEE OF THE OFFICER SHALL SUBMIT TO THE CENTRAL REPOSITORY:

(I) TWO COMPLETE SETS OF THE PROSPECTIVE ~~OR~~ ~~CURRENT~~ EMPLOYEE’S OR VOLUNTEER’S LEGIBLE FINGERPRINTS TAKEN ON FORMS APPROVED BY THE DIRECTOR OF THE CENTRAL REPOSITORY AND THE DIRECTOR OF THE FEDERAL BUREAU OF INVESTIGATION;

(II) THE FEE AUTHORIZED UNDER § 10–221(B)(7) OF THIS SUBTITLE FOR ACCESS TO MARYLAND CRIMINAL HISTORY RECORDS; AND

(III) THE MANDATORY PROCESSING FEE REQUIRED BY THE FEDERAL BUREAU OF INVESTIGATION FOR A NATIONAL CRIMINAL HISTORY RECORDS CHECK.

(2) IN ACCORDANCE WITH §§ 10-201 THROUGH 10-250 OF THIS SUBTITLE, THE CENTRAL REPOSITORY SHALL FORWARD TO THE PROSPECTIVE ~~OR CURRENT~~ EMPLOYEE OR VOLUNTEER AND THE COUNTY ADMINISTRATIVE OFFICER OF BALTIMORE COUNTY OR THE DESIGNEE OF THE OFFICER THE PROSPECTIVE ~~OR CURRENT~~ EMPLOYEE'S OR VOLUNTEER'S CRIMINAL HISTORY RECORD INFORMATION.

(3) INFORMATION OBTAINED FROM THE CENTRAL REPOSITORY UNDER THIS SECTION:

(I) IS CONFIDENTIAL AND MAY NOT BE REDISSEMINATED;  
AND

(II) MAY BE USED ONLY FOR A PERSONNEL-RELATED PURPOSE CONCERNING A PROSPECTIVE ~~OR CURRENT~~ EMPLOYEE OR VOLUNTEER OF THE COUNTY AS AUTHORIZED BY THIS SECTION.

(4) 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 THIS SUBTITLE.

(D) THE GOVERNING BODY OF BALTIMORE COUNTY SHALL ADOPT GUIDELINES TO CARRY OUT THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, April 14, 2009.

---

## Chapter 28

(House Bill 549)

AN ACT concerning

Baltimore County – Prospective Employees and Volunteers – Criminal  
History Records Check

FOR the purpose of authorizing the County Administrative Officer of Baltimore County or a certain designee of the officer to request from the Central Repository a State and national criminal history records check for a prospective ~~or current~~ employee or volunteer of Baltimore County; requiring that the officer or designee of the officer submit certain sets of fingerprints and fees to the Central Repository as part of the application for a criminal history records check; requiring the Central Repository to forward to the prospective ~~or current~~ employee or volunteer and the officer or designee of the officer the prospective ~~or current~~ employee's or volunteer's criminal history record information under certain circumstances; establishing that information obtained from the Central Repository under this Act is confidential, may not be redisseminated, and may be used only for certain purposes; authorizing the subjects of a criminal history records check under this Act to contest the contents of a certain printed statement issued by the Central Repository; requiring the governing body of Baltimore County to adopt guidelines to carry out this Act; defining a certain term; and generally relating to criminal history records checks in Baltimore County.

BY adding to

Article – Criminal Procedure  
Section 10–231.1  
Annotated Code of Maryland  
(2008 Replacement Volume)

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

**Article – Criminal Procedure**

**10–231.1.**

**(A) IN THIS SECTION, “CENTRAL REPOSITORY” MEANS THE CRIMINAL JUSTICE INFORMATION SYSTEM CENTRAL REPOSITORY OF THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES.**

**(B) THE COUNTY ADMINISTRATIVE OFFICER OF BALTIMORE COUNTY OR A DESIGNEE OF THE ~~OFFICER~~ COUNTY ADMINISTRATIVE OFFICER, WHICH SHALL BE THE DIRECTOR OF HUMAN RESOURCES OR THE DIRECTOR'S DESIGNEE, MAY REQUEST FROM THE CENTRAL REPOSITORY A STATE AND NATIONAL CRIMINAL HISTORY RECORDS CHECK FOR A PROSPECTIVE ~~OR CURRENT~~ EMPLOYEE OR VOLUNTEER OF BALTIMORE COUNTY.**

**(C) (1) AS PART OF THE APPLICATION FOR A CRIMINAL HISTORY RECORDS CHECK, THE COUNTY ADMINISTRATIVE OFFICER OF BALTIMORE**

COUNTY OR THE DESIGNEE OF THE OFFICER SHALL SUBMIT TO THE CENTRAL REPOSITORY:

(I) TWO COMPLETE SETS OF THE PROSPECTIVE ~~OR CURRENT~~ EMPLOYEE'S OR VOLUNTEER'S LEGIBLE FINGERPRINTS TAKEN ON FORMS APPROVED BY THE DIRECTOR OF THE CENTRAL REPOSITORY AND THE DIRECTOR OF THE FEDERAL BUREAU OF INVESTIGATION;

(II) THE FEE AUTHORIZED UNDER § 10-221(B)(7) OF THIS SUBTITLE FOR ACCESS TO MARYLAND CRIMINAL HISTORY RECORDS; AND

(III) THE MANDATORY PROCESSING FEE REQUIRED BY THE FEDERAL BUREAU OF INVESTIGATION FOR A NATIONAL CRIMINAL HISTORY RECORDS CHECK.

(2) IN ACCORDANCE WITH §§ 10-201 THROUGH 10-250 OF THIS SUBTITLE, THE CENTRAL REPOSITORY SHALL FORWARD TO THE PROSPECTIVE ~~OR CURRENT~~ EMPLOYEE OR VOLUNTEER AND THE COUNTY ADMINISTRATIVE OFFICER OF BALTIMORE COUNTY OR THE DESIGNEE OF THE OFFICER THE PROSPECTIVE ~~OR CURRENT~~ EMPLOYEE'S OR VOLUNTEER'S CRIMINAL HISTORY RECORD INFORMATION.

(3) INFORMATION OBTAINED FROM THE CENTRAL REPOSITORY UNDER THIS SECTION:

(I) IS CONFIDENTIAL AND MAY NOT BE REDISSEMINATED;  
AND

(II) MAY BE USED ONLY FOR A PERSONNEL-RELATED PURPOSE CONCERNING A PROSPECTIVE ~~OR CURRENT~~ EMPLOYEE OR VOLUNTEER OF THE COUNTY AS AUTHORIZED BY THIS SECTION.

(4) 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 THIS SUBTITLE.

(D) THE GOVERNING BODY OF BALTIMORE COUNTY SHALL ADOPT GUIDELINES TO CARRY OUT THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, April 14, 2009.

**Chapter 29****(Senate Bill 117)**

AN ACT concerning

**State Board of Well Drillers – Sunset Extension and Program Evaluation**

FOR the purpose of continuing the State Board of Well Drillers in accordance with the provisions of the Maryland Program Evaluation Act (sunset law) by extending to a certain date the termination provisions relating to the statutory and regulatory authority of the Board; requiring that an evaluation of the Board and the statutes and regulations that relate to the Board be performed on or before a certain date; requiring the Board to submit a certain report on or before a certain date; and generally relating to the State Board of Well Drillers.

BY repealing and reenacting, with amendments,  
Article – Environment  
Section 13–602  
Annotated Code of Maryland  
(2007 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, without amendments,  
Article – State Government  
Section 8–403(a)  
Annotated Code of Maryland  
(2004 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,  
Article – State Government  
Section 8–403(b)(68)  
Annotated Code of Maryland  
(2004 Replacement Volume and 2008 Supplement)

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

**Article – Environment**

13–602.

Subject to the Program Evaluation Act, the provisions of this title and all rules and regulations adopted under this title creating the State Board of Well Drillers and relating to the regulation of well drillers are of no effect and may not be enforced after July 1, [2011] **2021**.



**Article – State Government**

8–403.

(a) On or before December 15 of the 2nd year before the evaluation date of a governmental activity or unit, the Legislative Policy Committee, based on a preliminary evaluation, may waive as unnecessary the evaluation required under this section.

(b) Except as otherwise provided in subsection (a) of this section, on or before the evaluation date for the following governmental activities or units, an evaluation shall be made of the following governmental activities or units and the statutes and regulations that relate to the governmental activities or units:

(68) Well Drillers, State Board of (§ 13–201 of the Environment Article: July 1, [2010] **2020**).

SECTION 2. AND BE IT FURTHER ENACTED, That on or before October 1, 2009, the State Board of Well Drillers, in conjunction with the Department of the Environment, shall submit a report to the Senate Education, Health, and Environmental Affairs Committee and the House Environmental Matters Committee, in accordance with § 2–1246 of the State Government Article, on its plans to:

(1) Increase fees and its ability to generate sufficient fee revenue for the General Fund to cover its expenditures; and

(2) Track consumer complaints and related disciplinary actions within a database or spreadsheet.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2009.

**Approved by the Governor, April 14, 2009.**

---

**Chapter 30**

**(Senate Bill 128)**

AN ACT concerning

**Business Occupations and Professions – Accountants – Continuing Education**

FOR the purpose of repealing a certain provision of law that prohibits a certain licensee from receiving more than a certain number of credit hours to meet a

certain program requirement if the credit hours are obtained in a certain manner; and generally relating to continuing education requirements for certified public accountants.

BY repealing and reenacting, with amendments,  
 Article – Business Occupations and Professions  
 Section 2–312(a)  
 Annotated Code of Maryland  
 (2004 Replacement Volume and 2008 Supplement)

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

**Article – Business Occupations and Professions**

2–312.

(a) (1) The Board shall adopt regulations that set, in accordance with this section, continuing education requirements as a condition to the renewal of licenses under this subtitle.

(2) A continuing education requirement does not apply to the first renewal of a license.

(3) (i) To qualify for any further renewal of a license under this subtitle, a licensee shall complete, for each 2–year license term, at least 80 hours in programs that the Board approves.

(ii) If a licensee completes more than 80 hours during a 2–year license term, the Board shall credit the excess hours to the requirements for the following term.

[(4) A licensee may meet not more than 40 hours of the program requirement for a license term, by:

(i) participation in a course of home study that the Board approves; or

(ii) service as a teacher, lecturer, or discussion leader in a course approved by the Board in accounting or a related subject.]

[(5) (4) Except as provided under paragraph [(6) (5) of this subsection, a licensee may not be required to take an examination to qualify for license renewal under this section.

[(6) (5) On request of a licensee, the Board may allow the licensee to substitute the passage of an examination for a number of program hours. If the Board

grants a request under this paragraph, the Board shall determine the number of program hours that the licensee may satisfy by passage of the examination.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

**Approved by the Governor, April 14, 2009.**

---

## **Chapter 31**

### **(House Bill 69)**

AN ACT concerning

#### **Business Occupations and Professions – Accountants – Continuing Education**

FOR the purpose of repealing a certain provision of law that prohibits a certain licensee from receiving more than a certain number of credit hours to meet a certain program requirement if the credit hours are obtained in a certain manner; and generally relating to continuing education requirements for certified public accountants.

BY repealing and reenacting, with amendments,  
Article – Business Occupations and Professions  
Section 2–312(a)  
Annotated Code of Maryland  
(2004 Replacement Volume and 2008 Supplement)

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

#### **Article – Business Occupations and Professions**

2–312.

(a) (1) The Board shall adopt regulations that set, in accordance with this section, continuing education requirements as a condition to the renewal of licenses under this subtitle.

(2) A continuing education requirement does not apply to the first renewal of a license.

(3) (i) To qualify for any further renewal of a license under this subtitle, a licensee shall complete, for each 2–year license term, at least 80 hours in programs that the Board approves.

(ii) If a licensee completes more than 80 hours during a 2-year license term, the Board shall credit the excess hours to the requirements for the following term.

[(4) A licensee may meet not more than 40 hours of the program requirement for a license term, by:

(i) participation in a course of home study that the Board approves; or

(ii) service as a teacher, lecturer, or discussion leader in a course approved by the Board in accounting or a related subject.]

[(5) (4) Except as provided under paragraph [(6) (5) of this subsection, a licensee may not be required to take an examination to qualify for license renewal under this section.

[(6) (5) On request of a licensee, the Board may allow the licensee to substitute the passage of an examination for a number of program hours. If the Board grants a request under this paragraph, the Board shall determine the number of program hours that the licensee may satisfy by passage of the examination.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

**Approved by the Governor, April 14, 2009.**

---

## **Chapter 32**

**(Senate Bill 146)**

AN ACT concerning

### **Municipal Corporations and Taxing Districts – Financial Audits**

FOR the purpose of altering the maximum annual revenues a municipal corporation or taxing district created by the State may have for purposes of eligibility under a certain exception to a requirement that a municipal corporation taxing district created by the State be audited at least once each fiscal year; altering certain threshold amounts of annual expenditures for purposes of certain audit and reporting requirements for certain special taxing districts; and generally relating to certain audit and reporting requirements for municipal corporations and taxing districts.

BY repealing and reenacting, with amendments,  
Article 19 – Comptroller  
Section 40  
Annotated Code of Maryland  
(2005 Replacement Volume and 2008 Supplement)

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

**Article 19 – Comptroller**

40.

(a) (1) Except as provided in paragraph (2) of this subsection, each county, municipal corporation, and taxing district created by and situated within the State shall have its books, accounts, records, and reports examined at least once during each fiscal year by the persons and for the purposes specified in this section. The examination shall be made by a certified public accountant in the capacity of either an independent auditor or official auditor of any county or municipal corporation. The auditor shall be in compliance with the provisions of the Maryland Public Accountancy Act. The official auditor shall be approved by the Legislative Auditor for the purposes specified in this section. On such examination, inquiry shall be made into the methods, accuracy, and legality of the accounts, records, files, and reports of each county, municipal corporation, and taxing district. The Legislative Auditor upon the Legislative Auditor's own initiative may review or audit the books, records, and reports of any county, municipal corporation, or taxing district. Any county, municipal corporation, or taxing district may request the Legislative Auditor to audit its books, records, and reports. If the request is approved, the costs of the examination shall be borne by the auditee. The results of the audit shall be reported, subject to § 2–1246 of the State Government Article, to the Legislative Auditor on such form or forms and in such manner as the Legislative Auditor may prescribe. This report shall be made to the Legislative Auditor by the date the county's, municipal corporation's, or taxing district's financial report is required to be submitted under § 37 of this subtitle. An audit report filed with the Legislative Auditor is a public record under the provisions of § 10–611 of the State Government Article. Each year the Legislative Auditor shall review the audit reports submitted and shall make a full and detailed report in writing to the State Comptroller and, subject to § 2–1246 of the State Government Article, to the Executive Director of the State Department of Legislative Services of the result of the examination of the books, accounts, records, and reports of each county, municipal corporation, and taxing district, together with such suggestions as the Legislative Auditor may think advisable to be made with respect to methods of bookkeeping, changes in the uniform system of financial reporting, and changes in the reports of the counties, municipal corporations, and taxing districts. In conducting the reviews specified in this section, the Legislative Auditor may review the working papers and other documentation of the auditor. As a result of the Legislative Auditor's reviews, audit reports, working papers, or other documentation may be referred to the State Board of Public Accountancy for action as

prescribed in the Maryland Public Accountancy Act. It shall also be the duty of the Legislative Auditor to report all violations by any county, municipal corporation, and taxing district of the requirement and provisions specified in the sections of this subtitle to the State Comptroller and, subject to § 2-1246 of the State Government Article, to the Executive Director of the State Department of Legislative Services. Should any county or municipal corporation, or taxing district fail or refuse to file the audit reports as provided in this section with the Legislative Auditor within the time prescribed or fail or refuse to submit an audit report including financial statements that have been prepared in accordance with generally accepted accounting principles and audited in accordance with generally accepted auditing standards, the State Comptroller, acting upon the advice of the Executive Director of the State Department of Legislative Services, shall be authorized to order the discontinuance of payment of all funds, grants, or State aid which the county, municipal corporation, or taxing district is entitled to receive under State law. This provision shall have specific reference to all funds, grants, or State aid which the county, municipal corporation, or taxing district is entitled to receive under applicable provisions of State law distributed by the State Comptroller, the clerks of the court, or other units of State government.

(2) Unless the Legislative Auditor determines, on a case-by-case basis, that more frequent audits are required, the Legislative Auditor may authorize a municipal corporation or taxing district created by the State with annual revenues of less than ~~[\$50,000]~~ **\$250,000** in the prior 4 fiscal years to have an audit conducted once every 4 years.

(b) Each county shall establish uniform rules and regulations for the examination and auditing of the books, accounts, and records of every special taxing district created by and situated within the county which:

- (1) Is not subject to the provisions of subsection (a) of this section;
- (2) Receives moneys which were collected by the county from a county property tax levy imposed at the request of the special taxing district;
- (3) Has annual expenditures of over ~~[\$50,000]~~ **\$250,000**; and
- (4) Has moneys disbursed and expended by a person or body independent of the county government.

(c) At a minimum, the rules and regulations required by subsection (b) of this section shall provide for the examination and audit to:

- (1) Be conducted by a certified public accountant in the capacity of either an independent auditor or official auditor of the county who shall be in compliance with the provisions of the Maryland Public Accountancy Act or by an auditing committee approved by the official auditor of the county;

(2) Determine whether tax funds have been received, deposited and disbursed in accordance with approved appropriations and State and local law;

(3) Include the following financial statements:

- (i) Balance sheet;
- (ii) Statement of revenues;
- (iii) Statement of expenditures and encumbrances; and
- (iv) Statement of changes in fund balance; and

(4) Be completed and filed with the appropriate county officials not later than 90 days following the close of the fiscal year.

(d) For a special district created by and situated within the county with annual expenditures of less than ~~[\$50,000]~~ **\$250,000**, the county shall require annual financial reports and shall require an audit every 4 years, unless the county determines, on a case-by-case basis, that more frequent audits are required.

(e) If a special district subject to subsection (b) or (d) of this section does not submit a financial report or audit report as required by the county, the county may withhold the distributions of taxes imposed on behalf of the special district until the financial report and/or audit report is received.

(f) At the time it forwards its audit report to the Legislative Auditor, the county also shall forward copies of all audit reports and financial reports received from the special districts subject to subsection (b) or (d) of this section, together with a separate report to the Legislative Auditor on the results of the county's review of each district's compliance with the provisions of subsections (b) through (e) of this section. The Legislative Auditor shall review the audit reports and information received from the county and submit recommendations as appropriate based on the results of the review.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2009.

**Approved by the Governor, April 14, 2009.**

---

## Chapter 33

### (House Bill 19)

**Municipal Corporations and Taxing Districts – Financial Audits**

FOR the purpose of altering the maximum annual revenues a municipal corporation or taxing district created by the State may have for purposes of eligibility under a certain exception to a requirement that a municipal corporation taxing district created by the State be audited at least once each fiscal year; altering certain threshold amounts of annual expenditures for purposes of certain audit and reporting requirements for certain special taxing districts; and generally relating to certain audit and reporting requirements for municipal corporations and taxing districts.

BY repealing and reenacting, with amendments,

Article 19 – Comptroller

Section 40

Annotated Code of Maryland

(2005 Replacement Volume and 2008 Supplement)

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

**Article 19 – Comptroller**

40.

(a) (1) Except as provided in paragraph (2) of this subsection, each county, municipal corporation, and taxing district created by and situated within the State shall have its books, accounts, records, and reports examined at least once during each fiscal year by the persons and for the purposes specified in this section. The examination shall be made by a certified public accountant in the capacity of either an independent auditor or official auditor of any county or municipal corporation. The auditor shall be in compliance with the provisions of the Maryland Public Accountancy Act. The official auditor shall be approved by the Legislative Auditor for the purposes specified in this section. On such examination, inquiry shall be made into the methods, accuracy, and legality of the accounts, records, files, and reports of each county, municipal corporation, and taxing district. The Legislative Auditor upon the Legislative Auditor's own initiative may review or audit the books, records, and reports of any county, municipal corporation, or taxing district. Any county, municipal corporation, or taxing district may request the Legislative Auditor to audit its books, records, and reports. If the request is approved, the costs of the examination shall be borne by the auditee. The results of the audit shall be reported, subject to § 2–1246 of the State Government Article, to the Legislative Auditor on such form or forms and in such manner as the Legislative Auditor may prescribe. This report shall be made to the Legislative Auditor by the date the county's, municipal corporation's, or taxing district's financial report is required to be submitted under § 37 of this subtitle. An audit report filed with the Legislative Auditor is a public record under the provisions of § 10–611 of the State Government Article. Each year the



Legislative Auditor shall review the audit reports submitted and shall make a full and detailed report in writing to the State Comptroller and, subject to § 2–1246 of the State Government Article, to the Executive Director of the State Department of Legislative Services of the result of the examination of the books, accounts, records, and reports of each county, municipal corporation, and taxing district, together with such suggestions as the Legislative Auditor may think advisable to be made with respect to methods of bookkeeping, changes in the uniform system of financial reporting, and changes in the reports of the counties, municipal corporations, and taxing districts. In conducting the reviews specified in this section, the Legislative Auditor may review the working papers and other documentation of the auditor. As a result of the Legislative Auditor's reviews, audit reports, working papers, or other documentation may be referred to the State Board of Public Accountancy for action as prescribed in the Maryland Public Accountancy Act. It shall also be the duty of the Legislative Auditor to report all violations by any county, municipal corporation, and taxing district of the requirement and provisions specified in the sections of this subtitle to the State Comptroller and, subject to § 2–1246 of the State Government Article, to the Executive Director of the State Department of Legislative Services. Should any county or municipal corporation, or taxing district fail or refuse to file the audit reports as provided in this section with the Legislative Auditor within the time prescribed or fail or refuse to submit an audit report including financial statements that have been prepared in accordance with generally accepted accounting principles and audited in accordance with generally accepted auditing standards, the State Comptroller, acting upon the advice of the Executive Director of the State Department of Legislative Services, shall be authorized to order the discontinuance of payment of all funds, grants, or State aid which the county, municipal corporation, or taxing district is entitled to receive under State law. This provision shall have specific reference to all funds, grants, or State aid which the county, municipal corporation, or taxing district is entitled to receive under applicable provisions of State law distributed by the State Comptroller, the clerks of the court, or other units of State government.

(2) Unless the Legislative Auditor determines, on a case-by-case basis, that more frequent audits are required, the Legislative Auditor may authorize a municipal corporation or taxing district created by the State with annual revenues of less than ~~[\$50,000]~~ **\$250,000** in the prior 4 fiscal years to have an audit conducted once every 4 years.

(b) Each county shall establish uniform rules and regulations for the examination and auditing of the books, accounts, and records of every special taxing district created by and situated within the county which:

- (1) Is not subject to the provisions of subsection (a) of this section;
- (2) Receives moneys which were collected by the county from a county property tax levy imposed at the request of the special taxing district;
- (3) Has annual expenditures of over ~~[\$50,000]~~ **\$250,000**; and

(4) Has moneys disbursed and expended by a person or body independent of the county government.

(c) At a minimum, the rules and regulations required by subsection (b) of this section shall provide for the examination and audit to:

(1) Be conducted by a certified public accountant in the capacity of either an independent auditor or official auditor of the county who shall be in compliance with the provisions of the Maryland Public Accountancy Act or by an auditing committee approved by the official auditor of the county;

(2) Determine whether tax funds have been received, deposited and disbursed in accordance with approved appropriations and State and local law;

(3) Include the following financial statements:

(i) Balance sheet;

(ii) Statement of revenues;

(iii) Statement of expenditures and encumbrances; and

(iv) Statement of changes in fund balance; and

(4) Be completed and filed with the appropriate county officials not later than 90 days following the close of the fiscal year.

(d) For a special district created by and situated within the county with annual expenditures of less than ~~[\$50,000]~~ **\$250,000**, the county shall require annual financial reports and shall require an audit every 4 years, unless the county determines, on a case-by-case basis, that more frequent audits are required.

(e) If a special district subject to subsection (b) or (d) of this section does not submit a financial report or audit report as required by the county, the county may withhold the distributions of taxes imposed on behalf of the special district until the financial report and/or audit report is received.

(f) At the time it forwards its audit report to the Legislative Auditor, the county also shall forward copies of all audit reports and financial reports received from the special districts subject to subsection (b) or (d) of this section, together with a separate report to the Legislative Auditor on the results of the county's review of each district's compliance with the provisions of subsections (b) through (e) of this section. The Legislative Auditor shall review the audit reports and information received from the county and submit recommendations as appropriate based on the results of the review.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2009.

Approved by the Governor, April 14, 2009.

---

## Chapter 34

### (Senate Bill 149)

AN ACT concerning

#### Maryland Commission for Women – Appointment of Members

FOR the purpose of altering the manner by which the members of the Maryland Commission for Women are appointed; ~~requiring the President of the Senate and the Speaker of the House of Delegates jointly to nominate all of the individuals to serve as members of the Commission and to submit the names of the nominees to the Governor; requiring the Governor to appoint to the Commission all of the nominees submitted by the President and the Speaker, subject to the advice and consent of the Senate; requiring the President and the Speaker jointly to nominate in a certain manner the individuals to serve as members of the Commission~~ requiring the Governor to appoint certain members of the Commission from among certain applicants with the advice and consent of the Senate; providing that certain current members of the Commission who were appointed by the Governor, the President, and the Speaker and whose terms expire in certain years may be ~~renominated and~~ reappointed to one additional consecutive term of office or replaced by new members in accordance with this Act; and generally relating to the appointment of the members of the Maryland Commission for Women.

BY repealing and reenacting, with amendments,

Article – Human Services

Section 2–403

Annotated Code of Maryland

(2007 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, without amendments,

Article – Human Services

Section 2–404

Annotated Code of Maryland

(2007 Replacement Volume and 2008 Supplement)

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

## Article – Human Services

2–403.

[(a) The Commission consists of:

(1) nine individuals appointed by the Governor, with the advice and consent of the Senate;

(2) eight individuals appointed by the President of the Senate of Maryland; and

(3) eight individuals appointed by the Speaker of the House of Delegates.

(b) (1) The following members shall be appointed from among applicants who have been nominated and recommended for appointment by organizations located in the State whose interests relate to the status of women:

(i) four members appointed by the Governor;

(ii) four members appointed by the President of the Senate of Maryland; and

(iii) four members appointed by the Speaker of the House of Delegates.

(2) The following members shall be appointed from applicants applying on their own behalf:

(i) five members appointed by the Governor;

(ii) four members appointed by the President of the Senate of Maryland; and

(iii) four members appointed by the Speaker of the House of Delegates.]

~~(A) THE COMMISSION CONSISTS OF 25 MEMBERS.~~

~~(B) (1) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE OF DELEGATES JOINTLY SHALL NOMINATE ALL OF THE INDIVIDUALS TO SERVE AS MEMBERS OF THE COMMISSION AND SUBMIT THE NAMES OF THE NOMINEES TO THE GOVERNOR.~~

~~(2) THE GOVERNOR SHALL APPOINT TO THE COMMISSION, SUBJECT TO THE ADVICE AND CONSENT OF THE SENATE, ALL OF THE NOMINEES SUBMITTED TO THE GOVERNOR BY THE PRESIDENT AND THE SPEAKER.~~

~~(3) THE PRESIDENT AND THE SPEAKER SHALL NOMINATE INDIVIDUALS TO BE APPOINTED TO THE COMMISSION IN THE FOLLOWING MANNER:~~

~~(i) 13 OF THE NOMINEES SHALL BE FROM AMONG APPLICANTS WHO HAVE BEEN RECOMMENDED BY ORGANIZATIONS LOCATED IN THE STATE WHOSE INTERESTS RELATE TO THE STATUS OF WOMEN; AND~~

~~(ii) 12 OF THE NOMINEES SHALL BE FROM AMONG APPLICANTS APPLYING ON THEIR OWN BEHALF.~~

~~(e) To the extent practicable, in making [appointments] THE NOMINATIONS under this section, [the Governor,] the President of the Senate[,] and the Speaker of the House OF DELEGATES shall ensure geographic diversity among the membership of the Commission.~~

(A) THE COMMISSION CONSISTS OF 25 MEMBERS APPOINTED BY THE GOVERNOR WITH THE ADVICE AND CONSENT OF THE SENATE.

(B) OF THE 25 MEMBERS OF THE COMMISSION:

(1) 12 SHALL BE APPOINTED FROM AMONG APPLICANTS WHO HAVE BEEN NOMINATED AND RECOMMENDED FOR APPOINTMENT BY ORGANIZATIONS LOCATED IN THE STATE WHOSE INTERESTS RELATE TO THE STATUS OF WOMEN; AND

(2) 13 SHALL BE APPOINTED FROM AMONG APPLICANTS APPLYING ON THEIR OWN BEHALF.

(c) To the extent practicable, in making appointments under this section, the Governor[, the President of the Senate, and the Speaker of the House] shall ensure geographic diversity among the membership of the Commission.

(d) (1) The term of a commissioner is 4 years.

(2) The terms of members are staggered as required by the terms provided for members of the Commission on October 1, 2007.

(3) A commissioner may not serve more than two consecutive terms.

(4) At the end of a term, a commissioner continues to serve until a successor is appointed and qualifies.

(5) A commissioner who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies.

(e) A commissioner who fails to attend at least 50% of the regularly scheduled meetings of the Commission during any 12-month period shall be considered to have resigned.

(f) Commissioners are not entitled to receive compensation for their services.

2-404.

(a) The Commission shall elect a chair and a vice chair from among its members.

(b) The Commission may appoint any officers that it considers necessary.

SECTION 2. AND BE IT FURTHER ENACTED, That:

~~(a)~~ the members of the Maryland Commission for Women who were appointed by the Governor, by the President of the Senate, and by the Speaker of the House, and whose terms end in 2009, 2010, and 2011, respectively, may be:

(1) ~~renominated jointly by the President of the Senate and the Speaker of the House and, if so, shall be~~ reappointed by the Governor, subject to the advice and consent of the Senate, to one additional consecutive term of office; or

(2) replaced with new members ~~nominated and~~ appointed in accordance with the provisions of Section 1 of this Act; ~~and~~

~~(b) the members of the Commission who were appointed by the President of the Senate and the members of the Commission who were appointed by the Speaker of the House, all of whose terms end in 2009, 2010, and 2011, respectively, may be:~~

~~(1) renominated jointly by the President of the Senate and the Speaker of the House and, if so, shall be reappointed by the Governor, subject to the advice and consent of the Senate, to one additional consecutive term of office; or~~

~~(2) replaced with new members nominated and appointed in accordance with the provisions of Section 1 of this Act.~~

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2009.

**Approved by the Governor, April 14, 2009.**

**Chapter 35****(House Bill 1153)**

AN ACT concerning

**Maryland Commission for Women – Appointment of Members**

FOR the purpose of altering the manner by which the members of the Maryland Commission for Women are appointed; requiring the Governor to appoint ~~a certain number of the members of the Commission, subject to certain members of the Commission from among certain applicants with~~ the advice and consent of the Senate; ~~requiring the President of the Senate and the Speaker of the House of Delegates each to nominate a certain number of the members of the Commission and to submit those names to the Governor; requiring the Governor to appoint all of the nominees of the President and the Speaker to the Commission; requiring the Governor, the President, and the Speaker to appoint or nominate the members of the Commission in a certain manner;~~ providing that certain current members of the Commission who were appointed by the Governor, the President, and the Speaker and whose terms expire in certain years may be ~~renominated and~~ reappointed to one additional consecutive term of office or replaced by new members in accordance with this Act; and generally relating to the appointment of the members of the Maryland Commission for Women.

BY repealing and reenacting, with amendments,

Article – Human Services  
Section 2–403  
Annotated Code of Maryland  
(2007 Volume and 2008 Supplement)

BY repealing and reenacting, without amendments,

Article – Human Services  
Section 2–404  
Annotated Code of Maryland  
(2007 Volume and 2008 Supplement)

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

**Article – Human Services**

2–403.

[(a) The Commission consists of:

(1) nine individuals appointed by the Governor, with the advice and consent of the Senate;

(2) eight individuals appointed by the President of the Senate of Maryland; and

(3) eight individuals appointed by the Speaker of the House of Delegates.

(b) (1) The following members shall be appointed from among applicants who have been nominated and recommended for appointment by organizations located in the State whose interests relate to the status of women:

(i) four members appointed by the Governor;

(ii) four members appointed by the President of the Senate of Maryland; and

(iii) four members appointed by the Speaker of the House of Delegates.

(2) The following members shall be appointed from applicants applying on their own behalf:

(i) five members appointed by the Governor;

(ii) four members appointed by the President of the Senate of Maryland; and

(iii) four members appointed by the Speaker of the House of Delegates.]

**(A) THE COMMISSION CONSISTS OF 25 MEMBERS APPOINTED BY THE GOVERNOR WITH THE ADVICE AND CONSENT OF THE SENATE.**

**(B) ~~SUBJECT TO SUBSECTION (C) OF THIS SECTION, OF~~ OF THE 25 MEMBERS OF THE COMMISSION:**

**~~(1) THE GOVERNOR SHALL APPOINT NINE OF THE MEMBERS, SUBJECT TO THE ADVICE AND CONSENT OF THE SENATE OF MARYLAND;~~**

**~~(2) THE PRESIDENT OF THE SENATE SHALL NOMINATE EIGHT OF THE MEMBERS AND SUBMIT THEIR NAMES TO THE GOVERNOR, WHO SHALL APPOINT ALL EIGHT OF THE PRESIDENT'S NOMINEES TO THE COMMISSION; AND~~**



~~(3) THE SPEAKER OF THE HOUSE OF DELEGATES SHALL NOMINATE EIGHT OF THE MEMBERS AND SUBMIT THEIR NAMES TO THE GOVERNOR, WHO SHALL APPOINT ALL EIGHT OF THE SPEAKER'S NOMINEES TO THE COMMISSION.~~

~~(c) (1) THE FOLLOWING MEMBERS SHALL BE APPOINTED FROM AMONG APPLICANTS WHO HAVE BEEN NOMINATED AND RECOMMENDED FOR APPOINTMENT BY ORGANIZATIONS LOCATED IN THE STATE WHOSE INTERESTS RELATE TO THE STATUS OF WOMEN:~~

~~(i) FOUR OF THE MEMBERS APPOINTED BY THE GOVERNOR;~~

~~(ii) FOUR OF THE MEMBERS NOMINATED BY THE PRESIDENT OF THE SENATE AND SUBMITTED TO THE GOVERNOR FOR APPOINTMENT; AND~~

~~(iii) FOUR OF THE MEMBERS NOMINATED BY THE SPEAKER OF THE HOUSE OF DELEGATES AND SUBMITTED TO THE GOVERNOR FOR APPOINTMENT.~~

~~(2) THE FOLLOWING MEMBERS SHALL BE APPOINTED FROM APPLICANTS APPLYING ON THEIR OWN BEHALF:~~

~~(i) FIVE OF THE MEMBERS APPOINTED BY THE GOVERNOR;~~

~~(ii) FOUR OF THE MEMBERS NOMINATED BY THE PRESIDENT OF THE SENATE AND SUBMITTED TO THE GOVERNOR FOR APPOINTMENT; AND~~

~~(iii) FOUR OF THE MEMBERS NOMINATED BY THE SPEAKER OF THE HOUSE OF DELEGATES AND SUBMITTED TO THE GOVERNOR FOR APPOINTMENT.~~

(1) 12 SHALL BE APPOINTED FROM AMONG APPLICANTS WHO HAVE BEEN NOMINATED AND RECOMMENDED FOR APPOINTMENT BY ORGANIZATIONS LOCATED IN THE STATE WHOSE INTERESTS RELATE TO THE STATUS OF WOMEN; AND

(2) 13 SHALL BE APPOINTED FROM AMONG APPLICANTS APPLYING ON THEIR OWN BEHALF.

~~[(c)] (d)~~ To the extent practicable, in making ~~[(appointments)] THE NOMINATIONS~~ under this section, the Governor, ~~the President of the Senate, and the~~

~~Speaker of the House OF DELEGATES~~ shall ensure geographic diversity among the membership of the Commission.

~~[(d)] (E)~~ (1) The term of a commissioner is 4 years.

(2) The terms of members are staggered as required by the terms provided for members of the Commission on October 1, 2007.

(3) A commissioner may not serve more than two consecutive terms.

(4) At the end of a term, a commissioner continues to serve until a successor is appointed and qualifies.

(5) A commissioner who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies.

~~[(e)] (F)~~ A commissioner who fails to attend at least 50% of the regularly scheduled meetings of the Commission during any 12-month period shall be considered to have resigned.

~~[(f)] (G)~~ Commissioners are not entitled to receive compensation for their services.

2-404.

(a) The Commission shall elect a chair and a vice chair from among its members.

(b) The Commission may appoint any officers that it considers necessary.

SECTION 2. AND BE IT FURTHER ENACTED, That:

~~(a)~~ the members of the Maryland Commission for Women who were appointed by the Governor, by the President of the Senate, and by the Speaker of the House, and whose terms end in 2009, 2010, and 2011, respectively, may be:

(1) reappointed by the Governor, subject to the advice and consent of the Senate, to one additional consecutive term of office; or

(2) replaced with new members appointed in accordance with the provisions of Section 1 of this Act, ~~and~~

~~(b) the members of the Commission who were appointed by the President of the Senate and the members of the Commission who were appointed by the Speaker of the House, all of whose terms end in 2009, 2010, and 2011, respectively, may be:~~

~~(1) renominated by the President of the Senate and the Speaker of the House and, if so, the President and the Speaker shall submit their names to the Governor who shall reappoint them to one additional consecutive term of office; or~~

~~(2) replaced with new members nominated and appointed in accordance with the provisions of Section 1 of this Act.~~

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2009.

Approved by the Governor, April 14, 2009.

---

## Chapter 36

### (Senate Bill 152)

AN ACT concerning

#### **Estates and Trusts – Personal Representatives and Fiduciaries – Powers**

FOR the purpose of authorizing a personal representative to become a limited partner in any partnership or a member in any limited liability company, including a single member limited liability company; authorizing a fiduciary to continue as or become a member in any limited liability company, including a single member limited liability company; and generally relating to the powers of personal representatives and fiduciaries.

BY repealing and reenacting, with amendments,  
Article – Estates and Trusts  
Section 7–401(u) and 15–102(q)  
Annotated Code of Maryland  
(2001 Replacement Volume and 2008 Supplement)

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

#### **Article – Estates and Trusts**

7–401.

(u) He may convert a sole proprietorship the decedent was engaged in at the time of his death to a limited liability company **AND MAY BECOME A LIMITED PARTNER IN ANY PARTNERSHIP OR A MEMBER IN ANY LIMITED LIABILITY COMPANY, INCLUDING A SINGLE MEMBER LIMITED LIABILITY COMPANY.**

15-102.

(q) He may continue as or become a limited partner in any partnership **OR A MEMBER IN ANY LIMITED LIABILITY COMPANY, INCLUDING A SINGLE MEMBER LIMITED LIABILITY COMPANY.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

**Approved by the Governor, April 14, 2009.**

---

## **Chapter 37**

### **(Senate Bill 154)**

AN ACT concerning

#### **Estates and Trusts – Admission of Copy of Executed Will**

FOR the purpose of authorizing an interested person to file a petition for admission of a copy of an executed will to probate under certain circumstances; providing that notice to interested persons of the filing of the petition is not required; establishing the form of a certain consent; authorizing an orphans' court to order administrative or judicial probate of a copy of a will; and generally relating to admission of a copy of an executed will to probate.

BY adding to

Article – Estates and Trusts

Section 5-801 through 5-804 to be under the new subtitle “Subtitle 8. Admission of Copy of Executed Will”

Annotated Code of Maryland

(2001 Replacement Volume and 2008 Supplement)

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

#### **Article – Estates and Trusts**

#### **SUBTITLE 8. ADMISSION OF COPY OF EXECUTED WILL.**

**5-801.**

**(A) AN INTERESTED PERSON MAY FILE A PETITION FOR THE ADMISSION OF A COPY OF AN EXECUTED WILL IN ACCORDANCE WITH THIS SUBTITLE.**

**(B) NOTICE TO INTERESTED PERSONS OF THE FILING OF THE PETITION IS NOT REQUIRED.**

**5-802.**

**A PETITION FOR ADMISSION OF A COPY OF A WILL MAY BE FILED WITH THE COURT AT ANY TIME BEFORE ADMINISTRATIVE OR JUDICIAL PROBATE IF:**

**(1) THE ORIGINAL EXECUTED WILL IS ALLEGED TO BE LOST OR DESTROYED;**

**(2) A DUPLICATE REPRODUCTION OF THE ORIGINAL EXECUTED WILL, EVIDENCING A COPY OF THE ORIGINAL SIGNATURES OF THE DECEDENT AND THE WITNESSES, IS OFFERED FOR ADMISSION; AND**

**(3) ALL THE HEIRS AT LAW AND LEGATEES NAMED IN THE OFFERED WILL EXECUTE A CONSENT IN THE MANNER SET FORTH IN § 5-803 OF THIS SUBTITLE.**

**5-803.**

**THE CONSENT REQUIRED UNDER § 5-802 OF THIS SUBTITLE SHALL BE IN SUBSTANTIALLY THE FOLLOWING FORM:**

**CONSENT TO PROBATE OF COPY OF EXECUTED  
LAST WILL AND TESTAMENT**

**THE UNDERSIGNED \_\_\_\_\_ AND \_\_\_\_\_,  
BEING ALL THE HEIRS AT LAW OF THE DECEDENT AND ALL THE LEGATEES  
NAMED IN THE WILL EXECUTED BY THE DECEDENT ON \_\_\_\_\_, HEREBY  
CONSENT TO THE PROBATE OF A COPY OF THAT EXECUTED WILL, IT HAVING  
BEEN DETERMINED, AFTER AN EXTENSIVE SEARCH OF THE DECEDENT'S  
PERSONAL RECORDS, THAT AN ORIGINAL OF THE WILL CANNOT BE LOCATED.  
BY SIGNING THIS CONSENT EACH OF THE UNDERSIGNED AFFIRMS THAT IT IS  
HIS OR HER BELIEF THAT THE WILL EXECUTED BY THE DECEDENT ON \_\_\_\_\_,  
IS THE LAST VALID WILL EXECUTED BY THE DECEDENT AND WAS NOT REVOKED  
AND THAT THE COPY OF THE WILL, AS SUBMITTED WITH THE PETITION FOR ITS  
ADMISSION, REPRESENTS A TRUE AND CORRECT COPY OF THE WILL.**

**WE AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE FACTS SET FORTH  
IN THIS CONSENT ARE TRUE AND CORRECT TO THE BEST OF OUR KNOWLEDGE,  
INFORMATION, AND BELIEF.**

<b>DATE</b>	<b>SIGNATURE</b>	<b>PRINT NAME AND RELATIONSHIP</b>
-------------	------------------	------------------------------------

<hr/>	<hr/>	<hr/>
<hr/>	<hr/>	<hr/>

---

**ATTORNEY**

---

---

**ADDRESS**

---

**TELEPHONE NUMBER**

**5-804.**

**THE COURT MAY:**

**(1) WITHOUT A HEARING, ISSUE AN ORDER AUTHORIZING:**

**(i) THE PETITIONER TO PROCEED WITH ADMINISTRATIVE PROBATE IN ACCORDANCE WITH SUBTITLE 3 OF THIS TITLE; AND**

**(ii) THE REGISTER TO ACCEPT THE COPY OF THE WILL FOR ADMINISTRATIVE PROBATE; OR**

**(2) REQUIRE THE FILING OF JUDICIAL PROBATE IN ACCORDANCE WITH SUBTITLE 4 OF THIS TITLE.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to the estate of any decedent who died before the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

**Approved by the Governor, April 14, 2009.**

**Chapter 38****(Senate Bill 171)**

AN ACT concerning

**Maryland Condominium Act – Closed Meetings of Board of Directors**

FOR the purpose of repealing a certain condition on which a meeting of the board of directors of a condominium council of unit owners may be held in closed session; altering certain conditions on which a meeting of a board of directors may be held in closed session; authorizing a board of directors to hold a meeting in closed session in order to discuss an individual owner assessment account; and generally relating to closed meetings of the board of directors of a council of unit owners.

BY repealing and reenacting, with amendments,

Article – Real Property

Section 11–109.1(a)

Annotated Code of Maryland

(2003 Replacement Volume and 2008 Supplement)

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

**Article – Real Property**

11–109.1.

(a) A meeting of the board of directors may be held in closed session only for the following purposes:

- (1) Discussion of matters pertaining to employees and personnel;
- (2) Protection of the privacy or reputation of individuals in matters not related to the council of unit owners' business;
- (3) Consultation with legal counsel **ON LEGAL MATTERS;**
- (4) Consultation with staff personnel, consultants, attorneys, **BOARD MEMBERS,** or other persons in connection with pending or potential litigation **OR OTHER LEGAL MATTERS;**
- (5) Investigative proceedings concerning possible or actual criminal misconduct; ~~OR~~

(6) Complying with a specific constitutional, statutory, or judicially imposed requirement protecting particular proceedings or matters from public disclosure]; or

(7) On an individually recorded affirmative vote of two-thirds of the board members present, for some other exceptional reason so compelling as to override the general public policy in favor of open meetings]; **OR**

**(7) DISCUSSION OF INDIVIDUAL OWNER ASSESSMENT ACCOUNTS.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

**Approved by the Governor, April 14, 2009.**

---

**Chapter 39**

**(Senate Bill 180)**

AN ACT concerning

**Baltimore City – Authority of Mayor to Remove Police Commissioner**

FOR the purpose of establishing that certain acts of the Mayor of Baltimore City do not interfere with the powers of the Baltimore City Police Commissioner; providing that the Police Commissioner is subject to removal at the pleasure of the Mayor; and generally relating to the authority of the Mayor of Baltimore City to remove the Baltimore City Police Commissioner.

BY repealing and reenacting, with amendments,  
 The Charter of Baltimore City  
 Article II – General Powers  
 Section (27)  
 (2007 Replacement Volume, as amended)

BY repealing and reenacting, with amendments,  
 The Public Local Laws of Baltimore City  
 Section 16–5(e)  
 Article 4 – Public Local Laws of Maryland  
 (1979 Edition and 1997 Supplement, and 2000 Supplement, as amended)

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



**The Charter of Baltimore City****Article II – General Powers**

The Mayor and City Council of Baltimore shall have full power and authority to exercise all of the powers heretofore or hereafter granted to it by the Constitution of Maryland or by any Public General or Public Local Laws of the State of Maryland; and in particular, without limitation upon the foregoing, shall have power by ordinance, or such other method as may be provided for in its Charter, subject to the provisions of said Constitution and Public General Laws:

(27)

To have and exercise within the limits of Baltimore City all the power commonly known as the Police Power to the same extent as the State has or could exercise [said] **THAT** power within [said] **THE** limits **OF BALTIMORE CITY**; provided, however, that no ordinance of the City or act of any municipal officer, **OTHER THAN AN ACT OF THE MAYOR PURSUANT TO ARTICLE IV OF THIS CHARTER**, shall conflict, impede, obstruct, hinder or interfere with the powers of the Police Commissioner.

**Article 4 – Baltimore City**

16–5.

(e) The Police Commissioner is subject to removal [by] **AT THE PLEASURE OF** the Mayor [for official misconduct, malfeasance, inefficiency or incompetency, including prolonged illness, in the manner provided by law in the case of civil officers], **AS PROVIDED IN SECTION 6(C) OF ARTICLE IV OF THE CHARTER OF BALTIMORE CITY.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2009.

**Approved by the Governor, April 14, 2009.**

---

**Chapter 40**

**(House Bill 92)**

AN ACT concerning

**Baltimore City – Authority of Mayor to Remove Police Commissioner**

FOR the purpose of establishing that certain acts of the Mayor of Baltimore City do not interfere with the powers of the Baltimore City Police Commissioner; providing that the Police Commissioner is subject to removal at the pleasure of the Mayor; and generally relating to the authority of the Mayor of Baltimore City to remove the Baltimore City Police Commissioner.

BY repealing and reenacting, with amendments,  
The Charter of Baltimore City  
Article II – General Powers  
Section (27)  
(2007 Replacement Volume, as amended)

BY repealing and reenacting, with amendments,  
The Public Local Laws of Baltimore City  
Section 16–5(e)  
Article 4 – Public Local Laws of Maryland  
(1979 Edition and 1997 Supplement, and 2000 Supplement, as amended)

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

### **The Charter of Baltimore City**

#### **Article II – General Powers**

The Mayor and City Council of Baltimore shall have full power and authority to exercise all of the powers heretofore or hereafter granted to it by the Constitution of Maryland or by any Public General or Public Local Laws of the State of Maryland; and in particular, without limitation upon the foregoing, shall have power by ordinance, or such other method as may be provided for in its Charter, subject to the provisions of said Constitution and Public General Laws:

(27)

To have and exercise within the limits of Baltimore City all the power commonly known as the Police Power to the same extent as the State has or could exercise [said] **THAT** power within [said] **THE** limits **OF BALTIMORE CITY**; provided, however, that no ordinance of the City or act of any municipal officer, **OTHER THAN AN ACT OF THE MAYOR PURSUANT TO ARTICLE IV OF THIS CHARTER**, shall conflict, impede, obstruct, hinder or interfere with the powers of the Police Commissioner.

#### **Article 4 – Baltimore City**

16–5.

(e) The Police Commissioner is subject to removal [by] **AT THE PLEASURE OF** the Mayor [for official misconduct, malfeasance, inefficiency or incompetency, including prolonged illness, in the manner provided by law in the case of civil officers], **AS PROVIDED IN SECTION 6(C) OF ARTICLE IV OF THE CHARTER OF BALTIMORE CITY.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2009.

**Approved by the Governor, April 14, 2009.**

---

## Chapter 41

(Senate Bill 181)

AN ACT concerning

### **Criminal Procedure – Restrictions on Pretrial Release – Offenses Involving Firearms – Repeat Offenders**

FOR the purpose of prohibiting a District Court commissioner from authorizing the pretrial release of a defendant charged with a certain offense involving a firearm if the defendant previously was convicted of a certain offense involving a firearm; providing that a judge may authorize the pretrial release of a certain defendant on suitable bail or certain other conditions or both; requiring a judge to order the continued detention of a certain defendant under certain circumstances at a certain time; creating a rebuttable presumption that a certain defendant will flee and pose a danger to another person or the community; and generally relating to restrictions on pretrial release.

BY repealing and reenacting, with amendments,  
Article – Criminal Procedure  
Section 5–202  
Annotated Code of Maryland  
(2008 Replacement Volume)

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

### **Article – Criminal Procedure**

5–202.

(a) A District Court commissioner may not authorize pretrial release for a defendant charged with escaping from a correctional facility or any other place of confinement in the State.

(b) (1) A District Court commissioner may not authorize the pretrial release of a defendant charged as a drug kingpin under § 5–613 of the Criminal Law Article.

(2) A judge may authorize the pretrial release of a defendant charged as a drug kingpin on suitable bail and on any other conditions that will reasonably ensure that the defendant will not flee or pose a danger to another person or the community.

(3) There is a rebuttable presumption that, if released, a defendant charged as a drug kingpin will flee and pose a danger to another person or the community.

(c) (1) A District Court commissioner may not authorize the pretrial release of a defendant charged with a crime of violence if the defendant has been previously convicted:

(i) in this State of a crime of violence; or

(ii) in any other jurisdiction of a crime that would be a crime of violence if committed in this State.

(2) (i) A judge may authorize the pretrial release of a defendant described in paragraph (1) of this subsection on:

1. suitable bail;

2. any other conditions that will reasonably ensure that the defendant will not flee or pose a danger to another person or the community; or

3. both bail and other conditions described under item 2 of this subparagraph.

(ii) When a defendant described in paragraph (1) of this subsection is presented to the court under Maryland Rule 4–216(f), the judge shall order the continued detention of the defendant if the judge determines that neither suitable bail nor any condition or combination of conditions will reasonably ensure that the defendant will not flee or pose a danger to another person or the community before the trial.

(3) There is a rebuttable presumption that a defendant described in paragraph (1) of this subsection will flee and pose a danger to another person or the community.

(d) (1) A District Court commissioner may not authorize the pretrial release of a defendant charged with committing one of the following crimes while the defendant was released on bail or personal recognizance for a pending prior charge of committing one of the following crimes:

- (i) aiding, counseling, or procuring arson in the first degree under § 6–102 of the Criminal Law Article;
- (ii) arson in the second degree or attempting, aiding, counseling, or procuring arson in the second degree under § 6–103 of the Criminal Law Article;
- (iii) burglary in the first degree under § 6–202 of the Criminal Law Article;
- (iv) burglary in the second degree under § 6–203 of the Criminal Law Article;
- (v) burglary in the third degree under § 6–204 of the Criminal Law Article;
- (vi) causing abuse to a child under § 3–601 or § 3–602 of the Criminal Law Article;
- (vii) a crime that relates to a destructive device under § 4–503 of the Criminal Law Article;
- (viii) a crime that relates to a controlled dangerous substance under §§ 5–602 through 5–609 or § 5–612 or § 5–613 of the Criminal Law Article;
- (ix) manslaughter by vehicle or vessel under § 2–209 of the Criminal Law Article; and
- (x) a crime of violence.

(2) A defendant under this subsection remains ineligible to give bail or be released on recognizance on the subsequent charge until all prior charges have finally been determined by the courts.

(3) A judge may authorize the pretrial release of a defendant described in paragraph (1) of this subsection on suitable bail and on any other conditions that will reasonably ensure that the defendant will not flee or pose a danger to another person or the community.

(4) There is a rebuttable presumption that a defendant described in paragraph (1) of this subsection will flee and pose a danger to another person or the community if released before final determination of the prior charge.

(e) (1) A District Court commissioner may not authorize the pretrial release of a defendant charged with violating:

(i) the provisions of a temporary protective order described in § 4-505(a)(2)(i) of the Family Law Article or the provisions of a protective order described in § 4-506(d)(1) of the Family Law Article that order the defendant to refrain from abusing or threatening to abuse a person eligible for relief; or

(ii) the provisions of an order for protection, as defined in § 4-508.1 of the Family Law Article, issued by a court of another state or of a Native American tribe that order the defendant to refrain from abusing or threatening to abuse a person eligible for relief, if the order is enforceable under § 4-508.1 of the Family Law Article.

(2) A judge may allow the pretrial release of a defendant described in paragraph (1) of this subsection on:

(i) suitable bail;

(ii) any other conditions that will reasonably ensure that the defendant will not flee or pose a danger to another person or the community; or

(iii) both bail and other conditions described under subparagraph (ii) of this paragraph.

(3) When a defendant described in paragraph (1) of this subsection is presented to the court under Maryland Rule 4-216(f), the judge shall order the continued detention of the defendant if the judge determines that neither suitable bail nor any condition or combination of conditions will reasonably ensure that the defendant will not flee or pose a danger to another person or the community before the trial.

**(F) (1) A DISTRICT COURT COMMISSIONER MAY NOT AUTHORIZE THE PRETRIAL RELEASE OF A DEFENDANT CHARGED WITH ONE OF THE FOLLOWING CRIMES IF THE DEFENDANT HAS PREVIOUSLY BEEN CONVICTED OF ONE OF THE FOLLOWING CRIMES:**

**(I) WEARING, CARRYING, OR TRANSPORTING A HANDGUN UNDER § 4-203 OF THE CRIMINAL LAW ARTICLE;**

**(II) USE OF A HANDGUN OR AN ANTIQUE FIREARM IN COMMISSION OF A CRIME UNDER § 4-204 OF THE CRIMINAL LAW ARTICLE;**

**(III) VIOLATING PROHIBITIONS RELATING TO ASSAULT PISTOLS UNDER § 4-303 OF THE CRIMINAL LAW ARTICLE;**

(IV) USE OF A MACHINE GUN IN A CRIME OF VIOLENCE UNDER § 4-404 OF THE CRIMINAL LAW ARTICLE;

(V) USE OF A MACHINE GUN FOR AN AGGRESSIVE PURPOSE UNDER § 4-405 OF THE CRIMINAL LAW ARTICLE;

(VI) USE OF A WEAPON AS A SEPARATE CRIME UNDER § 5-621 OF THE CRIMINAL LAW ARTICLE;

(VII) POSSESSION OF A REGULATED FIREARM UNDER § 5-133 OF THE PUBLIC SAFETY ARTICLE;

(VIII) TRANSPORTING A REGULATED FIREARM FOR UNLAWFUL SALE OR TRAFFICKING UNDER § 5-140 OF THE PUBLIC SAFETY ARTICLE; OR

(IX) POSSESSION OF A RIFLE OR SHOTGUN BY A PERSON WITH A MENTAL DISORDER UNDER § 5-205 OF THE PUBLIC SAFETY ARTICLE.

(2) (I) A JUDGE MAY AUTHORIZE THE PRETRIAL RELEASE OF A DEFENDANT DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION ON:

1. SUITABLE BAIL;
2. ANY OTHER CONDITIONS THAT WILL REASONABLY ENSURE THAT THE DEFENDANT WILL NOT FLEE OR POSE A DANGER TO ANOTHER PERSON OR THE COMMUNITY; OR
3. BOTH BAIL AND OTHER CONDITIONS DESCRIBED UNDER ITEM 2 OF THIS SUBPARAGRAPH.

(II) WHEN A DEFENDANT DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION IS PRESENTED TO THE COURT UNDER MARYLAND RULE 4-216(F), THE JUDGE SHALL ORDER THE CONTINUED DETENTION OF THE DEFENDANT IF THE JUDGE DETERMINES THAT NEITHER SUITABLE BAIL NOR ANY CONDITION OR COMBINATION OF CONDITIONS WILL REASONABLY ENSURE THAT THE DEFENDANT WILL NOT FLEE OR POSE A DANGER TO ANOTHER PERSON OR THE COMMUNITY BEFORE THE TRIAL.

(3) THERE IS A REBUTTABLE PRESUMPTION THAT A DEFENDANT DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION WILL FLEE AND POSE A DANGER TO ANOTHER PERSON OR THE COMMUNITY.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

**Approved by the Governor, April 14, 2009.**

---

## **Chapter 42**

### **(House Bill 88)**

AN ACT concerning

#### **Criminal Procedure – Restrictions on Pretrial Release – Offenses Involving Firearms – Repeat Offenders**

FOR the purpose of prohibiting a District Court commissioner from authorizing the pretrial release of a defendant charged with a certain offense involving a firearm if the defendant previously was convicted of a certain offense involving a firearm; providing that a judge may authorize the pretrial release of a certain defendant on suitable bail or certain other conditions or both; requiring a judge to order the continued detention of a certain defendant under certain circumstances at a certain time; creating a rebuttable presumption that a certain defendant will flee and pose a danger to another person or the community; and generally relating to restrictions on pretrial release.

BY repealing and reenacting, with amendments,

Article – Criminal Procedure  
Section 5–202  
Annotated Code of Maryland  
(2008 Replacement Volume)

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

#### **Article – Criminal Procedure**

5–202.

(a) A District Court commissioner may not authorize pretrial release for a defendant charged with escaping from a correctional facility or any other place of confinement in the State.

(b) (1) A District Court commissioner may not authorize the pretrial release of a defendant charged as a drug kingpin under § 5–613 of the Criminal Law Article.



(2) A judge may authorize the pretrial release of a defendant charged as a drug kingpin on suitable bail and on any other conditions that will reasonably ensure that the defendant will not flee or pose a danger to another person or the community.

(3) There is a rebuttable presumption that, if released, a defendant charged as a drug kingpin will flee and pose a danger to another person or the community.

(c) (1) A District Court commissioner may not authorize the pretrial release of a defendant charged with a crime of violence if the defendant has been previously convicted:

(i) in this State of a crime of violence; or

(ii) in any other jurisdiction of a crime that would be a crime of violence if committed in this State.

(2) (i) A judge may authorize the pretrial release of a defendant described in paragraph (1) of this subsection on:

1. suitable bail;

2. any other conditions that will reasonably ensure that the defendant will not flee or pose a danger to another person or the community; or

3. both bail and other conditions described under item 2 of this subparagraph.

(ii) When a defendant described in paragraph (1) of this subsection is presented to the court under Maryland Rule 4–216(f), the judge shall order the continued detention of the defendant if the judge determines that neither suitable bail nor any condition or combination of conditions will reasonably ensure that the defendant will not flee or pose a danger to another person or the community before the trial.

(3) There is a rebuttable presumption that a defendant described in paragraph (1) of this subsection will flee and pose a danger to another person or the community.

(d) (1) A District Court commissioner may not authorize the pretrial release of a defendant charged with committing one of the following crimes while the defendant was released on bail or personal recognizance for a pending prior charge of committing one of the following crimes:

(i) aiding, counseling, or procuring arson in the first degree under § 6–102 of the Criminal Law Article;

- (ii) arson in the second degree or attempting, aiding, counseling, or procuring arson in the second degree under § 6–103 of the Criminal Law Article;
- (iii) burglary in the first degree under § 6–202 of the Criminal Law Article;
- (iv) burglary in the second degree under § 6–203 of the Criminal Law Article;
- (v) burglary in the third degree under § 6–204 of the Criminal Law Article;
- (vi) causing abuse to a child under § 3–601 or § 3–602 of the Criminal Law Article;
- (vii) a crime that relates to a destructive device under § 4–503 of the Criminal Law Article;
- (viii) a crime that relates to a controlled dangerous substance under §§ 5–602 through 5–609 or § 5–612 or § 5–613 of the Criminal Law Article;
- (ix) manslaughter by vehicle or vessel under § 2–209 of the Criminal Law Article; and
- (x) a crime of violence.

(2) A defendant under this subsection remains ineligible to give bail or be released on recognizance on the subsequent charge until all prior charges have finally been determined by the courts.

(3) A judge may authorize the pretrial release of a defendant described in paragraph (1) of this subsection on suitable bail and on any other conditions that will reasonably ensure that the defendant will not flee or pose a danger to another person or the community.

(4) There is a rebuttable presumption that a defendant described in paragraph (1) of this subsection will flee and pose a danger to another person or the community if released before final determination of the prior charge.

(e) (1) A District Court commissioner may not authorize the pretrial release of a defendant charged with violating:

- (i) the provisions of a temporary protective order described in § 4–505(a)(2)(i) of the Family Law Article or the provisions of a protective order described in § 4–506(d)(1) of the Family Law Article that order the defendant to refrain from abusing or threatening to abuse a person eligible for relief; or

(ii) the provisions of an order for protection, as defined in § 4-508.1 of the Family Law Article, issued by a court of another state or of a Native American tribe that order the defendant to refrain from abusing or threatening to abuse a person eligible for relief, if the order is enforceable under § 4-508.1 of the Family Law Article.

(2) A judge may allow the pretrial release of a defendant described in paragraph (1) of this subsection on:

(i) suitable bail;

(ii) any other conditions that will reasonably ensure that the defendant will not flee or pose a danger to another person or the community; or

(iii) both bail and other conditions described under subparagraph (ii) of this paragraph.

(3) When a defendant described in paragraph (1) of this subsection is presented to the court under Maryland Rule 4-216(f), the judge shall order the continued detention of the defendant if the judge determines that neither suitable bail nor any condition or combination of conditions will reasonably ensure that the defendant will not flee or pose a danger to another person or the community before the trial.

**(F) (1) A DISTRICT COURT COMMISSIONER MAY NOT AUTHORIZE THE PRETRIAL RELEASE OF A DEFENDANT CHARGED WITH ONE OF THE FOLLOWING CRIMES IF THE DEFENDANT HAS PREVIOUSLY BEEN CONVICTED OF ONE OF THE FOLLOWING CRIMES:**

**(I) WEARING, CARRYING, OR TRANSPORTING A HANDGUN UNDER § 4-203 OF THE CRIMINAL LAW ARTICLE;**

**(II) USE OF A HANDGUN OR AN ANTIQUE FIREARM IN COMMISSION OF A CRIME UNDER § 4-204 OF THE CRIMINAL LAW ARTICLE;**

**(III) VIOLATING PROHIBITIONS RELATING TO ASSAULT PISTOLS UNDER § 4-303 OF THE CRIMINAL LAW ARTICLE;**

**(IV) USE OF A MACHINE GUN IN A CRIME OF VIOLENCE UNDER § 4-404 OF THE CRIMINAL LAW ARTICLE;**

**(V) USE OF A MACHINE GUN FOR AN AGGRESSIVE PURPOSE UNDER § 4-405 OF THE CRIMINAL LAW ARTICLE;**

(VI) USE OF A WEAPON AS A SEPARATE CRIME UNDER § 5-621 OF THE CRIMINAL LAW ARTICLE;

(VII) POSSESSION OF A REGULATED FIREARM UNDER § 5-133 OF THE PUBLIC SAFETY ARTICLE;

(VIII) TRANSPORTING A REGULATED FIREARM FOR UNLAWFUL SALE OR TRAFFICKING UNDER § 5-140 OF THE PUBLIC SAFETY ARTICLE; OR

(IX) POSSESSION OF A RIFLE OR SHOTGUN BY A PERSON WITH A MENTAL DISORDER UNDER § 5-205 OF THE PUBLIC SAFETY ARTICLE.

(2) (I) A JUDGE MAY AUTHORIZE THE PRETRIAL RELEASE OF A DEFENDANT DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION ON:

1. SUITABLE BAIL;
2. ANY OTHER CONDITIONS THAT WILL REASONABLY ENSURE THAT THE DEFENDANT WILL NOT FLEE OR POSE A DANGER TO ANOTHER PERSON OR THE COMMUNITY; OR
3. BOTH BAIL AND OTHER CONDITIONS DESCRIBED UNDER ITEM 2 OF THIS SUBPARAGRAPH.

(II) WHEN A DEFENDANT DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION IS PRESENTED TO THE COURT UNDER MARYLAND RULE 4-216(F), THE JUDGE SHALL ORDER THE CONTINUED DETENTION OF THE DEFENDANT IF THE JUDGE DETERMINES THAT NEITHER SUITABLE BAIL NOR ANY CONDITION OR COMBINATION OF CONDITIONS WILL REASONABLY ENSURE THAT THE DEFENDANT WILL NOT FLEE OR POSE A DANGER TO ANOTHER PERSON OR THE COMMUNITY BEFORE THE TRIAL.

(3) THERE IS A REBUTTABLE PRESUMPTION THAT A DEFENDANT DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION WILL FLEE AND POSE A DANGER TO ANOTHER PERSON OR THE COMMUNITY.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, April 14, 2009.

---

**Chapter 43****(Senate Bill 239)**

AN ACT concerning

**Maryland Antitrust Act – Establishment of Minimum Sale Price for  
Commodities or Services – Prohibited**

FOR the purpose of providing that a contract, combination, or conspiracy that establishes a minimum price below which a retailer, wholesaler, or distributor may not sell a commodity or service is an unreasonable restraint of trade or commerce for purposes of a certain provision of the Maryland Antitrust Act; and generally relating to the Maryland Antitrust Act.

BY repealing and reenacting, with amendments,  
Article – Commercial Law  
Section 11–204  
Annotated Code of Maryland  
(2005 Replacement Volume and 2008 Supplement)

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

**Article – Commercial Law**

11–204.

(a) A person may not:

(1) By contract, combination, or conspiracy with one or more other persons, unreasonably restrain trade or commerce;

(2) Monopolize, attempt to monopolize, or combine or conspire with one or more other persons to monopolize any part of the trade or commerce within the State, for the purpose of excluding competition or of controlling, fixing, or maintaining prices in trade or commerce;

(3) Directly or indirectly discriminate in price among purchasers of commodities or services of like grade and quality, if the effects of the discrimination may:

(i) Substantially lessen competition;

(ii) Tend to create a monopoly in any line of trade or commerce;

or

(iii) Injure, destroy, or prevent competition with any person who grants or knowingly receives the benefit of the discrimination or with customers of either of them;

(4) In the course of commerce, pay or contract for the payment of anything of value to or for the benefit of a customer of the person as compensation for or in consideration of any service or facility furnished by or through the customer in connection with the processing, handling, sale, or offering for sale of any service or commodity manufactured, sold, or offered for sale by the person, unless the payment or consideration is available on proportionally equal terms to all other customers competing in the distribution of the service or commodity;

(5) Discriminate in favor of one purchaser against another purchaser of a commodity bought for resale, with or without processing, by contracting to furnish, furnishing, or contributing to the furnishing of any service or facility connected with the processing, handling, sale, or offering for sale of the commodity on terms not accorded to all purchasers on proportionally equal terms; or

(6) Lease or make a sale or contract for the sale of a patented or unpatented commodity or service for use, consumption, enjoyment, or resale, or set a price charged for the commodity or service or discount from or rebate on the price, on the condition, agreement, or understanding that the lessee or purchaser will not use or deal in the commodity or service of a competitor of the lessor or seller, if the effect of the lease, sale, or contract for sale or the condition, agreement, or understanding may:

(i) Substantially lessen competition; or

(ii) Tend to create a monopoly in any line of trade or commerce.

**(B) FOR PURPOSES OF SUBSECTION (A)(1) OF THIS SECTION, A CONTRACT, COMBINATION, OR CONSPIRACY THAT ESTABLISHES A MINIMUM PRICE BELOW WHICH A RETAILER, WHOLESALER, OR DISTRIBUTOR MAY NOT SELL A COMMODITY OR SERVICE IS AN UNREASONABLE RESTRAINT OF TRADE OR COMMERCE.**

**[(b)] (C)** Subsection (a)(3) through (6) of this section does not prevent:

(1) Differentials which make only due allowance for differences in the cost of manufacture, sale, or delivery resulting from the differing methods or quantities in which the commodity or service is sold or delivered to a purchaser;

(2) A person engaged in selling a commodity or service from selecting his own customers in bona fide transactions and not in restraint of trade;

(3) A person engaged in selling a commodity or service from granting employee discounts to his own bona fide employees;

(4) A seller from introducing evidence to rebut a case brought under subsection (a)(3) through (6) of this section to show that his lower price or the furnishing of services or facilities to a purchaser was made in good faith to meet an equally low price of a competitor, or the services or facilities furnished by a competitor; or

(5) Price changes, from time to time, in response to changing conditions affecting the market for or the marketability of a commodity, which changing conditions include an actual or imminent deterioration of a perishable commodity, obsolescence of a seasonal commodity, distress sales under court process, or sales in good faith in discontinuance of business in the commodity.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

**Approved by the Governor, April 14, 2009.**

---

## Chapter 44

### (House Bill 657)

AN ACT concerning

#### **Maryland Antitrust Act – Establishment of Minimum Sale Price for Commodities or Services – Prohibited**

FOR the purpose of providing that a contract, combination, or conspiracy that establishes a minimum price below which a retailer, wholesaler, or distributor may not sell a commodity or service is an unreasonable restraint of trade or commerce for purposes of a certain provision of the Maryland Antitrust Act; and generally relating to the Maryland Antitrust Act.

BY repealing and reenacting, with amendments,  
Article – Commercial Law  
Section 11–204  
Annotated Code of Maryland  
(2005 Replacement Volume and 2008 Supplement)

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

#### **Article – Commercial Law**

11–204.

(a) A person may not:

(1) By contract, combination, or conspiracy with one or more other persons, unreasonably restrain trade or commerce;

(2) Monopolize, attempt to monopolize, or combine or conspire with one or more other persons to monopolize any part of the trade or commerce within the State, for the purpose of excluding competition or of controlling, fixing, or maintaining prices in trade or commerce;

(3) Directly or indirectly discriminate in price among purchasers of commodities or services of like grade and quality, if the effects of the discrimination may:

(i) Substantially lessen competition;

(ii) Tend to create a monopoly in any line of trade or commerce;

or

(iii) Injure, destroy, or prevent competition with any person who grants or knowingly receives the benefit of the discrimination or with customers of either of them;

(4) In the course of commerce, pay or contract for the payment of anything of value to or for the benefit of a customer of the person as compensation for or in consideration of any service or facility furnished by or through the customer in connection with the processing, handling, sale, or offering for sale of any service or commodity manufactured, sold, or offered for sale by the person, unless the payment or consideration is available on proportionally equal terms to all other customers competing in the distribution of the service or commodity;

(5) Discriminate in favor of one purchaser against another purchaser of a commodity bought for resale, with or without processing, by contracting to furnish, furnishing, or contributing to the furnishing of any service or facility connected with the processing, handling, sale, or offering for sale of the commodity on terms not accorded to all purchasers on proportionally equal terms; or

(6) Lease or make a sale or contract for the sale of a patented or unpatented commodity or service for use, consumption, enjoyment, or resale, or set a price charged for the commodity or service or discount from or rebate on the price, on the condition, agreement, or understanding that the lessee or purchaser will not use or deal in the commodity or service of a competitor of the lessor or seller, if the effect of the lease, sale, or contract for sale or the condition, agreement, or understanding may:

(i) Substantially lessen competition; or



- (ii) Tend to create a monopoly in any line of trade or commerce.

**(B) FOR PURPOSES OF SUBSECTION (A)(1) OF THIS SECTION, A CONTRACT, COMBINATION, OR CONSPIRACY THAT ESTABLISHES A MINIMUM PRICE BELOW WHICH A RETAILER, WHOLESALER, OR DISTRIBUTOR MAY NOT SELL A COMMODITY OR SERVICE IS AN UNREASONABLE RESTRAINT OF TRADE OR COMMERCE.**

**[(b)] (C)** Subsection (a)(3) through (6) of this section does not prevent:

(1) Differentials which make only due allowance for differences in the cost of manufacture, sale, or delivery resulting from the differing methods or quantities in which the commodity or service is sold or delivered to a purchaser;

(2) A person engaged in selling a commodity or service from selecting his own customers in bona fide transactions and not in restraint of trade;

(3) A person engaged in selling a commodity or service from granting employee discounts to his own bona fide employees;

(4) A seller from introducing evidence to rebut a case brought under subsection (a)(3) through (6) of this section to show that his lower price or the furnishing of services or facilities to a purchaser was made in good faith to meet an equally low price of a competitor, or the services or facilities furnished by a competitor; or

(5) Price changes, from time to time, in response to changing conditions affecting the market for or the marketability of a commodity, which changing conditions include an actual or imminent deterioration of a perishable commodity, obsolescence of a seasonal commodity, distress sales under court process, or sales in good faith in discontinuance of business in the commodity.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

**Approved by the Governor, April 14, 2009.**

---

**Chapter 45**

**(Senate Bill 242)**

AN ACT concerning

**Pharmacy Permit Holders – Signs for Reporting Dispensation of Prescription Medication – Provision of Information Relating to Incorrectly Filled Prescriptions**

FOR the purpose of specifying that certain dentists, physicians, and podiatrists are not prohibited from preparing and dispensing certain prescriptions when the dentists, physicians, and podiatrists post certain signs or include certain information with certain prescriptions; requiring pharmacy permit holders to ~~post certain signs that include~~ provide certain information regarding the process for resolving incorrectly filled prescriptions in accordance with certain regulations by posting certain signs or including certain information with certain prescriptions; ~~requiring that certain signs be positioned and readable at certain points where certain drugs are dispensed to consumers;~~ requiring the State Board of Pharmacy to waive certain requirements of this Act for certain pharmacies; requiring certain pharmacies to comply with certain provisions of this Act; and generally relating to ~~pharmacy permit holders and signs~~ the provision of information relating to the process for resolving incorrectly filled prescriptions.

BY repealing and reenacting, with amendments,  
 Article – Health Occupations  
 Section 12-102(c)(2)(i) and 12-403(b)(18) and (19) and (f)(9)  
 Annotated Code of Maryland  
 (2005 Replacement Volume and 2008 Supplement)

BY adding to  
 Article – Health Occupations  
 Section 12-403(b)(20) and (c)(3)  
 Annotated Code of Maryland  
 (2005 Replacement Volume and 2008 Supplement)

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

**Article – Health Occupations**

12-102.

(c) This title does not prohibit:

(2) A licensed dentist, physician, or podiatrist from personally preparing and dispensing the dentist's, physician's, or podiatrist's prescriptions when:

(i) The dentist, physician, or podiatrist:

1. Has applied to the board of licensure in this State which licensed the dentist, physician, or podiatrist;

2. Has demonstrated to the satisfaction of that board that the dispensing of prescription drugs or devices by the dentist, physician, or podiatrist is in the public interest; [and]

3. Has received a written permit from that board to dispense prescription drugs or devices except that a written permit is not required in order to dispense starter dosages or samples without charge; AND

**4. POSTS A SIGN CONSPICUOUSLY POSITIONED AND READABLE REGARDING THE PROCESS FOR RESOLVING INCORRECTLY FILLED PRESCRIPTIONS OR INCLUDES WRITTEN INFORMATION REGARDING THE PROCESS WITH EACH PRESCRIPTION DISPENSED;**

12-403.

(b) Except as otherwise provided in this section, a pharmacy for which a pharmacy permit has been issued under this title:

(18) (i) May maintain a record log of any prescription that is requested to be filled or refilled by a patient in accordance with the provisions of Title 4, Subtitle 3 of the Health – General Article;

(ii) If the prescription record of a patient includes the patient's Social Security number, shall keep the Social Security number confidential;

(iii) May not list in the record log the type of illness, disability, or condition that is the basis of any dispensing or distribution of a drug by a pharmacist; and

(iv) May not list a patient's Social Security number, illness, disability, or condition, or the name and type of drug received in the record log if the log is available to other pharmacy customers; [and]

(19) May not allow an unauthorized individual to represent that the individual is a pharmacist or registered pharmacy technician[.]; AND

**(20) SHALL ~~POST A SIGN THAT:~~**

**~~(I) INCLUDES~~ PROVIDE INFORMATION REGARDING THE PROCESS FOR RESOLVING INCORRECTLY FILLED PRESCRIPTIONS IN ACCORDANCE WITH EXISTING REGULATIONS;~~AND~~**

**~~(II) IS BY:~~**

**(I) POSTING A SIGN THAT IS CONSPICUOUSLY POSITIONED AND READABLE BY CONSUMERS AT THE POINT WHERE PRESCRIPTION DRUGS ARE DISPENSED TO CONSUMERS; OR**

**(II) INCLUDING WRITTEN INFORMATION REGARDING THE PROCESS WITH EACH PRESCRIPTION DISPENSED.**

**(c) (3) THE BOARD SHALL WAIVE THE REQUIREMENTS OF SUBSECTION (B)(20) OF THIS SECTION FOR A PHARMACY OWNED AND OPERATED BY A HOSPITAL, NURSING FACILITY, OR CLINIC TO WHICH THE PUBLIC DOES NOT HAVE ACCESS TO PURCHASE PHARMACEUTICALS ON A RETAIL BASIS.**

**(f) A nonresident pharmacy shall:**

**(9) Comply with the requirements of subsection (b)(17) AND (20) of this section.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

**Approved by the Governor, April 14, 2009.**

---

## Chapter 46

(Senate Bill 248)

AN ACT concerning

### State Government – Commemorative Days – Negro Baseball League

FOR the purpose of requiring the Governor to proclaim annually the second Saturday in May as Negro Baseball League Day; making this Act an emergency measure; and generally relating to commemorative days.

BY adding to

Article – State Government

Section 13–408

Annotated Code of Maryland

(2004 Replacement Volume and 2008 Supplement)

Preamble

WHEREAS, African Americans played baseball throughout the 1800s and began playing on professional teams in the late 1800s; and

WHEREAS, African American baseball players were willing to travel almost anywhere and play a nearly unlimited amount of games for little compensation just to get the chance to play top-level baseball; and

WHEREAS, Professional Negro baseball leagues afforded the best African American players a chance to play baseball against each other; and

WHEREAS, Maryland hosted a number of professional African American teams, including the Snow Hill Nine, the Pocomoke City Giants, the Denton Blue Sox, and the Crisfield Giants of the Colored Baseball League of the Eastern Shore, other teams in Annapolis and on the Eastern Shore, the Mitchellville Tigers, the Rockville ACs, the Yokeley All-Stars, the Washington Black Sox, and Maryland's two most prominent teams, the Baltimore Black Sox and the Baltimore Elite (pronounced "EE-light") Giants; and

WHEREAS, In the 1940s, the Eastern Shore League, a thriving Class D professional baseball league that existed on Maryland's Eastern Shore, excluded African American players; and

WHEREAS, As a result, the Delmarva Peninsula had a Negro league of its own, and the only remaining baseball stadium on the Shore from that era and one of the few Negro league baseball stadiums remaining in the country still stands in Oakville, Maryland today; and

WHEREAS, The Shore also produced the first African American player to be admitted to the Major League Baseball Hall of Fame as well as the first black coach in Major League Baseball, William Julius "Judy" Johnson from Snow Hill; and

WHEREAS, The State also produced Leon Day, a flame-throwing right-handed pitcher with a no-windup delivery who grew up in southwest Baltimore, who watched and then played for the Baltimore Black Sox, and later helped lead the Baltimore Elite Giants to the Eastern Colored League pennant before his eventual induction into the Major League Baseball Hall of Fame; and

WHEREAS, Another Marylander, Ernest Burke from Havre De Grace, pitched and played outfield for the Baltimore Elite Giants after becoming one of the first African Americans to serve in the Marines during World War II; and

WHEREAS, Hubert "Bert" Van Wyke Simmons pitched and played outfield for the Baltimore Elite Giants before living in Woodlawn, taught in Baltimore City, and coached baseball at Dunbar and Northwestern High Schools; and

WHEREAS, The Baltimore Black Sox, charter members of the Eastern Colored League in 1923 that showcased a "million dollar infield" in 1929 because the press

thought they would have been paid that much if the players had been white, won the American Negro League Championship in 1929 before disbanding in 1934; and

WHEREAS, The Baltimore Elite Giants, whose players included Major League Baseball Hall of Fame catcher Roy Campanella, came to Baltimore in 1938 and won the Negro National Title in 1939 and 1949; and

WHEREAS, The Negro baseball leagues, thanks in part to their Maryland roots, afforded a place for the best black baseball players to play professionally, and helped baseball grow into the national pastime; and

WHEREAS, In 2009, at the 60, 70, and 80 year anniversaries of Baltimore's Negro League baseball championships, it is appropriate to give due recognition to the Negro baseball leagues, their players, and their fans; now, therefore,

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

**Article – State Government**

**13-408.**

**THE GOVERNOR ANNUALLY SHALL PROCLAIM THE SECOND SATURDAY IN MAY AS NEGRO BASEBALL LEAGUE DAY.**

~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a yea and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

**Approved by the Governor, April 14, 2009.**

---

**Chapter 47**

**(House Bill 84)**

AN ACT concerning

**State Government – Commemorative Days – Negro Baseball League**

FOR the purpose of requiring the Governor to proclaim annually the second Saturday in May as Negro Baseball League Day; making this Act an emergency measure; and generally relating to commemorative days.

BY adding to

Article – State Government

Section 13–408

Annotated Code of Maryland

(2004 Replacement Volume and 2008 Supplement)

#### Preamble

WHEREAS, African Americans played baseball throughout the 1800s and began playing on professional teams in the late 1800s; and

WHEREAS, African American baseball players were willing to travel almost anywhere and play a nearly unlimited amount of games for little compensation just to get the chance to play top–level baseball; and

WHEREAS, Professional Negro baseball leagues afforded the best African American players a chance to play baseball against each other; and

WHEREAS, Maryland hosted a number of professional African American teams, including the Snow Hill Nine, the Pocomoke City Giants, the Denton Blue Sox, and the Crisfield Giants of the Colored Baseball League of the Eastern Shore, other teams in Annapolis and on the Eastern Shore, the Mitchellville Tigers, the Rockville ACs, the Yokeley All–Stars, the Washington Black Sox, and Maryland’s two most prominent teams, the Baltimore Black Sox and the Baltimore Elite (pronounced “EE–light”) Giants; and

WHEREAS, In the 1940s, the Eastern Shore League, a thriving Class D professional baseball league that existed on Maryland’s Eastern Shore, excluded African American players; and

WHEREAS, As a result, the Delmarva Peninsula had a Negro league of its own, and the only remaining baseball stadium on the Shore from that era and one of the few Negro league baseball stadiums remaining in the country still stands in Oakville, Maryland today; and

WHEREAS, The Shore also produced the first African American player to be admitted to the Major League Baseball Hall of Fame as well as the first black coach in Major League Baseball, William Julius “Judy” Johnson from Snow Hill; and

WHEREAS, The State also produced Leon Day, a flame–throwing right–handed pitcher with a no–windup delivery who grew up in southwest Baltimore, who watched and then played for the Baltimore Black Sox, and later helped lead the Baltimore Elite

Giants to the Eastern Colored League pennant before his eventual induction into the Major League Baseball Hall of Fame; and

WHEREAS, Another Marylander, Ernest Burke from Havre De Grace, pitched and played outfield for the Baltimore Elite Giants after becoming one of the first African Americans to serve in the Marines during World War II; and

WHEREAS, Hubert “Bert” Van Wyke Simmons pitched and played outfield for the Baltimore Elite Giants before living in Woodlawn, taught in Baltimore City, and coached baseball at Dunbar and Northwestern High Schools; and

WHEREAS, The Baltimore Black Sox, charter members of the Eastern Colored League in 1923 that showcased a “million dollar infield” in 1929 because the press thought they would have been paid that much if the players had been white, won the American Negro League Championship in 1929 before disbanding in 1934; and

WHEREAS, The Baltimore Elite Giants, whose players included Major League Baseball Hall of Fame catcher Roy Campanella, came to Baltimore in 1938 and won the Negro National Title in 1939 and 1949; and

WHEREAS, The Negro baseball leagues, thanks in part to their Maryland roots, afforded a place for the best black baseball players to play professionally, and helped baseball grow into the national pastime; and

WHEREAS, In 2009, at the 60, 70, and 80 year anniversaries of Baltimore’s Negro League baseball championships, it is appropriate to give due recognition to the Negro baseball leagues, their players, and their fans; now, therefore,

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

#### **Article – State Government**

**13–408.**

**THE GOVERNOR ANNUALLY SHALL PROCLAIM THE SECOND SATURDAY IN MAY AS NEGRO BASEBALL LEAGUE DAY.**

~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a ye and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.



Approved by the Governor, April 14, 2009.

---

## Chapter 48

### (Senate Bill 305)

AN ACT concerning

#### **Mortality and Quality Review Committee – Sunset ~~Repeal~~ Extension and Membership**

FOR the purpose of ~~repealing~~ altering the membership of the Mortality and Quality Review Committee; extending the termination date for a provision of law relating to certain reports regarding incidents of injury and certain recommendations and findings by the Mortality and Quality Review Committee; and generally relating to the Mortality and Quality Review Committee and reportable incidents of injury.

BY repealing and reenacting, with amendments,

Article – Health – General

Section 5–804(a)(8)

Annotated Code of Maryland

(2005 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,

Chapter 268 of the Acts of the General Assembly of 2006

Section 3

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

#### **Article – Health – General**

5–804.

(a) The Committee shall consist of 18 members appointed by the Secretary, including the following:

(8) The Deputy Secretary of [Public Health] **BEHAVIORAL HEALTH AND DISABILITIES** or the Deputy Secretary's designee;

#### **Chapter 268 of the Acts of 2006**

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2006. ~~It~~ shall remain effective for a period of ~~3~~ **6** years and ~~3~~ **6** months and, at

the end of ~~September 30, 2009~~ **DECEMBER 31, 2012**, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.†

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

**Approved by the Governor, April 14, 2009.**

---

## Chapter 49

### (House Bill 93)

AN ACT concerning

#### **Mortality and Quality Review Committee – Sunset ~~Repeal~~ Extension and Membership**

FOR the purpose of ~~repealing~~ altering the membership of the Mortality and Quality Review Committee; extending the termination date for a provision of law relating to certain reports regarding incidents of injury and certain recommendations and findings by the Mortality and Quality Review Committee; and generally relating to the Mortality and Quality Review Committee and reportable incidents of injury.

BY repealing and reenacting, with amendments,

Article – Health – General

Section 5–804(a)(8)

Annotated Code of Maryland

(2005 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,

Chapter 268 of the Acts of the General Assembly of 2006

Section 3

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

#### **Article – Health – General**

5–804.

(a) The Committee shall consist of 18 members appointed by the Secretary, including the following:

(8) The Deputy Secretary of [Public Health] **BEHAVIORAL HEALTH AND DISABILITIES** or the Deputy Secretary's designee;

### Chapter 268 of the Acts of 2006

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2006. ~~It shall remain effective for a period of 3 6 years and 3 6 months and, at the end of September 30, 2009~~ **DECEMBER 31, 2012**, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.†

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

**Approved by the Governor, April 14, 2009.**

---

## Chapter 50

(Senate Bill 333)

AN ACT concerning

### Dorchester County – Alcoholic Beverages Act of 2009

FOR the purpose of authorizing the Dorchester County Board of License Commissioners to issue a Class B caterer's license to certain persons; providing an annual license fee; specifying the privileges conferred by the Class B caterer's license; specifying certain requirements that a holder of a caterer's license must meet and certain restrictions on the use of a caterer's license; requiring a holder of a caterer's license at a catered public event to issue wristbands to certain individuals; prohibiting the serving of alcoholic beverages to individuals without wristbands; authorizing the Board to issue a beer and wine sampling or tasting (BWST) license to certain persons; authorizing certain holders of a BWST license to hold only beer tastings or samplings; specifying certain conditions for the use of a BWST license; specifying certain maximum quantities of alcoholic beverages that may be consumed under certain conditions; specifying certain requirements for applying for a BWST license, resubmitting an application, and issuing a BWST license; specifying certain license fees; requiring that the holder of a BWST license dispose of certain alcoholic beverages at a certain time; clarifying a certain prohibition concerning the granting of a new license within a certain distance of certain buildings; exempting from the prohibition applications for certain licenses in certain municipalities and certain premises; repealing the authority of a holder of an on-sale alcoholic beverages license in the county to make sales at any time on

New Year's Day; altering the annual compensation of the Chairman and the regular members of the Board; authorizing the county inspector to serve summonses; providing that this Act does not apply to the salary or compensation of the incumbent Chairman or regular members of the Board; and generally relating to alcoholic beverages in Dorchester County.

BY adding to

Article 2B – Alcoholic Beverages  
 Section 6–713 and 8–405.2  
 Annotated Code of Maryland  
 (2005 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,

Article 2B – Alcoholic Beverages  
 Section 9–210, 15–109(k), and 16–410(b)(2)(i)  
 Annotated Code of Maryland  
 (2005 Replacement Volume and 2008 Supplement)

BY repealing

Article 2B – Alcoholic Beverages  
 Section 11–402(k)  
 Annotated Code of Maryland  
 (2005 Replacement Volume and 2008 Supplement)

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

**Article 2B – Alcoholic Beverages**

**6–713.**

**(A) THIS SECTION APPLIES ONLY IN DORCHESTER COUNTY.**

**(B) THE DORCHESTER COUNTY BOARD OF LICENSE COMMISSIONERS MAY ISSUE A CLASS B CATERER'S LICENSE TO A LICENSEE WHO:**

**(1) HOLDS A CLASS B RESTAURANT OR HOTEL (ON-SALE) BEER AND LIGHT WINE LICENSE OR CLASS B RESTAURANT OR HOTEL (ON-SALE) BEER, WINE AND LIQUOR LICENSE;**

**(2) HOLDS A CATERER'S LICENSE ISSUED BY THE COUNTY HEALTH DEPARTMENT; AND**

**(3) CONTRACTS TO PROVIDE FOOD AND ALCOHOLIC BEVERAGES TO SPONSORS OF PUBLIC OR PRIVATE EVENTS.**

(C) THE ANNUAL LICENSE FEE IS \$150.

(D) (1) A CLASS B CATERER'S LICENSE AUTHORIZES THE HOLDER TO PROVIDE ALCOHOLIC BEVERAGES AT EVENTS THAT ARE HELD OFF THE PREMISES COVERED BY THE CLASS B BEER AND LIGHT WINE LICENSE OR CLASS B BEER, WINE AND LIQUOR LICENSE.

(2) A HOLDER OF A CLASS B BEER AND LIGHT WINE LICENSE OR A CLASS B BEER, WINE AND LIQUOR LICENSE NEED NOT HAVE A CLASS B CATERER'S LICENSE FOR CATERING ON THE PREMISES THAT IS COVERED BY THE HOLDER'S LICENSE.

(E) THE BOARD OF LICENSE COMMISSIONERS NEED NOT PUBLISH AN APPLICATION FOR A CLASS B CATERER'S LICENSE BEFORE ISSUING THE LICENSE.

(F) THE HOLDER OF A CLASS B CATERER'S LICENSE:

(1) SHALL NOTIFY THE BOARD IN WRITING AT LEAST 7 DAYS BEFORE THE EVENT FOR WHICH THE LICENSE IS TO BE USED;

(2) SHALL PROVIDE FOOD AS WELL AS ALCOHOLIC BEVERAGES FOR CONSUMPTION AT THE CATERED EVENT; AND

(3) MAY EXERCISE THE PRIVILEGES OF THE LICENSE ONLY DURING THE HOURS AND DAYS THAT ARE AUTHORIZED FOR THE HOLDER'S CLASS B BEER AND LIGHT WINE LICENSE OR CLASS B BEER, WINE AND LIQUOR LICENSE.

(G) WHEN CATERING A PUBLIC EVENT, A HOLDER OF A CLASS B CATERER'S LICENSE:

(1) SHALL DISTRIBUTE A WRISTBAND TO EACH INDIVIDUAL AT LEAST 21 YEARS OLD AT THE CATERED EVENT; AND

(2) MAY NOT SERVE AN ALCOHOLIC BEVERAGE TO AN INDIVIDUAL AT THE CATERED EVENT WHO DOES NOT WEAR THE WRISTBAND.

8-405.2.

(A) THIS SECTION APPLIES ONLY IN DORCHESTER COUNTY.

**(B) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE BOARD OF LICENSE COMMISSIONERS MAY ISSUE A BEER AND WINE SAMPLING OR TASTING (BWST) LICENSE TO A HOLDER OF A CLASS A LICENSE TO HOLD TASTINGS OR SAMPLINGS OF BEER OR WINE.**

**(2) A HOLDER OF A CLASS A BEER LICENSE MAY USE A BWST LICENSE TO HOLD TASTINGS OR SAMPLINGS OF BEER ONLY.**

**(C) (1) A BWST LICENSE AUTHORIZES SAMPLING OR TASTING OF ALCOHOLIC BEVERAGES ONLY ON THE LICENSED PREMISES OF THE HOLDER OF A CLASS A LICENSE.**

**(2) THE ALCOHOLIC BEVERAGES SHALL BE OFFERED TO CONSUMERS AT NO CHARGE.**

**(D) A PERSON MAY CONSUME ALCOHOLIC BEVERAGES COVERED BY A BWST LICENSE IN A QUANTITY NOT EXCEEDING:**

**(1) (I) 1 OUNCE FROM A SINGLE BRAND OF WINE; AND**

**(II) 4 OUNCES FROM ALL BRANDS OF WINE IN A SINGLE DAY;**

**AND**

**(2) (I) 3 OUNCES FROM A SINGLE BRAND OF BEER; AND**

**(II) 8 OUNCES FROM ALL BRANDS OF BEER IN A SINGLE DAY.**

**(E) (1) AN APPLICATION FOR A BWST LICENSE SHALL BE MADE ON A FORM SUPPLIED BY THE BOARD OF LICENSE COMMISSIONERS.**

**(2) A BWST LICENSE MAY BE ISSUED WITHOUT A PUBLIC HEARING.**

**(3) IF AN INITIAL APPLICATION FOR A BWST LICENSE IS DENIED:**

**(I) THE APPLICANT MAY RESUBMIT THE APPLICATION; AND**

**(II) ON REQUEST FROM THE APPLICANT, THE BOARD SHALL HOLD A PUBLIC HEARING ON THE APPLICATION BEFORE DETERMINING WHETHER TO ISSUE THE LICENSE.**

**(4) A RENEWAL OF A BWST LICENSE MAY BE MADE AT THE TIME THE HOLDER'S CLASS A LICENSE IS RENEWED.**

**(F) THE FEE FOR A BWST LICENSE IS:**

**(1) \$150 FOR NOT MORE THAN 15 BEER OR WINE TASTINGS PER YEAR; OR**

**(2) \$250 FOR NOT MORE THAN 30 BEER OR WINE TASTINGS PER YEAR.**

**(G) (1) THE BOARD OF LICENSE COMMISSIONERS MAY NOT REQUIRE THE PUBLICATION OF AN APPLICATION FOR A BWST LICENSE BEFORE ISSUING THE LICENSE.**

**(2) THE HOLDER OF A BWST LICENSE SHALL NOTIFY THE BOARD IN WRITING AT LEAST 7 DAYS BEFORE THE EVENT AT WHICH THE LICENSE IS TO BE USED.**

**(H) AT THE END OF THE DAY FOR WHICH A BWST LICENSE IS VALID, THE HOLDER OF THE LICENSE SHALL PROPERLY DISPOSE OF ALCOHOLIC BEVERAGES THAT REMAIN IN A CONTAINER OPENED FOR TASTING OR SAMPLING.**

9-210.

**(a) Except as provided in subsection (b) of this section, in Dorchester County, a new license may not be granted to sell any alcoholic beverage [on any premises located within 300 feet of a church or public school] IN A BUILDING WITH A WALL WITHIN 300 FEET IN A DIRECT LINE OF THE NEAREST POINT OF THE MAIN BUILDING OF A PUBLIC OR NONPUBLIC KINDERGARTEN, ELEMENTARY, OR SECONDARY SCHOOL, OR CHURCH OR OTHER PLACE OF WORSHIP.**

**(b) Subsection (a) of this section does not apply to:**

**(1) [the] THE granting of a license for a premises located within the restricted distance if a license to sell alcoholic beverages on the premises existed as of October 1, 1996;**

**(2) AN APPLICATION FOR A CLASS B (ON-SALE) BEER, WINE AND LIQUOR LICENSE FOR A PREMISES IN CAMBRIDGE OR SECRETARY; OR**

**(3) A PREMISES ISSUED A SPECIAL OR TEMPORARY LICENSE.**

11-402.

[(k) (1) This subsection applies only in Dorchester County.

(2) This article may not be construed to require any holder of an on-sale license to close that establishment at any time on January 1 of any year, and any holder of this license is permitted to make any sale of alcoholic beverages authorized by the license at any time on January 1 of any year.]

15-109.

(k) In Dorchester County, the annual compensation for the members of the Board of License Commissioners is:

- (1) [\$2,500] **\$3,000** for the Chairman; and
- (2) [\$2,000] **\$2,500** for each regular member.

16-410.

(b) (2) (i) All summonses shall be served by the sheriff, except that:

1. In the City of Annapolis, summonses may also be served by the Annapolis Police Department;

2. In Anne Arundel County, summonses may also be served by inspectors employed by the Board and by the Anne Arundel County Police Department;

3. In Baltimore City, summonses may also be served by inspectors employed by the Board of Liquor License Commissioners for Baltimore City;

4. In Cecil County, summonses may also be served by inspectors employed by the Cecil County Board of License Commissioners; [and]

**5. IN DORCHESTER COUNTY, SUMMONSES MAY ALSO BE SERVED BY THE INSPECTOR EMPLOYED BY DORCHESTER COUNTY AND ASSIGNED TO THE BOARD OF LICENSE COMMISSIONERS; AND**

[5.] **6.** In Harford County, summonses may also be served by inspectors employed by the Harford County Liquor Control Board.

SECTION 2. AND BE IT FURTHER ENACTED, That, pursuant to Article III, § 35 of the Maryland Constitution, § 15-109 of Article 2B of the Annotated Code of Maryland, as enacted by Section 1 of this Act, may not be construed to extend or apply to the salary or compensation of the Chairman or regular members of the Dorchester County Board of License Commissioners in office on the effective date of this Act, but the provisions of this Act concerning the salary or compensation of the Chairman and



the regular members of the Dorchester County Board of License Commissioners shall take effect at the beginning of the next following term of office.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2009.

**Approved by the Governor, April 14, 2009.**

---

## Chapter 51

### (House Bill 425)

AN ACT concerning

#### **Dorchester County – Alcoholic Beverages Act of 2009**

FOR the purpose of authorizing the Dorchester County Board of License Commissioners to issue a Class B caterer's license to certain persons; providing an annual license fee; specifying the privileges conferred by the Class B caterer's license; specifying certain requirements that a holder of a caterer's license must meet and certain restrictions on the use of a caterer's license; requiring a holder of a caterer's license at a catered public event to issue wristbands to certain individuals; prohibiting the serving of alcoholic beverages to individuals without wristbands; authorizing the Board to issue a beer and wine sampling or tasting (BWST) license to certain persons; authorizing certain holders of a BWST license to hold only beer tastings or samplings; specifying certain conditions for the use of a BWST license; specifying certain maximum quantities of alcoholic beverages that may be consumed under certain conditions; specifying certain requirements for applying for a BWST license, resubmitting an application, and issuing a BWST license; specifying certain license fees; requiring that the holder of a BWST license dispose of certain alcoholic beverages at a certain time; clarifying a certain prohibition concerning the granting of a new license within a certain distance of certain buildings; exempting from the prohibition applications for certain licenses in certain municipalities and certain premises; repealing the authority of a holder of an on-sale alcoholic beverages license in the county to make sales at any time on New Year's Day; altering the annual compensation of the Chairman and the regular members of the Board; authorizing the county inspector to serve summonses; providing that this Act does not apply to the salary or compensation of the incumbent Chairman or regular members of the Board; and generally relating to alcoholic beverages in Dorchester County.

BY adding to

Article 2B – Alcoholic Beverages  
Section 6–713 and 8–405.2

Annotated Code of Maryland  
(2005 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,  
Article 2B – Alcoholic Beverages  
Section 9–210, 15–109(k), and 16–410(b)(2)(i)  
Annotated Code of Maryland  
(2005 Replacement Volume and 2008 Supplement)

BY repealing  
Article 2B – Alcoholic Beverages  
Section 11–402(k)  
Annotated Code of Maryland  
(2005 Replacement Volume and 2008 Supplement)

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

**Article 2B – Alcoholic Beverages**

**6–713.**

**(A) THIS SECTION APPLIES ONLY IN DORCHESTER COUNTY.**

**(B) THE DORCHESTER COUNTY BOARD OF LICENSE COMMISSIONERS MAY ISSUE A CLASS B CATERER’S LICENSE TO A LICENSEE WHO:**

**(1) HOLDS A CLASS B RESTAURANT OR HOTEL (ON–SALE) BEER AND LIGHT WINE LICENSE OR CLASS B RESTAURANT OR HOTEL (ON–SALE) BEER, WINE AND LIQUOR LICENSE;**

**(2) HOLDS A CATERER’S LICENSE ISSUED BY THE COUNTY HEALTH DEPARTMENT; AND**

**(3) CONTRACTS TO PROVIDE FOOD AND ALCOHOLIC BEVERAGES TO SPONSORS OF PUBLIC OR PRIVATE EVENTS.**

**(C) THE ANNUAL LICENSE FEE IS \$150.**

**(D) (1) A CLASS B CATERER’S LICENSE AUTHORIZES THE HOLDER TO PROVIDE ALCOHOLIC BEVERAGES AT EVENTS THAT ARE HELD OFF THE PREMISES COVERED BY THE CLASS B BEER AND LIGHT WINE LICENSE OR CLASS B BEER, WINE AND LIQUOR LICENSE.**

(2) A HOLDER OF A CLASS B BEER AND LIGHT WINE LICENSE OR A CLASS B BEER, WINE AND LIQUOR LICENSE NEED NOT HAVE A CLASS B CATERER'S LICENSE FOR CATERING ON THE PREMISES THAT IS COVERED BY THE HOLDER'S LICENSE.

(E) THE BOARD OF LICENSE COMMISSIONERS NEED NOT PUBLISH AN APPLICATION FOR A CLASS B CATERER'S LICENSE BEFORE ISSUING THE LICENSE.

(F) THE HOLDER OF A CLASS B CATERER'S LICENSE:

(1) SHALL NOTIFY THE BOARD IN WRITING AT LEAST 7 DAYS BEFORE THE EVENT FOR WHICH THE LICENSE IS TO BE USED;

(2) SHALL PROVIDE FOOD AS WELL AS ALCOHOLIC BEVERAGES FOR CONSUMPTION AT THE CATERED EVENT; AND

(3) MAY EXERCISE THE PRIVILEGES OF THE LICENSE ONLY DURING THE HOURS AND DAYS THAT ARE AUTHORIZED FOR THE HOLDER'S CLASS B BEER AND LIGHT WINE LICENSE OR CLASS B BEER, WINE AND LIQUOR LICENSE.

(G) WHEN CATERING A PUBLIC EVENT, A HOLDER OF A CLASS B CATERER'S LICENSE:

(1) SHALL DISTRIBUTE A WRISTBAND TO EACH INDIVIDUAL AT LEAST 21 YEARS OLD AT THE CATERED EVENT; AND

(2) MAY NOT SERVE AN ALCOHOLIC BEVERAGE TO AN INDIVIDUAL AT THE CATERED EVENT WHO DOES NOT WEAR THE WRISTBAND.

#### 8-405.2.

(A) THIS SECTION APPLIES ONLY IN DORCHESTER COUNTY.

(B) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE BOARD OF LICENSE COMMISSIONERS MAY ISSUE A BEER AND WINE SAMPLING OR TASTING (BWST) LICENSE TO A HOLDER OF A CLASS A LICENSE TO HOLD TASTINGS OR SAMPLINGS OF BEER OR WINE.

(2) A HOLDER OF A CLASS A BEER LICENSE MAY USE A BWST LICENSE TO HOLD TASTINGS OR SAMPLINGS OF BEER ONLY.

(C) (1) A BWST LICENSE AUTHORIZES SAMPLING OR TASTING OF ALCOHOLIC BEVERAGES ONLY ON THE LICENSED PREMISES OF THE HOLDER OF A CLASS A LICENSE.

(2) THE ALCOHOLIC BEVERAGES SHALL BE OFFERED TO CONSUMERS AT NO CHARGE.

(D) A PERSON MAY CONSUME ALCOHOLIC BEVERAGES COVERED BY A BWST LICENSE IN A QUANTITY NOT EXCEEDING:

(1) (I) 1 OUNCE FROM A SINGLE BRAND OF WINE; AND

(II) 4 OUNCES FROM ALL BRANDS OF WINE IN A SINGLE DAY;

AND

(2) (I) 3 OUNCES FROM A SINGLE BRAND OF BEER; AND

(II) 8 OUNCES FROM ALL BRANDS OF BEER IN A SINGLE DAY.

(E) (1) AN APPLICATION FOR A BWST LICENSE SHALL BE MADE ON A FORM SUPPLIED BY THE BOARD OF LICENSE COMMISSIONERS.

(2) A BWST LICENSE MAY BE ISSUED WITHOUT A PUBLIC HEARING.

(3) IF AN INITIAL APPLICATION FOR A BWST LICENSE IS DENIED:

(I) THE APPLICANT MAY RESUBMIT THE APPLICATION; AND

(II) ON REQUEST FROM THE APPLICANT, THE BOARD SHALL HOLD A PUBLIC HEARING ON THE APPLICATION BEFORE DETERMINING WHETHER TO ISSUE THE LICENSE.

(4) A RENEWAL OF A BWST LICENSE MAY BE MADE AT THE TIME THE HOLDER'S CLASS A LICENSE IS RENEWED.

(F) THE FEE FOR A BWST LICENSE IS:

(1) \$150 FOR NOT MORE THAN 15 BEER OR WINE TASTINGS PER YEAR; OR

(2) \$250 FOR NOT MORE THAN 30 BEER OR WINE TASTINGS PER YEAR.

**(G) (1) THE BOARD OF LICENSE COMMISSIONERS MAY NOT REQUIRE THE PUBLICATION OF AN APPLICATION FOR A BWST LICENSE BEFORE ISSUING THE LICENSE.**

**(2) THE HOLDER OF A BWST LICENSE SHALL NOTIFY THE BOARD IN WRITING AT LEAST 7 DAYS BEFORE THE EVENT AT WHICH THE LICENSE IS TO BE USED.**

**(H) AT THE END OF THE DAY FOR WHICH A BWST LICENSE IS VALID, THE HOLDER OF THE LICENSE SHALL PROPERLY DISPOSE OF ALCOHOLIC BEVERAGES THAT REMAIN IN A CONTAINER OPENED FOR TASTING OR SAMPLING.**

9-210.

(a) Except as provided in subsection (b) of this section, in Dorchester County, a new license may not be granted to sell any alcoholic beverage [on any premises located within 300 feet of a church or public school] **IN A BUILDING WITH A WALL WITHIN 300 FEET IN A DIRECT LINE OF THE NEAREST POINT OF THE MAIN BUILDING OF A PUBLIC OR NONPUBLIC KINDERGARTEN, ELEMENTARY, OR SECONDARY SCHOOL, OR CHURCH OR OTHER PLACE OF WORSHIP.**

(b) Subsection (a) of this section does not apply to:

**(1) [the] THE granting of a license for a premises located within the restricted distance if a license to sell alcoholic beverages on the premises existed as of October 1, 1996;**

**(2) AN APPLICATION FOR A CLASS B (ON-SALE) BEER, WINE AND LIQUOR LICENSE FOR A PREMISES IN CAMBRIDGE OR SECRETARY; OR**

**(3) A PREMISES ISSUED A SPECIAL OR TEMPORARY LICENSE.**

11-402.

**[(k) (1) This subsection applies only in Dorchester County.**

**(2) This article may not be construed to require any holder of an on-sale license to close that establishment at any time on January 1 of any year, and any holder of this license is permitted to make any sale of alcoholic beverages authorized by the license at any time on January 1 of any year.]**

15-109.

(k) In Dorchester County, the annual compensation for the members of the Board of License Commissioners is:

- (1) ~~[\$2,500]~~ **\$3,000** for the Chairman; and
- (2) ~~[\$2,000]~~ **\$2,500** for each regular member.

16-410.

(b) (2) (i) All summonses shall be served by the sheriff, except that:

1. In the City of Annapolis, summonses may also be served by the Annapolis Police Department;

2. In Anne Arundel County, summonses may also be served by inspectors employed by the Board and by the Anne Arundel County Police Department;

3. In Baltimore City, summonses may also be served by inspectors employed by the Board of Liquor License Commissioners for Baltimore City;

4. In Cecil County, summonses may also be served by inspectors employed by the Cecil County Board of License Commissioners; ~~[and]~~

**5. IN DORCHESTER COUNTY, SUMMONSES MAY ALSO BE SERVED BY THE INSPECTOR EMPLOYED BY DORCHESTER COUNTY AND ASSIGNED TO THE BOARD OF LICENSE COMMISSIONERS; AND**

~~[5.]~~ **6.** In Harford County, summonses may also be served by inspectors employed by the Harford County Liquor Control Board.

SECTION 2. AND BE IT FURTHER ENACTED, That, pursuant to Article III, § 35 of the Maryland Constitution, § 15-109 of Article 2B of the Annotated Code of Maryland, as enacted by Section 1 of this Act, may not be construed to extend or apply to the salary or compensation of the Chairman or regular members of the Dorchester County Board of License Commissioners in office on the effective date of this Act, but the provisions of this Act concerning the salary or compensation of the Chairman and the regular members of the Dorchester County Board of License Commissioners shall take effect at the beginning of the next following term of office.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2009.

**Approved by the Governor, April 14, 2009.**

---

## Chapter 52

(Senate Bill 347)

AN ACT concerning

### ~~Baltimore City~~ **Foreign Trade Zones – Application and Process**

FOR the purpose of requiring certain persons to apply for designation approval to a certain foreign trade zone grantee before applying to another grantee for designation approval; authorizing Baltimore City to apply for establishing, maintaining, and operating foreign trade zones in the Baltimore port of entry and in the State of Maryland within a radius of a certain number of miles beyond the port of entry limits, and to maintain and operate the foreign trade zones; making this Act an emergency measure; and generally relating to the ~~Baltimore Foreign Trade Zone~~ foreign trade zones.

BY adding to

Article – Economic Development

Section 5–804

Annotated Code of Maryland

(2008 ~~Replacement~~ Volume)

BY repealing and reenacting, with amendments,

The Charter of Baltimore City

Article II – General Powers

Section (9)

(2007 Replacement Volume, as amended)

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

### **Article – Economic Development**

#### **5–804.**

**A PERSON THAT WISHES TO HAVE A SITE IN THE STATE DESIGNATED AS A FOREIGN TRADE ZONE SHALL APPLY FOR DESIGNATION APPROVAL TO THE FOREIGN TRADE ZONE GRANTEE IN THE STATE THAT IS CLOSEST TO THE SITE BEFORE APPLYING TO ANOTHER FOREIGN TRADE ZONE GRANTEE IN THE STATE FOR DESIGNATION APPROVAL.**

### **The Charter of Baltimore City**

Article II – General Powers

The Mayor and City Council of Baltimore shall have full power and authority to exercise all of the powers heretofore or hereafter granted to it by the Constitution of Maryland or by any Public General or Public Local Laws of the State of Maryland; and in particular, without limitation upon the foregoing, shall have power by ordinance, or such other method as may be provided for in its Charter, subject to the provisions of said Constitution and Public General Laws:

(9) To make application for establishing, maintaining and operating foreign trade zones in the [Baltimore Harbor] **BALTIMORE PORT OF ENTRY AND IN THE STATE OF MARYLAND WITHIN A RADIUS OF 60 MILES BEYOND THE PORT OF ENTRY LIMITS**, and to maintain and operate such foreign trade zones when established agreeable to and pursuant to the provisions of the Act of the 73rd Congress No. 397, approved June 18, 1934, entitled "A Bill to provide for the establishment, operation and maintenance of Foreign Trade Zones in ports of entry in the United States and to expedite and encourage foreign commerce", and any amendment thereof.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a ye and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

**Approved by the Governor, April 14, 2009.**

---

## Chapter 53

(House Bill 94)

AN ACT concerning

**~~Baltimore City~~ – Foreign Trade Zones – Application and Process**

FOR the purpose of requiring certain persons to apply for designation approval to a certain foreign trade zone grantee before applying to another grantee for designation approval; authorizing Baltimore City to apply for establishing, maintaining, and operating foreign trade zones in the Baltimore port of entry and in the State of Maryland within a radius of a certain number of miles beyond the port of entry limits, and to maintain and operate the foreign trade zones; making this Act an emergency measure; and generally relating to the ~~Baltimore Foreign Trade Zone~~ foreign trade zones.

BY adding to

Article – Economic Development

Section 5–804



Annotated Code of Maryland  
(2008 Volume)

BY repealing and reenacting, with amendments,  
The Charter of Baltimore City  
Article II – General Powers  
Section (9)  
(2007 Replacement Volume, as amended)

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

**Article – Economic Development**

**5-804.**

**A PERSON THAT WISHES TO HAVE A SITE IN THE STATE DESIGNATED AS A FOREIGN TRADE ZONE SHALL APPLY FOR DESIGNATION APPROVAL TO THE FOREIGN TRADE ZONE GRANTEE IN THE STATE THAT IS CLOSEST TO THE SITE BEFORE APPLYING TO ANOTHER FOREIGN TRADE ZONE GRANTEE IN THE STATE FOR DESIGNATION APPROVAL.**

**The Charter of Baltimore City**

Article II – General Powers

The Mayor and City Council of Baltimore shall have full power and authority to exercise all of the powers heretofore or hereafter granted to it by the Constitution of Maryland or by any Public General or Public Local Laws of the State of Maryland; and in particular, without limitation upon the foregoing, shall have power by ordinance, or such other method as may be provided for in its Charter, subject to the provisions of said Constitution and Public General Laws:

(9)

To make application for establishing, maintaining and operating foreign trade zones in the [Baltimore Harbor] **BALTIMORE PORT OF ENTRY AND IN THE STATE OF MARYLAND WITHIN A RADIUS OF 60 MILES BEYOND THE PORT OF ENTRY LIMITS**, and to maintain and operate such foreign trade zones when established agreeable to and pursuant to the provisions of the Act of the 73rd Congress No. 397, approved June 18, 1934, entitled “A Bill to provide for the establishment, operation and maintenance of Foreign Trade Zones in ports of entry in the United States and to expedite and encourage foreign commerce”, and any amendment thereof.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety,

has been passed by a yea and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

**Approved by the Governor, April 14, 2009.**

---

## Chapter 54

### (Senate Bill 364)

AN ACT concerning

#### **Real Property – Mechanic’s Lien – Certified Interior Design Services**

FOR the purpose of establishing that work done for or about a building, for purposes of establishing a mechanic’s lien, includes certain interior design services provided by a certified interior designer; and generally relating to mechanics’ liens.

BY repealing and reenacting, with amendments,  
Article – Real Property  
Section 9–102(a)  
Annotated Code of Maryland  
(2003 Replacement Volume and 2008 Supplement)

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

#### **Article – Real Property**

9–102.

(a) Every building erected and every building repaired, rebuilt, or improved to the extent of 15 percent of its value is subject to establishment of a lien in accordance with this subtitle for the payment of all debts, without regard to the amount, contracted for work done for or about the building and for materials furnished for or about the building, including the drilling and installation of wells to supply water, the construction or installation of any swimming pool or fencing, the sodding, seeding or planting in or about the premises of any shrubs, trees, plants, flowers or nursery products, the grading, filling, landscaping, and paving of the premises, the provision of building or landscape architectural services, engineering services, [or] land surveying services, **OR INTERIOR DESIGN SERVICES THAT PERTAIN TO INTERIOR ~~ARCHITECTURAL~~ CONSTRUCTION AND ARE PROVIDED BY A CERTIFIED INTERIOR DESIGNER**, and the leasing of equipment, with or without an operator, for use for or about the building or premises.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, April 14, 2009.

---

## Chapter 55

### (House Bill 544)

AN ACT concerning

#### **Real Property – Mechanic's Lien – Certified Interior Design Services**

FOR the purpose of establishing that work done for or about a building, for purposes of establishing a mechanic's lien, includes certain interior design services provided by a certified interior designer; and generally relating to mechanics' liens.

BY repealing and reenacting, with amendments,  
Article – Real Property  
Section 9–102(a)  
Annotated Code of Maryland  
(2003 Replacement Volume and 2008 Supplement)

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

#### **Article – Real Property**

9–102.

(a) Every building erected and every building repaired, rebuilt, or improved to the extent of 15 percent of its value is subject to establishment of a lien in accordance with this subtitle for the payment of all debts, without regard to the amount, contracted for work done for or about the building and for materials furnished for or about the building, including the drilling and installation of wells to supply water, the construction or installation of any swimming pool or fencing, the sodding, seeding or planting in or about the premises of any shrubs, trees, plants, flowers or nursery products, the grading, filling, landscaping, and paving of the premises, the provision of building or landscape architectural services, engineering services, [or] land surveying services, **OR INTERIOR DESIGN SERVICES THAT PERTAIN TO INTERIOR ~~ARCHITECTURAL~~ CONSTRUCTION AND ARE PROVIDED BY A CERTIFIED INTERIOR DESIGNER**, and the leasing of equipment, with or without an operator, for use for or about the building or premises.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, April 14, 2009.

---

## Chapter 56

### (Senate Bill 368)

AN ACT concerning

#### **Lilly Ledbetter ~~Fair Pay~~ Civil Rights Restoration Act of 2009**

FOR the purpose of clarifying that a certain unlawful employment practice occurs when a certain decision or practice is adopted, when an individual becomes subject to a certain decision or practice, or when an individual is affected by application of a certain decision or practice, including each time certain compensation is paid under a discriminatory compensation decision or practice; authorizing the recovery of certain back pay where a certain unlawful employment practice is similar or related to a certain other unlawful employment practice; declaring the intent of the General Assembly; ~~providing for the application of this Act; providing that a certain Supreme Court ruling is not to be applied to any cases brought under certain provisions of law pending on or after a certain date;~~ and generally relating to unlawful discriminatory compensation practices.

BY adding to

Article – State Government

Section 20–607 and 20–1009(b)(5)

Annotated Code of Maryland

(2004 Replacement Volume and 2008 Supplement)

(As enacted by Chapter 120 (H.B. 51) of the Acts of the General Assembly of 2009)

BY repealing and reenacting, with amendments,

Article – State Government

Section 20–607 and 20–608

Annotated Code of Maryland

(2004 Replacement Volume and 2008 Supplement)

(As enacted by Chapter 120 (H.B. 51) of the Acts of the General Assembly of 2009)

BY repealing and reenacting, without amendments,

Article – State Government

Section 20–1012(b) and 20–1013(d)

Annotated Code of Maryland  
(2004 Replacement Volume and 2008 Supplement)  
(As enacted by Chapter 120 (H.B. 51) of the Acts of the General Assembly of  
2009)

### Preamble

~~WHEREAS, The decision of the Supreme Court in Ledbetter v. Goodyear Tire & Rubber Co., 550 U.S. 618 (2007), significantly impairs statutory protections against discrimination in compensation that have been bedrock principles of fair employment law for decades; and~~

~~WHEREAS, The Ledbetter decision undermines those statutory protections by unduly restricting the time period in which victims of discrimination can challenge and recover for discriminatory compensation decisions or other practices; and~~

~~WHEREAS, The limitation imposed by the Court on the filing of discriminatory compensation claims ignores the reality of wage discrimination and is at odds with the robust application of fair employment law; and~~

~~WHEREAS, The laws of Maryland governing employment discrimination have been derived in large part from the statutory provisions enacted by Congress; now, therefore,~~

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

### Article – State Government

#### 20–607.

(A) FOR PURPOSES OF THIS SUBTITLE, AN UNLAWFUL EMPLOYMENT PRACTICE OCCURS, WITH RESPECT TO DISCRIMINATION IN COMPENSATION IN VIOLATION OF THIS SUBTITLE, WHEN:

(1) A DISCRIMINATORY COMPENSATION DECISION OR OTHER PRACTICE IS ADOPTED;

(2) AN INDIVIDUAL BECOMES SUBJECT TO A DISCRIMINATORY COMPENSATION DECISION OR OTHER PRACTICE; OR

(3) AN INDIVIDUAL IS AFFECTED BY APPLICATION OF A DISCRIMINATORY COMPENSATION DECISION OR OTHER PRACTICE, INCLUDING EACH TIME WAGES, BENEFITS, OR OTHER COMPENSATION IS PAID, RESULTING WHOLLY OR PARTLY FROM THE DISCRIMINATORY COMPENSATION DECISION OR OTHER PRACTICE.

**(B) IN ADDITION TO ANY RELIEF AUTHORIZED BY THIS TITLE, LIABILITY MAY ACCRUE AND AN AGGRIEVED PERSON MAY OBTAIN RELIEF AS PROVIDED IN § 20-1009 OF THIS TITLE, INCLUDING RECOVERY OF BACK PAY FOR UP TO 2 YEARS PRECEDING THE FILING OF THE COMPLAINT, WHERE THE UNLAWFUL EMPLOYMENT PRACTICE THAT HAS OCCURRED DURING THE COMPLAINT FILING PERIOD IS SIMILAR OR RELATED TO AN UNLAWFUL EMPLOYMENT PRACTICE WITH REGARD TO DISCRIMINATION IN COMPENSATION THAT OCCURRED OUTSIDE THE TIME FOR FILING A COMPLAINT.**

**[20-607.] 20-608.**

An employer shall be immune from liability under this title or under the common law arising out of reasonable acts taken by the employer to verify the sexual orientation of any employee or applicant in response to a charge filed against the employer on the basis of sexual orientation.

**[20-608.] 20-609.**

(a) Disabilities caused or contributed to by pregnancy or childbirth:

(1) are temporary disabilities for all job-related purposes; and

(2) shall be treated as temporary disabilities under any health or temporary disability insurance or sick leave plan available in connection with employment.

(b) Written and unwritten employment policies and practices involving matters such as the commencement and duration of leave, the availability of extensions of leave, the accrual of seniority and other benefits and privileges, reinstatement, and payment under any health or temporary disability insurance or sick leave plan, formal or informal, shall be applied to disability due to pregnancy or childbirth on the same terms and conditions as they are applied to other temporary disabilities.

20-1009.

**(b) (5) IN ADDITION TO ANY OTHER RELIEF AUTHORIZED BY THIS SUBSECTION, A COMPLAINANT MAY RECOVER BACK PAY FOR UP TO 2 YEARS PRECEDING THE FILING OF THE COMPLAINT, WHERE THE UNLAWFUL EMPLOYMENT PRACTICE THAT HAS OCCURRED DURING THE COMPLAINT FILING PERIOD IS SIMILAR OR RELATED TO AN UNLAWFUL EMPLOYMENT PRACTICE WITH REGARD TO DISCRIMINATION IN COMPENSATION THAT OCCURRED OUTSIDE THE TIME FOR FILING A COMPLAINT.**

20-1012.

(b) If the court finds that a discriminatory act occurred, the court may provide the remedies specified in § 20-1009(b) of this subtitle.

20-1013.

(d) If the court finds that a discriminatory act occurred, the court may provide the remedies specified in § 20-1009(b) of this subtitle.

SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that, with regard to any charges of discrimination under any law, nothing in this Act is intended to preclude or limit an aggrieved person's right to introduce evidence of unlawful employment practices that have occurred outside the time for filing a charge of discrimination.

~~SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall apply to all claims of discrimination in compensation under Title 20 of the State Government Article or under Article 49B of the Annotated Code of Maryland pending on or after October 1, 2009.~~

~~SECTION 4. AND BE IT FURTHER ENACTED, That the decision of the Supreme Court in Ledbetter v. Goodyear Tire & Rubber, 550 U.S. 618 (2007), that an action regarding current discriminatory pay disparity is barred by the statute of limitations under federal law if the original decisions that gave rise to the disparity occurred outside the limitations period, is not to be applied to any cases brought under Title 20, Subtitles 3 through 11 of the State Government Article of the Annotated Code of Maryland.~~

SECTION ~~5.~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, April 14, 2009.

---

## Chapter 57

(House Bill 288)

AN ACT concerning

**Lilly Ledbetter ~~Fair Pay~~ Civil Rights Restoration Act of 2009**

FOR the purpose of clarifying that a certain unlawful employment practice occurs when a certain decision or practice is adopted, when an individual becomes subject to a certain decision or practice, or when an individual is affected by application of a certain decision or practice, including each time certain compensation is paid under a discriminatory compensation decision or practice; authorizing the recovery of certain back pay where a certain unlawful employment practice is similar or related to a certain other unlawful employment practice; declaring the intent of the General Assembly; ~~providing for the application of this Act; providing that a certain Supreme Court ruling is not to be applied to any cases brought under certain provisions of law;~~ and generally relating to unlawful discriminatory compensation practices.

BY adding to

Article – State Government  
Section 20–607 and 20–1009(b)(5)  
Annotated Code of Maryland  
(2004 Replacement Volume and 2008 Supplement)  
(As enacted by Chapter 120 (H.B. 51) of the Acts of the General Assembly of 2009)

BY repealing and reenacting, with amendments,

Article – State Government  
Section 20–607 and 20–608  
Annotated Code of Maryland  
(2004 Replacement Volume and 2008 Supplement)  
(As enacted by Chapter 120 (H.B. 51) of the Acts of the General Assembly of 2009)

BY repealing and reenacting, without amendments,

Article – State Government  
Section 20–1012(b) and 20–1013(d)  
Annotated Code of Maryland  
(2004 Replacement Volume and 2008 Supplement)  
(As enacted by Chapter 120 (H.B. 51) of the Acts of the General Assembly of 2009)

#### ~~Preamble~~

~~WHEREAS, The decision of the Supreme Court in Ledbetter v. Goodyear Tire & Rubber Co., 550 U.S. 618 (2007), significantly impairs statutory protections against discrimination in compensation that have been bedrock principles of fair employment law for decades; and~~

~~WHEREAS, The Ledbetter decision undermines those statutory protections by unduly restricting the time period in which victims of discrimination can challenge and recover for discriminatory compensation decisions or other practices; and~~



~~WHEREAS, The limitation imposed by the Court on the filing of discriminatory compensation claims ignores the reality of wage discrimination and is at odds with the robust application of fair employment law; and~~

~~WHEREAS, The laws of Maryland governing employment discrimination have been derived in large part from the statutory provisions enacted by Congress; now, therefore,~~

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

**Article – State Government**

**20–607.**

**(A) FOR PURPOSES OF THIS SUBTITLE, AN UNLAWFUL EMPLOYMENT PRACTICE OCCURS, WITH RESPECT TO DISCRIMINATION IN COMPENSATION IN VIOLATION OF THIS SUBTITLE, WHEN:**

**(1) A DISCRIMINATORY COMPENSATION DECISION OR OTHER PRACTICE IS ADOPTED;**

**(2) AN INDIVIDUAL BECOMES SUBJECT TO A DISCRIMINATORY COMPENSATION DECISION OR OTHER PRACTICE; OR**

**(3) AN INDIVIDUAL IS AFFECTED BY APPLICATION OF A DISCRIMINATORY COMPENSATION DECISION OR OTHER PRACTICE, INCLUDING EACH TIME WAGES, BENEFITS, OR OTHER COMPENSATION IS PAID, RESULTING WHOLLY OR PARTLY FROM THE DISCRIMINATORY COMPENSATION DECISION OR OTHER PRACTICE.**

**(B) IN ADDITION TO ANY RELIEF AUTHORIZED BY THIS TITLE, LIABILITY MAY ACCRUE AND AN AGGRIEVED PERSON MAY OBTAIN RELIEF AS PROVIDED IN § 20–1009 OF THIS TITLE, INCLUDING RECOVERY OF BACK PAY FOR UP TO 2 YEARS PRECEDING THE FILING OF THE COMPLAINT, WHERE THE UNLAWFUL EMPLOYMENT PRACTICE THAT HAS OCCURRED DURING THE COMPLAINT FILING PERIOD IS SIMILAR OR RELATED TO AN UNLAWFUL EMPLOYMENT PRACTICE WITH REGARD TO DISCRIMINATION IN COMPENSATION THAT OCCURRED OUTSIDE THE TIME FOR FILING A COMPLAINT.**

**[20–607.] 20–608.**

An employer shall be immune from liability under this title or under the common law arising out of reasonable acts taken by the employer to verify the sexual

orientation of any employee or applicant in response to a charge filed against the employer on the basis of sexual orientation.

**[20-608.] 20-609.**

(a) Disabilities caused or contributed to by pregnancy or childbirth:

(1) are temporary disabilities for all job-related purposes; and

(2) shall be treated as temporary disabilities under any health or temporary disability insurance or sick leave plan available in connection with employment.

(b) Written and unwritten employment policies and practices involving matters such as the commencement and duration of leave, the availability of extensions of leave, the accrual of seniority and other benefits and privileges, reinstatement, and payment under any health or temporary disability insurance or sick leave plan, formal or informal, shall be applied to disability due to pregnancy or childbirth on the same terms and conditions as they are applied to other temporary disabilities.

20-1009.

**(b) (5) IN ADDITION TO ANY OTHER RELIEF AUTHORIZED BY THIS SUBSECTION, A COMPLAINANT MAY RECOVER BACK PAY FOR UP TO 2 YEARS PRECEDING THE FILING OF THE COMPLAINT, WHERE THE UNLAWFUL EMPLOYMENT PRACTICE THAT HAS OCCURRED DURING THE COMPLAINT FILING PERIOD IS SIMILAR OR RELATED TO AN UNLAWFUL EMPLOYMENT PRACTICE WITH REGARD TO DISCRIMINATION IN COMPENSATION THAT OCCURRED OUTSIDE THE TIME FOR FILING A COMPLAINT.**

20-1012.

(b) If the court finds that a discriminatory act occurred, the court may provide the remedies specified in § 20-1009(b) of this subtitle.

20-1013.

(d) If the court finds that a discriminatory act occurred, the court may provide the remedies specified in § 20-1009(b) of this subtitle.

SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that, with regard to any charges of discrimination under any law, nothing in this Act is intended to preclude or limit an aggrieved person's right to introduce evidence of unlawful employment practices that have occurred outside the time for filing a charge of discrimination.

~~SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall apply to all claims of discrimination in compensation under Title 20 of the State Government Article or under Article 49B of the Annotated Code of Maryland pending on or after October 1, 2009.~~

~~SECTION 4. AND BE IT FURTHER ENACTED, That the decision of the Supreme Court in Ledbetter v. Goodyear Tire & Rubber, 550 U.S. 618 (2007), that an action regarding current discriminatory pay disparity is barred by the statute of limitations under federal law if the original decisions that gave rise to the disparity occurred outside the limitations period, is not to be applied to any cases brought under Title 20, Subtitles 3 through 11 of the State Government Article of the Annotated Code of Maryland.~~

SECTION ~~5.~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

**Approved by the Governor, April 14, 2009.**

---

## Chapter 58

(Senate Bill 377)

AN ACT concerning

### **Business Regulation – Home Builder Guaranty Fund – Fee**

FOR the purpose of requiring certain home builders to pay the Home Builder Guaranty Fund fee to a municipal corporation; requiring certain home builders to pay the fee for residential units in multiple-unit developments to a county or municipal corporation; requiring a municipal corporation to remit a certain fee to the Consumer Protection Division of the Office of the Attorney General; authorizing a county or municipal corporation to retain a certain amount of certain fee revenues to recover certain administrative costs; making this Act an emergency measure; and generally relating to the Home Builder Guaranty Fund fee.

BY repealing and reenacting, without amendments,  
Article – Business Regulation  
Section 4.5–101(d), 4.5–601(a), and 4.5–703(a) and (b)(1)  
Annotated Code of Maryland  
(2004 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,  
Article – Business Regulation

Section 4.5–704  
Annotated Code of Maryland  
(2004 Replacement Volume and 2008 Supplement)

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

**Article – Business Regulation**

4.5–101.

(d) “Division” means the Consumer Protection Division of the Office of the Attorney General.

4.5–601.

(a) Except for a building permit for construction to be performed directly by a landowner solely for the landowner’s own use, the building and permits department of a county may not issue a permit for home building unless:

- (1) the permit includes the home builder registration number of a registrant; and
- (2) the person pays the Guaranty Fund fee required under § 4.5–704 of this title.

4.5–703.

(a) The Division shall:

- (1) establish a Home Builder Guaranty Fund; and
- (2) maintain the Guaranty Fund at a level of at least \$1,000,000.

(b) (1) The Division shall deposit all money collected under § 4.5–704 of this subtitle in the Guaranty Fund.

4.5–704.

(a) (1) Subject to the provisions of subsection (c) of this section, a home builder shall pay to ~~the building and permits department of~~ a county **OR A MUNICIPAL CORPORATION** a Guaranty Fund fee **PER HOME OR RESIDENTIAL UNIT** as set by the Division under subsection (c) of this section with each application for a permit for construction of a new home **OR MULTIPLE–UNIT DEVELOPMENT**.

(2) The home builder may collect the Guaranty Fund fee from the consumer.

(3) (I) [Each] SUBJECT TO THE PROVISIONS OF SUBPARAGRAPH (II) OF THIS PARAGRAPH, EACH month, [the building and permits department of] a county OR MUNICIPAL CORPORATION shall remit all the Guaranty Fund fees to the Division to be deposited in the Guaranty Fund.

(II) A COUNTY OR MUNICIPAL CORPORATION MAY RETAIN UP TO 2% OF THE GUARANTY FUND FEE REVENUE THAT IT COLLECTS UNDER THIS SUBTITLE TO COVER REASONABLE ADMINISTRATIVE COSTS FOR COLLECTION AND PROCESSING OF THE GUARANTY FUND FEE.

(4) The Guaranty Fund fee may be deposited only in the Guaranty Fund.

(b) If a registrant fails to pay the Guaranty Fund fee, the registrant's home builder registration is suspended until the fee is paid.

(c) The Division shall set the amount of the Guaranty Fund fee required under subsection (a) of this section so as to not exceed \$50 PER RESIDENTIAL UNIT and to maintain the Guaranty Fund level required under § 4.5-703(a) of this subtitle.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a ye and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

**Approved by the Governor, April 14, 2009.**

---

## Chapter 59

(House Bill 662)

AN ACT concerning

### **Business Regulation – Home Builder Guaranty Fund – Fee**

FOR the purpose of requiring certain home builders to pay the Home Builder Guaranty Fund fee to a municipal corporation; requiring certain home builders to pay the fee for residential units in multiple-unit developments to a county or municipal corporation; requiring a municipal corporation to remit a certain fee to the Consumer Protection Division of the Office of the Attorney General; authorizing a county or municipal corporation to retain a certain amount of certain fee revenues to recover certain administrative costs; making this Act an

emergency measure; and generally relating to the Home Builder Guaranty Fund fee.

BY repealing and reenacting, without amendments,  
 Article – Business Regulation  
 Section 4.5–101(d), 4.5–601(a), and 4.5–703(a) and (b)(1)  
 Annotated Code of Maryland  
 (2004 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,  
 Article – Business Regulation  
 Section 4.5–704  
 Annotated Code of Maryland  
 (2004 Replacement Volume and 2008 Supplement)

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

### **Article – Business Regulation**

4.5–101.

(d) “Division” means the Consumer Protection Division of the Office of the Attorney General.

4.5–601.

(a) Except for a building permit for construction to be performed directly by a landowner solely for the landowner’s own use, the building and permits department of a county may not issue a permit for home building unless:

- (1) the permit includes the home builder registration number of a registrant; and
- (2) the person pays the Guaranty Fund fee required under § 4.5–704 of this title.

4.5–703.

(a) The Division shall:

- (1) establish a Home Builder Guaranty Fund; and
- (2) maintain the Guaranty Fund at a level of at least \$1,000,000.

(b) (1) The Division shall deposit all money collected under § 4.5–704 of this subtitle in the Guaranty Fund.

4.5-704.

(a) (1) Subject to the provisions of subsection (c) of this section, a home builder shall pay to [the building and permits department of] a county **OR A MUNICIPAL CORPORATION** a Guaranty Fund fee **PER HOME OR RESIDENTIAL UNIT** as set by the Division under subsection (c) of this section with each application for a permit for construction of a new home **OR MULTIPLE-UNIT DEVELOPMENT**.

(2) The home builder may collect the Guaranty Fund fee from the consumer.

(3) **(I) [Each] SUBJECT TO THE PROVISIONS OF SUBPARAGRAPH (II) OF THIS PARAGRAPH, EACH** month, [the building and permits department of] a county **OR MUNICIPAL CORPORATION** shall remit all the Guaranty Fund fees to the Division to be deposited in the Guaranty Fund.

**(II) A COUNTY OR MUNICIPAL CORPORATION MAY RETAIN UP TO 2% OF THE GUARANTY FUND FEE REVENUE THAT IT COLLECTS UNDER THIS SUBTITLE TO COVER REASONABLE ADMINISTRATIVE COSTS FOR COLLECTION AND PROCESSING OF THE GUARANTY FUND FEE.**

(4) The Guaranty Fund fee may be deposited only in the Guaranty Fund.

(b) If a registrant fails to pay the Guaranty Fund fee, the registrant's home builder registration is suspended until the fee is paid.

(c) The Division shall set the amount of the Guaranty Fund fee required under subsection (a) of this section so as to not exceed \$50 **PER RESIDENTIAL UNIT** and to maintain the Guaranty Fund level required under § 4.5-703(a) of this subtitle.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a ye and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

**Approved by the Governor, April 14, 2009.**

---

**Chapter 60**

**(Senate Bill 382)**

AN ACT concerning

**Annual Corrective Bill**

FOR the purpose of correcting certain errors and omissions in certain articles of the Annotated Code and in certain uncodified laws; clarifying language; correcting certain obsolete references; reorganizing certain sections of the Annotated Code; validating and ratifying certain corrections made by the publishers of the Annotated Code; providing that this Act is not intended to affect any law other than to correct technical errors; providing for the correction of certain errors and obsolete provisions by the publishers of the Annotated Code; providing for the effect and construction of certain provisions of this Act; and making this Act an emergency measure.

BY repealing and reenacting, with amendments,  
Article 2B – Alcoholic Beverages  
Section 8–222(b)(2) and 11–513(b)(3)  
Annotated Code of Maryland  
(2005 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,  
Article 2B – Alcoholic Beverages  
Section 8–222(e)(1), (4), (5), and (6)  
Annotated Code of Maryland  
(2005 Replacement Volume and 2008 Supplement)  
(As enacted by Chapter 531 of the Acts of the General Assembly of 2008)

BY repealing and reenacting, with amendments,  
Article 2B – Alcoholic Beverages  
Section 9–204.1(c)(1)(iii)5.  
Annotated Code of Maryland  
(2005 Replacement Volume and 2008 Supplement)  
(As enacted by Chapter 184 of the Acts of the General Assembly of 2008)

BY repealing and reenacting, with amendments,  
Article 24 – Political Subdivisions – Miscellaneous Provisions  
Section 15–102.1(f)(1)  
Annotated Code of Maryland  
(2005 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,  
Article 24 – Political Subdivisions – Miscellaneous Provisions  
Section 22–109(a)(2)  
Annotated Code of Maryland  
(2005 Replacement Volume and 2008 Supplement)  
(As enacted by Chapter 468 of the Acts of the General Assembly of 2008)



BY repealing and reenacting, with amendments,

Article 66B – Land Use

Section 4.01(d) and 5.05(a)

Annotated Code of Maryland

(2003 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,

Article – Business Occupations and Professions

Section 21–208(e)

Annotated Code of Maryland

(2004 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,

Article – Business Regulation

Section 4–304.1(d)(1), 4.5–202(c)(5), 8–405(e) and (f)(2), 11–1203(a), 16–210(b),  
and 17–1804(d)(2) and (3)

Annotated Code of Maryland

(2004 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,

Article – Commercial Law

Section 11–304(l)(1) and (m)(2)(ii), 12–105(c)(4), 13–204(14)(ii), and  
13–301(10)(ii)

Annotated Code of Maryland

(2005 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,

Article – Corporations and Associations

Section 2–418(a)(5)

Annotated Code of Maryland

(2007 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,

Article – Correctional Services

Section 3–511(a), 8–209(a), 9–202(a)(3)(i), and 9–504(a)(2)

Annotated Code of Maryland

(2008 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,

Article – Courts and Judicial Proceedings

Section 2–309(n)(1), 3–819 (b)(1)(ii)1., 3–823(k), and 3–8A–27(a)(2)

Annotated Code of Maryland

(2006 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,

Article – Criminal Law

Section 3–303(d)(3)

Annotated Code of Maryland  
(2002 Volume and 2008 Supplement)  
(As enacted by Chapter 345 of the Acts of the General Assembly of 2008)

BY repealing and reenacting, with amendments,  
Article – Criminal Procedure  
Section 10–105(a)(9)(ix), 10–221(b), and 12–210(c)  
Annotated Code of Maryland  
(2008 Replacement Volume)

BY repealing and reenacting, with amendments,  
Article – Economic Development  
Section 5–445(b)(12)(iii) and 13–503(a)(3)  
Annotated Code of Maryland  
(2008 Volume)

BY repealing and reenacting, with amendments,  
Article – Economic Development  
Section 12–211(a)  
Annotated Code of Maryland  
(2008 Volume)  
(As enacted by Chapter 306 of the Acts of the General Assembly of 2008)

BY repealing  
Article – Economic Development  
The part designation “Part III. Consumer Affairs” immediately preceding  
former Section 13–628  
Annotated Code of Maryland  
(2008 Volume)

BY repealing and reenacting, with amendments,  
Article – Education  
Section 6–302(a)(3), 7–426(b)(2) and (3), 7–910(a), 10–205(c),  
11–105(e)(3), 11–501, 11–502(b)(4), 14–302(a), 17–104(a)(1),  
18–402(b), 18–601(a)(5), (d)(3)(i), (ii), and (vi), and (g),  
18–705(a)(3)(ii), 24–106(c)(2), and 24–524(b)(1)  
Annotated Code of Maryland  
(2008 Replacement Volume)

BY repealing  
Article – Education  
The subtitle designation “Subtitle 1. Correctional Institutions” immediately  
preceding former Section 22–101  
Annotated Code of Maryland  
(2008 Replacement Volume)  
(As enacted by Chapter 134 of the Acts of the General Assembly of 2008)

BY repealing and reenacting, with amendments,

Article – Environment

Section 1–607(a)(3)(iii) and (b)(4)(ii), 2–403(c)(3), and 9–421(b)

Annotated Code of Maryland

(2007 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,

Article – Environment

Section 9–1617.1(b)(3)

Annotated Code of Maryland

(2007 Replacement Volume and 2008 Supplement)

(As enacted by Chapter 121 of the Acts of the General Assembly of 2008)

BY repealing and reenacting, with amendments,

Article – Family Law

Section 5–323(d)(3)(iv), 5–3B–22(b)(1)(iii)5., 10–301(o), (x), and (y), and  
10–350(a)

Annotated Code of Maryland

(2006 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,

Article – Financial Institutions

Section 13–801(a)

Annotated Code of Maryland

(2003 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,

Article – Health – General

Section 5–509(c)(7), 18–206(g)(2)(ii)6., 19–120(h)(2)(iii), 19–344(c)(1),  
19–1401(a), and 24–1605(k)

Annotated Code of Maryland

(2005 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,

Article – Health Occupations

The subtitle designation “Subtitle 2. State Board of Chiropractic and Massage  
Therapy Examiners” immediately preceding Section 3–201

Annotated Code of Maryland

(2005 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, without amendments,

Article – Health Occupations

Section 3–201

Annotated Code of Maryland

(2005 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,

Article – Health Occupations

Section 7–410(c)(7), 12–101(s)(1)(viii), 14–5B–04(b)(1), 14–5B–06(2) and (3), and  
16–311(a)(21)

Annotated Code of Maryland

(2005 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,

Article – Health Occupations

Section 7–4A–03(e)

Annotated Code of Maryland

(2005 Replacement Volume and 2008 Supplement)

(As enacted by Chapter 532 of the Acts of the General Assembly of 2008)

BY repealing and reenacting, with amendments,

Article – Health Occupations

Section 17–405.1

Annotated Code of Maryland

(2005 Replacement Volume and 2008 Supplement)

(As enacted by Chapter 505 of the Acts of the General Assembly of 2008)

BY repealing and reenacting, with amendments,

Article – Labor and Employment

Section 3–415(c)(1), 9–303(c), and 11–906(a)

Annotated Code of Maryland

(2008 Replacement Volume)

BY repealing and reenacting, with amendments,

Article – Labor and Employment

Section 11–806

Annotated Code of Maryland

(2008 Replacement Volume)

(As enacted by Chapter 134 of the Acts of the General Assembly of 2008)

BY repealing and reenacting, with amendments,

Article – Natural Resources

Section 1–403(c), 3–104(n)(1), 4–735(d), 4–1008(a)(3), and 5–903(d)

Annotated Code of Maryland

(2005 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,

Article – Natural Resources

Section 8–2A–03(b)(6) and (c)(1)(i)

Annotated Code of Maryland

(2007 Replacement Volume and 2008 Supplement)

(As enacted by Chapter 121 of the Acts of the General Assembly of 2008)

BY repealing and reenacting, with amendments,

## Article – Natural Resources

Section 8–2A–04(c)(2)(iv), 8–1801(a)(4), 8–1802(a)(4), and 8–1808.1(e)(1)(ii)1.

Annotated Code of Maryland

(2007 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,

## Article – Public Safety

Section 14–3A–01(e)(1) and (2)

Annotated Code of Maryland

(2003 Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,

## Article – Public Utility Companies

Section 2–110(c)(3), (6), (10)(i) and (ii), and (12), 6–206(b)(1),  
6–210(b)(3), 7–211(f)(3), 12–311(e), and 13–208(b)

Annotated Code of Maryland

(2008 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,

## Article – Real Property

Section 8–203.1(a)(5) and (6), 8–402.4(c)(4), 11–103.1(b)(2), and  
14–120(o)

Annotated Code of Maryland

(2003 Replacement Volume and 2008 Supplement)

BY repealing

## Article – State Finance and Procurement

The subtitle designation “Subtitle 4. Information Processing” immediately  
preceding Section 3–401

Annotated Code of Maryland

(2006 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,

## Article – State Finance and Procurement

Section 3–401, 5–7A–01(6), 7–326(c), and 11–203(a)(1)(xii)

Annotated Code of Maryland

(2006 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,

## Article – State Government

Section 2–10A–11(e)

Annotated Code of Maryland

(2004 Replacement Volume and 2008 Supplement)

(As enacted by Chapter 469 of the Acts of the General Assembly of 2007)

BY repealing and reenacting, with amendments,

## Article – State Government

Section 2–1505(j)(1), 10–502(c)(4) and (h)(1)(ii)3., and 10–616(p)(5)(viii)  
Annotated Code of Maryland  
(2004 Replacement Volume and 2008 Supplement)

BY repealing

Article – State Government  
Section 9–1801 through 9–1809, 9–1811, and 9–1812 and the subtitle “Subtitle  
18. Council on Management and Productivity”  
Annotated Code of Maryland  
(2004 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,

Article – State Personnel and Pensions  
Section 22–406(c)(10)(vi) and 23–407(c)(10)(vi)  
Annotated Code of Maryland  
(2004 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,

Article – Tax – General  
Section 5–101(d)(2)  
Annotated Code of Maryland  
(2004 Replacement Volume and 2008 Supplement)  
(As enacted by Chapter 702 of the Acts of the General Assembly of 2008)

BY repealing and reenacting, with amendments,

Article – Tax – General  
Section 10–211.1(a) and 10–305(d)  
Annotated Code of Maryland  
(2004 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,

Article – Tax – Property  
Section 7–211(c) and (d)  
Annotated Code of Maryland  
(2007 Replacement Volume and 2008 Supplement)  
(As enacted by Chapter 338 of the Acts of the General Assembly of 2008)

BY repealing and reenacting, with amendments,

Article – Tax – Property  
Section 14–812  
Annotated Code of Maryland  
(2007 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,

Article – Transportation  
Section 2–103(f)(2)(ii) and (g)(2)(ii), 5–1002(d), and 8–610(h)  
Annotated Code of Maryland

(2008 Replacement Volume)

BY repealing and reenacting, without amendments,

Article – Transportation

Section 7–208

Annotated Code of Maryland

(2008 Replacement Volume)

BY repealing and reenacting, with amendments,

Article – Transportation

Section 25–111(i)(1)(i)

Annotated Code of Maryland

(2006 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,

Chapter 131 of the Acts of the General Assembly of 2008

Section 3(b)

BY repealing and reenacting, with amendments,

Chapter 211 of the Acts of the General Assembly of 2008

Section 5(b)(7)

BY repealing and reenacting, with amendments,

Chapter 212 of the Acts of the General Assembly of 2008

Section 5(b)(7)

BY repealing and reenacting, with amendments,

Chapter 261 of the Acts of the General Assembly of 2008

Section 5

BY repealing and reenacting, with amendments,

Chapter 417 of the Acts of the General Assembly of 2008

Section 3

BY repealing and reenacting, with amendments,

Chapter 659 of the Acts of the General Assembly of 2008

Section 2(a) and (d)

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

### **Article 2B – Alcoholic Beverages**

8–222.

(b) (2) The fee for such license shall be one hundred dollars (\$100) each calendar year, and shall entitle the holder to sell beer at one or more locations within

the park from 8 a.m. to [12 p.m.] **MIDNIGHT** on every day from May 1 to September 30 of each year, except Sundays and election days.

**DRAFTER'S NOTE:**

Error: Stylistic error in Article 2B, § 8-222(b)(2).

Occurred: Ch. 716, Acts of 1961.

(e) (1) The Board of License Commissioners may issue a sidewalk [café] **CAFE** license to a holder of a Class B or Class P ["pouring" license] **"POURING LICENSE"**.

(4) A sidewalk [café] **CAFE** license may be issued only with an application for a Class B license or Class P ["pouring" license] **"POURING LICENSE"**.

(5) To maintain a sidewalk [café] **CAFE** license, a holder:

(i) Shall comply with all rules and regulations applicable to the issuance of the underlying Class B license or Class P ["pouring" license] **"POURING LICENSE"** and with all municipal ordinances and fire and health department regulations;

(ii) [Ensure] **SHALL ENSURE** that at least one employee is certified by an alcohol awareness program and on the premises at all times during the operation of the sidewalk [café] **CAFE**; and

(iii) [Keep] **SHALL KEEP** the kitchen open during all hours of operation and have prepared meals available to be served in the sidewalk [café] **CAFE**.

(6) A holder may sell or serve alcoholic beverages in the sidewalk [café] **CAFE** from noon to midnight, every day of the week.

**DRAFTER'S NOTE:**

Error: Stylistic errors in Article 2B, § 8-222(e)(1), (4), (5), and (6) and omitted words in (5)(ii) and (iii).

Occurred: Ch. 531, Acts of 2008. Corrections by the publisher of the Annotated Code in the 2008 Supplement of Article 2B of the Code are ratified by this Act.

9-204.1.

[(c) (1) (iii) 5.] **(F) (2) (IV)** For not more than three restaurants in a business planned unit development in ward 24, precinct 5 of the 46th alcoholic beverages district, which at all times shall be coterminous with the 46th Legislative



District in the Legislative Districting Plan of 2002 as ordered by the Maryland Court of Appeals on June 21, 2002, if each restaurant has a minimum capital investment of \$700,000, a seating capacity that exceeds 75 persons but is not more than 150 persons, average daily receipts from the sale of food that are at least 65% of the total daily receipts of the restaurant, and no sales for off-premises consumption[; and].

**DRAFTER'S NOTE:**

Error: Codification error and extraneous conjunction in Article 2B, § 9-204.1.

Occurred: As a result of Ch. 425, Acts of 2008. Corrections by the publisher of the Annotated Code in the 2008 Supplement of Article 2B of the Code are ratified by this Act.

11-513.

(b) (3) During a baseball game only, a licensee **WHO HOLDS A STADIUM ON-SALE LICENSE UNDER § 8-213.1 OF THIS ARTICLE** may not sell alcoholic beverages:

(i) After the beginning of the eighth inning; or

(ii) During a doubleheader game, after the beginning of the sixth inning of the second game.

**DRAFTER'S NOTE:**

Error: Omitted language and cross-reference in Article 2B, § 11-513(b)(3).

Occurred: Ch. 548, Acts of 2002.

**Article 24 – Political Subdivisions – Miscellaneous Provisions**

15-102.1.

(f) (1) In **CARROLL COUNTY AND** St. Mary's County, a person who violates this section is committing a civil infraction and is subject to a civil penalty of:

(i) \$300 for the first violation; and

(ii) \$500 for any subsequent violation within a 24-month period from the previous citation.

**DRAFTER'S NOTE:**

Error: Omitted reference to Carroll County in Article 24, § 15-102.1(f)(1).

Occurred: Ch. 254, Acts of 2008, rendered incorrect as a result of Ch. 221, Acts of 2008. Correction suggested by the Attorney General in bill review letter for Senate Bill 822 (Ch. 221) and House Bill 148 (Ch. 254).

22-109.

(a) The authority shall:

(2) Establish policies and procedures requiring the disclosure of relationships that may give rise to a conflict of **INTEREST, INCLUDING REQUIRING THAT ANY MEMBER OF THE BOARD WITH A** direct or indirect interest in a matter before the authority disclose the member's interest to the board before the board takes any action on the matter; and

DRAFTER'S NOTE:

Error: Omitted words in Article 24, § 22-109(a)(2).

Occurred: Ch. 468, Acts of 2008. The error resulted from a misprint in the third reader version of Senate Bill 911 (Ch. 468, Acts of 2008), which enacted Art. 24, § 22-109 of the Code. Correction by the publisher of the Annotated Code in the 2008 Supplement of Volume 1 of the Code is ratified by this Act.

#### Article 66B – Land Use

4.01.

(d) The powers granted to a local jurisdiction under this [subsection] **SECTION** do not:

(1) Grant the local jurisdiction powers in any substantive area not otherwise granted to the local jurisdiction by any other public general or public local law;

(2) Restrict the local jurisdiction from exercising any power granted to the local jurisdiction by any other public general or public local law or otherwise;

(3) Authorize the local jurisdiction or its officers to engage in any activity which is beyond their power under any other public general law, public local law, or otherwise; or

(4) Preempt or supersede the regulatory authority of any State department or agency under any public general law.

DRAFTER'S NOTE:

Error: Stylistic error in Article 66B, § 4.01(d).

Occurred: Ch. 395, Acts of 1983.

5.05.

(a) Except as provided in §§ 14.03(c), [14.05(f)] **14.05(E)**, 14.06(d), and 14.07(e) and (f) of this article, an owner or agent of an owner of land located within a subdivision who transfers or sells or agrees to sell or negotiate to sell any land by reference to, exhibition of, or other use of a plat of a subdivision before the plat has been approved by the planning commission and recorded or filed in the office of the appropriate county clerk, shall be subject to a civil penalty of not less than \$200 and not exceeding \$1,000 for each lot or parcel transferred or sold or agreed or negotiated to be sold.

DRAFTER'S NOTE:

Error: Erroneous cross-reference in Article 66B, § 5.05(a).

Occurred: Ch. 427, Acts of 2000. Correction recommended by Assistant Attorney General, Kathryn Rowe, Office of the Counsel to the General Assembly, in a memorandum dated August 1, 2008.

### **Article – Business Occupations and Professions**

21–208.

(e) The Fund consists of:

- SUBTITLE;**
- (1) revenue distributed to the Fund under § 21–207 of this [title]
  - (2) money appropriated in the State budget to the Fund; and
  - (3) any other money from any other source accepted for the benefit of the Fund.

DRAFTER'S NOTE:

Error: Stylistic error in § 21–208(e)(1) of the Business Occupations and Professions Article.

Occurred: Ch. 623, Acts of 2008.

### **Article – Business Regulation**

4–304.1.

(d) (1) If the Commission denies a license, [suspends,] **SUSPENDS** or revokes a license, denies renewal of a license, or does not allow an individual to participate in a contest because of the failure of the individual to comply with this section, the Commission shall keep the information confidential and may not disclose the reason for its action.

**DRAFTER'S NOTE:**

Error: Extraneous comma in § 4-304.1(d)(1) of the Business Regulation Article.

Occurred: Ch. 551, Acts of 1996.

4.5-202.

(c) (5) The failure of a home builder to provide a copy of the consumer [protection] **INFORMATION** pamphlet to a contract purchaser may not be used as a basis for invalidation of the contract for the initial sale of a new home.

**DRAFTER'S NOTE:**

Error: Inconsistent terminology in § 4.5-202(c)(5) of the Business Regulation Article.

Occurred: Ch. 522, Acts of 2000.

8-405.

(e) The Commission may not award from the Fund:

(1) more than \$20,000 to [1] **ONE** claimant for acts or omissions of [1] **ONE** contractor;

(2) more than \$100,000 to all claimants for acts or omissions of [1] **ONE** contractor unless, after the Commission has paid out \$100,000 on account of acts or omissions of the contractor, the contractor reimburses \$100,000 to the Fund;

(3) an amount for attorney fees, consequential damages, court costs, interest, personal injury damages, or punitive damages; or

(4) an amount as a result of a default judgment in court.

**DRAFTER'S NOTE:**

Error: Stylistic error in § 8-405(e)(1) and (2) of the Business Regulation Article.

Occurred: Ch. 4, Acts of 1992.

- (f) (2) An owner may make a claim against the Fund only if the owner:
- (i) resides in the home as to which the claim is made; or
  - (ii) does not own more than [3] **THREE** residences or dwelling places.

DRAFTER'S NOTE:

Error: Stylistic error in § 8-405(f)(2)(ii) of the Business Regulation Article.

Occurred: Ch. 34, Acts of 1999.

11-1203.

- (a) The Authority consists of the following 15 members:
- (1) the Baltimore City Planning Director;
  - (2) ten members, five of whom shall be business owners, residents, or service providers of the areas described in [§ 9-1A-31(a)(2)] **§ 9-1A-31(A)(1)(II)** of the State Government Article, appointed by the Mayor of Baltimore City, after consultation with the members of the Baltimore City Delegation in the General Assembly representing legislative districts 40 and 41;
  - (3) the State Senators representing legislative districts 40 and 41; and
  - (4) one State Delegate representing legislative district 40 and one State Delegate representing legislative district 41, each appointed by the Speaker of the House.

DRAFTER'S NOTE:

Error: Erroneous cross-reference in § 11-1203(a)(2) of the Business Regulation Article.

Occurred: Ch. 4, Acts of the Special Session of 2007.

16-210.

- (b) Subject to the hearing provisions of § 16-211 of this subtitle, the Comptroller may suspend or revoke a license if the licensee violates:
- (1) Title 12 of the Tax – General Article, or regulations adopted under that title; or

(2) [Title 16 of the Business Regulation Article,] **THIS TITLE** or regulations adopted under [that] **THIS** title.

**DRAFTER'S NOTE:**

Error: Stylistic error in § 16–210(b)(2) of the Business Regulation Article.

Occurred: Ch. 464, Acts of 1994.

17–1804.

(d) (2) An exhibitor need not get a trader's license for a show if the exhibitor gives to the promoter an exhibitor's affidavit stating that the exhibitor:

(i) receives less than 10% of the exhibitor's annual income from selling the kind of goods that the exhibitor will display and sell at the show; and

(ii) has not participated in more than [3] **THREE** shows, not including participation in one show sponsored by a national organization that is exempt from taxation under § 501(c)(3) of the Internal Revenue Code, during the previous 365 days.

**DRAFTER'S NOTE:**

Error: Stylistic error in § 17–1804(d)(2)(ii) of the Business Regulation Article.

Occurred: Ch. 4, Acts of 1992.

(3) An exhibitor at an antique show, coin show, or collector show need not get a trader's license for the show if the exhibitor gives to the promoter an exhibitor's affidavit stating that the exhibitor:

(i) will display and sell at the show;

(ii) receives less than 10% of the exhibitor's annual income in the State from selling the kind of goods that the exhibitor will display and sell at the show; and

(iii) has not participated in more than [3] **THREE** antique shows, coin shows, or collector shows in the State during the previous 365 days.

**DRAFTER'S NOTE:**

Error: Stylistic error in § 17–1804(d)(3)(iii) of the Business Regulation Article.

Occurred: Ch. 112, Acts of 2001.

**Article – Commercial Law**

11–304.

(l) (1) A distributor who sets the retail price of gasoline through controlled outlets shall provide those noncontrolled outlets that it supplies with gasoline products at a wholesale price of at least 4 cents per gallon under the lowest price posted for each grade of gasoline at any controlled outlet. Violation of this subsection constitutes price discrimination as prohibited by § 11–204(a)(3) of this [article] **TITLE**.

(m) (2) (ii) In accordance with [§ 11–304(g) of this subtitle] **SUBSECTION (G) OF THIS SECTION**, during the period of the trial marketing agreement, and with the consent of the distributor, the successor dealer may:

1. Sell the business assets;
2. Assign the marketing agreement; or
3. Renew the marketing agreement under terms and conditions agreeable to the distributor and the successor dealer.

**DRAFTER'S NOTE:**

Error: Stylistic errors in § 11–304(l)(1) and (m)(2)(ii) of the Commercial Law Article.

Occurred: Ch. 993, Acts of 1978; Ch. 798, Acts of 1982.

12–105.

(c) Except as provided in subsection (d) of this section, if the loan contract provides for them, the following fees and charges also may be collected and are not interest under this subtitle:

(4) A prepayment charge or penalty on a prepayment of the unpaid principal balance of the loan, if the loan is secured by a home, by a combination of home and business property, or by agricultural property, or if the loan is a commercial loan not in excess of \$15,000, provided that the charge or penalty:

(i) May be imposed only on prepayments made within [three] **3** years from the date the loan is made; and

(ii) May not exceed an amount equal to [two] 2 months' advance interest on the aggregate amount of all prepayments made in any 12-month period in excess of one-third of the amount of the original loan.

**DRAFTER'S NOTE:**

Error: Stylistic errors in § 12-105(c)(4) of the Commercial Law Article.

Occurred: Ch. 49, Acts of 1975.

13-204.

In addition to any other of its powers and duties, the Division has the powers and duties to:

(14) (ii) Provide the name and telephone number of an organization on the list to a homeowner who contacts the Division after receiving a notice under [§ 7-105(a-1)] **§ 7-105.1(D)(2)(VII)** of the Real Property Article.

**DRAFTER'S NOTE:**

Error: Erroneous cross-reference in § 13-204(14)(ii) of the Commercial Law Article.

Occurred: As a result of Chs. 1 and 2, Acts of 2008.

13-301.

Unfair or deceptive trade practices include any:

(10) Solicitations of sales or services over the telephone without first clearly, affirmatively, and expressly stating:

(ii) The purpose of **THE** telephone conversation; and

**DRAFTER'S NOTE:**

Error: Omitted article in § 13-301(10)(ii) of the Commercial Law Article.

Occurred: Ch. 506, Acts of 1976.

**Article – Corporations and Associations**

2-418.

(a) (5) **(I)** “Official capacity” means [the following]:



**[(i)] 1.** When used with respect to a director, the office of director in the corporation; and

**[(ii)] 2.** When used with respect to a person other than a director as contemplated in subsection (j) of this section, the elective or appointive office in the corporation held by the officer, or the employment or agency relationship undertaken by the employee or agent in behalf of the corporation.

**[(iii)] (II)** “Official capacity” does not include service for any other foreign or domestic corporation or any partnership, joint venture, trust, other enterprise, or employee benefit plan.

**DRAFTER’S NOTE:**

Error: Stylistic errors in § 2–418(a)(5) of the Corporations and Associations Article.

Occurred: Ch. 737, Acts of 1981.

**Article – Correctional Services**

3–511.

(a) The Commissioner and **THE** Chief Executive Officer may develop programs to provide services or produce goods used by:

- (1) units of State government;
- (2) political subdivisions of the State;
- (3) units of the federal government;
- (4) units of other states; or
- (5) political subdivisions of other states.

**DRAFTER’S NOTE:**

Error: Omitted article in § 3–511(a) of the Correctional Services Article.

Occurred: Ch. 124, Acts of 2005.

8–209.

(a) An individual may not be given or accept a probationary or permanent appointment as A correctional officer, correctional supervisor, or correctional administrator unless the individual satisfactorily meets minimum qualifications established by the Commission.

**DRAFTER'S NOTE:**

Error: Omitted article in § 8–209(a) of the Correctional Services Article.

Occurred: Ch. 54, Acts of 1999.

9–202.

(a) (3) (i) “Non–Division custody” means any [post–sentencing] **POSTSENTENCING** criminal confinement other than Division custody.

**DRAFTER'S NOTE:**

Error: Extraneous hyphen in § 9–202(a)(3)(i) of the Correctional Services Article.

Occurred: Ch. 54, Acts of 1999.

9–504.

(a) (2) After receiving a request from the county roads authority, the Division of Correction shall furnish the number of requested inmates [that] **WHO** are available to work on the public roads of the county.

**DRAFTER'S NOTE:**

Error: Incorrect word usage in § 9–504(a)(2) of the Correctional Services Article.

Occurred: Ch. 54, Acts of 1999.

**Article – Courts and Judicial Proceedings**

2–309.

(n) (1) **(I)** The Sheriff of Harford County shall receive a salary of:

**[(i)] 1.** \$90,000 in 2004; **AND**

**[(ii)] 2.** \$98,500 commencing January 1, 2007, thereafter to be adjusted annually on July 1 in accordance with subparagraph **[(iii)] (II)** of this paragraph.

**[(iii)] (II)** 1. On and after July 1, 2007, the annual salary of the Sheriff of Harford County shall be adjusted annually to reflect the annual change in the “Consumer Price Index” for “All urban consumers” for the expenditure category “All items not seasonally adjusted”, and for all regions. The Annual Consumer Price Index for the period ending each December, as published by the Bureau of Labor Statistics of the U.S. Department of Labor, shall be used to adjust the annual salary of the Sheriff of Harford County while in office.

2. Notwithstanding **subsubparagraph 1** of this subparagraph, the adjustment to the annual salary of the Sheriff of Harford County may not exceed 3 percent in any fiscal year.

DRAFTER’S NOTE:

Error: Tabulation error in § 2–309 (n)(1) of the Courts and Judicial Proceedings Article.

Occurred: Ch. 185, Acts of 2005.

3–819.

(b) (1) In making a disposition on a CINA petition under this subtitle, the court shall:

(ii) Hold in abeyance a finding on whether a child with a developmental disability or a mental illness is a child in need of assistance and:

1. Order the local department to assess or reassess the **[family] FAMILY’S** and child’s eligibility for placement of the child in accordance with a voluntary placement agreement under § 5–525(a)(1)(i) of the Family Law Article;

DRAFTER’S NOTE:

Error: Grammatical error in § 3–819(b)(1)(ii)1 of the Courts and Judicial Proceedings Article.

Occurred: Ch. 461, Acts of 2007.

3–823.

(k) At least every 12 months at a hearing under this section, the court shall consult on the record with the child in an **[age appropriate] AGE-APPROPRIATE** manner.

DRAFTER’S NOTE:

Error: Omitted hyphen in § 3–823(k) of the Courts and Judicial Proceedings Article.

Occurred: Ch. 16, Acts of 2008.

3–8A–27.

(a) (2) This subsection does not prohibit:

(i) Access to and confidential use of the record by the Department of Juvenile Services or in the investigation and prosecution of the child by any law enforcement agency;

(ii) Access to and confidential use of the record by the Baltimore City Health Department:

1. If the Baltimore City Health Department is providing treatment or care to a child who is the subject of the record, for a purpose relevant to the provision of the treatment or care;

2. If the record concerns a child convicted of a crime or adjudicated delinquent for an act that caused a death or near fatality; or

3. If the record concerns a victim of a crime of violence, as defined in § 14–101 of the Criminal Law Article, who is a child residing in Baltimore City for the purpose of developing appropriate programs and policies aimed at reducing violence against children in Baltimore City; **[or]**

(iii) A law enforcement agency of the State or of a political subdivision of the State, the Department of Juvenile Services, or the criminal justice information system from including in the law enforcement computer information system information about an outstanding juvenile court ordered writ of attachment, for the sole purpose of apprehending a child named in the **[writ.] WRIT; OR**

(iv) A law enforcement agency of the State or of a political subdivision of the State from releasing to the public photographs and identifying information of a child who has escaped from a detention center for juveniles or a secure residential facility for juveniles, for the purposes of facilitating apprehension of the child and ensuring public safety.

DRAFTER'S NOTE:

Error: Stylistic error in § 3–8A–27(a)(2)(ii)3 and (iii) of the Courts and Judicial Proceedings Article.

Occurred: Chs. 526, 602, 603, Acts of 2008.

**Article – Criminal Law**

3–303.

(d) (3) A person who violates [subsections (a) and (b)] **SUBSECTION (A) OR (B)** of this section is guilty of the felony of rape in the first degree and on conviction is subject to imprisonment not exceeding life without the possibility of parole if the defendant was previously convicted of violating this section or § 3–305 of this subtitle.

**DRAFTER'S NOTE:**

Error: Incorrect conjunction in § 3–303(d)(3) of the Criminal Law Article.

Occurred: Ch. 345, Acts of 2008. Correction by the publisher of the Annotated Code in the 2008 Supplement of the Criminal Law Article is ratified by this Act.

**Article – Criminal Procedure**

10–105.

(a) A person who has been charged with the commission of a crime, including a violation of the Transportation Article for which a term of imprisonment may be imposed, or who has been charged with a civil offense or infraction, except a juvenile offense, as a substitute for a criminal charge may file a petition listing relevant facts for expungement of a police record, court record, or other record maintained by the State or a political subdivision of the State if:

(9) the person was convicted of a crime under any State or local law that prohibits:

(ix) **[Except] EXCEPT** for carrying or possessing an explosive, acid, concealed weapon, or other dangerous article as provided in § 7–705(b)(6) of the Transportation Article, any of the acts specified in § 7–705 of the Transportation Article.

**DRAFTER'S NOTE:**

Error: Capitalization error in § 10–105(a)(9)(ix) of the Criminal Procedure Article.

Occurred: Chs. 615 and 616, Acts of 2008.

10–221.

(b) Subject to [Title 3, Subtitle 4] **TITLE 3A, SUBTITLE 3** of the State Finance and Procurement Article, the regulations adopted by the Secretary under subsection (a)(1) of this section and the rules adopted by the Court of Appeals under subsection (a)(2) of this section shall:

(1) regulate the collection, reporting, and dissemination of criminal history record information by a court and criminal justice units;

(2) ensure the security of the criminal justice information system and criminal history record information reported to and collected from it;

(3) regulate the dissemination of criminal history record information in accordance with Subtitle 1 of this title and this subtitle;

(4) regulate the procedures for inspecting and challenging criminal history record information;

(5) regulate the auditing of criminal justice units to ensure that criminal history record information is:

(i) accurate and complete; and

(ii) collected, reported, and disseminated in accordance with Subtitle 1 of this title and this subtitle;

(6) regulate the development and content of agreements between the Central Repository and criminal justice units and noncriminal justice units; and

(7) regulate the development of a fee schedule and provide for the collection of the fees for obtaining criminal history record information for other than criminal justice purposes.

**DRAFTER'S NOTE:**

Error: Obsolete cross-reference in § 10-221(b) of the Criminal Procedure Article.

Occurred: As a result of Ch. 9, Acts of 2008, which repealed §§ 3-401 through 3-413 of the State Finance and Procurement Article and enacted the new title "Title 3A. Department of Information Technology", and the new subtitle "Subtitle 3. Information Processing".

12-210.

(c) If a person who is an owner or owner's tenant [and] remains in possession of the real property and the person's interest in the real property is

forfeited, the person shall immediately surrender the real property to the seizing authority in substantially the same condition as when seized.

**DRAFTER'S NOTE:**

Error: Extraneous conjunction in § 12–210(c) of the Criminal Procedure Article.

Occurred: Ch. 10, Acts of 2001.

**Article – Economic Development**

5–445.

(b) A project qualifies as an energy project if it consists of:

(12) the construction of a fuel production facility for commercial production of a gaseous, liquid, or solid fuel, or of a combination of them, that:

(iii) includes only:

1. the fuel production facility, including the equipment, plant, supplies, and other materials associated with the fuel production facility;

2. the land and mineral rights required directly for use in connection with the fuel production facility; [and]

3. any other facility or equipment to be used in the extraction of a mineral for use directly and exclusively in the fuel production facility that is necessary to the project and is:

A. colocated with or located in the immediate vicinity of the fuel production facility; or

B. if not colocated or located in accordance with item A of this item:

I. a coal mine in the case that no other reasonable source of coal is available to the project; or

II. incidental to the project; and

4. any transportation facility, electric power plant, electric transmission line, or other facility that is:

A. for the exclusive use of the project;

B. incidental to the project; and

C. necessary to the project;

DRAFTER'S NOTE:

Error: Extraneous conjunction in § 5-445(b)(12)(iii)2 of the Economic Development Article.

Occurred: Ch. 306, Acts of 2008.

12-211.

(a) The principal amount of bonds, interest payable on bonds, the transfer of bonds, and income from bonds, including profit made in the sale or transfer of bonds, [is] **ARE** exempt from State and local taxes.

DRAFTER'S NOTE:

Error: Grammatical error in § 12-211(a) of the Economic Development Article.

Occurred: Ch. 306, Acts of 2008. Correction by the publisher of the Annotated Code in the 2008 Volume of the Economic Development Article is ratified by this Act.

13-503.

(a) The Board consists of the following members:

(3) [as selected by] the Secretary of [Budget and Management, either the Chief of the State Office of] Information Technology or the Director of Network Maryland **AS THE DESIGNEE OF THE SECRETARY OF INFORMATION TECHNOLOGY;**

DRAFTER'S NOTE:

Error: Obsolete references in § 13-503(a)(3) of the Economic Development Article.

Occurred: As a result of Ch. 9, Acts of 2008. Ch. 9, Acts of 2008 transferred all functions, powers, duties, equipment, assets, liabilities, and employees of the former Office of Information Technology in the Department of Budget and Management to the newly formed Department of Information Technology, but failed to amend § 13-503(a)(3) of the Economic Development Article to reflect the status of the new Department of Information Technology and to clarify the appointment power of the Secretary of Information Technology as it relates to the membership of the Maryland Rural Broadband Coordination Board. Correction suggested by the Office of the Attorney General, Counsel to the General Assembly.



## [Part III. Consumer Affairs.]

13–628. Repealed by Acts 2008, Ch. 307.

## DRAFTER'S NOTE:

Error: Obsolete part designation immediately preceding former § 13–628 of the Economic Development Article.

Occurred: As a result of Ch. 307, Acts of 2008.

**Article – Education**

6–302.

(a) An individual who is employed as a teacher, librarian, principal, director of education, or supervisor of vocational education on the staffs of the following institutions or in the following programs, or an individual who is employed as a central office director, superintendent, specialist, or coordinator of education for the following institutions or programs, shall be paid the annual salary determined under subsection (b) of this section:

(3) Any correctional education program operated by the [State Department of Education] **DEPARTMENT OF LABOR, LICENSING, AND REGULATION** in a facility of the Department of Public Safety and Correctional Services.

## DRAFTER'S NOTE:

Error: Obsolete reference in § 6–302(a)(3) of the Education Article.

Occurred: As a result of Ch. 134, Acts of 2008.

7–426.

(b) The guidelines shall include:

(2) A description of parental or caregiver [responsibilities] **RESPONSIBILITIES**, including:

(i) School notification of a child's special health care needs or diagnosis;

(ii) Providing appropriate medication and delivery devices and medical condition indication devices including Medic Alert bracelets or necklaces;

- (iii) Parental consent for the administration of medications; and
  - (iv) Providing an emergency card for medical emergencies with current contact names and telephone numbers;
- (3) A description of school [responsibilities] **RESPONSIBILITIES**, including:
- (i) Training for school health services personnel, teachers, coaches, transportation personnel, and other appropriate school personnel;
  - (ii) Providing and distributing the required notices and forms for notification, consent for the administration of medications, medical emergency contact information, and any other appropriate material; and
  - (iii) Providing outreach and education for parents and other caregivers regarding providing emergency medical care to students with special health needs;

**DRAFTER'S NOTE:**

Error: Omitted commas in § 7-426(b)(2) and (3) of the Education Article.

Occurred: Ch. 442, Acts of 2007.

7-910.

(a) The State Superintendent and the Secretary of Business and Economic Development jointly shall ensure that specifications used in all grants and procurement contracts for technology-based instructional products require equivalent access for students with disabilities, including blindness, in accordance with the technical standards for electronic and information technology issued under Subsection (a)(2) of Section 508 of the federal Rehabilitation Act of 1973, [29 U.S.C. § 794(a)(2)] **29 U.S.C. § 794(A)**.

**DRAFTER'S NOTE:**

Error: Incorrect citation in § 7-910(a) of the Education Article.

Occurred: Ch. 457, Acts of 2002.

10-205.

(c) In developing missions and programs, the Maryland Higher Education Commission[,] **AND** each governing board and its constituent institutions shall consider the role, mission, and function of other public senior higher education

institutions, particularly those institutions offering unique programs and services in the same geographical region.

DRAFTER'S NOTE:

Error: Extraneous comma and omitted conjunction in § 10–205(c) of the Education Article.

Occurred: Ch. 246, Acts of 1988.

11–105.

(e) (3) The Commission is responsible for receiving and allocating federal funds [which] **THAT**, under federal law or regulation, must be allocated among segments by a statewide authority.

DRAFTER'S NOTE:

Error: Grammatical error in § 11–105(e)(3) of the Education Article.

Occurred: Ch. 246, Acts of 1988.

11–501.

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

**(B) “COMMISSION” MEANS THE MARYLAND FIRE–RESCUE EDUCATION AND TRAINING COMMISSION.**

**[(b)] (C)** “Emergency services” means fire, rescue, and ambulance services.

**[(c)] (D)** “Schools” means the Maryland Fire and Rescue Institute, any emergency services training academy operated by any city, county, or municipal government, any community college offering emergency services education and training courses, any public school offering emergency services education and training courses, and any private or governmental institution or body providing emergency services education and training courses.

DRAFTER'S NOTE:

Error: Omitted definition in § 11–501 of the Education Article.

Occurred: Ch. 246, Acts of 1988.

11–502.

(b) (4) A member may be removed by the Governor:

(i) For neglect of duty; or

(ii) If [he] **THE GOVERNOR** believes the member's continued membership is not in the public interest.

DRAFTER'S NOTE:

Error: Stylistic error in § 11-502(b)(4)(ii) of the Education Article.

Occurred: Ch. 246, Acts of 1988.

14-302.

(a) The Secretary of Budget and Management shall provide [for] forms for initiating and processing grievances.

DRAFTER'S NOTE:

Error: Extraneous word in § 14-302(a) of the Education Article.

Occurred: Ch. 485, Acts of 1994.

17-104.

(a) The Maryland Higher Education Commission shall compute the amount of the annual apportionment for each institution that qualifies under this subtitle by multiplying:

(1) The number of full-time equivalent students enrolled at the institution during the fall semester of the fiscal year preceding the fiscal year for which the aid apportionment is made, as determined by the Maryland Higher Education Commission [times;]; **TIMES**

DRAFTER'S NOTE:

Error: Misplaced punctuation in § 17-104(a)(1) of the Education Article.

Occurred: Ch. 22, Acts of 1978.

18-402.

(b) Each applicant shall:

(1) Be a resident of this State; and

(2) At the time of [his] **THE APPLICANT'S** initial application, be a resident of the legislative district from which [he] **THE APPLICANT** seeks an [appointment] **AWARD**.

**DRAFTER'S NOTE:**

Error: Stylistic errors and misnomer in § 18–402(b)(2) of the Education Article.

Occurred: Ch. 22, Acts of 1978.

18–601.

(a) (5) “Victim of the [September 11, 2001] **SEPTEMBER 11, 2001**, terrorist attacks” means a Maryland resident who was killed as a result of the attacks on the World Trade Center in New York City, the attack on the Pentagon in Virginia, or the crash of United Airlines Flight 93 in Pennsylvania.

(d) A person may apply to the Office for a scholarship under this section if the person:

(3) (i) Is at least 16 years old and a son or daughter of a member of the armed forces who:

1. Died as a result of military service after December 7, 1941;

2. Suffered a service connected 100% permanent disability after December 7, 1941; or

3. Was declared to be a prisoner of war or missing in action, if that occurred on or after [January 1, 1960] **JANUARY 1, 1960**, as a result of the Vietnam conflict, and if the child was born prior to or while the parent was a prisoner of war or missing in action;

(ii) Was a prisoner of war on or after [January 1, 1960] **JANUARY 1, 1960**, as a result of the Vietnam conflict and was a resident of this State at the time the person was declared to be a prisoner of war or missing in action;

(vi) Is at least 16 years old and a son or daughter of or the surviving spouse of a victim of the [September 11, 2001] **SEPTEMBER 11, 2001**, terrorist attacks.

(g) (1) Each recipient of a scholarship under this section may hold the award for 5 years of full–time study or 8 years of part–time study.

(2) The Office may not award more than 15 scholarships annually under subsection (d)(3)(v) of this section.

(3) An award provided under subsection (d)(3)(vi) of this section may not exceed the amount specified in subsection (f)(2) of this section when combined with any other scholarship received by a student based on the student's status as a child or spouse of a victim of the [September 11, 2001] **SEPTEMBER 11, 2001**, terrorist attacks.

**DRAFTER'S NOTE:**

Error: Omitted punctuation in § 18–601(a)(5), (d)(3)(i)3, (ii), and (vi), and (g)(3) of the Education Article.

Occurred: Ch. 221, Acts of 1990; Ch. 99, Acts of 2002.

18–705.

(a) (3) “Child care provider” means a person employed:

(ii) At a child care center as a:

1. Senior staff member; or
2. Staff [aid] **AIDE** under the full-time, on-site supervision of a senior staff member or director of a child care center.

**DRAFTER'S NOTE:**

Error: Incorrect word usage in § 18–705(a)(3)(ii)2 of the Education Article.

Occurred: Ch. 462, Acts of 1991.

**[Subtitle 1. Correctional Institutions.]**

22–101. Repealed by Acts of 2008, Ch. 134.

**DRAFTER'S NOTE:**

Error: Obsolete subtitle designation immediately preceding former § 22–101 of the Education Article.

Occurred: As a result of Ch. 134, Acts of 2008. Correction by the publisher of the Annotated Code in the 2008 Replacement Volume of the Education Article is ratified by this Act.

24–106.

(c) The Governor shall appoint a board of trustees to govern the Lida Lee Tall Learning Resources Center who shall:

(2) Appoint the principal [and] **AND**, upon the recommendation of the [principal shall] **PRINCIPAL**, appoint all professional and support staff and determine the salaries of the professional and support staff;

**DRAFTER'S NOTE:**

Error: Omitted punctuation and extraneous word in § 24-106(c)(2) of the Education Article.

Occurred: Ch. 888, Acts of 1982.

24-524.

(b) (1) Subject to paragraph (2) of this subsection, the bonds of the Commission may **BE**, but are not required to be, issued in conformance with any applicable provisions of the Internal Revenue Code of the United States in order that the interest payable thereon shall be excludable from federal gross income.

**DRAFTER'S NOTE:**

Error: Omitted word in § 24-524(b)(1) of the Education Article.

Occurred: Ch. 583, Acts of 1997.

### **Article – Environment**

1-607.

(a) (3) On or before January 1, 1998, for each licensing and permitting program, the Department shall offer assistance and information to persons which may include:

(iii) Preapplication meetings with prospective [applicant] **APPLICANTS** to address technical issues;

(b) (4) A permit applicant may apply to the Department for a refund of all or a portion of the application fee if:

(ii) The applicant demonstrates that the delay was caused solely by the Department and was not the result of procedures or requirements outside **THE** control of the Department, including:

- agencies;
1. Reviews by federal, local, or other State government agencies;
  2. Procedures for public participation; or
  3. The failure of the applicant to submit information to the Department in a timely manner; and

**DRAFTER'S NOTE:**

Error: Grammatical error in § 1-607(a)(3)(iii) and omitted word in § 1-607(b)(4)(ii) of the Environment Article.

Occurred: Ch. 639, Acts of 1997.

2-403.

(c) (3) The fee established under this section may be adjusted to reflect changes in the Consumer Price Index, as authorized by 40 C.F.R. [Part] 70 (Operating Permit Program).

**DRAFTER'S NOTE:**

Error: Extraneous word in § 2-403(c)(3) of the Environment Article.

Occurred: Ch. 358, Acts of 1993.

9-421.

(b) State assistance under this Part II of [Subtitle 4] **THIS SUBTITLE**, may not exceed [87½] **87.5** percent of eligible costs for each project or part of a project.

**DRAFTER'S NOTE:**

Error: Stylistic errors in § 9-421(b) of the Environment Article.

Occurred: Ch. 187, Acts of 1990.

9-1617.1.

(b) (3) [(i)] The [auditors] **AUDITORS:**

(i) [may] **MAY** not have a personal interest either directly or indirectly in the fiscal affairs of the administration; and



(ii) Shall be experienced and qualified in the accounting and auditing of public bodies.

**DRAFTER'S NOTE:**

Error: Stylistic error in § 9-1617.1(b)(3) of the Environment Article.

Occurred: Ch. 121, Acts of 2008. Correction by the publisher of the Annotated Code in the 2008 Supplement of the Environment Article is ratified by this Act.

**Article – Family Law**

5-323.

(d) Except as provided in subsection (c) of this section, in ruling on a petition for guardianship of a child, a juvenile court shall give primary consideration to the health and safety of the child and consideration to all other factors needed to determine whether terminating a parent's rights is in the child's best interests, including:

(3) whether:

(iv) the parent has been convicted, in any state or any court of the United States, of:

1. a crime of violence against:
  - A. a minor offspring of the parent;
  - B. the child; or
  - C. another parent of the child; or
2. aiding or abetting, conspiring, or soliciting to commit a crime described in [subitem] **ITEM** 1 of this item; and

**DRAFTER'S NOTE:**

Error: Stylistic error in § 5-323(d)(3)(iv)2 of the Family Law Article.

Occurred: Ch. 464, Acts of 2005.

5-3B-22.

(b) (1) A court may allow adoption, without parental consent otherwise required under this subtitle, by a petitioner who has exercised physical care, control,

or custody over the prospective adoptee for at least 180 days, if the court finds by clear and convincing evidence that:

- (iii) the parent:
  - 5. has been convicted, in any state or any court of the United States, of:
    - A. a crime of violence against:
      - I. a minor offspring of the parent;
      - II. the child; or
      - III. another parent of the child; or
    - B. aiding or abetting, conspiring, or soliciting to commit a crime described in [subitem] **ITEM A** of this item; or

**DRAFTER'S NOTE:**

Error: Stylistic error in § 5-3B-22(b)(1)(iii)5B of the Family Law Article.

Occurred: Ch. 464, Acts of 2005.

10-301.

(o) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision, agency, [or] instrumentality, public corporation, or any other legal or commercial entity.

(x) "Support order" means a judgment, decree, order, or directive whether temporary, final, or subject to modification, issued by a tribunal for the benefit of a child, a spouse, or a former spouse, [which] **THAT** provides for monetary support, health care, arrearages, or reimbursement, and may include related costs and fees, interest, income withholding, attorney's fees, and other relief.

(y) "Tribe" means a tribe, band, or village of Native Americans [which] **THAT** is recognized by federal law or formally acknowledged by a state.

**DRAFTER'S NOTE:**

Error: Extraneous conjunction in § 10-301(o); grammatical error in § 10-301(x) and (y) of the Family Law Article.

Occurred: Ch. 522, Acts of 2008; Ch. 667, Acts of 1996.

10–350.

(a) If § 10–352 **OF THIS SUBTITLE** does not apply, except as otherwise provided in § 10–353.1 of this subtitle, on the filing of a complaint, a tribunal of this State may modify a child support order issued in another state that is registered in this State if, after notice and hearing, the tribunal finds that:

(1) the following requirements are met:

(i) neither the child, nor the obligee who is an individual, nor the obligor resides in the issuing state;

(ii) a plaintiff who is a nonresident of this State seeks modification; and

(iii) the defendant is subject to the personal jurisdiction of the tribunal of this State; or

(2) this State is the state of residence of the child or a party who is an individual is subject to the personal jurisdiction of the tribunal of this State and all of the parties who are individuals have filed consents in a record in the issuing tribunal for a tribunal of this State to modify the support order and assume continuing, exclusive jurisdiction.

**DRAFTER'S NOTE:**

Error: Stylistic error in § 10–350(a) of the Family Law Article.

Occurred: Ch. 522, Acts of 2008.

### **Article – Financial Institutions**

13–801.

(a) In this [section] **SUBTITLE** the following words have the meanings indicated, unless otherwise required by the context.

**DRAFTER'S NOTE:**

Error: Erroneous internal reference in § 13–801(a) of the Financial Institutions Article.

Occurred: Ch. 598, Acts of 1987.

### **Article – Health – General**

5–509.

(c) Unless a person has knowledge that contrary directions have been given by the decedent, if a decedent has not executed a document under subsection (a) of this section, the following persons, in the order of priority stated, have the right to arrange for the final disposition of the body of the decedent, including by cremation under § 5–502 of this subtitle:

(7) In the absence of any person under [paragraphs] ITEMS (1) through (6) of this subsection, any other person willing to assume the responsibility to act as the authorizing agent for purposes of arranging the final disposition of the decedent's body, including the personal representative of the decedent's estate, after attesting in writing that a good faith effort has been made to no avail to contact the individuals under [paragraphs] ITEMS (1) through (6) of this subsection.

DRAFTER'S NOTE:

Error: Stylistic error in § 5–509(c)(7) of the Health – General Article.

Occurred: Ch. 517, Acts of 1994.

18–206.

(g) (2) (ii) The committee shall consist of:

6. Representatives of the **STATE** Department of Education; and

DRAFTER'S NOTE:

Error: Misnomer in § 18–206(g)(2)(ii)6 of the Health – General Article.

Occurred: Ch. 611, Acts of 1982.

19–120.

(h) (2) This subsection does not apply to any increase or decrease in bed capacity if:

(iii) 1. At least 45 days before increasing or decreasing bed capacity, written notice of intent to change bed capacity is filed with the Commission;

2. The Commission in its sole discretion finds that the proposed change:

A. Is pursuant to the consolidation or merger of 2 or more health care facilities, or conversion of a health care facility or part of a facility to a nonhealth–related use;

B. Is not inconsistent with the State health plan or the institution–specific plan developed by the Commission;

C. Will result in the delivery of more efficient and effective health care services; **AND**

D. Is in the public interest; and

3. Within 45 days of receiving notice, the Commission [shall notify] **NOTIFIES** the health care facility of its finding; or

**DRAFTER’S NOTE:**

Error: Omitted conjunction in § 19–120(h)(2)(iii)2C; grammatical error in § 19–120(h)(2)(iii)3 of the Health – General Article.

Occurred: Ch. 678, Acts of 1999; Ch. 109, Acts of 1985.

19–344.

(c) (1) In this [subsection] **SUBSECTION**, “agent” means a person who manages, uses, or controls the funds or assets that legally may be used to pay the applicant’s or resident’s share of costs or other charges for the facility’s services.

**DRAFTER’S NOTE:**

Error: Stylistic error in § 19–344(c)(1) of the Health – General Article.

Occurred: Ch. 452, Acts of 1988.

19–1401.

(a) In this [subtitle,] **SUBTITLE** the following words have the meanings indicated.

**DRAFTER’S NOTE:**

Error: Extraneous comma in § 19–1401(a) of the Health – General Article.

Occurred: Ch. 134, Acts of 1989.

24–1605.

(k) If, at the end of the extension of time and not more than 60 days from the beginning of the 2009 **SESSION OF THE** General Assembly, the Authority has not reached a final agreement on the transfer of the Prince George's County health care system to a successful bidder, the State and the county shall be relieved of their obligation to commit financial support to the Prince George's County health care system as agreed upon under § 24-1604(b) and (c) of this subtitle.

**DRAFTER'S NOTE:**

Error: Omitted words in § 24-1605(k) of the Health – General Article.

Occurred: Ch. 680, Acts of 2008.

**Article – Health Occupations**

Subtitle 2. State Board of Chiropractic **AND MASSAGE THERAPY** Examiners.

3-201.

There is a State Board of Chiropractic and Massage Therapy Examiners in the Department.

**DRAFTER'S NOTE:**

Error: Obsolete subtitle designation immediately preceding Section 3-201 of the Health Occupations Article.

Occurred: As a result of Chs. 242 and 243, Acts of 2008.

7-410.

(c) Unless a person has knowledge that contrary directions have been given by the decedent, if a decedent has not executed a document under subsection (a) of this section, the following persons, in the order of priority stated, have the right to arrange for the final disposition of the body of the decedent under this section and are liable for the reasonable costs of preparation, care, and disposition of the decedent:

(7) In the absence of any person under [paragraphs] **ITEMS** (1) through (6) of this subsection, any other person willing to assume the responsibility to act as the authorizing agent for purposes of arranging the final disposition of the decedent's body, including the personal representative of the decedent's estate, after attesting in writing that a good faith effort has been made to no avail to contact the persons described in [paragraphs] **ITEMS** (1) through (6) of this subsection.

**DRAFTER'S NOTE:**

Error: Stylistic errors in § 7-410(c)(7) of the Health Occupations Article.

Occurred: Ch. 145, Acts of 1996.

7-4A-03.

(e) The Fund is not liable [to] **FOR** any other expenses or obligations of the Board.

DRAFTER'S NOTE:

Error: Incorrect word usage in § 7-4A-03(e) of the Health Occupations Article.

Occurred: Ch. 532, Acts of 2008. Correction by the publisher of the Annotated Code in the 2008 Supplement of the Health Occupations Article is ratified by this Act.

12-101.

(s) (1) "Practice pharmacy" means to engage in any of the following activities:

(viii) Administering an influenza, **PNEUMOCOCCAL PNEUMONIA, OR HERPES ZOSTER** vaccination in accordance with § 12-508 of this title.

DRAFTER'S NOTE:

Error: Omitted references in § 12-101(s)(1)(viii) of the Health Occupations Article.

Occurred: Ch. 619, Acts of 2008. Ch. 619 of the Acts of 2008 expanded the authority of a pharmacist to administer a vaccination under § 12-508 of the Health Occupations Article, but failed to make conforming changes in § 12-101 of the Health Occupations Article.

14-5B-04.

(b) (1) The Board shall pay all fees collected under the provisions of this subtitle to the **STATE** Comptroller [of the State].

DRAFTER'S NOTE:

Error: Misnomer in § 14-5B-04(b)(1) of the Health Occupations Article.

Occurred: Ch. 373, Acts of 2002.

14-5B-06.

In addition to the powers set forth elsewhere in this subtitle, the Committee shall:

(2) Make recommendations to the Board on a code of ethics for the practice of radiation therapy, the practice of radiography, the practice of nuclear medicine technology, and **THE** practice of radiology assistance for adoption by the Board;

(3) On request, make recommendations to the Board on standards of care for the practice of radiation therapy, **THE** practice of radiography, **THE** practice of nuclear medicine technology, and **THE** practice of radiology assistance;

**DRAFTER'S NOTE:**

Error: Omitted articles in § 14-5B-06(2) and (3) of the Health Occupations Article.

Occurred: Ch. 328, Acts of 2008.

16-311.

(a) Subject to the hearing provisions of § 16-313 of this subtitle, the Board, on the affirmative vote of a majority of its members then serving, may deny a license or a limited license to any applicant, reprimand any licensee or holder of a limited license, impose an administrative monetary penalty not exceeding \$50,000 on any licensee or holder of a limited license, place any licensee or holder of a limited license on probation, or suspend or revoke a license or a limited license if the applicant, licensee, or holder:

(21) Has been disciplined by a licensing or disciplinary authority of any state or country or convicted or disciplined by a court of any state or country or disciplined by any branch of the United States [**Uniformed Services**] **UNIFORMED SERVICES** or the United States Veterans Administration for an act that would be grounds for disciplinary action under this section;

**DRAFTER'S NOTE:**

Error: Capitalization error in § 16-311(a)(21) of the Health Occupations Article.

Occurred: Ch. 134, Acts of 2003.

17-405.1.

(a) **[(1)]** The Board shall waive the requirements for certification as a certified professional counselor-alcohol and drug under § 17-402 of this subtitle for any individual who:



**[(i)] (1)** Had filed a letter of intent with the Board by October 1, 2001;

**[(ii)] (2)** Files an application for certification as a certified professional counselor—alcohol and drug on or before May 1, 2009;

**[(iii)] (3)** Holds a master's or doctoral degree in a health and human services counseling field or has completed a program that the Board determines to be substantially equivalent in subject matter and extent of training as a master's or doctoral degree in a health and human services counseling field;

**[(iv)] (4)** As of July 1, 2001, was certified as a certified chemical dependency counselor, its equivalent, or higher by the Maryland Addiction Counselor Certification Board, another state, the Certification Commission of the National Association of Alcoholism and Drug Abuse Counselors, or the International Certification Reciprocity Consortium, or was employed in the capacity of a Program Specialist I, II, III, or its equivalent, or higher, in an agency or facility accredited by the Joint Commission on the Accreditation of Health Care Organizations or certified under Title 8, Subtitle 4 of the Health – General Article;

**[(v)] (5)** Has completed not less than 3 years with a minimum of 3,000 hours of supervised experience in alcohol and drug abuse counseling approved by the Board, 2 years of which shall have been completed after the award of the master's or doctoral degree; and

**[(vi)] (6)** Had, by October 1, 2001, successfully passed an examination approved by the Board.

**[(2)] (B)** The Board shall waive the requirements for certification as a certified associate counselor—alcohol and drug for any individual who:

**[(i)] (1)** Had filed a letter of intent with the Board by October 1, 2001;

**[(ii)] (2)** Files an application for certification as a certified associate counselor—alcohol and drug on or before May 1, 2009;

**[(iii)] (3)** Holds a bachelor's degree in a health and human services counseling field or has completed a program that the Board determines to be substantially equivalent in subject matter and extent of training to a bachelor's degree in a health and human services counseling field;

**[(iv)] (4)** As of July 1, 2001, was certified as a certified chemical dependency counselor, its equivalent, or higher, by the Maryland Addiction Counselor Certification Board, another state, the Certification Commission of the

National Association of Alcoholism and Drug Abuse Counselors, or the International Certification Reciprocity Consortium, or was employed in the capacity of a Program Specialist I, II, III, or its equivalent, or higher, in an agency or facility accredited by the Joint Commission on the Accreditation of Health Care Organizations or certified under Title 8, Subtitle 4 of the Health – General Article; and

**[(v)] (5)** Has completed not less than 3 years with a minimum of 3,000 hours of supervised experience in alcohol and drug abuse counseling approved by the Board, 2 years of which shall have been completed after the award of the bachelor's degree or a program that the Board determines to be substantially equivalent in subject matter and extent of training.

**[(3)] (C)** The Board shall waive the requirements for certification as a certified supervised counselor–alcohol and drug for any individual who:

**[(i)] (1)** Had filed a letter of intent with the Board by October 1, 2001;

**[(ii)] (2)** Files an application for certification as a certified supervised counselor–alcohol and drug on or before May 1, 2009;

**[(iii)] (3)** Holds an associate's degree in health and human services counseling or has completed a program that the Board determines to be substantially equivalent in subject matter and extent of training to an associate's degree in health and human services counseling; or

**[(iv)] (4)** As of July 1, 2001, was certified as a certified alcoholism counselor, certified drug counselor, or higher, by the Maryland Addiction Counselor Certification Board, another state, the Certification Commission of the National Association of Alcoholism and Drug Abuse Counselors, or the International Certification Reciprocity Consortium, or was employed in the capacity of an Addiction Counselor II or III, or its equivalent, or higher, in an agency or facility accredited by the Joint Commission on the Accreditation of Health Care Organizations or certified under Title 8, Subtitle 4 of the Health – General Article.

**DRAFTER'S NOTE:**

Error: Tabulation error in § 17–405.1 of the Health Occupations Article.

Occurred: Ch. 505, Acts of 2008. Correction by the publisher of the Annotated Code in the 2008 Supplement of the Health Occupations Article is ratified by this Act.

**Article – Labor and Employment**

(c) This section does not apply to an employer with respect to:

(1) an employee for whom the United States Secretary of Transportation may set qualifications and maximum hours of service under 49 U.S.C. § [3102] **31502**;

DRAFTER'S NOTE:

Error: Obsolete reference in § 3–415(c)(1) of the Labor and Employment Article.

Occurred: As a result of changes in federal law enacted by P. L. 97–449 (1983).

9–303.

(c) The Chairman shall conduct hearings unless [it interferes] **THE HEARINGS INTERFERE** with the adequate and efficient performance of the administrative and executive functions of the Chairman.

DRAFTER'S NOTE:

Error: Incorrect word usage in § 9–303(c) of the Labor and Employment Article.

Occurred: Ch. 8, Acts of 1991.

11–806.

(a) (1) The Adult Education and Literacy Services Office shall distribute competitive grants for adult education and literacy services in accordance with the State plan for adult education and family literacy.

(2) The grants distributed under this section shall be based on need and performance.

(3) Grants under this section may be used for adult education and literacy services, including:

(i) GED instruction;

(ii) the Maryland Adult External High School Program under § 11–807 of this subtitle;

(iii) Workplace Literacy Services;

(iv) English for speakers of other languages;

(v) family literacy; and

(vi) literacy instruction.

(b) Funding for the competitive grants under this section shall be as provided in the State budget.

**(c) ON OR BEFORE AUGUST 1 EACH YEAR, THE DEPARTMENT SHALL:**

**(1) COMPILE A LIST BY COUNTY OF ADULT EDUCATION AND LITERACY SERVICES OFFERED TO THE PUBLIC;**

**(2) DISTRIBUTE THE LIST TO THE COUNTY BOARD AND COUNTY SUPERINTENDENT OR CHIEF EXECUTIVE OFFICER OF EACH LOCAL SCHOOL SYSTEM IN THE STATE; AND**

**(3) POST THE LIST ON ITS PUBLIC WEBSITE.**

DRAFTER'S NOTE:

Error: Codification error corrected and placed at § 11–806(c) of the Labor and Employment Article.

Occurred: As a result of Ch. 134, Acts of 2008. The provisions of § 11–806(c) were originally enacted as § 5–218(c) of the Education Article by Ch. 451, Acts of 2008. Ch. 134, Acts of 2008, repealed § 5–218 of the Education Article, but enacted equivalent provisions as § 11–806 of the Labor and Employment Article. The Attorney General, in the bill review letter for Senate Bill 773 advised that Ch. 451, Acts of 2008, be treated as an amendment to § 11–806 of the Labor and Employment Article. In accordance with the advice of the Attorney General, the correction was made by the publisher of the Annotated Code in the 2008 Replacement Volume of the Labor and Employment Article and is ratified by this Act.

11–906.

(a) Notwithstanding any other provision of law, Patuxent Institution is a correctional institution within the Division of Correction and under the jurisdiction of the Education and Workforce Training [and] Coordinating Council for [correctional institutions] **CORRECTIONAL INSTITUTIONS** for the funding of educational programs only.

DRAFTER'S NOTE:

Error: Misnomer in § 11–906(a) of the Labor and Employment Article.

Occurred: Ch. 134, Acts of 2008.

1–403.

(c) The Department shall develop the electronic system consistent with the statewide information technology master plan developed under Title [3] **3A**, Subtitle [4] **3** of the State Finance and Procurement Article.

**DRAFTER'S NOTE:**

Error: Obsolete cross-reference in § 1–403(c) of the Natural Resources Article.

Occurred: As a result of Ch. 9, Acts of 2008.

3–104.

(n) (1) To make any contract or agreement the Service determines to be necessary or incidental to the performance of its duties and to the execution of the purpose of and the powers granted by this subtitle, including contracts with the federal or any state government, or any unit, instrumentality, or municipality thereof, or with any person, on terms and [condition] **CONDITIONS** the Service approves.

**DRAFTER'S NOTE:**

Error: Grammatical error in § 3–104(n)(1) of the Natural Resources Article.

Occurred: Ch. 196, Acts of 1993.

4–735.

(d) Chain pickerel may not be transported into or out of the State during April, May, and June. Anglers, however, may possess and transport chain pickerel caught with rod, or hook and line, in accordance with the provisions of this section. This subsection does not prevent shipment in interstate commerce of live chain pickerel for propagating, breeding, or stocking purposes under [§ 4–11A–19] **§ 4–11A–21** of this title, nor prevent any person from catching or engaging in catching chain pickerel for propagating or restocking the waters of the State under the direction of the Department under § 4–410 of this title.

**DRAFTER'S NOTE:**

Error: Erroneous cross-reference in § 4–735(d) of the Natural Resources Article.

Occurred: Ch. 4, Acts of the First Special Session of 1973, which, in revising former Art. 66C as part of the enactment of the Natural Resources Article, enacted an erroneous cross-reference to § 4–621 rather than § 4–623 of the Natural Resources Article (formerly Art. 66C, § 215). The error was repeated when the cross-reference

was amended by Ch. 6, Acts of 1990 to conform to a previous renumbering of the cross-referenced provision enacted by Ch. 534, Acts of 1988.

4-1008.

(a) (3) “Nonnative” means a species of oyster other than the *Crassostrea [Virginica] VIRGINICA*.

DRAFTER’S NOTE:

Error: Capitalization error in § 4-1008(a)(3) of the Natural Resources Article.

Occurred: Ch. 441, Acts of 2005.

5-903.

(d) Any funds previously or subsequently appropriated or reimbursed to the Department from the Land and Water Conservation Fund of the United States Department of **THE** Interior, National Park Service shall be used to supplement the acquisition and development program of the Department and of other eligible State agencies and local government bodies.

DRAFTER’S NOTE:

Error: Omitted article in § 5-903(d) of the Natural Resources Article.

Occurred: Ch. 4, Acts of the First Special Session of 1973.

8-2A-03.

(b) The BayStat Program shall:

(6) Increase public awareness of, and participation in, efforts to restore the vitality of the Chesapeake **[Bay] AND ATLANTIC COASTAL BAYS**; and

(c) The BayStat Subcabinet shall:

(1) Report annually to the public regarding:

(i) The health of the Chesapeake **[and Atlantic Coastal Bays tributary] BAY TRIBUTARY** basin;

DRAFTER’S NOTE:

Error: Inconsistent terminology in § 8-2A-03(b)(6) and (c)(1)(i) of the Natural Resources Article.

Occurred: Ch. 121, Acts of 2008. Correction by the publisher of the Annotated Code in the 2008 Supplement of the Natural Resources Article, consistent with Chapter 120, Acts of 2008, is ratified by this Act.

8–2A–04.

(c) (2) The BayStat Subcabinet agencies shall administer the funds in accordance with the final work and expenditure plans, including the distribution of funds:

(iv) To the Woodland [Incentive] **INCENTIVES** Fund established under § 5–307 of this article.

DRAFTER'S NOTE:

Error: Misnomer in § 8–2A–04(c)(2)(iv) of the Natural Resources Article.

Occurred: Chs. 120 and 121, Acts of 2008.

8–1801.

(a) The General Assembly finds and declares that:

(4) Human activity is harmful in these shoreline areas, where the new development of nonwater-dependent structures or an increase in lot coverage is presumed to be contrary to the purpose of this subtitle, because these activities may cause adverse impacts, of both an immediate and a long-term nature, to the Chesapeake and **THE** Atlantic Coastal Bays, and thus it is necessary wherever possible to maintain a buffer of at least 100 feet landward from the mean high water line of tidal waters, tributary streams, and tidal wetlands;

DRAFTER'S NOTE:

Error: Omitted article in § 8–1801(a)(4) of the Natural Resources Article.

Occurred: Ch. 526, Acts of 2004.

8–1802.

(a) (4) “Buffer” means an existing, naturally vegetated area, or an area established in vegetation and managed to protect aquatic, wetlands, shoreline, and terrestrial environments from [man-made] **MANMADE** disturbances.

DRAFTER'S NOTE:

Error: Extraneous hyphen in § 8–1802(a)(4) of the Natural Resources Article.

Occurred: Ch. 526, Acts of 2004.

8-1808.1.

(e) (1) Except as authorized under paragraph (2) of this subsection, in calculating the 1-in-20 acre density of development that is permitted on a parcel located within the resource conservation area, a local jurisdiction:

(ii) May permit the area of any private wetlands located on the property to be included, under the following conditions:

1. The density of development on the upland portion of the parcel may not exceed [1] ONE dwelling unit per 8 acres; and

DRAFTER'S NOTE:

Error: Stylistic error in § 8-1808.1(e)(1)(ii)1 of the Natural Resources Article.

Occurred: Ch. 602, Acts of 1986.

### Article – Public Safety

14-3A-01.

(e) “Health care provider” means:

(1) a health care facility as defined in § [19-114(e)(1)] **19-114(D)(1)** of the Health – General Article;

(2) a health care practitioner as defined in § [19-114(f)] **19-114(E)** of the Health – General Article; and

DRAFTER'S NOTE:

Error: Erroneous cross-reference in § 14-3A-01(e)(1) and (2) of the Public Safety Article.

Occurred: Ch. 26, Acts of 2004.

### Article – Public Utility Companies

2-110.

(c) (3) The Commission shall send a bill to each public service company on or before [May 1st] **MAY 1** of each year.



(6) The public service company:

(i) shall pay the bill on or before the next [July 15th] **JULY 15**;

or

(ii) may elect to make partial payments on the 15th days of July, October, January, and April.

(10) (i) On or before [September 15th] **SEPTEMBER 15** of each year, the Chairman shall compute the actual costs and expenses of the Commission, and the actual costs and expenses of the Office of People's Counsel, as provided by the People's Counsel for the preceding fiscal year.

(ii) If the amounts collected are less than the actual costs and expenses of the Commission and the Office of the People's Counsel, after deducting the amounts recovered under §§ 2-111(a) and 2-123 of this subtitle, on or before [October 15th] **OCTOBER 15**, the Chairman shall send to any public service company that is affected a statement that shows the amount due.

(12) The total amount that may be charged to a public service company under this section for a State fiscal year may not exceed:

(i) 0.17% of the public service company's gross operating revenues derived from intrastate utility and electricity [supplier's] **SUPPLIER** operations in the preceding calendar year, or other 12-month period that the Chairman determines, for the costs and expenses of the Commission other than that of the Office of People's Counsel; plus

(ii) 0.05% of those revenues for the costs and expenses of the Office of People's Counsel.

**DRAFTER'S NOTE:**

Error: Stylistic errors in § 2-110(c)(3), (6), and (10)(i) and (ii); incorrect word usage in § 2-110(c)(12)(i) of the Public Utility Companies Article.

Occurred: The stylistic errors occurred in Ch. 8, Acts of 1998; and the incorrect word usage occurred in Chs. 3 and 4, Acts of 1999.

6-206.

(b) (1) The Commission shall provide each public service company with a blank form of AN annual report in time to allow the public service company to comply with subsection (a) of this section.

**DRAFTER'S NOTE:**

Error: Omitted word in § 6–206(b)(1) of the Public Utility Companies Article.

Occurred: Ch. 8, Acts of 1998.

6–210.

(b) In its annual report, a public service company shall:

(3) provide a copy of any restrictive covenant attached to the debt described in [paragraph] ITEM (1) or (2) of this subsection.

DRAFTER'S NOTE:

Error: Stylistic error in § 6–210(b)(3) of the Public Utility Companies Article.

Occurred: Ch. 8, Acts of 1998.

7–211.

(f) The Commission shall:

(3) ensure that adoption of electric customer choice under Subtitle 5 of this title does not adversely impact the continuation of [cost effective energy conservation and efficiency] **COST-EFFECTIVE ENERGY EFFICIENCY AND CONSERVATION** programs.

DRAFTER'S NOTE:

Error: Omitted hyphen and inconsistent terminology in § 7–211(f)(3) of the Public Utility Companies Article.

Occurred: As a result of Ch. 131, Acts of 2008.

12–311.

(e) Before an agreement made under this section takes [effect] **EFFECT**, the Commission may conduct proceedings and shall:

(1) determine that the agreement is in the public interest; and

(2) issue an order to approve the agreement, disapprove the agreement, or approve the agreement subject to specified conditions.

DRAFTER'S NOTE:

Error: Omitted comma in § 12–311(e) of the Public Utility Companies Article.

Occurred: Ch. 8, Acts of 1998.

13–208.

(b) A summary cease and desist order issued by the Commission under subsection (a) of this section shall:

(1) be personally and promptly served on the affected person or the person's legal representative;

(2) be effective only after it is served under item (1) of this subsection;  
[and]

(3) [(i)] identify the date and hour of issuance;

[(ii)] (4) define the harm that the Commission finds will result if the summary cease and desist order is not issued;

[(iii)] (5) state the basis for the Commission's finding that the harm will be immediate, substantial, and irreparable;

[(iv)] (6) state that any person affected by the summary cease and desist order may immediately apply to have the order modified or vacated by the Commission;

[(v)] (7) state that the Commission may modify or vacate the summary cease and desist order as requested or may set the matter for hearing under subsection (c) of this section; and

[(vi)] (8) provide notice of the opportunity for an evidentiary hearing to determine whether the summary cease and desist order should be modified, vacated, or entered as final.

DRAFTER'S NOTE:

Error: Tabulation error in § 13–208(b) of the Public Utility Companies Article.

Occurred: Ch. 267, Acts of 2002.

### Article – Real Property

8–203.1.

(a) A receipt for a security deposit shall notify the tenant of the following:

(5) The tenant's right to receive, by [first class] **FIRST-CLASS** mail, delivered to the last known address of the tenant, a written list of the charges against the security deposit claimed by the landlord and the actual costs, within 45 days after the termination of the tenancy;

(6) The obligation of the landlord to return any unused portion of the security deposit, by [first class] **FIRST-CLASS** mail, addressed to the tenant's last known address within 45 days after the termination of the tenancy; and

**DRAFTER'S NOTE:**

Error: Omitted hyphen in § 8-203.1(a)(5) and (6) of the Real Property Article.

Occurred: Ch. 649, Acts of 1999.

8-402.4.

(c) (4) If notice of the summons is sent to the person in possession by [first class] **FIRST-CLASS** mail, the affixing of the summons in accordance with paragraph (3) of this subsection shall constitute sufficient service to support restitution of possession.

**DRAFTER'S NOTE:**

Error: Omitted hyphen in § 8-402.4(c)(4) of the Real Property Article.

Occurred: Ch. 649, Acts of 1999.

11-103.1.

(b) If a council of unit owners or board of directors executes and records an amendment under subsection (a) of this section, the council or board shall also record with the amendment:

(2) An affidavit by the council or board that at least 30 days before recordation of the amendment a copy of the amendment was sent by [first class] **FIRST-CLASS** mail to each unit owner at the last address on record with the council of unit owners.

**DRAFTER'S NOTE:**

Error: Omitted hyphen in § 11-103.1(b)(2) of the Real Property Article.

Occurred: Ch. 576, Acts of 1995.

14–120.

(o) Provisions of [the Real Property Article] **THIS ARTICLE** or public local laws applicable to actions between a landlord and tenant are not applicable to actions brought against a landlord or a tenant under this section.

DRAFTER'S NOTE:

Error: Stylistic error in § 14–120(o) of the Real Property Article.

Occurred: Ch. 301, Acts of 2000.

## Article – State Finance and Procurement

### [Subtitle 4. Information Processing.]

#### [3–401.] **3A–313.**

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

(2) (i) “Payee” means any party who receives from the State an aggregate payment of \$25,000 in a fiscal year.

(ii) “Payee” does not include:

1. a State employee with respect to the employee's compensation; or
2. a State retiree with respect to the retiree's retirement allowance.

(3) “Searchable website” means a website created in accordance with this section that displays and searches State payment data.

(b) On or before January 1, 2009, the Department shall develop and operate a single searchable website, accessible to the public at no cost through the Internet.

(c) The searchable website shall contain State payment data, including:

- (1) the name of a payee receiving a payment;
- (2) the location of a payee by postal zip code;
- (3) the amount of a payment; and
- (4) the name of an agency making a payment.

- (d) The searchable website shall allow the user to:
- (1) search data for fiscal year 2008 and each year thereafter; and
  - (2) search by the following data fields:
    - (i) a payee receiving a payment;
    - (ii) an agency making a payment; and
    - (iii) the zip code of a payee receiving a payment.

(e) State agencies shall provide appropriate assistance to the Secretary to ensure the existence and ongoing operation of the single website.

(f) This section may not be construed to require the disclosure of information that is confidential under State or federal law.

(g) This section shall be known and may be cited as the “Maryland Funding Accountability and Transparency Act of 2008”.

**DRAFTER’S NOTE:**

Error: Obsolete subtitle designation immediately preceding § 3–401 of the State Finance and Procurement Article and incorrect numbering of § 3–401 of the State Finance and Procurement Article.

Occurred: As a result of Chs. 9 and 659, Acts of 2008. The corrections made by this Act were recommended by Assistant Attorney General Kathryn Rowe, Office of the Counsel to the General Assembly.

5–7A–01.

The State Economic Growth, Resource Protection, and Planning Policy is that:

(6) to encourage the achievement of [paragraphs] ITEMS (1) through (5) of this subsection, economic growth shall be encouraged and regulatory mechanisms shall be streamlined;

**DRAFTER’S NOTE:**

Error: Stylistic error in § 5–7A–01(6) of the State Finance and Procurement Article.

Occurred: Ch. 437, Acts of 1992.

7–326.

(c) The Fund consists of moneys transferred by the [Maryland Stadium Authority as required under § 13–715.2 of the Financial Institutions Article] **CAMDEN YARDS FINANCING FUNDS AS REQUIRED UNDER § 10–652 OF THE ECONOMIC DEVELOPMENT ARTICLE.**

**DRAFTER'S NOTE:**

Error: Obsolete terminology in § 7–326(c) of the State Finance and Procurement Article.

Occurred: As a result of Ch. 306, § 18, Acts of 2008.

11–203.

(a) Except as provided in subsection (b) of this section, this Division II does not apply to:

(1) procurement by:

(xii) the Department of Business and Economic Development, for negotiating and entering into private sector cooperative marketing projects that directly enhance promotion of Maryland and the tourism industry where there will be a private sector contribution to the project [if] **OF** not less than 50% of the total cost of the project, if the project is reviewed by the Attorney General and approved by the Secretary of Business and Economic Development or the Secretary's designee;

**DRAFTER'S NOTE:**

Error: Incorrect word usage in § 11–203(a)(1)(xii) of the State Finance and Procurement Article.

Occurred: Ch. 548, Acts of 1997.

**Article – State Government**

2–10A–11.

(e) The Committee shall provide continuing legislative oversight of the State's response to changes and opportunities occurring as a result of the Base Realignment and Closure [Process] **PROCESS.**

**DRAFTER'S NOTE:**

Error: Capitalization error in § 2–10A–11(e) of the State Government Article.

Occurred: Ch. 469, Acts of 2007. Correction by the publisher of the Annotated Code in the 2008 Supplement of the State Government Article is ratified by this Act.

2–1505.

(j) (1) **(I)** In its summary report of legislation enacted by the General Assembly that has a fiscal impact, the Department of Legislative Services shall include a list of legislation that:

**[(i)] 1.** affects local government units [and indicate which legislation imposes mandates on local government units]; or

**[(ii)] 2.** requires a mandated appropriation in the annual budget bill.

**(II) IN THE LIST OF LEGISLATION DESCRIBED IN SUBPARAGRAPH (I)1 OF THIS PARAGRAPH, THE DEPARTMENT OF LEGISLATIVE SERVICES SHALL INDICATE WHICH LEGISLATION IMPOSES MANDATES ON LOCAL GOVERNMENT UNITS.**

DRAFTER'S NOTE:

Error: Misplaced language in § 2–1505(j)(1) of the State Government Article.

Occurred: Ch. 2, Acts of the Special Session of 2007.

**[Subtitle 18. Council on Management and Productivity.]**

[9–1801.

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

(b) “Council” means the Council on Management and Productivity.

(c) (1) “Governmental unit” means a permanent instrumentality in the Executive, Legislative, or Judicial Branch of State government.

(2) “Governmental unit” includes a department, board, commission, agency, or a subunit in the Executive, Legislative, or Judicial Branch of State government and those county–funded State entities specified in Article 24, § 8–101 of the Code.]

[9–1802.

(a) This subtitle may not be construed to authorize the Council to exercise regulatory authority.



(b) Consistent with its reporting obligations under § 9–1812 of this subtitle, the authority of the Council is advisory only.]

[9–1803.

There is a Council on Management and Productivity in the Department of Budget and Management.]

[9–1804.

The Council consists of:

(1) ten individuals, including representatives of labor, local government, and nonprofit organizations, who shall be appointed by and serve at the pleasure of the Governor;

(2) one member of the Senate of Maryland, appointed by the President of the Senate;

(3) one member of the House of Delegates, appointed by the Speaker of the House;

(4) one representative of the Judicial Branch, appointed by the Chief Judge of the Maryland Court of Appeals;

(5) two representatives of the business community:

(i) one appointed by the President of the Senate of Maryland;  
and

(ii) one appointed by the Speaker of the House of Delegates; and

(6) four representatives from the general public:

(i) two appointed by the President of the Senate of Maryland;  
and

(ii) two appointed by the Speaker of the House of Delegates.]

[9–1805.

(a) (1) The Governor shall appoint a chairman from among the members of the Council.

(2) The Council shall determine the times and places of the meetings of the Council.

(b) A quorum of the Council is 10 members.

(c) (1) The term of a member is 3 years.

(2) The terms of members are staggered as required by the terms provided for members of the Council on June 1, 2002.

(3) At the end of a term, a member continues to serve until a successor is appointed and qualifies.

(4) If a vacancy occurs during the term of a member, the appointing authority shall appoint another individual to serve the remainder of the term.

(5) Any member may be removed by the appointing authority for incompetence, misconduct, or the failure to attend meetings.

(d) A member of the Council:

(1) may not receive compensation for duties performed as a member of the Council; but

(2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.]

[9–1806.

(a) (1) In and after fiscal year 1997, the Council shall prepare a budget for submission to the Governor with due regard to the dictates of practicality and the fiscal condition of the State.

(2) The Governor shall include an appropriation for the Council in the annual State budget sufficient for the operation of the Council.

(b) The Council is subject to an audit by the Office of the Legislative Auditor in accordance with §§ 2–1217 through 2–1227 of this article.]

[9–1807.

The Council shall:

(1) solicit ideas, proposals, and suggestions from the business community, nonprofit organizations, government entities, and citizens of the State for innovative ways for the State to manage its resources more efficiently while maintaining quality programs and delivery of services;

- (2) review and evaluate the organizational structure and management practices of State government and facilitate the use of best practices in State agencies;
- (3) evaluate and recommend public–private partnership alternatives regarding the operation and management of State programs and assets;
- (4) examine government contracting policies and procedures; and
- (5) provide information on entrepreneurial government activities and offer procedural and implementation assistance.]

[9–1808.

(a) Except as provided in subsection (b) of this section, the State, the Council, and the members of the Council are not personally liable in any action for damages because of acts committed or omitted by the Council, any member of the Council, or any employee of the Council, in the performance of their duties.

(b) The immunity from liability provided in subsection (a) of this section does not apply in the case of willful malfeasance or breach of trust by the State, the Council, or any of its members or staff.]

[9–1809.

All personnel in any governmental unit shall cooperate with the Council in the discharge of the functions of the Council and with regard to any reasonable request that the Council makes for information associated with its purpose under this subtitle.]

[9–1811.

Unless otherwise extended by law and without any further action required by the General Assembly, the Council shall terminate its existence by July 1, 2007.]

[9–1812.

On or before October 30 of each year in and after 2002, the Council shall submit a report concerning its activities and recommendations to:

- (1) the Governor;
- (2) the Legislative Policy Committee; and
- (3) subject to § 2–1246 of this article, the General Assembly.]

## DRAFTER'S NOTE:

Error: Obsolete subtitle in Title 9 of the State Government Article.

Occurred: The Council on Management and Productivity was rendered obsolete as a result of Ch. 126, Acts of 2002, which provided that unless extended by law, the Council would terminate its existence by July 1, 2007.

10-502.

(c) "Advisory function" means the study of a matter of public concern or the making of recommendations on the matter, under a delegation of responsibility by:

(4) formal action by or for a public body that exercises an [executive] ADMINISTRATIVE, judicial, legislative, quasi-judicial, or quasi-legislative function.

(h) (1) "Public body" means an entity that:

(ii) is created by:

3. a county **OR MUNICIPAL** charter;

## DRAFTER'S NOTE:

Error: Obsolete language in § 10-502(c)(4); omitted language in § 10-502(h)(1)(ii)3 of the State Government Article.

Occurred: As a result of Ch. 584, Acts of 2006; Ch. 285, Acts of 1984. Corrections suggested by Assistant Attorney General William Varga.

10-616.

(p) (5) Notwithstanding the provisions of paragraphs (3) and (4) of this subsection, a custodian shall disclose personal information:

(viii) for use by an employer or insurer to obtain or verify information relating to a holder of a commercial driver's license that is required under the Commercial Motor Vehicle Safety Act of 1986 (49 U.S.C.A. [§ 2701] § 31101 et seq.);

## DRAFTER'S NOTE:

Error: Incorrect cross-reference in § 10-616(p)(5)(viii) of the State Government Article.

Occurred: As a result of changes in federal law enacted by P.L. 103-272 (1994).

**Article – State Personnel and Pensions**

22–406.

(c) (10) On or before August 1 of each year, the local superintendent shall report to the State Department of Education for the previous school year:

(vi) the percentage of student population [comprised] **COMPOSED** of children in poverty that is required to be present in a school in that school system in order for that school to qualify as a Title 1 school.

**DRAFTER'S NOTE:**

Error: Incorrect word usage in § 22–406(c)(10)(vi) of the State Personnel and Pensions Article.

Occurred: Ch. 443, Acts of 2007.

23–407.

(c) (10) On or before August 1 of each year, the local superintendent shall report to the State Department of Education for the previous school year:

(vi) the percentage of student population [comprised] **COMPOSED** of children in poverty that is required to be present in a school in that school system in order for that school to qualify as a Title 1 school.

**DRAFTER'S NOTE:**

Error: Incorrect word usage in § 23–407(c)(10)(vi) of the State Personnel and Pensions Article.

Occurred: Ch. 443, Acts of 2007.

**Article – Tax – General**

5–101.

(d) (2) “Beer” includes:

- (i) ale;
- (ii) porter;
- (iii) stout;

(iv) hard cider, as defined in **ARTICLE 2B**, § 1–102(a)(9–1) of [this article] **THE CODE**; and

(v) alcoholic beverages that contain:

1. 6% or less alcohol by volume, derived primarily from the fermentation of grain, with not more than 49% of the beverage’s overall alcohol content by volume obtained from flavors and other added nonbeverage ingredients containing alcohol; or

2. more than 6% alcohol by volume, derived primarily from the fermentation of grain, with not more than 1.5% of the beverage’s overall alcohol content by volume obtained from flavors and other added nonbeverage ingredients containing alcohol.

**DRAFTER’S NOTE:**

Error: Erroneous cross–reference in § 5–101(d)(2)(iv) of the Tax – General Article.

Occurred: Ch. 702, Acts of 2008. Correction by the publisher of the Annotated Code in the 2008 Supplement of the Tax – General Article is ratified by this Act.

10–211.1.

(a) **[(1)]** In this section, “health care coverage” means creditable coverage as defined in § 15–1301 of the Insurance Article.

**DRAFTER’S NOTE:**

Error: Stylistic error in § 10–211.1(a) of the Tax – General Article.

Occurred: Ch. 692, Acts of 2008.

10–305.

(d) The addition under subsection (a) of this section includes the additions required for an individual under:

(1) § 10–204(b) of this title (Dividends and interest from another state or local obligation);

(2) § 10–204(c)(2) of this title (Federal [tax exempt] **TAX–EXEMPT** income);

(3) § 10–204(e) of this title (Oil percentage depletion allowance); and

(4) § 10–204(i) of this title (Deduction for qualified production activities income).

DRAFTER’S NOTE:

Error: Omitted hyphen in § 10–305(d)(2) of the Tax – General Article.

Occurred: Ch. 2, Acts of 1988.

**Article – Tax – Property**

7–211.

(c) (1) Except for an interest in federal enclave property as defined in § 7–211.3 of this subtitle, an interest of a person in any property of the federal government or the State is not subject to property tax, if the government that owns the property makes negotiated payments in lieu of tax payments.

[(d)] (2) Land owned by the federal government that is the location for federal enclave property as defined in § 7–211.3 of this subtitle is not subject to property tax.

DRAFTER’S NOTE:

Error: Stylistic error in § 7–211(c) and (d) of the Tax – Property Article.

Occurred: Ch. 338, Acts of 2008. Correction by the publisher of the Annotated Code in the 2008 Supplement of the Tax – Property Article is ratified by this Act.

14–812.

At least 30 days before any property is first advertised for sale under this subtitle, the collector shall have mailed to the person who last appears as owner of the property on the collector’s tax roll, at the last address shown on the tax roll, a statement giving the name of the person, and the amounts of taxes due. On the statement there shall also appear the following notice:

.....  
“Date”

“This Is a Final Bill and Legal Notice to the Person Whose Name Appears on This Notice.”

“According to **THE** collector’s tax roll you are the owner of the property appearing on this notice. Some of the taxes listed are in arrears. Notice is given you that unless all taxes in arrears are paid on or before 30 days from the above date, the

collector will proceed to sell the above property to satisfy your entire indebtedness. Interest and penalties must be added to the total at the time of payment.”

For any individual who last appears as an owner of the property on the collector’s tax roll who has been listed as an owner of the property on the collector’s tax roll for at least the last 25 years, the collector shall provide, at least 30 days before the property is first advertised, a list that includes the individual’s name and address and notice to the area agency, as defined in § 10–101 of the Human Services Article.

In Baltimore County the above statement and notice shall also be posted by the collector at least 30 days before the property is first advertised, in a conspicuous place on the property to be sold.

Failure of the collector to mail the statement and notice to the last address of the person last assessed for the property, as it appears on the collector’s tax roll, to mail, if applicable, a list including the name and address of an individual receiving the statement who has been listed as an owner of the property on the collector’s tax roll for at least the last 25 years and notice to the area agency, or in Baltimore County to post the statement and notice on the property, or to include any taxes in the statement and notice, does not invalidate or otherwise affect any tax, except a tax that is required to be but has not been certified as provided in § 14–810 of this subtitle, or any sale made under this subtitle to enforce payment of taxes, nor prevent nor stay any proceedings under this subtitle, nor affect the title of any purchaser.

**DRAFTER’S NOTE:**

Error: Omitted article in § 14–812 of the Tax – Property Article.

Occurred: Ch. 8, Acts of 1985.

**Article – Transportation**

2–103.

- (f) (2) This subsection does not apply to:
- (ii) The powers or duties that are vested by law in:
1. The Board of Airport Zoning Appeals;
  2. The Transportation Professional Services Selection Board;
  3. The Maryland Transportation Authority; **OR**
  4. [The Board of Review of the Department; or



5.] The Maryland Port Commission and Maryland Port Administration.

(g) (2) This subsection does not apply to:

(ii) The powers or duties that do not require by law the approval or action of the Secretary and are vested by law in:

1. The Board of Airport Zoning Appeals;
2. The Transportation Professional Services Selection Board;
3. The Maryland Transportation Authority; **OR**
4. [The Board of Review of the Department; or
- 5.] The Maryland Port Commission and Maryland Port Administration.

**DRAFTER'S NOTE:**

Error: Obsolete references in § 2–103(f)(2)(ii) and (g)(2)(ii) of the Transportation Article.

Occurred: As a result of Ch. 327, Acts of 2008, which repealed the Board of Review.

5–1002.

(d) The [Administration] **ADMINISTRATION**, at the time of annual on-site airport inspection and licensing of public use airports in this State, shall have access to liability insurance policy information to determine compliance with subsection (b) of this section.

**DRAFTER'S NOTE:**

Error: Omitted comma in § 5–1002(d) of the Transportation Article.

Occurred: Ch. 734, Acts of 1980.

7–208.

(a) Subject to the authority of the Secretary and, where applicable, the Maryland Transportation Authority, the Administration has jurisdiction:

(1) Consistent with the provisions of Division II of the State Finance and Procurement Article, for planning, developing, constructing, acquiring, financing, and operating the transit facilities authorized by this title; and

(2) Over the services performed by and the rentals, rates, fees, fares, and other charges imposed for the services performed by transit facilities owned or controlled by the Administration.

(b) (1) For fiscal year 2009 and each fiscal year thereafter, the Administration shall separately recover from fares and other operating revenues at least 35 percent of the total operating costs for:

(i) The Administration's bus, light rail, and Metro Subway services in the Baltimore region; and

(ii) All passenger railroad services under the Administration's control.

(2) The Administration shall submit, in accordance with § 2-1246 of the State Government Article, an annual report to the Senate Budget and Taxation Committee, House Ways and Means Committee, and House Appropriations Committee by December 1 of each year that includes:

(i) Separate farebox recovery ratios for the prior fiscal year for:

1. Bus, light rail, and Metro subway services provided by the Administration in the Baltimore region;

2. Commuter bus service provided under contract to the Administration in the Baltimore region; and

3. Maryland Area Rail Commuter (MARC) service provided under contract to the Administration;

(ii) A discussion of the success or failure to achieve the farebox recovery requirement established in paragraph (1) of this subsection; and

(iii) Comparisons of farebox recovery ratios for the Administration's mass transit services and other similar transit systems nationwide.

(c) (1) For fiscal year 2009 and each fiscal year thereafter, the Administration shall implement performance indicators to track service efficiency for the Administration's mass transit services, including:

(i) Operating expenses per revenue vehicle mile;

(ii) Operating expenses per passenger trip; and

(iii) Passenger trips per revenue vehicle mile.

(2) The Administration shall submit, in accordance with § 2-1246 of the State Government Article, an annual performance report to the Senate Budget and Taxation Committee, House Ways and Means Committee, and House Appropriations Committee by December 1 of each year on:

(i) The status of the performance indicators listed in paragraph (1) of this subsection for the prior fiscal year, including a discussion of the failure or success in meeting the goals established for the prior fiscal year by the Administration;

(ii) The status of managing-for-results goals of the Administration as they pertain to mass transit service in the Baltimore area;

(iii) Comparisons of performance indicators for the Administration's mass transit services and other similar systems nationwide; and

(iv) The Administration's goals for each of the measures in paragraph (1) of this subsection for the next fiscal year.

(d) (1) The Administration shall provide for an independent management audit of the operational costs and revenues of the Administration's mass transit services every 4 years.

(2) The audit shall provide data on fares, cost containment measures, comparisons with other similar mass transit systems, and other information necessary in evaluating the operations of the Administration's mass transit system.

(3) The findings from the audit shall be used as a benchmark for the annual performance reports.

(e) The determinations of the Secretary, Administration, or Maryland Transportation Authority as to the type of service performed or the rentals, rates, fees, fares, and other charges imposed are not subject to judicial review or to the processes of any court.

(f) Notwithstanding any other provision of this title or the Public Utility Companies Article, the Public Service Commission does not have any jurisdiction over transit facilities owned or controlled by the Administration or over any contractor operating these facilities.

(g) Except as provided in this title, the Administration does not have any jurisdiction over transportation in the District by private carriers.

DRAFTER'S NOTE:

Error: Failure to amend proper version of § 7–208 of the Transportation Article.

Occurred: Ch. 684, Acts of 2008. Amendments enacted in Ch. 684 (i.e., repeal of termination provisions enacted in Chs. 210 and 211, Acts of 2000, as amended by Ch. 447, Acts of 2004) rendered the version of § 7–208 of the Transportation Article amended in Ch. 684 incorrect. Correction by the publisher of the Annotated Code in the 2008 Replacement Volume is validated by this Act.

8–610.

(h) “Municipality” means the governing body of a municipal corporation as defined in Article 23A, § 9 **OF THE CODE**.

**DRAFTER’S NOTE:**

Error: Omitted language in § 8–610(h) of the Transportation Article.

Occurred: Ch. 293, Acts of 1978.

25–111.

(i) (1) Except as provided for in paragraph (2) of this subsection, regulations adopted under this section for intrastate motor carrier transportation may not:

(i) Apply the provisions of § 391.21, § 391.23, **[§ 391.31] § 391.31**, or § 391.35 of the Federal Motor Carrier Safety Regulations to:

**DRAFTER’S NOTE:**

Error: Omitted comma in § 25–111(i)(1)(i) of the Transportation Article.

Occurred: Ch. 865, Acts of 1986.

### **Chapter 131 of the Acts of 2008**

**SECTION 3. AND BE IT FURTHER ENACTED, That:**

(b) Of the \$300,000 that may be collected under **[paragraph (1) of this] subsection (A) OF THIS SECTION:**

(1) up to \$250,000 may be expended in accordance with an approved budget amendment for consultants, personnel, and related expenses of the Commission, as deemed necessary by the Commission to accomplish the requirements of this Act; and

(2) up to \$50,000 may be expended in accordance with an approved budget amendment for consultants, personnel, and related expenses of the Office of the People's Counsel, as deemed necessary by the Office of the People's Counsel to accomplish the requirements of this Act.

**DRAFTER'S NOTE:**

Error: Erroneous internal reference in Section 3(b) of Ch. 131, Acts of 2008.

Occurred: Ch. 131, Acts of 2008. Correction suggested by the Attorney General in the bill review letter for House Bill 374 (Ch. 131) of 2008.

**Chapter 211 of the Acts of 2008**

SECTION 5. AND BE IT FURTHER ENACTED, That:

(b) The Task Force consists of the following members:

(7) two current executive directors or administrators for health occupation boards that may not be from the same boards as the representatives in [item (5)] **ITEM (6)** of this subsection, appointed by the Secretary of Health and Mental Hygiene; and

**Chapter 212 of the Acts of 2008**

SECTION 5. AND BE IT FURTHER ENACTED, That:

(b) The Task Force consists of the following members:

(7) two current executive directors or administrators for health occupation boards that may not be from the same boards as the representatives in [item (5)] **ITEM (6)** of this subsection, appointed by the Secretary of Health and Mental Hygiene; and

**DRAFTER'S NOTE:**

Error: Erroneous internal reference in Section 5(b)(7) of Chs. 211 and 212, Acts of 2008.

Occurred: Chs. 211 and 212, Acts of 2008. Correction suggested by the Attorney General in the bill review letter for House Bill 811 (Ch. 212) and Senate Bill 764 (Ch. 211) of 2008.

**Chapter 261 of the Acts of 2008**

SECTION 5. AND BE IT FURTHER ENACTED, That the bonds hereby authorized shall constitute, and they shall so recite, an irrevocable pledge of the full faith and credit and unlimited taxing power of the County to the payment of the maturing principal of and interest on the bonds as and when they become payable. In each and every fiscal year that any of the bonds are outstanding, the County shall levy or cause to be levied ad valorem taxes upon all the assessable property within the corporate limits of the County in rate and amount sufficient to provide for or [assume] **ASSURE** the payment, when due, of the principal of and interest on all the bonds maturing in each such fiscal year and, if the proceeds from the taxes so levied in any fiscal year prove inadequate for such payment, additional taxes shall be levied in the succeeding fiscal year to make up any deficiency. The County may apply to the payment of the principal of and interest on any bonds issued under this Act any funds received by it from the State of Maryland, the United States of America, any agency or instrumentality of either, or from any other source. If such funds are granted for the purpose of assisting the County in financing the construction, improvement, development, or renovation of the public facilities defined in this Act and, to the extent of any such funds received or receivable in any fiscal year, taxes that might otherwise be required to be levied under this Act may be reduced or need not be levied.

**DRAFTER'S NOTE:**

Error: Incorrect word usage in Section 5 of Ch. 261, Acts of 2008.

Occurred: Ch. 261, Acts of 2008. Correction recommended by the Attorney General in the bill review letter for House Bill 256 (Ch. 261) of 2008.

**Chapter 417 of the Acts of 2008**

SECTION 3. AND BE IT FURTHER ENACTED, That, notwithstanding any other provision of law, any balance remaining at the end of May 31, 2008, in the Joseph Fund Account established under [~~§ 7-237~~] **§ 7-327** of the State Finance and Procurement Article shall be transferred to the Revenue Stabilization Account of the State Reserve Fund.

**DRAFTER'S NOTE:**

Error: Erroneous cross-reference in Section 3 of Ch. 417, Acts of 2008.

Occurred: Ch. 417, Acts of 2008.

**Chapter 659 of the Acts of 2008**

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) The [~~Chief~~] **SECRETARY** of Information Technology [~~in the Department of Budget and Management~~] shall conduct a study to assess the feasibility, approach,

and cost to expand or replace the searchable website established under § 3–414 of the State Finance and Procurement Article enacted by this Act to allow the public, at no cost, to search and aggregate State funding by different elements, which may include:

- (1) the name of an entity receiving an award and, if applicable, the parent entity of the recipient;
- (2) the amount of an award;
- (3) the transaction type;
- (4) the name of an agency making an award;
- (5) the budget program fund source;
- (6) a descriptive purpose of each funding action or State award;
- (7) the location of an entity receiving the award; and
- (8) any other relevant information specified by the Department.

(d) On or before June 30, 2010, the [Chief] **SECRETARY** of Information Technology shall report to the General Assembly, in accordance with § 2–1246 of the State Government Article, on the implementation of this Act.

**DRAFTER'S NOTE:**

Error: Obsolete terminology in Section 2(a) and (d) of Ch. 659, Acts of 2008.

Occurred: As a result of Ch. 9, Acts of 2008.

**SECTION 2. AND BE IT FURTHER ENACTED,** That the publishers of the Annotated Code of Maryland, subject to the approval of the Department of Legislative Services, shall make any changes in the text of the Annotated Code necessary to effectuate any termination provision that was enacted by the General Assembly and has taken effect or will take effect prior to October 1, 2009. Any enactment of the 2009 Session of the General Assembly that negates or extends the effect of a previously enacted termination provision shall prevail over the provisions of this section.

**SECTION 3. AND BE IT FURTHER ENACTED,** That the Drafter's Notes contained in this Act are not law and may not be considered to have been enacted as part of this Act.

**SECTION 4. AND BE IT FURTHER ENACTED,** That the provisions of this Act are intended solely to correct technical errors in the law and there is no intent to revive or otherwise affect law that is the subject of other acts, whether those acts were signed by the Governor prior to or after the signing of this Act.

SECTION 5. AND BE IT FURTHER ENACTED, That the publishers of the Annotated Code of Maryland, in consultation with and subject to the approval of the Department of Legislative Services, shall make nonsubstantive corrections to codification, style, capitalization, punctuation, grammar, spelling, and any reference rendered incorrect or obsolete by an Act of the General Assembly, with no further action required by the General Assembly. The publishers shall adequately describe any such correction in an editor's note following the section affected.

SECTION 6. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a ye and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

**Approved by the Governor, April 14, 2009.**

---

## Chapter 61

### (Senate Bill 392)

AN ACT concerning

### **Business Regulation – Registration of Retail Service Station Dealers and Sale of Gasoline Products**

FOR the purpose of ~~extending~~ eliminating the expiration date of the conditional prohibition against the Comptroller on the issuance of a certificate of registration to a retail service station dealer who markets motor fuel through a retail service station that has been altered, enlarged, or structurally modified; ~~altering the date after which~~ repealing a certain provision of law that requires a producer, refiner, or wholesaler of motor fuel ~~is required, after a certain date,~~ to extend voluntary allowances uniformly to all retail service station dealers that are supplied by the producer, refiner, or wholesaler; and generally relating to certificates of registration for retail service station dealers and the sale of gasoline products.

BY repealing and reenacting, with amendments,  
 Article – Business Regulation  
 Section 10–304 and 10–312  
 Annotated Code of Maryland  
 (2004 Replacement Volume and 2008 Supplement)

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



**Article – Business Regulation**

10-304.

(a) The Comptroller may not issue a certificate of registration to a retail service station dealer who markets motor fuel through a retail service station altered, enlarged, or structurally modified after July 1, 1977, ~~and before October 1, [2009]~~ ~~2014~~, unless:

(1) the station contains an enclosed work area where the service of motor vehicles is offered to customers regardless of whether motor fuel is bought; and

(2) the services offered include a battery charge, lubrication, oil change, tire repair, and replacement of accessories such as fan belts, radiator hoses, or wiper blades.

(b) Notwithstanding subsection (a) of this section, the Comptroller may issue a certificate of registration to a retail service station dealer who markets motor fuel through:

(1) a retail service station that, before it is altered, enlarged, or structurally modified, lacks an enclosed work area; or

(2) a retail service station that is altered, enlarged, or structurally modified if the owner and retail service station dealer agree to the elimination of an enclosed work area.

10-312.

Each producer, refiner, or wholesaler of motor fuel who supplies motor fuel to retail service station dealers:

~~(1) after September 30, [2009] 2014, shall extend all voluntary allowances uniformly to all retail service station dealers supplied;~~

~~(2)~~ shall apply all equipment rentals uniformly to all retail service station dealers supplied; and

~~(3)~~ **(2)** during periods of shortage:

(i) shall apportion uniformly and equitably all gasoline and special fuel to all retail service station dealers supplied; and

(ii) may not discriminate among retail service station dealers supplied in their allotments.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

**Approved by the Governor, April 14, 2009.**

---

## Chapter 62

### (House Bill 377)

AN ACT concerning

### **Business Regulation – Registration of Retail Service Station Dealers and Sale of Gasoline Products**

FOR the purpose of ~~extending~~ eliminating the expiration date of the conditional prohibition against the Comptroller on the issuance of a certificate of registration to a retail service station dealer who markets motor fuel through a retail service station that has been altered, enlarged, or structurally modified; ~~altering the date after which~~ repealing a certain provision of law that requires a producer, refiner, or wholesaler of motor fuel is required, after a certain date, to extend voluntary allowances uniformly to all retail service station dealers that are supplied by the producer, refiner, or wholesaler; and generally relating to certificates of registration for retail service station dealers and the sale of gasoline products.

BY repealing and reenacting, with amendments,  
 Article – Business Regulation  
 Section 10–304 and 10–312  
 Annotated Code of Maryland  
 (2004 Replacement Volume and 2008 Supplement)

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

### **Article – Business Regulation**

10–304.

(a) The Comptroller may not issue a certificate of registration to a retail service station dealer who markets motor fuel through a retail service station altered, enlarged, or structurally modified after July 1, 1977, ~~and before October 1, [2009]~~ **2014**, unless:

(1) the station contains an enclosed work area where the service of motor vehicles is offered to customers regardless of whether motor fuel is bought; and

(2) the services offered include a battery charge, lubrication, oil change, tire repair, and replacement of accessories such as fan belts, radiator hoses, or wiper blades.

(b) Notwithstanding subsection (a) of this section, the Comptroller may issue a certificate of registration to a retail service station dealer who markets motor fuel through:

(1) a retail service station that, before it is altered, enlarged, or structurally modified, lacks an enclosed work area; or

(2) a retail service station that is altered, enlarged, or structurally modified if the owner and retail service station dealer agree to the elimination of an enclosed work area.

10-312.

Each producer, refiner, or wholesaler of motor fuel who supplies motor fuel to retail service station dealers:

(1) ~~after September 30, [2009] 2014, shall extend all voluntary allowances uniformly to all retail service station dealers supplied;~~

~~(2)~~ shall apply all equipment rentals uniformly to all retail service station dealers supplied; and

~~(2)~~ (2) during periods of shortage:

(i) shall apportion uniformly and equitably all gasoline and special fuel to all retail service station dealers supplied; and

(ii) may not discriminate among retail service station dealers supplied in their allotments.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

**Approved by the Governor, April 14, 2009.**

---

## Chapter 63

(Senate Bill 413)

AN ACT concerning

**Joint Committee on Children, Youth, and Families – Repeal of Sunset**

FOR the purpose of repealing the termination date of the Acts that established the Joint Committee on Children, Youth, and Families; and generally relating to the Joint Committee on Children, Youth, and Families.

BY repealing and reenacting, without amendments,  
Article – State Government  
Section 2–10A–06  
Annotated Code of Maryland  
(2004 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,  
Chapter 362 of the Acts of the General Assembly of 1999, as amended by  
Chapter 491 of the Acts of the General Assembly of 2002  
Section 2

BY repealing and reenacting, with amendments,  
Chapter 363 of the Acts of the General Assembly of 1999, as amended by  
Chapter 491 of the Acts of the General Assembly of 2002  
Section 2

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

**Article – State Government**

2–10A–06.

(a) In this section, “conditions of well-being” means the desired results identified by the Maryland Partnership for Children, Youth, and Families based upon identified needs and used to improve quality.

(b) There is a Joint Committee on Children, Youth, and Families.

(c) The Committee consists of the following 20 members:

(1) from the Senate:

(i) the majority leader;

(ii) the minority leader; and

(iii) two members from each of the four standing committees;

and

(2) from the House:

(i) the majority leader;

(ii) the minority leader; and

(iii) eight other Delegates appointed by the Speaker from among the members of the House committees that deal with issues affecting children, youth, and families.

(d) (1) Members of the Committee shall be appointed on the basis of demonstrated ability and interest concerning issues affecting children, youth, and families.

(2) In making appointments, the President and the Speaker shall provide for representation from:

(i) the committees that deal with issues affecting children, youth, and families; and

(ii) the major areas of the State.

(e) (1) (i) A member appointed by the President serves at the pleasure of the President.

(ii) A member appointed by the Speaker serves at the pleasure of the Speaker.

(2) (i) If a vacancy occurs among the Senators on the Committee, a successor promptly shall be appointed by the President.

(ii) If a vacancy occurs among the Delegates on the Committee, a successor promptly shall be appointed by the Speaker.

(f) (1) From among the membership of the Committee, the President shall appoint a Senator to serve as the Senate chairman of the Committee and the Speaker shall appoint a Delegate to serve as the House chairman of the Committee.

(2) The Senate chairman and the House chairman shall alternate annually as presiding chairman and cochairman of the Committee.

(g) A majority of the full authorized membership of the Committee is a quorum.

(h) The Department of Legislative Services, Office of Policy Analysis, shall provide staff assistance to the Committee.

- (i) The Committee shall hold:
  - (1) an organizational meeting promptly after the appointment of its members; and
  - (2) any other meetings that the Committee considers necessary to carry out its duties efficiently.
- (j) The Committee may:
  - (1) hold a hearing on any matter relating to the functions of the Committee; and
  - (2) consider a vote on a bill or resolution referred to it by the President or the Speaker.
- (k) In addition to any powers and duties set forth elsewhere, in an endeavor to achieve conditions of well-being for Maryland children, youth, and families, the Committee shall:
  - (1) investigate the problems that jeopardize the well-being of Maryland children, youth, and families;
  - (2) identify State policies and actions that, in conjunction with public and private partners and in support of families and communities, can work to achieve conditions of well-being for Maryland children, youth, and families;
  - (3) review and make recommendations to align State statutes, regulations, programs, services, and budgetary priorities with the State policies and actions described in paragraph (2) of this subsection;
  - (4) search for any interdepartmental gaps, inconsistencies, and inefficiencies in the implementation or attainment of the State policies and actions described in paragraph (2) of this subsection;
  - (5) identify any new laws, regulations, programs, services, and budgetary priorities that are needed to ensure and promote desired conditions of well-being for Maryland children, youth, and families;
  - (6) serve as an informational resource for the Senate and the House on legislative policy matters concerning children, youth, and families; and
  - (7) perform other activities, including improving public awareness of the special needs of Maryland children, youth, and families.
- (l) (1) Subject to § 2-1246 of this title, the Committee shall submit an annual report to the General Assembly on or before December 1 of each year.

- (2) The report shall include:
- (i) a description of the work of the Committee; and
  - (ii) any recommendations of the Committee.

**Chapter 362 of the Acts of 1999, as amended by Chapter 491 of the Acts of 2002**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 1999. [It shall remain effective for a period of 10 years and 1 month and, at the end of June 30, 2009, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.]

**Chapter 363 of the Acts of 1999, as amended by Chapter 491 of the Acts of 2002**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 1999. [It shall remain effective for a period of 10 years and 1 month and, at the end of June 30, 2009, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.]

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2009.

**Approved by the Governor, April 14, 2009.**

---

**Chapter 64**

**(House Bill 244)**

AN ACT concerning

**Joint Committee on Children, Youth, and Families – Repeal of Sunset**

FOR the purpose of repealing the termination date of the Acts that established the Joint Committee on Children, Youth, and Families; and generally relating to the Joint Committee on Children, Youth, and Families.

BY repealing and reenacting, without amendments,  
Article – State Government  
Section 2–10A–06  
Annotated Code of Maryland  
(2004 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,

Chapter 362 of the Acts of the General Assembly of 1999, as amended by  
Chapter 491 of the Acts of the General Assembly of 2002  
Section 2

BY repealing and reenacting, with amendments,

Chapter 363 of the Acts of the General Assembly of 1999, as amended by  
Chapter 491 of the Acts of the General Assembly of 2002  
Section 2

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

### **Article – State Government**

2–10A–06.

(a) In this section, “conditions of well–being” means the desired results identified by the Maryland Partnership for Children, Youth, and Families based upon identified needs and used to improve quality.

(b) There is a Joint Committee on Children, Youth, and Families.

(c) The Committee consists of the following 20 members:

(1) from the Senate:

(i) the majority leader;

(ii) the minority leader; and

(iii) two members from each of the four standing committees;

and

(2) from the House:

(i) the majority leader;

(ii) the minority leader; and

(iii) eight other Delegates appointed by the Speaker from among the members of the House committees that deal with issues affecting children, youth, and families.



(d) (1) Members of the Committee shall be appointed on the basis of demonstrated ability and interest concerning issues affecting children, youth, and families.

(2) In making appointments, the President and the Speaker shall provide for representation from:

(i) the committees that deal with issues affecting children, youth, and families; and

(ii) the major areas of the State.

(e) (1) (i) A member appointed by the President serves at the pleasure of the President.

(ii) A member appointed by the Speaker serves at the pleasure of the Speaker.

(2) (i) If a vacancy occurs among the Senators on the Committee, a successor promptly shall be appointed by the President.

(ii) If a vacancy occurs among the Delegates on the Committee, a successor promptly shall be appointed by the Speaker.

(f) (1) From among the membership of the Committee, the President shall appoint a Senator to serve as the Senate chairman of the Committee and the Speaker shall appoint a Delegate to serve as the House chairman of the Committee.

(2) The Senate chairman and the House chairman shall alternate annually as presiding chairman and cochairman of the Committee.

(g) A majority of the full authorized membership of the Committee is a quorum.

(h) The Department of Legislative Services, Office of Policy Analysis, shall provide staff assistance to the Committee.

(i) The Committee shall hold:

(1) an organizational meeting promptly after the appointment of its members; and

(2) any other meetings that the Committee considers necessary to carry out its duties efficiently.

(j) The Committee may:

(1) hold a hearing on any matter relating to the functions of the Committee; and

(2) consider a vote on a bill or resolution referred to it by the President or the Speaker.

(k) In addition to any powers and duties set forth elsewhere, in an endeavor to achieve conditions of well-being for Maryland children, youth, and families, the Committee shall:

(1) investigate the problems that jeopardize the well-being of Maryland children, youth, and families;

(2) identify State policies and actions that, in conjunction with public and private partners and in support of families and communities, can work to achieve conditions of well-being for Maryland children, youth, and families;

(3) review and make recommendations to align State statutes, regulations, programs, services, and budgetary priorities with the State policies and actions described in paragraph (2) of this subsection;

(4) search for any interdepartmental gaps, inconsistencies, and inefficiencies in the implementation or attainment of the State policies and actions described in paragraph (2) of this subsection;

(5) identify any new laws, regulations, programs, services, and budgetary priorities that are needed to ensure and promote desired conditions of well-being for Maryland children, youth, and families;

(6) serve as an informational resource for the Senate and the House on legislative policy matters concerning children, youth, and families; and

(7) perform other activities, including improving public awareness of the special needs of Maryland children, youth, and families.

(1) (1) Subject to § 2-1246 of this title, the Committee shall submit an annual report to the General Assembly on or before December 1 of each year.

(2) The report shall include:

(i) a description of the work of the Committee; and

(ii) any recommendations of the Committee.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 1999. [It shall remain effective for a period of 10 years and 1 month and, at the end of June 30, 2009, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.]

**Chapter 363 of the Acts of 1999, as amended by Chapter 491 of the Acts of 2002**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 1999. [It shall remain effective for a period of 10 years and 1 month and, at the end of June 30, 2009, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.]

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2009.

**Approved by the Governor, April 14, 2009.**

---

**Chapter 65**

**(Senate Bill 434)**

AN ACT concerning

**Anne Arundel County – Alcoholic Beverages – Yacht Club License**

FOR the purpose of altering certain requirements that a yacht club in Anne Arundel County must meet to be issued a special Class C (yacht club) alcoholic beverages license; making certain stylistic changes; and generally relating to alcoholic beverages licenses in Anne Arundel County.

BY repealing and reenacting, without amendments,  
Article 2B – Alcoholic Beverages  
Section 6–301(c)(1)  
Annotated Code of Maryland  
(2005 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,  
Article 2B – Alcoholic Beverages  
Section 6–301(c)(5)  
Annotated Code of Maryland  
(2005 Replacement Volume and 2008 Supplement)

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

**Article 2B – Alcoholic Beverages**

6–301.

- (c) (1) This subsection applies only in Anne Arundel County.
- (5) (i) There is a special Class C (yacht club) license.
- (ii) The annual license fee is \$1,500.
- (iii) Upon the approval of the Board, the license shall be issued to any yacht club in the county:
1. Which has 50 or more bona fide members who pay dues of not less than \$75 per year per member; and
  2. Which maintains at the time of application for the license:
    - A. [a] A clubhouse with a seating capacity sufficient to accommodate at one time at least 100 persons[.];
    - B. [slips] **SLIPS, BOAT PARKING SPACES**, or berths for **[75] AT LEAST 50** boats [or more]; and
    - C. [at] **AT** least **[5 acres] 1 ACRE** of ground.
- (iv) The licensee may keep for sale and sell at retail any alcoholic beverages, to any member or guest when accompanied by a member at the place described in the license. Consumption shall occur on the licensed premises only. The licensee is subject to all of the provisions of this article relating to Class C beer, wine and liquor licenses in Anne Arundel County.
- (v) The application for the license filed on behalf of any yacht club in the county shall be signed by at least one officer of the club, who shall be a resident, registered voter and taxpayer of Anne Arundel County.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2009.

**Approved by the Governor, April 14, 2009.**

---

**Chapter 66****(Senate Bill 439)**

AN ACT concerning

**Health Insurance – Prompt Pay – ~~Modifications and Clarifications~~**

FOR the purpose of ~~requiring an insurer, nonprofit health service plan, or health maintenance organization to comply with certain requirements when reprocessing a claim; clarifying that, notwithstanding compliance with certain notice requirements,~~ if an insurer, nonprofit health service plan, or health maintenance organization fails to pay a certain claim or otherwise violates certain provisions of law, the insurer, nonprofit health service plan, or health maintenance organization shall pay interest on a certain amount; and generally relating to ~~modifications and~~ clarifications of prompt pay requirements for health insurance.

BY repealing and reenacting, with amendments,

Article – Insurance

Section 15–1005

Annotated Code of Maryland

(2006 Replacement Volume and 2008 Supplement)

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

**Article – Insurance**

15–1005.

(a) In this section, “clean claim” means a claim for reimbursement, as defined in regulations adopted by the Commissioner under § 15–1003 of this subtitle.

(b) To the extent consistent with the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1001, et seq., this section applies to an insurer, nonprofit health service plan, or health maintenance organization that acts as a third party administrator.

(c) Within 30 days after receipt of a claim for reimbursement from a person entitled to reimbursement under § 15–701(a) of this title or from a hospital or related institution, as those terms are defined in § 19–301 of the Health – General Article, an insurer, nonprofit health service plan, or health maintenance organization shall:

(1) mail or otherwise transmit payment for the claim in accordance with this section; or

(2) send a notice of receipt and status of the claim that states:

(i) that the insurer, nonprofit health service plan, or health maintenance organization refuses to reimburse all or part of the claim and the reason for the refusal;

(ii) that, in accordance with § 15-1003(d)(1)(ii) of this subtitle, the legitimacy of the claim or the appropriate amount of reimbursement is in dispute and additional information is necessary to determine if all or part of the claim will be reimbursed and what specific additional information is necessary; or

(iii) that the claim is not clean and the specific additional information necessary for the claim to be considered a clean claim.

(d) (1) An insurer, nonprofit health service plan, or health maintenance organization shall permit a provider a minimum of 180 days from the date a covered service is rendered to submit a claim for reimbursement for the service.

(2) If an insurer, nonprofit health service plan, or health maintenance organization wholly or partially denies a claim for reimbursement, the insurer, nonprofit health service plan, or health maintenance organization shall permit a provider a minimum of 90 working days after the date of denial of the claim to appeal the denial.

(3) If an insurer, nonprofit health service plan, or health maintenance organization erroneously denies a provider's claim for reimbursement submitted within the time period specified in paragraph (1) of this subsection because of a claims processing error, and the provider notifies the insurer, nonprofit health service plan, or health maintenance organization of the potential error within 1 year of the claim denial, the insurer, nonprofit health service plan, or health maintenance organization, on discovery of the error, shall reprocess the provider's claim without the necessity for the provider to resubmit the claim, and without regard to timely submission deadlines.

~~(4) AN INSURER, NONPROFIT HEALTH SERVICE PLAN, OR HEALTH MAINTENANCE ORGANIZATION SHALL COMPLY WITH SUBSECTION (C) OF THIS SECTION WHEN REPROCESSING A CLAIM.~~

(e) (1) If an insurer, nonprofit health service plan, or health maintenance organization provides notice under subsection (c)(2)(i) of this section, the insurer, nonprofit health service plan, or health maintenance organization shall mail or otherwise transmit payment for any undisputed portion of the claim within 30 days of receipt of the claim, in accordance with this section.

(2) If an insurer, nonprofit health service plan, or health maintenance organization provides notice under subsection (c)(2)(ii) of this section, the insurer, nonprofit health service plan, or health maintenance organization shall:

(i) mail or otherwise transmit payment for any undisputed portion of the claim in accordance with this section; and

(ii) comply with subsection (c)(1) or (2)(i) of this section within 30 days after receipt of the requested additional information.

(3) If an insurer, nonprofit health service plan, or health maintenance organization provides notice under subsection (c)(2)(iii) of this section, the insurer, nonprofit health service plan, or health maintenance organization shall comply with subsection (c)(1) or (2)(i) of this section within 30 days after receipt of the requested additional information.

(f) (1) ~~[(If] NOTWITHSTANDING COMPLIANCE WITH THE NOTICE REQUIREMENTS UNDER SUBSECTION (C) OF THIS SECTION, IF~~ an insurer, nonprofit health service plan, or health maintenance organization fails to [comply with subsection (c) of this section] **PAY A CLEAN CLAIM FOR REIMBURSEMENT OR OTHERWISE VIOLATES ANY PROVISION OF THIS SECTION**, the insurer, nonprofit health service plan, or health maintenance organization shall pay interest on the amount of the claim that remains unpaid 30 days after [the claim is received] **RECEIPT OF THE INITIAL CLEAN CLAIM FOR REIMBURSEMENT** at the monthly rate of:

- (i) 1.5% from the 31st day through the 60th day;
- (ii) 2% from the 61st day through the 120th day; and
- (iii) 2.5% after the 120th day.

(2) The interest paid under this subsection shall be included in any late reimbursement without the necessity for the person that filed the original claim to make an additional claim for that interest.

(g) An insurer, nonprofit health service plan, or health maintenance organization that violates a provision of this section is subject to:

(1) a fine not exceeding \$500 for each violation that is arbitrary and capricious, based on all available information; and

(2) the penalties prescribed under § 4-113(d) of this article for violations committed with a frequency that indicates a general business practice.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

**Approved by the Governor, April 14, 2009.**

**Chapter 67****(House Bill 440)**

AN ACT concerning

**Health Insurance – Prompt Pay – ~~Modifications and~~ Clarifications**

FOR the purpose of ~~requiring an insurer, nonprofit health service plan, or health maintenance organization to comply with certain requirements when reprocessing a claim; clarifying that, notwithstanding compliance with certain notice requirements,~~ if an insurer, nonprofit health service plan, or health maintenance organization fails to pay a certain claim or otherwise violates certain provisions of law, the insurer, nonprofit health service plan, or health maintenance organization shall pay interest on a certain amount; and generally relating to ~~modifications and~~ clarifications of prompt pay requirements for health insurance.

BY repealing and reenacting, with amendments,

Article – Insurance

Section 15–1005

Annotated Code of Maryland

(2006 Replacement Volume and 2008 Supplement)

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

**Article – Insurance**

15–1005.

(a) In this section, “clean claim” means a claim for reimbursement, as defined in regulations adopted by the Commissioner under § 15–1003 of this subtitle.

(b) To the extent consistent with the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1001, et seq., this section applies to an insurer, nonprofit health service plan, or health maintenance organization that acts as a third party administrator.

(c) Within 30 days after receipt of a claim for reimbursement from a person entitled to reimbursement under § 15–701(a) of this title or from a hospital or related institution, as those terms are defined in § 19–301 of the Health – General Article, an insurer, nonprofit health service plan, or health maintenance organization shall:



(1) mail or otherwise transmit payment for the claim in accordance with this section; or

(2) send a notice of receipt and status of the claim that states:

(i) that the insurer, nonprofit health service plan, or health maintenance organization refuses to reimburse all or part of the claim and the reason for the refusal;

(ii) that, in accordance with § 15–1003(d)(1)(ii) of this subtitle, the legitimacy of the claim or the appropriate amount of reimbursement is in dispute and additional information is necessary to determine if all or part of the claim will be reimbursed and what specific additional information is necessary; or

(iii) that the claim is not clean and the specific additional information necessary for the claim to be considered a clean claim.

(d) (1) An insurer, nonprofit health service plan, or health maintenance organization shall permit a provider a minimum of 180 days from the date a covered service is rendered to submit a claim for reimbursement for the service.

(2) If an insurer, nonprofit health service plan, or health maintenance organization wholly or partially denies a claim for reimbursement, the insurer, nonprofit health service plan, or health maintenance organization shall permit a provider a minimum of 90 working days after the date of denial of the claim to appeal the denial.

(3) If an insurer, nonprofit health service plan, or health maintenance organization erroneously denies a provider's claim for reimbursement submitted within the time period specified in paragraph (1) of this subsection because of a claims processing error, and the provider notifies the insurer, nonprofit health service plan, or health maintenance organization of the potential error within 1 year of the claim denial, the insurer, nonprofit health service plan, or health maintenance organization, on discovery of the error, shall reprocess the provider's claim without the necessity for the provider to resubmit the claim, and without regard to timely submission deadlines.

~~(4) AN INSURER, NONPROFIT HEALTH SERVICE PLAN, OR HEALTH MAINTENANCE ORGANIZATION SHALL COMPLY WITH SUBSECTION (C) OF THIS SECTION WHEN REPROCESSING A CLAIM.~~

(e) (1) If an insurer, nonprofit health service plan, or health maintenance organization provides notice under subsection (c)(2)(i) of this section, the insurer, nonprofit health service plan, or health maintenance organization shall mail or otherwise transmit payment for any undisputed portion of the claim within 30 days of receipt of the claim, in accordance with this section.

(2) If an insurer, nonprofit health service plan, or health maintenance organization provides notice under subsection (c)(2)(ii) of this section, the insurer, nonprofit health service plan, or health maintenance organization shall:

(i) mail or otherwise transmit payment for any undisputed portion of the claim in accordance with this section; and

(ii) comply with subsection (c)(1) or (2)(i) of this section within 30 days after receipt of the requested additional information.

(3) If an insurer, nonprofit health service plan, or health maintenance organization provides notice under subsection (c)(2)(iii) of this section, the insurer, nonprofit health service plan, or health maintenance organization shall comply with subsection (c)(1) or (2)(i) of this section within 30 days after receipt of the requested additional information.

(f) (1) ~~[(i) NOTWITHSTANDING COMPLIANCE WITH THE NOTICE REQUIREMENTS UNDER SUBSECTION (C) OF THIS SECTION, IF~~ an insurer, nonprofit health service plan, or health maintenance organization fails to [comply with subsection (c) of this section] **PAY A CLEAN CLAIM FOR REIMBURSEMENT OR OTHERWISE VIOLATES ANY PROVISION OF THIS SECTION**, the insurer, nonprofit health service plan, or health maintenance organization shall pay interest on the amount of the claim that remains unpaid 30 days after [the claim is received] **RECEIPT OF THE INITIAL CLEAN CLAIM FOR REIMBURSEMENT** at the monthly rate of:

(i) 1.5% from the 31st day through the 60th day;

(ii) 2% from the 61st day through the 120th day; and

(iii) 2.5% after the 120th day.

(2) The interest paid under this subsection shall be included in any late reimbursement without the necessity for the person that filed the original claim to make an additional claim for that interest.

(g) An insurer, nonprofit health service plan, or health maintenance organization that violates a provision of this section is subject to:

(1) a fine not exceeding \$500 for each violation that is arbitrary and capricious, based on all available information; and

(2) the penalties prescribed under § 4-113(d) of this article for violations committed with a frequency that indicates a general business practice.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

**Approved by the Governor, April 14, 2009.**

---

## **Chapter 68**

### **(Senate Bill 440)**

AN ACT concerning

#### **Annual Curative Bill**

FOR the purpose of generally curing previous Acts of the General Assembly with possible title defects; prohibiting the Dorchester County Board of License Commissioners from approving the transfer of a certain license issued on or before a certain date; authorizing the Mayor and City Council of Baltimore City or the governing body of a county or municipal corporation to grant a certain property tax credit for certain residential real property owned by a disabled correctional officer or the surviving spouse of a certain fallen correctional officer; providing for the effect and construction of certain provisions of this Act; making this Act an emergency measure; and generally repealing and reenacting without amendments certain Acts of the General Assembly that may be subject to possible title defects in order to validate those Acts.

BY repealing and reenacting, without amendments,  
Article 2B – Alcoholic Beverages  
Section 5–201(k)(4) and 9–102(a)  
Annotated Code of Maryland  
(2005 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, without amendments,  
Article – Courts and Judicial Proceedings  
Section 10–401(11)  
Annotated Code of Maryland  
(2006 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, without amendments,  
Article – Family Law  
Section 10–340 and the part “Part VI. Registration, Enforcement, and  
Modification of Support Order”  
Annotated Code of Maryland  
(2006 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, without amendments,

Article – Natural Resources  
Section 8–1802(a)(13) through (23)  
Annotated Code of Maryland  
(2007 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, without amendments,  
Article – Tax – Property  
Section 9–210  
Annotated Code of Maryland  
(2007 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, without amendments,  
Article – Transportation  
Section 13–619.1  
Annotated Code of Maryland  
(2006 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, without amendments,  
Chapter 280 of the Acts of the General Assembly of 2005, as amended by  
Chapter 21 of the Acts of the General Assembly of 2006 and Chapters 624  
and 625 of the Acts of the General Assembly of 2008  
Section 14

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

### **Article 2B – Alcoholic Beverages**

5–201.

(k) (4) The Dorchester County Board of License Commissioners may not approve the transfer of a Class B (on–sale and off–sale) beer and light wine license issued on or before June 30, 2008.

#### **DRAFTER’S NOTE:**

Error: Purpose paragraph of bill being cured failed to accurately describe the changes made by the bill.

Occurred: Chapter 564 (Senate Bill 154) of the Acts of 2008.

9–102.

(a) No more than one license provided by this article, except by way of renewal or as otherwise provided in this section, shall be issued in any county or Baltimore City, to any person, or for the use of any partnership, corporation, unincorporated association, or limited liability company, in Baltimore City or any

county of the State, and no more than one license shall be issued for the same premises except as provided in §§ 2–201 through 2–208, 2–301, and 6–701 of this article, and nothing herein shall be construed to apply to § 6–201(r)(4), (15), and (17), § 7–101(b) and (c), § 8–202(g)(2)(ii) and (iii), § 8–508, or § 12–202 of this article.

**DRAFTER'S NOTE:**

Error: Function paragraph of bill being cured incorrectly indicated that Article 2B, § 9–201(a), rather than § 9–102(a), was being amended.

Occurred: Chapter 676 (House Bill 1013) of the Acts of 2008.

**Article – Courts and Judicial Proceedings**

10–401.

(11) (i) “Electronic communication” means any transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectronic, or photooptical system.

(ii) “Electronic communication” does not include:

1. Any wire or oral communication;
2. Any communication made through a tone-only paging device; or
3. Any communication from a tracking device.

**DRAFTER'S NOTE:**

Error: Function paragraphs of bills being cured incorrectly indicated that § 10–401(11) of the Courts Article was unamended.

Occurred: Chapters 380 and 381 (Senate Bill 271/House Bill 869) of the Acts of 2008.

**Article – Family Law**

Part VI. Registration, Enforcement, and Modification of Support Order.

10–340.

A support order or income withholding order issued by a tribunal of another state may be registered in this State for enforcement.

## DRAFTER'S NOTE:

Error: Function paragraph of bill being cured incorrectly described part designation.

Occurred: Chapter 522 (House Bill 786) of the Acts of 2008.

**Article – Natural Resources**

8–1802.

(a) (13) (i) “Intensely developed area” means an area of at least 20 acres or the entire upland portion of the critical area within a municipal corporation, whichever is less, where:

1. Residential, commercial, institutional, or industrial developed land uses predominate; and

2. A relatively small amount of natural habitat occurs.

(ii) “Intensely developed area” includes:

1. An area with a housing density of at least four dwelling units per acre;

2. An area with public water and sewer systems with a housing density of more than three dwelling units per acre; or

3. A commercial marina redesignated by a local jurisdiction from a resource conservation area or limited development area to an intensely developed area through a mapping correction that occurred before January 1, 2006.

(14) “Land classification” means the designation of land in the Chesapeake Bay Critical Area or Atlantic Coastal Bays Critical Area in accordance with the criteria adopted by the Commission as an intensely developed area or district, a limited development area or district, or a resource conservation area or district.

(15) (i) “Limited development area” means an area:

1. That is developed in low or moderate intensity uses and contains areas of natural plant and animal habitat; and

2. Where the quality of runoff has not been substantially altered or impaired.

(ii) “Limited development area” includes an area:

1. With a housing density ranging from one dwelling unit per five acres up to four dwelling units per acre;
2. With a public water or sewer system;
3. That is not dominated by agricultural land, wetland, forests, barren land, surface water, or open space; or
4. That is less than 20 acres and otherwise qualifies as an intensely developed area under paragraph (13) of this subsection.

(16) “Local jurisdiction” means a county, or a municipal corporation with planning and zoning powers, in which any part of the Chesapeake Bay Critical Area or the Atlantic Coastal Bays Critical Area, as defined in this subtitle, is located.

(17) (i) “Lot coverage” means the percentage of a total lot or parcel that is:

1. Occupied by a structure, accessory structure, parking area, driveway, walkway, or roadway; or
2. Covered with gravel, stone, shell, impermeable decking, a paver, permeable pavement, or any man-made material.

(ii) “Lot coverage” includes the ground area covered or occupied by a stairway or impermeable deck.

(iii) “Lot coverage” does not include:

1. A fence or wall that is less than 1 foot in width that has not been constructed with a footer;
2. A walkway in the buffer or expanded buffer, including a stairway, that provides direct access to a community or private pier;
3. A wood mulch pathway; or
4. A deck with gaps to allow water to pass freely.

(18) (i) “Program” means the critical area protection program of a local jurisdiction.

(ii) “Program” includes any amendments to the program.

(19) (i) “Program amendment” means any change or proposed change to an adopted program that is not determined by the Commission chairman to be a program refinement.

(ii) “Program amendment” includes a change to a zoning map that is not consistent with the method for using the growth allocation contained in an adopted program.

(20) (i) “Program refinement” means any change or proposed change to an adopted program that the Commission chairman determines will result in a use of land or water in the Chesapeake Bay Critical Area or the Atlantic Coastal Bays Critical Area in a manner consistent with the adopted program, or that will not significantly affect the use of land or water in the critical area.

(ii) “Program refinement” may include:

1. A change to an adopted program that results from State law;
2. A change to an adopted program that affects local processes and procedures;
3. A change to a local ordinance or code that clarifies an existing provision; and
4. A minor change to an element of an adopted program that is clearly consistent with the provisions of this subtitle and all of the criteria of the Commission.

(21) (i) “Project approval” means the approval of development, other than development by a State or local government agency, in the Chesapeake Bay Critical Area or the Atlantic Coastal Bays Critical Area by the appropriate local approval authority.

(ii) “Project approval” includes:

1. Approval of subdivision plats and site plans;
2. Inclusion of areas within floating zones;
3. Issuance of variances, special exceptions, and conditional use permits; and
4. Approval of rezoning.

(iii) “Project approval” does not include building permits.



(22) (i) "Resource conservation area" means an area that is characterized by:

1. Nature dominated environments, such as wetlands, surface water, forests, and open space; and

2. Resource-based activities, such as agriculture, forestry, fisheries, or aquaculture.

(ii) "Resource conservation area" includes an area with a housing density of less than one dwelling per five acres.

(23) "Tributary stream" means a perennial stream or an intermittent stream within the critical area that has been identified by site inspection or in accordance with local program procedures approved by the Commission.

**DRAFTER'S NOTE:**

Error: Function paragraph of bill being cured incorrectly indicated that § 8-1802(a)(13) through (23), rather than § 8-1802(a)(13) through (18), of the Natural Resources Article was being amended and that § 8-1802(a)(15), rather than § 8-1802(a)(13), (15), (17), (22), and (23), was being added.

Occurred: Chapter 119 (House Bill 1253) of the Acts of 2008.

**Article – Tax – Property**

9-210.

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

(2) "Disabled law enforcement officer or rescue worker" means an individual who:

(i) has been found to be permanently and totally disabled by an administrative body or court of competent jurisdiction authorized to make such a determination; and

(ii) became disabled:

1. as a result of or in the course of employment as a law enforcement officer or a correctional officer; or

2. while in the active service of a fire, rescue, or emergency medical service, unless the disability was the result of the individual's own willful misconduct or abuse of alcohol or drugs.

(3) (i) “Dwelling” means real property that:

1. is the legal residence of a disabled law enforcement officer or rescue worker or a surviving spouse; and

2. is occupied by not more than two families.

(ii) “Dwelling” includes the lot or curtilage and structures necessary to use the real property as a residence.

(4) “Fallen law enforcement officer or rescue worker” means an individual who dies:

(i) as a result of or in the course of employment as a law enforcement officer or a correctional officer; or

(ii) while in the active service of a fire, rescue, or emergency medical service, unless the death was the result of the individual’s own willful misconduct or abuse of alcohol or drugs.

(5) “Surviving spouse” means a surviving spouse, who has not remarried, of a fallen law enforcement officer or rescue worker.

(b) The Mayor and City Council of Baltimore City or the governing body of a county or municipal corporation may grant, by law, a property tax credit under this section against the county or municipal corporation property tax imposed on a dwelling that is owned by a disabled law enforcement officer or rescue worker or a surviving spouse of a fallen law enforcement officer or rescue worker:

(1) if the dwelling was owned by the disabled law enforcement officer or rescue worker at the time the law enforcement officer or rescue worker was adjudged to be permanently and totally disabled or by the fallen law enforcement officer or rescue worker at the time of the fallen law enforcement officer’s or rescue worker’s death;

(2) if the disabled law enforcement officer or rescue worker was domiciled in the State as of the date the disabled law enforcement officer or rescue worker was adjudged to be permanently and totally disabled or the fallen law enforcement officer or rescue worker or the surviving spouse was domiciled in the State as of the date of the fallen law enforcement officer’s or rescue worker’s death and the dwelling was acquired by the disabled law enforcement officer or rescue worker within 2 years of the date the disabled law enforcement officer or rescue worker was adjudged to be permanently and totally disabled or by the surviving spouse within 2 years of the fallen law enforcement officer’s or rescue worker’s death; or

(3) if the dwelling was acquired after the disabled law enforcement officer or rescue worker or the surviving spouse qualified for a credit for a former dwelling under item (1) or (2) of this subsection, to the extent of the previous credit.

(c) A county or municipal corporation may provide, by law, for:

(1) the amount and duration of a property tax credit allowed under this section; and

(2) any other provision necessary to carry out the provisions of this section.

#### DRAFTER'S NOTE:

Error: Purpose paragraphs of bills being cured failed to accurately describe the changes made by the bills.

Occurred: Chapters 585 and 586 (Senate Bill 481/House Bill 573) of the Acts of 2008.

### Article – Transportation

13–619.1.

(a) (1) The owner of a motor vehicle, or a lessee of the vehicle under a lease not intended as security, or a director, officer, employee, or partner of a business entity that owns the vehicle may apply to the Administration for the assignment of a special registration number and special registration plates under this section for a vehicle included in one of the following classes:

(i) A Class A (passenger) vehicle;

(ii) A Class E (truck) vehicle with a one ton or less manufacturer's rated capacity;

(iii) A Class M (multipurpose) vehicle; or

(iv) A Class D (motorcycle) vehicle.

(2) To be eligible for a special registration described under subsection (c)(2)(i) of this section, an applicant shall provide proof that is satisfactory to the Administration that the applicant is a recipient of an individually earned, combat-related, armed forces medal.

(3) To be eligible for a special registration described under subsection (c)(2)(ii) of this section, an applicant shall provide proof that is satisfactory to the

Administration that the applicant is an honorably discharged veteran of a branch of the armed forces of the United States.

(4) To be eligible for a special registration described under subsection (c)(2)(iii) of this section, an applicant shall provide proof that is satisfactory to the Administration that the applicant is a recipient of the U.S. Department of Defense Gold Star for surviving spouses, parents, and next of kin of members of the armed forces who lost their lives in combat.

(b) (1) In addition to the annual registration fee otherwise required under this title, an owner of a vehicle assigned a special registration under this section shall pay a fee as determined by the Administration each time new registration plates are issued for the vehicle. The fee shall be calculated to recover the costs incurred by the Administration in carrying out the provisions of this section.

(2) The additional fee charged under this section shall be retained by the Administration for the purpose of recovering the Administration's costs under this section, and may not be credited to the Gasoline and Motor Vehicle Revenue Account for distribution under § 8-403 or § 8-404 of this article.

(c) Special registration plates issued under this section:

(1) May consist of any combination of letters, numerals, or both; and

(2) Shall include:

(i) For registration plates issued for an applicant described in subsection (a)(2) of this section:

1. An emblem or logo as authorized by the Administration that depicts the applicant's armed forces medal; and

2. Except on plates issued for Class D (motorcycle) vehicles, words describing the medal printed across the bottom of the plates;

(ii) Words or an emblem or logo indicating that the special registration plate holder is an honorably discharged veteran of a branch of the armed forces of the United States; or

(iii) An emblem or logo indicating that the registration plate holder is the recipient of the U.S. Department of Defense Gold Star.

(d) (1) The Administration, in consultation with the U.S. Department of Defense and appropriate representatives of the various branches of the armed forces, shall adopt regulations specifying those armed forces medals that are of the type described in subsection (a)(2) of this section and which, when awarded to an individual, qualify that individual to apply for special registration under this section.

(2) The Administration may adopt other regulations as necessary to govern the issuance of special registration numbers and special registration plates under this section.

(e) If, whether by act of the parties or by operation of law, the title or ownership interest in a vehicle assigned a special registration under this section is transferred from the joint names of a husband and wife to the individual name of either spouse, the transferee may continue to use the same special registration plates issued under this section on the vehicle after the transfer.

**DRAFTER'S NOTE:**

Error: Function paragraph of bill being cured incorrectly indicated that § 13–619.1, rather than § 13–619.1(a) through (d), of the Transportation Article was being amended.

Occurred: Chapter 694 (House Bill 1425) of the Acts of 2008.

**Chapter 280 of the Acts of 2005, as amended by Chapter 21 of the Acts of 2006 and Chapters 624 and 625 of the Acts of 2008**

SECTION 14. AND BE IT FURTHER ENACTED, That, subject to Section 13 of this Act, this Act shall take effect July 1, 2005. Section 3 of this Act shall remain effective for a period of 10 years and, at the end of June 30, 2015, with no further action required by the General Assembly, Section 3 of this Act shall be abrogated and of no further force and effect. Section 5 of this Act shall remain effective for a period of 2 years and, at the end of June 30, 2007, with no further action required by the General Assembly, Section 5 of this Act shall be abrogated and of no further force and effect.

**DRAFTER'S NOTE:**

Error: Function paragraphs of bills being cured incorrectly described the Act being amended.

Occurred: Chapters 624 and 625 (Senate Bill 841/House Bill 1279) of the Acts of 2008.

SECTION 2. AND BE IT FURTHER ENACTED, That the Drafter's Notes contained in this Act are not law and may not be considered to have been enacted as part of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a yea and nay vote supported by three-fifths of all the members

elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

**Approved by the Governor, April 14, 2009.**

---

## Chapter 69

### (Senate Bill 463)

AN ACT concerning

#### **Maryland Youth Advisory Council – Youth Members**

FOR the purpose of altering the term of a youth member of the Maryland Youth Advisory Council; altering the term of a youth member who is elected cochair of the Council; requiring the State Department of Education to categorize certain school absences of a youth member as lawful absences under certain circumstances; providing that the terms of the youth members of the Council in office on a certain date shall expire on a certain date; and generally relating to youth members on the Maryland Youth Advisory Council.

BY repealing and reenacting, with amendments,  
Article – State Government  
Section 9–2701  
Annotated Code of Maryland  
(2004 Replacement Volume and 2008 Supplement)

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

#### **Article – State Government**

9–2701.

- (a) (1) In this section the following words have the meanings indicated.
- (2) “Council” means the Maryland Youth Advisory Council.
- (3) “High school student” means a youth who is enrolled in high school, who is a home school student, or who is enrolled in a program that leads to a high school diploma or certificate of attendance or a general equivalency diploma.
- (4) “Institution of postsecondary education” has the meaning stated in § 10–101 of the Education Article.

(5) “Public senior higher education institution” has the meaning stated in § 10–101 of the Education Article.

(6) “Youth” means an individual who is 14 to 22 years old.

(b) There is a Maryland Youth Advisory Council.

(c) The Council consists of:

(1) the following members appointed by the President of the Senate:

(i) six high school students, including at least three who are students in the State and who are enrolled in public high schools;

(ii) two youths who are students at institutions of postsecondary education located in the State; and

(iii) one member of the Senate;

(2) the following members appointed by the Speaker of the House of Delegates:

(i) six high school students, including at least three who are students in the State and who are enrolled in public high schools;

(ii) two youths who are students at institutions of postsecondary education located in the State; and

(iii) one member of the House of Delegates;

(3) the following members appointed by the Governor:

(i) twelve youths, including at least ten high school students, at least five of whom shall be students in the State who are enrolled in public high schools; and

(ii) four youths who are students at institutions of postsecondary education located in the State;

(4) the following members selected by other youths, including:

(i) fifteen high school students chosen by the Maryland Association of Student Councils; and

(ii) eight youths who are students at institutions of postsecondary education located in the State, including:

1. three members selected by the University System of Maryland Student Council; and

2. five members selected by the Student Advisory Council to the Maryland Higher Education Commission, including:

A. at least one member who is enrolled in a community college;

B. at least one member who is enrolled in a private college or university; and

C. at least one member who is enrolled in a public senior higher education institution who is not otherwise represented on the Council; and

(5) an executive board that consists of:

(i) four members selected by the youth members appointed by the President of the Senate and the Speaker of the House, including:

1. three high school students; and

2. one student at an institution of postsecondary education;

(ii) four members selected by the youth members appointed by the Governor, including:

1. three high school students; and

2. one student at an institution of postsecondary education; and

(iii) four members selected by the youth members chosen by other youth, including:

1. three high school students; and

2. one student at an institution of postsecondary education.

(d) In deciding which members to appoint or select:

(1) the President of the Senate and the Speaker of the House shall, to the extent practicable, consider:

(i) the geographic and demographic diversity of the State;



(ii) diversity in education, including nontraditional settings such as vocational and tech-oriented education; and

(iii) youths with disabilities;

(2) the Governor shall, to the extent practicable, consider:

(i) the geographic and demographic diversity of the State;

(ii) diversity in education, including nontraditional settings such as vocational and tech-oriented education;

(iii) youths with disabilities; and

(iv) transitional youths who are not in high school or an institution of postsecondary education and not likely to attend an institution of postsecondary education; and

(3) the Maryland Association of Student Councils shall consider youths who are enrolled in schools represented by the Association as well as applicants who are enrolled in schools that are not represented by the Association.

(e) (1) The term of a youth member of the Council is **[9 months] 1 YEAR**, from September 1 **[to June 1] THROUGH AUGUST 30** of the following year.

(2) A youth member who is appointed or selected after a term has begun serves only for the rest of the term and until a successor is appointed or selected and qualifies.

(3) A youth member may not serve more than two consecutive terms.

(4) The member from the Senate and the member from the House serve, respectively, at the pleasure of the President of the Senate and the Speaker of the House.

(f) (1) At the first meeting of each youth member term period, the youth members shall elect one of the youth members to serve as cochair for a term of **[9 months] 1 YEAR**.

(2) A representative of the Governor's Office for Children appointed by the Governor, the member from the Senate, and the member from the House shall serve as cochairs with the elected youth member cochair.

(3) The Council may appoint any officers that it considers necessary.

(4) The cochair appointed by the Governor shall, on behalf of the Governor, the President of the Senate, and the Speaker of the House, develop an initial application and application process, both of which the Council may change at its discretion.

(g) The Governor's Office for Children, in addition to the member from the Senate, or the member from the House, or both, shall provide staff support for the Council.

(h) The Council shall:

(1) inform the Governor and the General Assembly of issues concerning youth, including offering testimony on these issues before legislative bodies;

(2) examine issues of importance to youth, including:

(i) education;

(ii) a safe learning environment;

(iii) employment opportunities;

(iv) strategies to increase youth participation in local and State government;

(v) health care access and quality of care;

(vi) substance abuse and underage drinking;

(vii) emotional and physical well-being;

(viii) the environment;

(ix) poverty;

(x) homelessness;

(xi) youth access to State and local services;

(xii) suicide prevention; and

(xiii) educational accessibility issues for students with disabilities, including access to:

1. schools;

2. school-related activities; and
3. classes;

(3) recommend one legislative proposal each legislative session concerning an issue included in paragraph (2) of this subsection for possible introduction; and

(4) conduct a public awareness campaign to raise awareness about the Council among Maryland youth.

(i) (1) The Council shall work with the State Department of Education regarding the granting of school credit for Council service.

(2) The State Department of Education and the Maryland Higher Education Commission shall notify the head administrators of all State high schools and of all institutions of postsecondary education, respectively, of the creation of the Council so that the administrators may inform their students.

**(3) THE STATE DEPARTMENT OF EDUCATION SHALL ALLOW UP TO FOUR ABSENCES OF A YOUTH MEMBER FROM SCHOOL PER SCHOOL YEAR TO BE CATEGORIZED AS LAWFUL ABSENCES IF THE ABSENCES WERE DUE TO THE BUSINESS OF THE COUNCIL.**

(j) (1) The Council shall set priorities and determine:

- (i) the function of subcommittees;
- (ii) standards of conduct;
- (iii) procedures; and
- (iv) the use of technology to convene or conduct meetings or facilitate communications among members.

(2) The Council shall review and consider whether the procedures and rules used by the General Assembly would be appropriate for use as models for the Council.

(k) The Council shall:

(1) meet at least four times each year and conduct one or two public hearings each year on issues of importance to youth;

(2) conduct one educational meeting concerning the legislative process, to which the President of the Senate, the Speaker of the House, and the Executive

Director of the Department of Legislative Services, or their designees, shall be invited to speak; and

- (3) open all meetings to the public.
- (l) A member of the Council:
  - (1) may not receive compensation as a member of the Council; but
  - (2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.
- (m) On or before the last day of the youth members' terms, the Council shall report its activities to the Governor and, in accordance with § 2-1246 of this article, to the General Assembly.

SECTION 2. AND BE IT FURTHER ENACTED, That the terms of the youth members of the Maryland Youth Advisory Council in office on the effective date of this Act shall expire at the end of August 30, 2009.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ June 1, 2009.

**Approved by the Governor, April 14, 2009.**

---

## Chapter 70

**(House Bill 485)**

AN ACT concerning

### Maryland Youth Advisory Council – Youth Members

FOR the purpose of altering the term of a youth member of the Maryland Youth Advisory Council; altering the term of a youth member who is elected cochair of the Council; requiring the State Department of Education to categorize certain school absences of a youth member as lawful absences under certain circumstances; providing that the terms of the youth members of the Council in office on a certain date shall expire on a certain date; and generally relating to youth members on the Maryland Youth Advisory Council.

BY repealing and reenacting, with amendments,  
 Article – State Government  
 Section 9-2701  
 Annotated Code of Maryland

(2004 Replacement Volume and 2008 Supplement)

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

**Article – State Government**

9–2701.

- (a) (1) In this section the following words have the meanings indicated.
- (2) “Council” means the Maryland Youth Advisory Council.
- (3) “High school student” means a youth who is enrolled in high school, who is a home school student, or who is enrolled in a program that leads to a high school diploma or certificate of attendance or a general equivalency diploma.
- (4) “Institution of postsecondary education” has the meaning stated in § 10–101 of the Education Article.
- (5) “Public senior higher education institution” has the meaning stated in § 10–101 of the Education Article.
- (6) “Youth” means an individual who is 14 to 22 years old.
- (b) There is a Maryland Youth Advisory Council.
- (c) The Council consists of:
  - (1) the following members appointed by the President of the Senate:
    - (i) six high school students, including at least three who are students in the State and who are enrolled in public high schools;
    - (ii) two youths who are students at institutions of postsecondary education located in the State; and
    - (iii) one member of the Senate;
  - (2) the following members appointed by the Speaker of the House of Delegates:
    - (i) six high school students, including at least three who are students in the State and who are enrolled in public high schools;
    - (ii) two youths who are students at institutions of postsecondary education located in the State; and

(iii) one member of the House of Delegates;

(3) the following members appointed by the Governor:

(i) twelve youths, including at least ten high school students, at least five of whom shall be students in the State who are enrolled in public high schools; and

(ii) four youths who are students at institutions of postsecondary education located in the State;

(4) the following members selected by other youths, including:

(i) fifteen high school students chosen by the Maryland Association of Student Councils; and

(ii) eight youths who are students at institutions of postsecondary education located in the State, including:

1. three members selected by the University System of Maryland Student Council; and

2. five members selected by the Student Advisory Council to the Maryland Higher Education Commission, including:

A. at least one member who is enrolled in a community college;

B. at least one member who is enrolled in a private college or university; and

C. at least one member who is enrolled in a public senior higher education institution who is not otherwise represented on the Council; and

(5) an executive board that consists of:

(i) four members selected by the youth members appointed by the President of the Senate and the Speaker of the House, including:

1. three high school students; and

2. one student at an institution of postsecondary education;

(ii) four members selected by the youth members appointed by the Governor, including:

1. three high school students; and
  2. one student at an institution of postsecondary education; and
- (iii) four members selected by the youth members chosen by other youth, including:
1. three high school students; and
  2. one student at an institution of postsecondary education.
- (d) In deciding which members to appoint or select:
- (1) the President of the Senate and the Speaker of the House shall, to the extent practicable, consider:
    - (i) the geographic and demographic diversity of the State;
    - (ii) diversity in education, including nontraditional settings such as vocational and tech-oriented education; and
    - (iii) youths with disabilities;
  - (2) the Governor shall, to the extent practicable, consider:
    - (i) the geographic and demographic diversity of the State;
    - (ii) diversity in education, including nontraditional settings such as vocational and tech-oriented education;
    - (iii) youths with disabilities; and
    - (iv) transitional youths who are not in high school or an institution of postsecondary education and not likely to attend an institution of postsecondary education; and
  - (3) the Maryland Association of Student Councils shall consider youths who are enrolled in schools represented by the Association as well as applicants who are enrolled in schools that are not represented by the Association.
- (e) (1) The term of a youth member of the Council is **[9 months] 1 YEAR**, from September 1 **[to June 1] THROUGH AUGUST 30** of the following year.

(2) A youth member who is appointed or selected after a term has begun serves only for the rest of the term and until a successor is appointed or selected and qualifies.

(3) A youth member may not serve more than two consecutive terms.

(4) The member from the Senate and the member from the House serve, respectively, at the pleasure of the President of the Senate and the Speaker of the House.

(f) (1) At the first meeting of each youth member term period, the youth members shall elect one of the youth members to serve as cochair for a term of [9 months] **1 YEAR**.

(2) A representative of the Governor's Office for Children appointed by the Governor, the member from the Senate, and the member from the House shall serve as cochairs with the elected youth member cochair.

(3) The Council may appoint any officers that it considers necessary.

(4) The cochair appointed by the Governor shall, on behalf of the Governor, the President of the Senate, and the Speaker of the House, develop an initial application and application process, both of which the Council may change at its discretion.

(g) The Governor's Office for Children, in addition to the member from the Senate, or the member from the House, or both, shall provide staff support for the Council.

(h) The Council shall:

(1) inform the Governor and the General Assembly of issues concerning youth, including offering testimony on these issues before legislative bodies;

(2) examine issues of importance to youth, including:

(i) education;

(ii) a safe learning environment;

(iii) employment opportunities;

(iv) strategies to increase youth participation in local and State government;

(v) health care access and quality of care;



- (vi) substance abuse and underage drinking;
- (vii) emotional and physical well-being;
- (viii) the environment;
- (ix) poverty;
- (x) homelessness;
- (xi) youth access to State and local services;
- (xii) suicide prevention; and
- (xiii) educational accessibility issues for students with disabilities, including access to:

1. schools;
2. school-related activities; and
3. classes;

(3) recommend one legislative proposal each legislative session concerning an issue included in paragraph (2) of this subsection for possible introduction; and

(4) conduct a public awareness campaign to raise awareness about the Council among Maryland youth.

(i) (1) The Council shall work with the State Department of Education regarding the granting of school credit for Council service.

(2) The State Department of Education and the Maryland Higher Education Commission shall notify the head administrators of all State high schools and of all institutions of postsecondary education, respectively, of the creation of the Council so that the administrators may inform their students.

**(3) THE STATE DEPARTMENT OF EDUCATION SHALL ALLOW UP TO FOUR ABSENCES OF A YOUTH MEMBER FROM SCHOOL PER SCHOOL YEAR TO BE CATEGORIZED AS LAWFUL ABSENCES IF THE ABSENCES WERE DUE TO THE BUSINESS OF THE COUNCIL.**

- (j) (1) The Council shall set priorities and determine:
- (i) the function of subcommittees;

- (ii) standards of conduct;
- (iii) procedures; and
- (iv) the use of technology to convene or conduct meetings or facilitate communications among members.

(2) The Council shall review and consider whether the procedures and rules used by the General Assembly would be appropriate for use as models for the Council.

(k) The Council shall:

(1) meet at least four times each year and conduct one or two public hearings each year on issues of importance to youth;

(2) conduct one educational meeting concerning the legislative process, to which the President of the Senate, the Speaker of the House, and the Executive Director of the Department of Legislative Services, or their designees, shall be invited to speak; and

(3) open all meetings to the public.

(l) A member of the Council:

(1) may not receive compensation as a member of the Council; but

(2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(m) On or before the last day of the youth members' terms, the Council shall report its activities to the Governor and, in accordance with § 2-1246 of this article, to the General Assembly.

SECTION 2. AND BE IT FURTHER ENACTED, That the terms of the youth members of the Maryland Youth Advisory Council in office on the effective date of this Act shall expire at the end of August 30, 2009.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ June 1, 2009.

**Approved by the Governor, April 14, 2009.**

---

## Chapter 71

(Senate Bill 471)

AN ACT concerning

~~Assisted Living Managers—Certification Requirement~~  
State Board of Examiners of Nursing Home Administrators – Composition  
and Executive Director

FOR the purpose of ~~establishing a certification process for assisted living managers; requiring the Department of Health and Mental Hygiene to require that assisted living managers be certified; renaming the Board of Nursing Home Administrators to be the Board of Nursing Home Administrators and Assisted Living Managers; altering the composition of the Board~~ State Board of Examiners of Nursing Home Administrators; altering the appointment process and qualifications for the executive director of the Board; ~~requiring that certain individuals be certified by the Board before practicing as assisted living managers in the State; establishing certain qualification requirements for obtaining a certain certificate; providing a certain exemption for certain experience and training requirements; establishing certain application fees and requirements for obtaining a certificate; requiring the Board to keep a certain file on certain applications for certificates; establishing certain terms and procedures for the renewal and reinstatement of a certificate; establishing certain terms and conditions for an inactive certificate; prohibiting a certificate holder from surrendering a certificate under certain circumstances; authorizing the Board to deny a certificate to an applicant, reprimand a certificate holder, place a certificate holder on probation, or suspend or revoke a certificate under certain circumstances; providing for certain criminal and civil penalties; establishing certain hearing and appeal procedures for certificate holders; providing for certain vacancies on the Board; defining certain terms; providing for the application of certain provisions of this Act; and generally relating to certification requirements for assisted living managers~~ the State Board of Examiners of Nursing Home Administrators.

~~BY renumbering~~

~~Article—Health Occupations~~

~~Section 9-317~~

~~to be Section 9-208~~

~~Annotated Code of Maryland~~

~~(2005 Replacement Volume and 2008 Supplement)~~

~~BY repealing and reenacting, without amendments,~~

~~Article—Health—General~~

~~Section 19-1801 and 19-1807~~

~~Annotated Code of Maryland~~

~~(2005 Replacement Volume and 2008 Supplement)~~

~~BY repealing and reenacting, with amendments,  
 Article — Health — General  
 Section 19-1805(a)  
 Annotated Code of Maryland  
 (2005 Replacement Volume and 2008 Supplement)~~

BY repealing and reenacting, with amendments,  
 Article – Health Occupations  
 Section ~~9-101, 9-201 through 9-203, 9-315 through 9-316.1, 9-401 through 9-403, and 9-501 to be under the amended title “Title 9. Nursing Home Administrators and Assisted Living Managers”~~ 9-202 and 9-203  
 Annotated Code of Maryland  
 (2005 Replacement Volume and 2008 Supplement)

~~BY repealing and reenacting, without amendments,  
 Article — Health Occupations  
 Section 9-102, 9-407, and 9-502  
 Annotated Code of Maryland  
 (2005 Replacement Volume and 2008 Supplement)~~

~~BY repealing and reenacting, with amendments,  
 Article — Health Occupations  
 Section 9-208  
 Annotated Code of Maryland  
 (2005 Replacement Volume and 2008 Supplement)  
 (As enacted by Section 1 of this Act)~~

~~BY adding to  
 Article — Health Occupations  
 Section 9-3A-01 through 9-3A-15 to be under the new subtitle “Subtitle 3A.  
 Certification of Assisted Living Managers”  
 Annotated Code of Maryland  
 (2005 Replacement Volume and 2008 Supplement)~~

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That ~~Section(s) 9-317 of Article — Health Occupations of the Annotated Code of Maryland be renumbered to be Section(s) 9-208.~~

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

~~**Article — Health — General**~~

~~19-1801.~~

~~In this subtitle:~~

~~(1) "Assisted living program" means a residential or facility-based program that provides housing and supportive services, supervision, personalized assistance, health-related services, or a combination thereof that meets the needs of individuals who are unable to perform or who need assistance in performing the activities of daily living or instrumental activities of daily living in a way that promotes optimum dignity and independence for the individuals.~~

~~(2) "Assisted living program" does not include:~~

- ~~(i) A nursing home, as defined under § 19-301 of this title;~~
- ~~(ii) A State facility, as defined under § 10-101 of this article;~~
- ~~(iii) A program licensed by the Department under Title 7 or Title 10 of this article;~~
- ~~(iv) A hospice care program regulated by the Department under Subtitle 9 of this title;~~
- ~~(v) Services provided by family members;~~
- ~~(vi) Services provided in an individual's own home; or~~
- ~~(vii) A program certified by the Department of Human Resources under Title 6, Subtitle 5, Part II of the Human Services Article as a certified Adult Residential Environment Program.~~

~~19-1805.~~

~~(a) The Department shall:~~

- ~~(1) Define different levels of assisted living according to the level of care provided;~~
- ~~(2) Require all assisted living programs to be licensed to operate according to the level of the program;~~
- ~~(3) Develop a waiver process for authorizing an assisted living program to continue to care for an individual whose medical or functional condition has changed since admission to the program to an extent that the level of care required by the individual exceeds the level of care for which the program is licensed;~~
- ~~(4) Promote affordable and accessible assisted living programs throughout the State;~~

~~(5) Establish and enforce quality standards for assisted living programs;~~

~~(6) Require periodic inspections of assisted living program facilities, including at least an annual unannounced on-site inspection;~~

~~(7) Establish requirements for the qualifications or training or both of assisted living program employees **INCLUDING THAT ASSISTED LIVING MANAGERS BE CERTIFIED UNDER TITLE 9, SUBTITLE 3A OF THE HEALTH OCCUPATIONS ARTICLE**;~~

~~(8) Establish a "resident bill of rights" for residents of assisted living program facilities; and~~

~~(9) Define which, if any, assisted living programs may be exempt from the requirements of § 19-311 of this title.~~

~~19-1807.~~

~~(a) (1) Except as provided in subsection (d) of this section, by January 1, 2006, an assisted living manager who is employed by an assisted living program that is licensed for 5 or more beds shall have completed a manager training course that is approved by the Department and includes an examination.~~

~~(2) The manager training course shall:~~

~~(i) Consist of at least 80 hours;~~

~~(ii) Require attendance or participation at training programs that provide for direct interaction between faculty and participants; and~~

~~(iii) Authorize a maximum of 25 hours of training through Internet courses, correspondence courses, tapes, or other training methods that do not require direct interaction between faculty and participants.~~

~~(b) An assisted living manager employed in a program that is licensed for 5 or more beds shall be required to complete 20 hours of Department approved continuing education every 2 years.~~

~~(c) In addition to the sanctions specified in COMAR 10.07.14.48, an assisted living program that fails to employ an assisted living manager who meets the requirements of this section may be subject to a civil money penalty not to exceed \$10,000.~~

~~(d) (1) The requirements of subsection (a) of this section do not apply to an individual who:~~

~~(i) Is employed by an assisted living program and has enrolled in a Department approved manager training course that the individual expects to complete within 6 months;~~

~~(ii) Except as provided in paragraph (3) of this subsection, is temporarily serving as an assisted living manager, for no longer than 45 days, due to an assisted living manager leaving employment and prior to the hiring of a permanent assisted living manager; or~~

~~(iii) Subject to paragraph (2) of this subsection:~~

~~1. Has been employed as an assisted living manager in the State for 1 year prior to January 1, 2006; or~~

~~2. Is licensed as a nursing home administrator in the State.~~

~~(2) The Department may require an individual who is exempt under paragraph (1)(iii) of this subsection to complete a manager training course and examination if the Department finds that the assisted living manager repeatedly has violated State law or regulations on assisted living and that those violations have caused actual physical or emotional harm to a resident.~~

~~(3) An assisted living program may request an extension from the Department to allow an individual to serve as an assisted living manager for longer than 45 days if the assisted living program has shown good cause for the extension.~~

~~(c) The Department shall ensure that manager training courses approved by the Department are affordable and accessible to assisted living programs and to individuals seeking to enroll in the courses.~~

## Article – Health Occupations

### ~~Title 9. Nursing Home Administrators AND ASSISTED LIVING MANAGERS.~~

~~9-101.~~

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

~~(b) “ASSISTED LIVING MANAGER” MEANS AN INDIVIDUAL EMPLOYED TO OVERSEE THE DAY TO DAY OPERATION OF AN ASSISTED LIVING PROGRAM LICENSED IN ACCORDANCE WITH TITLE 19, SUBTITLE 18 OF THE HEALTH –GENERAL ARTICLE.~~

~~(c) “ASSISTED LIVING PROGRAM” HAS THE MEANING STATED IN § 19-1801 OF THE HEALTH –GENERAL ARTICLE.~~

~~[(b)](D) “Board” means the State Board of Examiners of Nursing Home Administrators AND ASSISTED LIVING MANAGERS.~~

~~(E) “CERTIFICATE” MEANS, UNLESS THE CONTEXT REQUIRES OTHERWISE, A CERTIFICATE ISSUED BY THE BOARD TO PRACTICE AS AN ASSISTED LIVING MANAGER.~~

~~(F) “CERTIFIED ASSISTED LIVING MANAGER” MEANS, UNLESS THE CONTEXT REQUIRES OTHERWISE, AN INDIVIDUAL WHO IS CERTIFIED BY THE BOARD TO PRACTICE AS AN ASSISTED LIVING MANAGER.~~

~~[(e)](G) “License” means, unless the context requires otherwise, a license issued by the Board to practice as a nursing home administrator.~~

~~[(d)](H) “Licensed nursing home administrator” means, unless the context requires otherwise, an individual who is licensed by the Board to practice as a nursing home administrator.~~

~~[(c)](I) “Nursing home” means an institution or part of an institution that:~~

~~(1) Is a “skilled nursing facility” or an “intermediate care facility” as those terms are defined by federal law and participates in a program under Title XVIII or Title XIX of the Social Security Act; or~~

~~(2) If it is licensed only by this State, otherwise meets the federal requirements for a “skilled nursing facility” or an “intermediate care facility” as those terms are defined by federal law.~~

~~[(f)](J) “Nursing home administrator” means an individual who administers, manages, or is in general administrative charge of a nursing home whether or not the individual:~~

~~(1) Has an ownership interest in the nursing home; or~~

~~(2) Shares duties and functions with other individuals.~~

~~9-102.~~

~~This title does not limit the right of an individual to practice a health occupation that the individual is authorized to practice under this article.~~

~~9-201.~~

~~There is a State Board of Examiners of Nursing Home Administrators AND ASSISTED LIVING MANAGERS in the Department.~~



9-202.

(a) (1) The Board consists of ~~11~~ **13** members.

(2) Of the ~~11~~ **13** Board members:

(i) **[Five] ~~THREE~~ SIX** members shall be licensed nursing home administrators who are practicing actively and have at least 5 years experience as licensed nursing home administrators, **ONE OF WHOM HAS EXPERIENCE WITH THE EDEN ALTERNATIVE GREEN HOUSE OR A SIMILAR PROGRAM, IF PRACTICABLE;**

(ii) Two shall be ~~1~~ individuals who are not nursing home administrators but who are engaged actively in professions that are concerned with the care of chronically ill, infirm, or aged individuals; ~~and] CERTIFIED ASSISTED LIVING MANAGERS;~~

**(III) ONE SHALL BE A PHYSICIAN OR A NURSE PRACTITIONER WHO SPECIALIZES IN GERIATRICS;**

~~(IV) ONE SHALL BE A GERIATRIC NURSE PRACTITIONER;~~

~~(V) (IV) ONE SHALL BE A GERIATRIC SOCIAL WORKER; AND~~

~~(VI) ONE SHALL BE A PHARMACIST; AND~~

**[(iii) ~~(VII) (V) [Four] TWO~~ shall be consumer members.**

(3) Not more than two members may be officials or full-time employees of this State or of any of its political subdivisions.

**(4) A REPRESENTATIVE OF THE OFFICE OF HEALTH CARE QUALITY SHALL SERVE AS AN EX OFFICIO MEMBER.**

(b) (1) The Governor shall appoint the consumer members with the advice of the Secretary and the advice and consent of the Senate.

(2) (i) Except for the consumer members, the Governor shall appoint each Board member, with the advice of the Secretary.

(ii) The Secretary shall make each recommendation after consulting with the associations and societies appropriate to the disciplines and professions representative of the vacancy to be filled.

(c) Each Board member shall:

(1) Be a United States citizen or have declared an intent to become a United States citizen; and

(2) Have resided in this State for at least 1 year before appointment to the Board.

(d) (1) Each consumer member of the Board:

[(1)] (I) Shall be a member of the general public;

[(2)] (II) May not be or ever have been a nursing home administrator or in training to become a nursing home administrator;

[(3)] (III) May not have a household member who is a nursing home administrator or in training to become a nursing home administrator;

[(4)] (IV) May not participate or ever have participated in a commercial or professional field related to the practice of a nursing home administrator;

[(5)] (V) May not have a household member who participates in a commercial or professional field related to the practice of a nursing home administrator; and

[(6)] (VI) May not have had within 2 years before appointment a substantial financial interest in a person regulated by the Board.

**(2) ~~(1)~~ ONE CONSUMER MEMBER SHALL HAVE PRESENTLY OR HAVE HAD A FAMILY MEMBER LIVING IN A NURSING HOME.**

**~~(II) ONE CONSUMER MEMBER SHALL HAVE PRESENTLY OR HAVE HAD A FAMILY MEMBER LIVING IN AN ASSISTED LIVING FACILITY.~~**

(e) While a member of the Board, a consumer member may not have a substantial financial interest in a person regulated by the Board.

(f) Before taking office, each appointee to the Board shall take the oath required by Article I, § 9 of the State Constitution.

(g) (1) The term of a member is 4 years.

(2) The terms of members are staggered as required by the terms provided for members of the Board on July 1, 1981.

(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) A member may not serve more than 2 consecutive full terms.

(6) To the extent practicable, the Governor shall fill any vacancy on the Board within 60 days of the date of the vacancy.

(h) (1) The Governor may remove a member for incompetence, misconduct, incapacity, or neglect of duty.

(2) Upon the recommendation of the Secretary, the Governor may remove a member whom the Secretary finds to have been absent from 2 successive Board meetings without adequate reason.

9-203.

(a) From among the Board members, the Governor shall appoint a chairman and vice chairman of the Board.

(b) (1) [With the consent of the Board, the] **THE** Board [chairman] shall appoint **AND THE SECRETARY SHALL CONFIRM** the Board executive director.

(2) The Board executive director may not be a member of the Board and serves at the pleasure of the Board.

(3) The Board executive director is the executive officer of the Board.

**(4) THE BOARD EXECUTIVE DIRECTOR SHALL HAVE, AT A MINIMUM, A BACHELOR'S DEGREE.**

(c) The Board shall determine the duties of each officer.

~~9-208.~~

~~(a) In this section, ["nursing home administrator rehabilitation committee"] **"REHABILITATION COMMITTEE"** means a committee that:~~

~~(1) Is defined in subsection (b) of this section; and~~

~~(2) Performs any of the functions listed in subsection (d) of this section.~~

~~(b) For purposes of this section, a [nursing home administrator] rehabilitation committee is a committee of the Board or a committee of any association representing nursing home administrators OR ASSISTED LIVING MANAGERS that:~~

~~(1) Is recognized by the Board; and~~

~~(2) Includes but is not limited to nursing home administrators AND ASSISTED LIVING MANAGERS.~~

~~(c) A rehabilitation committee of the Board or recognized by the Board may function:~~

~~(1) Solely for the Board; or~~

~~(2) Jointly with a rehabilitation committee representing another board or boards.~~

~~(d) For purposes of this section, a [nursing home administrator] rehabilitation committee evaluates and provides assistance to any [nursing home administrator, and any other] individual regulated by the Board, in need of treatment and rehabilitation for alcoholism, drug abuse, chemical dependency, or other physical, emotional, or mental condition.~~

~~(e) (1) Except as otherwise provided in this subsection, the proceedings, records, and files of the [nursing home administrator] rehabilitation committee are not discoverable and are not admissible in evidence in any civil action arising out of matters that are being or have been reviewed and evaluated by the [nursing home administrator] rehabilitation committee.~~

~~(2) Paragraph (1) of this subsection does not apply to any record or document that is considered by the [nursing home administrator] rehabilitation committee and that otherwise would be subject to discovery or introduction into evidence in a civil action.~~

~~(3) For purposes of this subsection, civil action does not include a proceeding before the Board or judicial review of a proceeding before the Board.~~

~~(f) A person who acts in good faith and within the scope of jurisdiction of a [nursing home administrator] rehabilitation committee is not civilly liable for any action as a member of the [nursing home administrator] rehabilitation committee or for giving information to, participating in, or contributing to the function of the [nursing home administrator] rehabilitation committee.~~

~~(a) Except as otherwise provided in the Administrative Procedure Act, before the Board takes any action under § 9-314 of this subtitle OR § 9-3A-12 OF THIS TITLE, it shall give the individual against whom the action is contemplated an opportunity for a hearing before the Board.~~

~~(b) The Board shall give notice and hold the hearing in accordance with the Administrative Procedure Act.~~

~~(c) Over the signature of an officer or the executive director of the Board, the Board may issue subpoenas and administer oaths in connection with any investigation under this title and any hearings or proceedings before it.~~

~~(d) If, without lawful excuse, a person disobeys a subpoena from the Board or an order by the Board to take an oath or to testify or answer a question, then, on petition of the Board, a court of competent jurisdiction may punish the person as for contempt of court.~~

~~(e) If after due notice the individual against whom the action is contemplated fails or refuses to appear, nevertheless the Board may hear and determine the matter.~~

#### ~~9-316.~~

~~(a) Except as provided in this section for an action under § 9-314 of this subtitle OR § 9-3A-12 OF THIS TITLE, any person aggrieved by a final decision of the Board in a contested case, as defined in the Administrative Procedure Act, may:~~

~~(1) Appeal that decision to the Board of Review; and~~

~~(2) Then take any further appeal allowed by the Administrative Procedure Act.~~

~~(b) (1) Any person aggrieved by a final decision of the Board under § 9-314 of this subtitle OR § 9-3A-12 OF THIS TITLE may not appeal to the Secretary or Board of Review but may take a direct judicial appeal.~~

~~(2) The appeal shall be made as provided for judicial review of final decisions in the Administrative Procedure Act.~~

~~(c) An order of the Board may not be stayed pending judicial review.~~

#### ~~9-316.1.~~

~~(a) The Board may issue a cease and desist order for practicing nursing home administration without a license or with an unauthorized person or for supervising or aiding an unauthorized person in the practice of nursing home administration.~~

~~(b) (1) An action for aiding and abetting may be maintained in the name of the State or the Board to enjoin:~~

~~(i) The unauthorized practice of nursing home administration;~~  
~~or~~

~~(ii) Conduct that is a ground for disciplinary action under § 9-314 of this subtitle OR § 9-3A-12 OF THIS TITLE.~~

~~(2) An action under this section may be brought by:~~

~~(i) The Board, in its own name;~~

~~(ii) The Attorney General, in the name of the State; or~~

~~(iii) A State's Attorney, in the name of the State.~~

~~(3) An action under this section shall be brought in the county where the defendant resides or engages in the acts sought to be enjoined.~~

~~(4) Proof of actual damage or that any person will sustain any damage if an injunction is not granted is not required for an action under this section.~~

~~(5) An action under this section is in addition to and not instead of criminal prosecution for the unauthorized practice of nursing home administration OR ASSISTED LIVING MANAGEMENT under § 9-401 of this title or disciplinary action under § 9-314 of this subtitle OR § 9-3A-12 OF THIS TITLE.~~

### ~~SUBTITLE 3A. CERTIFICATION OF ASSISTED LIVING MANAGERS.~~

#### ~~9-3A-01.~~

~~EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, AN INDIVIDUAL SHALL BE CERTIFIED BY THE BOARD BEFORE THE INDIVIDUAL MAY PRACTICE AS AN ASSISTED LIVING MANAGER IN THIS STATE.~~

#### ~~9-3A-02.~~

~~(A) TO QUALIFY FOR A CERTIFICATE, AN APPLICANT SHALL:~~

~~(1) BE AN INDIVIDUAL WHO MEETS THE REQUIREMENTS OF THIS SECTION;~~

~~(2) BE OF GOOD MORAL CHARACTER; AND~~

~~(3) BE AT LEAST 21 YEARS OLD.~~

~~(B) THE APPLICANT SHALL HAVE:~~

- ~~(1) (I) A HIGH SCHOOL DIPLOMA;~~
- ~~(II) A HIGH SCHOOL EQUIVALENCY DIPLOMA; OR~~
- ~~(III) OTHER APPROPRIATE EDUCATION AS DETERMINED BY THE BOARD;~~
- ~~(2) APPROPRIATE EXPERIENCE AS DETERMINED BY THE BOARD;~~
- ~~(3) COMPLETED A MANAGER TRAINING COURSE AND SUCCESSFULLY PASSED AN EXAMINATION AS REQUIRED BY § 19-1807 OF THE HEALTH GENERAL ARTICLE; AND~~
- ~~(4) MET ANY ADDITIONAL REQUIREMENTS ESTABLISHED BY THE BOARD.~~

~~(C) THE BOARD MAY ESTABLISH DIFFERENT APPLICANT REQUIREMENTS FOR THE DIFFERENT LEVELS OF CARE DEFINED IN ACCORDANCE WITH § 19-805(A)(1) OF THE HEALTH GENERAL ARTICLE OR FOR FACILITIES LICENSED FOR DIFFERENT NUMBERS OF BEDS.~~

~~(D) THE BOARD MAY WAIVE THE EXPERIENCE AND TRAINING REQUIREMENTS UNDER THIS SECTION IN ACCORDANCE WITH § 19-1807(D) OF THE HEALTH GENERAL ARTICLE.~~

~~9-3A-03.~~

~~TO APPLY FOR A CERTIFICATE, AN APPLICANT SHALL:~~

- ~~(1) SUBMIT AN APPLICATION TO THE BOARD ON THE FORM THAT THE BOARD REQUIRES; AND~~
- ~~(2) PAY TO THE BOARD THE APPLICATION FEE SET BY THE BOARD.~~

~~9-3A-04.~~

~~(A) THE BOARD SHALL KEEP A FILE OF EACH APPLICATION FOR A CERTIFICATE MADE UNDER THIS SUBTITLE.~~

~~(B) THE FILE SHALL CONTAIN:~~

- ~~(1) THE NAME, ADDRESS, AND AGE OF THE APPLICANT;~~
  - ~~(2) THE NAME AND ADDRESS OF THE EMPLOYER OR BUSINESS CONNECTION OF THE APPLICANT;~~
  - ~~(3) THE DATE OF THE APPLICATION;~~
  - ~~(4) COMPLETE AND CURRENT INFORMATION ON THE EDUCATIONAL, TRAINING, AND EXPERIENCE QUALIFICATIONS OF THE APPLICANT;~~
  - ~~(5) THE DATE THE BOARD REVIEWED AND ACTED ON THE APPLICATION;~~
  - ~~(6) THE ACTION TAKEN BY THE BOARD ON THE APPLICATION;~~
  - ~~(7) THE IDENTIFYING NUMBERS OF ANY CERTIFICATE OR RENEWAL CERTIFICATE ISSUED TO THE APPLICANT; AND~~
  - ~~(8) ANY OTHER INFORMATION THAT THE BOARD CONSIDERS NECESSARY.~~
- ~~(C) THE APPLICATION FILES SHALL BE OPEN TO PUBLIC INSPECTION.~~

~~9-3A-05.~~

~~THE BOARD SHALL ISSUE A CERTIFICATE TO ANY APPLICANT WHO MEETS THE REQUIREMENTS OF THIS SUBTITLE.~~

~~9-3A-06.~~

~~THE APPLICANT MAY APPEAL A DECISION OF THE BOARD THAT RELATES TO ISSUING OR RENEWING A CERTIFICATE TO THE BOARD OF REVIEW AS PROVIDED IN § 9-316 OF THIS TITLE.~~

~~9-3A-07.~~

~~A CERTIFICATE AUTHORIZES THE CERTIFICATE HOLDER TO PRACTICE AS AN ASSISTED LIVING MANAGER WHILE THE CERTIFICATE IS EFFECTIVE.~~

~~9-3A-08.~~



~~(A) A CERTIFICATE EXPIRES ON THE SECOND ANNIVERSARY OF ITS EFFECTIVE DATE, UNLESS THE CERTIFICATE IS RENEWED FOR A 2-YEAR TERM AS PROVIDED IN THIS SECTION.~~

~~(B) AT LEAST 1 MONTH BEFORE THE CERTIFICATE EXPIRES, THE BOARD SHALL SEND TO THE CERTIFICATE HOLDER, BY FIRST-CLASS MAIL TO THE LAST KNOWN ADDRESS OF THE CERTIFICATE HOLDER, A RENEWAL NOTICE THAT STATES:~~

~~(1) THE DATE ON WHICH THE CURRENT CERTIFICATE EXPIRES;~~

~~(2) THE DATE BY WHICH THE RENEWAL APPLICATION MUST BE RECEIVED BY THE BOARD FOR THE RENEWAL TO BE ISSUED AND MAILED BEFORE THE CERTIFICATE EXPIRES; AND~~

~~(3) THE AMOUNT OF THE RENEWAL FEE.~~

~~(C) BEFORE THE CERTIFICATE EXPIRES, THE CERTIFICATE HOLDER PERIODICALLY MAY RENEW IT FOR AN ADDITIONAL 2-YEAR TERM, IF THE CERTIFICATE HOLDER:~~

~~(1) OTHERWISE IS ENTITLED TO BE CERTIFIED;~~

~~(2) PAYS TO THE BOARD A RENEWAL FEE SET BY THE BOARD;~~  
AND

~~(3) SUBMITS TO THE BOARD:~~

~~(i) A RENEWAL APPLICATION ON THE FORM THAT THE BOARD REQUIRES; AND~~

~~(ii) SATISFACTORY EVIDENCE OF COMPLIANCE WITH ANY CONTINUING EDUCATION AND OTHER QUALIFICATIONS AND REQUIREMENTS SET UNDER THIS SECTION FOR CERTIFICATE RENEWAL.~~

~~(D) (1) IN ADDITION TO ANY OTHER QUALIFICATIONS AND REQUIREMENTS ESTABLISHED BY THE BOARD, THE BOARD MAY SET CONTINUING EDUCATION REQUIREMENTS AS A CONDITION TO THE RENEWAL OF CERTIFICATES UNDER THIS SECTION.~~

~~(2) IF A CONTINUING EDUCATION PROGRAM RELATES TO FEDERAL OR STATE REGULATION, POLICY AND PROCEDURES, OR LAW, THE BOARD, IN ITS SOLE DISCRETION, MAY GRANT A REQUEST FOR ACCREDITATION OF THE PROGRAM.~~

~~(E) THE BOARD SHALL RENEW THE CERTIFICATE OF EACH CERTIFICATE HOLDER WHO MEETS THE REQUIREMENTS OF THIS SECTION.~~

~~9-3A-09.~~

~~(A) THE BOARD SHALL REINSTATE THE CERTIFICATE OF AN ASSISTED LIVING MANAGER WHO HAS FAILED TO RENEW THE CERTIFICATE FOR ANY REASON, IF THE CERTIFICATE HOLDER:~~

- ~~(1) HAS NOT HAD THE CERTIFICATE SUSPENDED OR REVOKED;~~
- ~~(2) MEETS THE RENEWAL REQUIREMENTS OF § 9-3A-08 OF THIS SUBTITLE;~~
- ~~(3) PAYS TO THE BOARD THE REINSTATEMENT FEE SET BY THE BOARD;~~
- ~~(4) SUBMITS TO THE BOARD SATISFACTORY EVIDENCE OF COMPLIANCE WITH THE QUALIFICATIONS AND REQUIREMENTS ESTABLISHED UNDER THIS SUBTITLE FOR CERTIFICATE REINSTATEMENTS; AND~~
- ~~(5) APPLIES TO THE BOARD FOR REINSTATEMENT OF THE CERTIFICATE WITHIN 5 YEARS AFTER THE CERTIFICATE EXPIRES.~~

~~(B) THE BOARD MAY NOT REINSTATE THE CERTIFICATE OF AN ASSISTED LIVING MANAGER WHO FAILS TO APPLY FOR REINSTATEMENT OF THE CERTIFICATE WITHIN 5 YEARS AFTER THE CERTIFICATE EXPIRES, UNLESS THE ASSISTED LIVING MANAGER BECOMES CERTIFIED BY MEETING THE CURRENT REQUIREMENTS FOR OBTAINING A NEW CERTIFICATE UNDER THIS SUBTITLE.~~

~~9-3A-10.~~

~~(A) IF AN INDIVIDUAL HAS BEEN CERTIFIED BY THE BOARD TO PRACTICE AS AN ASSISTED LIVING MANAGER IN THE STATE IN ACCORDANCE WITH THE REQUIREMENTS OF THIS SUBTITLE, THE INDIVIDUAL MAY BE CERTIFIED SUBSEQUENTLY AS AN ASSISTED LIVING MANAGER ON INACTIVE STATUS, RETAINING THE CERTIFICATE HOLDER'S ORIGINAL CERTIFICATE NUMBER.~~

~~(B) (1) THE BOARD SHALL PLACE A CERTIFICATE HOLDER ON INACTIVE STATUS IF THE CERTIFICATE HOLDER SUBMITS TO THE BOARD:~~

~~(I) AN APPLICATION FOR INACTIVE STATUS ON THE FORM REQUIRED BY THE BOARD; AND~~

~~(II) THE INACTIVE STATUS FEE SET BY THE BOARD.~~

~~(2) A CERTIFICATE HOLDER'S INACTIVE STATUS EXPIRES ON THE SECOND ANNIVERSARY OF ITS EFFECTIVE DATE, UNLESS THE CERTIFICATE HOLDER RENEWS THE INACTIVE STATUS FOR A 2 YEAR TERM AS PROVIDED IN THIS SECTION.~~

~~(3) THE BOARD SHALL PROVIDE A CERTIFICATE HOLDER WHO HAS COMPLIED WITH THE REQUIREMENTS OF PARAGRAPH (1) OF THIS SUBSECTION WITH WRITTEN NOTIFICATION OF:~~

~~(I) THE DATE THAT THE CERTIFICATE HOLDER'S INACTIVE STATUS BECOMES EFFECTIVE;~~

~~(II) THE DATE THAT THE CERTIFICATE HOLDER'S 2 YEAR TERM OF INACTIVE STATUS EXPIRES; AND~~

~~(III) THE CONSEQUENCES OF:~~

~~1. NOT RENEWING INACTIVE STATUS BEFORE EXPIRATION OF THE 2 YEAR TERM OF INACTIVE STATUS; AND~~

~~2. NOT RESUMING ACTIVE STATUS WITHIN THE 5 YEAR PERIOD OF INACTIVE STATUS, BEGINNING ON THE FIRST DAY OF INACTIVE STATUS.~~

~~(C) A CERTIFICATE HOLDER ON INACTIVE STATUS MAY NOT PRACTICE AS AN ASSISTED LIVING MANAGER IN THE STATE.~~

~~(D) THE BOARD SHALL ISSUE A CERTIFICATE TO A CERTIFICATE HOLDER WHO IS ON INACTIVE STATUS IF THE CERTIFICATE HOLDER:~~

~~(1) COMPLETES AN APPLICATION FORM FOR REACTIVATION OF A CERTIFICATE BEFORE EXPIRATION OF THE 2 YEAR TERM OF INACTIVE STATUS ON THE FORM REQUIRED BY THE BOARD;~~

~~(2) COMPLIES WITH THE RENEWAL REQUIREMENTS IN EFFECT AT THE TIME THE CERTIFICATE HOLDER SEEKS TO REACTIVATE THE LICENSE;~~

~~(3) MEETS THE CONTINUING EDUCATION REQUIREMENTS SET BY THE BOARD;~~

~~(4) HAS NOT PRACTICED AS AN ASSISTED LIVING MANAGER IN THE STATE WHILE ON INACTIVE STATUS;~~

~~(5) PAYS ALL APPROPRIATE FEES SET BY THE BOARD;~~

~~(6) HAS BEEN ON INACTIVE STATUS FOR LESS THAN 5 YEARS; AND~~

~~(7) IS OTHERWISE ENTITLED TO BE CERTIFIED.~~

~~(E) BEFORE THE BOARD MAY REACTIVATE THE CERTIFICATE OF AN INDIVIDUAL WHO HAS BEEN ON INACTIVE STATUS FOR 5 YEARS OR MORE, THE INDIVIDUAL SHALL:~~

~~(1) SUBMIT A NEW APPLICATION;~~

~~(2) PAY ALL APPROPRIATE FEES SET BY THE BOARD;~~

~~(3) COMPLETE A BOARD APPROVED MANAGER REFRESHER PROGRAM; AND~~

~~(4) PASS AN EXAMINATION APPROVED BY THE BOARD.~~

~~(F) AN ASSISTED LIVING MANAGER WHOSE INACTIVE CERTIFICATE EXPIRES BEFORE THE ASSISTED LIVING MANAGER RETURNS TO ACTIVE CERTIFICATION SHALL MEET THE REINSTATEMENT REQUIREMENTS OF § 9-3A-09 OF THIS SUBTITLE.~~

~~9-3A-11.~~

~~(A) UNLESS THE BOARD AGREES TO ACCEPT THE SURRENDER OF A CERTIFICATE, A CERTIFIED ASSISTED LIVING MANAGER MAY NOT SURRENDER THE CERTIFICATE NOR MAY THE CERTIFICATE LAPSE BY OPERATION OF LAW WHILE THE CERTIFICATE HOLDER IS UNDER INVESTIGATION OR WHILE CHARGES ARE PENDING AGAINST THE CERTIFICATE HOLDER.~~

~~(B) THE BOARD MAY SET CONDITIONS ON ITS AGREEMENT WITH THE ASSISTED LIVING MANAGER UNDER INVESTIGATION OR AGAINST WHOM CHARGES ARE PENDING TO ACCEPT SURRENDER OF CERTIFICATE.~~

~~9-3A-12.~~

~~(A) THE BOARD SHALL INVESTIGATE AND TAKE APPROPRIATE ACTION AS TO ANY COMPLAINT FILED WITH THE BOARD THAT ALLEGES THAT A CERTIFICATE HOLDER HAS FAILED TO MEET ANY STANDARD OF THE BOARD.~~

~~(B) SUBJECT TO THE HEARING PROVISIONS OF § 9-315 OF THIS TITLE, THE BOARD MAY DENY A CERTIFICATE TO ANY APPLICANT, REPRIMAND ANY CERTIFICATE HOLDER, PLACE ANY CERTIFICATE HOLDER ON PROBATION, SUSPEND OR REVOKE A CERTIFICATE, OR IMPOSE A CIVIL FINE IF THE APPLICANT OR CERTIFICATE HOLDER:~~

~~(1) FRAUDULENTLY OR DECEPTIVELY OBTAINS OR ATTEMPTS TO OBTAIN A CERTIFICATE FOR THE CERTIFICATE HOLDER OR FOR ANOTHER;~~

~~(2) FRAUDULENTLY OR DECEPTIVELY USES A CERTIFICATE;~~

~~(3) OTHERWISE FAILS TO MEET SUBSTANTIALLY THE STANDARDS OF PRACTICE ADOPTED BY THE BOARD;~~

~~(4) IS CONVICTED OF OR PLEADS GUILTY OR NOLO CONTENDERE TO A FELONY OR TO A CRIME INVOLVING MORAL TURPITUDE, WHETHER OR NOT ANY APPEAL OR OTHER PROCEEDING IS PENDING TO HAVE THE CONVICTION OR PLEA SET ASIDE;~~

~~(5) PROVIDES PROFESSIONAL SERVICES WHILE:~~

~~(i) UNDER THE INFLUENCE OF ALCOHOL; OR~~

~~(ii) USING ANY NARCOTIC OR CONTROLLED DANGEROUS SUBSTANCE, AS DEFINED IN § 5-101 OF THE CRIMINAL LAW ARTICLE, OR OTHER DRUG THAT IS IN EXCESS OF THERAPEUTIC AMOUNTS OR WITHOUT VALID MEDICAL INDICATION;~~

~~(6) IS DISCIPLINED BY A LICENSING OR DISCIPLINARY AUTHORITY OF ANY OTHER STATE OR COUNTRY OR CONVICTED OR DISCIPLINED BY A COURT OF ANY STATE OR COUNTRY FOR AN ACT THAT WOULD BE GROUNDS FOR DISCIPLINARY ACTION UNDER THE BOARD'S DISCIPLINARY STATUTES;~~

~~(7) PRACTICES ASSISTED LIVING MANAGEMENT WITH AN UNAUTHORIZED PERSON OR SUPERVISES OR AIDS AN UNAUTHORIZED PERSON IN THE PRACTICE OF ASSISTED LIVING MANAGEMENT;~~

~~(8) WILLFULLY MAKES OR FILES A FALSE REPORT OR RECORD IN THE PRACTICE OF ASSISTED LIVING MANAGEMENT;~~

~~(9) WILLFULLY FAILS TO FILE OR RECORD ANY REPORT AS REQUIRED UNDER LAW, WILLFULLY IMPEDES OR OBSTRUCTS THE FILING OR RECORDING OF THE REPORT, OR INDUCES ANOTHER TO FAIL TO FILE OR RECORD THE REPORT;~~

~~(10) SUBMITS A FALSE STATEMENT TO COLLECT A FEE;~~

~~(11) COMMITS AN ACT OF UNPROFESSIONAL CONDUCT IN THE CERTIFICATE HOLDER'S PRACTICE AS AN ASSISTED LIVING MANAGER; OR~~

~~(12) REFUSES, WITHHOLDS FROM, DENIES, OR DISCRIMINATES AGAINST AN INDIVIDUAL WITH REGARD TO THE PROVISION OF PROFESSIONAL SERVICES FOR WHICH THE CERTIFICATE HOLDER IS CERTIFIED AND QUALIFIED TO RENDER BECAUSE THE INDIVIDUAL IS HIV POSITIVE.~~

~~9-3A-13.~~

~~(A) (1) IF, AFTER A HEARING UNDER § 9-315 OF THIS TITLE, THE BOARD FINDS THAT THERE ARE GROUNDS UNDER § 9-3A-12 OF THIS SUBTITLE TO REPRIMAND A CERTIFICATE HOLDER, PLACE A CERTIFICATE HOLDER ON PROBATION, OR SUSPEND OR REVOKE A CERTIFICATE, THE BOARD MAY IMPOSE A CIVIL FINE:~~

~~(i) INSTEAD OF SUSPENDING OR REVOKING THE CERTIFICATE; OR~~

~~(ii) IN ADDITION TO PLACING THE CERTIFICATE HOLDER ON PROBATION OR SUSPENDING OR REVOKING THE CERTIFICATE.~~

~~(2) A CIVIL FINE IMPOSED UNDER THIS SUBSECTION MAY NOT EXCEED:~~

~~(i) \$1,000 FOR A FIRST VIOLATION; AND~~

~~(ii) \$5,000 FOR ANY SUBSEQUENT VIOLATION OF THE SAME PROVISION.~~

~~(B) IF, AFTER DISCIPLINARY PROCEDURES HAVE BEEN BROUGHT AGAINST A CERTIFICATE HOLDER, THE CERTIFICATE HOLDER WAIVES THE RIGHT TO A HEARING REQUIRED UNDER THIS TITLE AND IF THE BOARD FINDS THAT THERE ARE GROUNDS UNDER § 9-3A-12 OF THIS SUBTITLE TO REPRIMAND THE CERTIFICATE HOLDER, PLACE THE CERTIFICATE HOLDER ON PROBATION, OR SUSPEND OR REVOKE A CERTIFICATE, THE BOARD, IN ADDITION TO REPRIMANDING THE CERTIFICATE HOLDER, PLACING THE~~

~~CERTIFICATE HOLDER ON PROBATION, OR SUSPENDING OR REVOKING THE CERTIFICATE, MAY IMPOSE:~~

~~(1) A CIVIL FINE NOT EXCEEDING \$1,000 FOR A FIRST VIOLATION;  
AND~~

~~(2) A CIVIL FINE NOT EXCEEDING \$5,000 FOR ANY SUBSEQUENT VIOLATION OF THE SAME PROVISION.~~

~~(C) THE BOARD SHALL PAY ANY CIVIL FINE COLLECTED UNDER THIS SECTION INTO THE GENERAL FUND OF THE STATE.~~

~~9-3A-14.~~

~~(A) EXCEPT AS OTHERWISE PROVIDED IN THE ADMINISTRATIVE PROCEDURE ACT, BEFORE THE BOARD TAKES ANY ACTION UNDER § 9-3A-12 OF THIS SUBTITLE, IT SHALL GIVE THE INDIVIDUAL AGAINST WHOM THE ACTION IS CONTEMPLATED AN OPPORTUNITY FOR A HEARING BEFORE THE BOARD IN ACCORDANCE WITH § 9-315 OF THIS TITLE.~~

~~(B) ANY PERSON AGGRIEVED BY A FINAL DECISION OF THE BOARD UNDER § 9-3A-12 OF THIS SUBTITLE MAY APPEAL IN ACCORDANCE WITH § 9-316 OF THIS TITLE.~~

~~9-3A-15.~~

~~(A) THE BOARD MAY ISSUE A CEASE AND DESIST ORDER FOR PRACTICING ASSISTED LIVING MANAGEMENT WITHOUT A CERTIFICATE OR WITH AN UNAUTHORIZED PERSON OR FOR SUPERVISING OR AIDING AN UNAUTHORIZED PERSON IN THE PRACTICE OF ASSISTED LIVING MANAGEMENT.~~

~~(B) (1) AN ACTION FOR AIDING AND ABETTING MAY BE MAINTAINED IN THE NAME OF THE STATE OR THE BOARD TO ENJOIN:~~

~~(I) THE UNAUTHORIZED PRACTICE OF ASSISTED LIVING MANAGEMENT; OR~~

~~(II) CONDUCT THAT IS A GROUND FOR DISCIPLINARY ACTION UNDER § 9-3A-12 OF THIS SUBTITLE.~~

~~(2) AN ACTION UNDER THIS SECTION MAY BE BROUGHT IN ACCORDANCE WITH § 9-316.1(B) OF THIS TITLE.~~

~~9-401.~~

~~(A) Except as otherwise provided in this title, an individual may not:~~

~~(1) Practice, attempt to practice, or offer to practice as a nursing home administrator in this State unless licensed by the Board; or~~

~~(2) Supervise, direct, induce, or aid an unlicensed individual to practice as a nursing home administrator.~~

~~(B) EXCEPT AS OTHERWISE PROVIDED IN THIS TITLE, AN INDIVIDUAL MAY NOT:~~

~~(1) PRACTICE, ATTEMPT TO PRACTICE, OR OFFER TO PRACTICE AS AN ASSISTED LIVING MANAGER IN THIS STATE UNLESS CERTIFIED BY THE BOARD; OR~~

~~(2) SUPERVISE, DIRECT, INDUCE, OR AID AN UNLICENSED INDIVIDUAL TO PRACTICE AS AN ASSISTED LIVING MANAGER.~~

~~9-402.~~

~~(a) (1) Unless authorized to practice as a nursing home administrator under this title, a person may not represent to the public by title, by description of services, methods, or procedures, or otherwise, that the person is authorized to practice as a nursing home administrator in this State.~~

~~[(b)] (2) Unless authorized to practice under this title, a person may not use the title "nursing home administrator", or the abbreviation "N.H.A." or any other designation, title, or abbreviation with the intent to represent that the person is authorized to practice as a nursing home administrator.~~

~~(B) (1) UNLESS AUTHORIZED TO PRACTICE AS AN ASSISTED LIVING MANAGER UNDER THIS TITLE, A PERSON MAY NOT REPRESENT TO THE PUBLIC BY TITLE, BY DESCRIPTION OF SERVICES, METHODS, OR PROCEDURES, OR OTHERWISE, THAT THE PERSON IS AUTHORIZED TO PRACTICE AS AN ASSISTED LIVING MANAGER IN THIS STATE.~~

~~(2) UNLESS AUTHORIZED TO PRACTICE UNDER THIS TITLE, A PERSON MAY NOT USE THE TITLE "ASSISTED LIVING MANAGER" OR ANY OTHER DESIGNATION, TITLE, OR ABBREVIATION WITH THE INTENT TO REPRESENT THAT THE PERSON IS AUTHORIZED TO PRACTICE AS AN ASSISTED LIVING MANAGER.~~

~~9-403.~~



~~(A) A person may not:~~

~~(1) Sell or fraudulently obtain or furnish or aid in selling or fraudulently obtaining or furnishing a license issued under this title; or~~

~~(2) Practice as a nursing home administrator under any license unlawfully or fraudulently obtained or unlawfully issued.~~

~~(B) A PERSON MAY NOT:~~

~~(1) SELL OR FRAUDULENTLY OBTAIN OR FURNISH OR AID IN SELLING OR FRAUDULENTLY OBTAINING OR FURNISHING A CERTIFICATE ISSUED UNDER THIS TITLE; OR~~

~~(2) PRACTICE AS AN ASSISTED LIVING MANAGER UNDER ANY CERTIFICATE UNLAWFULLY OR FRAUDULENTLY OBTAINED OR UNLAWFULLY ISSUED.~~

~~9-407.~~

~~(a) A person who violates any provision of this title is guilty of a misdemeanor and on conviction is subject to:~~

~~(1) A fine not exceeding \$1,000 for a first offense; and~~

~~(2) A fine not exceeding \$5,000 or imprisonment not exceeding 6 months or both for any subsequent violation of the same provision.~~

~~(b) The Board shall pay any fine collected under this section into the General Fund of the State.~~

~~9-501.~~

~~This title may be cited as the "Maryland Nursing Home Administrators [Licensing] AND ASSISTED LIVING MANAGERS Act".~~

~~9-502.~~

~~Subject to the evaluation and reestablishment provisions of the Program Evaluation Act, this title and all rules and regulations adopted under this title shall terminate and be of no effect after July 1, 2013.~~

~~SECTION 3. AND BE IT FURTHER ENACTED, That on or after October 1, 2009:~~

~~(1) The first two nursing home administrator positions on the Board of Nursing Home Administrators and Assisted Living Managers that becomes vacant shall be filled by certified assisted living managers;~~

~~(2) The third nursing home administrator position on the Board that becomes vacant shall be filled with a nursing home administrator who has experience with the Eden Alternative Green House or a similar program;~~

~~(3) The first related professional position on the Board that becomes vacant shall be filled by a physician who specializes in geriatrics;~~

~~(4) The second related professional position on the Board that becomes vacant shall be filled by a geriatric nurse practitioner;~~

~~(5) The first consumer position on the Board that becomes vacant shall be filled by a geriatric social worker;~~

~~(6) The second consumer position on the Board that becomes vacant shall be filled by a pharmacist;~~

~~(7) The third consumer position on the Board that becomes vacant shall be filled by a consumer that has or has had a family member living in a nursing home; and~~

~~(8) The fourth consumer position on the Board that becomes vacant shall be filled by a consumer that has or has had a family member living in an assisted living facility.~~

SECTION 2. AND BE IT FURTHER ENACTED, That § 9-203(b)(4) of the Health Occupations Article, as enacted by Section 1 of this Act, shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to an executive director of the State Board of Examiners of Nursing Home Administrators appointed by the Board before the effective date of this Act.

SECTION ~~4~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, April 14, 2009.

---

## Chapter 72

(Senate Bill 492)

AN ACT concerning

**Community Mental Health Services Programs – Financial Statements and  
Salary Information**

FOR the purpose of requiring a community mental health services program to submit annually certain financial statements and salary information in accordance with certain regulations; authorizing the Mental Hygiene Administration to impose a certain penalty on a community mental health services program for failing to submit certain financial statements and salary information; and generally relating to financial statements and salary information of community mental health services programs.

BY adding to

Article – Health – General

Section 10–901.1

Annotated Code of Maryland

(2005 Replacement Volume and 2008 Supplement)

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

**Article – Health – General**

**10–901.1.**

**(A) A COMMUNITY MENTAL HEALTH SERVICES PROGRAM SHALL SUBMIT ANNUALLY FINANCIAL STATEMENTS AND SALARY INFORMATION IN ACCORDANCE WITH THE DEPARTMENT’S REGULATIONS.**

**(B) THE ADMINISTRATION MAY IMPOSE A PENALTY NOT EXCEEDING \$500 PER DAY PER VIOLATION FOR EACH DAY A VIOLATION OCCURS ON A LICENSEE THAT FAILS TO COMPLY WITH SUBSECTION (A) OF THIS SECTION.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

**Approved by the Governor, April 14, 2009.**

---

**Chapter 73**

**(House Bill 411)**

AN ACT concerning

**Community Mental Health Services Programs – Financial Statements and Salary Information**

FOR the purpose of requiring a community mental health services program to submit annually certain financial statements and salary information in accordance with certain regulations; authorizing the Mental Hygiene Administration to impose a certain penalty on a community mental health services program for failing to submit certain financial statements and salary information; and generally relating to financial statements and salary information of community mental health services programs.

BY adding to

Article – Health – General

Section 10–901.1

Annotated Code of Maryland

(2005 Replacement Volume and 2008 Supplement)

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

**Article – Health – General**

**10–901.1.**

**(A) A COMMUNITY MENTAL HEALTH SERVICES PROGRAM SHALL SUBMIT ANNUALLY FINANCIAL STATEMENTS AND SALARY INFORMATION IN ACCORDANCE WITH THE DEPARTMENT’S REGULATIONS.**

**(B) THE ADMINISTRATION MAY IMPOSE A PENALTY NOT EXCEEDING \$500 PER DAY PER VIOLATION FOR EACH DAY A VIOLATION OCCURS ON A LICENSEE THAT FAILS TO COMPLY WITH SUBSECTION (A) OF THIS SECTION.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

**Approved by the Governor, April 14, 2009.**

---

**Chapter 74**

**(Senate Bill 493)**

AN ACT concerning

**Mental Health Programs and Facilities – Reports of Death**

FOR the purpose of defining the term “program or facility” so as to restrict the application of certain reporting requirements regarding the death of certain individuals to certain mental health programs and facilities; altering a certain reporting requirement regarding the location of the body; specifying that certain programs or facilities are required to submit only one report of death; requiring the administrative head of certain nonresidential psychiatric rehabilitation programs to make reports of death by a certain time; and generally relating to reports of death by mental health programs and facilities.

BY repealing and reenacting, with amendments,  
Article – Health – General  
Section 10–714  
Annotated Code of Maryland  
(2005 Replacement Volume and 2008 Supplement)

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

**Article – Health – General**

10–714.

(a) **(1) IN THIS SECTION, “PROGRAM OR FACILITY” MEANS AN INPATIENT OR RESIDENTIAL TREATMENT SETTING, RESIDENTIAL CRISIS SERVICE, GROUP HOME, OR RESIDENTIAL REHABILITATION PROGRAM.**

**[(1)] (2)** Upon notification of the death of an individual in a State funded or operated program or facility, the administrative head of the program or facility shall report the death:

(i) Immediately to the sheriff, police, or chief law enforcement official in the jurisdiction in which the death occurred;

(ii) Immediately to the Secretary; and

(iii) By the close of business of the next working day to:

1. The Director;

2. The health officer in the jurisdiction where the death occurred; and

3. The designated State protection and advocacy system.

**[(2)] (3)** An initial report:

(i) May be:

1. Oral if followed by a written report within 5 working days from the date of the death; or

2. Written;

(ii) Shall contain the following relevant information:

1. The name, age, and sex of the deceased;

2. The time of discovery of the death;

3. The deceased's place of residence at the time of death;

4. [If the death occurred in a place other than the residence of the deceased, the] **THE** location of the body at the time of discovery;

5. The place where the body was found;

6. The name of the person who took custody of the body;

7. The name of the person evaluating the death, if known;

8. Whether or not an autopsy is being performed, if known; and

9. The name, address, and telephone number of the next of kin or legal guardian, if known; and

(iii) Shall contain any other information the administrative head of the facility determines should be provided to the medical examiner and the persons listed in paragraph (1) of this subsection on the deaths occurring:

1. By violence;

2. By suicide;

3. By casualty;

4. Suddenly, if the deceased was in apparent good health; or

5. In any suspicious or unusual manner.

[(3)] (4) The written report shall be available for the Director, the health officer in the jurisdiction where the death occurred, and the designated State protection and advocacy system within 5 working days from the date of the death.

**(5) IF THE DEATH OCCURRED IN A PROGRAM OR FACILITY THAT OPERATES MORE THAN ONE TREATMENT PROGRAM AND WHERE THE DECEASED INDIVIDUAL ATTENDED MORE THAN ONE TREATMENT PROGRAM, THE FACILITY IS REQUIRED TO MAKE ONLY ONE REPORT.**

[(b)] (6) The sheriff, police, or chief law enforcement officer shall inform the medical examiner in accordance with § 5-309(b) of this article and the medical examiner, if necessary, shall conduct an investigation in accordance with the provisions of that section.

**(B) IF THE DEATH OCCURRED IN A NONRESIDENTIAL PSYCHIATRIC REHABILITATION PROGRAM, THE ADMINISTRATIVE HEAD OF THE PROGRAM SHALL REPORT THE DEATH TO THE DIRECTOR BY THE CLOSE OF BUSINESS OF THE NEXT WORKING DAY.**

(c) (1) The Director shall compile annually a status report for the Secretary on patient deaths reported under this subtitle.

(2) At a minimum, the status report shall note:

(i) The number of deaths;

(ii) The location of each death;

(iii) The cause of each death, if known; and

(iv) Other data the Secretary determines to be relevant to the status report.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

**Approved by the Governor, April 14, 2009.**

---

## Chapter 75

(House Bill 412)

AN ACT concerning

**Mental Health Programs and Facilities – Reports of Death**

FOR the purpose of defining the term “program or facility” so as to restrict the application of certain reporting requirements regarding the death of certain individuals to certain mental health programs and facilities; altering a certain reporting requirement regarding the location of the body; specifying that certain programs or facilities are required to submit only one report of death; requiring the administrative head of certain nonresidential psychiatric rehabilitation programs to make reports of death by a certain time; and generally relating to reports of death by mental health programs and facilities.

BY repealing and reenacting, with amendments,  
Article – Health – General  
Section 10–714  
Annotated Code of Maryland  
(2005 Replacement Volume and 2008 Supplement)

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

**Article – Health – General**

10–714.

(a) **(1) IN THIS SECTION, “PROGRAM OR FACILITY” MEANS AN INPATIENT OR RESIDENTIAL TREATMENT SETTING, RESIDENTIAL CRISIS SERVICE, GROUP HOME, OR RESIDENTIAL REHABILITATION PROGRAM.**

**[(1)] (2)** Upon notification of the death of an individual in a State funded or operated program or facility, the administrative head of the program or facility shall report the death:

- (i) Immediately to the sheriff, police, or chief law enforcement official in the jurisdiction in which the death occurred;
- (ii) Immediately to the Secretary; and
- (iii) By the close of business of the next working day to:
  - 1. The Director;
  - 2. The health officer in the jurisdiction where the death occurred; and
  - 3. The designated State protection and advocacy system.



**[(2)] (3)** An initial report:

(i) May be:

1. Oral if followed by a written report within 5 working days from the date of the death; or

2. Written;

(ii) Shall contain the following relevant information:

1. The name, age, and sex of the deceased;

2. The time of discovery of the death;

3. The deceased's place of residence at the time of death;

4. [If the death occurred in a place other than the residence of the deceased, the] **THE** location of the body at the time of discovery;

5. The place where the body was found;

6. The name of the person who took custody of the body;

7. The name of the person evaluating the death, if known;

8. Whether or not an autopsy is being performed, if known; and

9. The name, address, and telephone number of the next of kin or legal guardian, if known; and

(iii) Shall contain any other information the administrative head of the facility determines should be provided to the medical examiner and the persons listed in paragraph (1) of this subsection on the deaths occurring:

1. By violence;

2. By suicide;

3. By casualty;

4. Suddenly, if the deceased was in apparent good health; or

5. In any suspicious or unusual manner.

**[(3)] (4)** The written report shall be available for the Director, the health officer in the jurisdiction where the death occurred, and the designated State protection and advocacy system within 5 working days from the date of the death.

**(5) IF THE DEATH OCCURRED IN A PROGRAM OR FACILITY THAT OPERATES MORE THAN ONE TREATMENT PROGRAM AND WHERE THE DECEASED INDIVIDUAL ATTENDED MORE THAN ONE TREATMENT PROGRAM, THE FACILITY IS REQUIRED TO MAKE ONLY ONE REPORT.**

**[(b)] (6)** The sheriff, police, or chief law enforcement officer shall inform the medical examiner in accordance with § 5-309(b) of this article and the medical examiner, if necessary, shall conduct an investigation in accordance with the provisions of that section.

**(B) IF THE DEATH OCCURRED IN A NONRESIDENTIAL PSYCHIATRIC REHABILITATION PROGRAM, THE ADMINISTRATIVE HEAD OF THE PROGRAM SHALL REPORT THE DEATH TO THE DIRECTOR BY THE CLOSE OF BUSINESS OF THE NEXT WORKING DAY.**

(c) (1) The Director shall compile annually a status report for the Secretary on patient deaths reported under this subtitle.

(2) At a minimum, the status report shall note:

(i) The number of deaths;

(ii) The location of each death;

(iii) The cause of each death, if known; and

(iv) Other data the Secretary determines to be relevant to the status report.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

**Approved by the Governor, April 14, 2009.**

---

## Chapter 76

**(Senate Bill 513)**

AN ACT concerning

**Washington Metropolitan Area Transit Commission – Appointment of  
District of Columbia Member**

FOR the purpose of altering the agency from which the District of Columbia is required to appoint a District of Columbia member of the Washington Metropolitan Area Transit Commission; providing that an amendment to a certain provision of law does not affect any member of the Commission in office on the effective date of the amendment; making this Act subject to a certain contingency; and generally relating to the appointment of the District of Columbia member of the Washington Metropolitan Area Transit Commission.

BY repealing and reenacting, without amendments,  
Article – Transportation  
Section 10–203 Title I Article I and Article II  
Annotated Code of Maryland  
(2008 Replacement Volume)

BY repealing and reenacting, with amendments,  
Article – Transportation  
Section 10–203 Title I Article III Section 1  
Annotated Code of Maryland  
(2006 Replacement Volume)

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

**Article – Transportation**

10–203.

TITLE I

General Compact Provisions

Article I

There is created the Washington Metropolitan Area Transit District, referred to as the Metropolitan District, which shall include: the District of Columbia; the cities of Alexandria and Falls Church of the State of Virginia; Arlington County and Fairfax County of the State of Virginia, the political subdivisions located within those counties, and that portion of Loudoun County, Virginia, occupied by the Washington Dulles International Airport; Montgomery County and Prince George's County of the State of Maryland, and the political subdivisions located within those counties; and all other cities now or hereafter existing in Maryland or Virginia within the geographic area bounded by the outer boundaries of the combined area of those counties, cities, and airports.

## Article II

1. The signatories hereby create the “Washington Metropolitan Area Transit Commission”, hereafter called the “Commission”, which shall be an instrumentality of the District of Columbia, the Commonwealth of Virginia, and the State of Maryland, and shall have the powers and duties set forth in the Compact and those additional powers and duties conferred upon it by subsequent action of the signatories.

2. The Commission shall have jurisdiction coextensive with the Metropolitan District for the regulation of passenger transportation within the Metropolitan District on a coordinated basis, without regard to political boundaries within the Metropolitan District, as set forth in this Compact.

## Article III

1. (a) The Commission shall be composed of 3 members, one member appointed by the Governor of Virginia from the State Corporation Commission of the Commonwealth of Virginia, one member appointed by the Governor of Maryland from the Maryland Public Service Commission, and one member appointed by the Mayor of the District of Columbia from [the Public Service Commission of the District of Columbia] **A DISTRICT OF COLUMBIA AGENCY WITH OVERSIGHT OF MATTERS RELATING TO THE COMMISSION.**

(b) A member appointed shall serve for a term coincident with the term of that member on the agency of the signatory, and a member may be removed or suspended from office as the law of the appointing signatory provides.

(c) Vacancies shall be filled for an unexpired term in the same manner as an original appointment.

**(D) AN AMENDMENT TO SECTION 1(A) OF THIS ARTICLE SHALL NOT AFFECT ANY MEMBER IN OFFICE ON THE AMENDMENT’S EFFECTIVE DATE.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act may not take effect until a similar Act is enacted by the Commonwealth of Virginia and the District of Columbia; that the Commonwealth of Virginia and the District of Columbia are requested to concur in this Act of the General Assembly of Maryland by the enactment of a similar Act; that the Department of Legislative Services shall notify the appropriate officials of the Commonwealth of Virginia, the District of Columbia, and the United States Congress of the enactment of this Act; and that on the concurrence in this Act by the Commonwealth of Virginia and the District of Columbia and approval by the United States Congress, the Governor of the State of Maryland shall issue a proclamation declaring this Act valid and effective and shall forward a copy of

the proclamation to the Executive Director of the Maryland Department of Legislative Services.

SECTION 3. AND BE IT FURTHER ENACTED, That, subject to Section 2 of this Act, this Act shall take effect June 1, 2009.

**Approved by the Governor, April 14, 2009.**

---

## Chapter 77

### (Senate Bill 541)

AN ACT concerning

#### **Common Ownership Communities – Fidelity Insurance**

FOR the purpose of requiring certain governing bodies of a cooperative housing corporation, a condominium, or a homeowners association to purchase fidelity insurance not later than a certain time and to keep the insurance in place each year; requiring the fidelity insurance to provide for the indemnification of ~~certain governing bodies of~~ a cooperative housing corporation, a condominium, or a homeowners association against loss resulting from certain acts or omissions of certain persons under certain circumstances; requiring a copy of the fidelity insurance policy of a cooperative housing corporation, a condominium, or a homeowners association to be kept and made available for inspection under certain circumstances; requiring the fidelity insurance of a cooperative housing corporation, a condominium, or a homeowners association to be in a certain amount; allowing an aggrieved member of a cooperative housing corporation, an aggrieved unit owner of a condominium, or an aggrieved lot owner of a homeowners association to submit a dispute regarding fidelity insurance to the Division of Consumer Protection of the Office of the Attorney General under certain circumstances; and generally relating to fidelity insurance and common ownership communities.

BY adding to

Article – Corporations and Associations

Section 5–6B–18.6

Annotated Code of Maryland

(2007 Replacement Volume and 2008 Supplement)

BY adding to

Article – Real Property

Section 11–114.1 and 11B–111.6

Annotated Code of Maryland

(2003 Replacement Volume and 2008 Supplement)

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

**Article – Corporations and Associations**

**5-6B-18.6.**

(A) (1) THE BOARD OF DIRECTORS OR OTHER GOVERNING BODY OF A COOPERATIVE HOUSING CORPORATION SHALL PURCHASE FIDELITY INSURANCE NOT LATER THAN THE TIME OF THE FIRST ~~CONVEYANCE OF~~ SALE OF A COOPERATIVE INTEREST WITH RESPECT TO A UNIT TO A PERSON OTHER THAN THE DEVELOPER AND SHALL KEEP FIDELITY INSURANCE IN PLACE FOR EACH YEAR THEREAFTER.

(2) THE FIDELITY INSURANCE REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL PROVIDE FOR THE INDEMNIFICATION OF THE ~~BOARD OF DIRECTORS OR OTHER GOVERNING BODY OF A~~ COOPERATIVE HOUSING CORPORATION AGAINST LOSS RESULTING FROM ACTS OR OMISSIONS ARISING FROM FRAUD, DISHONESTY, OR CRIMINAL ACTS BY:

(I) ANY OFFICER, DIRECTOR, MANAGING AGENT, OR OTHER AGENT OR EMPLOYEE CHARGED WITH THE OPERATION OR MAINTENANCE OF THE COOPERATIVE HOUSING CORPORATION WHO CONTROLS OR DISBURSES FUNDS; AND

(II) ANY MANAGEMENT COMPANY EMPLOYING A MANAGEMENT AGENT OR OTHER EMPLOYEE CHARGED WITH THE OPERATION OR MAINTENANCE OF THE COOPERATIVE HOUSING CORPORATION WHO CONTROLS OR DISBURSES FUNDS.

(B) A COPY OF THE FIDELITY INSURANCE POLICY SHALL BE INCLUDED IN THE BOOKS AND RECORDS KEPT AND MADE AVAILABLE BY OR ON BEHALF OF THE COOPERATIVE HOUSING CORPORATION UNDER § 5-6B-18.5 OF THIS SUBTITLE.

(C) (1) THE AMOUNT OF THE FIDELITY INSURANCE REQUIRED UNDER SUBSECTION (A) OF THIS SECTION SHALL EQUAL AT LEAST THE LESSER OF:

(I) 3 MONTHS' WORTH OF GROSS COMMON CHARGES AND THE TOTAL AMOUNT HELD IN ALL INVESTMENT ACCOUNTS AT THE TIME THE FIDELITY INSURANCE IS ISSUED; OR

(II) ~~\$5,000,000~~ \$3,000,000.

(2) THE TOTAL LIABILITY OF THE INSURANCE TO ALL INSURED PERSONS UNDER THE FIDELITY INSURANCE MAY NOT EXCEED THE SUM OF THE FIDELITY INSURANCE.

(D) IF A MEMBER BELIEVES THAT THE BOARD OF DIRECTORS OR OTHER GOVERNING BODY OF A COOPERATIVE HOUSING CORPORATION HAS FAILED TO COMPLY WITH THE REQUIREMENTS OF THIS SECTION, THE AGGRIEVED MEMBER MAY SUBMIT THE DISPUTE ~~FOR ADJUDICATION~~ TO THE DIVISION OF CONSUMER PROTECTION OF THE OFFICE OF THE ATTORNEY GENERAL UNDER ~~§ 5-6B-12(c)~~ 5-6B-12 OF THIS SUBTITLE.

#### Article – Real Property

##### 11-114.1.

(A) (1) THE COUNCIL OF UNIT OWNERS OR OTHER GOVERNING BODY OF A CONDOMINIUM SHALL PURCHASE FIDELITY INSURANCE NOT LATER THAN THE TIME OF THE FIRST CONVEYANCE OF A UNIT TO A PERSON OTHER THAN THE DEVELOPER AND SHALL KEEP FIDELITY INSURANCE IN PLACE FOR EACH YEAR THEREAFTER.

(2) THE FIDELITY INSURANCE REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL PROVIDE FOR THE INDEMNIFICATION OF THE ~~COUNCIL OF UNIT OWNERS OR OTHER GOVERNING BODY OF THE~~ CONDOMINIUM AGAINST LOSS RESULTING FROM ACTS OR OMISSIONS ARISING FROM FRAUD, DISHONESTY, OR CRIMINAL ACTS BY:

(I) ANY OFFICER, DIRECTOR, MANAGING AGENT, OR OTHER AGENT OR EMPLOYEE CHARGED WITH THE OPERATION OR MAINTENANCE OF THE CONDOMINIUM WHO CONTROLS OR DISBURSES FUNDS; AND

(II) ANY MANAGEMENT COMPANY EMPLOYING A MANAGEMENT AGENT OR OTHER EMPLOYEE CHARGED WITH THE OPERATION OR MAINTENANCE OF THE CONDOMINIUM WHO CONTROLS OR DISBURSES FUNDS.

(B) A COPY OF THE FIDELITY INSURANCE POLICY SHALL BE INCLUDED IN THE BOOKS AND RECORDS KEPT AND MADE AVAILABLE BY THE COUNCIL OF UNIT OWNERS UNDER § 11-116 OF THIS TITLE.

(C) (1) THE AMOUNT OF THE FIDELITY INSURANCE REQUIRED UNDER SUBSECTION (A) OF THIS SECTION SHALL EQUAL AT LEAST THE LESSER OF:

(I) 3 MONTHS' WORTH OF GROSS ANNUAL ASSESSMENTS AND THE TOTAL AMOUNT HELD IN ALL INVESTMENT ACCOUNTS AT THE TIME THE FIDELITY INSURANCE IS ISSUED; OR

(II) ~~\$5,000,000~~ \$3,000,000.

(2) THE TOTAL LIABILITY OF THE INSURANCE TO ALL INSURED PERSONS UNDER THE FIDELITY INSURANCE MAY NOT EXCEED THE SUM OF THE FIDELITY INSURANCE.

(D) IF A UNIT OWNER BELIEVES THAT THE COUNCIL OF UNIT OWNERS OR OTHER GOVERNING BODY OF A CONDOMINIUM HAS FAILED TO COMPLY WITH THE REQUIREMENTS OF THIS SECTION, THE AGGRIEVED UNIT OWNER MAY SUBMIT THE DISPUTE ~~FOR ADJUDICATION~~ TO THE DIVISION OF CONSUMER PROTECTION OF THE OFFICE OF THE ATTORNEY GENERAL UNDER ~~§ 11-130(c)~~ 11-130 OF THIS TITLE.

#### 11B-111.6.

(A) (1) THE BOARD OF DIRECTORS OR OTHER GOVERNING BODY OF A HOMEOWNERS ASSOCIATION SHALL PURCHASE FIDELITY INSURANCE NOT LATER THAN THE TIME OF THE FIRST CONVEYANCE OF A LOT TO A PERSON OTHER THAN THE DECLARANT AND SHALL KEEP FIDELITY INSURANCE IN PLACE FOR EACH YEAR THEREAFTER.

(2) THE FIDELITY INSURANCE REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL PROVIDE FOR THE INDEMNIFICATION OF THE HOMEOWNERS ASSOCIATION AGAINST LOSS RESULTING FROM ACTS OR OMISSIONS ARISING FROM FRAUD, DISHONESTY, OR CRIMINAL ACTS BY:

(I) ANY OFFICER, DIRECTOR, MANAGING AGENT, OR OTHER AGENT OR EMPLOYEE CHARGED WITH THE OPERATION OR MAINTENANCE OF THE HOMEOWNERS ASSOCIATION WHO CONTROLS OR DISBURSES FUNDS; AND

(II) ANY MANAGEMENT COMPANY EMPLOYING A MANAGEMENT AGENT OR OTHER EMPLOYEE CHARGED WITH THE OPERATION OR MAINTENANCE OF THE HOMEOWNERS ASSOCIATION WHO CONTROLS OR DISBURSES FUNDS.

(B) A COPY OF THE FIDELITY INSURANCE POLICY SHALL BE INCLUDED IN THE BOOKS AND RECORDS KEPT AND MADE AVAILABLE BY OR ON BEHALF OF THE HOMEOWNERS ASSOCIATION UNDER § 11B-112 OF THIS TITLE.



(C) (1) THE AMOUNT OF THE FIDELITY INSURANCE REQUIRED UNDER SUBSECTION (A) OF THIS SECTION SHALL EQUAL AT LEAST THE LESSER OF:

(I) 3 MONTHS' WORTH OF GROSS ANNUAL HOMEOWNERS ASSOCIATION FEES AND THE TOTAL AMOUNT HELD IN ALL INVESTMENT ACCOUNTS AT THE TIME THE FIDELITY INSURANCE IS ISSUED; OR

(II) ~~\$5,000,000~~ \$3,000,000.

(2) THE TOTAL LIABILITY OF THE INSURANCE TO ALL INSURED PERSONS UNDER THE FIDELITY INSURANCE MAY NOT EXCEED THE SUM OF THE FIDELITY INSURANCE.

(D) IF A LOT OWNER BELIEVES THAT THE BOARD OF DIRECTORS OR OTHER GOVERNING BODY OF A HOMEOWNERS ASSOCIATION HAS FAILED TO COMPLY WITH THE REQUIREMENTS OF THIS SECTION, THE AGGRIEVED LOT OWNER MAY SUBMIT THE DISPUTE ~~FOR ADJUDICATION~~ TO THE DIVISION OF CONSUMER PROTECTION OF THE OFFICE OF THE ATTORNEY GENERAL UNDER ~~§ 11B-115(c)~~ 11B-115 OF THIS TITLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, April 14, 2009.

---

## Chapter 78

(House Bill 687)

AN ACT concerning

### Common Ownership Communities – Fidelity Insurance

FOR the purpose of requiring certain governing bodies of a cooperative housing corporation, a condominium, or a homeowners association to purchase fidelity insurance not later than a certain time and to keep the insurance in place each year; requiring the fidelity insurance to provide for the indemnification of ~~certain governing bodies of~~ a cooperative housing corporation, a condominium, or a homeowners association against loss resulting from certain acts or omissions of certain persons under certain circumstances; requiring a copy of the fidelity insurance policy of a cooperative housing corporation, a condominium, or a homeowners association to be kept and made available for inspection under certain circumstances; requiring the fidelity insurance of a cooperative housing corporation, a condominium, or a homeowners association

to be in a certain amount; allowing an aggrieved member of a cooperative housing corporation, an aggrieved unit owner of a condominium, or an aggrieved lot owner of a homeowners association to submit a dispute regarding fidelity insurance to the Division of Consumer Protection of the Office of the Attorney General under certain circumstances; and generally relating to fidelity insurance and common ownership communities.

BY adding to

Article – Corporations and Associations  
Section 5–6B–18.6  
Annotated Code of Maryland  
(2007 Replacement Volume and 2008 Supplement)

BY adding to

Article – Real Property  
Section 11–114.1 and 11B–111.6  
Annotated Code of Maryland  
(2003 Replacement Volume and 2008 Supplement)

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

**Article – Corporations and Associations**

**5–6B–18.6.**

**(A) (1) THE BOARD OF DIRECTORS OR OTHER GOVERNING BODY OF A COOPERATIVE HOUSING CORPORATION SHALL PURCHASE FIDELITY INSURANCE NOT LATER THAN THE TIME OF THE FIRST ~~CONVEYANCE OF~~ SALE OF A COOPERATIVE INTEREST WITH RESPECT TO A UNIT TO A PERSON OTHER THAN THE DEVELOPER AND SHALL KEEP FIDELITY INSURANCE IN PLACE FOR EACH YEAR THEREAFTER.**

**(2) THE FIDELITY INSURANCE REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL PROVIDE FOR THE INDEMNIFICATION OF THE ~~BOARD OF DIRECTORS OR OTHER GOVERNING BODY OF A~~ COOPERATIVE HOUSING CORPORATION AGAINST LOSS RESULTING FROM ACTS OR OMISSIONS ARISING FROM FRAUD, DISHONESTY, OR CRIMINAL ACTS BY:**

**(I) ANY OFFICER, DIRECTOR, MANAGING AGENT, OR OTHER AGENT OR EMPLOYEE CHARGED WITH THE OPERATION OR MAINTENANCE OF THE COOPERATIVE HOUSING CORPORATION WHO CONTROLS OR DISBURSES FUNDS; AND**

(II) ANY MANAGEMENT COMPANY EMPLOYING A MANAGEMENT AGENT OR OTHER EMPLOYEE CHARGED WITH THE OPERATION OR MAINTENANCE OF THE COOPERATIVE HOUSING CORPORATION WHO CONTROLS OR DISBURSES FUNDS.

(B) A COPY OF THE FIDELITY INSURANCE POLICY SHALL BE INCLUDED IN THE BOOKS AND RECORDS KEPT AND MADE AVAILABLE BY OR ON BEHALF OF THE COOPERATIVE HOUSING CORPORATION UNDER § 5-6B-18.5 OF THIS SUBTITLE.

(C) (1) THE AMOUNT OF THE FIDELITY INSURANCE REQUIRED UNDER SUBSECTION (A) OF THIS SECTION SHALL EQUAL AT LEAST THE LESSER OF:

(I) 3 MONTHS' WORTH OF GROSS COMMON CHARGES AND THE TOTAL AMOUNT HELD IN ALL INVESTMENT ACCOUNTS AT THE TIME THE FIDELITY INSURANCE IS ISSUED; OR

(II) ~~\$5,000,000~~ \$3,000,000.

(2) THE TOTAL LIABILITY OF THE INSURANCE TO ALL INSURED PERSONS UNDER THE FIDELITY INSURANCE MAY NOT EXCEED THE SUM OF THE FIDELITY INSURANCE.

(D) IF A MEMBER BELIEVES THAT THE BOARD OF DIRECTORS OR OTHER GOVERNING BODY OF A COOPERATIVE HOUSING CORPORATION HAS FAILED TO COMPLY WITH THE REQUIREMENTS OF THIS SECTION, THE AGGRIEVED MEMBER MAY SUBMIT THE DISPUTE ~~FOR ADJUDICATION~~ TO THE DIVISION OF CONSUMER PROTECTION OF THE OFFICE OF THE ATTORNEY GENERAL UNDER ~~§ 5-6B-12(c)~~ 5-6B-12 OF THIS SUBTITLE.

#### Article - Real Property

##### 11-114.1.

(A) (1) THE COUNCIL OF UNIT OWNERS OR OTHER GOVERNING BODY OF A CONDOMINIUM SHALL PURCHASE FIDELITY INSURANCE NOT LATER THAN THE TIME OF THE FIRST CONVEYANCE OF A UNIT TO A PERSON OTHER THAN THE DEVELOPER AND SHALL KEEP FIDELITY INSURANCE IN PLACE FOR EACH YEAR THEREAFTER.

(2) THE FIDELITY INSURANCE REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL PROVIDE FOR THE INDEMNIFICATION OF THE ~~COUNCIL OF UNIT OWNERS OR OTHER GOVERNING BODY OF THE~~ CONDOMINIUM

AGAINST LOSS RESULTING FROM ACTS OR OMISSIONS ARISING FROM FRAUD, DISHONESTY, OR CRIMINAL ACTS BY:

(I) ANY OFFICER, DIRECTOR, MANAGING AGENT, OR OTHER AGENT OR EMPLOYEE CHARGED WITH THE OPERATION OR MAINTENANCE OF THE CONDOMINIUM WHO CONTROLS OR DISBURSES FUNDS; AND

(II) ANY MANAGEMENT COMPANY EMPLOYING A MANAGEMENT AGENT OR OTHER EMPLOYEE CHARGED WITH THE OPERATION OR MAINTENANCE OF THE CONDOMINIUM WHO CONTROLS OR DISBURSES FUNDS.

(B) A COPY OF THE FIDELITY INSURANCE POLICY SHALL BE INCLUDED IN THE BOOKS AND RECORDS KEPT AND MADE AVAILABLE BY THE COUNCIL OF UNIT OWNERS UNDER § 11-116 OF THIS TITLE.

(C) (1) THE AMOUNT OF THE FIDELITY INSURANCE REQUIRED UNDER SUBSECTION (A) OF THIS SECTION SHALL EQUAL AT LEAST THE LESSER OF:

(I) 3 MONTHS' WORTH OF GROSS ANNUAL ASSESSMENTS AND THE TOTAL AMOUNT HELD IN ALL INVESTMENT ACCOUNTS AT THE TIME THE FIDELITY INSURANCE IS ISSUED; OR

(II) ~~\$5,000,000~~ \$3,000,000.

(2) THE TOTAL LIABILITY OF THE INSURANCE TO ALL INSURED PERSONS UNDER THE FIDELITY INSURANCE MAY NOT EXCEED THE SUM OF THE FIDELITY INSURANCE.

(D) IF A UNIT OWNER BELIEVES THAT THE COUNCIL OF UNIT OWNERS OR OTHER GOVERNING BODY OF A CONDOMINIUM HAS FAILED TO COMPLY WITH THE REQUIREMENTS OF THIS SECTION, THE AGGRIEVED UNIT OWNER MAY SUBMIT THE DISPUTE ~~FOR ADJUDICATION~~ TO THE DIVISION OF CONSUMER PROTECTION OF THE OFFICE OF THE ATTORNEY GENERAL UNDER ~~§ 11-130(c)~~ 11-130 OF THIS TITLE.

11B-111.6.

(A) (1) THE BOARD OF DIRECTORS OR OTHER GOVERNING BODY OF A HOMEOWNERS ASSOCIATION SHALL PURCHASE FIDELITY INSURANCE NOT LATER THAN THE TIME OF THE FIRST CONVEYANCE OF A LOT TO A PERSON OTHER THAN THE DECLARANT AND SHALL KEEP FIDELITY INSURANCE IN PLACE FOR EACH YEAR THEREAFTER.

(2) THE FIDELITY INSURANCE REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL PROVIDE FOR THE INDEMNIFICATION OF THE HOMEOWNERS ASSOCIATION AGAINST LOSS RESULTING FROM ACTS OR OMISSIONS ARISING FROM FRAUD, DISHONESTY, OR CRIMINAL ACTS BY:

(I) ANY OFFICER, DIRECTOR, MANAGING AGENT, OR OTHER AGENT OR EMPLOYEE CHARGED WITH THE OPERATION OR MAINTENANCE OF THE HOMEOWNERS ASSOCIATION WHO CONTROLS OR DISBURSES FUNDS; AND

(II) ANY MANAGEMENT COMPANY EMPLOYING A MANAGEMENT AGENT OR OTHER EMPLOYEE CHARGED WITH THE OPERATION OR MAINTENANCE OF THE HOMEOWNERS ASSOCIATION WHO CONTROLS OR DISBURSES FUNDS.

(B) A COPY OF THE FIDELITY INSURANCE POLICY SHALL BE INCLUDED IN THE BOOKS AND RECORDS KEPT AND MADE AVAILABLE BY OR ON BEHALF OF THE HOMEOWNERS ASSOCIATION UNDER § 11B-112 OF THIS TITLE.

(C) (1) THE AMOUNT OF THE FIDELITY INSURANCE REQUIRED UNDER SUBSECTION (A) OF THIS SECTION SHALL EQUAL AT LEAST THE LESSER OF:

(I) 3 MONTHS' WORTH OF GROSS ANNUAL HOMEOWNERS ASSOCIATION FEES AND THE TOTAL AMOUNT HELD IN ALL INVESTMENT ACCOUNTS AT THE TIME THE FIDELITY INSURANCE IS ISSUED; OR

(II) ~~\$5,000,000~~ \$3,000,000.

(2) THE TOTAL LIABILITY OF THE INSURANCE TO ALL INSURED PERSONS UNDER THE FIDELITY INSURANCE MAY NOT EXCEED THE SUM OF THE FIDELITY INSURANCE.

(D) IF A LOT OWNER BELIEVES THAT THE BOARD OF DIRECTORS OR OTHER GOVERNING BODY OF A HOMEOWNERS ASSOCIATION HAS FAILED TO COMPLY WITH THE REQUIREMENTS OF THIS SECTION, THE AGGRIEVED LOT OWNER MAY SUBMIT THE DISPUTE ~~FOR ADJUDICATION~~ TO THE DIVISION OF CONSUMER PROTECTION OF THE OFFICE OF THE ATTORNEY GENERAL UNDER ~~§ 11B-115(c)~~ 11B-115 OF THIS TITLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, April 14, 2009.

---

**Chapter 79****(Senate Bill 573)**

AN ACT concerning

**Wicomico County – Local Board of Elections – Compensation**

FOR the purpose of altering the compensation of a substitute member of the local board of elections in Wicomico County; repealing a certain requirement relating to the compensation of the counsel to the local board of elections in Wicomico County; providing that this Act does not apply to the salary or compensation of an incumbent substitute member of the local board of elections in Wicomico County; and generally relating to the compensation of the local board of elections in Wicomico County.

BY repealing and reenacting, with amendments,

Article – Election Law

Section 2–204 and 2–205

Annotated Code of Maryland

(2003 Volume and 2008 Supplement)

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

**Article – Election Law**

2–204.

(a) Each regular member of a local board shall receive the salary and reimbursement of expenses provided in the county budget, but in no event may the annual compensation be less than the following amounts:

(1) in Allegany County, the amount set by the County Commissioners under Article 24, Title 12, Subtitle 1 of the Code;

(2) in Anne Arundel County, \$2,400;

(3) in Baltimore City, \$11,000 for the president and \$10,000 for other regular members;

(4) in Baltimore County, \$4,000 for the president and \$3,000 for other regular members;

(5) in Calvert County, \$3,000 and reimbursement for expenses in the performance of their duties;

(6) in Caroline County, \$2,750 for the president, \$2,500 for other regular members, and reimbursement for expenses incurred in the performance of election duties in accordance with the Standard State Travel Regulations;

(7) in Carroll County, \$3,000;

(8) in Cecil County, \$1,250 for the president, \$1,000 for other regular members, and reimbursement for actual expenses incurred in the performance of election activities which occur outside the county;

(9) in Charles County, \$800;

(10) in Dorchester County, \$3,000 and expenses as authorized by the County Commissioners;

(11) in Frederick County, \$5,500 for the president and \$5,000 for other regular members;

(12) in Garrett County, the amount set by the County Commissioners under Chapter 91 of the Public Local Laws of Garrett County;

(13) in Harford County, \$2,000 for the president and \$1,700 for other regular members;

(14) in Howard County, \$2,800 for the president and \$2,000 for other regular members;

(15) in Kent County, \$1,500 for the president and \$1,500 for other regular members;

(16) in Montgomery County, \$5,000 for the president and \$4,500 for other regular members;

(17) in Prince George's County, \$5,000 for the president and \$4,500 for other regular members;

(18) in Queen Anne's County, \$1,500 for the president and \$1,200 for other regular members;

(19) in St. Mary's County, \$800;

(20) in Somerset County, \$1,000;

(21) in Talbot County, \$600;

(22) in Washington County, \$5,000 for the president and \$4,500 for other regular members;

(23) in Wicomico County, \$2,400 for the president and \$1,800 for other regular members; and

(24) in Worcester County, \$1,500 for the president and \$1,200 for other regular members.

(b) (1) Consistent with paragraph (2) of this subsection, each substitute member shall be compensated for each day of service as provided in the county budget.

(2) (i) Except as provided in subparagraph (ii) of this paragraph, a substitute member shall be compensated at a rate of at least \$25 for each meeting of the local board that the substitute member attends.

(ii) 1. In Baltimore City, a substitute member shall be paid \$200 for each meeting that the substitute member attends.

2. In Calvert County, a substitute member shall be paid at least \$50 for each meeting that the substitute member attends.

3. In Frederick County, a substitute member shall be paid \$4,500 annually.

4. In Garrett County, a substitute member shall be paid the amount set by the County Commissioners under Chapter 91 of the Public Local Laws of Garrett County.

5. In Kent County, a substitute member shall be paid at least \$50 for each meeting that the substitute member attends.

6. In Washington County, a substitute member shall be paid \$75 for each meeting that the substitute member attends.

7. In Wicomico County, a substitute member shall be paid **AT LEAST** \$1,200 annually.

2-205.

(a) Each local board may appoint or retain as counsel an individual who is:

(1) a registered voter of its county; and

(2) admitted to practice law in the State.



(b) (1) Except as provided in paragraph (2) of this subsection, the salary of counsel shall be set by the local board in accordance with the county budget.

(2) (i) In Anne Arundel County, the counsel may not be compensated less than the salary of a local board member.

(ii) In Baltimore County, the counsel may not be compensated less than \$2,000.

(iii) In Montgomery County, the counsel shall receive an annual salary of \$2,000.

(iv) In Prince George's County, the counsel shall receive an annual salary of \$4,500.

[(v) In Wicomico County, the counsel shall receive an annual salary of \$1,200, paid in equal quarterly installments by the county council.]

[(vi)] (v) In Worcester County, the counsel shall receive an annual salary as provided in the county budget, but not less than \$800.

(c) In accordance with the county budget and in addition to the compensation specified in subsection (b) of this section, each local board may provide counsel with appropriate additional compensation for services that the local board determines are necessary.

SECTION 2. AND BE IT FURTHER ENACTED, That, pursuant to Article III, § 35 of the Maryland Constitution, this Act may not be construed to extend or apply to the salary or compensation of the substitute member of the Wicomico County local board of elections in office on the effective date of this Act, but the provisions of this Act concerning the salary or compensation of the substitute member of the Wicomico County local board of elections shall take effect at the beginning of the next following term of office.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

**Approved by the Governor, April 14, 2009.**

---

## Chapter 80

### (House Bill 732)

AN ACT concerning

**Wicomico County – Local Board of Elections – Compensation**

FOR the purpose of altering the compensation of a substitute member of the local board of elections in Wicomico County; repealing a certain requirement relating to the compensation of the counsel to the local board of elections in Wicomico County; providing that this Act does not apply to the salary or compensation of an incumbent substitute member of the local board of elections in Wicomico County; and generally relating to the compensation of the local board of elections in Wicomico County.

BY repealing and reenacting, with amendments,

Article – Election Law

Section 2–204 and 2–205

Annotated Code of Maryland

(2003 Volume and 2008 Supplement)

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

**Article – Election Law**

2–204.

(a) Each regular member of a local board shall receive the salary and reimbursement of expenses provided in the county budget, but in no event may the annual compensation be less than the following amounts:

(1) in Allegany County, the amount set by the County Commissioners under Article 24, Title 12, Subtitle 1 of the Code;

(2) in Anne Arundel County, \$2,400;

(3) in Baltimore City, \$11,000 for the president and \$10,000 for other regular members;

(4) in Baltimore County, \$4,000 for the president and \$3,000 for other regular members;

(5) in Calvert County, \$3,000 and reimbursement for expenses in the performance of their duties;

(6) in Caroline County, \$2,750 for the president, \$2,500 for other regular members, and reimbursement for expenses incurred in the performance of election duties in accordance with the Standard State Travel Regulations;

(7) in Carroll County, \$3,000;

(8) in Cecil County, \$1,250 for the president, \$1,000 for other regular members, and reimbursement for actual expenses incurred in the performance of election activities which occur outside the county;

(9) in Charles County, \$800;

(10) in Dorchester County, \$3,000 and expenses as authorized by the County Commissioners;

(11) in Frederick County, \$5,500 for the president and \$5,000 for other regular members;

(12) in Garrett County, the amount set by the County Commissioners under Chapter 91 of the Public Local Laws of Garrett County;

(13) in Harford County, \$2,000 for the president and \$1,700 for other regular members;

(14) in Howard County, \$2,800 for the president and \$2,000 for other regular members;

(15) in Kent County, \$1,500 for the president and \$1,500 for other regular members;

(16) in Montgomery County, \$5,000 for the president and \$4,500 for other regular members;

(17) in Prince George's County, \$5,000 for the president and \$4,500 for other regular members;

(18) in Queen Anne's County, \$1,500 for the president and \$1,200 for other regular members;

(19) in St. Mary's County, \$800;

(20) in Somerset County, \$1,000;

(21) in Talbot County, \$600;

(22) in Washington County, \$5,000 for the president and \$4,500 for other regular members;

(23) in Wicomico County, \$2,400 for the president and \$1,800 for other regular members; and

(24) in Worcester County, \$1,500 for the president and \$1,200 for other regular members.

(b) (1) Consistent with paragraph (2) of this subsection, each substitute member shall be compensated for each day of service as provided in the county budget.

(2) (i) Except as provided in subparagraph (ii) of this paragraph, a substitute member shall be compensated at a rate of at least \$25 for each meeting of the local board that the substitute member attends.

(ii) 1. In Baltimore City, a substitute member shall be paid \$200 for each meeting that the substitute member attends.

2. In Calvert County, a substitute member shall be paid at least \$50 for each meeting that the substitute member attends.

3. In Frederick County, a substitute member shall be paid \$4,500 annually.

4. In Garrett County, a substitute member shall be paid the amount set by the County Commissioners under Chapter 91 of the Public Local Laws of Garrett County.

5. In Kent County, a substitute member shall be paid at least \$50 for each meeting that the substitute member attends.

6. In Washington County, a substitute member shall be paid \$75 for each meeting that the substitute member attends.

7. In Wicomico County, a substitute member shall be paid **AT LEAST** \$1,200 annually.

2-205.

(a) Each local board may appoint or retain as counsel an individual who is:

- (1) a registered voter of its county; and
- (2) admitted to practice law in the State.

(b) (1) Except as provided in paragraph (2) of this subsection, the salary of counsel shall be set by the local board in accordance with the county budget.

(2) (i) In Anne Arundel County, the counsel may not be compensated less than the salary of a local board member.

(ii) In Baltimore County, the counsel may not be compensated less than \$2,000.

(iii) In Montgomery County, the counsel shall receive an annual salary of \$2,000.

(iv) In Prince George's County, the counsel shall receive an annual salary of \$4,500.

[(v) In Wicomico County, the counsel shall receive an annual salary of \$1,200, paid in equal quarterly installments by the county council.]

[(vi)] (v) In Worcester County, the counsel shall receive an annual salary as provided in the county budget, but not less than \$800.

(c) In accordance with the county budget and in addition to the compensation specified in subsection (b) of this section, each local board may provide counsel with appropriate additional compensation for services that the local board determines are necessary.

SECTION 2. AND BE IT FURTHER ENACTED, That, pursuant to Article III, § 35 of the Maryland Constitution, this Act may not be construed to extend or apply to the salary or compensation of the substitute member of the Wicomico County local board of elections in office on the effective date of this Act, but the provisions of this Act concerning the salary or compensation of the substitute member of the Wicomico County local board of elections shall take effect at the beginning of the next following term of office.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

**Approved by the Governor, April 14, 2009.**

---

## Chapter 81

### (Senate Bill 579)

AN ACT concerning

#### State Checks – Electronic Publication of Payee Names

FOR the purpose of authorizing the Treasurer of the State to electronically publish the names of certain payees under certain circumstances for a certain period of time; and generally relating to electronic publication of payee names ~~and~~ the Undeliverable Checks Fund, and the Unpresented Checks Fund.

BY repealing and reenacting, with amendments,  
Article – State Finance and Procurement

Section 7-229 and 7-230  
Annotated Code of Maryland  
(2006 Replacement Volume and 2008 Supplement)

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

**Article – State Finance and Procurement**

7-229.

- (a) In this section, “Fund” means the Undeliverable Checks Fund.
- (b) There is an Undeliverable Checks Fund.
- (c) If a check that the Treasurer, the Chief Deputy Treasurer, or a deputy treasurer issues is returned to the Comptroller as undeliverable, the Comptroller:
  - (1) shall keep the check for a period of not more than 30 days;
  - (2) during that period, shall try diligently to find the correct address of the payee and to deliver the check; and
  - (3) if unable to deliver the check during that period, shall send the check to the Treasurer.
- (d) Whenever the Comptroller returns a check as undeliverable, the Treasurer shall:
  - (1) cancel the check; and
  - (2) request the Comptroller to credit the amount of the canceled check to the Fund.
- (e) On a warrant charged against the Fund, the Treasurer, the Chief Deputy Treasurer, or a deputy treasurer may issue a check to replace a check canceled under this section.
- (f) As required by State or federal law, or as considered proper by the Treasurer, the Treasurer, the Chief Deputy Treasurer, or a deputy treasurer shall:
  - (1) on a warrant charged against the Fund, disburse to the original source any money in the Fund required to be returned to the source; or
  - (2) request the Comptroller to transfer any money in the Fund to another fund or account.

(g) At the end of each fiscal year, the Treasurer:

(1) shall identify the checks that have been credited to the Fund and remain unclaimed for 2 years;

(2) determine a reasonable balance to retain in the Fund that will be needed to honor each replacement check that may be issued on a warrant charged against the Fund; and

(3) request the Comptroller to transfer the balance in the Fund, after subtraction of the amount determined as provided in item (2) of this subsection, to the General Fund of the State.

(h) Undeliverable checks credited to the Fund are not subject to Title 17 of the Commercial Law Article.

**(I) NOTWITHSTANDING § 10-617 OF THE STATE GOVERNMENT ARTICLE, AT THE END OF EACH FISCAL YEAR, THE TREASURER MAY ELECTRONICALLY PUBLISH ON THE TREASURER'S WEBSITE THE NAMES OF PAYEES OF CHECKS THAT HAVE REMAINED UNCLAIMED FOR 2 YEARS OR MORE.**

7-230.

(a) In this section, "Fund" means the Unpresented Checks Fund.

(b) There is an Unpresented Checks Fund.

(c) At the end of each fiscal year, the Treasurer shall:

(1) identify each check that:

(i) has been issued against the money of the State; and

(ii) has remained unpresented for 2 years;

(2) request the Comptroller to credit the aggregate amount of the checks to the Fund.

(d) At the end of each fiscal year, the Treasurer shall:

(1) determine a reasonable minimum balance to retain in the Fund that will be needed to honor each check that is presented after its amount has been credited to the Fund; and

(2) request the Comptroller to transfer the balance in the Fund to the General Fund of the State.

(e) After the amount of a check has been credited to the Fund, on a warrant charged against the Fund, the Treasurer, the Chief Deputy Treasurer, or a deputy treasurer may reissue a check that is presented for payment.

(f) As required by State or federal law, or as considered proper by the Treasurer, the Treasurer, the Chief Deputy Treasurer, or a deputy treasurer shall:

(1) void an unrepresented check; and

(2) request the Comptroller to transfer the amount of the voided check

to:

(i) the original source of the money; or

(ii) another fund or account.

(g) Unrepresented checks credited to the Fund are not subject to Title 17 of the Commercial Law Article.

**(H) NOTWITHSTANDING § 10-617 OF THE STATE GOVERNMENT ARTICLE, AT THE END OF EACH FISCAL YEAR, THE TREASURER MAY ELECTRONICALLY PUBLISH ON THE TREASURER'S WEBSITE THE NAMES OF PAYEES OF CHECKS THAT HAVE REMAINED UNPRESENTED FOR 2 YEARS OR MORE.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, April 14, 2009.

---

## Chapter 82

(House Bill 813)

AN ACT concerning

### State Checks – Electronic Publication of Payee Names

FOR the purpose of authorizing the Treasurer of the State to electronically publish the names of certain payees under certain circumstances for a certain period of time; and generally relating to electronic publication of payee names ~~and~~ the Undeliverable Checks Fund, and the Unrepresented Checks Fund.

BY repealing and reenacting, with amendments,



Article – State Finance and Procurement  
Section 7–229 and 7–230  
Annotated Code of Maryland  
(2006 Replacement Volume and 2008 Supplement)

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

**Article – State Finance and Procurement**

7–229.

- (a) In this section, “Fund” means the Undeliverable Checks Fund.
- (b) There is an Undeliverable Checks Fund.
- (c) If a check that the Treasurer, the Chief Deputy Treasurer, or a deputy treasurer issues is returned to the Comptroller as undeliverable, the Comptroller:
  - (1) shall keep the check for a period of not more than 30 days;
  - (2) during that period, shall try diligently to find the correct address of the payee and to deliver the check; and
  - (3) if unable to deliver the check during that period, shall send the check to the Treasurer.
- (d) Whenever the Comptroller returns a check as undeliverable, the Treasurer shall:
  - (1) cancel the check; and
  - (2) request the Comptroller to credit the amount of the canceled check to the Fund.
- (e) On a warrant charged against the Fund, the Treasurer, the Chief Deputy Treasurer, or a deputy treasurer may issue a check to replace a check canceled under this section.
- (f) As required by State or federal law, or as considered proper by the Treasurer, the Treasurer, the Chief Deputy Treasurer, or a deputy treasurer shall:
  - (1) on a warrant charged against the Fund, disburse to the original source any money in the Fund required to be returned to the source; or
  - (2) request the Comptroller to transfer any money in the Fund to another fund or account.

(g) At the end of each fiscal year, the Treasurer:

(1) shall identify the checks that have been credited to the Fund and remain unclaimed for 2 years;

(2) determine a reasonable balance to retain in the Fund that will be needed to honor each replacement check that may be issued on a warrant charged against the Fund; and

(3) request the Comptroller to transfer the balance in the Fund, after subtraction of the amount determined as provided in item (2) of this subsection, to the General Fund of the State.

(h) Undeliverable checks credited to the Fund are not subject to Title 17 of the Commercial Law Article.

**(I) NOTWITHSTANDING § 10-617 OF THE STATE GOVERNMENT ARTICLE, AT THE END OF EACH FISCAL YEAR, THE TREASURER MAY ELECTRONICALLY PUBLISH ON THE TREASURER'S WEBSITE THE NAMES OF PAYEES OF CHECKS THAT HAVE REMAINED UNCLAIMED FOR 2 YEARS OR MORE.**

7-230.

(a) In this section, "Fund" means the Unpresented Checks Fund.

(b) There is an Unpresented Checks Fund.

(c) At the end of each fiscal year, the Treasurer shall:

(1) identify each check that:

(i) has been issued against the money of the State; and

(ii) has remained unpresented for 2 years;

(2) request the Comptroller to credit the aggregate amount of the checks to the Fund.

(d) At the end of each fiscal year, the Treasurer shall:

(1) determine a reasonable minimum balance to retain in the Fund that will be needed to honor each check that is presented after its amount has been credited to the Fund; and

(2) request the Comptroller to transfer the balance in the Fund to the General Fund of the State.

(e) After the amount of a check has been credited to the Fund, on a warrant charged against the Fund, the Treasurer, the Chief Deputy Treasurer, or a deputy treasurer may reissue a check that is presented for payment.

(f) As required by State or federal law, or as considered proper by the Treasurer, the Treasurer, the Chief Deputy Treasurer, or a deputy treasurer shall:

(1) void an unrepresented check; and

(2) request the Comptroller to transfer the amount of the voided check to:

(i) the original source of the money; or

(ii) another fund or account.

(g) Unrepresented checks credited to the Fund are not subject to Title 17 of the Commercial Law Article.

**(H) NOTWITHSTANDING § 10-617 OF THE STATE GOVERNMENT ARTICLE, AT THE END OF EACH FISCAL YEAR, THE TREASURER MAY ELECTRONICALLY PUBLISH ON THE TREASURER'S WEBSITE THE NAMES OF PAYEES OF CHECKS THAT HAVE REMAINED UNPRESENTED FOR 2 YEARS OR MORE.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

**Approved by the Governor, April 14, 2009.**

---

## Chapter 83

(Senate Bill 608)

AN ACT concerning

### **Frederick County – Alcoholic Beverages – Part-Time Inspectors**

FOR the purpose of authorizing the Frederick County Liquor Board to appoint a certain number of part-time alcoholic beverages inspectors; specifying certain requirements that a person must meet to qualify for appointment; specifying certain powers, duties, and compensation of part-time inspectors; making certain prohibitions against conflict of interest applicable to part-time

inspectors; and generally relating to part-time alcoholic beverages inspectors in Frederick County.

BY repealing and reenacting, with amendments,  
Article 2B – Alcoholic Beverages  
Section 15–103  
Annotated Code of Maryland  
(2005 Replacement Volume and 2008 Supplement)

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

**Article 2B – Alcoholic Beverages**

15–103.

- (a) (1) There is a Board of License Commissioners in Frederick County.
- (2) The Board consists of 3 members.
- (3) The Governor shall appoint the members of the Board.
- (4) To qualify for appointment to the Board, a person:
  - (i) Shall be of good moral character and integrity;
  - (ii) Shall reasonably reflect the citizenry of the county; and
  - (iii) Shall be a registered voter of the county and shall continue to be a registered voter of the county during the person's term of office.
- (5) The term of a member is 5 years.
- (6) The terms of the members are staggered as required by the terms provided for members of the Board on July 1, 1989.
- (7) A member who is appointed after a term has begun serves only until a successor is appointed and qualifies.
- (8) The Governor may remove a member for incompetence, misconduct, neglect of a duty required by law, unprofessional conduct, or dishonorable conduct.
- (9) The removal procedure is as provided in this article.
- (b) From among its members, the Board shall elect a chairperson.

- (c) (1) A majority of the members then serving on the Board is a quorum.
  - (2) The Board shall meet at least once a month.
  - (3) The chairperson of the Board shall receive an annual compensation of \$7,000 and be reimbursed for reasonable expenses.
  - (4) The members shall receive an annual compensation of \$6,500 and be reimbursed for reasonable expenses.
- (d) (1) The Governor shall appoint 1 alcoholic beverages inspector, with the advice and consent of:
- (i) The Senate; or
  - (ii) If there is no resident Senator, then with the consent of the members of the Frederick County delegation of the General Assembly.
- (2) To qualify for appointment as an alcoholic beverages inspector, a person:
- (i) Shall be of high moral character;
  - (ii) Shall possess a sound reputation for sobriety, honesty, and integrity; and
  - (iii) Shall devote full time to the duties of the office.
- (3) (i) The term of an inspector is 5 years.
- (ii) An inspector who is appointed after a term has begun serves only until a successor is appointed.
- (4) The Governor may remove an inspector with the advice and consent of:
- (i) The Senate; or
  - (ii) If there is no resident Senator, then with the consent of the members of the Frederick County delegation of the General Assembly.
- (5) Grounds for removal are:
- (i) Incompetence;
  - (ii) Misconduct while performing the duties as an inspector;

(iii) Neglect of a duty required by law; or

(iv) Unprofessional or dishonorable conduct in performing the duties as an inspector.

(6) (i) An inspector shall receive an annual salary as set by the County Commissioners, be reimbursed for reasonable expenses, and receive mileage at the standard rate set by the County Commissioners.

(ii) Mileage does not include travel to and from the inspector's home and office.

(7) An inspector shall:

(i) Possess the power of a peace officer of this State with respect to the enforcement of the alcoholic beverages laws of Frederick County;

(ii) Make monthly reports in writing to the Board covering the activities and setting forth any complaints or violations that may have been observed or reported;

(iii) Assist the Board in enforcing the alcoholic beverages laws; and

(iv) Have any other duties as the Board may prescribe.

**(E) (1) THE BOARD MAY APPOINT NOT MORE THAN TWO PART-TIME ALCOHOLIC BEVERAGES INSPECTORS.**

**(2) TO QUALIFY FOR APPOINTMENT AS A PART-TIME ALCOHOLIC BEVERAGES INSPECTOR, A PERSON SHALL:**

**(I) BE OF HIGH MORAL CHARACTER; AND**

**(II) POSSESS A SOUND REPUTATION FOR SOBRIETY, HONESTY, AND INTEGRITY.**

**(3) A PART-TIME ALCOHOLIC BEVERAGES INSPECTOR SHALL:**

**(I) POSSESS THE POWER OF A PEACE OFFICER OF THE STATE WITH RESPECT TO THE ENFORCEMENT OF THE ALCOHOLIC BEVERAGES LAWS OF FREDERICK COUNTY;**

(II) MAKE MONTHLY REPORTS IN WRITING TO THE BOARD COVERING THE ACTIVITIES AND SETTING FORTH ANY COMPLAINTS OR VIOLATIONS THAT MAY HAVE BEEN OBSERVED OR REPORTED;

(III) ASSIST THE BOARD IN ENFORCING THE ALCOHOLIC BEVERAGES LAWS; AND

(IV) HAVE ANY OTHER DUTIES THAT THE BOARD MAY REQUIRE.

(4) A PART-TIME INSPECTOR SHALL:

(I) RECEIVE THE COMPENSATION SET BY THE COUNTY COMMISSIONERS AND PROVIDED FOR IN THE COUNTY BUDGET;

(II) BE REIMBURSED FOR REASONABLE EXPENSES; AND

(III) RECEIVE REIMBURSEMENT FOR MILEAGE AT THE STANDARD RATE SET BY THE COUNTY COMMISSIONERS.

(5) REIMBURSEMENT FOR MILEAGE DOES NOT INCLUDE TRAVEL TO AND FROM THE PART-TIME INSPECTOR'S HOME AND OFFICE.

[(e)] (F) The chairperson of the Board, with the approval of the County Commissioners, may employ the clerical assistants necessary to carry out the duties of the Board and the salary of the clerical assistants shall be set by the County Commissioners and provided for in the county budget.

[(f)] (G) (1) (i) A Commissioner, FULL-TIME OR PART-TIME inspector, or employee of the Board may not:

1. Have any interest, directly or indirectly, either proprietary or by means of any loan, mortgage, or lien, or in any other manner, in or to any premises where alcoholic beverages are manufactured or sold;

2. Have any interest, directly or indirectly, in any business wholly or partially devoted to the manufacture or sale of alcoholic beverages; or

3. Own any stock in any corporation which has any interest, proprietary or otherwise, directly or indirectly, in any premises where alcoholic beverages are manufactured or sold or in any business wholly or partially devoted to the manufacture or sale of alcoholic beverages, or hold any other public office or employment.

(ii) A Commissioner, **FULL-TIME OR PART-TIME** inspector, or employee of the Board may not solicit or receive, directly or indirectly, any commission, remuneration, or gift whatsoever from any person or corporation engaged in the manufacture or sale of beer or other alcoholic beverages, from any licensee, licensed under the provisions of this article.

(iii) A person or corporation engaged in the manufacture or sale of beer or other alcoholic beverages, any agent or employee of that person or corporation, and any licensee licensed under the provisions of this article may not, directly or indirectly, offer to pay any commission, profit, or remuneration or make any gift to any Commissioner, **FULL-TIME OR PART-TIME** inspector, or employee of the Board.

(2) Violations of this subsection are a misdemeanor punishable by a fine of not more than \$1,000.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2009.

**Approved by the Governor, April 14, 2009.**

---

## Chapter 84

### (Senate Bill 617)

AN ACT concerning

#### **Local Government – Deposits of Unexpended or Surplus Money**

FOR the purpose of altering the conditions under which certain local governments may deposit certain unexpended or surplus money with certain federally insured banks or savings and loan associations; making this Act an emergency measure; and generally relating to local governments and deposits of unexpended or surplus money.

BY repealing and reenacting, with amendments,  
 Article 95 – Treasurer  
 Section 22–O  
 Annotated Code of Maryland  
 (2003 Replacement Volume and 2008 Supplement)

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

#### **Article 95 – Treasurer**



22–O.

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

(2) “Depositor” means a local government or its authorized acknowledged agent making a deposit of unexpended or surplus money as provided in this section.

(3) “Local government” means:

- (i) The governing body of a county or municipal corporation;
- (ii) A county board of education;
- (iii) The governing body of a road, drainage, improvement, construction, or soil conservation district or commission in the State;
- (iv) The Upper Potomac River Commission; or
- (v) Any other political subdivision or body politic of the State.

(4) “State financial institution” means any of the following institutions that have a branch in the State that takes deposits:

- (i) Bank, trust company, or savings bank incorporated under the laws of the State;
- (ii) Bank incorporated under federal law;
- (iii) Bank incorporated under the laws of any other state; or
- (iv) Savings and loan association incorporated under the laws of the State or of the United States.

(b) Notwithstanding the provisions of § 22 of this article, a local government may deposit unexpended or surplus money in any federally insured bank or savings and loan association without the security required in § 22(a) of this article if:

(1) The unexpended or surplus money is initially placed for deposit with a State financial institution selected by the depositor;

(2) The State financial institution selected by the depositor arranges for the further deposit of the money into one or more certificates of deposit, **EACH IN AN AMOUNT** of not more than **[\$100,000 each] THE APPLICABLE FEDERAL DEPOSIT INSURANCE CORPORATION MAXIMUM INSURANCE COVERAGE LIMIT,**

in one or more federally insured banks or savings and loan associations for the account of the depositor;

(3) At the same time the money is deposited and the certificates of deposit are issued for the benefit of the depositor by other banks or savings and loan associations, the State financial institution selected by the depositor receives an amount of deposits from customers of other banks or savings and loan associations equal to the amount of money initially deposited by the depositor;

(4) Each certificate of deposit issued for the depositor's account is insured by the Federal Deposit Insurance Corporation for 100% of the principal and accrued interest of the certificate of deposit; and

(5) The State financial institution selected by the depositor acts as custodian for the depositor with respect to the certificates of deposit issued for the depositor's account.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a ye and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

**Approved by the Governor, April 14, 2009.**

---

## **Chapter 85**

### **(House Bill 1191)**

AN ACT concerning

#### **Local Government – Deposits of Unexpended or Surplus Money**

FOR the purpose of altering the conditions under which certain local governments may deposit certain unexpended or surplus money with certain federally insured banks or savings and loan associations; making this Act an emergency measure; and generally relating to local governments and deposits of unexpended or surplus money.

BY repealing and reenacting, with amendments,

Article 95 – Treasurer

Section 22–O

Annotated Code of Maryland

(2003 Replacement Volume and 2008 Supplement)

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

**Article 95 – Treasurer**

22–O.

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

(2) “Depositor” means a local government or its authorized acknowledged agent making a deposit of unexpended or surplus money as provided in this section.

(3) “Local government” means:

- (i) The governing body of a county or municipal corporation;
- (ii) A county board of education;
- (iii) The governing body of a road, drainage, improvement, construction, or soil conservation district or commission in the State;
- (iv) The Upper Potomac River Commission; or
- (v) Any other political subdivision or body politic of the State.

(4) “State financial institution” means any of the following institutions that have a branch in the State that takes deposits:

- (i) Bank, trust company, or savings bank incorporated under the laws of the State;
- (ii) Bank incorporated under federal law;
- (iii) Bank incorporated under the laws of any other state; or
- (iv) Savings and loan association incorporated under the laws of the State or of the United States.

(b) Notwithstanding the provisions of § 22 of this article, a local government may deposit unexpended or surplus money in any federally insured bank or savings and loan association without the security required in § 22(a) of this article if:

(1) The unexpended or surplus money is initially placed for deposit with a State financial institution selected by the depositor;

(2) The State financial institution selected by the depositor arranges for the further deposit of the money into one or more certificates of deposit, **EACH IN AN AMOUNT** of not more than **[\$100,000 each] THE APPLICABLE FEDERAL DEPOSIT INSURANCE CORPORATION MAXIMUM INSURANCE COVERAGE LIMIT**, in one or more federally insured banks or savings and loan associations for the account of the depositor;

(3) At the same time the money is deposited and the certificates of deposit are issued for the benefit of the depositor by other banks or savings and loan associations, the State financial institution selected by the depositor receives an amount of deposits from customers of other banks or savings and loan associations equal to the amount of money initially deposited by the depositor;

(4) Each certificate of deposit issued for the depositor's account is insured by the Federal Deposit Insurance Corporation for 100% of the principal and accrued interest of the certificate of deposit; and

(5) The State financial institution selected by the depositor acts as custodian for the depositor with respect to the certificates of deposit issued for the depositor's account.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a ye and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

**Approved by the Governor, April 14, 2009.**

---

## Chapter 86

(Senate Bill 628)

AN ACT concerning

### Health Occupations – Licensure of Social Workers

FOR the purpose of requiring the State Board of Social Work Examiners to notify applicants for licensure whether the applicants have been approved to take a certain examination within a certain time period; ~~altering certain requirements for a waiver of examination requirements for certain applicants who are licensed or registered to practice social work in other states~~ requiring the Board of Social Work Examiners to establish a workgroup consisting of a certain membership to examine certain issues affecting the status of the workforce and

submit a report to certain committees of the General Assembly on or before a certain date; and generally relating to the licensure of social workers.

BY repealing and reenacting, with amendments,  
 Article – Health Occupations  
 Section 19–303 ~~and 19–305~~  
 Annotated Code of Maryland  
 (2005 Replacement Volume and 2008 Supplement)

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

### Article – Health Occupations

19–303.

(a) To apply for a license, an applicant shall:

(1) Submit an application to the Board on the form that the Board requires; and

(2) Pay to the Board the application fee set by the Board.

(b) The Board shall:

(1) Review each application; and

(2) Notify each applicant whether the applicant has been approved to take the pertinent licensure examination within [a reasonable time frame as defined in regulations] ~~30 DAYS AFTER THE DATE THE APPLICANT SUBMITTED AN APPLICATION TO THE BOARD~~ **60 DAYS FROM THE DATE THE BOARD RECEIVED A COMPLETED APPLICATION FROM THE APPLICANT.**

~~19–305.~~

~~(a) Subject to the provisions of this section, the Board shall waive the examination requirements of this title for an applicant who is licensed or registered to practice social work in any other state.~~

~~(b) [The] EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (C) OF THIS SECTION, THE Board may grant a waiver under this section only if the applicant:~~

~~(1) Is of good moral character;~~

- ~~(2) Pays the application fee required by the Board under § 19-303 of this subtitle;~~
- ~~(3) Provides adequate evidence that the applicant:~~
- ~~(i) Meets the qualifications comparable to those required by this title;~~
- ~~(ii) Is currently licensed or registered in another state;~~
- ~~(iii) [Became] HAS BEEN licensed or registered AND IN GOOD STANDING in another state [under requirements substantially equivalent to the requirements of this title] FOR AT LEAST 2 YEARS BEFORE THE DATE THE APPLICANT SUBMITTED AN APPLICATION TO THE BOARD; and~~
- ~~(iv) Became licensed or registered in the other state after passing in that or any other state an examination [that is the same as the examination for which the applicant is seeking the waiver] TO BE LICENSED OR REGISTERED AS A SOCIAL WORKER; and~~
- ~~(4) Did not previously receive a waiver of the examination requirement from the Board.~~

~~(C) SUBSECTION (B)(3)(IV) OF THIS SECTION DOES NOT APPLY TO AN APPLICANT WHO WAS LICENSED OR REGISTERED IN ANOTHER STATE BEFORE JANUARY 1, 1991.~~

SECTION 2. AND BE IT FURTHER ENACTED, That the Board of Social Work Examiners shall establish a workgroup consisting of Board members, representatives of social worker associations, human service providers who employ social workers, and other interested stakeholders, to:

- (1) examine and make recommendations on the licensure statute and the process by which licenses are issued;
- (2) examine issues affecting the status of the workforce in the State, including examination requirements, reciprocity with other states, supervision requirements, and other relevant issues; and
- (3) on or before January 1, 2010, report its findings and recommendations, in accordance with § 2-1246 of the State Government Article, to the Senate Education, Health, and Environmental Affairs Committee and the House Health and Government Operations Committee.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, April 14, 2009.

---

## Chapter 87

### (House Bill 510)

AN ACT concerning

#### Health Occupations – Licensure of Social Workers

FOR the purpose of requiring the State Board of Social Work Examiners to notify applicants for licensure whether the applicants have been approved to take a certain examination within a certain time period; ~~altering certain requirements for a waiver of examination requirements for certain applicants who are licensed or registered to practice social work in other states~~ requiring the Board of Social Work Examiners to establish a workgroup consisting of a certain membership to examine certain issues affecting the status of the workforce and submit a report to certain committees of the General Assembly on or before a certain date; and generally relating to the licensure of social workers.

BY repealing and reenacting, with amendments,  
Article – Health Occupations  
Section 19–303 ~~and 19–305~~  
Annotated Code of Maryland  
(2005 Replacement Volume and 2008 Supplement)

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

#### Article – Health Occupations

19–303.

- (a) To apply for a license, an applicant shall:
- (1) Submit an application to the Board on the form that the Board requires; and
  - (2) Pay to the Board the application fee set by the Board.
- (b) The Board shall:
- (1) Review each application; and

(2) Notify each applicant whether the applicant has been approved to take the pertinent licensure examination within [a reasonable time frame as defined in regulations] ~~30 DAYS AFTER THE DATE THE APPLICANT SUBMITTED AN APPLICATION TO THE BOARD~~ **60 DAYS FROM THE DATE THE BOARD RECEIVED A COMPLETED APPLICATION FROM THE APPLICANT.**

~~19-305.~~

~~(a) Subject to the provisions of this section, the Board shall waive the examination requirements of this title for an applicant who is licensed or registered to practice social work in any other state.~~

~~(b) [The] EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (C) OF THIS SECTION, THE Board may grant a waiver under this section only if the applicant:~~

~~(1) Is of good moral character;~~

~~(2) Pays the application fee required by the Board under § 19-303 of this subtitle;~~

~~(3) Provides adequate evidence that the applicant:~~

~~(i) Meets the qualifications comparable to those required by this title;~~

~~(ii) Is currently licensed or registered in another state;~~

~~(iii) [Became] HAS BEEN licensed or registered AND IN GOOD STANDING in another state [under requirements substantially equivalent to the requirements of this title] FOR AT LEAST 2 YEARS BEFORE THE DATE THE APPLICANT SUBMITTED AN APPLICATION TO THE BOARD; and~~

~~(iv) Became licensed or registered in the other state after passing in that or any other state an examination [that is the same as the examination for which the applicant is seeking the waiver] TO BE LICENSED OR REGISTERED AS A SOCIAL WORKER; and~~

~~(4) Did not previously receive a waiver of the examination requirement from the Board.~~

~~(c) SUBSECTION (B)(3)(IV) OF THIS SECTION DOES NOT APPLY TO AN APPLICANT WHO WAS LICENSED OR REGISTERED IN ANOTHER STATE BEFORE JANUARY 1, 1991.~~



SECTION 2. AND BE IT FURTHER ENACTED, That the Board of Social Work Examiners shall establish a workgroup consisting of Board members, representatives of social worker associations, human service providers who employ social workers, and other interested stakeholders, to:

(1) examine and make recommendations on the licensure statute and the process by which licenses are issued;

(2) examine issues affecting the status of the workforce in the State, including examination requirements, reciprocity with other states, supervision requirements, and other relevant issues; and

(3) on or before January 1, 2010, report its findings and recommendations, in accordance with § 2-1246 of the State Government Article, to the Senate Education, Health, and Environmental Affairs Committee and the House Health and Government Operations Committee.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

**Approved by the Governor, April 14, 2009.**

---

## Chapter 88

### (Senate Bill 634)

AN ACT concerning

#### **Professional Corporations – Professional Services – Multiple Professions**

FOR the purpose of altering the conditions under which a corporation may be a professional corporation for the purposes of rendering professional services within two or more professions; specifying the types of multiple professional services that may be rendered by a professional corporation; and generally relating to professional corporations.

BY repealing and reenacting, with amendments,  
Article – Corporations and Associations  
Section 5-102  
Annotated Code of Maryland  
(2007 Replacement Volume and 2008 Supplement)

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

**Article – Corporations and Associations**

5–102.

(a) (1) Except as permitted under subsection (b) of this section, a corporation may be a professional corporation under § 5–112 of this subtitle solely for the purpose of rendering professional services within a single profession.

(2) Except as provided in paragraph (3) of this subsection, a corporation that is eligible to be a professional corporation under this subtitle may not organize under any other corporate form permitted by this article.

(3) Paragraph (2) of this subsection does not apply to professional services rendered by:

- (i) An architect;
- (ii) A professional engineer;
- (iii) A licensed real estate broker, licensed real estate salesperson, or licensed associate real estate broker; or
- (iv) A veterinarian.

(b) A corporation may be a professional corporation under § 5–112 of this subtitle for the purpose of rendering **THE SAME, SIMILAR, OR RELATED** professional services within 2 or more professions[, if the combination of professional purposes is authorized by the licensing law of the State applicable to each profession in the combination].

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

**Approved by the Governor, April 14, 2009.**

---

**Chapter 89****(Senate Bill 636)**

AN ACT concerning

**Health Insurance – Required Report and Repeal of Obsolete Provisions**

FOR the purpose of requiring the Insurance Commissioner to report to the General Assembly on or before a certain date each year regarding certain contracts and

certain insured lives; repealing certain provisions of law relating to the taking effect of certain requirements for health insurers when the Insurance Commissioner determines that a certain percent of the State's population is covered under certain health benefit plans; repealing a certain report; and generally relating to health insurance.

BY adding to

Article – Insurance

Section 15–132

Annotated Code of Maryland

(2006 Replacement Volume and 2008 Supplement)

BY repealing

Chapter 9 of the Acts of the General Assembly of 1993, as amended by Chapter 258 of the Acts of the General Assembly of 1994

Section 5

BY repealing and reenacting, with amendments,

Chapter 9 of the Acts of the General Assembly of 1993

Section 6

BY repealing

Chapter 294 of the Acts of the General Assembly of 1997

Section 5

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

#### **Article – Insurance**

#### **15–132.**

**ON OR BEFORE DECEMBER 1 OF EACH YEAR, THE COMMISSIONER SHALL REPORT TO THE GENERAL ASSEMBLY, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, ON THE ESTIMATED NUMBER OF INSURED AND SELF-INSURED CONTRACTS FOR HEALTH BENEFIT PLANS IN THE STATE AND THE NUMBER OF INSURED AND SELF-INSURED LIVES UNDER THE AGE OF 65 ENROLLED IN BENEFIT PLANS IN THE STATE.**

**Chapter 9 of the Acts of 1993, as amended by Chapter 258 of the Acts of 1994**

[SECTION 5. AND BE IT FURTHER ENACTED, That:

(a) (1) Annually by October 1 the Insurance Commissioner shall determine the number of individuals in the State who are under the age of 65 and who are covered under an insured health benefit plan issued by an insurer authorized to

engage in the insurance business in the State or under a prepaid health benefit package of a health maintenance organization that operates in the State.

(2) The Insurance Commissioner shall accept registration from public and private employers and employee groups or associations in the State that offer health benefit plans under the Employee Retirement Income Security Act or other self-insured plans and that would agree to obtain insured health benefits for their employees or groups for a minimum period of 3 years under an insurance plan issued by an insurer authorized to engage in the insurance business in the State or under a prepaid health benefit package of a health maintenance organization that operates in the State and that would be subject to Section 3 of this Act. Upon request of the insurer or HMO being considered by a registering group of up to 250 employees, the registering group shall provide claims and demographic information sufficient to assist insurers and HMOs to develop rates that are adequate, not excessive and not unfairly discriminatory, and in accordance with Article 48A, § 702 of the Code.

(b) Section 3 of this Act shall take effect the second January 1 following a determination by the Insurance Commissioner that at least 60 percent of Maryland's total population under the age of 65 are covered under an insured health benefit plan or are enrolled in plans sponsored by employers or groups for which the Insurance Commissioner has obtained registrations, provided, however, that the Insurance Commissioner shall study whether the percentage of Maryland's total population under age 65 required for Section 3 to take effect should be greater than 60 percent and shall promulgate a regulation providing for a higher percentage if the Commissioner determines that it is in the public interest that the percentage should be raised. In determining whether the percentage should be raised, the Commissioner shall include a consideration of the extent to which:

(1) Small group premium rates will increase with the addition of individuals and large groups to the community pool;

(2) Existing insured groups are likely to self-insure and exit the community pool if individuals and large groups enter the community pool;

(3) Individuals are likely to move to Maryland to join the community pool thereby increasing health expenditures in Maryland; and

(4) Employer groups are likely to leave the State to avoid the community pool.

(c) The Insurance Commissioner must submit an annual report in accordance with § 2-1312 of the State Government Article by December 31 of each year. The report must specify the number of individuals under the age of 65 who are covered under an insured health benefit plan and by registered employers. If the Commissioner determines that the taking effect of Section 3 of this Act at a participation level of 60 percent of the population under age 65 is in the public interest, the Commissioner shall state the reasons in the report.

(d) The first June 1 following the Commissioner's determination that at least 60 percent, or any greater percentage as determined by the Commissioner in regulation, of Maryland's total population under the age of 65 are covered under an insured health benefit plan or are enrolled in plans sponsored by employers or groups for which the Commissioner has obtained registrations, insurers and health maintenance organizations must submit the estimated community rate applicable to the Comprehensive Standard Health Benefit Plan after Section 3 of this Act takes effect. Insurers and health maintenance organizations shall distribute this information to all covered groups.

(e) Except as excused by the Commissioner for circumstances that would deem an employer unable to maintain health insurance for its employees, any employer that registers for 3 years with the Commissioner under this section that fails to provide or discontinues coverage under Article 48A, Title 55 of the Code, after the Commissioner determines that the 60 percent margin has been met shall be fined in an amount equal to \$1 per employee for each day under 3 years that the employer is not covered under Article 48A, Title 55 of the Code.

(f) The State Employee and Retiree Health and Welfare Benefits Program may register, no earlier than January 1, 1995 with the Insurance Commissioner under this section only if the registration is approved by the Legislative Policy Committee of the General Assembly.

(g) Before the effective date of Section 3 of this Act, the Insurance Commissioner shall adopt regulations to implement that section.]

### **Chapter 9 of the Acts of 1993**

SECTION 6. AND BE IT FURTHER ENACTED, That if Section 3 of this Act takes effect on the occurrence of the events specified in Section [5 or] 7 of this Act, the Insurance Commissioner shall ensure that contracts and policies issued to employers and groups that are eligible to sponsor health benefit plans under the Employee Retirement Income Security Act, shall be effective for 3 years and that appropriate sanctions are included in the policies or contracts in the event of cancellation before the end of the 3-year period.

### **Chapter 294 of the Acts of 1997**

[SECTION 5. AND BE IT FURTHER ENACTED, That, in accordance with § 2-1312 of the State Government Article, the Insurance Commissioner shall report annually to the Senate Finance Committee and the House Economic Matters Committee regarding the effect of this Act on rates in the individual health insurance market, and any proposed changes to existing law. The Commissioner's report shall be made by December 1 of each year, beginning in 1999.]

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, April 14, 2009.

---

## Chapter 90

### (Senate Bill 646)

AN ACT concerning

#### **Credentialing of Health Care Providers by Managed Care Organizations, Insurance Carriers, and Hospitals**

FOR the purpose of providing that certain provisions of law relating to credentialing of health care providers by carriers apply to managed care organizations; ~~requiring the Secretary of Health and Mental Hygiene to designate~~ providing hospitals with the option of using a certain form as the uniform standard credentialing form for hospitals; authorizing the Maryland Insurance Commissioner to designate a certain provider credentialing application as the uniform credentialing form under certain circumstances; altering ~~a~~ certain ~~definition~~ definitions; and generally relating to credentialing of health care providers.

BY repealing and reenacting, with amendments,  
Article – Health – General  
Section 15–102.3 and 19–319(e)  
Annotated Code of Maryland  
(2005 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,  
Article – Insurance  
Section 15–112.1  
Annotated Code of Maryland  
(2006 Replacement Volume and 2008 Supplement)

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

#### **Article – Health – General**

15–102.3.

(a) The provisions of § 15–112 of the Insurance Article (Provider panels) shall apply to managed care organizations in the same manner they apply to carriers.

(b) The provisions of § 15–1005 of the Insurance Article shall apply to managed care organizations in the same manner they apply to health maintenance organizations.

(c) The provisions of §§ 4–311, 15–604, 15–605, and 15–1008 of the Insurance Article shall apply to managed care organizations in the same manner they apply to carriers.

(d) (1) The provisions of §§ 19–712(b), (c), and (d), 19–713.2, and 19–713.3 of this article apply to managed care organizations in the same manner they apply to health maintenance organizations.

(2) The Insurance Commissioner shall consult with the Secretary before taking any action against a managed care organization under this subsection.

**(E) THE PROVISIONS OF § 15–112.1 OF THE INSURANCE ARTICLE APPLY TO MANAGED CARE ORGANIZATIONS IN THE SAME MANNER THEY APPLY TO CARRIERS.**

[(e)] **(F)** The Insurance Commissioner or an agent of the Commissioner shall examine the financial affairs and status of each managed care organization at least once every 5 years.

19–319.

(e) (1) In this subsection, “uniform standard credentialing form” means ~~the~~:

**(I) THE** form designated by the Secretary through regulation for credentialing physicians who seek to be employed by or have staff privileges at a hospital; **OR**

**(II) THE UNIFORM STANDARD CREDENTIALING FORM THAT THE INSURANCE COMMISSIONER DESIGNATES UNDER § 15–112.1 OF THE INSURANCE ARTICLE.**

(2) As a condition of licensure, each hospital shall:

(i) Establish a credentialing process for the physicians who are employed by or who have staff privileges at the hospital; and

(ii) Use the uniform standard credentialing form as the initial application of a physician seeking to be credentialed.

(3) Use of the uniform standard credentialing form does not preclude a hospital from requiring supplemental or additional information as part of the hospital's credentialing process.

(4) The Secretary shall, by regulation and in consultation with hospitals, physicians, interested community and advocacy groups, and representatives of the Maryland Defense Bar and Plaintiffs' Bar, establish minimum standards for a credentialing process which shall include:

(i) A formal written appointment process documenting the physician's education, clinical expertise, licensure history, insurance history, medical history, claims history, and professional experience.

(ii) A requirement that an initial appointment to staff not be complete until the physician has successfully completed a probationary period.

(iii) A formal, written reappointment process to be conducted at least every 2 years. The reappointment process shall document the physician's pattern of performance by analyzing claims filed against the physician, data dealing with utilization, quality, and risk, a review of clinical skills, adherence to hospital bylaws, policies and procedures, compliance with continuing education requirements, and mental and physical status.

~~(5) THE SECRETARY SHALL DESIGNATE AS THE UNIFORM STANDARD CREDENTIALING FORM THE SAME UNIFORM CREDENTIALING FORM THAT THE INSURANCE COMMISSIONER DESIGNATES UNDER § 15-112.1 OF THE INSURANCE ARTICLE.~~

~~(5)~~ (6) If requested by the Department, a hospital shall provide documentation that, prior to employing or granting privileges to a physician, the hospital has complied with the requirements of this subsection and that, prior to renewing employment or privileges, the hospital has complied with the requirements of this subsection.

~~(6)~~ (7) If a hospital fails to establish or maintain a credentialing process required under this subsection, the Secretary may impose the following penalties:

- (i) Delicensure of the hospital; or
- (ii) \$500 per day for each day the violation continues.

#### Article – Insurance



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

(2) (i) "Carrier" means:

1. an insurer;
2. a nonprofit health service plan;
3. a health maintenance organization;
4. a dental plan organization; [or]

**5. A MANAGED CARE ORGANIZATION; OR**

[5.] **6.** any other person that provides health benefit plans subject to regulation by the State.

(ii) "Carrier" includes an entity that arranges a provider panel for a carrier.

(3) "Credentialing intermediary" means a person to whom a carrier has delegated credentialing or recredentialing authority and responsibility.

(4) "Health care provider" means an individual who is licensed, certified, or otherwise authorized under the Health Occupations Article to provide health care services.

(5) "Provider panel" means the providers that contract with a carrier to provide health care services to the enrollees under a health benefit plan of the carrier.

(6) "Uniform credentialing form" means the form designated by the Commissioner for use by a carrier or its credentialing intermediary for credentialing and recredentialing a health care provider for participation on a provider panel.

(b) (1) Except as provided in subsection (c) of this section, a carrier or its credentialing intermediary shall accept the uniform credentialing form as the sole application for a health care provider to become credentialed or recredentialed for a provider panel of the carrier.

(2) A carrier or its credentialing intermediary shall make the uniform credentialing form available to any health care provider that is to be credentialed or recredentialed by that carrier or credentialing intermediary.

(c) The requirements of subsection (b) of this section do not apply to a hospital or academic medical center that:

- (1) is a participating provider on the carrier's provider panel; and
- (2) acts as a credentialing intermediary for that carrier for health care practitioners that:
- (i) participate on the carrier's provider panel; and
  - (ii) have privileges at the hospital or academic medical center.

(d) The Commissioner may impose a penalty not to exceed \$500 against any carrier for each violation of this section by the carrier or its credentialing intermediary.

(e) (1) The Commissioner may adopt regulations to implement the provisions of this section.

(2) ~~In adopting the regulations required under paragraph (1) of this subsection, the Commissioner shall consider the use of an electronic format for the uniform credentialing form and the filing of the uniform credentialing form by electronic means~~ **THE COMMISSIONER MAY DESIGNATE A PROVIDER CREDENTIALING APPLICATION DEVELOPED BY A NONPROFIT ALLIANCE OF HEALTH PLANS AND TRADE ASSOCIATIONS FOR AN ONLINE CREDENTIALING SYSTEM OFFERED TO CARRIERS AND PROVIDERS AS THE UNIFORM CREDENTIALING FORM IF:**

**(I) THE PROVIDER CREDENTIALING APPLICATION IS AVAILABLE TO PROVIDERS AT NO CHARGE; AND**

**(II) USE OF THE PROVIDER CREDENTIALING APPLICATION IS NOT CONDITIONED ON SUBMITTING THE PROVIDER CREDENTIALING APPLICATION TO A CARRIER THROUGH THE ONLINE CREDENTIALING SYSTEM.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, April 14, 2009.

---

## Chapter 91

(House Bill 526)

AN ACT concerning

**Credentialing of Health Care Providers by Managed Care Organizations,  
Insurance Carriers, and Hospitals**

FOR the purpose of providing that certain provisions of law relating to credentialing of health care providers by carriers apply to managed care organizations; ~~requiring the Secretary of Health and Mental Hygiene to designate~~ providing hospitals with the option of using a certain form as the uniform standard credentialing form for hospitals; authorizing the Maryland Insurance Commissioner to designate a certain provider credentialing application as the uniform credentialing form under certain circumstances; altering ~~a~~ certain ~~definition~~ definitions; and generally relating to credentialing of health care providers.

BY repealing and reenacting, with amendments,  
Article – Health – General  
Section 15–102.3 and 19–319(e)  
Annotated Code of Maryland  
(2005 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,  
Article – Insurance  
Section 15–112.1  
Annotated Code of Maryland  
(2006 Replacement Volume and 2008 Supplement)

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

**Article – Health – General**

15–102.3.

(a) The provisions of § 15–112 of the Insurance Article (Provider panels) shall apply to managed care organizations in the same manner they apply to carriers.

(b) The provisions of § 15–1005 of the Insurance Article shall apply to managed care organizations in the same manner they apply to health maintenance organizations.

(c) The provisions of §§ 4–311, 15–604, 15–605, and 15–1008 of the Insurance Article shall apply to managed care organizations in the same manner they apply to carriers.

(d) (1) The provisions of §§ 19–712(b), (c), and (d), 19–713.2, and 19–713.3 of this article apply to managed care organizations in the same manner they apply to health maintenance organizations.

(2) The Insurance Commissioner shall consult with the Secretary before taking any action against a managed care organization under this subsection.

**(E) THE PROVISIONS OF § 15-112.1 OF THE INSURANCE ARTICLE APPLY TO MANAGED CARE ORGANIZATIONS IN THE SAME MANNER THEY APPLY TO CARRIERS.**

**[(e)] (F)** The Insurance Commissioner or an agent of the Commissioner shall examine the financial affairs and status of each managed care organization at least once every 5 years.

19-319.

(e) (1) In this subsection, “uniform standard credentialing form” means ~~the~~:

**(I) THE** form designated by the Secretary through regulation for credentialing physicians who seek to be employed by or have staff privileges at a hospital; **OR**

**(II) THE UNIFORM CREDENTIALING FORM THAT THE INSURANCE COMMISSIONER DESIGNATES UNDER § 15-112.1 OF THE INSURANCE ARTICLE.**

(2) As a condition of licensure, each hospital shall:

(i) Establish a credentialing process for the physicians who are employed by or who have staff privileges at the hospital; and

(ii) Use the uniform standard credentialing form as the initial application of a physician seeking to be credentialed.

(3) Use of the uniform standard credentialing form does not preclude a hospital from requiring supplemental or additional information as part of the hospital’s credentialing process.

(4) The Secretary shall, by regulation and in consultation with hospitals, physicians, interested community and advocacy groups, and representatives of the Maryland Defense Bar and Plaintiffs’ Bar, establish minimum standards for a credentialing process which shall include:

(i) A formal written appointment process documenting the physician’s education, clinical expertise, licensure history, insurance history, medical history, claims history, and professional experience.

(ii) A requirement that an initial appointment to staff not be complete until the physician has successfully completed a probationary period.

(iii) A formal, written reappointment process to be conducted at least every 2 years. The reappointment process shall document the physician's pattern of performance by analyzing claims filed against the physician, data dealing with utilization, quality, and risk, a review of clinical skills, adherence to hospital bylaws, policies and procedures, compliance with continuing education requirements, and mental and physical status.

~~(5) THE SECRETARY SHALL DESIGNATE AS THE UNIFORM STANDARD CREDENTIALING FORM THE SAME UNIFORM CREDENTIALING FORM THAT THE INSURANCE COMMISSIONER DESIGNATES UNDER § 15-112.1 OF THE INSURANCE ARTICLE.~~

~~[(5)] (6)~~ If requested by the Department, a hospital shall provide documentation that, prior to employing or granting privileges to a physician, the hospital has complied with the requirements of this subsection and that, prior to renewing employment or privileges, the hospital has complied with the requirements of this subsection.

~~[(6)] (7)~~ If a hospital fails to establish or maintain a credentialing process required under this subsection, the Secretary may impose the following penalties:

- (i) Delicensure of the hospital; or
- (ii) \$500 per day for each day the violation continues.

### Article – Insurance

15-112.1.

- (a) (1) In this section the following words have the meanings indicated.
- (2) (i) “Carrier” means:
  - 1. an insurer;
  - 2. a nonprofit health service plan;
  - 3. a health maintenance organization;
  - 4. a dental plan organization; [or]
  - 5. **A MANAGED CARE ORGANIZATION; OR**

[5.] 6. any other person that provides health benefit plans subject to regulation by the State.

(ii) “Carrier” includes an entity that arranges a provider panel for a carrier.

(3) “Credentialing intermediary” means a person to whom a carrier has delegated credentialing or recredentialing authority and responsibility.

(4) “Health care provider” means an individual who is licensed, certified, or otherwise authorized under the Health Occupations Article to provide health care services.

(5) “Provider panel” means the providers that contract with a carrier to provide health care services to the enrollees under a health benefit plan of the carrier.

(6) “Uniform credentialing form” means the form designated by the Commissioner for use by a carrier or its credentialing intermediary for credentialing and recredentialing a health care provider for participation on a provider panel.

(b) (1) Except as provided in subsection (c) of this section, a carrier or its credentialing intermediary shall accept the uniform credentialing form as the sole application for a health care provider to become credentialed or recredentialled for a provider panel of the carrier.

(2) A carrier or its credentialing intermediary shall make the uniform credentialing form available to any health care provider that is to be credentialed or recredentialled by that carrier or credentialing intermediary.

(c) The requirements of subsection (b) of this section do not apply to a hospital or academic medical center that:

(1) is a participating provider on the carrier’s provider panel; and

(2) acts as a credentialing intermediary for that carrier for health care practitioners that:

(i) participate on the carrier’s provider panel; and

(ii) have privileges at the hospital or academic medical center.

(d) The Commissioner may impose a penalty not to exceed \$500 against any carrier for each violation of this section by the carrier or its credentialing intermediary.

(e) (1) The Commissioner may adopt regulations to implement the provisions of this section.

(2) ~~In adopting the regulations required under paragraph (1) of this subsection, the Commissioner shall consider the use of an electronic format for the uniform credentialing form and the filing of the uniform credentialing form by electronic means~~ THE COMMISSIONER MAY DESIGNATE A PROVIDER CREDENTIALING APPLICATION DEVELOPED BY A NONPROFIT ALLIANCE OF HEALTH PLANS AND TRADE ASSOCIATIONS FOR AN ONLINE CREDENTIALING SYSTEM OFFERED TO CARRIERS AND PROVIDERS AS THE UNIFORM CREDENTIALING FORM IF:

(I) THE PROVIDER CREDENTIALING APPLICATION IS AVAILABLE TO PROVIDERS AT NO CHARGE; AND

(II) USE OF THE PROVIDER CREDENTIALING APPLICATION IS NOT CONDITIONED ON SUBMITTING THE PROVIDER CREDENTIALING APPLICATION TO A CARRIER THROUGH THE ONLINE CREDENTIALING SYSTEM.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, April 14, 2009.

---

## Chapter 92

(Senate Bill 657)

AN ACT concerning

### Real Property – New Home Sales Contracts – Financing Contingency Clauses

FOR the purpose of requiring a contract for the sale of a certain home to ~~include a certain provision stating whether the contract is~~ be contingent on a certain condition unless the contract expressly states otherwise; requiring a certain contract to state certain information if it is contingent on a certain condition; and generally relating to contracts for the sale of a new home.

BY repealing and reenacting, ~~with~~ without amendments,  
Article – Real Property  
Section 14–117(j)  
Annotated Code of Maryland  
(2003 Replacement Volume and 2008 Supplement)

BY adding to

Article – Real Property

Section 14-117(j-1)

Annotated Code of Maryland

(2003 Replacement Volume and 2008 Supplement)

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

**Article – Real Property**

14-117.

(j) (1) This subsection applies to Baltimore City and all other counties except Montgomery County.

(2) A contract for the initial sale of a new home, as defined in the Maryland Home Builder Registration Act, shall include the following:

(i) The builder registration number of the seller of the new home;

(ii) A provision stating that the new home shall be constructed in accordance with all applicable building codes in effect at the time of the construction of the new home;

(iii) A provision referencing all performance standards or guidelines:

1. That the seller shall comply with in the construction of the new home; and

2. That shall prevail in the performance of the contract and any arbitration or adjudication of a claim arising from the contract; ~~and~~

(iv) A provision detailing the purchaser's right to receive a consumer information pamphlet as provided under the Home Builder Registration Act; ~~AND~~

~~(v) 1. A PROVISION STATING WHETHER THE CONTRACT IS CONTINGENT ON THE PURCHASER OBTAINING A WRITTEN COMMITMENT FOR A LOAN SECURED BY THE PROPERTY; AND~~

~~2. IF THE CONTRACT IS CONTINGENT ON THE PURCHASER OBTAINING A WRITTEN COMMITMENT FOR A LOAN SECURED BY~~



~~THE PROPERTY, THE MAXIMUM LOAN INTEREST RATE THE PURCHASER IS OBLIGATED TO ACCEPT.~~

(3) The performance standards or guidelines described in paragraph (2) of this subsection shall be:

(i) The performance standards or guidelines adopted at the time of the contract:

1. By the National Association of Home Builders; or
2. Under the federal National Manufactured Housing Construction and Safety Standards Act, to the extent applicable;

(ii) Any performance standards or guidelines adopted by the home builder and incorporated into the contract that are equal to or more stringent than the performance standards or guidelines adopted at the time of the contract:

1. By the National Association of Home Builders; or
2. Under the federal National Manufactured Housing Construction and Safety Standards Act, to the extent applicable; or

(iii) Any performance standards or guidelines adopted at the time of the contract by a county or municipal corporation that are equal to or more stringent than the performance standards or guidelines adopted at the time of the contract:

1. By the National Association of Home Builders; or
2. Under the federal National Manufactured Housing Construction and Safety Standards Act, to the extent applicable.

(4) The information required by paragraph (2) of this subsection shall be printed in conspicuous type.

**(J-1) (1) A CONTRACT FOR THE INITIAL SALE OF A NEW HOME, AS DEFINED IN THE MARYLAND HOME BUILDER REGISTRATION ACT, SHALL BE CONTINGENT ON THE PURCHASER OBTAINING A WRITTEN COMMITMENT FOR A LOAN SECURED BY THE PROPERTY, UNLESS THE CONTRACT CONTAINS A PROVISION EXPRESSLY STATING THAT IT IS NOT CONTINGENT.**

**(2) IF THE CONTRACT IS CONTINGENT ON THE PURCHASER OBTAINING A WRITTEN COMMITMENT FOR A LOAN SECURED BY THE PROPERTY, THE CONTRACT SHALL STATE THE MAXIMUM LOAN INTEREST RATE THE PURCHASER IS OBLIGATED TO ACCEPT.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

**Approved by the Governor, April 14, 2009.**

---

## **Chapter 93**

### **(Senate Bill 720)**

AN ACT concerning

#### **Real Estate Investment Trusts – Declaration of Trust and Bylaws**

FOR the purpose of repealing a certain provision requiring that the annual meeting of shareholders provided for in a real estate investment trust's declaration of trust be held after the delivery of the annual report; repealing a certain cross-reference in a provision authorizing provisions of a real estate investment trust's bylaws to be made dependent on facts ascertainable outside the bylaws; and generally relating to real estate investment trusts.

BY repealing and reenacting, with amendments,  
Article – Corporations and Associations  
Section 8–202  
Annotated Code of Maryland  
(2007 Replacement Volume and 2008 Supplement)

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

#### **Article – Corporations and Associations**

8–202.

(a) A real estate investment trust shall file its declaration of trust for record with the Department.

- (b) (1) The declaration of trust shall:
- (i) Indicate clearly that the trust is a real estate investment trust;
  - (ii) State the name of the trust;

(iii) State the total number of shares which the real estate investment trust has authority to issue;

(iv) Provide for an annual meeting of shareholders [after the delivery of the annual report,] at a convenient location and on proper notice;

(v) Provide for the election of trustees at least every third year at an annual meeting of shareholders;

(vi) State the number of trustees and the names of those persons who will serve as trustees until the first meeting of shareholders and until their successors are elected and qualify or such later time as may be specified in the declaration of trust;

(vii) State the name and address of a resident agent of the real estate investment trust in the State; and

(viii) If the shares are divided into classes as permitted by § 8–203 of this subtitle, provide a description of each class, including any preferences, conversion and other rights, voting powers, restrictions, limitations as to dividends or distributions, qualifications, and terms and conditions of redemption.

(2) A declaration of trust may include a provision that allows the trustees, in considering a potential acquisition of control of the real estate investment trust, to consider the effect of the potential acquisition of control on:

(i) Shareholders, employees, suppliers, customers, and creditors of the trust; and

(ii) Communities in which offices or other establishments of the trust are located.

(3) The inclusion or omission of a provision in a declaration of trust that allows the board of trustees to consider the effect of a potential acquisition of control on persons specified in paragraph (2) of this subsection does not create an inference concerning factors that may be considered by the board of trustees regarding a potential acquisition of control.

(c) Notwithstanding any provision of this title which requires for any action the concurrence of a greater proportion of the votes than a majority of the votes entitled to be cast, a real estate investment trust may provide by its declaration of trust that the action may be taken or authorized on the concurrence of a greater or smaller proportion, but not less than a majority of the number of votes entitled to be cast on the matter.

(d) The declaration of trust shall be signed and acknowledged by each trustee.

(e) (1) In this subsection, “facts ascertainable outside the bylaws” include:

(i) An action or determination by any person, including the real estate investment trust, its board of trustees, an officer or agent of the real estate investment trust, and any other person affiliated with the real estate investment trust;

(ii) Any agreement or other document; or

(iii) Any other event.

(2) Any provision of the bylaws [permitted under subsection (a) of this section] may be made dependent upon facts ascertainable outside the bylaws.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

**Approved by the Governor, April 14, 2009.**

---

## Chapter 94

### (House Bill 245)

AN ACT concerning

#### **Real Estate Investment Trusts – Declaration of Trust and Bylaws**

FOR the purpose of repealing a certain provision requiring that the annual meeting of shareholders provided for in a real estate investment trust’s declaration of trust be held after the delivery of the annual report; repealing a certain cross–reference in a provision authorizing provisions of a real estate investment trust’s bylaws to be made dependent on facts ascertainable outside the bylaws; and generally relating to real estate investment trusts.

BY repealing and reenacting, with amendments,  
 Article – Corporations and Associations  
 Section 8–202  
 Annotated Code of Maryland  
 (2007 Replacement Volume and 2008 Supplement)

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

#### **Article – Corporations and Associations**

8–202.

(a) A real estate investment trust shall file its declaration of trust for record with the Department.

(b) (1) The declaration of trust shall:

(i) Indicate clearly that the trust is a real estate investment trust;

(ii) State the name of the trust;

(iii) State the total number of shares which the real estate investment trust has authority to issue;

(iv) Provide for an annual meeting of shareholders [after the delivery of the annual report,] at a convenient location and on proper notice;

(v) Provide for the election of trustees at least every third year at an annual meeting of shareholders;

(vi) State the number of trustees and the names of those persons who will serve as trustees until the first meeting of shareholders and until their successors are elected and qualify or such later time as may be specified in the declaration of trust;

(vii) State the name and address of a resident agent of the real estate investment trust in the State; and

(viii) If the shares are divided into classes as permitted by § 8–203 of this subtitle, provide a description of each class, including any preferences, conversion and other rights, voting powers, restrictions, limitations as to dividends or distributions, qualifications, and terms and conditions of redemption.

(2) A declaration of trust may include a provision that allows the trustees, in considering a potential acquisition of control of the real estate investment trust, to consider the effect of the potential acquisition of control on:

(i) Shareholders, employees, suppliers, customers, and creditors of the trust; and

(ii) Communities in which offices or other establishments of the trust are located.

(3) The inclusion or omission of a provision in a declaration of trust that allows the board of trustees to consider the effect of a potential acquisition of

control on persons specified in paragraph (2) of this subsection does not create an inference concerning factors that may be considered by the board of trustees regarding a potential acquisition of control.

(c) Notwithstanding any provision of this title which requires for any action the concurrence of a greater proportion of the votes than a majority of the votes entitled to be cast, a real estate investment trust may provide by its declaration of trust that the action may be taken or authorized on the concurrence of a greater or smaller proportion, but not less than a majority of the number of votes entitled to be cast on the matter.

(d) The declaration of trust shall be signed and acknowledged by each trustee.

(e) (1) In this subsection, "facts ascertainable outside the bylaws" include:

(i) An action or determination by any person, including the real estate investment trust, its board of trustees, an officer or agent of the real estate investment trust, and any other person affiliated with the real estate investment trust;

(ii) Any agreement or other document; or

(iii) Any other event.

(2) Any provision of the bylaws [permitted under subsection (a) of this section] may be made dependent upon facts ascertainable outside the bylaws.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

**Approved by the Governor, April 14, 2009.**

---

## Chapter 95

(Senate Bill 742)

AN ACT concerning

### **Condominiums and Homeowners Associations – Transition of Control**

FOR the purpose of requiring a meeting of the council of unit owners of a condominium to elect a board of directors to be held within a certain time; requiring a developer before the date of a certain meeting to deliver to each unit owner a certain notice; terminating the term of members of a board of directors

appointed by a developer under certain circumstances; requiring a developer to deliver certain documents, funds, and property to the officers or board of directors for the council of unit owners on transfer of control under certain circumstances; authorizing the board of directors to terminate without liability certain contracts under certain circumstances; authorizing an aggrieved unit owner to submit a certain dispute to the Division of Consumer Protection of the Office of the Attorney General under certain circumstances; requiring a developer to make certain books and records available to a unit owner within a certain time under certain circumstances; requiring a meeting of the members of a homeowners association to elect a governing body to be held within a certain time; requiring a declarant before the date of a certain meeting to deliver to each lot owner a certain notice; terminating the term of members of the governing body appointed by a declarant under certain circumstances; requiring a declarant to deliver certain documents, funds, and property to the governing body on transfer of control under certain circumstances; authorizing the members of a governing body to terminate without liability certain contracts under certain circumstances; authorizing an aggrieved lot owner to submit a certain dispute to the Division of Consumer Protection of the Office of the Attorney General under certain circumstances; requiring a declarant to make certain books and records available to a lot owner within a certain time under certain circumstances; defining certain terms; making a stylistic change; and generally relating to the transition of control in a condominium or homeowners association.

BY repealing and reenacting, with amendments,

Article – Real Property

Section 11–109(c)(16), 11–116, and 11B–112(a)

Annotated Code of Maryland

(2003 Replacement Volume and 2008 Supplement)

BY repealing

Article – Real Property

Section 11–132

Annotated Code of Maryland

(2003 Replacement Volume and 2008 Supplement)

BY adding to

Article – Real Property

Section 11–132 and 11B–106.1

Annotated Code of Maryland

(2003 Replacement Volume and 2008 Supplement)

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

**Article – Real Property**

11-109.

(c) (16) (I) A meeting of the council of unit owners **TO ELECT A BOARD OF DIRECTORS FOR THE COUNCIL OF UNIT OWNERS, AS PROVIDED IN THE CONDOMINIUM DECLARATION OR BYLAWS,** shall be held within:

1. 60 days from the date that units representing 50 percent of the votes in the condominium have been conveyed by the developer [to the initial purchasers of units to elect officers or a board of directors for the council of unit owners, as provided in the condominium declaration or bylaws] **TO MEMBERS OF THE PUBLIC FOR RESIDENTIAL PURPOSES; OR**

2. **IF A LESSER PERCENTAGE IS SPECIFIED IN THE DECLARATION OR BYLAWS OF THE CONDOMINIUM, 60 DAYS FROM THE DATE THE SPECIFIED LESSER PERCENTAGE OF UNITS IN THE CONDOMINIUM ARE SOLD TO MEMBERS OF THE PUBLIC FOR RESIDENTIAL PURPOSES.**

(II) 1. BEFORE THE DATE OF THE MEETING HELD UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE DEVELOPER SHALL DELIVER TO EACH UNIT OWNER NOTICE THAT THE REQUIREMENTS OF SUBPARAGRAPH (I) OF THIS PARAGRAPH HAVE BEEN MET.

2. THE NOTICE SHALL INCLUDE THE DATE, TIME, AND PLACE OF THE MEETING TO ELECT THE BOARD OF DIRECTORS FOR THE COUNCIL OF UNIT OWNERS.

~~(III)~~ (III) THE TERM OF EACH MEMBER OF THE BOARD OF DIRECTORS APPOINTED BY THE DEVELOPER SHALL END 10 DAYS AFTER THE MEETING AS SPECIFIED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH IS HELD, IF A REPLACEMENT BOARD MEMBER IS ELECTED.

~~(IV)~~ (IV) WITHIN 30 DAYS FROM THE DATE OF THE MEETING HELD UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE DEVELOPER SHALL DELIVER TO THE OFFICERS OR BOARD OF DIRECTORS FOR THE COUNCIL OF UNIT OWNERS, AS PROVIDED IN THE CONDOMINIUM DECLARATION OR BYLAWS, AT THE DEVELOPER'S EXPENSE:

1. THE DOCUMENTS SPECIFIED IN § 11-132 OF THIS TITLE;

2. THE CONDOMINIUM FUNDS, INCLUDING OPERATING FUNDS, REPLACEMENT RESERVES, INVESTMENT ACCOUNTS, AND WORKING CAPITAL;



**3. THE TANGIBLE PROPERTY OF THE CONDOMINIUM; AND**

**4. A ROSTER OF CURRENT UNIT OWNERS, INCLUDING MAILING ADDRESSES, TELEPHONE NUMBERS, AND UNIT NUMBERS, IF KNOWN.**

~~(iv)~~ **(v) 1. THIS SUBPARAGRAPH DOES NOT APPLY TO A CONTRACT ENTERED INTO BEFORE OCTOBER 1, 2009.**

**2. A. IN THIS SUBPARAGRAPH, "CONTRACT" MEANS AN AGREEMENT WITH A COMPANY OR INDIVIDUAL TO HANDLE FINANCIAL MATTERS, MAINTENANCE, OR SERVICES ~~OF~~ FOR THE CONDOMINIUM.**

**B. "CONTRACT" DOES NOT INCLUDE AN AGREEMENT RELATING TO THE PROVISION OF UTILITY SERVICES OR COMMUNICATION SYSTEMS.**

**3. UNTIL ALL MEMBERS OF THE BOARD OF DIRECTORS OF THE CONDOMINIUM ARE ELECTED BY THE UNIT OWNERS AT A TRANSITIONAL MEETING AS SPECIFIED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH, A CONTRACT ENTERED INTO BY THE OFFICERS OR BOARD OF DIRECTORS OF THE CONDOMINIUM MAY BE TERMINATED, AT THE DISCRETION OF THE BOARD OF DIRECTORS AND WITHOUT LIABILITY FOR THE TERMINATION, NOT LATER THAN 30 DAYS AFTER NOTICE.**

~~(v)~~ **(vi) IF THE DEVELOPER FAILS TO COMPLY WITH THE REQUIREMENTS OF THIS PARAGRAPH, AN AGGRIEVED UNIT OWNER MAY SUBMIT THE DISPUTE TO THE DIVISION OF CONSUMER PROTECTION OF THE OFFICE OF THE ATTORNEY GENERAL UNDER § 11-130(C) OF THIS TITLE.**

11-116.

(a) The council of unit owners shall keep books and records in accordance with good accounting practices on a consistent basis.

(b) On the request of the unit owners of at least 5 percent of the units, the council of unit owners shall cause an audit of the books and records to be made by an independent certified public accountant, provided an audit shall be made not more than once in any consecutive 12-month period. The cost of the audit shall be a common expense.

(c) (1) Except as provided in paragraph [(2)] **(3)** of this subsection, all books and records, including insurance policies, kept by the council of unit owners shall be maintained in Maryland or within 50 miles of its borders and shall be

available at some place designated by the council of unit owners [within the county where the condominium is located] for examination and copying by any unit owner, [his] **THE UNIT OWNER'S** mortgagee, and their respective duly authorized agents or attorneys, during normal business hours, and after reasonable notice.

**(2) BOOKS AND RECORDS REQUIRED TO BE MADE AVAILABLE UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL FIRST BE MADE AVAILABLE TO A UNIT OWNER NOT LATER THAN 15 BUSINESS DAYS AFTER A UNIT IS CONVEYED FROM A DEVELOPER AND THE UNIT OWNER REQUESTS TO EXAMINE OR COPY THE BOOKS AND RECORDS.**

**[(2)] (3)** Books and records kept by or on behalf of a council of unit owners may be withheld from public inspection to the extent that they concern:

- (i) Personnel records;
- (ii) An individual's medical records;
- (iii) An individual's financial records;
- (iv) Records relating to business transactions that are currently in negotiation;
- (v) The written advice of legal counsel; or
- (vi) Minutes of a closed meeting of the board of directors or other governing body of the council of unit owners.

(d) The council of unit owners may impose a reasonable charge upon a person desiring to review or copy the books and records.

[11-132.

Drawings, architectural plans, or other suitable documents, setting forth the necessary information for location, maintenance, and repair of all condominium facilities, to the extent that they exist, shall be turned over to the council of unit owners upon transfer of control by the developer.]

**11-132.**

**ON TRANSFER OF CONTROL BY THE DEVELOPER TO THE COUNCIL OF UNIT OWNERS, THE DEVELOPER SHALL TURN OVER DOCUMENTS INCLUDING:**

(1) COPIES OF THE CONDOMINIUM'S FILED ARTICLES OF INCORPORATION, RECORDED DECLARATION, AND ALL RECORDED COVENANTS, BYLAWS, PLATS, AND RESTRICTIONS OF THE CONDOMINIUM;

(2) SUBJECT TO THE RESTRICTIONS OF § 11-116 OF THIS TITLE, ALL BOOKS AND RECORDS OF THE CONDOMINIUM, INCLUDING FINANCIAL STATEMENTS, MINUTES OF ANY MEETING OF THE GOVERNING BODY, AND COMPLETED BUSINESS TRANSACTIONS;

(3) ANY POLICIES, RULES, AND REGULATIONS ADOPTED BY THE GOVERNING BODY;

(4) THE FINANCIAL RECORDS OF THE CONDOMINIUM FROM THE DATE OF CREATION TO THE DATE OF TRANSFER OF CONTROL, INCLUDING BUDGET INFORMATION REGARDING ESTIMATED AND ACTUAL EXPENDITURES BY THE CONDOMINIUM AND ANY REPORT RELATING TO THE RESERVES REQUIRED FOR MAJOR REPAIRS AND REPLACEMENT OF THE COMMON ELEMENTS OF THE CONDOMINIUM;

(5) A COPY OF ALL CONTRACTS TO WHICH THE CONDOMINIUM IS A PARTY;

(6) THE NAME, ADDRESS, AND TELEPHONE NUMBER OF ANY CONTRACTOR OR SUBCONTRACTOR EMPLOYED BY THE CONDOMINIUM;

(7) ANY INSURANCE POLICIES IN EFFECT AND ALL PRIOR INSURANCE POLICIES;

(8) ANY PERMIT OR NOTICE OF CODE VIOLATION ISSUED TO THE CONDOMINIUM BY THE COUNTY, LOCAL, STATE, OR FEDERAL GOVERNMENT;

(9) ANY WARRANTY IN EFFECT;

(10) DRAWINGS, ARCHITECTURAL PLANS, OR OTHER SUITABLE DOCUMENTS SETTING FORTH THE NECESSARY INFORMATION FOR LOCATION, MAINTENANCE, AND REPAIR OF ALL CONDOMINIUM FACILITIES; AND

(11) INDIVIDUAL OWNER FILES AND RECORDS, INCLUDING ASSESSMENT ACCOUNT RECORDS, CORRESPONDENCE, AND NOTICES OF ANY VIOLATIONS.

11B-106.1.

(A) A MEETING OF THE MEMBERS OF THE HOMEOWNERS ASSOCIATION TO ELECT A GOVERNING BODY OF THE HOMEOWNERS ASSOCIATION SHALL BE HELD WITHIN:

(1) 60 DAYS FROM THE DATE THAT AT LEAST 75% OF THE TOTAL NUMBER OF LOTS THAT MAY BE PART OF THE DEVELOPMENT AFTER ALL PHASES ARE COMPLETE ARE SOLD TO MEMBERS OF THE PUBLIC FOR RESIDENTIAL PURPOSES; OR

(2) IF A LESSER PERCENTAGE IS SPECIFIED IN THE GOVERNING DOCUMENTS OF THE HOMEOWNERS ASSOCIATION, 60 DAYS FROM THE DATE THE SPECIFIED LESSER PERCENTAGE OF THE TOTAL NUMBER OF LOTS IN THE DEVELOPMENT AFTER ALL PHASES ARE COMPLETE ARE SOLD TO MEMBERS OF THE PUBLIC FOR RESIDENTIAL PURPOSES.

(B) (1) BEFORE THE DATE OF THE MEETING HELD UNDER SUBSECTION (A) OF THIS SECTION, THE DECLARANT SHALL DELIVER TO EACH LOT OWNER NOTICE THAT THE REQUIREMENTS OF SUBSECTION (A) OF THIS SECTION HAVE BEEN MET.

(2) THE NOTICE SHALL INCLUDE THE DATE, TIME, AND PLACE OF THE MEETING TO ELECT THE GOVERNING BODY OF THE HOMEOWNERS ASSOCIATION.

~~(B)~~ (C) THE TERM OF EACH MEMBER OF THE GOVERNING BODY OF THE HOMEOWNERS ASSOCIATION APPOINTED BY THE DECLARANT SHALL END 10 DAYS AFTER THE MEETING UNDER SUBSECTION (A) OF THIS SECTION IS HELD, IF A REPLACEMENT BOARD MEMBER IS ELECTED.

~~(C)~~ (D) WITHIN 30 DAYS FROM THE DATE OF THE MEETING HELD UNDER SUBSECTION (A) OF THIS SECTION, THE DECLARANT SHALL DELIVER THE FOLLOWING ITEMS TO THE GOVERNING BODY AT THE DECLARANT'S EXPENSE:

(1) THE ~~DEED~~ DEEDS TO THE COMMON AREAS;

(2) COPIES OF THE HOMEOWNERS ASSOCIATION'S FILED ARTICLES OF INCORPORATION, DECLARATION, AND ALL RECORDED COVENANTS, PLATS, ~~AND~~ RESTRICTIONS, AND ANY OTHER RECORDS OF THE PRIMARY DEVELOPMENT AND OF RELATED DEVELOPMENTS;

(3) A COPY OF THE BYLAWS AND RULES OF THE PRIMARY DEVELOPMENT AND OF OTHER RELATED DEVELOPMENTS AS FILED IN THE DEPOSITORY OF THE COUNTY IN WHICH THE DEVELOPMENT IS LOCATED;

- (4) THE MINUTE BOOKS, INCLUDING ALL MINUTES;
- (5) SUBJECT TO THE RESTRICTIONS OF § 11B-112 OF THIS TITLE, ALL BOOKS AND RECORDS OF THE HOMEOWNERS ASSOCIATION, INCLUDING FINANCIAL STATEMENTS, MINUTES OF ANY MEETING OF THE GOVERNING BODY, AND COMPLETED BUSINESS TRANSACTIONS;
- (6) ANY POLICIES, RULES, AND REGULATIONS ADOPTED BY THE GOVERNING BODY;
- (7) THE FINANCIAL RECORDS OF THE HOMEOWNERS ASSOCIATION FROM THE DATE OF CREATION TO THE DATE OF TRANSFER OF CONTROL, INCLUDING BUDGET INFORMATION REGARDING ESTIMATED AND ACTUAL EXPENDITURES BY THE HOMEOWNERS ASSOCIATION AND ANY REPORT RELATING TO THE RESERVES REQUIRED FOR MAJOR REPAIRS AND REPLACEMENT OF THE COMMON AREAS OF THE HOMEOWNERS ASSOCIATION;
- (8) A COPY OF ALL CONTRACTS TO WHICH THE HOMEOWNERS ASSOCIATION IS A PARTY;
- (9) THE NAME, ADDRESS, AND TELEPHONE NUMBER OF ANY CONTRACTOR OR SUBCONTRACTOR EMPLOYED BY THE HOMEOWNERS ASSOCIATION;
- (10) ANY INSURANCE POLICIES IN EFFECT;
- (11) ANY PERMIT OR NOTICE OF CODE VIOLATIONS ISSUED TO THE HOMEOWNERS ASSOCIATION BY THE COUNTY, LOCAL, STATE, OR FEDERAL GOVERNMENT;
- (12) ANY WARRANTY IN EFFECT AND ALL PRIOR INSURANCE POLICIES;
- (13) THE HOMEOWNERS ASSOCIATION FUNDS, INCLUDING OPERATING FUNDS, REPLACEMENT RESERVES, INVESTMENT ACCOUNTS, AND WORKING CAPITAL;
- (14) THE TANGIBLE PROPERTY OF THE HOMEOWNERS ASSOCIATION;
- (15) A ROSTER OF CURRENT LOT OWNERS, INCLUDING THEIR MAILING ADDRESSES, TELEPHONE NUMBERS, AND LOT NUMBERS, IF KNOWN;  
~~AND~~

**(16) INDIVIDUAL MEMBER FILES AND RECORDS, INCLUDING ASSESSMENT ACCOUNT RECORDS, CORRESPONDENCE, AND NOTICES OF ANY VIOLATIONS; AND**

**(17) DRAWINGS, ARCHITECTURAL PLANS, OR OTHER SUITABLE DOCUMENTS SETTING FORTH THE NECESSARY INFORMATION FOR LOCATION, MAINTENANCE, AND REPAIRS OF ALL COMMON AREAS.**

**~~(D)~~ (E) (1) THIS SUBSECTION DOES NOT APPLY TO A CONTRACT ENTERED INTO BEFORE OCTOBER 1, 2009.**

**(2) (I) IN THIS SUBSECTION, “CONTRACT” MEANS AN AGREEMENT WITH A COMPANY OR INDIVIDUAL TO HANDLE FINANCIAL MATTERS, MAINTENANCE, OR SERVICES ~~OF~~ FOR THE HOMEOWNERS ASSOCIATION.**

**(II) “CONTRACT” DOES NOT INCLUDE AN AGREEMENT RELATING TO THE PROVISION OF UTILITY SERVICES OR COMMUNICATION SYSTEMS.**

**(3) UNTIL ALL MEMBERS OF THE GOVERNING BODY ARE ELECTED BY THE LOT OWNERS AT A TRANSITIONAL MEETING UNDER SUBSECTION (A) OF THIS SECTION, A CONTRACT ENTERED INTO BY THE GOVERNING BODY MAY BE TERMINATED, AT THE DISCRETION OF THE GOVERNING BODY AND WITHOUT LIABILITY FOR THE TERMINATION, NOT LATER THAN 30 DAYS AFTER NOTICE.**

**~~(E)~~ (F) IF THE DECLARANT FAILS TO COMPLY WITH THE REQUIREMENTS OF THIS SECTION, AN AGGRIEVED LOT OWNER MAY SUBMIT THE DISPUTE TO THE DIVISION OF CONSUMER PROTECTION OF THE OFFICE OF THE ATTORNEY GENERAL UNDER § 11B-115(C) OF THIS TITLE.**

11B-112.

**(a) (1) (I) Subject to the provisions of paragraph (2) of this subsection, all books and records kept by or on behalf of the homeowners association shall be made available for examination and copying by a lot owner, a lot owner’s mortgagee, and their respective duly authorized agents or attorneys, during normal business hours, and after reasonable notice.**

**(II) BOOKS AND RECORDS REQUIRED TO BE MADE AVAILABLE UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL FIRST BE MADE AVAILABLE TO A LOT OWNER NO LATER THAN 15 BUSINESS DAYS AFTER A**

**LOT IS CONVEYED BY THE DECLARANT AND THE LOT OWNER REQUESTS TO EXAMINE OR COPY THE BOOKS AND RECORDS.**

(2) Books and records kept by or on behalf of a homeowners association may be withheld from public inspection to the extent that they concern:

- (i) Personnel records;
- (ii) An individual's medical records;
- (iii) An individual's financial records;
- (iv) Records relating to business transactions that are currently in negotiation;
- (v) The written advice of legal counsel; or
- (vi) Minutes of a closed meeting of the governing body of the homeowners association.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

**Approved by the Governor, April 14, 2009.**

---

**Chapter 96**

**(House Bill 667)**

AN ACT concerning

**Condominiums and Homeowners Associations – Transition of Control**

FOR the purpose of requiring a meeting of the council of unit owners of a condominium to elect a board of directors to be held within a certain time; requiring a developer before the date of a certain meeting to deliver to each unit owner a certain notice; terminating the term of members of a board of directors appointed by a developer under certain circumstances; requiring a developer to deliver certain documents, funds, and property to the officers or board of directors for the council of unit owners on transfer of control under certain circumstances; authorizing the board of directors to terminate without liability certain contracts under certain circumstances; authorizing an aggrieved unit owner to submit a certain dispute to the Division of Consumer Protection of the Office of the Attorney General under certain circumstances; requiring a developer to make certain books and records available to a unit owner within a

certain time under certain circumstances; requiring a meeting of the members of a homeowners association to elect a governing body to be held within a certain time; requiring a declarant before the date of a certain meeting to deliver to each lot owner a certain notice; terminating the term of members of the governing body appointed by a declarant under certain circumstances; requiring a declarant to deliver certain documents, funds, and property to the governing body on transfer of control under certain circumstances; authorizing the members of a governing body to terminate without liability certain contracts under certain circumstances; authorizing an aggrieved lot owner to submit a certain dispute to the Division of Consumer Protection of the Office of the Attorney General under certain circumstances; requiring a declarant to make certain books and records available to a lot owner within a certain time under certain circumstances; defining certain terms; making a stylistic change; and generally relating to the transition of control in a condominium or homeowners association.

BY repealing and reenacting, with amendments,  
Article – Real Property  
Section 11–109(c)(16), 11–116, and 11B–112(a)  
Annotated Code of Maryland  
(2003 Replacement Volume and 2008 Supplement)

BY repealing  
Article – Real Property  
Section 11–132  
Annotated Code of Maryland  
(2003 Replacement Volume and 2008 Supplement)

BY adding to  
Article – Real Property  
Section 11–132 and 11B–106.1  
Annotated Code of Maryland  
(2003 Replacement Volume and 2008 Supplement)

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

#### Article – Real Property

11–109.

(c) (16) (I) A meeting of the council of unit owners **TO ELECT A BOARD OF DIRECTORS FOR THE COUNCIL OF UNIT OWNERS, AS PROVIDED IN THE CONDOMINIUM DECLARATION OR BYLAWS**, shall be held within:



1. 60 days from the date that units representing 50 percent of the votes in the condominium have been conveyed by the developer [to the initial purchasers of units to elect officers or a board of directors for the council of unit owners, as provided in the condominium declaration or bylaws] **TO MEMBERS OF THE PUBLIC FOR RESIDENTIAL PURPOSES; OR**

2. **IF A LESSER PERCENTAGE IS SPECIFIED IN THE DECLARATION OR BYLAWS OF THE CONDOMINIUM, 60 DAYS FROM THE DATE THE SPECIFIED LESSER PERCENTAGE OF UNITS IN THE CONDOMINIUM ARE SOLD TO MEMBERS OF THE PUBLIC FOR RESIDENTIAL PURPOSES.**

**(II) 1. BEFORE THE DATE OF THE MEETING HELD UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE DEVELOPER SHALL DELIVER TO EACH UNIT OWNER NOTICE THAT THE REQUIREMENTS OF SUBPARAGRAPH (I) OF THIS PARAGRAPH HAVE BEEN MET.**

**2. THE NOTICE SHALL INCLUDE THE DATE, TIME, AND PLACE OF THE MEETING TO ELECT THE BOARD OF DIRECTORS FOR THE COUNCIL OF UNIT OWNERS.**

**~~(H)~~ (III) THE TERM OF EACH MEMBER OF THE BOARD OF DIRECTORS APPOINTED BY THE DEVELOPER SHALL END 10 DAYS AFTER THE MEETING AS SPECIFIED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH IS HELD, IF A REPLACEMENT BOARD MEMBER IS ELECTED.**

**~~(H)~~ (IV) WITHIN 30 DAYS FROM THE DATE OF THE MEETING HELD UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE DEVELOPER SHALL DELIVER TO THE OFFICERS OR BOARD OF DIRECTORS FOR THE COUNCIL OF UNIT OWNERS, AS PROVIDED IN THE CONDOMINIUM DECLARATION OR BYLAWS, AT THE DEVELOPER'S EXPENSE:**

1. **THE DOCUMENTS SPECIFIED IN § 11-132 OF THIS TITLE;**

2. **THE CONDOMINIUM FUNDS, INCLUDING OPERATING FUNDS, REPLACEMENT RESERVES, INVESTMENT ACCOUNTS, AND WORKING CAPITAL;**

3. **THE TANGIBLE PROPERTY OF THE CONDOMINIUM; AND**

4. **A ROSTER OF CURRENT UNIT OWNERS, INCLUDING MAILING ADDRESSES, TELEPHONE NUMBERS, AND UNIT NUMBERS, IF KNOWN.**

~~(IV)~~ (V) 1. THIS SUBPARAGRAPH DOES NOT APPLY TO A CONTRACT ENTERED INTO BEFORE OCTOBER 1, 2009.

2. A. IN THIS SUBPARAGRAPH, "CONTRACT" MEANS AN AGREEMENT WITH A COMPANY OR INDIVIDUAL TO HANDLE FINANCIAL MATTERS, MAINTENANCE, OR SERVICES ~~OF~~ FOR THE CONDOMINIUM.

B. "CONTRACT" DOES NOT INCLUDE AN AGREEMENT RELATING TO THE PROVISION OF UTILITY SERVICES OR COMMUNICATION SYSTEMS.

3. UNTIL ALL MEMBERS OF THE BOARD OF DIRECTORS OF THE CONDOMINIUM ARE ELECTED BY THE UNIT OWNERS AT A TRANSITIONAL MEETING AS SPECIFIED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH, A CONTRACT ENTERED INTO BY THE OFFICERS OR BOARD OF DIRECTORS OF THE CONDOMINIUM MAY BE TERMINATED, AT THE DISCRETION OF THE BOARD OF DIRECTORS AND WITHOUT LIABILITY FOR THE TERMINATION, NOT LATER THAN 30 DAYS AFTER NOTICE.

~~(V)~~ (VI) IF THE DEVELOPER FAILS TO COMPLY WITH THE REQUIREMENTS OF THIS PARAGRAPH, AN AGGRIEVED UNIT OWNER MAY SUBMIT THE DISPUTE TO THE DIVISION OF CONSUMER PROTECTION OF THE OFFICE OF THE ATTORNEY GENERAL UNDER § 11-130(C) OF THIS TITLE.

11-116.

(a) The council of unit owners shall keep books and records in accordance with good accounting practices on a consistent basis.

(b) On the request of the unit owners of at least 5 percent of the units, the council of unit owners shall cause an audit of the books and records to be made by an independent certified public accountant, provided an audit shall be made not more than once in any consecutive 12-month period. The cost of the audit shall be a common expense.

(c) (1) Except as provided in paragraph [(2)] (3) of this subsection, all books and records, including insurance policies, kept by the council of unit owners shall be maintained in Maryland or within 50 miles of its borders and shall be available at some place designated by the council of unit owners [within the county where the condominium is located] for examination and copying by any unit owner, [his] THE UNIT OWNER'S mortgagee, and their respective duly authorized agents or attorneys, during normal business hours, and after reasonable notice.

**(2) BOOKS AND RECORDS REQUIRED TO BE MADE AVAILABLE UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL FIRST BE MADE AVAILABLE TO A UNIT OWNER NOT LATER THAN 15 BUSINESS DAYS AFTER A UNIT IS CONVEYED FROM A DEVELOPER AND THE UNIT OWNER REQUESTS TO EXAMINE OR COPY THE BOOKS AND RECORDS.**

**[(2)] (3)** Books and records kept by or on behalf of a council of unit owners may be withheld from public inspection to the extent that they concern:

- (i) Personnel records;
- (ii) An individual's medical records;
- (iii) An individual's financial records;
- (iv) Records relating to business transactions that are currently in negotiation;
- (v) The written advice of legal counsel; or
- (vi) Minutes of a closed meeting of the board of directors or other governing body of the council of unit owners.

(d) The council of unit owners may impose a reasonable charge upon a person desiring to review or copy the books and records.

[11-132.

Drawings, architectural plans, or other suitable documents, setting forth the necessary information for location, maintenance, and repair of all condominium facilities, to the extent that they exist, shall be turned over to the council of unit owners upon transfer of control by the developer.]

**11-132.**

**ON TRANSFER OF CONTROL BY THE DEVELOPER TO THE COUNCIL OF UNIT OWNERS, THE DEVELOPER SHALL TURN OVER DOCUMENTS INCLUDING:**

**(1) COPIES OF THE CONDOMINIUM'S FILED ARTICLES OF INCORPORATION, RECORDED DECLARATION, AND ALL RECORDED COVENANTS, BYLAWS, PLATS, AND RESTRICTIONS OF THE CONDOMINIUM;**

**(2) SUBJECT TO THE RESTRICTIONS OF § 11-116 OF THIS TITLE, ALL BOOKS AND RECORDS OF THE CONDOMINIUM, INCLUDING FINANCIAL**

STATEMENTS, MINUTES OF ANY MEETING OF THE GOVERNING BODY, AND COMPLETED BUSINESS TRANSACTIONS;

(3) ANY POLICIES, RULES, AND REGULATIONS ADOPTED BY THE GOVERNING BODY;

(4) THE FINANCIAL RECORDS OF THE CONDOMINIUM FROM THE DATE OF CREATION TO THE DATE OF TRANSFER OF CONTROL, INCLUDING BUDGET INFORMATION REGARDING ESTIMATED AND ACTUAL EXPENDITURES BY THE CONDOMINIUM AND ANY REPORT RELATING TO THE RESERVES REQUIRED FOR MAJOR REPAIRS AND REPLACEMENT OF THE COMMON ELEMENTS OF THE CONDOMINIUM;

(5) A COPY OF ALL CONTRACTS TO WHICH THE CONDOMINIUM IS A PARTY;

(6) THE NAME, ADDRESS, AND TELEPHONE NUMBER OF ANY CONTRACTOR OR SUBCONTRACTOR EMPLOYED BY THE CONDOMINIUM;

(7) ANY INSURANCE POLICIES IN EFFECT AND ALL PRIOR INSURANCE POLICIES;

(8) ANY PERMIT OR NOTICE OF CODE VIOLATION ISSUED TO THE CONDOMINIUM BY THE COUNTY, LOCAL, STATE, OR FEDERAL GOVERNMENT;

(9) ANY WARRANTY IN EFFECT;

(10) DRAWINGS, ARCHITECTURAL PLANS, OR OTHER SUITABLE DOCUMENTS SETTING FORTH THE NECESSARY INFORMATION FOR LOCATION, MAINTENANCE, AND REPAIR OF ALL CONDOMINIUM FACILITIES; AND

(11) INDIVIDUAL OWNER FILES AND RECORDS, INCLUDING ASSESSMENT ACCOUNT RECORDS, CORRESPONDENCE, AND NOTICES OF ANY VIOLATIONS.

#### 11B-106.1.

(A) A MEETING OF THE MEMBERS OF THE HOMEOWNERS ASSOCIATION TO ELECT A GOVERNING BODY OF THE HOMEOWNERS ASSOCIATION SHALL BE HELD WITHIN:

(1) 60 DAYS FROM THE DATE THAT AT LEAST 75% OF THE TOTAL NUMBER OF LOTS THAT MAY BE PART OF THE DEVELOPMENT AFTER ALL

PHASES ARE COMPLETE ARE SOLD TO MEMBERS OF THE PUBLIC FOR RESIDENTIAL PURPOSES; OR

(2) IF A LESSER PERCENTAGE IS SPECIFIED IN THE GOVERNING DOCUMENTS OF THE HOMEOWNERS ASSOCIATION, 60 DAYS FROM THE DATE THE SPECIFIED LESSER PERCENTAGE OF THE TOTAL NUMBER OF LOTS IN THE DEVELOPMENT AFTER ALL PHASES ARE COMPLETE ARE SOLD TO MEMBERS OF THE PUBLIC FOR RESIDENTIAL PURPOSES.

(B) (1) BEFORE THE DATE OF THE MEETING HELD UNDER SUBSECTION (A) OF THIS SECTION, THE DECLARANT SHALL DELIVER TO EACH LOT OWNER NOTICE THAT THE REQUIREMENTS OF SUBSECTION (A) OF THIS SECTION HAVE BEEN MET.

(2) THE NOTICE SHALL INCLUDE THE DATE, TIME, AND PLACE OF THE MEETING TO ELECT THE GOVERNING BODY OF THE HOMEOWNERS ASSOCIATION.

~~(B)~~ (C) THE TERM OF EACH MEMBER OF THE GOVERNING BODY OF THE HOMEOWNERS ASSOCIATION APPOINTED BY THE DECLARANT SHALL END 10 DAYS AFTER THE MEETING UNDER SUBSECTION (A) OF THIS SECTION IS HELD, IF A REPLACEMENT BOARD MEMBER IS ELECTED.

~~(C)~~ (D) WITHIN 30 DAYS FROM THE DATE OF THE MEETING HELD UNDER SUBSECTION (A) OF THIS SECTION, THE DECLARANT SHALL DELIVER THE FOLLOWING ITEMS TO THE GOVERNING BODY AT THE DECLARANT'S EXPENSE:

- (1) ~~THE DEED~~ DEEDS TO THE COMMON AREAS;
- (2) COPIES OF THE HOMEOWNERS ASSOCIATION'S FILED ARTICLES OF INCORPORATION, DECLARATION, AND ALL RECORDED COVENANTS, PLATS, ~~AND~~ RESTRICTIONS, AND ANY OTHER RECORDS OF THE PRIMARY DEVELOPMENT AND OF RELATED DEVELOPMENTS;
- (3) A COPY OF THE BYLAWS AND RULES OF THE PRIMARY DEVELOPMENT AND OF OTHER RELATED DEVELOPMENTS AS FILED IN THE DEPOSITORY OF THE COUNTY IN WHICH THE DEVELOPMENT IS LOCATED;
- (4) THE MINUTE BOOKS, INCLUDING ALL MINUTES;
- (5) SUBJECT TO THE RESTRICTIONS OF § 11B-112 OF THIS TITLE, ALL BOOKS AND RECORDS OF THE HOMEOWNERS ASSOCIATION, INCLUDING

FINANCIAL STATEMENTS, MINUTES OF ANY MEETING OF THE GOVERNING BODY, AND COMPLETED BUSINESS TRANSACTIONS;

(6) ANY POLICIES, RULES, AND REGULATIONS ADOPTED BY THE GOVERNING BODY;

(7) THE FINANCIAL RECORDS OF THE HOMEOWNERS ASSOCIATION FROM THE DATE OF CREATION TO THE DATE OF TRANSFER OF CONTROL, INCLUDING BUDGET INFORMATION REGARDING ESTIMATED AND ACTUAL EXPENDITURES BY THE HOMEOWNERS ASSOCIATION AND ANY REPORT RELATING TO THE RESERVES REQUIRED FOR MAJOR REPAIRS AND REPLACEMENT OF THE COMMON AREAS OF THE HOMEOWNERS ASSOCIATION;

(8) A COPY OF ALL CONTRACTS TO WHICH THE HOMEOWNERS ASSOCIATION IS A PARTY;

(9) THE NAME, ADDRESS, AND TELEPHONE NUMBER OF ANY CONTRACTOR OR SUBCONTRACTOR EMPLOYED BY THE HOMEOWNERS ASSOCIATION;

(10) ANY INSURANCE POLICIES IN EFFECT;

(11) ANY PERMIT OR NOTICE OF CODE VIOLATIONS ISSUED TO THE HOMEOWNERS ASSOCIATION BY THE COUNTY, LOCAL, STATE, OR FEDERAL GOVERNMENT;

(12) ANY WARRANTY IN EFFECT AND ALL PRIOR INSURANCE POLICIES;

(13) THE HOMEOWNERS ASSOCIATION FUNDS, INCLUDING OPERATING FUNDS, REPLACEMENT RESERVES, INVESTMENT ACCOUNTS, AND WORKING CAPITAL;

(14) THE TANGIBLE PROPERTY OF THE HOMEOWNERS ASSOCIATION;

(15) A ROSTER OF CURRENT LOT OWNERS, INCLUDING THEIR MAILING ADDRESSES, TELEPHONE NUMBERS, AND LOT NUMBERS, IF KNOWN; ~~AND~~

(16) INDIVIDUAL MEMBER FILES AND RECORDS, INCLUDING ASSESSMENT ACCOUNT RECORDS, CORRESPONDENCE, AND NOTICES OF ANY VIOLATIONS; AND

**(17) DRAWINGS, ARCHITECTURAL PLANS, OR OTHER SUITABLE DOCUMENTS SETTING FORTH THE NECESSARY INFORMATION FOR LOCATION, MAINTENANCE, AND REPAIRS OF ALL COMMON AREAS.**

~~(D)~~ **(E)** (1) THIS SUBSECTION DOES NOT APPLY TO A CONTRACT ENTERED INTO BEFORE OCTOBER 1, 2009.

(2) (I) IN THIS SUBSECTION, "CONTRACT" MEANS AN AGREEMENT WITH A COMPANY OR INDIVIDUAL TO HANDLE FINANCIAL MATTERS, MAINTENANCE, OR SERVICES ~~OF~~ FOR THE HOMEOWNERS ASSOCIATION.

(II) "CONTRACT" DOES NOT INCLUDE AN AGREEMENT RELATING TO THE PROVISION OF UTILITY SERVICES OR COMMUNICATION SYSTEMS.

(3) UNTIL ALL MEMBERS OF THE GOVERNING BODY ARE ELECTED BY THE LOT OWNERS AT A TRANSITIONAL MEETING UNDER SUBSECTION (A) OF THIS SECTION, A CONTRACT ENTERED INTO BY THE GOVERNING BODY MAY BE TERMINATED, AT THE DISCRETION OF THE GOVERNING BODY AND WITHOUT LIABILITY FOR THE TERMINATION, NOT LATER THAN 30 DAYS AFTER NOTICE.

~~(E)~~ **(F)** IF THE DECLARANT FAILS TO COMPLY WITH THE REQUIREMENTS OF THIS SECTION, AN AGGRIEVED LOT OWNER MAY SUBMIT THE DISPUTE TO THE DIVISION OF CONSUMER PROTECTION OF THE OFFICE OF THE ATTORNEY GENERAL UNDER § 11B-115(C) OF THIS TITLE.

11B-112.

(a) (1) (I) Subject to the provisions of paragraph (2) of this subsection, all books and records kept by or on behalf of the homeowners association shall be made available for examination and copying by a lot owner, a lot owner's mortgagee, and their respective duly authorized agents or attorneys, during normal business hours, and after reasonable notice.

(II) BOOKS AND RECORDS REQUIRED TO BE MADE AVAILABLE UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL FIRST BE MADE AVAILABLE TO A LOT OWNER NO LATER THAN 15 BUSINESS DAYS AFTER A LOT IS CONVEYED BY THE DECLARANT AND THE LOT OWNER REQUESTS TO EXAMINE OR COPY THE BOOKS AND RECORDS.

(2) Books and records kept by or on behalf of a homeowners association may be withheld from public inspection to the extent that they concern:

- (i) Personnel records;
- (ii) An individual's medical records;
- (iii) An individual's financial records;
- (iv) Records relating to business transactions that are currently in negotiation;
- (v) The written advice of legal counsel; or
- (vi) Minutes of a closed meeting of the governing body of the homeowners association.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

**Approved by the Governor, April 14, 2009.**

---

## Chapter 97

(Senate Bill 751)

AN ACT concerning

### Insurance – Slavery Era Insurance Policies – Reporting

FOR the purpose of requiring certain insurers to provide the Maryland Insurance Commissioner with a report, on or before a certain date, of certain information about certain slaveholder insurance policies issued during the slavery era, and a copy of certain documents that relate to the information; authorizing a holding company to designate an insurer in the holding company to be a reporting insurer on behalf of the member insurers of the holding company; requiring the Commissioner to adopt regulations that specify the form and content of a certain report on or before a certain date; requiring the Commissioner to issue a certain report on or before a certain date; requiring a certain report to contain certain names and include copies of certain documents; requiring a certain report to be made available to the public; requiring the Commissioner to make a copy of a certain report available on a certain website; requiring the Commissioner to provide a copy of a certain report to the Governor and the General Assembly; requiring a copy of a certain report to be maintained at a certain location; defining certain terms; and generally relating to the reporting of slavery era insurance policies.

BY adding to



## Article – Insurance

Section 30–101 through 30–103 to be under the new title “Title 30. Slavery Era Insurance Policy Reporting”

Annotated Code of Maryland

(2006 Replacement Volume and 2008 Supplement)

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

**Article – Insurance**

**TITLE 30. SLAVERY ERA INSURANCE POLICY REPORTING.**

**30–101.**

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

(B) “REPORTING INSURER” MEANS AN INSURER THAT IS A MEMBER OF A HOLDING COMPANY THAT HAS BEEN DESIGNATED BY THE HOLDING COMPANY AS RESPONSIBLE FOR SUBMITTING A REPORT UNDER § 30–102 OF THIS TITLE ON BEHALF OF THE INSURER AND OTHER INSURERS IN THE HOLDING COMPANY.

(C) “SLAVE” MEANS AN INDIVIDUAL:

(1) WHO HAD NO FREEDOM OF ACTION;

(2) WHOSE PERSON AND SERVICES WERE WHOLLY UNDER THE CONTROL OF ANOTHER;

(3) WHO WAS IN A STATE OF ENFORCED COMPULSORY SERVICE TO ANOTHER; AND

(4) WHO COULD NOT LEGALLY LEAVE ENFORCED COMPULSORY SERVICE TO ANOTHER ON THE INDIVIDUAL’S OWN INITIATIVE DURING THE INDIVIDUAL’S LIFETIME BEFORE THE END OF THE SLAVERY ERA.

(D) “SLAVEHOLDER” MEANS:

(1) AN OWNER OF A SLAVE;

(2) AN OWNER OF A COMMERCIAL ENTERPRISE THAT USED THE SERVICES OF A SLAVE;

(3) AN OWNER OF A VESSEL OR OTHER MEANS OF TRANSPORTING SLAVES; OR

(4) A PERSON DEALING IN THE PURCHASE, SALE, OR FINANCING OF THE BUSINESS OF SLAVES AND SLAVERY.

(E) "SLAVEHOLDER INSURANCE POLICY" MEANS A POLICY ISSUED TO OR FOR THE BENEFIT OF A SLAVEHOLDER TO INSURE THE SLAVEHOLDER AGAINST INJURY TO A SLAVE OR THE DEATH OF A SLAVE.

(F) "SLAVERY ERA" MEANS YEARS PRIOR TO 1865.

30-102.

(A) ~~AN~~ ON OR BEFORE OCTOBER 1, 2011, AN INSURER AUTHORIZED TO DO BUSINESS IN THE STATE SHALL PROVIDE THE COMMISSIONER WITH:

(1) A REPORT OF INFORMATION IN THE RECORDS OF THE INSURER ABOUT EACH SLAVEHOLDER INSURANCE POLICY ISSUED IN THE STATE BY THE INSURER, OR ANY PREDECESSOR OF THE INSURER, DURING THE SLAVERY ERA; AND

(2) A COPY OF EACH DOCUMENT IN THE INSURER'S RECORDS THAT RELATES TO THE INFORMATION PROVIDED UNDER ITEM (1) OF THIS SUBSECTION.

(B) A HOLDING COMPANY MAY DESIGNATE ONE INSURER IN THE HOLDING COMPANY TO BE A REPORTING INSURER ON BEHALF OF THE MEMBER INSURERS OF THE HOLDING COMPANY.

(C) ~~THE~~ ON OR BEFORE JANUARY 1, 2010, THE COMMISSIONER SHALL ADOPT REGULATIONS THAT SPECIFY THE FORM AND CONTENT OF THE REPORT REQUIRED UNDER THIS SECTION.

30-103.

(A) (1) ~~THE~~ ON OR BEFORE APRIL 1, 2012, THE COMMISSIONER SHALL ISSUE A REPORT ON THE INFORMATION PROVIDED TO THE COMMISSIONER UNDER § 30-102 OF THIS TITLE.

(2) THE REPORT REQUIRED UNDER THIS SECTION SHALL:

(1) CONTAIN THE NAMES OF ANY SLAVEHOLDERS OR SLAVES PROVIDED UNDER § 30-102 OF THIS TITLE; AND

**(II) INCLUDE A COPY OF EACH DOCUMENT PROVIDED TO THE COMMISSIONER UNDER § 30-102 OF THIS TITLE.**

**(B) (1) THE REPORT REQUIRED UNDER THIS SECTION SHALL BE MADE AVAILABLE TO THE PUBLIC.**

**(2) THE COMMISSIONER SHALL MAKE A COPY OF THE REPORT AVAILABLE ON THE WEBSITE OF THE ADMINISTRATION.**

**(C) THE COMMISSIONER SHALL PROVIDE A COPY OF THE REPORT REQUIRED UNDER THIS SECTION TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY.**

**(D) A COPY OF THE REPORT SHALL BE MAINTAINED AT THE THURGOOD MARSHALL LAW LIBRARY AT THE UNIVERSITY OF MARYLAND SCHOOL OF LAW.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

**Approved by the Governor, April 14, 2009.**

---

## **Chapter 98**

**(Senate Bill 768)**

AN ACT concerning

### **Commercial Insurance and Workers' Compensation Insurance – Renewals of Policies – Transfers of Policyholders Between Insurers**

FOR the purpose of providing that, with respect to commercial insurance policies and workers' compensation insurance policies, the transfer of a policyholder between certain insurers within a certain insurance holding company system is a renewal under certain circumstances; providing that, with respect to commercial insurance and workers' compensation insurance, the issuance by an insurer of a new policy to replace an expiring policy issued by that insurer is a renewal; providing that, with respect to commercial insurance and workers' compensation insurance, the issuance by an insurer of a new policy to replace an expiring policy issued by a certain insurer within a certain insurance holding company system is a renewal under certain circumstances; making certain notice requirements applicable to all premium increases for policies of commercial insurance and policies of workers' compensation insurance, with a

certain exception; establishing certain methods for satisfying a certain notice requirement; requiring, for policies of commercial insurance and policies of workers' compensation insurance, that certain notice of the transfer of a policyholder between certain insurers be provided under certain circumstances; providing for the application of this Act; providing for a delayed effective date for certain provisions of this Act; and generally relating to transfers of policyholders between insurers and renewals of policies of commercial insurance and workers' compensation insurance.

BY repealing and reenacting, without amendments,  
 Article – Insurance  
 Section 27–501(a)  
 Annotated Code of Maryland  
 (2006 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,  
 Article – Insurance  
 Section 27–501(q) ~~and 27–601.1, 27–601.1, and 27–608~~  
 Annotated Code of Maryland  
 (2006 Replacement Volume and 2008 Supplement)

BY adding to  
 Article – Insurance  
 Section 27–608.1  
 Annotated Code of Maryland  
 (2006 Replacement Volume and 2008 Supplement)

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

### **Article – Insurance**

27–501.

(a) (1) An insurer or insurance producer may not cancel or refuse to underwrite or renew a particular insurance risk or class of risk for a reason based wholly or partly on race, color, creed, sex, or blindness of an applicant or policyholder or for any arbitrary, capricious, or unfairly discriminatory reason.

(2) Except as provided in this section, an insurer or insurance producer may not cancel or refuse to underwrite or renew a particular insurance risk or class of risk except by the application of standards that are reasonably related to the insurer's economic and business purposes.

(q) For purposes of this section, with respect to private passenger motor vehicle insurance policies, [and] homeowner's insurance policies, **COMMERCIAL INSURANCE POLICIES, AND WORKERS' COMPENSATION INSURANCE POLICIES,**

the transfer of a policyholder between admitted insurers within the same insurance holding company system, as defined in § 7-101 of this article, is a renewal if:

- (1) the policyholder's premium does not increase; and
- (2) the policyholder does not experience a reduction in coverage.

27-601.1.

(a) For purposes of this subtitle, with respect to policies of personal insurance [and], private passenger motor vehicle liability insurance, **COMMERCIAL INSURANCE, AND WORKERS' COMPENSATION INSURANCE**, the issuance by an insurer of a new policy to replace an expiring policy issued by that insurer is a renewal.

(b) For purposes of this subtitle, with respect to policies of personal insurance [and], private passenger motor vehicle liability insurance, **COMMERCIAL INSURANCE, AND WORKERS' COMPENSATION INSURANCE**, the issuance by an insurer of a new policy to replace an expiring policy issued by another admitted insurer within the same insurance holding company system, as defined in § 7-101 of this article, is a renewal if:

- (1) the policyholder's premium does not increase; and
- (2) the policyholder does not experience a reduction in coverage.

27-608.1.

**(A) THIS SECTION APPLIES TO POLICIES OF COMMERCIAL INSURANCE AND POLICIES OF WORKERS' COMPENSATION INSURANCE.**

**(B) (1) IF A POLICYHOLDER IS BEING TRANSFERRED BETWEEN ADMITTED INSURERS WITHIN THE SAME INSURANCE HOLDING COMPANY SYSTEM, AS DEFINED IN § 7-101 OF THIS ARTICLE, THE INSURER PROVIDING THE NEW POLICY SHALL PROVIDE NOTICE OF THE TRANSFER TO THE POLICYHOLDER.**

**(2) AN INSURER SHALL BE CONSIDERED TO HAVE MET THE NOTICE REQUIREMENT OF THIS SECTION IF THE INSURER HAS SENT TO THE NAMED INSURED A RENEWAL POLICY THAT INCLUDES A NOTICE OF TRANSFER, OR A NOTICE ON THE DECLARATION PAGE OF THE RENEWAL POLICY, NOTIFYING THE INSURED THAT THE POLICY HAS BEEN TRANSFERRED FROM THE PRIOR NAMED INSURER TO THE NEW OR RENEWING NAMED INSURER.**

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

**Article – Insurance**

27–608.

(a) **(1)** This section applies to:

~~[(1)]~~ **(I)** policies of commercial insurance; and

~~[(2)]~~ **(II)** policies of workers' compensation insurance.

**(2) THIS SECTION DOES NOT APPLY TO POLICIES ISSUED TO EXEMPT COMMERCIAL POLICYHOLDERS, AS DEFINED IN § 11–206(J) OF THIS ARTICLE.**

(b) Unless an insurer has given notice of its intention not to renew a policy subject to this section, if the insurer seeks to increase the renewal policy premium [by 20% or more], the insurer shall send a notice to the named insured and insurance producer, if any, not less than 45 days prior to the renewal date of the policy.

(c) **[A] SUBJECT TO SUBSECTION (D) OF THIS SECTION, A notice under this section shall include:**

(1) both the expiring policy premium and the renewal policy premium;  
and

(2) the telephone number for the insurer or insurance producer, if any, together with a statement that the insured may call to request additional information about the premium increase.

(d) **(1)** If an INSURER SEEKS TO INCREASE THE RENEWAL POLICY PREMIUM AND THE insurer's rating methodology requires the insured to provide information to calculate the renewal policy premium, an insurer shall provide a reasonable estimate of the renewal policy premium if:

(i) the insurer has requested the required information from the insured; and

(ii) the insurer has not received the requested information.

**(2)** A reasonable estimate under this subsection shall be based upon the information available to the insurer at the time the notice is sent.

(e) [In determining the amount of a premium increase under this section, the insurer is not required to include premium resulting] THE REQUIREMENTS OF THIS SECTION DO NOT APPLY TO THE EXTENT THAT THE PREMIUM INCREASE RESULTS from:

- (1) an increase in the units of exposure;
- (2) the application of an experience rating plan;
- (3) the application of a retrospective rating plan;
- (4) a change made by the insured that increases the insurer's exposure; or
- (5) an audit of the insured.

(f) A notice required by this section shall be sent by first-class mail and may be sent together with the renewal policy.

**(G) AN INSURER SHALL BE CONSIDERED TO HAVE MET THE NOTICE REQUIREMENT OF THIS SECTION IF, NOT LESS THAN 45 DAYS BEFORE THE EFFECTIVE DATE OF THE RENEWAL POLICY, THE INSURER HAS SENT:**

**(1) TO THE NAMED INSURED, A RENEWAL POLICY THAT INCLUDES THE RENEWAL POLICY PREMIUM;**

**(2) TO THE NAMED INSURED AND INSURANCE PRODUCER, IF ANY, A WRITTEN NOTICE OF RENEWAL OR CONTINUATION OF COVERAGE THAT INCLUDES THE RENEWAL OR CONTINUATION PREMIUM; OR**

**(3) TO THE NAMED INSURED AND INSURANCE PRODUCER, IF ANY, A RENEWAL OFFER THAT INCLUDES A REASONABLE ESTIMATE OF THE RENEWAL POLICY PREMIUM.**

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall apply to all policies of commercial insurance and workers' compensation insurance issued, delivered, or renewed in the State on or after October 1, 2009.

SECTION 4. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take effect January 1, 2010.

SECTION ~~3~~ 5. AND BE IT FURTHER ENACTED, That, except as provided in Section 4 of this Act, this Act shall take effect October 1, 2009.

**Approved by the Governor, April 14, 2009.**

---

**Chapter 99****(House Bill 648)**

AN ACT concerning

**Commercial Insurance and Workers' Compensation Insurance – Renewals of Policies – Transfers of Policyholders Between Insurers**

FOR the purpose of providing that, with respect to commercial insurance policies and workers' compensation insurance policies, the transfer of a policyholder between certain insurers within a certain insurance holding company system is a renewal under certain circumstances; providing that, with respect to commercial insurance and workers' compensation insurance, the issuance by an insurer of a new policy to replace an expiring policy issued by that insurer is a renewal; providing that, with respect to commercial insurance and workers' compensation insurance, the issuance by an insurer of a new policy to replace an expiring policy issued by a certain insurer within a certain insurance holding company system is a renewal under certain circumstances; making certain notice requirements applicable to all premium increases for policies of commercial insurance and policies of workers' compensation insurance, with a certain exception; establishing certain methods for satisfying a certain notice requirement; requiring, for policies of commercial insurance and policies of workers' compensation insurance, that certain notice of the transfer of a policyholder between certain insurers be provided under certain circumstances; providing for the application of this Act; providing for a delayed effective date for certain provisions of this Act; and generally relating to transfers of policyholders between insurers and renewals of policies of commercial insurance and workers' compensation insurance.

BY repealing and reenacting, without amendments,

Article – Insurance

Section 27–501(a)

Annotated Code of Maryland

(2006 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,

Article – Insurance

Section 27–501(q) ~~and 27–601.1~~, 27–601.1, and 27–608

Annotated Code of Maryland

(2006 Replacement Volume and 2008 Supplement)

BY adding to

Article – Insurance

Section 27–608.1

Annotated Code of Maryland



(2006 Replacement Volume and 2008 Supplement)

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

**Article – Insurance**

27–501.

(a) (1) An insurer or insurance producer may not cancel or refuse to underwrite or renew a particular insurance risk or class of risk for a reason based wholly or partly on race, color, creed, sex, or blindness of an applicant or policyholder or for any arbitrary, capricious, or unfairly discriminatory reason.

(2) Except as provided in this section, an insurer or insurance producer may not cancel or refuse to underwrite or renew a particular insurance risk or class of risk except by the application of standards that are reasonably related to the insurer's economic and business purposes.

(q) For purposes of this section, with respect to private passenger motor vehicle insurance policies, [and] homeowner's insurance policies, **COMMERCIAL INSURANCE POLICIES, AND WORKERS' COMPENSATION INSURANCE POLICIES**, the transfer of a policyholder between admitted insurers within the same insurance holding company system, as defined in § 7–101 of this article, is a renewal if:

- (1) the policyholder's premium does not increase; and
- (2) the policyholder does not experience a reduction in coverage.

27–601.1.

(a) For purposes of this subtitle, with respect to policies of personal insurance, [and] private passenger motor vehicle liability insurance, **COMMERCIAL INSURANCE, AND WORKERS' COMPENSATION INSURANCE**, the issuance by an insurer of a new policy to replace an expiring policy issued by that insurer is a renewal.

(b) For purposes of this subtitle, with respect to policies of personal insurance, [and] private passenger motor vehicle liability insurance, **COMMERCIAL INSURANCE, AND WORKERS' COMPENSATION INSURANCE**, the issuance by an insurer of a new policy to replace an expiring policy issued by another admitted insurer within the same insurance holding company system, as defined in § 7–101 of this article, is a renewal if:

- (1) the policyholder's premium does not increase; and

- (2) the policyholder does not experience a reduction in coverage.

**27-608.1.**

**(A) THIS SECTION APPLIES TO POLICIES OF COMMERCIAL INSURANCE AND POLICIES OF WORKERS' COMPENSATION INSURANCE.**

**(B) (1) IF A POLICYHOLDER IS BEING TRANSFERRED BETWEEN ADMITTED INSURERS WITHIN THE SAME INSURANCE HOLDING COMPANY SYSTEM, AS DEFINED IN § 7-101 OF THIS ARTICLE, THE INSURER PROVIDING THE NEW POLICY SHALL PROVIDE NOTICE OF THE TRANSFER TO THE POLICYHOLDER.**

**(2) AN INSURER SHALL BE CONSIDERED TO HAVE MET THE NOTICE REQUIREMENT OF THIS SECTION IF THE INSURER HAS SENT TO THE NAMED INSURED A RENEWAL POLICY THAT INCLUDES A NOTICE OF TRANSFER, OR A NOTICE ON THE DECLARATION PAGE OF THE RENEWAL POLICY, NOTIFYING THE INSURED THAT THE POLICY HAS BEEN TRANSFERRED FROM THE PRIOR NAMED INSURER TO THE NEW OR RENEWING NAMED INSURER.**

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

**Article - Insurance**

**27-608.**

- (a) **(1) This section applies to:**

**[(1)] (I) policies of commercial insurance; and**

**[(2)] (II) policies of workers' compensation insurance.**

**(2) THIS SECTION DOES NOT APPLY TO POLICIES ISSUED TO EXEMPT COMMERCIAL POLICYHOLDERS, AS DEFINED IN § 11-206(J) OF THIS ARTICLE.**

(b) Unless an insurer has given notice of its intention not to renew a policy subject to this section, if the insurer seeks to increase the renewal policy premium [by 20% or more], the insurer shall send a notice to the named insured and insurance producer, if any, not less than 45 days prior to the renewal date of the policy.

(c) [A] SUBJECT TO SUBSECTION (D) OF THIS SECTION, A notice under this section shall include:

(1) both the expiring policy premium and the renewal policy premium;  
and

(2) the telephone number for the insurer or insurance producer, if any, together with a statement that the insured may call to request additional information about the premium increase.

(d) (1) If an INSURER SEEKS TO INCREASE THE RENEWAL POLICY PREMIUM AND THE insurer's rating methodology requires the insured to provide information to calculate the renewal policy premium, an insurer shall provide a reasonable estimate of the renewal policy premium if:

(i) the insurer has requested the required information from the insured; and

(ii) the insurer has not received the requested information.

(2) A reasonable estimate under this subsection shall be based upon the information available to the insurer at the time the notice is sent.

(e) [In determining the amount of a premium increase under this section, the insurer is not required to include premium resulting] THE REQUIREMENTS OF THIS SECTION DO NOT APPLY TO THE EXTENT THAT THE PREMIUM INCREASE RESULTS from:

(1) an increase in the units of exposure;

(2) the application of an experience rating plan;

(3) the application of a retrospective rating plan;

(4) a change made by the insured that increases the insurer's exposure; or

(5) an audit of the insured.

(f) A notice required by this section shall be sent by first-class mail and may be sent together with the renewal policy.

**(G) AN INSURER SHALL BE CONSIDERED TO HAVE MET THE NOTICE REQUIREMENT OF THIS SECTION IF, NOT LESS THAN 45 DAYS BEFORE THE EFFECTIVE DATE OF THE RENEWAL POLICY, THE INSURER HAS SENT:**

**(1) TO THE NAMED INSURED, A RENEWAL POLICY THAT INCLUDES THE RENEWAL POLICY PREMIUM;**

**(2) TO THE NAMED INSURED AND INSURANCE PRODUCER, IF ANY, A WRITTEN NOTICE OF RENEWAL OR CONTINUATION OF COVERAGE THAT INCLUDES THE RENEWAL OR CONTINUATION PREMIUM; OR**

**(3) TO THE NAMED INSURED AND INSURANCE PRODUCER, IF ANY, A RENEWAL OFFER THAT INCLUDES A REASONABLE ESTIMATE OF THE RENEWAL POLICY PREMIUM.**

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall apply to all policies of commercial insurance and workers' compensation insurance issued, delivered, or renewed in the State on or after October 1, 2009.

SECTION 4. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take effect January 1, 2010.

SECTION ~~3~~ 5. AND BE IT FURTHER ENACTED, That, except as provided in Section 4 of this Act, this Act shall take effect October 1, 2009.

**Approved by the Governor, April 14, 2009.**

---

## Chapter 100

(Senate Bill 806)

AN ACT concerning

### Business Regulation – Charitable Organizations – Audits and Reviews

FOR the purpose of increasing the minimum gross income amount by which the registration statement of a charitable organization must include a certain audit; altering the range of gross income amounts by which the registration statement of a charitable organization must include a certain review; altering the range of gross income amounts by which the Secretary of State may require a certain audit or review of a charitable organization; and generally relating to the auditing and review requirements of charitable organizations.

BY repealing and reenacting, without amendments,  
 Article – Business Regulation  
 Section 6–402(a) and (c)  
 Annotated Code of Maryland  
 (2004 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,

Article – Business Regulation  
Section 6–402(b)(8) and (d)  
Annotated Code of Maryland  
(2004 Replacement Volume and 2008 Supplement)

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

**Article – Business Regulation**

6–402.

(a) A registration statement shall be on the form that the Secretary of State provides.

(b) Except as provided in subsection (c) of this section, the registration statement shall contain or be accompanied by:

(8) (i) an audit by an independent certified public accountant if the gross income from charitable contributions in the most recently completed fiscal year is at least [~~\$200,000~~] **\$500,000**; or

(ii) a review by an independent certified public accountant if the gross income from charitable contributions in the most recently completed fiscal year is at least [~~\$100,000~~] **\$200,000** but less than [~~\$200,000~~] **\$500,000**;

(c) The Secretary of State may accept other documentation in place of any item required under subsection (b) of this section.

(d) The Secretary of State may require an audit or review if the amount of gross income is less than [~~\$200,000~~] **\$500,000**.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2009.

**Approved by the Governor, April 14, 2009.**

---

**Chapter 101**

**(House Bill 452)**

AN ACT concerning

**Business Regulation – Charitable Organizations – Audits and Reviews**

FOR the purpose of increasing the minimum gross income amount by which the registration statement of a charitable organization must include a certain audit; altering the range of gross income amounts by which the registration statement of a charitable organization must include a certain review; altering the range of gross income amounts by which the Secretary of State may require a certain audit or review of a charitable organization; and generally relating to the auditing and review requirements of charitable organizations.

BY repealing and reenacting, without amendments,  
Article – Business Regulation  
Section 6–402(a) and (c)  
Annotated Code of Maryland  
(2004 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,  
Article – Business Regulation  
Section 6–402(b)(8) and (d)  
Annotated Code of Maryland  
(2004 Replacement Volume and 2008 Supplement)

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

### Article – Business Regulation

6–402.

(a) A registration statement shall be on the form that the Secretary of State provides.

(b) Except as provided in subsection (c) of this section, the registration statement shall contain or be accompanied by:

(8) (i) an audit by an independent certified public accountant if the gross income from charitable contributions in the most recently completed fiscal year is at least [~~\$200,000~~] **\$500,000**; or

(ii) a review by an independent certified public accountant if the gross income from charitable contributions in the most recently completed fiscal year is at least [~~\$100,000~~] **\$200,000** but less than [~~\$200,000~~] **\$500,000**;

(c) The Secretary of State may accept other documentation in place of any item required under subsection (b) of this section.

(d) The Secretary of State may require an audit or review if the amount of gross income is less than [~~\$200,000~~] **\$500,000**.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2009.

Approved by the Governor, April 14, 2009.

---

## Chapter 102

### (Senate Bill 817)

AN ACT concerning

#### **Task Force to Study Prison Violence in Maryland – ~~Continuation~~ Reconstitution**

FOR the purpose of ~~continuing~~ reconstituting the Task Force to Study Prison Violence in Maryland; specifying the chair, membership, and duties of the Task Force; requiring the Task Force to make legislative recommendations; requiring the Task Force to meet at certain times and places; requiring the Task Force to provide certain reports to the Governor and the General Assembly on or before certain dates; providing for staffing of the Task Force; providing for the termination of this Act; stating the intent of the General Assembly; and generally relating to the Task Force to Study Prison Violence in Maryland.

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That:

- (a) There is a Task Force to Study Prison Violence in Maryland.
- (b) The Task Force shall be composed of:
  - (1) one member of the House of Delegates, appointed by the Speaker of the House to serve as a cochair;
  - (2) one member of the Senate of Maryland, appointed by the President of the Senate to serve as a cochair;
  - (3) the Secretary of Public Safety and Correctional Services, or a designee of the Secretary;
  - (4) the Commissioner of the Division of Correction, or a designee of the Commissioner;
  - (5) the Attorney General, or a designee of the Attorney General;
  - (6) the Secretary of Juvenile Services, or a designee of the Secretary;

(7) the Public Defender of Maryland, or the Public Defender's designee; and

(8) the following members appointed by the Governor:

(i) two representatives, one male and one female, of the American Federation of State, County and Municipal Employees who are also employed as correctional officers in a State prison;

(ii) one representative of the Justice Policy Institute;

(iii) one representative of the criminology department of a Maryland institution of higher learning;

(iv) two former prisoners, one male and one female, of a State prison who were incarcerated for a minimum of 5 years;

(v) one expert in the field of chemical engineering or toxicology;

(vi) one representative of a Maryland prison reform advocacy group;

(vii) one intelligence lieutenant from the Division of Correction;

(viii) one representative knowledgeable and experienced in the field of medical and health care services for prisoners;

(ix) one representative of the Department of State Police; and

(x) two members, at least one of whom is a member of the Maryland Classified Employees Association, and each of whom is employed as a case manager, psychologist, addiction counselor, or warden in a State prison.

(c) A member of the Task Force may not receive compensation as a member of the Task Force but is entitled to reimbursement for expenses under the Standard State Travel Regulations as provided in the State budget.

(d) The Task Force shall meet at the times and places that the cochairs determine.

(e) The Task Force shall:

(1) study available information on:

(i) the scope, nature, patterns, and causal relationships of violence in the State's prisons;



- (ii) the impact of illegal drugs on violence in the State's prisons;
  - (iii) the impact of exposure to lead and other pollutants on violence in the State's prisons;
  - (iv) the best practices of other state correctional systems in dealing with prison violence;
  - (v) the impact of contraband on violence in the State's prisons;
  - (vi) the role of gang activity on violence in the State's prisons;
- and
- (vii) any other issues that the Task Force considers relevant;
- (2) make legislative recommendations; and
  - (3) prepare a report summarizing the findings and recommendations of the Task Force.

(f) The Task Force shall submit:

(1) an interim report to the Governor and, subject to § 2-1246 of the State Government Article, the General Assembly, on or before December 31, 2009; and

(2) a final report of the findings and recommendations of the Task Force to the Governor and, subject to § 2-1246 of the State Government Article, the General Assembly on or before December 31, 2010.

(g) The Department of Public Safety and Correctional Services shall provide staff to the Task Force.

SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that the Speaker of the House, President of the Senate, and the Governor appoint to the Task Force to Study Prison Violence in Maryland those individuals who formerly were appointed to the predecessor Task Force established under Chapter 518 of the Acts of the General Assembly of 2007 and who were serving on the Task Force as of January 31, 2009.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2009. It shall remain effective for a period of 2 years and, at the end of May 31, 2011, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

**Approved by the Governor, April 14, 2009.**

---

**Chapter 103****(Senate Bill 854)**

AN ACT concerning

**Health Insurance – Definition of Coverage Decisions – Pharmacy Inquiries**

FOR the purpose of altering the definition of “coverage decision” so that it does not include a pharmacy inquiry for purposes of a certain complaint process; defining certain terms; and generally relating to health insurance coverage decisions.

BY repealing and reenacting, with amendments,  
Article – Insurance  
Section 15–10D–01  
Annotated Code of Maryland  
(2006 Replacement Volume and 2008 Supplement)

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

**Article – Insurance**

15–10D–01.

- (a) In this subtitle the following words have the meanings indicated.
- (b) “Appeal” means a protest filed by a member or a health care provider with a carrier under its internal appeal process regarding a coverage decision concerning a member.
- (c) “Appeal decision” means a final determination by a carrier that arises from an appeal filed with the carrier under its appeal process regarding a coverage decision concerning a member.
- (d) “Carrier” means a person that offers a health benefit plan and is:
  - (1) an authorized insurer that provides health insurance in the State;
  - (2) a nonprofit health service plan;
  - (3) a health maintenance organization;
  - (4) a dental plan organization; or

(5) except for a managed care organization, as defined in Title 15, Subtitle 1 of the Health – General Article, any other person that offers a health benefit plan subject to regulation by the State.

(e) “Complaint” means a protest filed with the Commissioner involving a coverage decision other than that which is covered by Subtitle 10A of this title.

(f) (1) “Coverage decision” means an initial determination by a carrier or a representative of the carrier that results in noncoverage of a health care service.

(2) “Coverage decision” includes nonpayment of all or any part of a claim.

(3) “Coverage decision” does not include:

(I) an adverse decision as defined in § 15–10A–01(b) of this title; **OR**

(II) **A PHARMACY INQUIRY.**

(g) “Designee of the Commissioner” means any person to whom the Commissioner has delegated the authority to review and decide complaints filed under this subtitle, including an administrative law judge to whom the authority to conduct a hearing has been delegated for recommended or final decision.

(h) (1) “Health benefit plan” means:

(i) a hospital or medical policy or contract, including a policy or contract issued under a multiple employer trust or association;

(ii) a hospital or medical policy or contract issued by a nonprofit health service plan;

(iii) a health maintenance organization contract; or

(iv) a dental plan organization contract.

(2) “Health benefit plan” does not include one or more, or any combination of the following:

(i) long-term care insurance;

(ii) disability insurance;

(iii) accidental travel and accidental death and dismemberment insurance;

- (iv) credit health insurance;
- (v) a health benefit plan issued by a managed care organization, as defined in Title 15, Subtitle 1 of the Health – General Article;
- (vi) disease–specific insurance; or
- (vii) fixed indemnity insurance.

(i) “Health care provider” means:

(1) an individual who is licensed under the Health Occupations Article to provide health care services in the ordinary course of business or practice of a profession and is a treating provider of the member; or

(2) a hospital, as defined in § 19–301 of the Health – General Article.

(j) “Health care service” means a health or medical care procedure or service rendered by a health care provider that:

(1) provides testing, diagnosis, or treatment of a human disease or dysfunction; or

(2) dispenses drugs, medical devices, medical appliances, or medical goods for the treatment of a human disease or dysfunction.

(k) (1) “Member” means a person entitled to health care services under a policy, plan, or contract issued or delivered in the State by a carrier.

(2) “Member” includes:

(i) a subscriber; and

(ii) unless preempted by federal law, a Medicare recipient.

(3) “Member” does not include a Medicaid recipient.

**(L) “PHARMACY BENEFITS MANAGER” HAS THE MEANING STATED IN § 15–1601 OF THIS TITLE.**

**(M) “PHARMACY INQUIRY” MEANS AN INQUIRY SUBMITTED BY A PHARMACIST OR PHARMACY ON BEHALF OF A MEMBER TO A CARRIER OR A PHARMACY BENEFITS MANAGER AT THE POINT OF SALE ABOUT THE SCOPE OF PHARMACY COVERAGE, PHARMACY BENEFIT DESIGN, OR FORMULARY UNDER A HEALTH BENEFIT PLAN.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

**Approved by the Governor, April 14, 2009.**

---

## **Chapter 104**

### **(House Bill 1071)**

AN ACT concerning

#### **Health Insurance – Definition of Coverage Decisions – Pharmacy Inquiries**

FOR the purpose of altering the definition of “coverage decision” so that it does not include a pharmacy inquiry for purposes of a certain complaint process; defining certain terms; and generally relating to health insurance coverage decisions.

BY repealing and reenacting, with amendments,

Article – Insurance

Section 15–10D–01

Annotated Code of Maryland

(2006 Replacement Volume and 2008 Supplement)

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

#### **Article – Insurance**

15–10D–01.

- (a) In this subtitle the following words have the meanings indicated.
- (b) “Appeal” means a protest filed by a member or a health care provider with a carrier under its internal appeal process regarding a coverage decision concerning a member.
- (c) “Appeal decision” means a final determination by a carrier that arises from an appeal filed with the carrier under its appeal process regarding a coverage decision concerning a member.
- (d) “Carrier” means a person that offers a health benefit plan and is:
  - (1) an authorized insurer that provides health insurance in the State;

- (2) a nonprofit health service plan;
- (3) a health maintenance organization;
- (4) a dental plan organization; or

(5) except for a managed care organization, as defined in Title 15, Subtitle 1 of the Health – General Article, any other person that offers a health benefit plan subject to regulation by the State.

(e) “Complaint” means a protest filed with the Commissioner involving a coverage decision other than that which is covered by Subtitle 10A of this title.

(f) (1) “Coverage decision” means an initial determination by a carrier or a representative of the carrier that results in noncoverage of a health care service.

(2) “Coverage decision” includes nonpayment of all or any part of a claim.

(3) “Coverage decision” does not include:

(I) an adverse decision as defined in § 15–10A–01(b) of this title; **OR**

(II) **A PHARMACY INQUIRY.**

(g) “Designee of the Commissioner” means any person to whom the Commissioner has delegated the authority to review and decide complaints filed under this subtitle, including an administrative law judge to whom the authority to conduct a hearing has been delegated for recommended or final decision.

(h) (1) “Health benefit plan” means:

(i) a hospital or medical policy or contract, including a policy or contract issued under a multiple employer trust or association;

(ii) a hospital or medical policy or contract issued by a nonprofit health service plan;

(iii) a health maintenance organization contract; or

(iv) a dental plan organization contract.

(2) “Health benefit plan” does not include one or more, or any combination of the following:

- (i) long-term care insurance;
- (ii) disability insurance;
- (iii) accidental travel and accidental death and dismemberment insurance;
- (iv) credit health insurance;
- (v) a health benefit plan issued by a managed care organization, as defined in Title 15, Subtitle 1 of the Health – General Article;
- (vi) disease-specific insurance; or
- (vii) fixed indemnity insurance.

(i) “Health care provider” means:

- (1) an individual who is licensed under the Health Occupations Article to provide health care services in the ordinary course of business or practice of a profession and is a treating provider of the member; or
- (2) a hospital, as defined in § 19–301 of the Health – General Article.

(j) “Health care service” means a health or medical care procedure or service rendered by a health care provider that:

- (1) provides testing, diagnosis, or treatment of a human disease or dysfunction; or
- (2) dispenses drugs, medical devices, medical appliances, or medical goods for the treatment of a human disease or dysfunction.

(k) (1) “Member” means a person entitled to health care services under a policy, plan, or contract issued or delivered in the State by a carrier.

(2) “Member” includes:

- (i) a subscriber; and
- (ii) unless preempted by federal law, a Medicare recipient.

(3) “Member” does not include a Medicaid recipient.

**(L) “PHARMACY BENEFITS MANAGER” HAS THE MEANING STATED IN § 15–1601 OF THIS TITLE.**

(M) “PHARMACY INQUIRY” MEANS AN INQUIRY SUBMITTED BY A PHARMACIST OR PHARMACY ON BEHALF OF A MEMBER TO A CARRIER OR A PHARMACY BENEFITS MANAGER AT THE POINT OF SALE ABOUT THE SCOPE OF PHARMACY COVERAGE, PHARMACY BENEFIT DESIGN, OR FORMULARY UNDER A HEALTH BENEFIT PLAN.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

**Approved by the Governor, April 14, 2009.**

---

## **Chapter 105**

**(Senate Bill 860)**

AN ACT concerning

### **Maryland Not-For-Profit Development Center Program – Qualifying Not-For-Profit Entity Assistance**

FOR the purpose of adding and amending certain defined terms under the Maryland Not-For-Profit Development Center Program; requiring the Program to provide certain support and assistance to qualifying not-for-profit entities; altering the requirements for a certain designee of the Program; and generally relating to the Maryland Not-For-Profit Development Center Program.

BY repealing and reenacting, with amendments,  
Article – Economic Development  
Section 5-1201, 5-1202, 5-1203, and 5-1205  
Annotated Code of Maryland  
(2008 Volume)

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

### **Article – Economic Development**

5-1201.

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

(b) “Fund” means the Maryland Not-For-Profit Development Center Program Fund established under § 5-1204 of this subtitle.



**(C) “NOT-FOR-PROFIT ENTITY” MEANS A CORPORATION INCORPORATED IN THE STATE, OR OTHERWISE QUALIFIED TO DO BUSINESS IN THE STATE, THAT HAS BEEN DETERMINED BY THE INTERNAL REVENUE SERVICE TO BE EXEMPT FROM TAXATION UNDER § 501(C)(3), (4), OR (6) OF THE INTERNAL REVENUE CODE.**

**[(c)] (D)** “Program” means the Maryland Not-For-Profit Development Center Program established under § 5-1202 of this subtitle.

**[(d)** “Not-for-profit entity” means a corporation incorporated in the State, or otherwise qualified to do business in the State:

(1) that has been determined by the Internal Revenue Service to be exempt from taxation under § 501(c)(3), (4), or (6) of the Internal Revenue Code;]

**(E) “QUALIFYING NOT-FOR-PROFIT ENTITY” MEANS A NOT-FOR-PROFIT ENTITY:**

**[(2)] (1)** that has annual revenues not greater than \$750,000;

**[(3)] (2)** that has been in existence for not more than 10 years; and

**[(4)] (3)** whose principal purpose is providing health, education, environmental, agricultural, or social services through community-based programs.

5-1202.

(a) There is a Maryland Not-For-Profit Development Center Program in the Department.

(b) The Program shall foster, support, and assist the economic growth and revitalization of **QUALIFYING** not-for-profit entities in the State by providing training and technical assistance services.

5-1203.

The Program shall provide assistance to **QUALIFYING** not-for-profit entities, including:

(1) operation of an information exchange governing current and new technical information and data about all aspects of not-for-profit management, including:

(i) not-for-profit start-up;

- (ii) budgeting and financial management;
- (iii) facilities development and management;
- (iv) board development;
- (v) organizational development and strategic planning;
- (vi) marketing;
- (vii) federal and State contracting and grant making;
- (viii) individual, corporate, and foundation fund-raising;
- (ix) volunteer management;
- (x) personnel management;
- (xi) federal and State tax law and regulations;
- (xii) federal and State law and regulations governing charitable solicitations;
- (xiii) federal and State regulations applicable to licensing or accreditation;
- (xiv) federal and State financing programs; and
- (xv) information technology; and

(2) individual consultation and technical assistance to any **QUALIFYING** not-for-profit entity that requests the service, including assistance on any of the subjects identified in item (1) of this section.

5-1205.

(a) The Department shall designate at least one private not-for-profit entity to receive grants from the Maryland Not-For-Profit Development Center Program Fund to implement the Program.

(b) In selecting a designee, the Department shall consider and give priority to organizations that:

(1) have experience in providing the scope of assistance and services required under § 5-1203 of this subtitle to **QUALIFYING** not-for-profit entities in the State;

(2) demonstrate the capacity to provide the assistance and services required under § 5–1203 of this subtitle on a statewide basis; and

(3) demonstrate current expenditures that:

(i) are equal to at least three times the amount of funding received under this section; and

(ii) have been received from other sources for the provision of assistance and services of the type required under § 5–1203 of this subtitle to not-for-profit entities in the State.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

**Approved by the Governor, April 14, 2009.**

---

## Chapter 106

### (House Bill 1193)

AN ACT concerning

#### **Maryland Not-For-Profit Development Center Program – Qualifying Not-For-Profit Entity Assistance**

FOR the purpose of adding and amending certain defined terms under the Maryland Not-For-Profit Development Center Program; requiring the Program to provide certain support and assistance to qualifying not-for-profit entities; altering the requirements for a certain designee of the Program; and generally relating to the Maryland Not-For-Profit Development Center Program.

BY repealing and reenacting, with amendments,  
Article – Economic Development  
Section 5–1201, 5–1202, 5–1203, and 5–1205  
Annotated Code of Maryland  
(2008 Volume)

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

#### **Article – Economic Development**

5–1201.

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

(b) “Fund” means the Maryland Not–For–Profit Development Center Program Fund established under § 5–1204 of this subtitle.

**(C) “NOT–FOR–PROFIT ENTITY” MEANS A CORPORATION INCORPORATED IN THE STATE, OR OTHERWISE QUALIFIED TO DO BUSINESS IN THE STATE, THAT HAS BEEN DETERMINED BY THE INTERNAL REVENUE SERVICE TO BE EXEMPT FROM TAXATION UNDER § 501(C)(3), (4), OR (6) OF THE INTERNAL REVENUE CODE.**

**[(c)] (D)** “Program” means the Maryland Not–For–Profit Development Center Program established under § 5–1202 of this subtitle.

**[(d)** “Not–for–profit entity” means a corporation incorporated in the State, or otherwise qualified to do business in the State:

(1) that has been determined by the Internal Revenue Service to be exempt from taxation under § 501(c)(3), (4), or (6) of the Internal Revenue Code;]

**(E) “QUALIFYING NOT–FOR–PROFIT ENTITY” MEANS A NOT–FOR–PROFIT ENTITY:**

**[(2)] (1)** that has annual revenues not greater than \$750,000;

**[(3)] (2)** that has been in existence for not more than 10 years; and

**[(4)] (3)** whose principal purpose is providing health, education, environmental, agricultural, or social services through community–based programs.

5–1202.

(a) There is a Maryland Not–For–Profit Development Center Program in the Department.

(b) The Program shall foster, support, and assist the economic growth and revitalization of **QUALIFYING** not–for–profit entities in the State by providing training and technical assistance services.

5–1203.

The Program shall provide assistance to **QUALIFYING** not–for–profit entities, including:

(1) operation of an information exchange governing current and new technical information and data about all aspects of not-for-profit management, including:

- (i) not-for-profit start-up;
- (ii) budgeting and financial management;
- (iii) facilities development and management;
- (iv) board development;
- (v) organizational development and strategic planning;
- (vi) marketing;
- (vii) federal and State contracting and grant making;
- (viii) individual, corporate, and foundation fund-raising;
- (ix) volunteer management;
- (x) personnel management;
- (xi) federal and State tax law and regulations;
- (xii) federal and State law and regulations governing charitable solicitations;
- (xiii) federal and State regulations applicable to licensing or accreditation;
- (xiv) federal and State financing programs; and
- (xv) information technology; and

(2) individual consultation and technical assistance to any **QUALIFYING** not-for-profit entity that requests the service, including assistance on any of the subjects identified in item (1) of this section.

5-1205.

(a) The Department shall designate at least one private not-for-profit entity to receive grants from the Maryland Not-For-Profit Development Center Program Fund to implement the Program.

(b) In selecting a designee, the Department shall consider and give priority to organizations that:

(1) have experience in providing the scope of assistance and services required under § 5–1203 of this subtitle to **QUALIFYING** not-for-profit entities in the State;

(2) demonstrate the capacity to provide the assistance and services required under § 5–1203 of this subtitle on a statewide basis; and

(3) demonstrate current expenditures that:

(i) are equal to at least three times the amount of funding received under this section; and

(ii) have been received from other sources for the provision of assistance and services of the type required under § 5–1203 of this subtitle to not-for-profit entities in the State.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

**Approved by the Governor, April 14, 2009.**

---

## Chapter 107

**(Senate Bill 862)**

AN ACT concerning

### **Child Fatality Review – Child Death Review Case Reporting System**

FOR the purpose of authorizing certain members and staff of certain State teams to provide identifying information to a national center for child death review in accordance with certain data use agreements that authorize access to certain information to certain persons and require the national center to act as a fiduciary agent of certain State and local teams; establishing that certain information provided to a national center for child death review is confidential and subject to certain confidentiality and discovery protections; defining certain terms; and generally relating to child fatality review and a child death review case reporting system.

BY repealing and reenacting, with amendments,  
Article – Health – General  
Section 5–701 and 5–704

Annotated Code of Maryland  
(2005 Replacement Volume and 2008 Supplement)

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

**Article – Health – General**

5–701.

- (a) In this subtitle the following words have the meanings indicated.
- (b) “Child” means an individual under the age of 18 years.

**(c) “CHILD DEATH REVIEW CASE REPORTING SYSTEM” MEANS A NATIONAL, STANDARDIZED, WEB-BASED REPORTING SYSTEM FOR THE CONFIDENTIAL COLLECTION, ANALYSIS, AGGREGATION, AND REPORTING OF CHILD DEATH DATA THAT IS MAINTAINED AND OPERATED BY A NATIONAL CENTER FOR CHILD DEATH REVIEW.**

**(d) “DATA USE AGREEMENT” MEANS A CONTRACT BETWEEN THE DEPARTMENT AND A NATIONAL CENTER FOR CHILD DEATH REVIEW THAT ESTABLISHES THE TERMS AND CONDITIONS FOR THE STATE AND LOCAL CHILD FATALITY REVIEW TEAMS’ PARTICIPATION IN A CHILD DEATH REVIEW CASE REPORTING SYSTEM.**

**[(c)] (E) “Health care provider” means:**

(1) An individual licensed or certified under the Health Occupations Article to provide health care; or

(2) A facility that provides health care to individuals.

**[(d)] (F) “Local team” means the multidisciplinary and multiagency child fatality review team established for a county.**

**[(e)] (G) “Meeting” includes meetings through telephone conferencing.**

**(H) “NATIONAL CENTER FOR CHILD DEATH REVIEW” MEANS A PUBLIC, PRIVATE, NONPROFIT, OR GOVERNMENTAL ORGANIZATION OR ENTITY THAT IS FUNDED OR OTHERWISE RECOGNIZED BY THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES AND IS RESPONSIBLE FOR:**

**(1) DEVELOPING A CHILD DEATH REVIEW CASE REPORTING SYSTEM;**

**(2) TRAINING AND SERVING AS A LIAISON TO STATE AGENCIES PARTICIPATING IN THE SYSTEM; AND**

**(3) DISSEMINATING NATIONAL CHILD DEATH REVIEW DATA GENERATED BY THE SYSTEM.**

**[(f)] (I)** “State Team” means the State Child Fatality Review Team.

**[(g)] (J)** “Unexpected child death” means a death of a child investigated by the office of the Chief Medical Examiner as required by § 5–309 of this title.

5–704.

(a) The purpose of the State Team is to prevent child deaths by:

(1) Developing an understanding of the causes and incidence of child deaths;

(2) Developing plans for and implementing changes within the agencies represented on the Team to prevent child deaths; and

(3) Advising the Governor, the General Assembly, and the public on changes to law, policy, and practice to prevent child deaths.

(b) To achieve its purpose, the State Team shall:

(1) Undertake annual statistical studies of the incidence and causes of child fatalities in the State, including an analysis of community and public and private agency involvement with the decedents and their families before and after the deaths;

(2) Review reports from local teams;

(3) Provide training and written materials to the local teams established under § 5–705 of this subtitle to assist them in carrying out their duties, including model protocols for the operation of local teams;

(4) In cooperation with local teams, develop a protocol for child fatality investigations, including procedures for local health departments, law enforcement agencies, local medical examiners, and local departments of social services, using best practices from other states and jurisdictions;

(5) Develop a protocol for the collection of data regarding child deaths and provide training to local teams and county health departments on the use of the protocol;



(6) Undertake a study of the operations of local teams, including the State and local laws, regulations, and policies of the agencies represented on the local teams, recommend appropriate changes to any regulation or policy needed to prevent child deaths, and include proposals for changes to State or local laws in the annual report required by paragraph (12) of this subsection;

(7) Consider local and statewide training needs, including cross-agency training and service gaps, and make recommendations to member agencies to develop and deliver these training needs;

(8) Examine confidentiality and access to information laws, regulations, and policies for agencies with responsibilities for children, including health, public welfare, education, social services, mental health, and law enforcement agencies, recommend appropriate changes to any regulations and policies that impede the exchange of information necessary to protect children from preventable deaths, and include proposals for changes to statutes in the annual report required by paragraph (12) of this subsection;

(9) Examine the policies and procedures of State and local agencies and specific cases that the State Team considers necessary to perform its duties under this section, in order to evaluate the extent to which State and local agencies are effectively discharging their child protection responsibilities in accordance with:

(i) The State plan under 42 U.S.C. § 5106a(b);

(ii) The child protection standards set forth in 42 U.S.C. § 5106a(b); and

(iii) Any other criteria that the State Team considers important to ensure the protection of children;

(10) Educate the public regarding the incidence and causes of child deaths, the public role in preventing child deaths, and specific steps the public can undertake to prevent child deaths;

(11) Recommend to the Secretary any regulations necessary for its own operation and the operation of the local teams;

(12) Provide the Governor, the public, and subject to § 2-1246 of the State Government Article, the General Assembly, with annual written reports, which shall include the State Team's findings and recommendations; and

(13) In consultation with local teams:

(i) Define "near fatality"; and

(ii) Develop procedures and protocols that local teams and the State Team may use to review cases of near fatality.

(c) The State Team shall coordinate its activities under this section with the State Citizens Review Board for Children, local citizens review panels, and the State Council on Child Abuse and Neglect in order to avoid unnecessary duplication of effort.

(d) **(1) [The] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, members and staff of the State Team:**

**[(1)] (I)** May not disclose to any person or government official any identifying information about any specific child protection case about which the State Team is provided information; and

**[(2)] (II)** May make public other information unless prohibited by law.

**(2) (I) IN CARRYING OUT THE RESPONSIBILITIES UNDER THIS SECTION AND SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE MEMBERS AND STAFF OF THE STATE TEAM MAY PROVIDE IDENTIFYING INFORMATION TO A NATIONAL CENTER FOR CHILD DEATH REVIEW IN ACCORDANCE WITH A DATA USE AGREEMENT THAT ~~REQUIRES~~:**

**1. AUTHORIZES ACCESS TO IDENTIFIABLE INFORMATION ONLY TO THE MEMBERS AND STAFF OF THE STATE TEAM;**

**2. AUTHORIZES THE NATIONAL CENTER FOR CHILD DEATH REVIEW TO ACCESS ONLY DE-IDENTIFIED INFORMATION; AND**

**3. REQUIRES THE NATIONAL CENTER FOR CHILD DEATH REVIEW TO ACT AS A FIDUCIARY AGENT OF THE STATE AND LOCAL TEAMS.**

**(II) INFORMATION PROVIDED TO A NATIONAL CENTER FOR CHILD DEATH REVIEW IN ACCORDANCE WITH THIS SUBSECTION IS CONFIDENTIAL AND SUBJECT TO THE SAME CONFIDENTIALITY AND DISCOVERY PROTECTIONS THAT APPLY TO THE STATE AND LOCAL TEAMS AS SET FORTH IN § 5-709 OF THIS SUBTITLE.**

(e) In addition to any other penalties provided by law, the Secretary may impose on any person who violates subsection (d) of this section a civil penalty not exceeding \$500 for each violation.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, April 14, 2009.

---

## Chapter 108

### (House Bill 705)

AN ACT concerning

#### **Child Fatality Review – Child Death Review Case Reporting System**

FOR the purpose of authorizing certain members and staff of certain State teams to provide identifying information to a national center for child death review in accordance with certain data use agreements that authorize access to certain information to certain persons and require the national center to act as a fiduciary agent of certain State and local teams; establishing that certain information provided to a national center for child death review is confidential and subject to certain confidentiality and discovery protections; defining certain terms; and generally relating to child fatality review and a child death review case reporting system.

BY repealing and reenacting, with amendments,  
Article – Health – General  
Section 5–701 and 5–704  
Annotated Code of Maryland  
(2005 Replacement Volume and 2008 Supplement)

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

#### **Article – Health – General**

5–701.

- (a) In this subtitle the following words have the meanings indicated.
- (b) “Child” means an individual under the age of 18 years.

(c) **“CHILD DEATH REVIEW CASE REPORTING SYSTEM” MEANS A NATIONAL, STANDARDIZED, WEB-BASED REPORTING SYSTEM FOR THE CONFIDENTIAL COLLECTION, ANALYSIS, AGGREGATION, AND REPORTING OF CHILD DEATH DATA THAT IS MAINTAINED AND OPERATED BY A NATIONAL CENTER FOR CHILD DEATH REVIEW.**

**(D) “DATA USE AGREEMENT” MEANS A CONTRACT BETWEEN THE DEPARTMENT AND A NATIONAL CENTER FOR CHILD DEATH REVIEW THAT ESTABLISHES THE TERMS AND CONDITIONS FOR THE STATE AND LOCAL CHILD FATALITY REVIEW TEAMS’ PARTICIPATION IN A CHILD DEATH REVIEW CASE REPORTING SYSTEM.**

**[(c)] (E) “Health care provider” means:**

(1) An individual licensed or certified under the Health Occupations Article to provide health care; or

(2) A facility that provides health care to individuals.

**[(d)] (F) “Local team” means the multidisciplinary and multiagency child fatality review team established for a county.**

**[(e)] (G) “Meeting” includes meetings through telephone conferencing.**

**(H) “NATIONAL CENTER FOR CHILD DEATH REVIEW” MEANS A PUBLIC, PRIVATE, NONPROFIT, OR GOVERNMENTAL ORGANIZATION OR ENTITY THAT IS FUNDED OR OTHERWISE RECOGNIZED BY THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES AND IS RESPONSIBLE FOR:**

**(1) DEVELOPING A CHILD DEATH REVIEW CASE REPORTING SYSTEM;**

**(2) TRAINING AND SERVING AS A LIAISON TO STATE AGENCIES PARTICIPATING IN THE SYSTEM; AND**

**(3) DISSEMINATING NATIONAL CHILD DEATH REVIEW DATA GENERATED BY THE SYSTEM.**

**[(f)] (I) “State Team” means the State Child Fatality Review Team.**

**[(g)] (J) “Unexpected child death” means a death of a child investigated by the office of the Chief Medical Examiner as required by § 5–309 of this title.**

5–704.

**(a) The purpose of the State Team is to prevent child deaths by:**

(1) Developing an understanding of the causes and incidence of child deaths;

(2) Developing plans for and implementing changes within the agencies represented on the Team to prevent child deaths; and

(3) Advising the Governor, the General Assembly, and the public on changes to law, policy, and practice to prevent child deaths.

(b) To achieve its purpose, the State Team shall:

(1) Undertake annual statistical studies of the incidence and causes of child fatalities in the State, including an analysis of community and public and private agency involvement with the decedents and their families before and after the deaths;

(2) Review reports from local teams;

(3) Provide training and written materials to the local teams established under § 5-705 of this subtitle to assist them in carrying out their duties, including model protocols for the operation of local teams;

(4) In cooperation with local teams, develop a protocol for child fatality investigations, including procedures for local health departments, law enforcement agencies, local medical examiners, and local departments of social services, using best practices from other states and jurisdictions;

(5) Develop a protocol for the collection of data regarding child deaths and provide training to local teams and county health departments on the use of the protocol;

(6) Undertake a study of the operations of local teams, including the State and local laws, regulations, and policies of the agencies represented on the local teams, recommend appropriate changes to any regulation or policy needed to prevent child deaths, and include proposals for changes to State or local laws in the annual report required by paragraph (12) of this subsection;

(7) Consider local and statewide training needs, including cross-agency training and service gaps, and make recommendations to member agencies to develop and deliver these training needs;

(8) Examine confidentiality and access to information laws, regulations, and policies for agencies with responsibilities for children, including health, public welfare, education, social services, mental health, and law enforcement agencies, recommend appropriate changes to any regulations and policies that impede the exchange of information necessary to protect children from preventable deaths, and include proposals for changes to statutes in the annual report required by paragraph (12) of this subsection;

(9) Examine the policies and procedures of State and local agencies and specific cases that the State Team considers necessary to perform its duties under

this section, in order to evaluate the extent to which State and local agencies are effectively discharging their child protection responsibilities in accordance with:

- (i) The State plan under 42 U.S.C. § 5106a(b);
- (ii) The child protection standards set forth in 42 U.S.C. § 5106a(b); and
- (iii) Any other criteria that the State Team considers important to ensure the protection of children;

(10) Educate the public regarding the incidence and causes of child deaths, the public role in preventing child deaths, and specific steps the public can undertake to prevent child deaths;

(11) Recommend to the Secretary any regulations necessary for its own operation and the operation of the local teams;

(12) Provide the Governor, the public, and subject to § 2-1246 of the State Government Article, the General Assembly, with annual written reports, which shall include the State Team's findings and recommendations; and

(13) In consultation with local teams:

- (i) Define "near fatality"; and
- (ii) Develop procedures and protocols that local teams and the State Team may use to review cases of near fatality.

(c) The State Team shall coordinate its activities under this section with the State Citizens Review Board for Children, local citizens review panels, and the State Council on Child Abuse and Neglect in order to avoid unnecessary duplication of effort.

(d) **(1) [The] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, members and staff of the State Team:**

**[(1)] (I)** May not disclose to any person or government official any identifying information about any specific child protection case about which the State Team is provided information; and

**[(2)] (II)** May make public other information unless prohibited by law.

**(2) (I) IN CARRYING OUT THE RESPONSIBILITIES UNDER THIS SECTION AND SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE MEMBERS AND STAFF OF THE STATE TEAM MAY PROVIDE IDENTIFYING**

INFORMATION TO A NATIONAL CENTER FOR CHILD DEATH REVIEW IN ACCORDANCE WITH A DATA USE AGREEMENT THAT ~~REQUIRES~~:

1. AUTHORIZES ACCESS TO IDENTIFIABLE INFORMATION ONLY TO THE MEMBERS AND STAFF OF THE STATE TEAM;

2. AUTHORIZES THE NATIONAL CENTER FOR CHILD DEATH REVIEW TO ACCESS ONLY DE-IDENTIFIED INFORMATION; AND

3. REQUIRES THE NATIONAL CENTER FOR CHILD DEATH REVIEW TO ACT AS A FIDUCIARY AGENT OF THE STATE AND LOCAL TEAMS.

(II) INFORMATION PROVIDED TO A NATIONAL CENTER FOR CHILD DEATH REVIEW IN ACCORDANCE WITH THIS SUBSECTION IS CONFIDENTIAL AND SUBJECT TO THE SAME CONFIDENTIALITY AND DISCOVERY PROTECTIONS THAT APPLY TO THE STATE AND LOCAL TEAMS AS SET FORTH IN § 5-709 OF THIS SUBTITLE.

(e) In addition to any other penalties provided by law, the Secretary may impose on any person who violates subsection (d) of this section a civil penalty not exceeding \$500 for each violation.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, April 14, 2009.

---

## Chapter 109

(Senate Bill 896)

AN ACT concerning

### Commercial Law – Equipment Dealer Contract Act – Scope

FOR the purpose of altering the definitions of “dealer” and “inventory” for purposes of the Equipment Dealer Contract Act to clarify that it applies to persons engaged in the business of selling, on commission or at retail, commercial heating, ventilation, and air-conditioning equipment or repair parts; and generally relating to the scope of the Equipment Dealer Contract Act.

BY repealing and reenacting, with amendments,  
Article – Commercial Law

Section 19–101  
Annotated Code of Maryland  
(2005 Replacement Volume and 2008 Supplement)

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

**Article – Commercial Law**

19–101.

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

(b) “Contract” means a written or oral contract or agreement between a dealer and a wholesaler, manufacturer, or distributor by which:

(1) The dealer is granted the right to sell or distribute goods or services; or

(2) The dealer is granted the right to use a trade name, trademark, service mark, logo type, or advertising or other commercial symbol.

(c) “Current model” means a model listed in a wholesaler’s, manufacturer’s, or distributor’s current sales manual or a supplement to the current sales manual.

(d) “Current net price” means the price listed in the supplier’s price list or catalog in effect at the time the contract agreement is terminated, less any applicable discount allowed.

(e) **(1)** “Dealer” means a person engaged in the business of selling at retail construction, farm, utility, or industrial equipment, implements, machinery, attachments, outdoor power equipment, or repair parts.

**(2) “DEALER” INCLUDES A PERSON ENGAGED IN THE BUSINESS OF SELLING, ON COMMISSION OR AT RETAIL, COMMERCIAL HEATING, VENTILATION, AND AIR–CONDITIONING EQUIPMENT OR REPAIR PARTS.**

(f) “Family member” means a spouse, sibling, parent, grandparent, child, grandchild, mother–in–law, father–in–law, daughter–in–law, son–in–law, stepparent, or stepchild, or a lineal descendant of the dealer or principal owner of the dealership.

(g) “Good cause” means failure by a dealer to comply with requirements imposed on the dealer by a contract if the requirements are not different from requirements imposed on other dealers similarly situated in the State.



(h) (1) "Inventory" means farm implements or machinery, construction, utility, and industrial equipment, consumer products, outdoor power equipment, attachments, or repair parts.

(2) "INVENTORY" INCLUDES COMMERCIAL HEATING, VENTILATION, AND AIR-CONDITIONING EQUIPMENT OR REPAIR PARTS.

(i) "Net cost" means the price the dealer paid the supplier for the inventory, less all applicable discounts allowed, plus the amount the dealer paid for freight costs from the supplier's location to the dealer's location, plus the reasonable cost of assembly or disassembly performed by the dealer.

(j) "Superseded part" means a part that will provide the same function as a currently available part as of the date of cancellation of a contract.

(k) "Supplier" means:

(1) A wholesaler, manufacturer, or distributor who enters into a contract with a dealer; or

(2) A purchaser of assets or stock of a surviving corporation resulting from a merger or liquidation, a receiver or assignee, or a trustee of the original manufacturer, wholesaler, or distributor who enters into a contract with a dealer.

(l) "Termination" means the termination, cancellation, nonrenewal, or noncontinuation of a contract.

(m) "Utility" and "industrial", when used to refer to equipment, implements, machinery, attachments, or repair parts, have the meanings commonly used and understood among dealers and suppliers of farm equipment as a usage of trade.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2009.

**Approved by the Governor, April 14, 2009.**

---

## Chapter 110

**(House Bill 1068)**

AN ACT concerning

**Commercial Law – Equipment Dealer Contract Act – Scope**

FOR the purpose of altering the definitions of “dealer” and “inventory” for purposes of the Equipment Dealer Contract Act to clarify that it applies to persons engaged in the business of selling, on commission or at retail, commercial heating, ventilation, and air-conditioning equipment or repair parts; and generally relating to the scope of the Equipment Dealer Contract Act.

BY repealing and reenacting, with amendments,  
Article – Commercial Law  
Section 19–101  
Annotated Code of Maryland  
(2005 Replacement Volume and 2008 Supplement)

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

**Article – Commercial Law**

19–101.

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

(b) “Contract” means a written or oral contract or agreement between a dealer and a wholesaler, manufacturer, or distributor by which:

(1) The dealer is granted the right to sell or distribute goods or services; or

(2) The dealer is granted the right to use a trade name, trademark, service mark, logo type, or advertising or other commercial symbol.

(c) “Current model” means a model listed in a wholesaler’s, manufacturer’s, or distributor’s current sales manual or a supplement to the current sales manual.

(d) “Current net price” means the price listed in the supplier’s price list or catalog in effect at the time the contract agreement is terminated, less any applicable discount allowed.

(e) **(1)** “Dealer” means a person engaged in the business of selling at retail construction, farm, utility, or industrial equipment, implements, machinery, attachments, outdoor power equipment, or repair parts.

**(2) “DEALER” INCLUDES A PERSON ENGAGED IN THE BUSINESS OF SELLING, ON COMMISSION OR AT RETAIL, COMMERCIAL HEATING, VENTILATION, AND AIR-CONDITIONING EQUIPMENT OR REPAIR PARTS.**

(f) "Family member" means a spouse, sibling, parent, grandparent, child, grandchild, mother-in-law, father-in-law, daughter-in-law, son-in-law, stepparent, or stepchild, or a lineal descendant of the dealer or principal owner of the dealership.

(g) "Good cause" means failure by a dealer to comply with requirements imposed on the dealer by a contract if the requirements are not different from requirements imposed on other dealers similarly situated in the State.

(h) **(1)** "Inventory" means farm implements or machinery, construction, utility, and industrial equipment, consumer products, outdoor power equipment, attachments, or repair parts.

**(2) "INVENTORY" INCLUDES COMMERCIAL HEATING, VENTILATION, AND AIR-CONDITIONING EQUIPMENT OR REPAIR PARTS.**

(i) "Net cost" means the price the dealer paid the supplier for the inventory, less all applicable discounts allowed, plus the amount the dealer paid for freight costs from the supplier's location to the dealer's location, plus the reasonable cost of assembly or disassembly performed by the dealer.

(j) "Superseded part" means a part that will provide the same function as a currently available part as of the date of cancellation of a contract.

(k) "Supplier" means:

(1) A wholesaler, manufacturer, or distributor who enters into a contract with a dealer; or

(2) A purchaser of assets or stock of a surviving corporation resulting from a merger or liquidation, a receiver or assignee, or a trustee of the original manufacturer, wholesaler, or distributor who enters into a contract with a dealer.

(l) "Termination" means the termination, cancellation, nonrenewal, or noncontinuation of a contract.

(m) "Utility" and "industrial", when used to refer to equipment, implements, machinery, attachments, or repair parts, have the meanings commonly used and understood among dealers and suppliers of farm equipment as a usage of trade.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2009.

**Approved by the Governor, April 14, 2009.**

---

## Chapter 111

### (Senate Bill 915)

AN ACT concerning

#### Washington Metropolitan Area Transit Authority – Finance and Governance

FOR the purpose of amending the Washington Metropolitan Area Transit Authority Compact in order to comply with certain federal requirements; increasing the number of directors on the Washington Metropolitan Area Transit Authority Board to include directors representing the federal government, subject to a certain requirement; providing for the appointment of federal directors and alternates; establishing an Office of the Inspector General within the Washington Metropolitan Area Transit Authority; providing for the duties and functions of the Office; providing that the ~~Director~~ head of the Office is the Inspector General; requiring that certain payments made by signatories to the Washington Metropolitan Area Transit Authority to match certain federal funds be made from certain dedicated funding sources; requiring the Maryland Department of Transportation to provide grants from the Transportation Trust Fund to the Washington Suburban Transit District for the purpose of funding Maryland's required share of local funds for the Washington Metropolitan Area Transit Authority to match certain federal funds; defining a certain term; clarifying language; making this Act subject to a certain contingency; and generally relating to the finance and governance of the Washington Metropolitan Area Transit Authority.

BY repealing and reenacting, with amendments,

Article – Transportation

Section 10–204 Title III Article III Section 5 and 9 and Article VII Section 18;  
and 10–205

Annotated Code of Maryland  
(2008 Replacement Volume)

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

#### Article – Transportation

10–204.

TITLE III

ARTICLE III

ORGANIZATION AND AREA

5.

(a) The Authority shall be governed by a Board of [six] **EIGHT** Directors consisting of two Directors for each signatory **AND TWO FOR THE FEDERAL GOVERNMENT, ONE GOVERNMENT (ONE OF WHOM SHALL BE A REGULAR PASSENGER AND CUSTOMER OF THE BUS OR RAIL SERVICE OF THE AUTHORITY AUTHORITY)**. ~~For Virginia, the~~ ~~THE~~ Directors shall be appointed, ~~FOR VIRGINIA,~~ by the Northern Virginia Transportation Commission; for the District of Columbia, by the Council of the District of Columbia; [and] for Maryland, by the Washington Suburban Transit Commission; **AND FOR THE FEDERAL GOVERNMENT, BY THE ADMINISTRATOR OF GENERAL SERVICES**. For Virginia and Maryland, the Directors shall be appointed from among the members of the appointing body, except as otherwise provided herein, and shall serve for a term coincident with their term on the appointing body. A Director **FOR A SIGNATORY** may be removed or suspended from office only as provided by the law of the signatory from which he was appointed. The **NONFEDERAL** appointing authorities shall also appoint an alternate for each Director[, who]. **IN ADDITION, THE ADMINISTRATOR OF GENERAL SERVICES SHALL ALSO APPOINT TWO NONVOTING DIRECTORS MEMBERS WHO SHALL SERVE AS THE ALTERNATES FOR THE FEDERAL DIRECTORS. AN ALTERNATE DIRECTOR DIRECTOR** may act only in the absence of the Director for whom he has been appointed an alternate, except that, in the case of the District of Columbia where only one Director and his alternate are present, such alternate may act on behalf of the absent Director. Each alternate, **INCLUDING THE FEDERAL NONVOTING DIRECTORS DIRECTORS**, shall serve at the pleasure of the appointing authority. In the event of a vacancy in the Office of Director or alternate, it shall be filled in the same manner as an original appointment.

(b) Before entering upon the duties of his office each Director and alternate director shall take and subscribe to the following oath (or affirmation) of office or any such other oath or affirmation, if any, as the constitution or laws of the [signatory] ~~GOVERNMENT~~ **GOVERNMENT** he represents shall provide:

“I, ..., hereby solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution and laws of the state or political jurisdiction from which I was appointed as a Director (alternate director) of the Board of Washington Metropolitan Area Transit Authority and will faithfully discharge the duties of the office upon which I am about to enter.”

9.

(a) The officers of the Authority, none of whom shall be members of the board, shall consist of a general manager, a secretary, a treasurer, a comptroller, **AN INSPECTOR GENERAL**, and a general counsel and such other officers as the board may provide. Except for the office of general manager, **INSPECTOR GENERAL**, and comptroller, the board may consolidate any of such other offices in one person. All such

officers shall be appointed and may be removed by the board, shall serve at the pleasure of the board and shall perform such duties and functions as the board shall specify. The board shall fix and determine the compensation to be paid to all officers and, except for the general manager who shall be a full-time employee, all other officers may be hired on a full-time or part-time basis and may be compensated on a salary or fee basis, as the board may determine. All employees and such officers as the board may designate shall be appointed and removed by the general manager under such rules of procedure and standards as the board may determine.

(b) The general manager shall be the chief administrative officer of the Authority and, subject to policy direction by the board, shall be responsible for all activities of the Authority.

(c) The treasurer shall be the custodian of the funds of the Authority, shall keep an account of all receipts and disbursements and shall make payments only upon warrants duly and regularly signed by the chairman or vice-chairman of the board, or other person authorized by the board to do so, and by the secretary or general manager; provided, however, that the board may provide that warrants not exceeding such amounts or for such purposes as may from time to time be specified by the board may be signed by the general manager or by persons designated by him.

~~(D) (1) THERE IS AN OFFICE OF THE INSPECTOR GENERAL IN THE AUTHORITY.~~

~~(2) THE INSPECTOR GENERAL SHALL SERVE AS DIRECTOR OF THE OFFICE AND SHALL REPORT TO THE BOARD.~~

~~(3) THE OFFICE IS AN INDEPENDENT AND OBJECTIVE UNIT OF THE AUTHORITY THAT:~~

~~(I) CONDUCTS AND SUPERVISES AUDITS, PROGRAM EVALUATIONS, AND INVESTIGATIONS RELATING TO AUTHORITY ACTIVITIES;~~

~~(II) PROMOTES ECONOMY, EFFICIENCY, AND EFFECTIVENESS IN AUTHORITY ACTIVITIES;~~

~~(III) DETECTS AND PREVENTS FRAUD AND ABUSE IN AUTHORITY ACTIVITIES; AND~~

(IV) ~~KEEPS~~ THE INSPECTOR GENERAL SHALL REPORT TO THE BOARD AND HEAD THE OFFICE OF THE INSPECTOR GENERAL, AN INDEPENDENT AND OBJECTIVE UNIT OF THE AUTHORITY THAT CONDUCTS AND SUPERVISES AUDITS, PROGRAM EVALUATIONS, AND INVESTIGATIONS RELATING TO AUTHORITY ACTIVITIES; PROMOTES ECONOMY, EFFICIENCY, AND EFFECTIVENESS IN AUTHORITY ACTIVITIES; DETECTS AND PREVENTS FRAUD

**AND ABUSE IN AUTHORITY ACTIVITIES; AND KEEPS THE BOARD FULLY AND CURRENTLY INFORMED ABOUT DEFICIENCIES IN AUTHORITY ACTIVITIES AS WELL AS THE NECESSITY FOR AND PROGRESS OF CORRECTIVE ACTION.**

**[(d)] (E)** An oath of office in the form set out in § 5(b) of this article shall be taken, subscribed and filed with the board by all appointed officers.

**[(e)] (F)** Each director, officer and employee specified by the board shall give such bond in such form and amount as the board may require, the premium for which shall be paid by the Authority.

ARTICLE VII

FINANCING

18.

(a) Commitments on behalf of the portion of the zone located in Virginia shall be by contract or agreement by the Authority with the Northern Virginia Transportation District, or its component governments, as authorized in the Transportation District Act of 1964 (ch. 631, 1964 Acts of Virginia Assembly), to contribute to the capital required for the construction and/or acquisition of facilities specified in a mass transit plan adopted as provided in Article VI, or any alteration, revision or amendment thereof, and for meeting expenses and obligations in the operation of such facilities. No such contract or agreement, however, shall be entered into by the Authority with the Northern Virginia Transportation District unless said District has entered into the contracts or agreements with its member governments, as contemplated by § 1(b)(4) of Article 4 of said act, which contracts or agreements expressly provide that such contracts or agreements shall inure to the benefit of the Authority and shall be enforceable by the Authority in accordance with the provisions of § 2, Article 5 of said act, and such contracts or agreements are acceptable to the Board. The General Assembly of Virginia hereby authorizes and designates the Authority as the agency to plan for and provide transit facilities and services for the area of Virginia encompassed within the zone within the contemplation of Article 1, § 3(c) of said act.

(b) Commitments on behalf of the portion of the zone located in Maryland shall be by contract or agreement by the Authority with the Washington Suburban Transit District, pursuant to which the Authority undertakes to provide transit facilities and service in consideration for the agreement by said district to contribute to the capital required for the construction and/or acquisition of facilities specified in a mass transit plan adopted as provided in Article VI, or in any alteration, revision or amendment thereof, and for meeting expenses and obligations incurred in the operation of such facilities.

(c) With respect to the federal government, the commitment or obligation to render financial assistance shall be created by appropriation or in such other manner, or by such other legislation, as the Congress shall determine. Commitments by the District of Columbia shall be by contract or agreement between the governing body of the District of Columbia and the Authority, pursuant to which the Authority undertakes, subject to the provisions of Section 20 hereof, to provide transit facilities and service in consideration for the undertaking by the District of Columbia to contribute to the capital required for the construction and/or acquisition of facilities specified in a mass transit plan adopted as provided in Article VI, or in any alteration, revision or amendment thereof, and for meeting expenses and obligations incurred in the operation of such facilities.

~~(D) (1) IN THIS SUBSECTION, “DEDICATED FUNDING SOURCE” MEANS ANY SOURCE OF FUNDING THAT IS EARMARKED OR REQUIRED UNDER STATE OR LOCAL LAW TO BE USED TO MATCH FEDERAL APPROPRIATIONS AUTHORIZED UNDER TITLE VI, § 601, P.L. 110-432 FOR PAYMENTS TO THE AUTHORITY.~~

~~(2) ALL PAYMENTS MADE BY THE LOCAL SIGNATORY SIGNATORY GOVERNMENTS FOR THE AUTHORITY FOR THE PURPOSE OF MATCHING FEDERAL FUNDS APPROPRIATED IN ANY GIVEN YEAR AS AUTHORIZED UNDER TITLE VI, § 601, P.L. 110-432 REGARDING FUNDING OF CAPITAL AND PREVENTIVE MAINTENANCE PROJECTS OF THE AUTHORITY SHALL BE MADE FROM AMOUNTS DERIVED FROM A DEDICATED FUNDING SOURCE SOURCES.~~

(2) FOR PURPOSES OF THIS PARAGRAPH (D), A “DEDICATED FUNDING SOURCE” MEANS ANY SOURCE OF FUNDING THAT IS EARMARKED OR REQUIRED UNDER STATE OR LOCAL LAW TO BE USED TO MATCH FEDERAL APPROPRIATIONS AUTHORIZED UNDER TITLE VI, § 601, P.L. 110-432 FOR PAYMENTS TO THE AUTHORITY.

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

### Article – Transportation

10-205.

(a) In accordance with and subject to the principle that, if there is substantial State financial support for the planned rapid rail mass transit system in one metropolitan area of this State, there should be substantial State financial support for the planned rapid rail mass transit system in the other metropolitan area of this State, and subject to the appropriation requirements and budgetary provisions of § 3-216(d) of this article, the Department shall provide for grants to the Washington Suburban Transit District in an amount equal to the current expenditures required of the Washington Suburban Transit District in accordance with capital contributions agreements between the Washington Metropolitan Area Transit Authority, the



Washington Suburban Transit District, and other participating jurisdictions. The Washington Suburban Transit District shall consult with the Secretary of Transportation prior to the execution of any capital contributions agreement. Expenditures required of the Washington Suburban Transit District for projects and programs not included in the "Adopted Regional System – 1968" revised as of January 1, 1992, are only eligible for State funding in accordance with subsection [(e)] (F) of this section.

(b) (1) Subject to the appropriation requirements and budgetary provisions of § 3–216(d) of this article and upon receipt of an approval of a grant application in such form and detail as the Secretary shall reasonably require, the Department shall provide for annual grants to the Washington Suburban Transit District for a share of the operating deficits of the regional transit system for which the District is responsible. "Operating deficit" means operating costs less:

(i) The greater of operating revenues or 50 percent of the operating costs; and

(ii) All federal operating assistance.

(2) The Department's share shall equal 100 percent of the operating deficit.

(c) Subject to the appropriation requirements and budgetary provision of § 3–216(d) of this article, the Department shall provide for grants to the Washington Suburban Transit District in an amount equal to 100 percent of the net debt service assigned to the Washington Suburban Transit District on bonds issued by the Washington Metropolitan Area Transit Authority. In no event shall the amount of net debt service, including the refinancing of any debt, required of the Washington Suburban Transit District exceed the amount presently assigned on a year by year basis to the Washington Suburban Transit District, and payable through the year 2014. Nothing in this article shall preclude the use of bond proceeds for capital improvements and replacements of the "Adopted Regional System – 1968" revised as of January 1, 1992.

(d) (1) In accordance with and subject to the principle that, if there is substantial State financial support for rapid rail and bus transit capital replacement costs in one metropolitan area of this State, there should be substantial State financial support for the costs of similar needs in the other metropolitan area of this State, and in recognition of the fact that timely replacement of capital facilities and equipment is essential to safe and reliable transit service, the Department shall provide grants to fully fund the Washington Suburban Transit District's share of the Washington Metropolitan Area Transit Authority's capital equipment replacement programs.

(2) The grants under this subsection:

(i) Shall be made subject to the appropriation and budgetary provisions of § 3-216(d) of this article;

(ii) Shall be included in the State budget beginning in fiscal year 2000;

(iii) Notwithstanding any other provision of law, may be funded with revenues derived from:

1. Any State-enacted transportation fees or taxes; or
2. Federal transportation grants available to the State to fund transit capital equipment replacement; and

(iv) Shall be contingent on the receipt of a request by the District to the Department, based on annual capital improvements programs adopted by the Washington Metropolitan Area Transit Authority.

**(E) SUBJECT TO THE APPROPRIATION REQUIREMENTS AND BUDGETARY PROVISIONS OF § 3-216(D) OF THIS ARTICLE, THE DEPARTMENT SHALL PROVIDE GRANTS FROM AMOUNTS DERIVED FROM THE TRANSPORTATION TRUST FUND TO THE WASHINGTON SUBURBAN TRANSIT DISTRICT FOR THE PURPOSE OF FUNDING MARYLAND'S REQUIRED SHARE OF LOCAL FUNDS FOR THE WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY TO MATCH ANY FEDERAL FUNDS APPROPRIATED IN ANY GIVEN YEAR AUTHORIZED UNDER TITLE VI, § 601, P.L. 110-432.**

**[(e)] (F)** A grant by the Department to the Washington Suburban Transit District in excess of the provisions of subsection (a) of this section may be made only after approval by the Secretary.

SECTION 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act may not take effect until similar Acts are passed by the Commonwealth of Virginia and the District of Columbia; that the Commonwealth of Virginia and the District of Columbia are requested to concur in this Act of the General Assembly of Maryland by the enactment of substantially similar Acts; that the Department of Legislative Services shall notify the appropriate officials of the Commonwealth of Virginia, the District of Columbia, and the United States Congress of the enactment of this Act; and that upon the concurrence in this Act by the Commonwealth of Virginia, the District of Columbia, and the United States, the Governor of the State of Maryland shall issue a proclamation declaring this Act valid and effective and shall forward a copy of the proclamation to the Executive Director of the Department of Legislative Services.

SECTION 4. AND BE IT FURTHER ENACTED, That, subject to the provisions of Section 3 of this Act, this Act shall take effect July 1, 2009.

Approved by the Governor, April 14, 2009.

---

## Chapter 112

### (Senate Bill 985)

AN ACT concerning

#### **Health Insurance – Coverage for Off-Label Use of Drugs – Standard Reference Compendia**

FOR the purpose of altering the definition of “standard reference compendia” for purposes of health insurance coverage for off-label use of drugs; and generally relating to coverage for off-label use of drugs under health insurance.

BY repealing and reenacting, with amendments,

Article – Insurance

Section 15–804

Annotated Code of Maryland

(2006 Replacement Volume and 2008 Supplement)

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

#### **Article – Insurance**

15–804.

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

(2) “Medical literature” means scientific studies published in a peer-reviewed national professional medical journal.

(3) “Off-label use” means the prescription of a drug for a treatment other than those treatments stated in the labeling approved by the federal Food and Drug Administration.

(4) “Standard reference compendia” means:

~~(i) the United States Pharmacopoeia Drug Information;~~

~~(ii) the American Medical Association Drug Evaluations; and~~

~~(iii) the American Hospital Formulary Service Drug Information;~~

~~(II) THE NATIONAL COMPREHENSIVE CANCER NETWORK DRUGS & BIOLOGICS COMPENDIUM;~~

~~(III) THE THOMSON MICROMEDEX DRUGDEX;~~

~~(IV) THE ELSEVIER GOLD STANDARD'S CLINICAL PHARMACOLOGY; OR~~

~~(V) ANY OTHER AUTHORITY COMPENDIA AS RECOGNIZED PERIODICALLY BY THE FEDERAL SECRETARY OF HEALTH AND HUMAN SERVICES OR THE COMMISSIONER.~~

(b) This section does not:

(1) alter any law that limits the coverage of drugs that have not been approved by the federal Food and Drug Administration;

(2) require coverage of a drug if the federal Food and Drug Administration has determined use of the drug to be contraindicated; or

(3) require coverage of experimental drugs not approved for any indication by the federal Food and Drug Administration.

(c) (1) This subsection applies to each health insurance policy or contract that is delivered or issued for delivery in the State to an employer or individual on a group or individual basis, including a contract issued by a health maintenance organization.

(2) A policy or contract subject to this subsection that provides coverage for drugs may not exclude coverage of a drug for an off-label use of the drug if the drug is recognized for treatment in any of the standard reference compendia or in the medical literature.

(3) Coverage of a drug required by this subsection also includes medically necessary services associated with the administration of the drug.

(d) The Commissioner may direct a person, including a health maintenance organization, that issues a health insurance policy or contract to make payments required by this section.

(e) (1) The Secretary of Health and Mental Hygiene shall appoint a panel of medical experts to review the off-label use of drugs not included in any of the standard reference compendia or in the medical literature and to advise the Secretary whether a particular off-label use of a drug is medically appropriate.

(2) The panel consists of:

(i) three medical oncologists chosen by the State Medical Oncology Association;

(ii) two specialists in the management of AIDS patients chosen by the State AIDS medical provider organizations;

(iii) one specialist in heart disease appointed by the University of Maryland Medical System; and

(iv) one physician chosen by the Medical and Chirurgical Faculty.

(3) The panel shall make recommendations periodically and whenever the Secretary of Health and Mental Hygiene is notified of a particular dispute about payment for an off-label use of a drug.

(4) Within 30 days after the panel's recommendations, the Secretary shall submit a written report on the recommendations to the Commissioner.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

**Approved by the Governor, April 14, 2009.**

---

## Chapter 113

**(House Bill 456)**

AN ACT concerning

**Health Insurance – Coverage for Off-Label Use of Drugs –  
Standard Reference Compendia**

FOR the purpose of altering the definition of “standard reference compendia” for purposes of health insurance coverage for off-label use of drugs; and generally relating to coverage for off-label use of drugs under health insurance.

BY repealing and reenacting, with amendments,

Article – Insurance

Section 15–804

Annotated Code of Maryland

(2006 Replacement Volume and 2008 Supplement)

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

**Article – Insurance**

15–804.

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

(2) “Medical literature” means scientific studies published in a peer-reviewed national professional medical journal.

(3) “Off-label use” means the prescription of a drug for a treatment other than those treatments stated in the labeling approved by the federal Food and Drug Administration.

(4) “Standard reference compendia” means:

~~(i) the United States Pharmacopeia Drug Information;~~

~~(ii) the American Medical Association Drug Evaluations; and~~

~~(iii) the American Hospital Formulary Service Drug Information;~~

~~(iv) THE NATIONAL COMPREHENSIVE CANCER NETWORK DRUGS & BIOLOGICS COMPENDIUM;~~

~~(v) THE THOMSON MICROMEDEX DRUGDEX;~~

~~(vi) THE ELSEVIER GOLD STANDARD’S CLINICAL PHARMACOLOGY; OR~~

~~(vii) ANY OTHER AUTHORITY COMPENDIA AS RECOGNIZED PERIODICALLY BY THE FEDERAL SECRETARY OF HEALTH AND HUMAN SERVICES OR THE COMMISSIONER.~~

(b) This section does not:

(1) alter any law that limits the coverage of drugs that have not been approved by the federal Food and Drug Administration;

(2) require coverage of a drug if the federal Food and Drug Administration has determined use of the drug to be contraindicated; or

(3) require coverage of experimental drugs not approved for any indication by the federal Food and Drug Administration.

(c) (1) This subsection applies to each health insurance policy or contract that is delivered or issued for delivery in the State to an employer or individual on a group or individual basis, including a contract issued by a health maintenance organization.

(2) A policy or contract subject to this subsection that provides coverage for drugs may not exclude coverage of a drug for an off-label use of the drug if the drug is recognized for treatment in any of the standard reference compendia or in the medical literature.

(3) Coverage of a drug required by this subsection also includes medically necessary services associated with the administration of the drug.

(d) The Commissioner may direct a person, including a health maintenance organization, that issues a health insurance policy or contract to make payments required by this section.

(e) (1) The Secretary of Health and Mental Hygiene shall appoint a panel of medical experts to review the off-label use of drugs not included in any of the standard reference compendia or in the medical literature and to advise the Secretary whether a particular off-label use of a drug is medically appropriate.

(2) The panel consists of:

(i) three medical oncologists chosen by the State Medical Oncology Association;

(ii) two specialists in the management of AIDS patients chosen by the State AIDS medical provider organizations;

(iii) one specialist in heart disease appointed by the University of Maryland Medical System; and

(iv) one physician chosen by the Medical and Chirurgical Faculty.

(3) The panel shall make recommendations periodically and whenever the Secretary of Health and Mental Hygiene is notified of a particular dispute about payment for an off-label use of a drug.

(4) Within 30 days after the panel's recommendations, the Secretary shall submit a written report on the recommendations to the Commissioner.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, April 14, 2009.

---

## Chapter 114

### (Senate Bill 1036)

AN ACT concerning

#### **Credit Regulation – Mortgage Loans – Proof of Ability to Repay – Exception**

FOR the purpose of establishing ~~an exception~~ certain exceptions for certain mortgage loans that refinance an existing mortgage loan to the requirement that the due regard certain lenders and credit grantors must give to a borrower's ability to repay certain mortgage loans include consideration of the borrower's debt to income ratio and verification in a certain manner of certain income and assets of the borrower; making this Act an emergency measure; and generally relating to mortgage loans.

BY repealing and reenacting, without amendments,

Article – Commercial Law

Section 12–127(b), 12–311(d), 12–409.1(b), 12–925(b), and 12–1029(b)

Annotated Code of Maryland

(2005 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,

Article – Commercial Law

Section 12–127(c), 12–311(e), 12–409.1(c), 12–925(c), and 12–1029(c)

Annotated Code of Maryland

(2005 Replacement Volume and 2008 Supplement)

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

#### **Article – Commercial Law**

12–127.

(b) A lender may not make a mortgage loan without giving due regard to the borrower's ability to repay the mortgage loan in accordance with its terms, including the fully indexed rate of the mortgage loan, if applicable, and property taxes and homeowner's insurance whether or not an escrow account is established for the collection and payment of these expenses.

(c) (1) Due regard to a borrower's ability to repay a mortgage loan must include:



(i) Consideration of the borrower's debt to income ratio, including existing debts and other obligations; and

(ii) Verification of the borrower's gross monthly income and assets by review of third-party written documentation reasonably believed by the lender to be accurate and complete.

(2) Acceptable third-party written documentation includes:

(i) The borrower's Internal Revenue Service form W-2;

(ii) A copy of the borrower's income tax return;

(iii) Payroll receipts;

(iv) The records of a financial institution; or

(v) Other third-party documents that provide reasonably reliable evidence of the borrower's income or assets.

(3) This subsection does not apply to a mortgage loan [approved]:

**(I) APPROVED** for government guaranty by the Federal Housing Administration, THE Veterans Administration, THE UNITED STATES DEPARTMENT OF AGRICULTURE, THE MARYLAND DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT, or THE Community Development Administration; OR

**(II) THAT REFINANCES AN EXISTING MORTGAGE LOAN IF THE REFINANCE MORTGAGE LOAN IS:**

**1. OFFERED UNDER THE FEDERAL HOMEOWNER AFFORDABILITY AND STABILITY PLAN; AND**

**2. MADE AVAILABLE BY THE FEDERAL HOME LOAN MORTGAGE CORPORATION OR THE FEDERAL NATIONAL MORTGAGE ASSOCIATION.**

12-311.

(d) A lender may not make a mortgage loan without giving due regard to the borrower's ability to repay the mortgage loan in accordance with its terms, including the fully indexed rate of the mortgage loan, if applicable, and property taxes and homeowner's insurance whether or not an escrow account is established for the collection and payment of these expenses.

(e) (1) Due regard to a borrower's ability to repay a mortgage loan must include:

(i) Consideration of the borrower's debt to income ratio, including existing debts and other obligations; and

(ii) Verification of the borrower's gross monthly income and assets by review of third-party written documentation reasonably believed by the lender to be accurate and complete.

(2) Acceptable third-party written documentation includes:

(i) The borrower's Internal Revenue Service form W-2;

(ii) A copy of the borrower's income tax return;

(iii) Payroll receipts;

(iv) The records of a financial institution; or

(v) Other third-party documents that provide reasonably reliable evidence of the borrower's income or assets.

(3) This subsection does not apply to a mortgage loan [approved]:

**(I) APPROVED** for government guaranty by the Federal Housing Administration, **THE** Veterans Administration, **THE UNITED STATES DEPARTMENT OF AGRICULTURE, THE MARYLAND DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT,** or **THE** Community Development Administration; **OR**

**(II) THAT REFINANCES AN EXISTING MORTGAGE LOAN IF THE REFINANCE MORTGAGE LOAN IS:**

**1. OFFERED UNDER THE FEDERAL HOMEOWNER AFFORDABILITY AND STABILITY PLAN; AND**

**2. MADE AVAILABLE BY THE FEDERAL HOME LOAN MORTGAGE CORPORATION OR THE FEDERAL NATIONAL MORTGAGE ASSOCIATION.**

12-409.1.

(b) A lender may not make a secondary mortgage loan without giving due regard to the borrower's ability to repay the secondary mortgage loan in accordance

with its terms, including the fully indexed rate of the secondary mortgage loan, if applicable, and property taxes and homeowner's insurance whether or not an escrow account is established for the collection and payment of these expenses.

(c) (1) Due regard to a borrower's ability to repay a secondary mortgage loan must include:

(i) Consideration of the borrower's debt to income ratio, including existing debts and other obligations; and

(ii) Verification of the borrower's gross monthly income and assets by review of third-party written documentation reasonably believed by the lender to be accurate and complete.

(2) Acceptable third-party written documentation includes:

(i) The borrower's Internal Revenue Service form W-2;

(ii) A copy of the borrower's income tax return;

(iii) Payroll receipts;

(iv) The records of a financial institution; or

(v) Other third-party documents that provide reasonably reliable evidence of the borrower's income or assets.

(3) This subsection does not apply to a secondary mortgage loan [approved]:

**(I) APPROVED** for government guaranty by the Federal Housing Administration, THE Veterans Administration, THE UNITED STATES DEPARTMENT OF AGRICULTURE, THE MARYLAND DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT, or THE Community Development Administration; **OR**

**(II) THAT REFINANCES AN EXISTING MORTGAGE LOAN IF THE REFINANCE MORTGAGE LOAN IS:**

**1. OFFERED UNDER THE FEDERAL HOMEOWNER AFFORDABILITY AND STABILITY PLAN; AND**

**2. MADE AVAILABLE BY THE FEDERAL HOME LOAN MORTGAGE CORPORATION OR THE FEDERAL NATIONAL MORTGAGE ASSOCIATION.**

12-925.

(b) A credit grantor may not make a mortgage loan without giving due regard to the borrower's ability to repay the mortgage loan in accordance with its terms, including the fully indexed rate of the mortgage loan, if applicable, and property taxes and homeowner's insurance whether or not an escrow account is established for the collection and payment of these expenses.

(c) (1) Due regard to a borrower's ability to repay a mortgage loan must include:

(i) Consideration of the borrower's debt to income ratio, including existing debts and other obligations; and

(ii) Verification of the borrower's gross monthly income and assets by review of third-party written documentation reasonably believed by the credit grantor to be accurate and complete.

(2) Acceptable third-party written documentation includes:

(i) The borrower's Internal Revenue Service form W-2;

(ii) A copy of the borrower's income tax return;

(iii) Payroll receipts;

(iv) The records of a financial institution; or

(v) Other third-party documents that provide reasonably reliable evidence of the borrower's income or assets.

(3) This subsection does not apply to a mortgage loan [approved]:

(I) **APPROVED** for government guaranty by the Federal Housing Administration, **THE** Veterans Administration, **THE UNITED STATES DEPARTMENT OF AGRICULTURE, THE MARYLAND DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT,** or **THE** Community Development Administration; OR

(II) **THAT REFINANCES AN EXISTING MORTGAGE LOAN IF THE REFINANCE MORTGAGE LOAN IS:**

**1. OFFERED UNDER THE FEDERAL HOMEOWNER AFFORDABILITY AND STABILITY PLAN; AND**

**2. MADE AVAILABLE BY THE FEDERAL HOME LOAN MORTGAGE CORPORATION OR THE FEDERAL NATIONAL MORTGAGE ASSOCIATION.**

12-1029.

(b) A credit grantor may not make a mortgage loan without giving due regard to the borrower's ability to repay the mortgage loan in accordance with its terms, including the fully indexed rate of the mortgage loan, if applicable, and property taxes and homeowner's insurance whether or not an escrow account is established for the collection and payment of these expenses.

(c) (1) Due regard to a borrower's ability to repay a mortgage loan must include:

(i) Consideration of the borrower's debt to income ratio, including existing debts and other obligations; and

(ii) Verification of the borrower's gross monthly income and assets by review of third-party written documentation reasonably believed by the credit grantor to be accurate and complete.

(2) Acceptable third-party written documentation includes:

(i) The borrower's Internal Revenue Service form W-2;

(ii) A copy of the borrower's income tax return;

(iii) Payroll receipts;

(iv) The records of a financial institution; or

(v) Other third-party documents that provide reasonably reliable evidence of the borrower's income or assets.

(3) This subsection does not apply to a mortgage loan [approved]:

**(I) APPROVED** for government guaranty by the Federal Housing Administration, THE Veterans Administration, THE UNITED STATES DEPARTMENT OF AGRICULTURE, THE MARYLAND DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT, or THE Community Development Administration; **OR**

**(II) THAT REFINANCES AN EXISTING MORTGAGE LOAN IF THE REFINANCE MORTGAGE LOAN IS:**

**1. OFFERED UNDER THE FEDERAL HOMEOWNER AFFORDABILITY AND STABILITY PLAN; AND**

**2. MADE AVAILABLE BY THE FEDERAL HOME LOAN MORTGAGE CORPORATION OR THE FEDERAL NATIONAL MORTGAGE ASSOCIATION.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a ye and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

**Approved by the Governor, April 14, 2009.**

---

## Chapter 115

**(House Bill 1535)**

AN ACT concerning

**Credit Regulation – Mortgage Loans – Proof of Ability to Repay – Exception**

FOR the purpose of establishing ~~an exception~~ certain exceptions for certain mortgage loans that refinance an existing mortgage loan to the requirement that the due regard certain lenders and credit grantors must give to a borrower's ability to repay certain mortgage loans include consideration of the borrower's debt to income ratio and verification in a certain manner of certain income and assets of the borrower; making this Act an emergency measure; and generally relating to mortgage loans.

BY repealing and reenacting, without amendments,

Article – Commercial Law

Section 12–127(b), 12–311(d), 12–409.1(b), 12–925(b), and 12–1029(b)

Annotated Code of Maryland

(2005 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,

Article – Commercial Law

Section 12–127(c), 12–311(e), 12–409.1(c), 12–925(c), and 12–1029(c)

Annotated Code of Maryland

(2005 Replacement Volume and 2008 Supplement)

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

**Article – Commercial Law**

12–127.

(b) A lender may not make a mortgage loan without giving due regard to the borrower's ability to repay the mortgage loan in accordance with its terms, including the fully indexed rate of the mortgage loan, if applicable, and property taxes and homeowner's insurance whether or not an escrow account is established for the collection and payment of these expenses.

(c) (1) Due regard to a borrower's ability to repay a mortgage loan must include:

(i) Consideration of the borrower's debt to income ratio, including existing debts and other obligations; and

(ii) Verification of the borrower's gross monthly income and assets by review of third-party written documentation reasonably believed by the lender to be accurate and complete.

(2) Acceptable third-party written documentation includes:

(i) The borrower's Internal Revenue Service form W-2;

(ii) A copy of the borrower's income tax return;

(iii) Payroll receipts;

(iv) The records of a financial institution; or

(v) Other third-party documents that provide reasonably reliable evidence of the borrower's income or assets.

(3) This subsection does not apply to a mortgage loan [approved]:

**(I) APPROVED** for government guaranty by the Federal Housing Administration, **THE** Veterans Administration, **THE UNITED STATES DEPARTMENT OF AGRICULTURE, THE MARYLAND DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT,** or **THE** Community Development Administration; **OR**

**(II) THAT REFINANCES AN EXISTING MORTGAGE LOAN IF THE REFINANCE MORTGAGE LOAN IS:**

**1. OFFERED UNDER THE FEDERAL HOMEOWNER AFFORDABILITY AND STABILITY PLAN; AND**

**2. MADE AVAILABLE BY THE FEDERAL HOME LOAN MORTGAGE CORPORATION OR THE FEDERAL NATIONAL MORTGAGE ASSOCIATION.**

12-311.

(d) A lender may not make a mortgage loan without giving due regard to the borrower's ability to repay the mortgage loan in accordance with its terms, including the fully indexed rate of the mortgage loan, if applicable, and property taxes and homeowner's insurance whether or not an escrow account is established for the collection and payment of these expenses.

(e) (1) Due regard to a borrower's ability to repay a mortgage loan must include:

(i) Consideration of the borrower's debt to income ratio, including existing debts and other obligations; and

(ii) Verification of the borrower's gross monthly income and assets by review of third-party written documentation reasonably believed by the lender to be accurate and complete.

(2) Acceptable third-party written documentation includes:

(i) The borrower's Internal Revenue Service form W-2;

(ii) A copy of the borrower's income tax return;

(iii) Payroll receipts;

(iv) The records of a financial institution; or

(v) Other third-party documents that provide reasonably reliable evidence of the borrower's income or assets.

(3) This subsection does not apply to a mortgage loan [approved]:

**(I) APPROVED** for government guaranty by the Federal Housing Administration, THE Veterans Administration, THE UNITED STATES DEPARTMENT OF AGRICULTURE, THE MARYLAND DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT, or THE Community Development Administration; **OR**



**(II) THAT REFINANCES AN EXISTING MORTGAGE LOAN IF THE REFINANCE MORTGAGE LOAN IS:**

**1. OFFERED UNDER THE FEDERAL HOMEOWNER AFFORDABILITY AND STABILITY PLAN; AND**

**2. MADE AVAILABLE BY THE FEDERAL HOME LOAN MORTGAGE CORPORATION OR THE FEDERAL NATIONAL MORTGAGE ASSOCIATION.**

12-409.1.

(b) A lender may not make a secondary mortgage loan without giving due regard to the borrower's ability to repay the secondary mortgage loan in accordance with its terms, including the fully indexed rate of the secondary mortgage loan, if applicable, and property taxes and homeowner's insurance whether or not an escrow account is established for the collection and payment of these expenses.

(c) (1) Due regard to a borrower's ability to repay a secondary mortgage loan must include:

(i) Consideration of the borrower's debt to income ratio, including existing debts and other obligations; and

(ii) Verification of the borrower's gross monthly income and assets by review of third-party written documentation reasonably believed by the lender to be accurate and complete.

(2) Acceptable third-party written documentation includes:

(i) The borrower's Internal Revenue Service form W-2;

(ii) A copy of the borrower's income tax return;

(iii) Payroll receipts;

(iv) The records of a financial institution; or

(v) Other third-party documents that provide reasonably reliable evidence of the borrower's income or assets.

(3) This subsection does not apply to a secondary mortgage loan [approved]:

(I) **APPROVED** for government guaranty by the Federal Housing Administration, THE Veterans Administration, THE UNITED STATES DEPARTMENT OF AGRICULTURE, THE MARYLAND DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT, or THE Community Development Administration; **OR**

(II) **THAT REFINANCES AN EXISTING MORTGAGE LOAN IF THE REFINANCE MORTGAGE LOAN IS:**

**1. OFFERED UNDER THE FEDERAL HOMEOWNER AFFORDABILITY AND STABILITY PLAN; AND**

**2. MADE AVAILABLE BY THE FEDERAL HOME LOAN MORTGAGE CORPORATION OR THE FEDERAL NATIONAL MORTGAGE ASSOCIATION.**

12-925.

(b) A credit grantor may not make a mortgage loan without giving due regard to the borrower's ability to repay the mortgage loan in accordance with its terms, including the fully indexed rate of the mortgage loan, if applicable, and property taxes and homeowner's insurance whether or not an escrow account is established for the collection and payment of these expenses.

(c) (1) Due regard to a borrower's ability to repay a mortgage loan must include:

(i) Consideration of the borrower's debt to income ratio, including existing debts and other obligations; and

(ii) Verification of the borrower's gross monthly income and assets by review of third-party written documentation reasonably believed by the credit grantor to be accurate and complete.

(2) Acceptable third-party written documentation includes:

(i) The borrower's Internal Revenue Service form W-2;

(ii) A copy of the borrower's income tax return;

(iii) Payroll receipts;

(iv) The records of a financial institution; or

(v) Other third-party documents that provide reasonably reliable evidence of the borrower's income or assets.

(3) This subsection does not apply to a mortgage loan [approved]:

(I) **APPROVED** for government guaranty by the Federal Housing Administration, THE Veterans Administration, THE UNITED STATES DEPARTMENT OF AGRICULTURE, THE MARYLAND DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT, or THE Community Development Administration; OR

(II) **THAT REFINANCES AN EXISTING MORTGAGE LOAN IF THE REFINANCE MORTGAGE LOAN IS:**

**1. OFFERED UNDER THE FEDERAL HOMEOWNER AFFORDABILITY AND STABILITY PLAN; AND**

**2. MADE AVAILABLE BY THE FEDERAL HOME LOAN MORTGAGE CORPORATION OR THE FEDERAL NATIONAL MORTGAGE ASSOCIATION.**

12-1029.

(b) A credit grantor may not make a mortgage loan without giving due regard to the borrower's ability to repay the mortgage loan in accordance with its terms, including the fully indexed rate of the mortgage loan, if applicable, and property taxes and homeowner's insurance whether or not an escrow account is established for the collection and payment of these expenses.

(c) (1) Due regard to a borrower's ability to repay a mortgage loan must include:

(i) Consideration of the borrower's debt to income ratio, including existing debts and other obligations; and

(ii) Verification of the borrower's gross monthly income and assets by review of third-party written documentation reasonably believed by the credit grantor to be accurate and complete.

(2) Acceptable third-party written documentation includes:

(i) The borrower's Internal Revenue Service form W-2;

(ii) A copy of the borrower's income tax return;

(iii) Payroll receipts;

(iv) The records of a financial institution; or

(v) Other third-party documents that provide reasonably reliable evidence of the borrower's income or assets.

(3) This subsection does not apply to a mortgage loan [approved]:

(I) **APPROVED** for government guaranty by the Federal Housing Administration, **THE** Veterans Administration, **THE UNITED STATES DEPARTMENT OF AGRICULTURE, THE MARYLAND DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT,** or **THE** Community Development Administration; OR

(II) **THAT REFINANCES AN EXISTING MORTGAGE LOAN IF THE REFINANCE MORTGAGE LOAN IS:**

**1. OFFERED UNDER THE FEDERAL HOMEOWNER AFFORDABILITY AND STABILITY PLAN; AND**

**2. MADE AVAILABLE BY THE FEDERAL HOME LOAN MORTGAGE CORPORATION OR THE FEDERAL NATIONAL MORTGAGE ASSOCIATION.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a ye and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

**Approved by the Governor, April 14, 2009.**

---

## Chapter 116

(Senate Bill 1039)

AN ACT concerning

### Prince George's County Hospital Authority

FOR the purpose of extending the Prince George's County Hospital Authority's bidding process; clarifying the duration of a certain funding commitment of the State and Prince George's County; authorizing the Maryland Health Care Commission to make certain exemptions; requiring the Authority to make certain assessments and take certain actions regarding certain bids for the Prince George's County health care system; requiring the Authority to complete

its obligations by a certain time; requiring certain agencies to serve as consultants to the Authority; specifying the role of certain agency consultants; declaring the intent of the General Assembly; making this Act an emergency measure; and generally relating to the Prince George's County Hospital Authority.

BY repealing and reenacting, without amendments,  
Article – Health – General  
Section 24–1602(a)  
Annotated Code of Maryland  
(2005 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,  
Article – Health – General  
Section 24–1602(b), 24–1604(b), and 24–1605(f), (h), and (k)  
Annotated Code of Maryland  
(2005 Replacement Volume and 2008 Supplement)

BY adding to  
Article – Health – General  
Section 24–1605(l) and (m) and 24–1605.1  
Annotated Code of Maryland  
(2005 Replacement Volume and 2008 Supplement)

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

**Article – Health – General**

24–1602.

(a) There is a body corporate and politic known as the Prince George's County Hospital Authority.

(b) The mission of the Authority is to **[establish]**:

(1) **ESTABLISH** and implement an open, transparent, and competitive bidding process for the purpose of transferring the Prince George's County health care system to one or more new owners; **AND**

(2) **EXTEND THE BIDDING PROCESS:**

(i) **AS NECESSARY TO FULFILL THE PURPOSES OF THIS SUBTITLE; AND**

**(II) IN A MANNER CONSISTENT WITH THE PURPOSES OF THIS SUBTITLE.**

24-1604.

(b) **(1)** Within 60 days after the Authority is established, the Governor, the County Executive, and the County Council, with input from the presiding officers and fiscal leadership of the General Assembly, shall reach agreement on the funding the State and the county will commit for support of the Prince George's County health care system if the bidding process established under § 24-1605 of this subtitle results in an agreement to transfer the Prince George's County health care system to a new owner or owners.

**(2) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE STATE AND THE COUNTY SHALL FULFILL THEIR AGREEMENT ON FUNDING FOR THE SUPPORT OF THE HEALTH CARE SYSTEM.**

**(II) THE STATE AND THE COUNTY SHALL BE RELIEVED OF SOME OR ALL OF THEIR RESPECTIVE OBLIGATIONS TO PROVIDE LONG-TERM FUNDING TO SUPPORT THE HEALTH CARE SYSTEM:**

~~A~~ **1. ONLY TO THE EXTENT THAT ANY FUND BALANCE REMAINS AFTER THE TRANSFER OF ALL THE HEALTH CARE SYSTEM'S COMPONENTS TO A NEW OWNER OR OWNERS; OR**

~~B~~ **2. AFTER THE AUTHORITY HAS EXPIRED WITHOUT AGREEMENT ON THE TRANSFER OF ALL COMPONENTS OF THE SYSTEM TO A NEW OWNER OR OWNERS.**

24-1605.

(f) **(1) THE MARYLAND HEALTH CARE COMMISSION MAY ISSUE AN EXEMPTION FROM CERTIFICATE OF NEED AND WAIVE THE REQUIREMENTS OF THE STATE HEALTH PLAN IN ORDER TO FACILITATE A RECOMMENDATION BY THE AUTHORITY TO RELOCATE BEDS OR SERVICES OF ALL OR PART OF A FACILITY.**

**(2)** Any health care entity that [receives the transfer] **ACQUIRES ALL OR PART** of the Prince George's County health care system shall be recognized as a merged asset system for certificate of need purposes under Title 19, Subtitle 1 of this article.

(h) Except as otherwise provided in [subsection (i) of] this section **AND § 24-1604(B)(2) OF THIS SUBTITLE**, if the Authority fails to conduct the bidding process in accordance with the requirements, time frame, and deadlines set forth in

this subtitle, the State and the county shall be relieved of their obligation to commit financial support to the Prince George's County health care system as agreed upon under § 24-1604(b) and (c) of this subtitle.

(k) If, at the end of the extension of time and not more than 60 days from the beginning of the 2009 General Assembly, the Authority has not reached a final agreement on the transfer of the Prince George's County health care system to a successful bidder[.]:

(1) [the] **THE** State and the county shall [be relieved of] **CONTINUE TO FULFILL** their [obligation to commit financial support to the Prince George's County health care system as agreed upon under § 24-1604(b) and (c)] **FUNDING AGREEMENT AS SET FORTH IN § 24-1604(B)(2)** of this subtitle; **AND**

(2) **NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE AUTHORITY SHALL ASSESS ANY BID OR COMBINATION OF BIDS THE AUTHORITY HAS RECEIVED TO DETERMINE:**

(i) **WHETHER ANY BID OR COMBINATION OF BIDS ~~SATISFY~~ SATISFIES THE AUTHORITY'S MANDATE TO TRANSFER THE PRINCE GEORGE'S COUNTY HEALTH CARE SYSTEM IN ITS ENTIRETY TO A NEW OWNER OR OWNERS; AND**

(ii) **WHETHER ONE OR MORE BIDDERS WOULD BE CAPABLE OF MEETING THE REQUIREMENTS SET FORTH IN § 24-1605(C) OF THIS SUBTITLE AND HAS SUBMITTED A BID THAT MEETS THOSE REQUIREMENTS.**

(L) **IF THE AUTHORITY DETERMINES THAT ANY BID OR COMBINATION OF BIDS ~~SATISFY~~ SATISFIES THE REQUIREMENTS OF SUBSECTION (K) OF THIS SECTION, AND AFTER CONSULTATION WITH STAKEHOLDERS, THE AUTHORITY SHALL:**

(1) **PROCEED TOWARDS A FINAL AGREEMENT ON THE TRANSFER OF THE HEALTH CARE SYSTEM; AND**

(2) **NOTIFY STAKEHOLDERS IN ACCORDANCE WITH § 24-1602(G)(2) OF THIS SUBTITLE.**

(M) **THE AUTHORITY SHALL COMPLETE ITS OBLIGATIONS UNDER THIS SECTION PRIOR TO THE EXPIRATION OF THE AUTHORITY.**

**24-1605.1.**

(A) **TO FACILITATE THE TRANSFER OF THE PRINCE GEORGE'S COUNTY HEALTH CARE SYSTEM UNDER § 24-1605(K)(2) OF THIS SUBTITLE, THE**

**FOLLOWING AGENCIES SHALL DESIGNATE INDIVIDUALS TO SERVE AS ~~ADVISORS~~  
ADVISERS TO THE AUTHORITY:**

- (1) THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE;**
- (2) THE PRINCE GEORGE'S COUNTY HEALTH DEPARTMENT;**
- (3) THE MARYLAND HEALTH CARE COMMISSION;**
- (4) THE MARYLAND HEALTH SERVICES COST REVIEW COMMISSION;**
- (5) THE DEPARTMENT OF BUSINESS AND ECONOMIC DEVELOPMENT;**
- (6) THE PRINCE GEORGE'S COUNTY ECONOMIC DEVELOPMENT CORPORATION;**
- (7) THE MARYLAND HEALTH AND HIGHER EDUCATION FINANCING AUTHORITY;**
- (8) THE MARYLAND INSTITUTE OF EMERGENCY MEDICAL SERVICES SYSTEM;**
- (9) THE GOVERNOR'S OFFICE OF HOMELAND SECURITY;**
- (10) THE COMMUNITY HEALTH RESOURCES COMMISSION; AND**
- (11) THE MARYLAND LIFE SCIENCES ADVISORY BOARD.**

**(B) INDIVIDUALS DESIGNATED UNDER SUBSECTION (A) OF THIS SECTION SHALL SERVE AS CONSULTANTS TO THE AUTHORITY AND SHALL, IF REQUESTED BY THE AUTHORITY:**

- (1) ASSIST THE AUTHORITY IN THE EVALUATION OF ANY PROPOSALS SUBMITTED TO THE AUTHORITY, TO THE EXTENT THAT THE AUTHORITY SHOULD SPECIFICALLY REQUEST THE ASSISTANCE; AND**
- (2) ASSIST THE AUTHORITY IN ITS DISCUSSIONS AND NEGOTIATIONS WITH ANY BIDDERS, TO THE EXTENT THAT THE AUTHORITY SHOULD SPECIFICALLY REQUEST THE ASSISTANCE.**



(C) INDIVIDUALS DESIGNATED UNDER SUBSECTION (A) OF THIS SECTION SHALL BE SUBJECT TO ANY CONFIDENTIALITY AGREEMENTS BINDING ON THE AUTHORITY AND ITS STAFF.

(D) AGENCIES DESIGNATING INDIVIDUALS UNDER SUBSECTION (A) OF THIS SECTION MAY ADOPT APPROPRIATE INTERNAL POLICIES OR RESTRICTIONS TO ASSURE THE INTEGRITY OF ANY SUBSEQUENT REGULATORY PROCEEDINGS.

SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that the Authority continue its bid review process and proceed towards a final agreement on the transfer of the Prince George's County health care system as provided under Section 1 of this Act and any agreements in effect on January 1, 2009, relating to the transfer of the health care system shall remain in effect consistent with Section 1 of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a ye and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

Approved by the Governor, April 14, 2009.

---

## Chapter 117

(House Bill 1486)

AN ACT concerning

### Prince George's County Hospital Authority

FOR the purpose of ~~altering~~ extending the ~~scope of the~~ Prince George's County Hospital Authority's bidding process; clarifying the duration of a certain funding commitment of the State and Prince George's County; authorizing the Maryland Health Care Commission to make certain exemptions; requiring the Authority to make certain assessments and take certain actions regarding certain bids for the Prince George's County health care system; requiring the Authority to ~~develop a certain plan for the transfer of the component assets of the Prince George's County health care system under certain circumstances~~ complete its obligations by a certain time; ~~specifying certain actions the Authority may take to fulfill its mission~~; ~~requiring the Authority to develop a certain plan for the transfer of the component assets of the health care system~~; requiring certain agencies to serve as consultants to the Authority ~~in the~~

~~development of the plan; specifying the role of certain agency consultants; clarifying the application of certain actions of the Authority and the county to individual components of the health care system; establishing certain deadlines declaring the intent of the General Assembly; making this Act an emergency measure; and generally relating to the Prince George's County Hospital Authority.~~

BY repealing and reenacting, without amendments,

Article – Health – General

Section 24–1602(a)

Annotated Code of Maryland

(2005 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,

Article – Health – General

Section 24–1602(b), 24–1604(b), and 24–1605(f), (h), and (k), ~~and 24–1606(a),~~

~~(b), and (e)(1)~~

Annotated Code of Maryland

(2005 Replacement Volume and 2008 Supplement)

BY adding to

Article – Health – General

Section 24–1605(l), and (m), ~~(n), and (o)~~ and 24–1605.1

Annotated Code of Maryland

(2005 Replacement Volume and 2008 Supplement)

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

### Article – Health – General

24–1602.

(a) There is a body corporate and politic known as the Prince George's County Hospital Authority.

(b) The mission of the Authority is to [establish]:

(1) **ESTABLISH** and implement an open, transparent, and competitive bidding process for the purpose of transferring the Prince George's County health care system to one or more new owners; **AND**

(2) **EXTEND ~~AND ADAPT~~ THE BIDDING PROCESS:**

(i) **AS NECESSARY TO FULFILL THE PURPOSES OF THIS SUBTITLE; AND**

**(II) IN A MANNER CONSISTENT WITH THE PURPOSES OF THIS SUBTITLE.**

24-1604.

(b) **(1)** Within 60 days after the Authority is established, the Governor, the County Executive, and the County Council, with input from the presiding officers and fiscal leadership of the General Assembly, shall reach agreement on the funding the State and the county will commit for support of the Prince George's County health care system ~~if~~ the bidding process established under § 24-1605 of this subtitle results in an agreement to transfer the Prince George's County health care system to a new owner or owners~~].~~

**(2) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE STATE AND THE COUNTY SHALL FULFILL THEIR AGREEMENT ON FUNDING FOR THE SUPPORT OF THE HEALTH CARE SYSTEM.**

**(II) THE STATE AND THE COUNTY SHALL BE RELIEVED OF SOME OR ALL OF THEIR RESPECTIVE OBLIGATIONS TO PROVIDE LONG-TERM FUNDING TO SUPPORT THE HEALTH CARE SYSTEM:**

~~**A. 1. ONLY TO THE EXTENT THAT ANY FUND BALANCE REMAINS AFTER THE TRANSFER OF ALL THE HEALTH CARE SYSTEM'S COMPONENTS TO A NEW OWNER OR OWNERS; OR**~~

~~**B. 2. ONLY TO THE EXTENT THAT ANY FUND BALANCE REMAINS AFTER**~~ **AFTER THE AUTHORITY HAS EXPIRED WITHOUT AGREEMENT ON THE TRANSFER OF ALL COMPONENTS OF THE SYSTEM TO A NEW OWNER OR OWNERS.**

24-1605.

(f) **(1) THE MARYLAND HEALTH CARE COMMISSION MAY ISSUE AN EXEMPTION FROM CERTIFICATE OF NEED AND WAIVE THE REQUIREMENTS OF THE STATE HEALTH PLAN IN ORDER TO FACILITATE A RECOMMENDATION BY THE AUTHORITY TO RELOCATE BEDS OR SERVICES OF ALL OR PART OF A FACILITY.**

**(2)** Any health care entity that [receives the transfer] **ACQUIRES ALL OR PART** of the Prince George's County health care system shall be recognized as a merged asset system for certificate of need purposes under Title 19, Subtitle 1 of this article.

(h) Except as otherwise provided in [subsection (i) of] this section AND **§ 24-1604(B)(2) OF THIS SUBTITLE**, if the Authority fails to conduct the bidding process in accordance with the requirements, time frame, and deadlines set forth in this subtitle, the State and the county shall be relieved of their obligation to commit financial support to the Prince George's County health care system as agreed upon under § 24-1604(b) and (c) of this subtitle.

(k) If, at the end of the extension of time and not more than 60 days from the beginning of the 2009 General Assembly, the Authority has not reached a final agreement on the transfer of the Prince George's County health care system to a successful bidder[.]:

(1) [the] **THE** State and the county shall [be relieved of] CONTINUE TO FULFILL their [obligation to commit financial support to the Prince George's County health care system as agreed upon under § 24-1604(b) and (c)] **FUNDING AGREEMENT AS SET FORTH IN § 24-1604(B)(2)** of this subtitle; AND

(2) ~~THE~~ NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE AUTHORITY SHALL ASSESS ANY BID OR COMBINATION OF BIDS THE AUTHORITY HAS RECEIVED TO DETERMINE:

(i) WHETHER ANY BID OR COMBINATION OF BIDS ~~SATISFY~~ SATISFIES THE AUTHORITY'S MANDATE TO TRANSFER THE PRINCE GEORGE'S COUNTY HEALTH CARE SYSTEM IN ITS ENTIRETY TO A NEW OWNER OR OWNERS; AND

(ii) WHETHER ~~ANY BIDDER~~ ONE OR MORE BIDDERS WOULD BE CAPABLE OF MEETING THE REQUIREMENTS SET FORTH IN § 24-1605(C) OF THIS SUBTITLE AND HAS SUBMITTED A BID THAT MEETS THOSE REQUIREMENTS.

(L) IF THE AUTHORITY DETERMINES THAT ANY BID OR COMBINATION OF BIDS ~~SATISFY~~ SATISFIES THE REQUIREMENTS OF SUBSECTION (K) OF THIS SECTION, AND AFTER CONSULTATION WITH STAKEHOLDERS, THE AUTHORITY SHALL:

(1) **PROCEED TOWARDS A FINAL AGREEMENT ON THE TRANSFER OF THE HEALTH CARE SYSTEM; AND**

(2) **NOTIFY STAKEHOLDERS IN ACCORDANCE WITH § 24-1602(G)(2) OF THIS SUBTITLE.**

~~(M) IF THE AUTHORITY DETERMINES THAT NO BID OR COMBINATION OF BIDS SATISFY THE REQUIREMENTS OF SUBSECTION (K) OF THIS SECTION, THE AUTHORITY SHALL DEVELOP A PLAN FOR THE TRANSFER OF ALL COMPONENTS~~

~~OF THE HEALTH CARE SYSTEM, CONSISTENT WITH ITS MISSION UNDER § 24-1602(B) AND (C) OF THIS SUBTITLE, AND AS FURTHER DESCRIBED IN § 24-1605.1 OF THIS SUBTITLE.~~

~~(N) IN IMPLEMENTING THE MANDATE UNDER SUBSECTION (M) OF THIS SECTION, SUBJECT TO THE CONDITIONS SET FORTH IN PARAGRAPH (2) OF THIS SUBSECTION, THE AUTHORITY MAY:~~

~~(1) CONSIDER BIDS FOR INDIVIDUAL COMPONENTS OF THE HEALTH CARE SYSTEM;~~

~~(2) ACCEPT BIDS FROM ONE OR MORE SEPARATE ENTITIES FOR INDIVIDUAL COMPONENTS OF THE HEALTH CARE SYSTEM; AND~~

~~(3) AFTER CONSULTATION WITH STAKEHOLDERS, TRANSFER INDIVIDUAL COMPONENTS IN SEPARATE TRANSACTIONS PROVIDED THAT:~~

~~(i) THE AUTHORITY HAS SECURED AGREEMENTS WITH ONE OR MORE BIDDERS THAT WILL COLLECTIVELY RESULT IN THE SALE OF ALL COMPONENTS OF THE HEALTH CARE SYSTEM; AND~~

~~(ii) THE AUTHORITY DETERMINES THAT THE TRANSFER IS CONSISTENT WITH THE PLAN REQUIRED IN SUBSECTION (M) OF THIS SECTION.~~

~~(O) (M) THE AUTHORITY SHALL COMPLETE ITS OBLIGATIONS UNDER SUBSECTIONS (M) AND (N) OF THIS SECTION PRIOR TO THE EXPIRATION OF THE AUTHORITY.~~

24-1605.1.

~~(A) THE PLAN FOR THE TRANSFER OF ASSETS OF THE HEALTH CARE SYSTEM DEVELOPED IN ACCORDANCE WITH § 24-1605(M) OF THIS SUBTITLE:~~

~~(1) SHALL SEEK TO CONTINUE THE LEVEL, SCOPE, AND QUALITY OF SERVICES TO WHICH CONSUMERS OF THE PRINCE GEORGE'S COUNTY HEALTH CARE SYSTEM HAVE HAD ACCESS BEFORE THE EFFECTIVE DATE OF THIS SECTION;~~

~~(2) WHERE POSSIBLE, SHALL ENHANCE THE AVAILABILITY, ACCESSIBILITY, COST EFFECTIVENESS, AND QUALITY OF SERVICES TO WHICH CONSUMERS OF THE PRINCE GEORGE'S COUNTY HEALTH CARE SYSTEM HAVE HAD ACCESS BEFORE THE EFFECTIVE DATE OF THIS SECTION;~~

~~(3) MAY CONSIDER ALTERNATIVE APPROACHES TO THE CONFIGURATION OF THE HEALTH CARE SYSTEM BEFORE THE EFFECTIVE DATE OF THIS SECTION AND THE DELIVERY OF HEALTH CARE SERVICES IN THE REGION, INCLUDING:~~

~~(i) GREATER DECENTRALIZATION OF HEALTH CARE DELIVERY AND RELIANCE ON COMMUNITY-BASED SERVICES;~~

~~(ii) INCREASED USE OF MEDICAL HOMES, AMBULATORY SURGICAL FACILITIES, FEDERALLY QUALIFIED HEALTH CENTERS, AND OTHER NONPROFIT CLINICS;~~

~~(iii) THE POTENTIAL SHIFT OF CERTAIN SERVICES FROM ONE HEALTH CARE SYSTEM COMPONENT TO OTHERS WITHIN THE SYSTEM OR TO OTHER HEALTH CARE PROVIDERS IN THE REGION;~~

~~(iv) POTENTIAL PARTNERSHIPS WITH ACADEMIC MEDICINE INSTITUTIONS;~~

~~(v) THE RECAPITALIZATION AND DEVELOPMENT OF PRINCE GEORGE'S HOSPITAL CENTER FOR SERVICE AS A SURGE CAPACITY TRAUMA CENTER AND CENTER FOR EXCELLENCE IN EMERGENCY PREPAREDNESS TRAINING OF HEALTH CARE PROVIDERS IN THE NATIONAL CAPITAL REGION; AND~~

~~(vi) THE POTENTIAL FOR PROMOTING THE DEVELOPMENT OF A BROADER HEALTH CARE RELATED OR LIFE SCIENCES CAMPUS THROUGH USE OF ONE OF THE SYSTEM'S COMPONENTS AS AN ANCHOR OR PARTNER FOR THE CAMPUS;~~

~~(4) SHALL DETERMINE THE APPROPRIATE PERCENTAGE OF THE HEALTH CARE SYSTEM'S BOND INDEBTEDNESS, UNFUNDED PENSION LIABILITY, AND ANY OTHER OBLIGATIONS THAT SHALL BE ALLOCATED TO EACH INDIVIDUAL HEALTH CARE SYSTEM COMPONENT AND TRANSFERRED TO THE NEW OWNER OF EACH COMPONENT, PROVIDED THAT THE ALLOCATION OF RESPONSIBILITY FOR THE HEALTH CARE SYSTEM'S LIABILITIES SHALL BE DESIGNED TO MAXIMIZE THE SUCCESSFUL TRANSFER OF THE ENTIRE SYSTEM CONSISTENT WITH THE PLAN DEVELOPED UNDER THIS SECTION; AND~~

~~(5) SHALL DETERMINE THE APPROPRIATE PERCENTAGE OF THE STATE'S AND COUNTY'S LONG TERM FUNDING COMMITMENT UNDER § 24-1604 OF THIS SUBTITLE THAT SHALL BE ALLOCATED TO EACH INDIVIDUAL SYSTEM COMPONENT AND TRANSFERRED TO THE NEW OWNER OF EACH COMPONENT, PROVIDED THAT THE ALLOCATION OF THE STATE'S AND COUNTY'S LONG TERM~~

~~FUNDING COMMITMENT SHALL BE DESIGNED TO MAXIMIZE THE SUCCESSFUL TRANSFER OF THE ENTIRE SYSTEM CONSISTENT WITH THE PLAN DEVELOPED UNDER THIS SECTION.~~

~~(B)~~ (A) TO FACILITATE THE ~~DEVELOPMENT OF THE PLAN DEVELOPED UNDER § 24-1605(M)~~ TRANSFER OF THE PRINCE GEORGE'S COUNTY HEALTH CARE SYSTEM UNDER § 24-1605(K)(2) OF THIS SUBTITLE ~~AND SUBSECTION (A) OF THIS SECTION~~, THE FOLLOWING AGENCIES SHALL DESIGNATE INDIVIDUALS TO SERVE AS ~~ADVISORS~~ ADVISERS TO THE AUTHORITY:

- (1) THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE;
- (2) THE PRINCE GEORGE'S COUNTY HEALTH DEPARTMENT;
- (3) THE MARYLAND HEALTH CARE COMMISSION;
- (4) THE MARYLAND HEALTH SERVICES COST REVIEW COMMISSION;
- (5) THE DEPARTMENT OF BUSINESS AND ECONOMIC DEVELOPMENT;
- (6) THE PRINCE GEORGE'S COUNTY ECONOMIC DEVELOPMENT CORPORATION;
- (7) THE MARYLAND HEALTH AND HIGHER EDUCATION FINANCING AUTHORITY;
- (8) THE MARYLAND INSTITUTE OF EMERGENCY MEDICAL SERVICES SYSTEM;
- (9) THE GOVERNOR'S OFFICE OF HOMELAND SECURITY;
- (10) THE COMMUNITY HEALTH RESOURCES COMMISSION; AND
- (11) THE MARYLAND LIFE SCIENCES ADVISORY BOARD.

~~(C)~~ (B) INDIVIDUALS DESIGNATED UNDER SUBSECTION ~~(B)~~ (A) OF THIS SECTION SHALL SERVE AS CONSULTANTS TO THE AUTHORITY AND SHALL, IF REQUESTED BY THE AUTHORITY:

~~(1) ASSIST THE AUTHORITY IN THE DEVELOPMENT OF THE PLAN DEVELOPED UNDER § 24-1605(M) OF THIS SUBTITLE AND SUBSECTION (A) OF THIS SECTION;~~

~~(2)~~ (1) ASSIST THE AUTHORITY IN THE EVALUATION OF ANY PROPOSALS SUBMITTED TO THE AUTHORITY, TO THE EXTENT THAT THE AUTHORITY SHOULD SPECIFICALLY REQUEST THE ASSISTANCE; ~~OR AND~~

~~(3)~~ (2) ASSIST THE AUTHORITY IN ITS DISCUSSIONS AND NEGOTIATIONS WITH ANY BIDDERS, TO THE EXTENT THAT THE AUTHORITY SHOULD SPECIFICALLY REQUEST THE ASSISTANCE.

~~(D)~~ (C) INDIVIDUALS DESIGNATED UNDER SUBSECTION ~~(B)~~ (A) OF THIS SECTION SHALL BE SUBJECT TO ANY CONFIDENTIALITY AGREEMENTS BINDING ON THE AUTHORITY AND ITS STAFF.

~~(E)~~ (D) AGENCIES DESIGNATING INDIVIDUALS UNDER SUBSECTION ~~(B)~~ (A) OF THIS SECTION MAY ADOPT APPROPRIATE INTERNAL POLICIES OR RESTRICTIONS TO ASSURE THE INTEGRITY OF ANY SUBSEQUENT REGULATORY PROCEEDINGS.

~~24-1606.~~

~~(a) (1) On the Authority's selection of a new owner or owners OF ANY OF THE COMPONENTS OF THE PRINCE GEORGE'S COUNTY HEALTH CARE SYSTEM in accordance with the bidding process established under § 24-1605 of this subtitle, and on agreement for the sale or transfer OF ANY OF THE COMPONENTS of the Prince George's County health care system to the new owner or owners, disposition of the real property, assets, and facilities OF EACH COMPONENT owned by the county that are under the possession or control of Dimensions, as a result of any lease agreement with the county, shall occur as follows:~~

~~(i) The county shall transfer title to all real property, assets, and facilities OF EACH COMPONENT of the Prince George's County health care system as part of the agreement for the sale or transfer OF THE COMPONENT of the Prince George's County health care system to the new owner or owners for compensation to the county as provided under subsections (b) and (c) of this section; and~~

~~(ii) The process for transfer of title shall be completed by the date of final implementation of the agreement for the sale or transfer OF THE COMPONENT of the Prince George's County health care system.~~

~~(2) Notwithstanding any other provision of this subtitle, any property on which there is no facility defined as part of the Prince George's County health care system and which the new owner or owners OF THE COMPONENT of the Prince George's County health care system will not use or develop shall remain under the control and ownership of the county.~~



~~(3) The county shall settle all encumbrances the county has placed or been involved in placing for its benefit on the real property, assets, and facilities to be acquired by the new owner or owners prior to the transfer of title, so that, except for any remaining encumbrances placed and held solely by Dimensions, clear legal title will be conveyed.~~

~~(b) (1) The county may not receive compensation or credit toward its financial obligations as agreed upon under § 24-1604 of this subtitle for the real property, assets, and facilities of the Prince George's County health care system that will be used for purposes related to the [operations of a] DELIVERY OF health care [system], in accordance with the goals set for the health care system in § 24-1602(e) of this subtitle, serving the residents of the county and surrounding jurisdictions.~~

~~(2) Specific plans for such use shall be established in the agreement for the sale or transfer OF EACH COMPONENT of the Prince George's County health care system.~~

~~(3) The development of the real property, assets, and facilities for purposes related to the [operation of a] DELIVERY OF health care [system] shall occur and be substantially underway at least 2 years before the end of the period during which the State and the county are providing financial support to the Prince George's County health care system.~~

~~(e) (1) For any portion or portions of the real property, assets, or facilities acquired by the new owner or owners that will not be used for purposes related to the [operation of a] DELIVERY OF health care [system], if any, the county shall be given a credit towards its obligation for financial support of the Prince George's County health care system as agreed upon under § 24-1604 of this subtitle.~~

SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that the Authority continue its bid review process and proceed towards a final agreement on the transfer of the Prince George's County health care system as provided under Section 1 of this Act and any agreements in effect on January 1, 2009, relating to the transfer of the health care system shall remain in effect consistent with Section 1 of this Act.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a yea and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

Approved by the Governor, April 14, 2009.

---

**Chapter 118****(Senate Bill 1054)**

AN ACT concerning

**State Advisory Council on Quality Care at the End of Life – Membership**

FOR the purpose of altering the membership of the State Advisory Council on Quality Care at the End of Life; and generally relating to the membership of the State Advisory Council on Quality Care at the End of Life.

BY repealing and reenacting, without amendments,  
Article – Health – General  
Section 13–1601  
Annotated Code of Maryland  
(2005 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,  
Article – Health – General  
Section 13–1602(a)  
Annotated Code of Maryland  
(2005 Replacement Volume and 2008 Supplement)

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

**Article – Health – General**

13–1601.

There is a State Advisory Council on Quality Care at the End of Life.

13–1602.

- (a) The Advisory Council consists of the following [22] **23** members:
- (1) The Attorney General or the Attorney General’s designee;
  - (2) One member of the Senate of Maryland, appointed by the President of the Senate of Maryland;
  - (3) One member of the House of Delegates, appointed by the Speaker of the House;
  - (4) The Secretary of Aging or the Secretary’s designee;

- (5) The Secretary of Health and Mental Hygiene or the Secretary's designee;
- (6) The Secretary of Disabilities or the Secretary's designee; and
- (7) **[16] 17** members appointed by the Governor:
- (i) One physician with experience in end-of-life care;
  - (ii) One nurse with experience in end-of-life care;
  - (iii) One pharmacist with experience in end-of-life care;
  - (iv) One physician with experience managing long-term care;
  - (v) One nurse with experience managing long-term care;
  - (vi) One representative of the health insurance industry;
  - (vii) One representative from a managed care organization;
  - (viii) One representative of the legal community;
  - (ix) One representative from the hospice care community;
  - (x) Two representatives from advocacy groups for end-of-life care;
  - (xi) Two representatives from religious groups;
  - (xii) Two representatives of the general public with experience with end-of-life or long-term care issues; **[and]**
  - (xiii) One representative of the hospital industry; **AND**
  - (XIV) ONE REPRESENTATIVE OF THE NURSING HOME INDUSTRY.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

**Approved by the Governor, April 14, 2009.**

---

**Chapter 119****(House Bill 20)**

AN ACT concerning

**Intellectual Disability (Rosa's Law)**

FOR the purpose of changing references to mental retardation to an intellectual disability; changing references to a mentally retarded individual to an individual with an intellectual disability; renaming State residential centers for the mentally retarded to be State residential centers for individuals with an intellectual disability; renaming an intermediate care facility for the mentally retarded (ICF-MR) to be an intermediate care facility for individuals with an intellectual disability (ICF-ID); altering certain definitions; defining certain terms; deleting certain obsolete references; making certain stylistic changes; requiring the publisher of the Annotated Code to make certain corrective changes; providing that certain documents may not be used until the use of certain other documents; providing for the intent of this Act; and generally relating to changing references to mental retardation to an intellectual disability.

BY repealing and reenacting, with amendments,  
Article – Education  
Section 8-401(a)(2) and 13-303(l)  
Annotated Code of Maryland  
(2008 Replacement Volume)

BY repealing and reenacting, with amendments,  
Article – Estates and Trusts  
Section 13-101(l)  
Annotated Code of Maryland  
(2001 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,  
Article – Family Law  
Section 5-101(f) and 14-103  
Annotated Code of Maryland  
(2006 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,  
Article – Health – General  
Section 7-101(c)(1), (k), and (p), 7-204(a) and (c), 7-501, 7-502,  
7-503(e)(1), 7-505, 7-507(f), (g), and (j), 7-508, 7-512(a), 7-515, 7-516,  
7-517, 7-803, 7-909(d), 10-101(f), 10-514(d), 10-620(e), 15-805(b),  
16-101(b), 16-201(a), 16-402, 16-404, 16-405, 16-407, and 19-201(e)  
Annotated Code of Maryland

(2005 Replacement Volume and 2008 Supplement)

BY adding to

Article – Health – General  
Section 7–101(k)  
Annotated Code of Maryland  
(2005 Replacement Volume and 2008 Supplement)

BY repealing

Article – Health – General  
Section 7–101(l)  
Annotated Code of Maryland  
(2005 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,

Article – Labor and Employment  
Section 3–420(d)  
Annotated Code of Maryland  
(2008 Replacement Volume)

BY repealing and reenacting, with amendments,

Article – State Finance and Procurement  
Section 10–309(a)  
Annotated Code of Maryland  
(2006 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,

Article – Transportation  
Section 11–117 and 22–412.1  
Annotated Code of Maryland  
(2006 Replacement Volume and 2008 Supplement)

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

#### **Article – Education**

8–401.

(a) (2) “Child with a disability” means a child who has been determined through appropriate assessment as having autism, deaf–blindness, hearing impairment, including deafness, emotional disturbance, [mental retardation] **INTELLECTUAL DISABILITY**, multiple disabilities, orthopedic impairment, other health impairment, specific learning disability, speech or language impairment, traumatic brain injury, visual impairment, including blindness, and who because of that impairment needs special education and related services.

13-303.

(l) The Board of Directors shall insure that the medical system shall continue to make available medical services to residents of various State institutions whose residents prior to the effective date of this legislation were served by the Hospital, including State residential centers for [the mentally retarded] **INDIVIDUALS WITH AN INTELLECTUAL DISABILITY**, State mental hygiene facilities and facilities run by the State Division of Correction, as long as the administrators of those institutions continue to seek care from the Hospital for their residents in accordance with policies and legislative intent incorporated in the State budget. The Hospital is to be compensated by the institutions or other payors for this care in accordance with policies of the State Health Services Cost Review Commission or other relevant authority.

#### Article – Estates and Trusts

13-101.

(l) “Mental facility” means any place providing a clinic, hospital, day residential or other programs, public or private, other than a veterans’ hospital, which purports to or does provide treatment for persons suffering from mental disorders as defined in § 10-101(f) or § 3-101(g) of the Criminal Procedure Article, [mental retardation] **INTELLECTUAL DISABILITY** as defined in § 7-101(l) of the Health – General Article, or drug addiction or for chronic alcoholics.

#### Article – Family Law

5-101.

(f) “Disability” means:

(1) alcohol dependence, as defined in § 8-101 of the Health – General Article;

(2) drug dependence, as defined in § 8-101 of the Health – General Article;

(3) a mental disorder, as defined in § 10-101 of the Health – General Article; or

(4) [mental retardation] **INTELLECTUAL DISABILITY**, as defined in § 7-101 of the Health – General Article.

14-103.

This title does not apply to:

(1) the abuse of a patient in a mental health facility, under Title 10 of the Health – General Article;

(2) the abuse of a patient in a facility for [mentally retarded] individuals **WITH AN INTELLECTUAL DISABILITY** under Title 7 of the Health – General Article;

(3) the abuse of a patient in a nursing home under Title 19 of the Health – General Article; or

(4) the abuse of a patient in a hospital under Title 19 of the Health – General Article.

### Article – Health – General

7–101.

(c) (1) “Admission” means the process by which an individual with [mental retardation] **AN INTELLECTUAL DISABILITY** is accepted as a resident in a State residential center.

**(K) “INTELLECTUAL DISABILITY” MEANS A DEVELOPMENTAL DISABILITY THAT IS EVIDENCED BY SIGNIFICANTLY SUBAVERAGE INTELLECTUAL FUNCTIONING AND IMPAIRMENT IN THE ADAPTIVE BEHAVIOR OF AN INDIVIDUAL.**

**[(k)] (L)** “Live independently” means:

(1) For adults:

(i) Managing personal care, such as clothing and medication;

(ii) Managing a household, such as menu planning, food preparation and shopping, essential care of the premises, and budgeting; and

(iii) Using community resources, such as commercial establishments, transportation, and services of public agencies; or

(2) For minors, functioning in normal settings without the need for supervision or assistance other than supervision or assistance that is age appropriate.

**[(l)]** “Mental retardation” means a developmental disability that is evidenced by significantly subaverage intellectual functioning and impairment in the adaptive behavior of an individual.]

(p) “State residential center” means a place that:

(1) Is owned and operated by this State;

(2) Provides residential services for individuals with [mental retardation] **AN INTELLECTUAL DISABILITY** and who, because of [mental retardation] **THAT INTELLECTUAL DISABILITY**, require specialized living arrangements; and

(3) Admits 9 or more individuals with [mental retardation] **AN INTELLECTUAL DISABILITY**.

7-204.

(a) To advance the public interest, it is the policy of this State:

(1) To eliminate over a 5-year period the number of [mentally retarded] **INDIVIDUALS WITH AN INTELLECTUAL DISABILITY** and [nonretarded] developmentally disabled individuals **WHO DO NOT HAVE AN INTELLECTUAL DISABILITY** who are on the waiting list for appropriate community services and programs; and

(2) To develop alternative ways and means to finance and expand existing services and programs within this time period.

(c) The Commission shall:

(1) Develop a systematic 5-year plan for:

(i) Identifying alternative funding mechanisms, including uses of State excess properties and proceeds derived from any sales or leases of the properties, which enable community programs to serve all eligible [mentally retarded] **INDIVIDUALS WITH AN INTELLECTUAL DISABILITY** and [nonretarded] developmentally disabled individuals **WHO DO NOT HAVE AN INTELLECTUAL DISABILITY**;

(ii) Providing incentives to facilitate the establishment of new service providers for purposes consistent with this title;

(iii) Assuring appropriate levels of program accountability, monitoring, and quality control;

(iv) Evaluating appropriate personnel-related issues including compensation, recruitment, retention, professional training, and development; and



(v) Determining the effectiveness of any cost reimbursement system implemented by the Department and evaluating the need to maintain or modify the funding level in subsequent years;

(2) Monitor any implementation of the 5-year plan and make recommendations on how to facilitate further implementation; and

(3) Review Administration activities related to its services and programs.

7-501.

(a) There are State residential centers for individuals with [mental retardation] **AN INTELLECTUAL DISABILITY** in the Developmental Disabilities Administration.

(b) The Director shall appoint an administrative head for each State residential center.

7-502.

(a) The Secretary shall approve the admission of an individual to a State residential center only if:

(1) The findings of the evaluation are that the individual:

(i) Has [mental retardation] **AN INTELLECTUAL DISABILITY**;  
and

(ii) For adequate habilitation, needs residential services; and

(2) There is no less restrictive setting in which the needed services can be provided and that is available to the individual or will be available to the individual within a reasonable time.

(b) The Secretary may not approve the admission of an individual to a State residential center if:

(1) The findings of the evaluation are that the individual:

(i) Does not have [mental retardation] **AN INTELLECTUAL DISABILITY**; or

(ii) Has [mental retardation] **AN INTELLECTUAL DISABILITY** but does not need residential services for adequate habilitation; or

(2) There is a less restrictive setting in which the needed services can be provided that is available to the individual or will be available to the individual within a reasonable time.

(c) The Secretary shall provide an individual with the appropriate least restrictive service consistent with the individual's welfare, safety, and plan of habilitation, if the individual:

(1) Has an application for services that has been approved under § 7-404(c) of this title; or

(2) Is considered eligible for transfer under Subtitle 8 of this title by the Director or the Director's designee.

7-503.

(e) (1) At the hearing, in order to certify the admission of the individual, it must be affirmatively shown by clear and convincing evidence that the conclusions leading to the decision to admit the individual are supported by the following findings:

(i) The individual has [mental retardation] **AN INTELLECTUAL DISABILITY**;

(ii) The individual needs residential services for the individual's adequate habilitation; and

(iii) There is no less restrictive setting in which the needed services can be provided that is available to the individual or will be available to the individual within a reasonable time after the hearing.

7-505.

(a) At least once a year, each individual with [mental retardation] **AN INTELLECTUAL DISABILITY** who is admitted to a State residential center shall be reevaluated to determine:

(1) Whether the individual continues to meet the requirements of this subtitle for admission to a State residential center;

(2) Whether the services which the individual requires can be provided in a less restrictive setting;

(3) Whether the individual's plan of habilitation as required by § 7-1006 of this title is adequate and suitable; and

(4) Whether the State residential center has complied with and executed the individual's plan of habilitation in accordance with the rules, regulations, and standards that the Secretary adopts.

(b) If the Secretary finds that any individual no longer meets the admission requirements of this subtitle, the Secretary shall begin appropriate proceedings for release or transfer of that individual.

7-507.

(f) The trier of fact shall determine:

(1) Whether the individual has [mental retardation] **AN INTELLECTUAL DISABILITY**;

(2) Whether for adequate habilitation, the individual needs residential services; and

(3) Whether there is a less restrictive setting in which the needed services can be provided that is available to the individual or will be available to the individual within a reasonable time.

(g) (1) The court shall remand the individual to the custody of the State residential center, if the trier of fact determines that:

(i) The individual has [mental retardation] **AN INTELLECTUAL DISABILITY**;

(ii) For adequate habilitation the individual needs residential services; and

(iii) There is no less restrictive setting in which those services needed can be provided and which is available to the individual or will be available to the individual within a reasonable time.

(2) The court shall order that appropriate less restrictive services be offered to an individual, if the trier of fact determines that:

(i) The individual has [mental retardation] **AN INTELLECTUAL DISABILITY**;

(ii) For adequate habilitation the individual needs residential services; and

(iii) There is a less restrictive setting in which the service can be provided, and which from evidence submitted by the Director is available or will be available to the individual within a reasonable time.

(3) The individual shall be released from the State residential center, if the trier of fact determines that:

(i) The individual does not have [mental retardation] **AN INTELLECTUAL DISABILITY**;

(ii) For adequate habilitation the individual does not need residential services; or

(iii) There is a less restrictive setting in which the needed services can be provided that is available to the individual or will be available to the individual within a reasonable time.

(j) (1) After a determination on the merits of a petition under this section, a court may not hear a later petition for the individual within 1 year after that determination, unless:

(i) The petition is verified, and alleges an improvement in the condition of the individual with [mental retardation] **AN INTELLECTUAL DISABILITY** after the determination; and

(ii) The court, after review of the verified petition, determines that the matter should be reopened.

(2) If the matter is reopened, the petition shall be heard as provided in this section.

7-508.

(a) At the direction of the Secretary, an individual who has been admitted under this subtitle shall be released from a State residential center if:

(1) The individual is not an individual with [mental retardation] **AN INTELLECTUAL DISABILITY**;

(2) The individual is an individual with [mental retardation] **AN INTELLECTUAL DISABILITY** but does not need residential services; or

(3) There is an available, less restrictive kind of service that is consistent with the welfare and safety of the individual.

(b) (1) At the direction of the Secretary, any individual who has been admitted under this subtitle may be released conditionally from a State residential center for individuals with [mental retardation] **AN INTELLECTUAL DISABILITY**, if, in the judgment of the Secretary, the individual:

(i) Would be cared for properly by the individual or another person; and

(ii) Would not endanger the individual or the person or property of another.

(2) The Secretary may set the conditions for release that the Secretary considers reasonable. The conditions may relate to:

(i) The duration of the release;

(ii) Treatment during release; or

(iii) Placement under supervised care in an approved setting.

(3) An individual with [mental retardation] **AN INTELLECTUAL DISABILITY** released conditionally is considered to be held by the State residential center from which the individual was released.

(c) Each determination of any release of an individual, whether full or conditional, including a summary of the reasons for the determination, shall be made a permanent part of the individual's record.

7-512.

(a) (1) Each board consists of 7 members appointed by the Governor.

(2) The board for each State residential center shall reflect adequately the composition of the community that the State residential center serves.

(3) Of the 7 members of the board for a State residential center:

(i) At least 2 shall be parents or other relatives or guardians of residents of that State residential center; and

(ii) Each of the others shall be individuals who:

1. Are known for their interest in civic and public affairs; and

2. Have expressed an active interest in the care of individuals with [mental retardation] **AN INTELLECTUAL DISABILITY**, or generally in [mental retardation] **INTELLECTUAL DISABILITY** endeavors.

(4) The Governor shall appoint the members from a list of qualified individuals submitted to the Governor by the Secretary. The number of names on the list shall be at least twice the number of vacancies.

7-515.

(a) Each board may adopt regulations for the conduct of its meetings.

(b) (1) Each board serves in an advisory capacity.

(2) Each board shall:

(i) Submit to the Secretary an annual report on:

1. The needs of individuals with [mental retardation] **AN INTELLECTUAL DISABILITY**; and

2. The extent to which its State residential center meets these needs;

(ii) Advise the administrative head of the State residential center on its goals, programs, and policies;

(iii) Help in evaluating the degree to which these goals are achieved;

(iv) Review and make recommendations about the annual budget of the State residential center;

(v) Assume leadership in developing community understanding of the needs of individuals with [mental retardation] **AN INTELLECTUAL DISABILITY**; and

(vi) Carry out any other responsibility that the administrative head of the State residential center requests.

7-516.

The administrative head for each State residential center may appoint any employee as a law-enforcement officer and, while the employee holds a special police commission issued by the Governor, the employee may:

(1) Return an individual with [mental retardation] **AN INTELLECTUAL DISABILITY** to the State residential center from which the individual has left without approved leave; and

(2) Be used to protect individuals or property at the State residential center.

7-517.

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

(2) “Intermediate care facility for [the mentally retarded (“ICF-MR”)] **INDIVIDUALS WITH AN INTELLECTUAL DISABILITY (ICF-ID)**” means a State residential center for individuals with [mental retardation] **AN INTELLECTUAL DISABILITY**.

(3) [“ICF-MR income”] **“ICF-ID INCOME”** means all revenues received by an [ICF-MR] **ICF-ID** from any source providing [ICF-MR] **ICF-ID** services to residents of the facility.

(b) (1) Each [ICF-MR] **ICF-ID** operating in Maryland is subject to an assessment of 6% of all [ICF-MR] **ICF-ID** income.

(2) The assessment required by this section shall:

(i) Be paid by each [ICF-MR] **ICF-ID** in accordance with this section; or

(ii) Terminate if the assessment is not permissible under Section 1903(w) of the Social Security Act.

(c) On or before the 15th day of each quarter of the State fiscal year, each [ICF-MR] **ICF-ID** shall pay to the Department 6% of the [ICF-MR] **ICF-ID** income received during the previous fiscal quarter.

(d) For fiscal year 2004, the assessment required by this section shall be paid on or before June 20, 2004, based on the [ICF-MR] **ICF-ID** income received during the period from April 1, 2003 through March 31, 2004.

(e) The Department may adopt regulations to implement this section.

7-803.

(a) In this section, the term “facility” means an intermediate care [facility-mental retardation] **FACILITY – INTELLECTUAL DISABILITY CONSISTENT WITH § 1905(D) OF THE SOCIAL SECURITY ACT**.

(b) A resident of a facility may not be transferred or discharged from the facility involuntarily except for the following reasons:

- (1) A medical reason;
- (2) The welfare of the resident or other residents;
- (3) Knowingly transferring personal assets in violation of a contract provision and only to become eligible for Medicaid benefits;
- (4) A nonpayment for a stay; or
- (5) The planned closing of the facility.

7-909.

(d) The Administration shall bring any deficiencies to the attention of:

- (1) The executive officer of the licensee; or
- (2) In the case of an intermediate care [~~facility-mental retardation~~] **FACILITY – INTELLECTUAL DISABILITY**, the State Planning Council and the State-designated protection and advocacy agency.

10-101.

(f) (1) “Mental disorder” means a behavioral or emotional illness that results from a psychiatric or neurological disorder.

(2) “Mental disorder” includes a mental illness that so substantially impairs the mental or emotional functioning of an individual as to make care or treatment necessary or advisable for the welfare of the individual or for the safety of the person or property of another.

(3) “Mental disorder” does not include [~~mental retardation~~] **AN INTELLECTUAL DISABILITY**.

10-514.

(d) (1) “Private group home” means a residence in which individuals who have been or are under treatment for a mental disorder may be provided care or treatment in a homelike environment.

(2) “Private group home” does not include:



- (i) Any facility that is owned by or leased to this State or any public agency;
- (ii) Any facility that is regulated by the Department of Juvenile Services;
- (iii) Any facility that is regulated by the [Mental Retardation and] Developmental Disabilities Administration;
- (iv) Any facility that is organized wholly or partly to make a profit; or
- (v) A foster home that is the domicile of the foster parent.

10-620.

(e) (1) "Mental disorder" means the behavioral or other symptoms that indicate:

(i) To a lay petitioner who is submitting an emergency petition, a clear disturbance in the mental functioning of another individual; and

(ii) To the following health professionals doing an examination, at least one mental disorder that is described in the version of the American Psychiatric Association's "Diagnostic and Statistical Manual – Mental Disorders" that is current at the time of the examination:

1. Physician;
2. Psychologist;
3. Clinical social worker;
4. Licensed clinical professional counselor;
5. Clinical nurse specialist in psychiatric and mental health nursing (APRN/PMH);
6. Psychiatric nurse practitioner (CRNP-PMH); or
7. Licensed clinical marriage and family therapist.

(2) "Mental disorder" does not include [mental retardation] **INTELLECTUAL DISABILITY.**

15-805.

(b) (1) Attendant services and supports shall be designed to assist a consumer in accomplishing activities of daily living and health-related functions through:

- (i) Hands-on assistance;
- (ii) Supervision; or
- (iii) Cueing, prompting, or reminding the consumer about an activity.

(2) Attendant services and supports shall be provided in a consumer's home or other independent or supported living environment, including school, work, recreational, and religious settings.

(3) Attendant services and supports may not be provided in:

- (i) A nursing facility;
- (ii) An intermediate care facility for **[the mentally retarded] INDIVIDUALS WITH AN INTELLECTUAL DISABILITY**; or
- (iii) A facility that provides food, shelter, and treatment services to four or more individuals unrelated to the proprietor.

16-101.

(b) (1) As to a recipient of services under the Maryland **[Mental Retardation and] Developmental Disabilities Law**, a word used in this title has the same meaning as is indicated by a definition of the word in § 7-101 of this article.

(2) As to a recipient of services under the Maryland Mental Hygiene Law, a word used in this title has the same meaning as is indicated by a definition of the word in § 10-101 of this article.

16-201.

(a) The Secretary shall adopt rules and regulations that set charges for services that the Department provides for the physically ill, aged, mentally disordered, **[mentally retarded] INTELLECTUALLY DISABLED**, and developmentally disabled and other recipients of services in or through State-operated:

- (1) Clinics;
- (2) Day care, day treatment, and day hospital care;

- (3) Group homes and small residential homes;
- (4) Inpatient care in regional and State hospitals and centers; and
- (5) Inpatient and outpatient care of any other kind.

16-402.

When an individual enters a facility for comprehensive evaluation and when [a mentally retarded individual] **AN INDIVIDUAL WITH AN INTELLECTUAL DISABILITY** is admitted to a public facility, each proponent of the admission shall be advised in writing, in clear and simple terms, of those provisions of this title that apply to that individual.

16-404.

(a) If there is any insurance, group health plan, or prepaid medical care coverage for part or all of the cost of the care provided, the Department shall seek to collect the proceeds of the insurance, plan, or coverage to the full extent required to pay for the charges for services set under § 16-201 of this title. The insured or policyholder may not withhold the payment and shall assign to the Department any benefits available under the policy for services rendered by the Department to any insured covered by the policy.

(b) The liability of a chargeable person for services provided to [a mentally retarded individual] **AN INDIVIDUAL WITH AN INTELLECTUAL DISABILITY** may not exceed the greater of:

(1) The sum of any proceeds of insurance, group health plan, or prepaid medical care that the insurer or plan pays because of liability for the payment of or repayment for the cost of care provided to the individual; or

(2) The lesser of:

(i) The amount determined under § 16-405 of this subtitle; or

(ii) The amount set by the Department under § 16-203(b) of this title.

(c) The liability of responsible relatives for the cost of care of [a mentally retarded individual] **AN INDIVIDUAL WITH AN INTELLECTUAL DISABILITY** in a residential, State facility ceases when the cost of care of the [mentally retarded individual] **INDIVIDUAL WITH AN INTELLECTUAL DISABILITY** has been charged for a period or periods that total 16 years.

16-405.

(a) In this section, “taxable income” has the meaning that federal law gives to it for purposes of the Internal Revenue Code.

(b) For purposes of § 16–404(b)(2) of this subtitle, the liability of a chargeable person for the cost of care of [a mentally retarded individual] **AN INDIVIDUAL WITH AN INTELLECTUAL DISABILITY** shall be determined in accordance with either of the following schedules, at the option of the chargeable person.

Schedule A								
Schedule Based on Gross Monthly Income								
Gross Mo. Income of Person Liable for Support		Monthly Rate of Contribution						
At Least	Less Than	2 Dep.	3 Dep.	4 Dep.	5 Dep.	6 Dep.	7 Dep.	8 Dep.
\$500—	575	\$16.00	\$ .....	\$ .....	\$ .....	\$ .....	\$ .....	\$ .....
575—	650	22.40	16.00	.....	.....	.....	.....	.....
650—	725	25.60	22.40	19.20	16.00	.....	.....	.....
725—	800	32.00	28.80	22.40	19.20	16.00	.....	.....
800—	875	35.20	32.00	28.80	25.60	22.40	16.00	.....
875—	950	43.20	39.20	35.20	32.00	25.60	22.40	19.20
950—	1025	56.00	49.60	43.20	35.20	32.00	28.80	25.60
1025—	1100	72.00	64.00	49.60	43.20	39.20	35.20	32.00
1100—	1175	88.00	72.00	64.00	56.00	49.60	43.20	35.20
1175—	1250	91.00	88.00	80.00	72.00	64.00	49.60	43.20
1250—	1325	94.00	94.00	91.00	88.00	72.00	64.00	56.00
1325—	1400	94.00	94.00	94.00	91.00	88.00	80.00	72.00
1400—	1475	94.00	94.00	94.00	94.00	94.00	91.00	88.00
1475—	1550	94.00	94.00	94.00	94.00	94.00	94.00	91.00
1550	and up	94.00	94.00	94.00	94.00	94.00	94.00	94.00

Schedule B	
Schedule Based on Taxable Income Under Federal Internal Revenue Code	
Annual Taxable Income of Person Liable for Support	Monthly Rate of Contribution
At least \$4,000 but less than \$5,000	\$16.00
At least \$5,000 but less than \$6,000	22.40
At least \$6,000 but less than \$7,000	28.80
At least \$7,000 but less than \$8,000	35.20
At least \$8,000 but less than \$9,000	43.20
At least \$9,000 but less than \$10,000	56.00
At least \$10,000 but less than \$11,000	72.00
At least \$11,000 but less than \$12,000	88.00
At least \$12,000	94.00

(c) To establish the taxable income, the chargeable person shall provide either a copy of a federal income tax return or an affidavit as to the taxable income reported on that federal income tax return.

(d) Any modification of liability for charges based on a federal income tax return shall become effective as of July 1 in each calendar year.

(e) (1) Within the time that the Secretary sets and on the forms that the Secretary provides, each chargeable person shall elect the schedule under which the chargeable person is to be billed.

(2) The election is effective as of the day that the [mentally retarded individual] **INDIVIDUAL WITH AN INTELLECTUAL DISABILITY** first is admitted for service and remains in force until changed by the chargeable person.

(3) A change in the election is effective on July 1 after the date on which the Department is notified of the change.

(4) If a person fails to elect within the time that the Secretary sets, the Secretary shall determine which schedule is to apply.

(f) A person whose taxable income is less than \$4,000 a year may not be charged any amount under this section.

(g) For purposes of this section, both parents of [a mentally retarded individual] **AN INDIVIDUAL WITH AN INTELLECTUAL DISABILITY** shall be considered a single responsible relative.

16-407.

(a) This section does not apply to funds that are derived from benefits payable under laws administered by the Veterans' Administration.

(b) (1) If any property of [a mentally retarded] **AN individual WITH AN INTELLECTUAL DISABILITY** remains in the custody of a public facility for 1 year after the death or release of the [mentally retarded] individual **WITH AN INTELLECTUAL DISABILITY**, the Department shall investigate to locate the individual or to determine if any other person legally is entitled to that property.

(2) If such a person is not found:

(i) As much as possible of the account of the [mentally retarded] individual **WITH AN INTELLECTUAL DISABILITY** at the facility shall be paid from the property; and

(ii) Any balance becomes the property of this State and shall be paid into the General Fund of this State.

(c) (1) An action may not be brought more than 3 years after the death or release of [a mentally retarded] AN individual **WITH AN INTELLECTUAL DISABILITY** to recover any of this property left at or in the custody of the facility.

(2) This subsection does not waive any defense, including the defense of governmental immunity, available to any facility or other State agency in an action brought against it, even if the action is brought within 3 years after the death or release of the [mentally retarded] individual **WITH AN INTELLECTUAL DISABILITY**.

19–201.

(e) (1) “Related institution” means an institution that is licensed by the Department as:

(i) A comprehensive care facility that is currently regulated by the Commission; or

(ii) An intermediate care facility – [mental retardation] **INTELLECTUAL DISABILITY**.

(2) “Related institution” includes any institution in paragraph (1) of this subsection, as reclassified from time to time by law.

### **Article – Labor and Employment**

3–420.

(d) The wage for overtime may be computed on the basis of each hour over 48 hours that an employee works during 1 workweek:

(1) for an employee of a bowling establishment; and

(2) for an employee of an institution that:

(i) is not a hospital; but

(ii) is engaged primarily in the care of individuals who:

1. are aged, [mentally retarded] **INTELLECTUALLY DISABLED**, or sick or have a mental disorder; and

2. reside at the institution.

**Article – State Finance and Procurement**

10–309.

(a) In this section, “State facility” means:

(1) a facility maintained by the Mental Hygiene Administration of the Department of Health and Mental Hygiene and listed in § 10–406 of the Health – General Article; or

(2) a State residential center for individuals with [mental retardation] **AN INTELLECTUAL DISABILITY** in the Developmental Disabilities Administration of the Department of Health and Mental Hygiene.

**Article – Transportation**

11–117.

(a) “Educational purposes” includes those activities of schools certified by the Department of Education, activities of centers for [the mentally retarded] **INDIVIDUALS WITH AN INTELLECTUAL DISABILITY** and physically handicapped **INDIVIDUALS**, church schools, Sunday schools and church related functions, day care centers, day camps, or summer camps, or any other activity that provides some educational experience for its participants.

(b) This definition shall be liberally construed.

22–412.1.

Every motor vehicle that is used by nursery schools, camps, day nurseries, or day care centers for [retarded] children **WITH AN INTELLECTUAL DISABILITY** to transport children and that is not regulated as a “school bus” under this article, shall be equipped with seat belts for each seat and shall be subject to [such] **ANY** other regulations [as may be prescribed] **ADOPTED** by the Administration.

**SECTION 2. AND BE IT FURTHER ENACTED**, That the publisher of the Annotated Code of Maryland, in consultation with and subject to the approval of the Department of Legislative Services, shall correct, with no further action required by the General Assembly, cross–references and terminology rendered incorrect by this Act or by any other Act of the General Assembly of 2009 that affects provisions enacted by this Act. The publisher shall adequately describe any such correction in an editor’s note following the section affected.

**SECTION 3. AND BE IT FURTHER ENACTED**, That documents reflecting the renaming of mental retardation to be an intellectual disability may not be used until

all documents already in print and reflecting the terminology in use prior to the effective date of this Act have been used.

SECTION 4. AND BE IT FURTHER ENACTED, That nothing in this Act is intended to result in a reduction of federal funds available to the State.

SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

**Approved by the Governor, April 14, 2009.**

---

## **Chapter 120**

### **(House Bill 51)**

AN ACT concerning

#### **Human Relations**

FOR the purpose of adding a new title to the State Government Article of the Annotated Code of Maryland, to be designated and known as “Title 20. Human Relations”; revising, restating, and recodifying certain laws relating to the Commission on Human Relations, including laws concerning the members and staff of the Commission and the powers and duties of the Commission; revising, restating, and recodifying certain laws relating to discrimination in places of public accommodation, commercial leasing, employment, and housing; revising, restating, and recodifying certain laws relating to discrimination by certain licensed or regulated persons and by governmental units, officers, and employees; revising, restating, and recodifying certain laws relating to aiding, abetting, or attempting certain discriminatory acts and obstructing compliance with certain laws or orders; revising, restating, and recodifying certain laws relating to enforcement of certain discrimination laws; revising, restating, and recodifying certain laws relating to criminal penalties for violations of certain laws; revising, restating, and recodifying certain laws relating to civil actions for violations of certain county discrimination laws; defining certain terms; providing for the construction and application of this Act; providing for the continuity of certain units and the terms of certain officials; providing for the continuity of the status of certain transactions, employees, rights, duties, titles, interests, licenses, registrations, certifications, and permits; and generally relating to the laws of the State concerning human relations.

BY repealing

Article 49B – Human Relations Commission  
Section 1 through 43 and the various subtitles  
Annotated Code of Maryland



(2003 Replacement Volume and 2008 Supplement)

BY adding to

Article – State Government

Section 20–101 through 20–1203, inclusive, and the various subtitles to be under the new title “Title 20. Human Relations”

Annotated Code of Maryland

(2004 Replacement Volume and 2008 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 1 through 43 and the various subtitles of Article 49B – Human Relations Commission of the Annotated Code of Maryland be repealed.

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

**Article – State Government**

**TITLE 20. HUMAN RELATIONS.**

**SUBTITLE 1. DEFINITIONS.**

**20–101. DEFINITIONS.**

**(A) IN GENERAL.**

**IN SUBTITLES 1 THROUGH 11 OF THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.**

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

**(B) COMMISSION.**

**“COMMISSION” MEANS THE COMMISSION ON HUMAN RELATIONS.**

REVISOR’S NOTE: This subsection is new language added to avoid repetition of the full reference to the “Commission on Human Relations”.

**(C) COMPLAINANT.**

**“COMPLAINANT” MEANS A PERSON THAT FILES A COMPLAINT ALLEGING A DISCRIMINATORY ACT UNDER THIS TITLE.**

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 49B, § 20(c).

The definition of the term "complainant" in former Art. 49B, § 20(c) was applicable only to former Art. 49B, §§ 19 through 39, which are revised in Subtitle 7 and Subtitle 10, Part II of this title. However, the term "complainant" was also used in former provisions of Article 49B that are revised in other subtitles in this title. In this revision, the definition of "complainant" in former Art. 49B, § 20(c) is made applicable to this title. Accordingly, the reference to a "discriminatory act" is substituted for the former reference to a "discriminatory housing practice". No substantive change is intended.

Defined terms: "Discriminatory act" § 20-101  
 "Person" § 1-101

**(D) DISCRIMINATORY ACT.**

**"DISCRIMINATORY ACT" MEANS AN ACT PROHIBITED UNDER:**

**(1) SUBTITLE 3 OF THIS TITLE (DISCRIMINATION IN PLACES OF PUBLIC ACCOMMODATION);**

**(2) SUBTITLE 4 OF THIS TITLE (DISCRIMINATION BY PERSONS LICENSED OR REGULATED BY DEPARTMENT OF LABOR, LICENSING, AND REGULATION);**

**(3) SUBTITLE 5 OF THIS TITLE (DISCRIMINATION IN LEASING OF COMMERCIAL PROPERTY);**

**(4) SUBTITLE 6 OF THIS TITLE (DISCRIMINATION IN EMPLOYMENT);**

**(5) SUBTITLE 7 OF THIS TITLE (DISCRIMINATION IN HOUSING);**  
**OR**

**(6) SUBTITLE 8 OF THIS TITLE (AIDING, ABETTING, OR ATTEMPTING DISCRIMINATORY ACT; OBSTRUCTING COMPLIANCE).**

REVISOR'S NOTE: This subsection is new language added for brevity and consistency throughout this title.

Defined term: "Person" § 1-101

**(E) RESPONDENT.**

**(1) “RESPONDENT” MEANS A PERSON ACCUSED IN A COMPLAINT OF A DISCRIMINATORY ACT.**

**(2) “RESPONDENT” INCLUDES A PERSON IDENTIFIED DURING AN INVESTIGATION OF A COMPLAINT AND JOINED AS AN ADDITIONAL OR SUBSTITUTE RESPONDENT.**

REVISOR’S NOTE: This subsection is new language derived without substantive change from former Art. 49B, § 20(s) and, as it related to a description of the respondent, § 10(a).

The definition of the term “respondent” in former Art. 49B, § 20(s)(2), which included “a person identified during an investigation of a complaint and joined as an additional or substitute respondent” was applicable only to former Art. 49B, §§ 19 through 39, which are revised in Subtitle 7 and Subtitle 10, Part II of this title. However, the Commission on Human Relations advises that it is current practice to join additional or substitute respondents identified during the investigation of a complaint alleging any discriminatory act. In this revision, the definition of “respondent” in former Art. 49B, § 20(s)(2) is made applicable to this title. No substantive change is intended.

Defined terms: “Discriminatory act” § 20–101

“Includes” § 1–101

“Person” § 1–101

**(F) SEXUAL ORIENTATION.**

**“SEXUAL ORIENTATION” MEANS THE IDENTIFICATION OF AN INDIVIDUAL AS TO MALE OR FEMALE HOMOSEXUALITY, HETEROSEXUALITY, OR BISEXUALITY.**

REVISOR’S NOTE: This subsection is new language derived without substantive change from former Art. 49B, §§ 5(a), 15(j), and 20(u).

## **SUBTITLE 2. COMMISSION ON HUMAN RELATIONS.**

**20–201. ESTABLISHED.**

**THERE IS A COMMISSION ON HUMAN RELATIONS.**

REVISOR’S NOTE: This section is new language derived without substantive change from the first sentence of former Art. 49B, § 1(a), as it related to the creation of the Commission on Human Relations.

It is set forth as a separate section for emphasis.

**20-202. MEMBERSHIP.**

**(A) COMPOSITION; APPOINTMENT OF MEMBERS.**

**(1) THE COMMISSION CONSISTS OF NINE MEMBERS APPOINTED BY THE GOVERNOR WITH THE ADVICE AND CONSENT OF THE SENATE.**

**(2) IN APPOINTING COMMISSION MEMBERS, THE GOVERNOR SHALL CONSIDER REPRESENTATION FROM ALL AREAS OF THE STATE.**

**(B) TENURE; VACANCIES.**

**(1) THE TERM OF A MEMBER IS 6 YEARS.**

**(2) THE TERMS OF MEMBERS ARE STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR MEMBERS OF THE COMMISSION ON OCTOBER 1, 2009.**

**(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.**

REVISOR'S NOTE: This section is new language derived without substantive change from the second, fourth, and fifth sentences and, except as it related to the creation of the Commission, the first sentence of former Art. 49B, § 1(a).

In subsection (a)(2) of this section, the requirement that the "Governor shall consider" representation from all areas of the State is substituted for the former requirement that "consideration shall be given to" such representation for clarity and brevity.

In subsection (b)(2) of this section, the reference to terms being "staggered as required by the terms provided for members of the Commission on October 1, 2009" is substituted as standard language for the former obsolete references to the "initial terms" of the members. This substitution is not intended to alter the term of any member of the Commission. See § 5 of Ch. 120, Acts of 2009. The terms of the members

serving on October 1, 2009, end as follows: three in 2011, three in 2013, and three in 2015.

Subsection (b)(3) of this section is standard language added to avoid gaps in membership by indicating that a member serves until a successor takes office.

Subsection (b)(4) of this section is revised in standard language.

Defined term: "Commission" § 20-101

### **20-203. CHAIR.**

**THE COMMISSION SHALL DESIGNATE A CHAIR FROM AMONG ITS MEMBERS.**

REVISOR'S NOTE: This section is new language derived without substantive change from the third sentence of former Art. 49B, § 1(a).

The reference to a "chair" is substituted for the former reference to a "Chairman" because SG § 2-1238 requires the use of terms that are neutral as to gender to the extent practicable.

Defined term: "Commission" § 20-101

### **20-204. COMPENSATION AND REIMBURSEMENT FOR EXPENSES.**

**A MEMBER OF THE COMMISSION:**

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

**(2) IS ENTITLED TO:**

**(I) A PER DIEM AS PROVIDED IN THE STATE BUDGET FOR ATTENDING SCHEDULED MEETINGS OF THE COMMISSION, INCLUDING PARTICIPATION IN ANY HEARINGS REQUIRED BY THE ADMINISTRATIVE APPEAL PROCESS; AND**

**(II) REIMBURSEMENT FOR EXPENSES IN ACCORDANCE WITH THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.**

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, § 1(b).

In item (2)(i) of this section and throughout this subtitle, the reference to the “State” budget is added for clarity and accuracy.

In item (2)(ii) of this section, the phrase “as provided in the State budget” is standard language added for consistency with similar provisions in other revised articles of the Code.

Also in item (2)(ii) of this section, the former reference to expenses “while engaged in the discharge of their official duties” is deleted as included in the reference to reimbursement “in accordance with the Standard State Travel Regulations”.

Defined terms: “Commission” § 20–101  
“Including” § 1–101

## **20–205. EXECUTIVE DIRECTOR AND DEPUTY DIRECTOR.**

### **(A) APPOINTMENT AND REMOVAL OF EXECUTIVE DIRECTOR.**

#### **THE GOVERNOR SHALL:**

**(1) APPOINT AN EXECUTIVE DIRECTOR OF THE COMMISSION FROM A LIST OF FIVE NAMES SUBMITTED BY THE COMMISSION; AND**

**(2) REMOVE THE EXECUTIVE DIRECTOR ON THE RECOMMENDATION OF TWO–THIRDS OF THE MEMBERS OF THE COMMISSION.**

### **(B) APPOINTMENT AND REMOVAL OF DEPUTY DIRECTOR.**

#### **THE EXECUTIVE DIRECTOR:**

**(1) SHALL APPOINT A DEPUTY DIRECTOR WITH THE APPROVAL OF A MAJORITY OF THE MEMBERS OF THE COMMISSION; AND**

**(2) MAY REMOVE THE DEPUTY DIRECTOR WITH THE APPROVAL OF A MAJORITY OF THE MEMBERS OF THE COMMISSION.**

### **(C) DUTIES.**

**(1) THE EXECUTIVE DIRECTOR AND DEPUTY DIRECTOR SHALL PERFORM THE DUTIES PRESCRIBED BY THE COMMISSION.**

**(2) IN THE ABSENCE OF THE EXECUTIVE DIRECTOR, THE DEPUTY DIRECTOR SHALL PERFORM THE FUNCTIONS AND EXERCISE THE AUTHORITY OF THE EXECUTIVE DIRECTOR.**

**(D) COMPENSATION.**

**THE EXECUTIVE DIRECTOR AND DEPUTY DIRECTOR ARE ENTITLED TO THE COMPENSATION PROVIDED IN THE STATE BUDGET.**

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, § 2(a).

Defined term: "Commission" § 20-101

**20-206. GENERAL COUNSEL; OUTSIDE COUNSEL.**

**(A) APPOINTMENT OF GENERAL COUNSEL.**

**(1) THE COMMISSION MAY EMPLOY ITS OWN ATTORNEY.**

**(2) THE EXECUTIVE DIRECTOR SHALL APPOINT AND REMOVE THE ATTORNEY WITH THE APPROVAL OF THE COMMISSION.**

**(B) DUTIES OF GENERAL COUNSEL.**

**THE ATTORNEY SHALL:**

**(1) ACT AS GENERAL COUNSEL AND LEGAL ADVISER TO THE COMMISSION; AND**

**(2) REPRESENT THE COMMISSION AT ALL HEARINGS AND JUDICIAL PROCEEDINGS IN WHICH THE COMMISSION IS A PARTY.**

**(C) COMPENSATION.**

**THE GENERAL COUNSEL IS ENTITLED TO THE COMPENSATION PROVIDED IN THE STATE BUDGET.**

**(D) ADDITIONAL PERSONNEL.**

**THE OFFICE OF THE GENERAL COUNSEL SHALL INCLUDE ADDITIONAL PERSONNEL AS PROVIDED IN THE STATE BUDGET.**

**(E) EMPLOYMENT CATEGORY.**

**THE GENERAL COUNSEL AND ANY ASSISTANT GENERAL COUNSEL ARE SPECIAL APPOINTMENTS IN THE STATE PERSONNEL MANAGEMENT SYSTEM.**

**(F) OUTSIDE COUNSEL.**

**(1) THE COMMISSION MAY RETAIN LEGAL ASSISTANCE TO ADVISE THE COMMISSIONERS IN LEGAL MATTERS.**

**(2) LEGAL ADVISERS RETAINED UNDER THIS SUBSECTION SHALL BE COMPENSATED AS PROVIDED IN THE STATE BUDGET.**

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, § 2(c) and (d).

In subsection (f)(2) of this section, the phrase "under this subsection" is substituted for the former phrase "for the purpose" for clarity.

Defined term: "Commission" § 20-101

**20-207. HEARING EXAMINERS.**

**(A) APPOINTMENT.**

**THE COMMISSION SHALL APPOINT THE NUMBER OF HEARING EXAMINERS PROVIDED IN THE STATE BUDGET.**

**(B) QUALIFICATIONS.**

**A HEARING EXAMINER SHALL BE AN ATTORNEY WHO IS QUALIFIED BY EXPERIENCE TO HANDLE DISCRIMINATION CASES OF THE TYPE ARISING UNDER THIS TITLE.**

**(C) COMPENSATION.**

**A HEARING EXAMINER IS ENTITLED TO THE COMPENSATION PROVIDED IN THE STATE BUDGET.**

**(D) DUTIES.**

**IN A DISCRIMINATION CASE ASSIGNED TO A HEARING EXAMINER, THE HEARING EXAMINER SHALL:**

**(1) CONDUCT A HEARING;**



- (2) MAKE FINDINGS OF FACT;**
  - (3) DRAW CONCLUSIONS OF LAW; AND**
  - (4) PREPARE A PROVISIONAL ORDER.**
- (E) PROVISIONAL ORDER.**

**A PROVISIONAL ORDER PREPARED BY A HEARING EXAMINER SHALL BECOME THE FINAL ORDER OF THE COMMISSION UNLESS AN APPEAL FROM THE PROVISIONAL ORDER IS TAKEN TO THE COMMISSION.**

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, § 2(b).

The Human Relations Commission Law Article Review Committee notes, for consideration by the General Assembly, that the General Assembly may wish to repeal this section as obsolete. Currently, all administrative hearings in discrimination cases are conducted by administrative law judges employed by the Office of Administrative Hearings.

Defined term: "Commission" § 20-101

**20-208. GENERAL POWERS AND DUTIES.**

- (A) STUDIES AND SURVEYS.**
  - (1) THE COMMISSION MAY:**
    - (I) CONDUCT STUDIES AND SURVEYS CONCERNING HUMAN RELATIONS, CONDITIONS, AND PROBLEMS; AND**
    - (II) PROMOTE IN EVERY WAY POSSIBLE THE IMPROVEMENT OF HUMAN RELATIONS.**
  - (2) IN CONDUCTING STUDIES AND SURVEYS, THE COMMISSION MAY EXPEND ANY FUNDS PROVIDED IN THE STATE BUDGET OR OTHERWISE MADE AVAILABLE.**
  - (3) ON THE BASIS OF STUDIES OR SURVEYS, THE COMMISSION MAY RECOMMEND LEGISLATION TO THE GOVERNOR.**

- (B) ACCEPTANCE OF GRANTS.**

THE COMMISSION MAY APPLY FOR AND ACCEPT GRANTS FROM STATE, FEDERAL, AND PRIVATE NONPROFIT ORGANIZATIONS IN FURTHERANCE OF ITS MISSION.

(C) ANNUAL REPORT.

ON OR BEFORE JANUARY 1 OF EACH YEAR, THE COMMISSION SHALL SUBMIT A REPORT ON THE WORK OF THE COMMISSION TO THE GOVERNOR AND, SUBJECT TO § 2-1246 OF THIS ARTICLE, TO THE GENERAL ASSEMBLY.

(D) INVESTIGATORY HEARINGS.

(1) WHENEVER ANY PROBLEM OF RACIAL DISCRIMINATION ARISES, THE COMMISSION IMMEDIATELY MAY HOLD AN INVESTIGATORY HEARING.

(2) THE PURPOSE OF THE HEARING SHALL BE TO RESOLVE THE PROBLEM PROMPTLY BY GATHERING ALL OF THE FACTS FROM EACH INTERESTED PARTY AND MAKING RECOMMENDATIONS AS NECESSARY.

(3) THE HEARING SHALL BE HELD IN THE GEOGRAPHIC AREA WHERE THE PROBLEM EXISTS.

(E) MEETINGS.

(1) THE COMMISSION SHALL MEET AT LEAST ONCE EACH MONTH.

(2) (I) IN ADDITION TO ITS REGULAR MONTHLY MEETINGS, THE CHAIR OR A MAJORITY OF THE MEMBERS OF THE COMMISSION MAY, AT ANY TIME, CALL A SPECIAL MEETING OF THE COMMISSION.

(II) AT LEAST 5 DAYS' NOTICE OF A SPECIAL MEETING SHALL BE GIVEN TO THE MEMBERS.

(3) THE COMMISSION SHALL ESTABLISH PROCEDURES FOR THE CONDUCT OF ITS MEETINGS.

(F) APPEAL BOARD.

(1) IN ADDITION TO THEIR OTHER DUTIES, THE COMMISSIONERS SHALL SERVE ON APPEAL BOARDS TO REVIEW DECISIONS OF THE ADMINISTRATIVE LAW JUDGES.

**(2) AS DETERMINED BY THE COMMISSION'S RULES OF PROCEDURE, AN APPEAL BOARD MAY ALLOW ANY PARTY AFFECTED BY AN ADMINISTRATIVE LAW JUDGE'S DECISION TO INTRODUCE ADDITIONAL RELEVANT TESTIMONY OR EVIDENCE.**

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, §§ 3 and 9A(c).

In subsection (a)(3) of this section, the reference to "legislation" is substituted for the former reference to "additional legislation or changes in existing legislation" for brevity.

In subsection (c) of this section, the former reference to an "annual" report is deleted as redundant in light of the requirement that a report be submitted "each year".

In subsection (d)(3) of this section, the reference to the "geographic" area is added for clarity.

In subsection (e)(2)(i) of this section, the reference to "its regular monthly meetings" is added for clarity.

Also in subsection (e)(2)(i) of this section, the reference to the "Chair" is substituted for the former reference to the "Chairman" because SG § 2-1238 requires the use of terms that are neutral as to gender to the extent practicable.

Also in subsection (e)(2)(i) of this section, the reference to a majority "of the members" of the Commission is added for clarity.

In subsection (e)(2)(ii) of this section, the reference to "[a]t least" 5 days' notice is added for clarity.

In subsection (f)(1) of this section, the reference to serving "on appeal boards" is substituted for the former reference to serving "as an appeal board" for accuracy. Commissioners currently serve on appeal boards consisting of three members appointed by the Chair of the Commission.

In subsection (f)(1) and (2) of this section, the references to "administrative law judges" and "administrative law judge's" are substituted for the former obsolete references to the "hearing examiner" and "examiner's", respectively.

In subsection (f)(2) of this section, the reference to an "appeal board" is substituted for the former reference to the "appellate panel of commissioners" for consistency with subsection (f)(1) of this section.

Also in subsection (f)(2) of this section, the former phrase “at the time of an appeal from the hearing examiner” is deleted as implicit.

Defined term: “Commission” § 20–101

### **SUBTITLE 3. DISCRIMINATION IN PLACES OF PUBLIC ACCOMMODATION.**

#### **20–301. “PLACE OF PUBLIC ACCOMMODATION” DEFINED.**

**IN THIS SUBTITLE, “PLACE OF PUBLIC ACCOMMODATION” MEANS:**

**(1) AN INN, HOTEL, MOTEL, OR OTHER ESTABLISHMENT THAT PROVIDES LODGING TO TRANSIENT GUESTS;**

**(2) A RESTAURANT, CAFETERIA, LUNCHROOM, LUNCH COUNTER, SODA FOUNTAIN, OR OTHER FACILITY PRINCIPALLY ENGAGED IN SELLING FOOD OR ALCOHOLIC BEVERAGES FOR CONSUMPTION ON OR OFF THE PREMISES, INCLUDING A FACILITY LOCATED ON THE PREMISES OF A RETAIL ESTABLISHMENT OR GASOLINE STATION;**

**(3) A MOTION PICTURE HOUSE, THEATER, CONCERT HALL, SPORTS ARENA, STADIUM, OR OTHER PLACE OF EXHIBITION OR ENTERTAINMENT;**

**(4) A RETAIL ESTABLISHMENT THAT:**

**(I) IS OPERATED BY A PUBLIC OR PRIVATE ENTITY; AND**

**(II) OFFERS GOODS, SERVICES, ENTERTAINMENT, RECREATION, OR TRANSPORTATION; AND**

**(5) AN ESTABLISHMENT:**

**(I) 1. THAT IS PHYSICALLY LOCATED WITHIN THE PREMISES OF ANY OTHER ESTABLISHMENT COVERED BY THIS SUBTITLE; OR**

**2. WITHIN THE PREMISES OF WHICH ANY OTHER ESTABLISHMENT COVERED BY THIS SUBTITLE IS PHYSICALLY LOCATED; AND**

**(II) THAT HOLDS ITSELF OUT AS SERVING PATRONS OF THE COVERED ESTABLISHMENT.**

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, § 5(e)(1) and (d)(2), (3), (4), and the first clause of (1).

In item (2) of this section, the former phrase "but not limited to" is deleted as unnecessary in light of § 1-101(c) of this article, which provides that the term "including" means "by way of illustration and not by way of limitation".

In item (4) of this section, the reference to a "retail" establishment is added to the introductory language and the former reference to a "retail establishment" is deleted in item (ii) of that item for brevity and clarity.

Also in item (4) of this section, the former reference to an establishment that "[i]s not included in subsection (d) of this section" is deleted as unnecessary in light of the reorganization of former Art. 49B, § 5(d) and (e) in this section.

Defined term: "Including" § 1-101

#### **20-302. CONSTRUCTION OF SUBTITLE.**

**THIS SUBTITLE DOES NOT PROHIBIT THE PROPRIETOR OR EMPLOYEES OF ANY ESTABLISHMENT FROM DENYING SERVICE TO ANY PERSON FOR FAILURE TO CONFORM TO THE USUAL AND REGULAR REQUIREMENTS, STANDARDS, AND REGULATIONS OF THE ESTABLISHMENT, PROVIDED THAT THE DENIAL IS NOT BASED ON DISCRIMINATION ON THE GROUNDS OF RACE, SEX, AGE, COLOR, CREED, NATIONAL ORIGIN, MARITAL STATUS, SEXUAL ORIENTATION, OR DISABILITY.**

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, § 5(c).

Defined terms: "Person" § 1-101  
"Sexual orientation" § 20-101

#### **20-303. SCOPE OF SUBTITLE.**

**THIS SUBTITLE DOES NOT APPLY:**

**(1) TO A PRIVATE CLUB OR OTHER ESTABLISHMENT THAT IS NOT OPEN TO THE PUBLIC, EXCEPT TO THE EXTENT THAT THE FACILITIES OF THE PRIVATE CLUB OR OTHER ESTABLISHMENT ARE MADE AVAILABLE TO THE CUSTOMERS OR PATRONS OF AN ESTABLISHMENT WITHIN THE SCOPE OF THIS SUBTITLE;**

**(2) WITH RESPECT TO SEX DISCRIMINATION, TO A FACILITY THAT IS:**

**(I) UNIQUELY PRIVATE AND PERSONAL IN NATURE; AND**

**(II) DESIGNED TO ACCOMMODATE ONLY A PARTICULAR SEX;**

**AND**

**(3) TO AN ESTABLISHMENT PROVIDING LODGING TO TRANSIENT GUESTS LOCATED WITHIN A BUILDING THAT:**

**(I) CONTAINS NOT MORE THAN FIVE ROOMS FOR RENT OR HIRE; AND**

**(II) IS OCCUPIED BY THE PROPRIETOR OF THE ESTABLISHMENT AS THE PROPRIETOR'S RESIDENCE.**

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, § 5(f), (g), and the second clause of (d)(1).

In item (1) of this section, the former phrase "in fact" is deleted as surplusage. Similarly, in item (3)(ii) of this section, the former word "actually" is deleted.

#### **20-304. PROHIBITED ACT.**

**AN OWNER OR OPERATOR OF A PLACE OF PUBLIC ACCOMMODATION OR AN AGENT OR EMPLOYEE OF THE OWNER OR OPERATOR MAY NOT REFUSE, WITHHOLD FROM, OR DENY TO ANY PERSON ANY OF THE ACCOMMODATIONS, ADVANTAGES, FACILITIES, OR PRIVILEGES OF THE PLACE OF PUBLIC ACCOMMODATION BECAUSE OF THE PERSON'S RACE, SEX, AGE, COLOR, CREED, NATIONAL ORIGIN, MARITAL STATUS, SEXUAL ORIENTATION, OR DISABILITY.**

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, § 5(b).

Defined terms: "Person" § 1-101

"Place of public accommodation" § 20-301

"Sexual orientation" § 20-101

#### **20-305. REASONABLE ACCOMMODATIONS.**

**(A) "REASONABLE ACCOMMODATION" DEFINED.**

IN THIS SECTION, "REASONABLE ACCOMMODATION" MEANS TO MAKE A PLACE OF PUBLIC ACCOMMODATION SUITABLE FOR ACCESS, USE, AND PATRONAGE BY AN INDIVIDUAL WITH A DISABILITY WITHOUT:

(1) DANGER TO THE INDIVIDUAL'S HEALTH OR SAFETY; AND

(2) UNDUE HARDSHIP OR EXPENSE TO THE PERSON MAKING THE ACCOMMODATION.

(B) APPLICATION OF SUBTITLE.

(1) THIS SUBTITLE DOES NOT REQUIRE STRUCTURAL CHANGES, MODIFICATIONS, OR ADDITIONS TO BUILDINGS OR VEHICLES, EXCEPT AS REQUIRED BY THIS SECTION OR AS OTHERWISE REQUIRED BY LAW.

(2) ANY BUILDING CONSTRUCTED, MODIFIED, OR ALTERED IN COMPLIANCE WITH, OR IN ACCORDANCE WITH A WAIVER FROM, THE MARYLAND ACCESSIBILITY CODE UNDER § 12-202 OF THE PUBLIC SAFETY ARTICLE IS NOT SUBJECT TO THIS SUBTITLE.

(C) REASONABLE ACCOMMODATION REQUIRED.

IF A STRUCTURAL CHANGE OR MODIFICATION OR THE PROVISION OF SPECIAL EQUIPMENT IS NECESSARY TO ACCOMMODATE AN INDIVIDUAL WITH A DISABILITY, THE ACCOMMODATION SHALL BE A REASONABLE ACCOMMODATION.

(D) PRIVATE MOTOR COACH TRANSPORTATION CARRIER.

(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A PRIVATE MOTOR COACH TRANSPORTATION CARRIER MAY NOT BE REQUIRED TO EXPEND MORE THAN \$2,500 PER OPERATING VEHICLE TO MAKE A REASONABLE ACCOMMODATION TO COMPLY WITH THIS TITLE.

(2) AT LEAST 10% OF THE TOTAL OPERATING FLEET OF ANY PRIVATE MOTOR COACH TRANSPORTATION CARRIER DOING BUSINESS IN THE STATE SHALL COMPLY WITH THIS TITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, § 5(e)(2)(i) and (ii)1 and 2 and the first two sentences of § 5(e)(2).

In the introductory language of subsection (a) of this section, the defined term “place of public accommodation” is substituted for the former reference to a “public accommodation” for consistency throughout this subtitle.

Also in the introductory language of subsection (a) of this section, the reference to an “individual with a disability” is substituted for the former reference to a “person” for clarity and consistency with subsection (c) of this section. Correspondingly, in subsection (a)(1) of this section, the word “individual’s” is substituted for the former word “person’s”.

In subsection (a)(2) of this section, the defined term “person” is substituted for the former reference to a “business or other activity” for brevity and consistency within this title.

In subsections (c) and (e)(1) of this section, the defined term “reasonable accommodation” is substituted for the former references to an accommodation being “reasonable” for consistency within this section.

In subsection (d)(1) of this section, the phrase “a private motor coach transportation carrier may not be required to expend more than \$2,500 ... to comply with this title” is substituted for the former phrase “[w]ith respect to a private motor coach transportation carrier, for the purposes of this subsection, “reasonable accommodation” means that any requirement to satisfy the provisions of this article will not exceed a maximum expense of \$2,500” for brevity and clarity.

In subsection (d)(2) of this section, the former phrase “beginning January 1, 1990” is deleted as obsolete.

Defined terms: “Person” § 1–101

“Place of public accommodation” § 20–301

#### **SUBTITLE 4. DISCRIMINATION BY PERSONS LICENSED OR REGULATED BY DEPARTMENT OF LABOR, LICENSING, AND REGULATION.**

##### **20–401. CONSTRUCTION OF SUBTITLE.**

**THIS SUBTITLE DOES NOT PROHIBIT ANY PERSON THAT IS LICENSED OR REGULATED BY THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION FROM REFUSING, WITHHOLDING FROM, OR DENYING ACCOMMODATIONS, ADVANTAGES, FACILITIES, PRIVILEGES, SALES, OR SERVICES TO ANY PERSON FOR FAILURE TO CONFORM TO THE USUAL AND REGULAR REQUIREMENTS, STANDARDS, AND REGULATIONS OF THE LICENSED OR REGULATED PERSON, PROVIDED THAT THE DENIAL IS NOT BASED ON DISCRIMINATION ON THE**



**GROUND OF RACE, SEX, COLOR, CREED, NATIONAL ORIGIN, MARITAL STATUS, SEXUAL ORIENTATION, OR DISABILITY.**

REVISOR'S NOTE: This section is new language derived without substantive change from the second sentence of former Art. 49B, § 8(a).

The reference to "accommodations, advantages, facilities, privileges, sales, or services" is added for clarity and consistency with § 20-402 of this subtitle.

The reference to the "licensed or regulated" person is substituted for the former reference to the person "contemplated by this section" for clarity.

The former reference to a "business, corporation, partnership, copartnership, association or any other individual, agent, employee, group or firm" is deleted as included in the definition of the term "person" in § 1-101 of this article. Similarly, the former reference to a "business, corporation, partnership, copartnership, or association" is deleted.

Defined terms: "Person" § 1-101  
"Sexual orientation" § 20-101

**20-402. PROHIBITED ACT.**

**A PERSON THAT IS LICENSED OR REGULATED BY A UNIT IN THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION LISTED IN § 2-108 OF THE BUSINESS REGULATION ARTICLE MAY NOT REFUSE, WITHHOLD FROM, OR DENY ANY PERSON ANY OF THE ACCOMMODATIONS, ADVANTAGES, FACILITIES, PRIVILEGES, SALES, OR SERVICES OF THE LICENSED OR REGULATED PERSON OR DISCRIMINATE AGAINST ANY PERSON BECAUSE OF THE PERSON'S RACE, SEX, CREED, COLOR, NATIONAL ORIGIN, MARITAL STATUS, SEXUAL ORIENTATION, OR DISABILITY.**

REVISOR'S NOTE: This section is new language derived without substantive change from the first sentence of former Art. 49B, § 8(a).

The phrase "of the licensed or regulated person" is added for clarity.

The former reference to a "business, corporation, partnership, copartnership or association or any other individual, agent, employee, group or firm" is deleted as included in the definition of the term "person" in § 1-101 of this article.

The Human Relations Commission Law Article Review Committee notes, for consideration by the General Assembly, that age is not a protected

class under this section. The General Assembly may wish to add age for consistency throughout this title.

Defined terms: "Person" § 1-101  
"Sexual orientation" § 20-101

## **SUBTITLE 5. DISCRIMINATION IN LEASING OF COMMERCIAL PROPERTY.**

### **20-501. PROHIBITED ACT.**

**AN OWNER OR OPERATOR OF COMMERCIAL PROPERTY, AN AGENT OR EMPLOYEE OF THE OWNER OR OPERATOR OF COMMERCIAL PROPERTY, OR A PERSON THAT IS LICENSED OR REGULATED BY THE STATE MAY NOT DISCRIMINATE AGAINST AN INDIVIDUAL IN THE TERMS, CONDITIONS, OR PRIVILEGES OF THE LEASING OF PROPERTY FOR COMMERCIAL USE, OR IN THE PROVISION OF SERVICES OR FACILITIES IN CONNECTION WITH THE LEASING OF PROPERTY FOR COMMERCIAL USE, BECAUSE OF THE INDIVIDUAL'S RACE, COLOR, RELIGION, SEX, AGE, DISABILITY, MARITAL STATUS, OR NATIONAL ORIGIN.**

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, § 8A.

The reference to a "disability" is substituted for the former obsolete reference to a "handicap".

The former reference to "businesses" is deleted as included in the definition of the term "person" in § 1-101 of this article.

The Human Relations Commission Law Article Review Committee notes, for consideration by the General Assembly, that sexual orientation is not a protected class under this section. The General Assembly may wish to add sexual orientation for consistency throughout this title.

The Human Relations Commission Law Article Review Committee also notes, for consideration by the General Assembly, that in other provisions in this title prohibiting discrimination, the object of discrimination is generally a "person". The General Assembly may wish to change the reference to "an individual" in this section to "a person".

Defined term: "Person" § 1-101

## **SUBTITLE 6. DISCRIMINATION IN EMPLOYMENT.**

### **20-601. DEFINITIONS.**

**(A) IN GENERAL.**

**IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.**

REVISOR'S NOTE: This subsection is standard language substituted for the introductory phrase of former Art. 49B, § 15.

**(B) DISABILITY.**

**(1) "DISABILITY" MEANS:**

**(I) A PHYSICAL DISABILITY, INFIRMITY, MALFORMATION, OR DISFIGUREMENT THAT IS CAUSED BY BODILY INJURY, BIRTH DEFECT, OR ILLNESS, INCLUDING EPILEPSY; OR**

**(II) A MENTAL IMPAIRMENT OR DEFICIENCY.**

**(2) "DISABILITY" INCLUDES:**

**(I) 1. ANY DEGREE OF PARALYSIS, AMPUTATION, OR LACK OF PHYSICAL COORDINATION;**

**2. BLINDNESS OR VISUAL IMPAIRMENT;**

**3. DEAFNESS OR HEARING IMPAIRMENT;**

**4. MUTENESS OR SPEECH IMPEDIMENT; AND**

**5. PHYSICAL RELIANCE ON A SERVICE ANIMAL, WHEELCHAIR, OR OTHER REMEDIAL APPLIANCE OR DEVICE; AND**

**(II) RETARDATION AND ANY OTHER MENTAL IMPAIRMENT OR DEFICIENCY THAT MAY HAVE NECESSITATED REMEDIAL OR SPECIAL EDUCATION AND RELATED SERVICES.**

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 49B, § 15(g).

In the introductory language of paragraph (2) of this subsection, the former phrases "but not be limited to" and "but not limited to" are deleted as unnecessary in light of § 1-101(c) of this article, which provides that

the terms “includes” and “including” mean “by way of illustration and not by way of limitation”.

In paragraph (2)(i)5 of this subsection, the reference to a “service animal” is substituted for the former obsolete reference to a “seeing eye dog”.

Defined term: “Includes”, “including” § 1–101

**(C) EMPLOYEE.**

**(1) “EMPLOYEE” MEANS AN INDIVIDUAL EMPLOYED BY AN EMPLOYER.**

**(2) UNLESS THE INDIVIDUAL IS SUBJECT TO THE STATE OR LOCAL CIVIL SERVICE LAWS, “EMPLOYEE” DOES NOT INCLUDE:**

**(I) AN INDIVIDUAL ELECTED TO PUBLIC OFFICE;**

**(II) AN INDIVIDUAL CHOSEN BY AN ELECTED OFFICER TO BE ON THE OFFICER’S PERSONAL STAFF;**

**(III) AN APPOINTEE ON THE POLICY MAKING LEVEL; OR**

**(IV) AN IMMEDIATE ADVISER WITH RESPECT TO THE EXERCISE OF THE CONSTITUTIONAL OR LEGAL POWERS OF AN ELECTED OFFICE.**

REVISOR’S NOTE: This subsection is new language derived without substantive change from former Art. 49B, § 15(e).

In paragraph (2)(i) and (ii) of this subsection, the references to an “individual” are substituted for the former references to a “person” for consistency with paragraph (1) of this subsection and because only a human being and not the other entities included in the definition of “person” can be elected to public office or on an elected officer’s staff.

In paragraph (2)(ii) and (iv) of this subsection, the references to an “elected” officer and an “elected” office, respectively, are added for clarity.

In paragraph (2)(ii) of this subsection, the reference to “personal” staff is substituted for the former incorrect reference to “personnel” staff.

Defined term: “Employer” § 20–601

**(D) EMPLOYER.**

**(1) "EMPLOYER" MEANS:**

**(I) A PERSON THAT:**

- 1. IS ENGAGED IN AN INDUSTRY OR BUSINESS; AND**
- 2. HAS 15 OR MORE EMPLOYEES FOR EACH WORKING DAY IN EACH OF 20 OR MORE CALENDAR WEEKS IN THE CURRENT OR PRECEDING CALENDAR YEAR; AND**

**(II) AN AGENT OF A PERSON DESCRIBED IN ITEM (I) OF THIS PARAGRAPH.**

**(2) "EMPLOYER" INCLUDES THE STATE TO THE EXTENT PROVIDED IN THIS TITLE.**

**(3) EXCEPT FOR A LABOR ORGANIZATION, "EMPLOYER" DOES NOT INCLUDE A BONA FIDE PRIVATE MEMBERSHIP CLUB THAT IS EXEMPT FROM TAXATION UNDER § 501(C) OF THE INTERNAL REVENUE CODE.**

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 49B, § 15(b).

Defined terms: "Employee" § 20-601

"Includes" § 1-101

"Labor organization" § 20-601

"Person" § 1-101

**(E) EMPLOYMENT AGENCY.**

**(1) "EMPLOYMENT AGENCY" MEANS:**

**(I) A PERSON THAT REGULARLY UNDERTAKES WITH OR WITHOUT COMPENSATION TO PROCURE:**

- 1. EMPLOYEES FOR AN EMPLOYER; OR**
- 2. OPPORTUNITIES FOR EMPLOYEES TO WORK FOR AN EMPLOYER; AND**

**(II) AN AGENT OF A PERSON DESCRIBED IN ITEM (I) OF THIS PARAGRAPH.**

**(2) EXCEPT FOR THE UNITED STATES EMPLOYMENT SERVICE AND THE SYSTEM OF STATE AND LOCAL EMPLOYMENT SERVICES RECEIVING FEDERAL ASSISTANCE, “EMPLOYMENT AGENCY” DOES NOT INCLUDE A UNIT OF THE UNITED STATES, THE STATE, OR A POLITICAL SUBDIVISION OF THE STATE.**

REVISOR’S NOTE: This subsection is new language derived without substantive change from former Art. 49B, § 15(c).

As to the substitution of the reference to a “unit” for the former reference to an “agency”, *see* General Revisor’s Note to title.

Defined terms: “Employee” § 20–601

“Employer” § 20–601

“Person” § 1–101

**(F) GENETIC INFORMATION.**

**“GENETIC INFORMATION” HAS THE MEANING STATED IN § 27–909(A)(3) OF THE INSURANCE ARTICLE.**

REVISOR’S NOTE: This subsection formerly was Art. 49B, § 15(h).

No changes are made.

**(G) GENETIC TEST.**

**“GENETIC TEST” HAS THE MEANING STATED IN § 27–909(A)(5) OF THE INSURANCE ARTICLE.**

REVISOR’S NOTE: This subsection formerly was Art. 49B, § 15(i).

No changes are made.

**(H) LABOR ORGANIZATION.**

**(1) “LABOR ORGANIZATION” MEANS:**

**(I) A LABOR ORGANIZATION ENGAGED IN AN INDUSTRY;**

**AND**

**(II) AN AGENT OF AN ORGANIZATION DESCRIBED IN ITEM (I) OF THIS PARAGRAPH.**

**(2) “LABOR ORGANIZATION” INCLUDES:**

**(I) AN ORGANIZATION OF ANY KIND, AN AGENCY, OR AN EMPLOYEE REPRESENTATION COMMITTEE, GROUP, ASSOCIATION, OR PLAN:**

**1. IN WHICH EMPLOYEES PARTICIPATE; AND**

**2. THAT EXISTS, WHOLLY OR PARTLY, FOR THE PURPOSE OF DEALING WITH EMPLOYERS CONCERNING GRIEVANCES, LABOR DISPUTES, WAGES, RATES OF PAY, HOURS, OR OTHER TERMS OR CONDITIONS OF EMPLOYMENT; AND**

**(II) A CONFERENCE, GENERAL COMMITTEE, JOINT OR SYSTEM BOARD, OR JOINT COUNCIL THAT IS SUBORDINATE TO A NATIONAL OR INTERNATIONAL LABOR ORGANIZATION.**

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 49B, § 15(d).

In paragraph (2)(ii) and the introductory language of paragraph (2)(i) of this subsection, the former phrase "so engaged" is deleted as unnecessary in light of the reference to a labor organization "engaged in an industry" in paragraph (1)(i) of this subsection.

Defined terms: "Employee" § 20-601  
"Employer" § 20-601  
"Includes" § 1-101

**(I) RELIGION.**

**"RELIGION" INCLUDES ALL ASPECTS OF RELIGIOUS OBSERVANCES, PRACTICE, AND BELIEF.**

REVISOR'S NOTE: This subsection is new language derived without substantive change from the first two clauses of former Art. 49B, § 15(f).

Defined term: "Includes" § 1-101

REVISOR'S NOTE TO SECTION:

Former Art. 49B, § 15(a), which defined "person", is deleted as unnecessary in light of the definition of "person" in § 1-101 of this article.

**20-602. STATE POLICY.**

**IT IS THE POLICY OF THE STATE, IN THE EXERCISE OF ITS POLICE POWER FOR THE PROTECTION OF THE PUBLIC SAFETY, PUBLIC HEALTH, AND GENERAL**

**WELFARE, FOR THE MAINTENANCE OF BUSINESS AND GOOD GOVERNMENT, AND FOR THE PROMOTION OF THE STATE'S TRADE, COMMERCE, AND MANUFACTURERS:**

**(1) TO ASSURE ALL PERSONS EQUAL OPPORTUNITY IN RECEIVING EMPLOYMENT AND IN ALL LABOR MANAGEMENT-UNION RELATIONS, REGARDLESS OF RACE, COLOR, RELIGION, ANCESTRY OR NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, SEXUAL ORIENTATION, OR DISABILITY UNRELATED IN NATURE AND EXTENT SO AS TO REASONABLY PRECLUDE THE PERFORMANCE OF THE EMPLOYMENT; AND**

**(2) TO THAT END, TO PROHIBIT DISCRIMINATION IN EMPLOYMENT BY ANY PERSON.**

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, § 14.

In item (2) of this section, the former reference to any "group, labor organization, organization or any employer or his agents" is deleted as included in the reference to any "person".

Defined terms: "Disability" § 20-601

"Person" § 1-101

"Religion" § 20-601

"Sexual orientation" § 20-101

### **20-603. CONSTRUCTION OF SUBTITLE.**

**THIS SUBTITLE DOES NOT REQUIRE:**

**(1) AN EMPLOYER, EMPLOYMENT AGENCY, LABOR ORGANIZATION, OR JOINT LABOR-MANAGEMENT COMMITTEE SUBJECT TO THIS SUBTITLE TO GRANT PREFERENTIAL TREATMENT TO ANY INDIVIDUAL OR GROUP ON THE BASIS OF THE RACE, COLOR, RELIGION, SEX, AGE, NATIONAL ORIGIN, SEXUAL ORIENTATION, OR DISABILITY OF THE INDIVIDUAL OR GROUP BECAUSE AN IMBALANCE MAY EXIST WITH RESPECT TO THE TOTAL NUMBER OR PERCENTAGE OF INDIVIDUALS OF ANY RACE, COLOR, RELIGION, SEX, AGE, NATIONAL ORIGIN, OR SEXUAL ORIENTATION OR INDIVIDUALS WITH DISABILITIES EMPLOYED BY THE EMPLOYER, REFERRED OR CLASSIFIED FOR EMPLOYMENT BY THE EMPLOYMENT AGENCY OR LABOR ORGANIZATION, ADMITTED TO MEMBERSHIP OR CLASSIFIED BY THE LABOR ORGANIZATION, OR ADMITTED TO, OR EMPLOYED IN, ANY APPRENTICESHIP OR OTHER TRAINING PROGRAM, COMPARED TO THE TOTAL NUMBER OR PERCENTAGE OF INDIVIDUALS OF THAT RACE, COLOR, RELIGION, SEX, AGE, NATIONAL ORIGIN,**



**OR SEXUAL ORIENTATION OR INDIVIDUALS WITH DISABILITIES IN THE STATE OR ANY COMMUNITY, SECTION, OR OTHER AREA, OR IN THE AVAILABLE WORK FORCE IN THE STATE OR ANY COMMUNITY, SECTION, OR OTHER AREA; OR**

**(2) AN EMPLOYER TO REASONABLY ACCOMMODATE AN EMPLOYEE'S RELIGION IF THE ACCOMMODATION WOULD CAUSE UNDUE HARDSHIP ON THE CONDUCT OF THE EMPLOYER'S BUSINESS.**

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, § 16(h) and the third clause of § 15(f).

In item (1) of this section, references to "individuals" are substituted for the former references to "persons" for consistency within that item.

Defined terms: "Disability" § 20-601  
 "Employee" § 20-601  
 "Employer" § 20-601  
 "Employment agency" § 20-601  
 "Labor organization" § 20-601  
 "Religion" § 20-601  
 "Sexual orientation" § 20-101

**20-604. SCOPE OF SUBTITLE.**

**THIS SUBTITLE DOES NOT APPLY TO:**

**(1) AN EMPLOYER WITH RESPECT TO THE EMPLOYMENT OF ALIENS OUTSIDE OF THE STATE; OR**

**(2) A RELIGIOUS CORPORATION, ASSOCIATION, EDUCATIONAL INSTITUTION, OR SOCIETY WITH RESPECT TO THE EMPLOYMENT OF INDIVIDUALS OF A PARTICULAR RELIGION OR SEXUAL ORIENTATION TO PERFORM WORK CONNECTED WITH THE ACTIVITIES OF THE RELIGIOUS ENTITY.**

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, § 18.

In item (2) of this section, the reference to "the religious entity" is substituted for the former reference to "such corporation, association, educational institution or society" for brevity.

Defined terms: "Employer" § 20-601  
 "Religion" § 20-601  
 "Sexual orientation" § 20-101

**20-605. EXCEPTIONS.****(A) IN GENERAL.**

**NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBTITLE, THIS SUBTITLE DOES NOT PROHIBIT:**

**(1) AN EMPLOYER FROM HIRING AND EMPLOYING EMPLOYEES, AN EMPLOYMENT AGENCY FROM CLASSIFYING OR REFERRING FOR EMPLOYMENT ANY INDIVIDUAL, A LABOR ORGANIZATION FROM CLASSIFYING ITS MEMBERSHIP OR CLASSIFYING OR REFERRING FOR EMPLOYMENT ANY INDIVIDUAL, OR AN EMPLOYER, LABOR ORGANIZATION, OR JOINT LABOR-MANAGEMENT COMMITTEE CONTROLLING APPRENTICESHIP OR OTHER TRAINING OR RETRAINING PROGRAMS FROM ADMITTING OR EMPLOYING ANY INDIVIDUAL IN A PROGRAM, ON THE BASIS OF THE INDIVIDUAL'S SEX, AGE, RELIGION, NATIONAL ORIGIN, OR DISABILITY, IF SEX, AGE, RELIGION, NATIONAL ORIGIN, OR DISABILITY IS A BONA FIDE OCCUPATIONAL QUALIFICATION REASONABLY NECESSARY TO THE NORMAL OPERATION OF THAT BUSINESS OR ENTERPRISE;**

**(2) AN EMPLOYER FROM ESTABLISHING STANDARDS CONCERNING AN EMPLOYEE'S DRESS AND GROOMING, IF THE STANDARDS ARE DIRECTLY RELATED TO THE NATURE OF THE EMPLOYMENT OF THE EMPLOYEE;**

**(3) A SCHOOL, COLLEGE, UNIVERSITY, OR OTHER EDUCATIONAL INSTITUTION FROM HIRING AND EMPLOYING EMPLOYEES OF A PARTICULAR RELIGION, IF:**

**(I) THE INSTITUTION IS WHOLLY OR SUBSTANTIALLY OWNED, SUPPORTED, CONTROLLED, OR MANAGED BY A PARTICULAR RELIGION OR BY A PARTICULAR RELIGIOUS CORPORATION, ASSOCIATION, OR SOCIETY; OR**

**(II) THE CURRICULUM OF THE INSTITUTION IS DIRECTED TOWARD THE PROPAGATION OF A PARTICULAR RELIGION; OR**

**(4) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, AN EMPLOYER, EMPLOYMENT AGENCY, OR LABOR ORGANIZATION FROM OBSERVING THE TERMS OF A BONA FIDE SENIORITY SYSTEM OR ANY BONA FIDE EMPLOYEE BENEFIT PLAN, SUCH AS A RETIREMENT, PENSION, OR INSURANCE PLAN, THAT IS NOT A SUBTERFUGE TO EVADE THE PURPOSES OF THIS SUBTITLE.**

**(B) EMPLOYEE BENEFIT PLAN.**

**AN EMPLOYEE BENEFIT PLAN MAY NOT EXCUSE THE FAILURE TO HIRE ANY INDIVIDUAL.**

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, § 16(g).

In subsection (a)(1) of this section, the reference to the individual's "sex, [and] age" is added for internal consistency.

In the introductory language of subsection (a)(3) of this section, the former reference to an "institution of learning" is deleted as included in the reference to an "educational institution".

In subsection (a)(3)(i) and (ii) of this section, the references to the "institution" are substituted for the former references to the "school, college, university, or other educational institution or institution of learning" for brevity.

Defined terms: "Disability" § 20-601

"Employee" § 20-601

"Employer" § 20-601

"Employment agency" § 20-601

"Labor organization" § 20-601

"Religion" § 20-601

**20-606. UNLAWFUL EMPLOYMENT PRACTICES.**

**(A) EMPLOYERS.**

**AN EMPLOYER MAY NOT:**

**(1) FAIL OR REFUSE TO HIRE, DISCHARGE, OR OTHERWISE DISCRIMINATE AGAINST ANY INDIVIDUAL WITH RESPECT TO THE INDIVIDUAL'S COMPENSATION, TERMS, CONDITIONS, OR PRIVILEGES OF EMPLOYMENT BECAUSE OF:**

**(I) THE INDIVIDUAL'S RACE, COLOR, RELIGION, SEX, AGE, NATIONAL ORIGIN, MARITAL STATUS, SEXUAL ORIENTATION, GENETIC INFORMATION, OR DISABILITY UNRELATED IN NATURE AND EXTENT SO AS TO REASONABLY PRECLUDE THE PERFORMANCE OF THE EMPLOYMENT; OR**

**(II) THE INDIVIDUAL'S REFUSAL TO SUBMIT TO A GENETIC TEST OR MAKE AVAILABLE THE RESULTS OF A GENETIC TEST;**

(2) LIMIT, SEGREGATE, OR CLASSIFY ITS EMPLOYEES OR APPLICANTS FOR EMPLOYMENT IN ANY WAY THAT WOULD DEPRIVE OR TEND TO DEPRIVE ANY INDIVIDUAL OF EMPLOYMENT OPPORTUNITIES OR OTHERWISE ADVERSELY AFFECT THE INDIVIDUAL'S STATUS AS AN EMPLOYEE BECAUSE OF:

(I) THE INDIVIDUAL'S RACE, COLOR, RELIGION, SEX, AGE, NATIONAL ORIGIN, MARITAL STATUS, SEXUAL ORIENTATION, GENETIC INFORMATION, OR DISABILITY UNRELATED IN NATURE AND EXTENT SO AS TO REASONABLY PRECLUDE THE PERFORMANCE OF THE EMPLOYMENT; OR

(II) THE INDIVIDUAL'S REFUSAL TO SUBMIT TO A GENETIC TEST OR MAKE AVAILABLE THE RESULTS OF A GENETIC TEST; OR

(3) REQUEST OR REQUIRE GENETIC TESTS OR GENETIC INFORMATION AS A CONDITION OF HIRING OR DETERMINING BENEFITS.

(B) EMPLOYMENT AGENCIES.

AN EMPLOYMENT AGENCY MAY NOT:

(1) FAIL OR REFUSE TO REFER FOR EMPLOYMENT OR OTHERWISE DISCRIMINATE AGAINST ANY INDIVIDUAL BECAUSE OF THE INDIVIDUAL'S RACE, COLOR, RELIGION, SEX, AGE, NATIONAL ORIGIN, MARITAL STATUS, SEXUAL ORIENTATION, OR DISABILITY UNRELATED IN NATURE AND EXTENT SO AS TO REASONABLY PRECLUDE THE PERFORMANCE OF THE EMPLOYMENT; OR

(2) CLASSIFY OR REFER FOR EMPLOYMENT ANY INDIVIDUAL ON THE BASIS OF THE INDIVIDUAL'S RACE, COLOR, RELIGION, SEX, AGE, NATIONAL ORIGIN, MARITAL STATUS, SEXUAL ORIENTATION, OR DISABILITY UNRELATED IN NATURE AND EXTENT SO AS TO REASONABLY PRECLUDE THE PERFORMANCE OF THE EMPLOYMENT.

(C) LABOR ORGANIZATIONS.

A LABOR ORGANIZATION MAY NOT:

(1) EXCLUDE OR EXPEL FROM ITS MEMBERSHIP, OR OTHERWISE DISCRIMINATE AGAINST, ANY INDIVIDUAL BECAUSE OF THE INDIVIDUAL'S RACE, COLOR, RELIGION, SEX, AGE, NATIONAL ORIGIN, MARITAL STATUS, SEXUAL ORIENTATION, OR DISABILITY UNRELATED IN NATURE AND EXTENT SO AS TO REASONABLY PRECLUDE THE PERFORMANCE OF THE EMPLOYMENT;

(2) LIMIT, SEGREGATE, OR CLASSIFY ITS MEMBERSHIP, OR CLASSIFY OR FAIL OR REFUSE TO REFER FOR EMPLOYMENT ANY INDIVIDUAL, IN

ANY WAY THAT WOULD DEPRIVE OR TEND TO DEPRIVE THE INDIVIDUAL OF EMPLOYMENT OPPORTUNITIES, LIMIT THE INDIVIDUAL'S EMPLOYMENT OPPORTUNITIES, OR OTHERWISE ADVERSELY AFFECT THE INDIVIDUAL'S STATUS AS AN EMPLOYEE OR AS AN APPLICANT FOR EMPLOYMENT BECAUSE OF THE INDIVIDUAL'S RACE, COLOR, RELIGION, SEX, AGE, NATIONAL ORIGIN, MARITAL STATUS, SEXUAL ORIENTATION, OR DISABILITY UNRELATED IN NATURE AND EXTENT SO AS TO REASONABLY PRECLUDE THE PERFORMANCE OF THE EMPLOYMENT; OR

(3) CAUSE OR ATTEMPT TO CAUSE AN EMPLOYER TO DISCRIMINATE AGAINST AN INDIVIDUAL IN VIOLATION OF THIS SECTION.

(D) TRAINING PROGRAMS.

AN EMPLOYER, LABOR ORGANIZATION, OR JOINT LABOR-MANAGEMENT COMMITTEE CONTROLLING APPRENTICESHIP OR OTHER TRAINING OR RETRAINING PROGRAMS, INCLUDING ON-THE-JOB TRAINING PROGRAMS, MAY NOT DISCRIMINATE AGAINST ANY INDIVIDUAL IN ADMISSION TO, OR EMPLOYMENT IN, ANY PROGRAM ESTABLISHED TO PROVIDE APPRENTICESHIP OR OTHER TRAINING OR RETRAINING BECAUSE OF THE INDIVIDUAL'S RACE, COLOR, RELIGION, SEX, AGE, NATIONAL ORIGIN, MARITAL STATUS, SEXUAL ORIENTATION, OR DISABILITY UNRELATED IN NATURE AND EXTENT SO AS TO REASONABLY PRECLUDE THE PERFORMANCE OF THE EMPLOYMENT.

(E) NOTICE OR ADVERTISEMENT INDICATING PROHIBITED PREFERENCE, LIMITATION, SPECIFICATION, OR DISCRIMINATION; BONA FIDE OCCUPATIONAL QUALIFICATION.

(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, AN EMPLOYER, LABOR ORGANIZATION, OR EMPLOYMENT AGENCY MAY NOT PRINT OR CAUSE TO BE PRINTED OR PUBLISHED ANY NOTICE OR ADVERTISEMENT RELATING TO EMPLOYMENT BY THE EMPLOYER, MEMBERSHIP IN OR ANY CLASSIFICATION OR REFERRAL FOR EMPLOYMENT BY THE LABOR ORGANIZATION, OR ANY CLASSIFICATION OR REFERRAL FOR EMPLOYMENT BY THE EMPLOYMENT AGENCY THAT INDICATES ANY PREFERENCE, LIMITATION, SPECIFICATION, OR DISCRIMINATION BASED ON RACE, COLOR, RELIGION, SEX, AGE, NATIONAL ORIGIN, SEXUAL ORIENTATION, OR DISABILITY.

(2) A NOTICE OR ADVERTISEMENT MAY INDICATE A PREFERENCE, LIMITATION, SPECIFICATION, OR DISCRIMINATION BASED ON RELIGION, SEX, AGE, NATIONAL ORIGIN, OR DISABILITY IF RELIGION, SEX, AGE, NATIONAL ORIGIN, OR DISABILITY IS A BONA FIDE OCCUPATIONAL QUALIFICATION FOR EMPLOYMENT.

**(F) OPPOSITION TO UNLAWFUL EMPLOYMENT PRACTICE;  
PARTICIPATION IN ENFORCEMENT PROCEEDING.**

**AN EMPLOYER MAY NOT DISCRIMINATE AGAINST ANY OF ITS EMPLOYEES OR APPLICANTS FOR EMPLOYMENT, AN EMPLOYMENT AGENCY MAY NOT DISCRIMINATE AGAINST ANY INDIVIDUAL, AND A LABOR ORGANIZATION MAY NOT DISCRIMINATE AGAINST ANY MEMBER OR APPLICANT FOR MEMBERSHIP BECAUSE THE INDIVIDUAL HAS:**

**(1) OPOSED ANY PRACTICE PROHIBITED BY THIS SUBTITLE; OR**

**(2) MADE A CHARGE, TESTIFIED, ASSISTED, OR PARTICIPATED IN ANY MANNER IN AN INVESTIGATION, PROCEEDING, OR HEARING UNDER THIS SUBTITLE.**

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, § 16(a) through (f).

In subsection (d) of this section, the reference to other training "or retraining" is added for internal consistency.

Also in subsection (d) of this section, the reference to a disability unrelated in nature "and" extent is substituted for the former reference to a disability unrelated in nature "or" extent for consistency throughout this subtitle.

The Human Relations Commission Law Article Review Committee notes, for consideration by the General Assembly, that marital status is not a protected class under subsection (e) of this section. The General Assembly may wish to add marital status for consistency throughout this title.

Defined terms: "Disability" § 20-601

"Employee" § 20-601

"Employer" § 20-601

"Employment agency" § 20-601

"Genetic information" § 20-601

"Genetic test" § 20-601

"Including" § 1-101

"Labor organization" § 20-601

"Religion" § 20-601

"Sexual orientation" § 20-101

**20-607. IMMUNITY.**

**AN EMPLOYER SHALL BE IMMUNE FROM LIABILITY UNDER THIS TITLE OR UNDER THE COMMON LAW ARISING OUT OF REASONABLE ACTS TAKEN BY THE EMPLOYER TO VERIFY THE SEXUAL ORIENTATION OF ANY EMPLOYEE OR APPLICANT IN RESPONSE TO A CHARGE FILED AGAINST THE EMPLOYER ON THE BASIS OF SEXUAL ORIENTATION.**

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, § 16(i).

The former reference to "the employer's" reasonable acts is deleted as surplusage in light of the reference to reasonable acts "taken by the employer".

Defined terms: "Employee" § 20-601

"Employer" § 20-601

"Sexual orientation" § 20-101

**20-608. DISABILITIES DUE TO PREGNANCY OR CHILDBIRTH.**

**(A) TREATMENT AS TEMPORARY DISABILITIES.**

**DISABILITIES CAUSED OR CONTRIBUTED TO BY PREGNANCY OR CHILDBIRTH:**

**(1) ARE TEMPORARY DISABILITIES FOR ALL JOB-RELATED PURPOSES; AND**

**(2) SHALL BE TREATED AS TEMPORARY DISABILITIES UNDER ANY HEALTH OR TEMPORARY DISABILITY INSURANCE OR SICK LEAVE PLAN AVAILABLE IN CONNECTION WITH EMPLOYMENT.**

**(B) PARITY WITH OTHER TEMPORARY DISABILITIES.**

**WRITTEN AND UNWRITTEN EMPLOYMENT POLICIES AND PRACTICES INVOLVING MATTERS SUCH AS THE COMMENCEMENT AND DURATION OF LEAVE, THE AVAILABILITY OF EXTENSIONS OF LEAVE, THE ACCRUAL OF SENIORITY AND OTHER BENEFITS AND PRIVILEGES, REINSTATEMENT, AND PAYMENT UNDER ANY HEALTH OR TEMPORARY DISABILITY INSURANCE OR SICK LEAVE PLAN, FORMAL OR INFORMAL, SHALL BE APPLIED TO DISABILITY DUE TO PREGNANCY OR CHILDBIRTH ON THE SAME TERMS AND CONDITIONS AS THEY ARE APPLIED TO OTHER TEMPORARY DISABILITIES.**

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, § 17.

In subsection (b) of this section, the reference to extensions “of leave” is added for clarity.

Also in subsection (b) of this section, the former reference to other temporary disabilities “subject to the provisions of this section” is deleted as surplusage and for clarity.

Defined term: “Disability” § 20–601

## **SUBTITLE 7. DISCRIMINATION IN HOUSING.**

### **20–701. DEFINITIONS.**

#### **(A) IN GENERAL.**

**IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.**

REVISOR’S NOTE: This subsection formerly was Art. 49B, § 20(a).

No changes are made.

#### **(B) DISABILITY.**

##### **(1) “DISABILITY” MEANS:**

**(I) A DISABILITY THAT SUBSTANTIALLY LIMITS ONE OR MORE OF AN INDIVIDUAL’S MAJOR LIFE ACTIVITIES;**

**(II) A RECORD OF HAVING A DISABILITY THAT SUBSTANTIALLY LIMITS ONE OR MORE OF AN INDIVIDUAL’S MAJOR LIFE ACTIVITIES; OR**

**(III) BEING REGARDED AS HAVING A DISABILITY THAT SUBSTANTIALLY LIMITS ONE OR MORE OF AN INDIVIDUAL’S MAJOR LIFE ACTIVITIES.**

**(2) “DISABILITY” DOES NOT INCLUDE THE CURRENT ILLEGAL USE OF OR ADDICTION TO:**

**(I) A CONTROLLED DANGEROUS SUBSTANCE, AS DEFINED IN § 5–101 OF THE CRIMINAL LAW ARTICLE; OR**



**(II) A CONTROLLED SUBSTANCE, AS DEFINED IN 21 U.S.C. § 802.**

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 49B, § 20(k).

In the introductory language of paragraph (1) of this subsection, the former phrase "for an individual" is deleted as surplusage.

In paragraph (2)(ii) of this subsection, the former reference to "§ 102 of the Federal Controlled Substances Act" is deleted as unnecessary in light of the reference to "21 U.S.C. § 802".

The Human Relations Commission Law Article Review Committee notes, for consideration by the General Assembly, that Ch. 60, Acts of 1999, incorrectly substituted the word "disability" for references to a "physical or mental impairment" in former Art. 49B, § 20(k)(1). The General Assembly may wish to restore references to a "physical or mental impairment" in paragraph (1)(i), (ii), and (iii) of this subsection for consistency with the federal fair housing law. *See* 42 U.S.C. § 3602(h).

**(C) DISCRIMINATORY HOUSING PRACTICE.**

**"DISCRIMINATORY HOUSING PRACTICE" MEANS AN ACT THAT IS PROHIBITED UNDER § 20-705, § 20-706, § 20-707, OR § 20-708 OF THIS SUBTITLE.**

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 49B, § 20(g).

**(D) DWELLING.**

**"DWELLING" MEANS:**

**(1) ANY BUILDING, STRUCTURE, OR PORTION OF A BUILDING OR STRUCTURE THAT IS OCCUPIED, OR DESIGNED OR INTENDED FOR OCCUPANCY, AS A RESIDENCE BY ONE OR MORE FAMILIES; AND**

**(2) ANY VACANT LAND THAT IS OFFERED FOR SALE OR LEASE FOR THE CONSTRUCTION OR LOCATION ON THE LAND OF ANY BUILDING, STRUCTURE, OR PORTION OF A BUILDING OR STRUCTURE DESCRIBED IN ITEM (1) OF THIS SUBSECTION.**

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 49B, § 20(h).

Defined term: “Family” § 20–701

**(E) FAMILIAL STATUS.**

**(1) “FAMILIAL STATUS” MEANS THE STATUS OF ONE OR MORE MINORS WHO ARE DOMICILED WITH:**

**(I) A PARENT OR OTHER PERSON HAVING LEGAL CUSTODY OF THE MINOR; OR**

**(II) THE DESIGNEE OF A PARENT OR OTHER PERSON HAVING LEGAL CUSTODY OF THE MINOR WITH THE WRITTEN PERMISSION OF THE PARENT OR OTHER PERSON.**

**(2) “FAMILIAL STATUS” INCLUDES THE STATUS OF BEING:**

**(I) A PREGNANT WOMAN; OR**

**(II) AN INDIVIDUAL WHO IS IN THE PROCESS OF SECURING LEGAL CUSTODY OF A MINOR.**

REVISOR’S NOTE: This subsection is new language derived without substantive change from former Art. 49B, § 20(i).

In paragraph (2)(ii) and the introductory language of paragraph (1) of this subsection, the references to “a minor” and “minors” are substituted for the former phrases “an individual under age 18” and “individuals who are under age 18”, respectively, for brevity. *See* Art. 1, § 24. Correspondingly, in paragraph (1)(i) and (ii) of this subsection, the word “minor” is substituted for the former word “individual”.

Defined terms: “Includes” § 1–101

“Person” § 1–101

**(F) FAMILY.**

**“FAMILY” INCLUDES A SINGLE INDIVIDUAL.**

REVISOR’S NOTE: This subsection formerly was Art. 49B, § 20(j).

No changes are made.

Defined term: “Includes” § 1–101

**(G) IN THE BUSINESS OF SELLING OR RENTING DWELLINGS.**

**“IN THE BUSINESS OF SELLING OR RENTING DWELLINGS” MEANS:**

**(1) WITHIN THE PRECEDING 12 MONTHS, PARTICIPATING AS A PRINCIPAL IN THREE OR MORE TRANSACTIONS INVOLVING THE SALE OR RENTAL OF ANY DWELLING OR ANY INTEREST IN A DWELLING;**

**(2) WITHIN THE PRECEDING 12 MONTHS, PARTICIPATING AS AN AGENT, OTHER THAN IN THE SALE OF THE INDIVIDUAL’S OWN PERSONAL RESIDENCE, IN PROVIDING SALES OR RENTAL FACILITIES OR SERVICES IN TWO OR MORE TRANSACTIONS INVOLVING THE SALE OR RENTAL OF ANY DWELLING OR ANY INTEREST IN A DWELLING; OR**

**(3) BEING THE OWNER OF ANY DWELLING OCCUPIED, OR DESIGNED OR INTENDED FOR OCCUPANCY, BY FIVE OR MORE FAMILIES.**

REVISOR’S NOTE: This subsection is new language derived without substantive change from former Art. 49B, § 20(m).

In the introductory language of this subsection, the reference to “dwellings” is substituted for the former reference to “a dwelling” for consistency with the use of the defined term in this subtitle.

Defined terms: “Dwelling” § 20–701

“Family” § 20–701

“Rent” § 20–701

**(H) MARITAL STATUS.**

**“MARITAL STATUS” MEANS THE STATE OF BEING SINGLE, MARRIED, SEPARATED, DIVORCED, OR WIDOWED.**

REVISOR’S NOTE: This subsection formerly was Art. 49B, § 20(n).

No changes are made.

**(I) RENT.**

**“RENT” INCLUDES TO LEASE, SUBLEASE, LET, OR OTHERWISE GRANT FOR A CONSIDERATION THE RIGHT TO OCCUPY PREMISES NOT OWNED BY THE OCCUPANT.**

REVISOR’S NOTE: This subsection formerly was Art. 49B, § 20(q).

The only changes are in style.

Defined term: "Includes" § 1-101

**REVISOR'S NOTE TO SECTION:**

Former Art. 49B, § 20(o), which defined "person", is deleted as unnecessary in light of the definition of "person" in § 1-101 of this article.

Former Art. 49B, § 20(t), which defined "restrictive covenants", is deleted as unnecessary because the term is not used in this subtitle.

**20-702. STATE POLICY; ADMINISTRATION AND ENFORCEMENT OF SUBTITLE.**

**(A) STATE POLICY.**

**IT IS THE POLICY OF THE STATE:**

**(1) TO PROVIDE FOR FAIR HOUSING THROUGHOUT THE STATE TO ALL, REGARDLESS OF RACE, COLOR, RELIGION, SEX, FAMILIAL STATUS, NATIONAL ORIGIN, MARITAL STATUS, SEXUAL ORIENTATION, OR DISABILITY; AND**

**(2) TO THAT END, TO PROHIBIT DISCRIMINATORY PRACTICES WITH RESPECT TO RESIDENTIAL HOUSING BY ANY PERSON, IN ORDER TO PROTECT AND INSURE THE PEACE, HEALTH, SAFETY, PROSPERITY, AND GENERAL WELFARE OF ALL.**

**(B) ADMINISTRATION AND ENFORCEMENT OF SUBTITLE.**

**THIS SUBTITLE:**

**(1) IS AN EXERCISE OF THE POLICE POWER OF THE STATE FOR THE PROTECTION OF THE PEOPLE OF THE STATE; AND**

**(2) SHALL BE ADMINISTERED AND ENFORCED BY THE COMMISSION AND, AS PROVIDED IN THIS TITLE, ENFORCED BY THE APPROPRIATE STATE COURT.**

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, § 19.

In subsection (a)(1) and (2) of this section, the former references to “its citizens” and “the inhabitants of the State” are deleted as archaic.

In subsection (a)(2) of this section, the former reference to a “group of persons” is deleted in light of the reference to a “person” and Art. 1, § 8, which provides that the singular generally includes the plural.

In the introductory language of subsection (b) of this section, the reference to this “subtitle” is substituted for the former reference to this “law” for clarity.

Defined terms: “Commission” § 20–101

“Disability” § 20–701

“Familial status” § 20–701

“Marital status” § 20–701

“Person” § 1–101

“Sexual orientation” § 20–101

#### **20–703. CONSTRUCTION OF SUBTITLE.**

##### **THIS SUBTITLE DOES NOT:**

**(1) INVALIDATE OR LIMIT ANY LOCAL LAW THAT REQUIRES DWELLINGS TO BE DESIGNED AND CONSTRUCTED IN A MANNER THAT AFFORDS AN INDIVIDUAL WITH A DISABILITY GREATER ACCESS THAN IS REQUIRED BY § 20–706(B) OF THIS SUBTITLE;**

**(2) LIMIT THE APPLICABILITY OF ANY REASONABLE LOCAL, STATE, OR FEDERAL RESTRICTIONS REGARDING THE MAXIMUM NUMBER OF OCCUPANTS ALLOWED TO OCCUPY A DWELLING;**

**(3) PROHIBIT THE STATE OR A LOCAL GOVERNMENT FROM ENACTING STANDARDS THAT GOVERN THE LOCATION OF GROUP HOMES, AS DEFINED IN § 4–601 OF THE HOUSING AND COMMUNITY DEVELOPMENT ARTICLE;**

**(4) AFFECT THE POWERS OF ANY LOCAL GOVERNMENT TO ENACT AN ORDINANCE ON ANY SUBJECT COVERED BY THIS SUBTITLE, PROVIDED THAT THE ORDINANCE DOES NOT AUTHORIZE ANY ACT THAT WOULD BE A DISCRIMINATORY HOUSING PRACTICE UNDER THIS SUBTITLE;**

**(5) REQUIRE THAT A DWELLING BE MADE AVAILABLE TO AN INDIVIDUAL WHOSE TENANCY WOULD:**

(I) CONSTITUTE A DIRECT THREAT TO THE HEALTH OR SAFETY OF OTHER INDIVIDUALS; OR

(II) RESULT IN SUBSTANTIAL PHYSICAL DAMAGE TO THE PROPERTY OF OTHERS;

(6) PROHIBIT CONDUCT AGAINST A PERSON BECAUSE THE PERSON HAS BEEN CONVICTED BY A COURT OF COMPETENT JURISDICTION OF THE ILLEGAL MANUFACTURE OR DISTRIBUTION OF:

(I) A CONTROLLED DANGEROUS SUBSTANCE, AS DEFINED IN § 5-101 OF THE CRIMINAL LAW ARTICLE; OR

(II) A CONTROLLED SUBSTANCE, AS DEFINED IN 21 U.S.C. § 802;

(7) UNLESS MEMBERSHIP IN THE RELIGION IS RESTRICTED ON THE BASIS OF RACE, COLOR, OR NATIONAL ORIGIN, PROHIBIT A RELIGIOUS ORGANIZATION, ASSOCIATION, OR SOCIETY OR ANY NONPROFIT INSTITUTION OR ORGANIZATION OPERATED, SUPERVISED, OR CONTROLLED BY OR IN CONJUNCTION WITH A RELIGIOUS ORGANIZATION, ASSOCIATION, OR SOCIETY FROM GIVING PREFERENCE OR LIMITING THE SALE, RENTAL, OR OCCUPANCY OF DWELLINGS THAT IT OWNS OR OPERATES FOR OTHER THAN A COMMERCIAL PURPOSE TO PERSONS OF THE SAME RELIGION; OR

(8) PROHIBIT A PRIVATE CLUB THAT IS NOT OPEN TO THE PUBLIC AND THAT, AS AN INCIDENT TO ITS PRIMARY PURPOSE OR PURPOSES, PROVIDES LODGINGS THAT IT OWNS OR OPERATES FOR OTHER THAN A COMMERCIAL PURPOSE, FROM LIMITING THE RENTAL OR OCCUPANCY OF THE DWELLINGS TO ITS MEMBERS OR FROM GIVING PREFERENCE TO ITS MEMBERS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, §§ 38 and 21(c), (d), (e), (f), (g), (i), and (j).

In item (1) of this section, the reference to any "local law" is substituted for the former reference to any "law of a political subdivision of the State" for brevity.

In item (4) of this section, the former reference to any "county, municipality or other" local government is deleted as included in the reference to any "local government".

Also in item (4) of this section, the former reference to an “unlawful” housing practice is deleted as unnecessary in light of the reference to a “discriminatory” housing practice.

In item (8) of this section, the former phrase “in fact” is deleted as surplusage.

Defined terms: “Disability” § 20–701

“Discriminatory housing practice” § 20–701

“Dwelling” § 20–701

“Person” § 1–101

“Rent” § 20–701

#### **20–704. SCOPE OF SUBTITLE.**

##### **(A) IN GENERAL.**

##### **THIS SUBTITLE DOES NOT APPLY TO:**

**(1) THE SALE OR RENTAL OF A SINGLE-FAMILY DWELLING, IF THE DWELLING IS SOLD OR RENTED WITHOUT:**

**(I) THE USE OF THE SALES OR RENTAL FACILITIES OR SERVICES OF ANY:**

- 1. REAL ESTATE BROKER, AGENT, OR SALESPERSON;**
- 2. AGENT OF ANY REAL ESTATE BROKER, AGENT, OR SALESPERSON;**
- 3. PERSON IN THE BUSINESS OF SELLING OR RENTING DWELLINGS; OR**
- 4. AGENT OF A PERSON IN THE BUSINESS OF SELLING OR RENTING DWELLINGS; OR**

**(II) THE PUBLICATION, POSTING, OR MAILING, AFTER NOTICE, OF ANY ADVERTISEMENT OR WRITTEN NOTICE IN VIOLATION OF THIS SUBTITLE; AND**

**(2) WITH RESPECT TO DISCRIMINATION ON THE BASIS OF SEX, SEXUAL ORIENTATION, OR MARITAL STATUS:**

(I) THE RENTAL OF ROOMS IN ANY DWELLING, IF THE OWNER MAINTAINS THE DWELLING AS THE OWNER'S PRINCIPAL RESIDENCE; OR

(II) THE RENTAL OF ANY APARTMENT IN A DWELLING THAT CONTAINS NOT MORE THAN FIVE RENTAL UNITS, IF THE OWNER MAINTAINS THE DWELLING AS THE OWNER'S PRINCIPAL RESIDENCE.

(B) USE OF PROFESSIONAL ASSISTANCE TO TRANSFER TITLE.

THE USE OF ATTORNEYS, ESCROW AGENTS, ABSTRACTORS, TITLE COMPANIES, AND OTHER SIMILAR PROFESSIONAL ASSISTANCE AS NECESSARY TO PERFECT OR TRANSFER THE TITLE TO A SINGLE-FAMILY DWELLING DOES NOT SUBJECT A PERSON TO THIS SUBTITLE IF THE PERSON OTHERWISE WOULD BE EXEMPTED UNDER SUBSECTION (A) OF THIS SECTION.

(C) HOUSING FOR OLDER PERSONS.

(1) (I) IN THIS SUBSECTION, "HOUSING FOR OLDER PERSONS" MEANS HOUSING:

1. PROVIDED UNDER ANY STATE OR FEDERAL PROGRAM THAT IS SPECIFICALLY DESIGNED AND OPERATED TO ASSIST ELDERLY PERSONS, AS DEFINED IN THE STATE OR FEDERAL PROGRAM;

2. INTENDED FOR, AND SOLELY OCCUPIED BY, PERSONS WHO ARE AT LEAST 62 YEARS OLD;

3. INTENDED AND OPERATED FOR OCCUPANCY BY AT LEAST ONE PERSON WHO IS AT LEAST 55 YEARS OLD IN EACH UNIT; OR

4. THAT MEETS THE REQUIREMENTS SET FORTH IN REGULATIONS ADOPTED BY THE SECRETARY OF HOUSING AND URBAN DEVELOPMENT UNDER 42 U.S.C. § 3607(B)(2)(C).

(II) "HOUSING FOR OLDER PERSONS" INCLUDES:

1. UNOCCUPIED UNITS, IF THE UNITS ARE RESERVED FOR OCCUPANCY BY PERSONS WHO MEET THE AGE REQUIREMENTS OF SUBPARAGRAPH (I) OF THIS PARAGRAPH; OR

2. UNITS OCCUPIED AS OF SEPTEMBER 13, 1988 BY PERSONS WHO DO NOT MEET THE AGE REQUIREMENTS OF SUBPARAGRAPH (I)



**OF THIS PARAGRAPH, IF THE NEW OCCUPANT OF THE UNIT MEETS THE AGE REQUIREMENT.**

**(2) THE PROVISIONS IN THIS SUBTITLE CONCERNING FAMILIAL STATUS DO NOT APPLY TO HOUSING FOR OLDER PERSONS.**

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, §§ 20(l) and 21(a), (b), and (h).

In subsection (b) of this section, the reference to transferring the title "to a single-family dwelling" is added for clarity and consistency with subsection (a) of this section.

In subsection (c)(1)(i)4 of this section, the reference to the "Secretary of Housing and Urban Development" is substituted for the former reference to "Secretary of the U.S. Department of Housing and Urban Development" for accuracy.

Also in subsection (c)(1)(i)4 of this section, the former parenthetical "(federal Fair Housing Act)" is deleted as unnecessary in light of the reference to "42 U.S.C. § 3607(b)(2)(C)".

The Human Relations Commission Law Article Review Committee notes, for consideration by the General Assembly, that the General Assembly may wish to clarify the meaning of the phrase "after notice" in subsection (a)(1)(ii) of this section.

Defined terms: "Dwelling" § 20-701

"Familial status" § 20-701

"Family" § 20-701

"In the business of selling or renting dwellings" § 20-701

"Includes" § 1-101

"Marital status" § 20-701

"Person" § 1-101

"Rent" § 20-701

"Sexual orientation" § 20-101

**20-705. DISCRIMINATORY HOUSING PRACTICES — SALE OR RENTAL OF DWELLING.**

**EXCEPT AS PROVIDED IN §§ 20-703 AND 20-704 OF THIS SUBTITLE, A PERSON MAY NOT:**

**(1) REFUSE TO SELL OR RENT AFTER THE MAKING OF A BONA FIDE OFFER, REFUSE TO NEGOTIATE FOR THE SALE OR RENTAL OF, OR OTHERWISE MAKE UNAVAILABLE OR DENY, A DWELLING TO ANY PERSON**

BECAUSE OF RACE, COLOR, RELIGION, SEX, DISABILITY, MARITAL STATUS, FAMILIAL STATUS, SEXUAL ORIENTATION, OR NATIONAL ORIGIN;

(2) DISCRIMINATE AGAINST ANY PERSON IN THE TERMS, CONDITIONS, OR PRIVILEGES OF THE SALE OR RENTAL OF A DWELLING, OR IN THE PROVISION OF SERVICES OR FACILITIES IN CONNECTION WITH THE SALE OR RENTAL OF A DWELLING, BECAUSE OF RACE, COLOR, RELIGION, SEX, DISABILITY, MARITAL STATUS, FAMILIAL STATUS, SEXUAL ORIENTATION, OR NATIONAL ORIGIN;

(3) MAKE, PRINT, OR PUBLISH, OR CAUSE TO BE MADE, PRINTED, OR PUBLISHED, ANY NOTICE, STATEMENT, OR ADVERTISEMENT WITH RESPECT TO THE SALE OR RENTAL OF A DWELLING THAT INDICATES ANY PREFERENCE, LIMITATION, OR DISCRIMINATION BASED ON RACE, COLOR, RELIGION, SEX, DISABILITY, MARITAL STATUS, FAMILIAL STATUS, SEXUAL ORIENTATION, OR NATIONAL ORIGIN, OR AN INTENTION TO MAKE ANY PREFERENCE, LIMITATION, OR DISCRIMINATION;

(4) REPRESENT TO ANY PERSON, BECAUSE OF RACE, COLOR, RELIGION, SEX, DISABILITY, MARITAL STATUS, FAMILIAL STATUS, SEXUAL ORIENTATION, OR NATIONAL ORIGIN, THAT ANY DWELLING IS NOT AVAILABLE FOR INSPECTION, SALE, OR RENTAL WHEN THE DWELLING IS AVAILABLE; OR

(5) FOR PROFIT, INDUCE OR ATTEMPT TO INDUCE ANY PERSON TO SELL OR RENT ANY DWELLING BY REPRESENTATIONS REGARDING THE ENTRY OR PROSPECTIVE ENTRY INTO THE NEIGHBORHOOD OF A PERSON OF A PARTICULAR RACE, COLOR, RELIGION, SEX, DISABILITY, MARITAL STATUS, FAMILIAL STATUS, SEXUAL ORIENTATION, OR NATIONAL ORIGIN.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, § 22(a)(1) through (5).

In item (4) of this section, the former phrase "in fact" is deleted as surplusage.

In item (5) of this section, the former reference to "persons" is deleted in light of the reference to a "person" and Art. 1, § 8, which provides that the singular generally includes the plural.

Defined terms: "Disability" § 20-701

"Dwelling" § 20-701

"Familial status" § 20-701

"Marital status" § 20-701

"Person" § 1-101

“Rent” § 20-701

“Sexual orientation” § 20-101

**20-706. DISCRIMINATION AGAINST INDIVIDUALS WITH DISABILITIES;  
ACCESSIBILITY.**

**(A) “COVERED MULTIFAMILY DWELLING” DEFINED.**

IN THIS SECTION, “COVERED MULTIFAMILY DWELLING” MEANS:

**(1) A BUILDING CONSISTING OF FOUR OR MORE UNITS, IF THE BUILDING HAS ONE OR MORE ELEVATORS; OR**

**(2) A GROUND FLOOR UNIT IN A BUILDING CONSISTING OF FOUR OR MORE UNITS, IF THE BUILDING HAS NO ELEVATOR.**

**(B) DISCRIMINATION AGAINST INDIVIDUALS WITH DISABILITIES.**

EXCEPT AS PROVIDED IN §§ 20-703 AND 20-704 OF THIS SUBTITLE, A PERSON MAY NOT:

**(1) DISCRIMINATE IN THE SALE OR RENTAL OF, OR OTHERWISE MAKE UNAVAILABLE OR DENY, A DWELLING TO ANY BUYER OR RENTER BECAUSE OF A DISABILITY OF:**

**(I) THE BUYER OR RENTER; OR**

**(II) AN INDIVIDUAL RESIDING IN OR INTENDING TO RESIDE IN THE DWELLING AFTER IT IS SOLD, RENTED, OR MADE AVAILABLE;**

**(2) DISCRIMINATE AGAINST ANY INDIVIDUAL IN THE TERMS, CONDITIONS, OR PRIVILEGES OF THE SALE OR RENTAL OF A DWELLING, OR IN THE PROVISION OF SERVICES OR FACILITIES IN CONNECTION WITH THE DWELLING, BECAUSE OF A DISABILITY OF:**

**(I) THE INDIVIDUAL; OR**

**(II) AN INDIVIDUAL RESIDING IN OR INTENDING TO RESIDE IN THE DWELLING AFTER IT IS SOLD, RENTED, OR MADE AVAILABLE;**

**(3) REFUSE TO ALLOW, AT THE EXPENSE OF AN INDIVIDUAL WITH A DISABILITY, REASONABLE MODIFICATIONS OF EXISTING PREMISES OCCUPIED OR TO BE OCCUPIED BY THE INDIVIDUAL, IF:**

(I) THE MODIFICATIONS MAY BE NECESSARY TO AFFORD THE INDIVIDUAL WITH A DISABILITY FULL ENJOYMENT OF THE DWELLING; AND

(II) FOR A RENTAL DWELLING, THE TENANT AGREES THAT, WHEN THE TENANT VACATES THE DWELLING, THE TENANT WILL RESTORE, AT THE TENANT'S EXPENSE, THE INTERIOR OF THE DWELLING TO THE CONDITION THAT EXISTED BEFORE THE MODIFICATION, EXCEPT FOR REASONABLE WEAR AND TEAR;

(4) REFUSE TO MAKE REASONABLE ACCOMMODATIONS IN RULES, POLICIES, PRACTICES, OR SERVICES WHEN THE ACCOMMODATIONS MAY BE NECESSARY TO AFFORD AN INDIVIDUAL WITH A DISABILITY EQUAL OPPORTUNITY TO USE AND ENJOY A DWELLING; OR

(5) FAIL TO DESIGN OR CONSTRUCT A COVERED MULTIFAMILY DWELLING FOR FIRST OCCUPANCY AS REQUIRED UNDER SUBSECTION (C) OF THIS SECTION.

(C) ACCESSIBILITY.

(1) ON OR AFTER JULY 1, 1991, A COVERED MULTIFAMILY DWELLING FOR FIRST OCCUPANCY SHALL BE DESIGNED AND CONSTRUCTED SO THAT:

(I) THE PUBLIC USE AND COMMON USE PORTIONS OF THE DWELLING ARE READILY ACCESSIBLE AND USABLE TO INDIVIDUALS WITH DISABILITIES;

(II) ALL THE DOORS DESIGNED TO ALLOW PASSAGE INTO AND WITHIN ALL PREMISES WITHIN THE DWELLING ARE SUFFICIENTLY WIDE TO ALLOW PASSAGE BY INDIVIDUALS WITH DISABILITIES IN WHEELCHAIRS; AND

(III) ALL PREMISES WITHIN THE DWELLING CONTAIN THE FOLLOWING FEATURES OF ADAPTIVE DESIGN:

1. AN ACCESSIBLE ROUTE INTO AND THROUGH THE DWELLING;

2. LIGHT SWITCHES, ELECTRICAL OUTLETS, THERMOSTATS, AND OTHER ENVIRONMENTAL CONTROLS IN ACCESSIBLE LOCATIONS;

**3. REINFORCEMENTS IN BATHROOM WALLS TO ALLOW LATER INSTALLATION OF GRAB BARS; AND**

**4. USABLE KITCHENS AND BATHROOMS SO THAT AN INDIVIDUAL IN A WHEELCHAIR CAN MANEUVER ABOUT THE SPACE.**

**(2) THE REQUIREMENTS OF PARAGRAPH (1) OF THIS SUBSECTION ARE SATISFIED BY COMPLIANCE WITH:**

**(I) THE APPROPRIATE REQUIREMENTS OF THE MOST CURRENT REVISION OF THE AMERICAN NATIONAL STANDARD FOR BUILDINGS AND FACILITIES PROVIDING ACCESSIBILITY AND USABILITY FOR PHYSICALLY HANDICAPPED PEOPLE (COMMONLY CITED AS ANSI A117.1); OR**

**(II) THE FEDERAL LAW, REGULATIONS, AND GUIDELINES ON HANDICAPPED ACCESSIBILITY ADOPTED UNDER THE FEDERAL FAIR HOUSING AMENDMENTS ACT OF 1988 AND INCORPORATED BY REFERENCE IN THE REGULATIONS ADOPTED BY THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT UNDER § 12-202 OF THE PUBLIC SAFETY ARTICLE.**

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, §§ 20(f) and 22(b) and (a)(6) through (10).

Throughout this section, references to an "individual" are substituted for the former references to a "person" for consistency within this section and because only an individual, and not the other entities included in the definition of the term "person", can have a disability.

In subsection (c)(2)(ii) of this section, the reference to the "Fair Housing Amendments Act of 1988" is substituted for the former reference to the "Fair Housing Act Amendments of 1988" for accuracy.

Also in subsection (c)(2)(ii) of this section, the former reference to "rules" is deleted in light of the reference to "regulations". See General Revisor's Note to title.

Defined terms: "Disability" § 20-701

"Dwelling" § 20-701

"Person" § 1-101

"Rent" § 20-701

**20-707. DISCRIMINATION IN RESIDENTIAL REAL ESTATE-RELATED TRANSACTIONS; DISCRIMINATION IN PROFESSIONAL SERVICES OR ORGANIZATIONS.**

**(A) “RESIDENTIAL REAL ESTATE–RELATED TRANSACTION” DEFINED.**

**IN THIS SECTION, “RESIDENTIAL REAL ESTATE–RELATED TRANSACTION” MEANS:**

**(1) THE MAKING OR PURCHASING OF LOANS OR PROVIDING OTHER FINANCIAL ASSISTANCE:**

**(I) FOR PURCHASING, CONSTRUCTING, IMPROVING, REPAIRING, OR MAINTAINING A DWELLING; OR**

**(II) SECURED BY RESIDENTIAL REAL ESTATE; OR**

**(2) THE SELLING, BROKERING, OR APPRAISING OF RESIDENTIAL REAL PROPERTY.**

**(B) DISCRIMINATION IN RESIDENTIAL REAL ESTATE–RELATED TRANSACTIONS.**

**(1) A PERSON WHOSE BUSINESS INCLUDES ENGAGING IN RESIDENTIAL REAL ESTATE–RELATED TRANSACTIONS MAY NOT DISCRIMINATE AGAINST ANY PERSON IN MAKING AVAILABLE A TRANSACTION, OR IN THE TERMS OR CONDITIONS OF A TRANSACTION, BECAUSE OF RACE, COLOR, RELIGION, SEX, DISABILITY, MARITAL STATUS, FAMILIAL STATUS, SEXUAL ORIENTATION, OR NATIONAL ORIGIN.**

**(2) PARAGRAPH (1) OF THIS SUBSECTION DOES NOT PROHIBIT A PERSON ENGAGED IN THE BUSINESS OF FURNISHING APPRAISALS OF REAL PROPERTY FROM TAKING INTO CONSIDERATION FACTORS OTHER THAN RACE, COLOR, RELIGION, SEX, DISABILITY, MARITAL STATUS, FAMILIAL STATUS, SEXUAL ORIENTATION, OR NATIONAL ORIGIN.**

**(C) DISCRIMINATION IN PROFESSIONAL SERVICES OR ORGANIZATIONS.**

**A PERSON MAY NOT, BECAUSE OF RACE, COLOR, RELIGION, SEX, DISABILITY, MARITAL STATUS, FAMILIAL STATUS, SEXUAL ORIENTATION, OR NATIONAL ORIGIN:**

**(1) DENY A PERSON ACCESS TO, OR MEMBERSHIP OR PARTICIPATION IN, A MULTIPLE–LISTING SERVICE, REAL ESTATE BROKERS’ ORGANIZATION, OR OTHER SERVICE, ORGANIZATION, OR FACILITY RELATING TO THE BUSINESS OF SELLING OR RENTING DWELLINGS; OR**

**(2) DISCRIMINATE AGAINST A PERSON IN THE TERMS OR CONDITIONS OF MEMBERSHIP OR PARTICIPATION.**

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, §§ 23 and 20(r).

In subsection (b)(1) of this section, the former phrase "or other entity" is deleted as included in the reference to a "person".

Defined terms: "Disability" § 20-701

"Dwelling" § 20-701

"Familial status" § 20-701

"Marital status" § 20-701

"Person" § 1-101

"Rent" § 20-701

"Sexual orientation" § 20-101

**20-708. INTERFERENCE WITH EXERCISE OF RIGHTS.**

**A PERSON MAY NOT COERCE, INTIMIDATE, THREATEN, INTERFERE WITH, OR RETALIATE AGAINST ANY PERSON:**

**(1) IN THE EXERCISE OR ENJOYMENT OF ANY RIGHT GRANTED OR PROTECTED BY THIS SUBTITLE;**

**(2) BECAUSE A PERSON HAS EXERCISED OR ENJOYED ANY RIGHT GRANTED OR PROTECTED BY THIS SUBTITLE; OR**

**(3) BECAUSE A PERSON HAS AIDED OR ENCOURAGED ANY OTHER PERSON IN THE EXERCISE OR ENJOYMENT OF ANY RIGHT GRANTED OR PROTECTED BY THIS SUBTITLE.**

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, § 24.

Defined term: "Person" § 1-101

**20-709. DUTIES OF EXECUTIVE UNITS.**

**EACH EXECUTIVE UNIT, INCLUDING UNITS WITH REGULATORY OR SUPERVISORY AUTHORITY OVER FINANCIAL INSTITUTIONS, SHALL:**

**(1) ADMINISTER ITS PROGRAMS AND ACTIVITIES IN A MANNER THAT FURTHERS THE PURPOSES OF THIS SUBTITLE; AND**

**(2) COOPERATE WITH THE COMMISSION TO FURTHER THE PURPOSES OF THIS SUBTITLE.**

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, § 25.

In the introductory language of this section, the references to a "unit" and "units" are substituted for the former references to "departments and agencies" and "agencies", respectively, for consistency throughout this title. See General Revisor's Note to title.

Defined terms: "Commission" § 20-101  
"Including" § 1-101

**20-710. POWERS AND DUTIES OF COMMISSION.**

**(A) TECHNICAL ASSISTANCE, STUDIES, AND REPORTS.**

**THE COMMISSION SHALL:**

**(1) COOPERATE WITH AND PROVIDE TECHNICAL ASSISTANCE TO FEDERAL, STATE, LOCAL, AND OTHER GOVERNMENTAL UNITS OR PRIVATE AGENCIES, ORGANIZATIONS, AND INSTITUTIONS THAT ARE FORMULATING OR CARRYING ON PROGRAMS TO PREVENT OR ELIMINATE DISCRIMINATORY HOUSING PRACTICES;**

**(2) CONDUCT STUDIES CONCERNING THE NATURE AND EXTENT OF DISCRIMINATORY HOUSING PRACTICES IN REPRESENTATIVE URBAN, SUBURBAN, AND RURAL COMMUNITIES THROUGHOUT THE STATE; AND**

**(3) PUBLISH AND DISSEMINATE REPORTS, RECOMMENDATIONS, AND INFORMATION DERIVED FROM STUDIES CONDUCTED UNDER ITEM (2) OF THIS SUBSECTION.**

**(B) COOPERATION WITH LOCAL UNITS.**

**THE COMMISSION MAY:**

**(1) COOPERATE WITH LOCAL UNITS CHARGED WITH THE ADMINISTRATION OF LOCAL FAIR HOUSING LAWS;**

**(2) WITH THE CONSENT OF THE LOCAL UNITS, UTILIZE THE SERVICES AND EMPLOYEES OF THE LOCAL UNITS;**



(3) ENTER INTO WRITTEN AGREEMENTS WITH LOCAL UNITS TO FURTHER COOPERATIVE EFFORTS TO CARRY OUT THE PURPOSES OF THIS SUBTITLE; AND

(4) NOTWITHSTANDING ANY OTHER LAW, REIMBURSE LOCAL UNITS AND THEIR EMPLOYEES FOR SERVICES PROVIDED TO ASSIST IN CARRYING OUT THIS SUBTITLE.

(C) EDUCATIONAL AND CONCILIATORY ACTIVITIES.

TO FURTHER THE PURPOSES OF THIS SUBTITLE, THE COMMISSION MAY CONDUCT EDUCATIONAL AND CONCILIATORY ACTIVITIES, INCLUDING:

(1) CONFERENCES TO ACQUAINT INTERESTED PERSONS WITH THE PROVISIONS OF THIS SUBTITLE AND THE PLANS FOR IMPLEMENTATION OF THIS SUBTITLE;

(2) IN CONSULTATION WITH INTERESTED PERSONS, PROGRAMS OF VOLUNTARY COMPLIANCE AND OF ENFORCEMENT; AND

(3) CONSULTATIONS WITH INTERESTED PERSONS AND STATE AND LOCAL OFFICIALS TO LEARN:

(I) THE EXTENT, IF ANY, TO WHICH HOUSING DISCRIMINATION EXISTS IN THE STATE OR LOCAL POLITICAL SUBDIVISIONS; AND

(II) HOW STATE OR LOCAL ENFORCEMENT PROGRAMS MAY BE USED TO COMBAT HOUSING DISCRIMINATION IN CONNECTION WITH, OR INSTEAD OF, THE COMMISSION'S ENFORCEMENT OF THIS SUBTITLE.

(D) REGULATIONS.

(1) IN ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE, THE COMMISSION MAY ADOPT REGULATIONS TO IMPLEMENT THIS SUBTITLE AND SUBTITLE 10, PART II OF THIS TITLE.

(2) THE COMMISSION SHALL ADOPT REGULATIONS REQUIRING LOCAL UNITS THAT ARE CERTIFIED AS SUBSTANTIALLY EQUIVALENT BY THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT UNDER 42 U.S.C. § 3610 TO FILE ANNUAL REPORTS WITH THE COMMISSION CONTAINING THE INFORMATION SPECIFIED BY THE COMMISSION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, §§ 26, 35, and 36.

In subsection (a)(1) of this section, the reference to "governmental units" is substituted for the former reference to "public ... agencies" for consistency with similar provisions in this and other revised articles of the Code. Similarly, in subsections (b) and (d)(2) of this section, references to local "units" are substituted for the former references to local "agencies" and local "agencies and commissions", respectively. See General Revisor's Note to title.

In subsection (d) of this section, the former reference to "data" is deleted as included in the reference to "information".

Defined terms: "Commission" § 20-101

"Discriminatory housing practice" § 20-701

"Including" § 1-101

"Person" § 1-101

#### GENERAL REVISOR'S NOTE TO SUBTITLE:

Former Art. 49B, § 39, which provided for the severability of provisions under the former subtitle "Discrimination in Housing", is deleted as unnecessary in light of the general severability provision in Art. 1, § 23.

### **SUBTITLE 8. AIDING, ABETTING, OR ATTEMPTING DISCRIMINATORY ACT; OBSTRUCTING COMPLIANCE.**

#### **20-801. PROHIBITED ACTS.**

##### **A PERSON MAY NOT:**

**(1) AID, ABET, INCITE, COMPEL, OR COERCE ANY PERSON TO COMMIT A DISCRIMINATORY ACT;**

**(2) ATTEMPT, DIRECTLY OR INDIRECTLY, ALONE OR IN CONCERT WITH OTHERS, TO COMMIT A DISCRIMINATORY ACT; OR**

**(3) OBSTRUCT OR PREVENT ANY PERSON FROM COMPLYING WITH THIS TITLE OR ANY ORDER ISSUED UNDER THIS TITLE.**

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, § 12A.

In item (1) of this section, the reference to "any person" is added for clarity.

In items (1) and (2) of this section, the defined term “discriminatory act” is substituted for the former reference to any “act declared by this article to be an unlawful practice” for brevity and consistency throughout this title.

Defined terms: “Discriminatory act” § 20–101  
“Person” § 1–101

## **SUBTITLE 9. DISCRIMINATION BY GOVERNMENTAL UNITS, OFFICERS, AND EMPLOYEES.**

### **20–901. IN GENERAL.**

#### **(A) DISCRIMINATION PROHIBITED.**

**EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A UNIT, OFFICER, OR EMPLOYEE OF THE STATE, A COUNTY, OR A MUNICIPAL CORPORATION MAY NOT ENGAGE IN A DISCRIMINATORY ACT PROHIBITED BY § 20–304, § 20–606, § 20–705, § 20–706, § 20–707, OR § 20–708 OF THIS TITLE.**

#### **(B) EXCEPTIONS.**

**SECTIONS 20–304, 20–705, AND 20–706 OF THIS TITLE DO NOT PROHIBIT THE STATE, A COUNTY, OR A MUNICIPALITY FROM:**

**(1) PROVIDING SEPARATE FACILITIES FOR MALES AND FEMALES IN GOVERNMENT–OWNED OR GOVERNMENT–OPERATED PUBLIC INSTITUTIONS; OR**

**(2) OPERATING OR FUNDING SPECIAL OR SEPARATE PROGRAMS AND FACILITIES FOR CHILDREN, SENIORS, OR OTHER SPECIAL POPULATIONS.**

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 49B, § 7(a).

In subsection (a) of this section, the reference to a “unit” is substituted for the former reference to “agencies” for consistency throughout this title. See General Revisor’s Note to title.

Also in subsection (a) of this section, the defined term “discriminatory act” is substituted for the former reference to “discriminatory practices” for consistency throughout this title.

Also in subsection (a) of this section, the former reference to a county or municipal corporation “in the State” is deleted as implicit.

In subsection (b)(2) of this section, the reference to “seniors” is substituted for the former reference to “the aged” for consistency with terminology used in Title 10 of the Human Services Article.

Defined terms: “County” § 1–101  
 “Discriminatory act” § 20–101

## **20–902. CASES AGAINST GOVERNMENTAL RESPONDENTS.**

### **(A) EMPLOYMENT DISCRIMINATION CASES.**

**IN AN EMPLOYMENT DISCRIMINATION CASE IN WHICH A UNIT, OFFICER, OR EMPLOYEE OF THE STATE, A COUNTY, OR A MUNICIPALITY IS A RESPONDENT, THE RULES, PROCEDURES, POWERS, RIGHTS, AND REMEDIES THAT APPLY ARE THE SAME AS THOSE THAT APPLY IN A DISCRIMINATION CASE IN WHICH A PRIVATE PERSON IS THE RESPONDENT.**

**(B) POWER OF COMMISSION TO SEEK INJUNCTIVE RELIEF OR JUDICIAL ENFORCEMENT OF ORDERS.**

**IN A DISCRIMINATION CASE IN WHICH A UNIT, OFFICER, OR EMPLOYEE OF THE STATE, A COUNTY, OR A MUNICIPALITY IS A RESPONDENT, THE COMMISSION MAY SEEK INJUNCTIVE RELIEF OR JUDICIAL ENFORCEMENT OF ITS ORDERS AGAINST THE RESPONDENT.**

### **(C) CASES AGAINST COMMISSION.**

**IN A DISCRIMINATION CASE IN WHICH THE COMMISSION, OR A MEMBER, OFFICER, OR EMPLOYEE OF THE COMMISSION, IS A RESPONDENT, THE GOVERNOR SHALL SPECIALLY DESIGNATE A PERSON TO PERFORM THE FUNCTIONS USUALLY PERFORMED BY THE COMMISSION.**

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 49B, § 7(b).

In subsections (a) and (b) of this section, the references to a “unit” are substituted for the former references to an “agency” for consistency throughout this title. *See* General Revisor’s Note to title.

In subsection (a) of this section, the former reference to a county or municipal corporation “in the State” is deleted as implicit.

In subsection (b) of this section, the phrase “of the State, a county, or a municipality” is added for clarity and consistency with subsection (a) of this section.

Also in subsection (b) of this section, the phrase “the Commission may” is substituted for the former phrase “the power of the ... Commission includes the authority to” for brevity.

Defined terms: “Commission” § 20–101

“County” § 1–101

“Person” § 1–101

“Respondent” § 20–101

#### **20–903. WAIVER OF STATE’S SOVEREIGN IMMUNITY IN EMPLOYMENT DISCRIMINATION CASES.**

**THE STATE, ITS OFFICERS, AND ITS UNITS MAY NOT RAISE SOVEREIGN IMMUNITY AS A DEFENSE AGAINST AN AWARD IN AN EMPLOYMENT DISCRIMINATION CASE UNDER THIS TITLE.**

REVISOR’S NOTE: This section formerly was Art. 49B, § 17A.

The only change is in a cross–reference.

#### **20–904. PAYMENT OF AWARDS AGAINST STATE.**

##### **(A) PAYMENT WHEN SUFFICIENT MONEY AVAILABLE.**

**IF THE STATE HAS SUFFICIENT MONEY AVAILABLE AT THE TIME AN AWARD IS MADE AGAINST THE STATE UNDER THIS TITLE, THE STATE SHALL PAY THE AWARD AS SOON AS PRACTICABLE WITHIN 20 DAYS AFTER THE AWARD IS FINAL.**

##### **(B) REPORT TO COMPTROLLER WHEN SUFFICIENT MONEY NOT AVAILABLE.**

**(1) IF SUFFICIENT MONEY IS NOT AVAILABLE AT THE TIME AN AWARD IS MADE AGAINST THE STATE UNDER THIS TITLE, THE AFFECTED STATE UNIT OR OFFICER SHALL REPORT THE OUTSTANDING AWARD TO THE STATE COMPTROLLER.**

##### **(2) THE COMPTROLLER SHALL:**

(I) KEEP AN ACCOUNTING OF ALL OUTSTANDING AWARDS;  
AND

(II) REPORT THE ACCOUNTING ANNUALLY TO THE  
GOVERNOR.

(C) INCLUSION OF SUFFICIENT MONEY IN STATE BUDGET.

(1) THE GOVERNOR SHALL INCLUDE IN THE STATE BUDGET  
SUFFICIENT MONEY TO PAY ALL AWARDS MADE AGAINST THE STATE UNDER  
THIS TITLE.

(2) ON APPROPRIATION OF MONEY BY THE GENERAL ASSEMBLY,  
THE COMPTROLLER SHALL AUTHORIZE PAYMENT OF ALL OUTSTANDING  
AWARDS UNDER THIS TITLE IN THE ORDER OF THE DATE ON WHICH EACH  
AWARD WAS MADE.

REVISOR'S NOTE: This section is new language derived without substantive  
change from former Art. 49B, § 17B.

#### **SUBTITLE 10. ENFORCEMENT.**

##### **PART I. IN GENERAL.**

#### **20-1001. "UNLAWFUL EMPLOYMENT PRACTICE" DEFINED.**

IN THIS PART, "UNLAWFUL EMPLOYMENT PRACTICE" MEANS AN ACT THAT  
IS PROHIBITED UNDER § 20-606 OF THIS TITLE.

REVISOR'S NOTE: This section is new language added for clarity.

#### **20-1002. CONSTRUCTION OF PART.**

(A) FEDERAL, STATE, AND LOCAL LAWS.

THIS PART, INCLUDING THE LIMITATIONS ON DAMAGES, DOES NOT LIMIT  
THE SCOPE OF, OR THE ADMINISTRATIVE PROCEDURES OR RELIEF AVAILABLE  
UNDER, ANY OTHER PROVISION OF FEDERAL, STATE, OR LOCAL LAW.

(B) CIVIL ACTIONS FOR VIOLATIONS OF COUNTY DISCRIMINATION  
LAWS.

THIS PART DOES NOT LIMIT SUBTITLE 12 OF THIS TITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, § 11D(b) and (c).

Defined term: "Including" § 1-101

### **20-1003. SCOPE OF PART.**

**EXCEPT AS OTHERWISE PROVIDED IN PART II OF THIS SUBTITLE, THIS PART APPLIES TO ALLEGED DISCRIMINATORY HOUSING PRACTICES UNDER SUBTITLE 7 OF THIS TITLE.**

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, § 9.

The reference to "discriminatory housing practices under Subtitle 7 of this title" is substituted for the former reference to "instances of housing discrimination" for clarity and consistency throughout this title.

### **20-1004. COMPLAINT.**

#### **(A) COMPLAINT BY AGGRIEVED PERSON.**

**ANY PERSON CLAIMING TO BE AGGRIEVED BY AN ALLEGED DISCRIMINATORY ACT MAY FILE A COMPLAINT WITH THE COMMISSION.**

#### **(B) FORM AND CONTENT.**

**THE COMPLAINT SHALL:**

**(1) BE IN WRITING;**

**(2) STATE:**

**(I) THE NAME AND ADDRESS OF THE PERSON OR STATE OR LOCAL UNIT ALLEGED TO HAVE COMMITTED THE DISCRIMINATORY ACT; AND**

**(II) THE PARTICULARS OF THE ALLEGED DISCRIMINATORY ACT;**

**(3) CONTAIN ANY OTHER INFORMATION REQUIRED BY THE COMMISSION; AND**

**(4) BE SIGNED BY THE COMPLAINANT UNDER OATH.**

**(C) TIME FOR FILING.**

**(1) A COMPLAINT SHALL BE FILED WITHIN 6 MONTHS AFTER THE DATE ON WHICH THE ALLEGED DISCRIMINATORY ACT OCCURRED.**

**(2) A COMPLAINT FILED WITH A FEDERAL OR LOCAL HUMAN RELATIONS COMMISSION WITHIN 6 MONTHS AFTER THE DATE ON WHICH THE ALLEGED DISCRIMINATORY ACT OCCURRED SHALL BE DEEMED TO HAVE COMPLIED WITH THIS SUBSECTION.**

**(D) COMPLAINT ISSUED BY COMMISSION.**

**THE COMMISSION, ON ITS OWN MOTION, AND BY ACTION OF AT LEAST THREE COMMISSIONERS, MAY ISSUE A COMPLAINT IN ITS NAME IN THE SAME MANNER AS IF THE COMPLAINT HAD BEEN FILED BY AN INDIVIDUAL, IF:**

**(1) THE COMMISSION HAS RECEIVED RELIABLE INFORMATION FROM AN INDIVIDUAL THAT A PERSON HAS BEEN OR IS ENGAGED IN A DISCRIMINATORY ACT; AND**

**(2) AFTER A PRELIMINARY INVESTIGATION BY THE COMMISSION'S STAFF AUTHORIZED BY THE CHAIR OR VICE-CHAIR, THE COMMISSION IS SATISFIED THAT THE INFORMATION WARRANTS THE FILING OF A COMPLAINT.**

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, § 9A(a) and (b).

In subsections (a), (b)(2)(i), (c)(1), and (d)(1) of this section, the defined term "discriminatory act" is substituted for the former references to "discrimination prohibited by any section of this article", "act of discrimination", "violation of this article", and "discriminatory practice within the scope of this article", respectively, for brevity and consistency throughout this title.

In subsection (a) of this section, the former reference to "mak[ing]" a complaint is deleted as surplusage.

In subsection (b)(2)(i) of this section, the reference to a "local" unit is added for consistency with § 20-901(a) of this title, which prohibits a unit, officer, or employee of a county or a municipal corporation from engaging in specified discriminatory acts.

Also in subsection (b)(2)(i) of this section, the reference to a "unit" is substituted for the former reference to an "agency, department or board"



for brevity and consistency throughout this title. *See* General Revisor's Note to title.

Also in subsection (b)(2)(i) of this section, the former reference to the "firm, association, partnership, [or] corporation" is deleted as included in the definition of the term "person" in § 1-101 of this article.

In subsection (b)(2)(ii) of this section, the reference to the "alleged" discriminatory act is added for consistency throughout this section.

In subsection (b)(3) of this section, the former phrase "from time to time" is deleted as surplusage.

In subsection (c)(2) of this section, the reference to the "date on which the alleged discriminatory act occurred" is substituted for the former reference to the "date of occurrence" for clarity.

Also in subsection (c)(2) of this section, the reference to this "subsection" is substituted for the former overbroad reference to this "section".

In subsection (d)(1) of this section, the former reference to "individuals" is deleted in light of the reference to any "individual" and Art. 1, § 8, which provides that the singular generally includes the plural.

In subsection (d)(2) of this section, the references to the "chair" and "vice-chair" are substituted for the former references to the "Chairman" and "Vice-Chairman", respectively, because SG § 2-1238 requires the use of terms that are neutral as to gender to the extent practicable.

Defined terms: "Commission" § 20-101

"Complainant" § 20-101

"Discriminatory act" § 20-101

"Person" § 1-101

## **20-1005. INVESTIGATION OF COMPLAINT; CONCILIATION.**

### **(A) INVESTIGATION BY COMMISSION STAFF; FINDINGS.**

**(1) AFTER A COMPLAINT IS FILED, THE EXECUTIVE DIRECTOR OF THE COMMISSION SHALL:**

**(I) CONSIDER THE COMPLAINT; AND**

**(II) REFER IT TO THE COMMISSION'S STAFF FOR PROMPT INVESTIGATION AND FACT-FINDING.**

(2) (I) IF THE COMPLAINT ALLEGES A FAILURE TO MAKE A REASONABLE ACCOMMODATION UNDER § 20-305 OF THIS TITLE, THE INVESTIGATION SHALL INCLUDE AN INITIAL DETERMINATION WHETHER AN ACCOMMODATION IS A REASONABLE ACCOMMODATION.

(II) IN MAKING THE DETERMINATION FOR BUILDINGS, THE COMMISSION MAY CONSULT WITH THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT AND ANY OTHER PERSONS THAT MAY BE USEFUL IN DETERMINING THE COST AND FEASIBILITY OF ANY STRUCTURAL CHANGES, MODIFICATIONS, OR ADDITIONS OR THE PROVISION OF SPECIAL EQUIPMENT.

(3) THE COMMISSION'S STAFF SHALL:

(I) ISSUE THE RESULTS OF THE INVESTIGATION AS WRITTEN FINDINGS;

(II) PROVIDE A COPY OF THE WRITTEN FINDINGS TO THE COMPLAINANT AND THE RESPONDENT; AND

(III) SEND A COPY OF THE WRITTEN FINDINGS OF AN INVESTIGATION OF A REAL ESTATE BROKER, ASSOCIATE REAL ESTATE BROKER, OR REAL ESTATE SALESPERSON TO THE STATE REAL ESTATE COMMISSION.

(B) CONCILIATION.

IF THERE IS A FINDING OF PROBABLE CAUSE TO BELIEVE THAT A DISCRIMINATORY ACT HAS BEEN OR IS BEING COMMITTED, THE COMMISSION'S STAFF IMMEDIATELY SHALL ENDEAVOR TO ELIMINATE THE DISCRIMINATION BY CONFERENCE, CONCILIATION, OR PERSUASION.

(C) CONCILIATION AGREEMENT.

(1) IF AN AGREEMENT IS REACHED TO ELIMINATE THE DISCRIMINATION AS A RESULT OF THE CONFERENCE, CONCILIATION, OR PERSUASION:

(I) THE AGREEMENT SHALL BE REDUCED TO WRITING AND SIGNED BY THE RESPONDENT; AND

(II) THE COMMISSION SHALL ENTER AN ORDER SETTING FORTH THE TERMS OF THE AGREEMENT.

**(2) IF AN AGREEMENT CANNOT BE REACHED, THE COMMISSION'S STAFF SHALL:**

**(I) MAKE A WRITTEN FINDING TO THAT EFFECT; AND**

**(II) PROVIDE COPIES OF THE WRITTEN FINDING TO THE COMPLAINANT AND THE RESPONDENT.**

**(3) THE COMMISSION MAY NOT ENTER AN ORDER AT THIS STAGE OF THE PROCEEDINGS UNLESS IT IS BASED ON A WRITTEN AGREEMENT.**

**(D) DENIAL OF REQUEST FOR RECONSIDERATION.**

**UNLESS THE U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION HAS JURISDICTION OVER THE SUBJECT MATTER OF THE COMPLAINT, A DENIAL OF A REQUEST FOR RECONSIDERATION OF A FINDING OF NO PROBABLE CAUSE BY THE COMMISSION IS A FINAL ORDER APPEALABLE TO THE CIRCUIT COURT AS PROVIDED IN § 10-222 OF THIS ARTICLE.**

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, §§ 10 and 5(e)(2)(ii)3.

In subsection (a)(1)(ii) of this section, the reference to "fact-finding" is substituted for the former archaic reference to "ascertainment of the facts".

In subsection (a)(2)(i) of this section, the phrase "[i]f the complaint alleges a failure to make a reasonable accommodation under § 20-305 of this title, the investigation shall include an initial determination" is substituted for the former phrase "[t]he Human Relations Commission shall make a determination in the first instance" for clarity and to reflect current practice.

Also in subsection (a)(2)(i) of this section, the reference to a "reasonable accommodation" is substituted for the former reference to an accommodation being "reasonable" for consistency with terminology used in Subtitle 3 of this title.

In subsection (a)(2)(ii) of this section, the reference to "any other persons" is substituted for the former reference to "such others" for clarity.

Also in subsection (a)(2)(ii) of this section, the phrase "in determining" is substituted for the former phrase "as to" for clarity.

In subsections (a)(3) and (c)(2) of this section, the requirement that the “Commission’s staff” perform the enumerated duties is added for clarity.

In subsection (a)(3)(ii) of this section, the defined term “respondent” is substituted for the former reference to the “person, firm, association, partnership or corporation (hereinafter referred to as the “respondent”), against whom or which the complaint is made” for brevity and consistency throughout this title.

In subsections (b) and (c)(1) of this section, the reference to conference, conciliation, “or” persuasion is substituted for the former reference to conference, conciliation, “and” persuasion to clarify that the Commission’s staff may use any or all of the enumerated methods to reach an agreement.

In subsection (b) of this section, the former phrase “within the scope of any of these subtitles” is deleted as surplusage.

The Human Relations Commission Law Article Review Committee notes, for consideration by the General Assembly, that subsection (d) of this section refers to “a denial of a request for reconsideration of a finding of no probable cause”, but the statute does not establish the authority for filing a request for reconsideration. Although a reconsideration process is established by the Commission’s regulations (*see* COMAR 14.03.01.06C), the General Assembly may wish to state expressly that which is only implied by subsection (d) of this section.

Defined terms: “Commission” § 20–101

“Complainant” § 20–101

“Discriminatory act” § 20–101

“Person” § 1–101

“Respondent” § 20–101

**20–1006. CERTIFICATION OF FILE; ISSUANCE AND SERVICE OF NOTICE AND COMPLAINT.**

**(A) CERTIFICATION OF FILE.**

**ON THE MAKING OF A FINDING UNDER § 20–1005(C)(2) OF THIS SUBTITLE THAT AN AGREEMENT TO REMEDY AND ELIMINATE THE DISCRIMINATION CANNOT BE REACHED, THE ENTIRE FILE, INCLUDING THE COMPLAINT AND ANY FINDINGS, SHALL BE CERTIFIED TO THE GENERAL COUNSEL OF THE COMMISSION.**

**(B) ISSUANCE AND SERVICE OF NOTICE AND COMPLAINT.**

**THE EXECUTIVE DIRECTOR OF THE COMMISSION SHALL CAUSE A WRITTEN NOTICE TO BE ISSUED AND SERVED IN THE NAME OF THE COMMISSION, TOGETHER WITH A COPY OF THE COMPLAINT, REQUIRING THE RESPONDENT TO ANSWER THE CHARGES OF THE COMPLAINT AT A PUBLIC HEARING:**

**(1) BEFORE AN ADMINISTRATIVE LAW JUDGE AT A TIME AND PLACE CERTIFIED IN THE NOTICE; OR**

**(2) IN A CIVIL ACTION ELECTED UNDER § 20-1007 OF THIS SUBTITLE.**

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, § 11(a)(1) and (2).

In subsection (a) of this section, the reference to findings "under § 20-1005(c)(2) of this subtitle" is added for clarity.

In subsection (b)(2) of this section, the former reference to a civil action elected "by a complainant" is deleted as unnecessary in light of the reference to a civil action elected "under § 20-1007 of this subtitle".

Defined terms: "Commission" § 20-101

"Complainant" § 20-101

"Including" § 1-101

"Respondent" § 20-101

#### **20-1007. ELECTION OF CIVIL ACTION.**

**(A) ELECTION BY COMPLAINANT OR RESPONDENT.**

**(1) WHEN A COMPLAINT IS ISSUED AND SERVED UNDER § 20-1006 OF THIS SUBTITLE, A COMPLAINANT OR RESPONDENT MAY ELECT TO HAVE THE CLAIMS ASSERTED IN THE COMPLAINT DETERMINED IN A CIVIL ACTION BROUGHT BY THE COMMISSION ON THE COMPLAINANT'S BEHALF, IF:**

**(I) THE COMMISSION HAS FOUND PROBABLE CAUSE TO BELIEVE THE RESPONDENT HAS ENGAGED IN OR IS ENGAGING IN A DISCRIMINATORY ACT; AND**

**(II) THERE IS A FAILURE TO REACH AN AGREEMENT TO REMEDY AND ELIMINATE THE DISCRIMINATORY ACT.**

**(2) AN ELECTION UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE MADE WITHIN 30 DAYS AFTER THE COMPLAINANT OR RESPONDENT RECEIVES SERVICE UNDER § 20-1006(B) OF THIS SUBTITLE.**

**(3) IF AN ELECTION IS NOT MADE UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE COMMISSION SHALL PROVIDE AN OPPORTUNITY FOR A HEARING AS PROVIDED UNDER § 20-1008(A) OF THIS SUBTITLE.**

**(B) ELECTION BY COMMISSION.**

**WHEN A COMPLAINT IS ISSUED AND SERVED UNDER § 20-1006 OF THIS SUBTITLE, THE COMMISSION MAY ELECT TO HAVE THE CLAIMS ASSERTED IN THE COMPLAINT DETERMINED IN A CIVIL ACTION BROUGHT ON THE COMMISSION'S OWN BEHALF, IF:**

**(1) THE COMMISSION HAS FOUND PROBABLE CAUSE TO BELIEVE THE RESPONDENT HAS ENGAGED IN OR IS ENGAGING IN A DISCRIMINATORY ACT; AND**

**(2) THERE IS A FAILURE TO REACH AN AGREEMENT TO REMEDY AND ELIMINATE THE DISCRIMINATORY ACT.**

**(C) NOTICE OF ELECTION.**

**(1) IF A COMPLAINANT OR RESPONDENT MAKES AN ELECTION UNDER SUBSECTION (A) OF THIS SECTION, THAT PARTY SHALL GIVE NOTICE OF THE ELECTION TO THE COMMISSION AND TO ALL OTHER COMPLAINANTS AND RESPONDENTS.**

**(2) IF THE COMMISSION MAKES AN ELECTION UNDER SUBSECTION (B) OF THIS SECTION, THE COMMISSION SHALL GIVE NOTICE OF THE ELECTION TO ALL COMPLAINANTS AND RESPONDENTS.**

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, § 11A(a), (b), and (c)(1) and (2).

In the introductory language of subsections (a)(1) and (b) of this section, the reference to a complaint being "issued and served" is substituted for the former reference to a complaint being "filed" for accuracy and consistency with § 20-1006 of this subtitle.

In subsections (a)(1)(i) and (b)(1) of this section, the phrase "has found probable cause to believe" is substituted for the former word "finds" for accuracy and consistency with § 20-1005(b) of this subtitle.

The Human Relations Commission Law Article Review Committee notes, for consideration by the General Assembly, that Chs. 176 and 177 of the Acts of 2007 intended to create a private right of action in employment discrimination cases; however, as drafted, the law applies to all discriminatory acts. The General Assembly may wish to clarify that the provisions of this subtitle relating to civil actions elected or filed by complainants apply only to unlawful employment practices.

Defined terms: "Commission" § 20-101

"Complainant" § 20-101

"Discriminatory act" § 20-101

"Respondent" § 20-101

#### **20-1008. ADMINISTRATIVE HEARING.**

##### **(A) HEARING BY ADMINISTRATIVE LAW JUDGE; VENUE.**

**(1) IF A CIVIL ACTION IS NOT ELECTED UNDER § 20-1007 OF THIS SUBTITLE, THE CASE SHALL BE HEARD BY AN ADMINISTRATIVE LAW JUDGE.**

**(2) THE HEARING SHALL BE HELD IN THE COUNTY WHERE THE ALLEGED DISCRIMINATORY ACT OCCURRED.**

##### **(B) ROLE OF GENERAL COUNSEL.**

**THE GENERAL COUNSEL OF THE COMMISSION SHALL PRESENT THE CASE IN SUPPORT OF THE COMPLAINT AT THE HEARING.**

##### **(C) RIGHTS OF RESPONDENT.**

**THE RESPONDENT:**

**(1) MAY FILE A WRITTEN ANSWER TO THE COMPLAINT;**

**(2) MAY APPEAR AT THE HEARING IN PERSON, OR OTHERWISE, WITH OR WITHOUT COUNSEL;**

**(3) MAY SUBMIT TESTIMONY;**

**(4) SHALL BE FULLY HEARD; AND**

**(5) MAY EXAMINE AND CROSS-EXAMINE WITNESSES.**

##### **(D) RECORDING AND TRANSCRIPT OF TESTIMONY.**

**(1) TESTIMONY TAKEN AT THE HEARING SHALL BE UNDER OATH AND RECORDED.**

**(2) A TRANSCRIPT SHALL BE MADE OF ALL TESTIMONY AT THE HEARING.**

**(E) AMENDMENT OF COMPLAINT OR ANSWER.**

**THE COMMISSION MAY ALLOW ANY COMPLAINT OR ANSWER TO BE REASONABLY AMENDED.**

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, § 11(b), (c), and (a)(3), (4), and (5).

In subsection (a)(2) of this section, the defined term "discriminatory act" is substituted for the former reference to the "act of discrimination" for consistency throughout this title.

The Human Relations Commission Law Article Review Committee notes, for consideration by the General Assembly, that subsection (e) of this section incorrectly grants the authority to the Commission to "allow any complaint or answer to be reasonably amended". The General Assembly may wish to clarify that, at this stage of the proceedings, it is properly within the power of the administrative law judge to allow amendments.

Defined terms: "Commission" § 20-101

"County" § 1-101

"Discriminatory act" § 20-101

"Respondent" § 20-101

**20-1009. DECISION OF ADMINISTRATIVE LAW JUDGE; REMEDIES.**

**(A) FINDING AGAINST RESPONDENT.**

**IF, AFTER REVIEWING ALL OF THE EVIDENCE, THE ADMINISTRATIVE LAW JUDGE FINDS THAT THE RESPONDENT HAS ENGAGED IN A DISCRIMINATORY ACT, THE ADMINISTRATIVE LAW JUDGE SHALL:**

**(1) ISSUE A DECISION AND ORDER STATING THE JUDGE'S FINDINGS OF FACT AND CONCLUSIONS OF LAW; AND**

**(2) ISSUE AND CAUSE TO BE SERVED ON THE RESPONDENT AN ORDER REQUIRING THE RESPONDENT TO:**



(I) CEASE AND DESIST FROM ENGAGING IN THE DISCRIMINATORY ACTS; AND

(II) TAKE AFFIRMATIVE ACTION TO EFFECTUATE THE PURPOSES OF THE APPLICABLE SUBTITLE OF THIS TITLE.

**(B) REMEDIES FOR UNLAWFUL EMPLOYMENT PRACTICES.**

(1) IF THE RESPONDENT IS FOUND TO HAVE ENGAGED IN OR TO BE ENGAGING IN AN UNLAWFUL EMPLOYMENT PRACTICE CHARGED IN THE COMPLAINT, THE REMEDY MAY INCLUDE:

(I) ENJOINING THE RESPONDENT FROM ENGAGING IN THE DISCRIMINATORY ACT;

(II) ORDERING APPROPRIATE AFFIRMATIVE RELIEF, INCLUDING THE REINSTATEMENT OR HIRING OF EMPLOYEES, WITH OR WITHOUT BACK PAY;

(III) AWARDING COMPENSATORY DAMAGES; OR

(IV) ORDERING ANY OTHER EQUITABLE RELIEF THAT THE ADMINISTRATIVE LAW JUDGE CONSIDERS APPROPRIATE.

(2) COMPENSATORY DAMAGES AWARDED UNDER THIS SUBSECTION ARE IN ADDITION TO:

(I) BACK PAY OR INTEREST ON BACK PAY THAT THE COMPLAINANT MAY RECOVER UNDER ANY OTHER PROVISION OF LAW; AND

(II) ANY OTHER EQUITABLE RELIEF THAT A COMPLAINANT MAY RECOVER UNDER ANY OTHER PROVISION OF LAW.

(3) THE SUM OF THE AMOUNT OF COMPENSATORY DAMAGES AWARDED TO EACH COMPLAINANT UNDER THIS SUBSECTION FOR FUTURE PECUNIARY LOSSES, EMOTIONAL PAIN, SUFFERING, INCONVENIENCE, MENTAL ANGUISH, LOSS OF ENJOYMENT OF LIFE, OR NONPECUNIARY LOSSES, MAY NOT EXCEED:

(I) \$50,000, IF THE RESPONDENT EMPLOYS NOT FEWER THAN 15 AND NOT MORE THAN 100 EMPLOYEES IN EACH OF 20 OR MORE CALENDAR WEEKS IN THE CURRENT OR PRECEDING CALENDAR YEAR;

(II) **\$100,000, IF THE RESPONDENT EMPLOYS NOT FEWER THAN 101 AND NOT MORE THAN 200 EMPLOYEES IN EACH OF 20 OR MORE CALENDAR WEEKS IN THE CURRENT OR PRECEDING CALENDAR YEAR;**

(III) **\$200,000, IF THE RESPONDENT EMPLOYS NOT FEWER THAN 201 AND NOT MORE THAN 500 EMPLOYEES IN EACH OF 20 OR MORE CALENDAR WEEKS IN THE CURRENT OR PRECEDING CALENDAR YEAR; AND**

(IV) **\$300,000, IF THE RESPONDENT EMPLOYS NOT FEWER THAN 501 EMPLOYEES IN EACH OF 20 OR MORE CALENDAR WEEKS IN THE CURRENT OR PRECEDING CALENDAR YEAR.**

(4) **IF BACK PAY IS AWARDED UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE AWARD SHALL BE REDUCED BY ANY INTERIM EARNINGS OR AMOUNTS EARNABLE WITH REASONABLE DILIGENCE BY THE PERSON DISCRIMINATED AGAINST.**

(C) **NONMONETARY RELIEF FOR DISCRIMINATORY ACTS OTHER THAN UNLAWFUL EMPLOYMENT PRACTICES.**

(1) (I) **EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, IF THE RESPONDENT IS FOUND TO HAVE ENGAGED IN OR TO BE ENGAGING IN A DISCRIMINATORY ACT OTHER THAN AN UNLAWFUL EMPLOYMENT PRACTICE, IN ADDITION TO AN AWARD OF CIVIL PENALTIES AS PROVIDED IN § 20-1016 OF THIS SUBTITLE, NONMONETARY RELIEF MAY BE GRANTED TO THE COMPLAINANT.**

(II) **AN ORDER MAY NOT BE ISSUED THAT SUBSTANTIALLY AFFECTS THE COST, LEVEL, OR TYPE OF ANY TRANSPORTATION SERVICES.**

(2) (I) **IN CASES INVOLVING TRANSPORTATION SERVICES THAT ARE SUPPORTED FULLY OR PARTIALLY WITH FUNDS FROM THE MARYLAND DEPARTMENT OF TRANSPORTATION, AN ORDER MAY NOT BE ISSUED THAT WOULD REQUIRE COSTS, LEVEL, OR TYPE OF TRANSPORTATION SERVICES DIFFERENT FROM OR EXCEEDING THOSE REQUIRED TO MEET U.S. DEPARTMENT OF TRANSPORTATION REGULATIONS ADOPTED UNDER 29 U.S.C. § 794.**

(II) **AN ORDER ISSUED IN VIOLATION OF SUBPARAGRAPH (I) OF THIS PARAGRAPH IS NOT ENFORCEABLE UNDER § 20-1011 OF THIS SUBTITLE.**

(D) **FINDING IN FAVOR OF RESPONDENT.**

**IF, AFTER REVIEWING ALL OF THE EVIDENCE, THE ADMINISTRATIVE LAW JUDGE FINDS THAT THE RESPONDENT HAS NOT ENGAGED IN AN ALLEGED DISCRIMINATORY ACT, THE ADMINISTRATIVE LAW JUDGE SHALL:**

- (1) STATE FINDINGS OF FACT AND CONCLUSIONS OF LAW; AND**
- (2) ISSUE AN ORDER DISMISSING THE COMPLAINT.**

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, § 11(e) and (f).

In the introductory language of subsection (a) of this section, the former phrase "within the scope of this article" is deleted as surplusage. Similarly, in subsection (d) of this section, the former phrase "within the scope of the particular subtitle" is deleted.

In subsection (a)(1) of this section, the requirement that the administrative law judge "issue a decision and order stating the judge's findings of fact and conclusions of law" is substituted for the former requirement that the administrative law judge "so state the findings" for clarity and accuracy. Similarly, in subsection (d)(1) of this section, the reference to "conclusions of law" is added.

In subsection (a)(2)(i) of this section, the reference to "engaging in" the discriminatory acts is added for consistency within the subsection.

In subsection (a)(2)(ii) of this section, the reference to the "applicable subtitle of this title" is substituted for the former reference to the "particular" subtitle for clarity.

In subsection (b)(1)(iv) of this section, the reference to the "administrative law judge" is substituted for the former reference to the "court" for accuracy and consistency within this section.

In subsection (b)(4) of this section, the former reference to "persons" is deleted in light of the reference to the "person" and Art. 1, § 8, which provides that the singular generally includes the plural.

In subsection (c)(1)(i) of this section, the phrase "if the respondent is found to have engaged in or to be engaging in a discriminatory act other than an unlawful employment practice" is substituted for the former phrase "[i]n cases of discrimination other than those involving employment" for clarity and consistency with subsection (b)(1) of this section.

In subsection (c)(2)(i) of this section, the former reference to “Section 504 of the Rehabilitation Act of 1973” is deleted as unnecessary in light of the reference to “29 U.S.C. § 794”.

In subsection (d)(2) of this section, the former reference to “fil[ing]” an order is deleted for accuracy.

The Human Relations Commission Law Article Review Committee notes, for consideration by the General Assembly, that the General Assembly may wish to specify in statute the effect of a decision of an administrative law judge under this section. Under the Commission’s regulations, “[i]n the absence of a timely appeal, the decision of the administrative law judge shall become the final decision and order of the Commission....”. See COMAR 14.03.01.09H(5).

Defined terms: “Complainant” § 20–101

“Discriminatory act” § 20–101

“Includes”, “including” § 1–101

“Person” § 1–101

“Respondent” § 20–101

“Unlawful employment practice” § 20–1001

**20–1010. POWER OF COMMISSION TO ADMINISTER OATHS AND ISSUE SUBPOENAS; SERVICE AND ENFORCEMENT OF SUBPOENAS.**

**(A) POWER OF COMMISSION TO ADMINISTER OATHS AND ISSUE SUBPOENAS.**

**IN THE ADMINISTRATION AND ENFORCEMENT OF THIS TITLE, THE COMMISSION MAY:**

**(1) ADMINISTER OATHS;**

**(2) ISSUE SUBPOENAS;**

**(3) COMPEL THE ATTENDANCE AND TESTIMONY OF WITNESSES;**

**AND**

**(4) COMPEL THE PRODUCTION OF BOOKS, PAPERS, RECORDS, AND DOCUMENTS RELEVANT OR NECESSARY FOR PROCEEDINGS UNDER THIS TITLE.**

**(B) SERVICE OF SUBPOENA.**

**A SUBPOENA ISSUED BY THE COMMISSION SHALL BE SERVED BY:**

(1) CERTIFIED MAIL, REQUESTING RESTRICTED DELIVERY – SHOW TO WHOM, DATE, ADDRESS OF DELIVERY; OR

(2) PERSONAL SERVICE OF PROCESS BY:

(I) AN EMPLOYEE OF THE COMMISSION;

(II) ANY ADULT WHO IS NOT A PARTY TO THE PROCEEDING;

OR

(III) THE SHERIFF OR DEPUTY SHERIFF OF THE COUNTY IN WHICH IS LOCATED THE RESIDENCE OR MAIN OFFICE OF THE PERSON TO WHOM OR WHICH THE SUBPOENA IS ISSUED.

(C) ENFORCEMENT OF SUBPOENA.

(1) IN CASE OF FAILURE TO COMPLY WITH A SUBPOENA, THE COMMISSION MAY APPLY TO A CIRCUIT COURT IN ANY COUNTY FOR AN ORDER REQUIRING THE ATTENDANCE AND TESTIMONY OF WITNESSES AND THE PRODUCTION OF BOOKS, PAPERS, RECORDS, AND DOCUMENTS.

(2) THE COURT MAY ISSUE AN ORDER REQUIRING THE ATTENDANCE AND TESTIMONY OF THE WITNESS AND THE PRODUCTION OF THE BOOKS, PAPERS, RECORDS, AND DOCUMENTS:

(I) AFTER NOTICE TO THE PERSON SUBPOENAED AS A WITNESS OR DIRECTED TO PRODUCE BOOKS, PAPERS, RECORDS, AND DOCUMENTS; AND

(II) ON A FINDING THAT THE ATTENDANCE AND TESTIMONY OF THE WITNESS OR THE PRODUCTION OF THE BOOKS, PAPERS, RECORDS, AND DOCUMENTS IS RELEVANT OR NECESSARY FOR THE PROCEEDINGS OF THE COMMISSION.

(3) AN ORDER ISSUED BY THE COURT UNDER THIS SUBSECTION SHALL BE SERVED ON THE PERSON TO WHOM IT IS DIRECTED BY THE SHERIFF OR DEPUTY SHERIFF OF THE COUNTY WHERE THE RESIDENCE OR MAIN OFFICE OF THE PERSON IS LOCATED.

(4) A FAILURE TO OBEY AN ORDER ISSUED BY THE COURT UNDER THIS SUBSECTION MAY BE PUNISHED BY THE COURT AS A CONTEMPT OF COURT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, § 11(d).

In the introductory language of subsection (b) of this section, the reference to a subpoena "issued by the Commission" is added for clarity.

In subsection (b)(2)(ii) of this section, the reference to a party "to the proceeding" is added for clarity.

Also in subsection (b)(2)(ii) of this section, the reference to any "adult" is substituted for the former reference to any "person who ... is not less than 18 years of age" for brevity. *See* Art. 1, § 24.

In subsections (b)(2)(iii) and (c)(3) of this section, the references to the "county" are substituted for the former references to the "political subdivision" for clarity and accuracy.

In subsection (b)(2)(iii) of this section, the former reference to a "firm, association, partnership or corporation" is deleted as included in the definition of the term "person" in § 1-101 of this article.

In subsection (c)(1) of this section, the reference to "failure to comply with" a subpoena is substituted for the former archaic reference to "disobedience to" a subpoena.

In the introductory language of subsection (c)(2) of this section, the former phrase "[i]n case of contumacy or refusal to obey a subpoena for the attendance of a witness or the production of books, papers, records, and documents" is deleted as unnecessary in light of the phrase "[i]n case of failure to comply with a subpoena" in subsection (c)(1) of this section.

Defined terms: "Commission" § 20-101

"County" § 1-101

"Person" § 1-101

## **20-1011. ENFORCEMENT OF COMMISSION'S ORDERS.**

### **(A) CIVIL ACTION AUTHORIZED.**

**IF A RESPONDENT REFUSES TO COMPLY WITH AN ORDER OF THE COMMISSION ISSUED UNDER THIS TITLE, THE COMMISSION MAY BRING A CIVIL ACTION TO ENFORCE COMPLIANCE WITH THE ORDER IN THE APPROPRIATE EQUITY COURT OF THE COUNTY WHERE THE ALLEGED DISCRIMINATORY ACT OCCURRED.**

### **(B) JUDICIAL REVIEW STANDARDS.**

**THE JUDICIAL REVIEW STANDARDS SET FORTH IN TITLE 10, SUBTITLE 2 OF THIS ARTICLE SHALL GOVERN THE COURT IN HEARING A CASE BROUGHT UNDER THIS SECTION.**

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, § 12(a).

In subsection (a) of this section, the reference to “bring[ing] a civil action” is substituted for the former archaic reference to “institut[ing] litigation”.

Also in subsection (a) of this section, the reference to enforcing compliance with “the order” is substituted for the former reference to enforcing compliance with “any provision of this title” for accuracy. This substitution is called to the attention of the General Assembly.

Also in subsection (a) of this section, the defined term “discriminatory act” is substituted for the former reference to “discrimination” for consistency throughout this title.

Also in subsection (a) of this section, the former reference to the Commission being “represented by its general counsel” is deleted as unnecessary in light of § 20–206(b)(2) of this title, which requires the general counsel to “represent the Commission at all hearings and judicial proceedings in which the Commission is a party”.

Also in subsection (a) of this section, the former reference to “Baltimore City” is deleted as included in the definition of the term “county” in § 1–101 of this article.

In subsection (b) of this section, the former reference to the “Administrative Procedure Act” is deleted as unnecessary in light of the reference to “Title 10, Subtitle 2 of this article”.

The Human Relations Commission Law Article Review Committee notes, for consideration by the General Assembly, that the “judicial review standards set forth in Title 10, Subtitle 2 of this article” referred to in subsection (b) of this section apply to administrative appeals and that it is inappropriate to apply them in a proceeding to enforce an administrative order. The General Assembly may wish to repeal subsection (b) of this section.

Defined terms: “Commission” § 20–101

“County” § 1–101

“Discriminatory act” § 20–101

“Respondent” § 20–101

**20-1012. CIVIL ACTION BY COMMISSION ON COMPLAINANT'S BEHALF.****(A) FILING OF ACTION.**

**WITHIN 60 DAYS AFTER AN ELECTION IS MADE UNDER § 20-1007 OF THIS SUBTITLE, THE COMMISSION SHALL FILE A CIVIL ACTION IN THE CIRCUIT COURT FOR THE COUNTY WHERE THE ALLEGED DISCRIMINATORY ACT OCCURRED.**

**(B) REMEDIES.**

**IF THE COURT FINDS THAT A DISCRIMINATORY ACT OCCURRED, THE COURT MAY PROVIDE THE REMEDIES SPECIFIED IN § 20-1009(B) OF THIS SUBTITLE.**

**(C) DEMAND FOR JURY TRIAL.**

**IF THE COMMISSION SEEKS COMPENSATORY DAMAGES UNDER THIS SECTION:**

**(1) ANY PARTY MAY DEMAND A TRIAL BY JURY; AND**

**(2) THE COURT MAY NOT INFORM THE JURY OF THE LIMITATIONS ON COMPENSATORY DAMAGES IMPOSED UNDER § 20-1009(B)(3) OF THIS SUBTITLE.**

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, § 11A(d), (e), and (c)(3).

In subsection (a) of this section, the reference to the "circuit" court is added for clarity and consistency with § 20-1013(b) of this subtitle.

Also in subsection (a) of this section, the former reference to an election made "by any party" is deleted as unnecessary in light of the reference to an election "under § 20-1007 of this subtitle".

Also in subsection (a) of this section, the defined term "discriminatory act" is substituted for the former reference to the "act of discrimination" for consistency throughout this title.

Defined terms: "Commission" § 20-101

"County" § 1-101

"Discriminatory act" § 20-101



**20-1013. CIVIL ACTION BY COMPLAINANT.****(A) IN GENERAL.**

IN ADDITION TO THE RIGHT TO MAKE AN ELECTION UNDER § 20-1007 OF THIS SUBTITLE, A COMPLAINANT MAY BRING A CIVIL ACTION AGAINST THE RESPONDENT ALLEGING A DISCRIMINATORY ACT, IF:

(1) THE COMPLAINANT INITIALLY FILED A TIMELY ADMINISTRATIVE CHARGE OR A COMPLAINT UNDER FEDERAL, STATE, OR LOCAL LAW ALLEGING A DISCRIMINATORY ACT BY THE RESPONDENT;

(2) AT LEAST 180 DAYS HAVE ELAPSED SINCE THE FILING OF THE ADMINISTRATIVE CHARGE OR COMPLAINT; AND

(3) THE CIVIL ACTION IS FILED WITHIN 2 YEARS AFTER THE ALLEGED DISCRIMINATORY ACT OCCURRED.

**(B) VENUE.**

A CIVIL ACTION UNDER THIS SECTION SHALL BE FILED IN THE CIRCUIT COURT FOR THE COUNTY WHERE THE ALLEGED DISCRIMINATORY ACT OCCURRED.

**(C) TERMINATION OF ADMINISTRATIVE PROCEEDINGS.**

THE FILING OF A CIVIL ACTION UNDER THIS SECTION AUTOMATICALLY TERMINATES ANY PROCEEDING BEFORE THE COMMISSION BASED ON THE UNDERLYING ADMINISTRATIVE COMPLAINT AND ANY AMENDMENT TO THE COMPLAINT.

**(D) REMEDIES.**

IF THE COURT FINDS THAT A DISCRIMINATORY ACT OCCURRED, THE COURT MAY PROVIDE THE REMEDIES SPECIFIED IN § 20-1009(B) OF THIS SUBTITLE.

**(E) PUNITIVE DAMAGES.**

IN ADDITION TO THE RELIEF AUTHORIZED UNDER SUBSECTION (D) OF THIS SECTION, THE COURT MAY AWARD PUNITIVE DAMAGES, IF:

(1) THE RESPONDENT IS NOT A GOVERNMENTAL UNIT OR POLITICAL SUBDIVISION; AND

**(2) THE COURT FINDS THAT THE RESPONDENT HAS ENGAGED IN OR IS ENGAGING IN AN UNLAWFUL EMPLOYMENT PRACTICE WITH ACTUAL MALICE.**

**(F) DEMAND FOR JURY TRIAL.**

**IF A COMPLAINANT SEEKS COMPENSATORY OR PUNITIVE DAMAGES UNDER THIS SECTION:**

**(1) ANY PARTY MAY DEMAND A TRIAL BY JURY; AND**

**(2) THE COURT MAY NOT INFORM THE JURY OF THE LIMITATIONS ON COMPENSATORY AND PUNITIVE DAMAGES IMPOSED UNDER § 20-1009(B)(3) OF THIS SUBTITLE.**

**(G) ALTERNATIVE DISPUTE RESOLUTION.**

**WHEN APPROPRIATE AND TO THE EXTENT AUTHORIZED UNDER LAW, IN A DISPUTE ARISING UNDER THIS PART, IN WHICH THE COMPLAINANT SEEKS COMPENSATORY OR PUNITIVE DAMAGES, THE PARTIES ARE ENCOURAGED TO USE ALTERNATIVE MEANS OF DISPUTE RESOLUTION, INCLUDING SETTLEMENT NEGOTIATIONS OR MEDIATION.**

REVISOR'S NOTE: Subsections (a) through (c) and (e) through (g) of this section are new language derived without substantive change from former Art. 49B, § 11B.

Subsection (d) of this section is new language substituted for former Art. 49B, § 11B(e), (f), and (h) for brevity and to avoid repetition.

In subsections (a)(3) and (b) of this section, the defined term "discriminatory act" is substituted for the former references to the "act of discrimination" for consistency throughout this title.

In subsection (b) of this section, the word "shall" is substituted for the former word "may" for clarity and accuracy.

In subsection (e)(1) of this section, the reference to a "governmental unit" is substituted for the former reference to a "government entity" for consistency throughout this title. See General Revisor's Note to title.

Defined terms: "Commission" § 20-101

"Complainant" § 20-101

"County" § 1-101

- “Discriminatory act” § 20–101
- “Including” § 1–101
- “Person” § 1–101
- “Respondent” § 20–101
- “Unlawful employment practice” § 20–1001

#### **20–1014. INTERVENTION IN CIVIL ACTION.**

##### **(A) INTERVENTION BY PERSON.**

**A PERSON MAY INTERVENE IN A CIVIL ACTION BROUGHT BY THE COMMISSION UNDER THIS PART, IF THE ACTION INVOLVES:**

- (1) AN ALLEGED DISCRIMINATORY ACT TO WHICH THE PERSON IS A PARTY; OR**
- (2) A CONCILIATION AGREEMENT TO WHICH THE PERSON IS A PARTY.**

##### **(B) INTERVENTION BY COMMISSION.**

**THE COMMISSION MAY INTERVENE IN A CIVIL ACTION BROUGHT UNDER THIS PART, IF:**

- (1) THE COMMISSION CERTIFIES THAT THE CASE IS OF GENERAL PUBLIC IMPORTANCE; AND**
- (2) TIMELY APPLICATION IS MADE.**

##### **(C) RELIEF TO INTERVENOR.**

**THE COURT MAY GRANT ANY APPROPRIATE RELIEF TO AN INTERVENING PARTY THAT MAY BE GRANTED TO A PLAINTIFF IN A CIVIL ACTION UNDER § 20–1012 OF THIS SUBTITLE.**

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 49B, § 11C.

The Human Relations Commission Law Article Review Committee notes, for consideration by the General Assembly, that former Art. 49B, § 11C(c) incorrectly referred to a civil action under “§ 11A of this subtitle”, rather than § 11B. The General Assembly may wish to clarify that an individual intervening in a civil action under this section may be granted the relief specified under § 20–1013 of this subtitle, which includes punitive damages.

Defined terms: "Commission" § 20-101

"Discriminatory act" § 20-101

"Person" § 1-101

#### **20-1015. AWARD OF FEES AND COSTS.**

**IN AN ACTION BROUGHT UNDER THIS PART, THE COURT MAY AWARD THE PREVAILING PARTY REASONABLE ATTORNEY'S FEES, EXPERT WITNESS FEES, AND COSTS.**

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, § 11D(a).

The former phrase "in its discretion" is deleted as surplusage.

#### **20-1016. CIVIL PENALTIES.**

##### **(A) IN GENERAL.**

**EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, IN ADDITION TO ANY OTHER RELIEF AUTHORIZED, IF THE COMMISSION FINDS THAT A RESPONDENT HAS ENGAGED IN A DISCRIMINATORY ACT UNDER SUBTITLE 3 OR SUBTITLE 4 OF THIS TITLE, THE COMMISSION MAY SEEK AN ORDER ASSESSING A CIVIL PENALTY AGAINST THE RESPONDENT:**

**(1) IF THE RESPONDENT HAS NOT BEEN ADJUDICATED TO HAVE COMMITTED ANY PRIOR DISCRIMINATORY ACT, IN AN AMOUNT NOT EXCEEDING \$500;**

**(2) IF THE RESPONDENT HAS BEEN ADJUDICATED TO HAVE COMMITTED ONE OTHER DISCRIMINATORY ACT DURING THE 5-YEAR PERIOD ENDING ON THE DATE OF THE FILING OF THE CURRENT CHARGE, IN AN AMOUNT NOT EXCEEDING \$1,000; AND**

**(3) IF THE RESPONDENT HAS BEEN ADJUDICATED TO HAVE COMMITTED TWO OR MORE DISCRIMINATORY ACTS DURING THE 7-YEAR PERIOD ENDING ON THE DATE OF THE FILING OF THE CURRENT CHARGE, IN AN AMOUNT NOT EXCEEDING \$2,500.**

##### **(B) PRIOR ACTS COMMITTED BY SAME INDIVIDUAL.**

**IF THE DISCRIMINATORY ACT IS COMMITTED BY AN INDIVIDUAL WHO HAS BEEN PREVIOUSLY ADJUDICATED TO HAVE COMMITTED ONE OR MORE**

**DISCRIMINATORY ACTS, THE TIME PERIODS SET FORTH IN SUBSECTION (A)(2) AND (3) OF THIS SECTION DO NOT APPLY.**

**(C) PAYMENT TO GENERAL FUND.**

**ANY CIVIL PENALTIES COLLECTED UNDER THIS SECTION SHALL BE PAID TO THE GENERAL FUND OF THE STATE.**

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, §§ 5(h) and 8(b).

In the introductory language of subsection (a) of this section, the phrase “[e]xcept as provided in subsection (b) of this section” is added for clarity and consistency with §§ 20–1026(c)(2)(ii) and 20–1028(b)(2)(i) of this subtitle.

Also in the introductory language of subsection (a) of this section, the defined term “discriminatory act” is substituted for the former reference to an “unlawful practice” for consistency throughout this title. Similarly, in subsections (a)(1), (2), and (3) and (b) of this section, the references to “discriminatory act” and “discriminatory acts” are substituted for the former references to “discriminatory practice”, “discriminatory practices”, and “the acts constituting the discriminatory practice”.

In subsection (a)(2) and (3) of this section, the references to “the current” charge are substituted for the former references to “this” charge for clarity.

In subsection (b) of this section, the phrase “the time periods set forth ... do not apply” is substituted for the former phrase “then the civil penalties set forth ... may be imposed without regard to the period of time within which any subsequent discriminatory practice occurred” for brevity and clarity.

In subsection (c) of this section, the reference to civil penalties “collected under this section” is added for clarity.

Defined terms: “Commission” § 20–101

“Discriminatory act” § 20–101

“Respondent” § 20–101

**20–1017. ACTION FOR TEMPORARY INJUNCTION.**

**(A) POWER OF COMMISSION TO BRING ACTION.**

AT ANY TIME AFTER A COMPLAINT HAS BEEN FILED, IF THE COMMISSION BELIEVES THAT A CIVIL ACTION IS NECESSARY TO PRESERVE THE STATUS OF THE PARTIES OR TO PREVENT IRREPARABLE HARM FROM THE TIME THE COMPLAINT IS FILED UNTIL THE TIME OF THE FINAL DISPOSITION OF THE COMPLAINT, THE COMMISSION MAY BRING AN ACTION TO OBTAIN A TEMPORARY INJUNCTION.

**(B) VENUE.**

THE ACTION SHALL BE BROUGHT IN THE CIRCUIT COURT FOR THE COUNTY WHERE:

**(1) THE PLACE OF PUBLIC ACCOMMODATION THAT IS THE SUBJECT OF THE ALLEGED DISCRIMINATORY ACT IS LOCATED;**

**(2) THE UNLAWFUL EMPLOYMENT PRACTICE IS ALLEGED TO HAVE OCCURRED OR TO BE OCCURRING; OR**

**(3) THE DWELLING THAT IS THE SUBJECT OF THE ALLEGED DISCRIMINATORY HOUSING PRACTICE IS LOCATED.**

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, § 4.

In subsection (a) of this section, the former reference to "an appropriate" civil action is deleted as surplusage.

In subsection (b)(1) of this section, the defined term "discriminatory act" is substituted for the former reference to the "discrimination" for consistency throughout this title. Similarly, in subsection (b)(3) of this section, the reference to the "discriminatory housing practice" is substituted for the former reference to the "discrimination".

In subsection (b)(2) of this section, the phrase "or to be occurring" is added for accuracy.

Defined terms: "Commission" § 20-101

"County" § 1-101

"Discriminatory act" § 20-101

"Unlawful employment practice" § 20-1001

**20-1018. RESERVED.**

**20-1019. RESERVED.**

**PART II. DISCRIMINATORY HOUSING PRACTICES.****20-1020. DEFINITIONS.****(A) IN GENERAL.**

**IN THIS PART THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.**

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 49B, § 20(a).

**(B) AGGRIEVED PERSON.**

**"AGGRIEVED PERSON" MEANS ANY PERSON THAT CLAIMS TO HAVE BEEN INJURED BY A DISCRIMINATORY HOUSING PRACTICE.**

REVISOR'S NOTE: This subsection formerly was Art. 49B, § 20(b).

The only change is in style.

Defined terms: "Discriminatory housing practice" § 20-1020  
"Person" § 1-101

**(C) CONCILIATION.**

**"CONCILIATION" MEANS THE ATTEMPTED RESOLUTION OF ISSUES RAISED BY A COMPLAINT, OR BY THE INVESTIGATION OF A COMPLAINT, THROUGH INFORMAL NEGOTIATIONS INVOLVING THE AGGRIEVED PERSON, THE RESPONDENT, AND THE COMMISSION.**

REVISOR'S NOTE: This subsection formerly was Art. 49B, § 20(d).

The only change is in style.

Defined terms: "Aggrieved person" § 20-1020  
"Commission" § 20-101  
"Respondent" § 20-101

**(D) CONCILIATION AGREEMENT.**

**"CONCILIATION AGREEMENT" MEANS A WRITTEN AGREEMENT BETWEEN THE RESPONDENT AND THE COMPLAINANT SETTING FORTH THE RESOLUTION OF THE ISSUES IN CONCILIATION.**

REVISOR'S NOTE: This subsection is new language derived without substantive change from Art. 49B, § 20(e) and, as it related to a conciliation agreement being an agreement between the respondent and the complainant, § 28(b)(1).

Defined terms: "Complainant" § 20-101  
"Conciliation" § 20-1020  
"Respondent" § 20-101

**(E) DISCRIMINATORY HOUSING PRACTICE.**

**"DISCRIMINATORY HOUSING PRACTICE" MEANS AN ACT THAT IS PROHIBITED UNDER § 20-705, § 20-706, § 20-707, OR § 20-708 OF THIS TITLE.**

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 49B, § 20(g).

**(F) PREVAILING PARTY.**

**"PREVAILING PARTY" HAS THE MEANING AS JUDICIALLY DETERMINED UNDER 42 U.S.C. § 1988.**

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 49B, § 20(p).

The reference to the meaning "as judicially determined under" 42 U.S.C. § 1988 is substituted for the former reference to the meaning "stated in" 42 U.S.C. § 1988 for clarity and accuracy. The term "prevailing party" is not defined in 42 U.S.C. § 1988, but has been interpreted by the federal courts under that section.

**20-1021. COMPLAINT; ANSWER TO COMPLAINT.**

**(A) COMPLAINT BY AGGRIEVED PERSON.**

**(1) AN AGGRIEVED PERSON MAY FILE A COMPLAINT WITH THE COMMISSION ALLEGING A DISCRIMINATORY HOUSING PRACTICE.**

**(2) THE COMPLAINT SHALL BE FILED WITHIN 1 YEAR AFTER THE ALLEGED DISCRIMINATORY HOUSING PRACTICE OCCURRED OR TERMINATED.**

**(B) COMPLAINT BY COMMISSION.**

**THE COMMISSION MAY:**



(1) FILE A COMPLAINT ON THE COMMISSION'S OWN INITIATIVE;  
AND

(2) INVESTIGATE HOUSING PRACTICES TO DETERMINE WHETHER  
A COMPLAINT SHOULD BE FILED UNDER THIS SECTION.

(C) FORM AND CONTENT OF COMPLAINT.

A COMPLAINT SHALL:

(1) BE IN WRITING;

(2) BE IN THE FORM THAT THE COMMISSION REQUIRES; AND

(3) CONTAIN THE INFORMATION THAT THE COMMISSION  
REQUIRES.

(D) SERVICE OF NOTICE ON AGGRIEVED PERSON.

AFTER A COMPLAINT IS FILED, THE COMMISSION SHALL SERVE NOTICE  
ON THE AGGRIEVED PERSON ACKNOWLEDGING THE FILING AND ADVISING THE  
AGGRIEVED PERSON OF THE TIME LIMITS AND CHOICE OF FORUMS PROVIDED  
UNDER THIS PART.

(E) SERVICE OF COMPLAINT AND NOTICE ON RESPONDENT.

WITHIN 10 DAYS AFTER A COMPLAINT IS FILED OR AN ADDITIONAL  
RESPONDENT IS IDENTIFIED UNDER § 20-1022(B) OF THIS SUBTITLE, THE  
COMMISSION SHALL SERVE ON THE RESPONDENT:

(1) A COPY OF THE ORIGINAL COMPLAINT; AND

(2) A NOTICE IDENTIFYING THE ALLEGED DISCRIMINATORY  
HOUSING PRACTICE AND ADVISING THE RESPONDENT OF THE PROCEDURAL  
RIGHTS AND OBLIGATIONS OF RESPONDENTS UNDER THIS PART.

(F) ANSWER TO COMPLAINT.

(1) EACH RESPONDENT MAY FILE AN ANSWER TO THE  
COMPLAINT.

**(2) THE ANSWER SHALL BE FILED WITHIN 10 DAYS AFTER RECEIPT OF THE COPY OF THE COMPLAINT AND NOTICE FROM THE COMMISSION UNDER SUBSECTION (E) OF THIS SECTION.**

**(G) FILING UNDER OATH; AMENDMENTS.**

**COMPLAINTS AND ANSWERS:**

**(1) SHALL BE UNDER OATH; AND**

**(2) MAY BE REASONABLY AMENDED AT ANY TIME.**

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, § 27(a), (b), and (d).

In subsection (a)(2) of this section, the requirement that a complaint "shall be filed" within 1 year after the alleged discriminatory housing practice occurred or terminated is added for clarity and consistency with § 20-1004(c) of this subtitle. Similarly, in subsection (f)(2) of this section, the requirement that an answer "shall be filed" within 10 days after receipt of the copy of the complaint and notice is added.

In subsection (b)(1) and (2) of this section, the former references to "also" are deleted as surplusage.

In subsection (b)(2) of this section, the word "filed" is substituted for the former word "brought" for consistency with subsection (b)(1) of this section.

In subsection (f)(2) of this section, the references to the "copy of the complaint" and notice from the Commission "under subsection (e) of this section" are added for clarity and consistency with subsection (e) of this section.

In subsection (g)(1) of this section, the former reference to "affirmation" is deleted as included in the reference to "oath". *See* Art. 1, § 9.

In subsection (g)(2) of this section, the former reference to being "fairly" amended is deleted as included in the reference to being "reasonably" amended.

Defined terms: "Aggrieved person" § 20-1020

"Commission" § 20-101

"Discriminatory housing practice" § 20-1020

"Respondent" § 20-101

**20-1022. INVESTIGATION OF COMPLAINT; JOINDER OF RESPONDENTS.****(A) INVESTIGATION OF COMPLAINT.**

**(1) THE COMMISSION SHALL INVESTIGATE A COMPLAINT ALLEGING A DISCRIMINATORY HOUSING PRACTICE AND DETERMINE, BASED ON THE FACTS, WHETHER PROBABLE CAUSE EXISTS TO BELIEVE THAT A DISCRIMINATORY HOUSING PRACTICE HAS OCCURRED OR IS ABOUT TO OCCUR.**

**(2) UNLESS IT IS IMPRACTICABLE TO DO SO, THE COMMISSION SHALL COMPLETE THE INVESTIGATION AND MAKE THE DETERMINATION REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION WITHIN 100 DAYS AFTER THE FILING OF THE COMPLAINT.**

**(3) IF THE COMMISSION IS UNABLE TO COMPLETE THE INVESTIGATION AND MAKE THE DETERMINATION REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION WITHIN 100 DAYS AFTER THE FILING OF THE COMPLAINT, THE COMMISSION SHALL NOTIFY THE COMPLAINANT AND THE RESPONDENT IN WRITING AND INCLUDE THE REASONS FOR THE DELAY.**

**(B) JOINDER OF RESPONDENTS.**

**(1) A PERSON THAT IS NOT NAMED AS A RESPONDENT IN A COMPLAINT, BUT THAT IS IDENTIFIED AS A RESPONDENT DURING AN INVESTIGATION, MAY BE JOINED AS AN ADDITIONAL OR SUBSTITUTE RESPONDENT AFTER WRITTEN NOTICE IN ACCORDANCE WITH § 20-1021(E) OF THIS SUBTITLE.**

**(2) IN ADDITION TO MEETING THE REQUIREMENTS OF § 20-1021(E) OF THIS SUBTITLE, THE NOTICE SHALL EXPLAIN THE BASIS FOR THE COMMISSION'S BELIEF THAT THE PERSON TO WHOM THE NOTICE IS ADDRESSED IS PROPERLY JOINED AS A RESPONDENT.**

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, § 27(c) and (e).

In subsection (a)(1) of this section, the defined term "discriminatory housing practice" is substituted for the former reference to a "discriminatory practice" for consistency throughout this title.

Defined terms: "Commission" § 20-101

"Complainant" § 20-101

"Discriminatory housing practice" § 20-1020

"Person" § 1-101

“Respondent” § 20–101

**20–1023. SUBPOENAS; DISCOVERY; WITNESS FEES.**

**(A) AUTHORITY TO ISSUE SUBPOENAS AND ORDER DISCOVERY.**

**THE COMMISSION MAY ISSUE SUBPOENAS AND ORDER DISCOVERY IN AID OF INVESTIGATIONS AND HEARINGS UNDER THIS PART.**

**(B) WITNESS FEES.**

**(1) WITNESSES SUBPOENAED BY THE COMMISSION TO TESTIFY IN ANY PROCEEDINGS UNDER THIS PART ARE ENTITLED TO THE SAME WITNESS AND MILEAGE FEES AS WITNESSES IN PROCEEDINGS BEFORE ANY CIRCUIT COURT IN THE STATE.**

**(2) THE PARTY WHO REQUESTS THAT A WITNESS BE SUBPOENAED TO TESTIFY IN A PROCEEDING SHALL PAY THE FEES OR, IF THE PARTY IS UNABLE TO PAY, THE COMMISSION SHALL PAY THE FEES.**

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 49B, § 31(a) and (c).

Defined term: “Commission” § 20–101

**20–1024. CONCILIATION.**

**(A) IN GENERAL.**

**DURING THE PERIOD BETWEEN THE FILING OF A COMPLAINT AND THE FILING OF A CHARGE OR A DISMISSAL BY THE COMMISSION, THE COMMISSION, TO THE EXTENT FEASIBLE, SHALL ENGAGE IN CONCILIATION WITH RESPECT TO THE COMPLAINT.**

**(B) CONCILIATION AGREEMENT.**

**(1) A CONCILIATION AGREEMENT IS SUBJECT TO APPROVAL BY THE COMMISSION.**

**(2) (I) A CONCILIATION AGREEMENT MAY PROVIDE FOR BINDING ARBITRATION OF THE DISPUTE ARISING FROM THE COMPLAINT.**

(II) ANY ARBITRATION THAT RESULTS FROM A CONCILIATION AGREEMENT MAY AWARD APPROPRIATE RELIEF, INCLUDING MONETARY RELIEF.

(3) EACH CONCILIATION AGREEMENT SHALL BE MADE PUBLIC UNLESS THE COMPLAINANT AND RESPONDENT OTHERWISE AGREE AND THE COMMISSION DETERMINES THAT THE DISCLOSURE IS NOT REQUIRED TO FURTHER THE PURPOSES OF THIS PART AND SUBTITLE 7 OF THIS TITLE.

(C) ENFORCEMENT OF CONCILIATION AGREEMENT.

IF THE COMMISSION HAS PROBABLE CAUSE TO BELIEVE THAT A RESPONDENT HAS BREACHED A CONCILIATION AGREEMENT, THE COMMISSION MAY BRING A CIVIL ACTION TO ENFORCE THE CONCILIATION AGREEMENT IN THE SAME MANNER AS PROVIDED IN § 20-1011 OF THIS SUBTITLE FOR THE ENFORCEMENT OF AN ORDER OF THE COMMISSION.

(D) CONFIDENTIALITY OF CONCILIATION.

EXCEPT IN A PROCEEDING TO ENFORCE A CONCILIATION AGREEMENT, STATEMENTS AND ACTS IN THE COURSE OF CONCILIATION UNDER THIS SECTION MAY NOT BE MADE PUBLIC OR USED AS EVIDENCE IN A SUBSEQUENT PROCEEDING UNDER THIS PART WITHOUT THE WRITTEN CONSENT OF THE PERSONS CONCERNED.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, § 28(a) and (b)(2), (3), (4), (5), and, as it related to a conciliation agreement being subject to Commission approval, (1).

In subsection (c) of this section, the reference to "bring[ing] a civil action" is substituted for the former archaic reference to "institut[ing] litigation".

Defined terms: "Commission" § 20-101  
"Complainant" § 20-101  
"Conciliation" § 20-1020  
"Conciliation agreement" § 20-1020  
"Including" § 1-101  
"Person" § 1-101  
"Respondent" § 20-101

**20-1025. CERTIFICATION OF CASE; ISSUANCE AND SERVICE OF CHARGES.**

(A) CERTIFICATION FOR PROCESSING.

EXCEPT AS PROVIDED IN SUBSECTIONS (C) AND (D) OF THIS SECTION, IF THE COMMISSION DETERMINES THAT PROBABLE CAUSE EXISTS TO BELIEVE THAT A DISCRIMINATORY HOUSING PRACTICE HAS OCCURRED OR IS ABOUT TO OCCUR AND THAT CONCILIATION HAS FAILED, THE EXECUTIVE DIRECTOR OF THE COMMISSION OR THE EXECUTIVE DIRECTOR'S DESIGNEE SHALL CERTIFY THE CASE FOR PROCESSING.

**(B) ACTION BY COMMISSION AFTER REVIEW.**

AFTER REVIEW OF THE CERTIFIED COMPLAINT, THE COMMISSION SHALL:

(1) REMAND THE MATTER TO THE COMMISSION'S STAFF FOR FURTHER PROCESSING;

(2) ISSUE A CHARGE ON BEHALF OF THE AGGRIEVED PERSON FOR FURTHER PROCEEDINGS UNDER THIS PART; OR

(3) PROMPTLY DISMISS THE COMPLAINT, IF THE COMMISSION DETERMINES THAT PROBABLE CAUSE DOES NOT EXIST TO BELIEVE THAT A DISCRIMINATORY HOUSING PRACTICE HAS OCCURRED OR IS ABOUT TO OCCUR.

**(C) REFERRAL TO ATTORNEY GENERAL.**

(1) IF THE COMMISSION DETERMINES THAT THE MATTER INVOLVES THE LEGALITY OF A STATE OR LOCAL ZONING OR OTHER LAND USE LAW OR ORDINANCE, THE COMMISSION SHALL IMMEDIATELY REFER THE MATTER TO THE ATTORNEY GENERAL FOR APPROPRIATE ACTION.

(2) NOT LESS THAN 60 DAYS AFTER THE COMMISSION REFERS THE MATTER TO THE ATTORNEY GENERAL UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE COMMISSION MAY ISSUE A CHARGE OR TAKE OTHER APPROPRIATE ACTION IN THE MATTER.

**(D) EFFECT OF TRIAL OF CIVIL ACTION.**

AFTER THE BEGINNING OF THE TRIAL OF A CIVIL ACTION THAT IS COMMENCED BY AN AGGRIEVED PERSON UNDER FEDERAL OR STATE LAW AND THAT SEEKS RELIEF FOR AN ALLEGED DISCRIMINATORY HOUSING PRACTICE, THE COMMISSION MAY NOT ISSUE A CHARGE UNDER THIS SECTION FOR THE SAME ALLEGED DISCRIMINATORY HOUSING PRACTICE.

**(E) SERVICE OF CHARGE.**

**AFTER THE COMMISSION ISSUES A CHARGE UNDER THIS SECTION, THE COMMISSION SHALL CAUSE A COPY OF THE CHARGE, TOGETHER WITH INFORMATION AS TO HOW TO MAKE AN ELECTION UNDER § 20–1026 OF THIS SUBTITLE AND THE EFFECT OF THE ELECTION, TO BE SERVED:**

**(1) ON EACH RESPONDENT NAMED IN THE CHARGE; AND**

**(2) ON EACH AGGRIEVED PERSON ON WHOSE BEHALF THE COMPLAINT WAS FILED.**

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, § 30.

In subsection (a) of this section, the requirement that the “executive director of the Commission or the executive director’s designee” certify the case for processing is added for clarity and to reflect current practice.

Also in subsection (a) of this section, the reference to “subsections (c) and (d)” of this section is substituted for the former incorrect reference to “subsection (c)” of this section.

In the introductory language of subsection (b) of this section, the reference to review “of the certified complaint” is added for clarity.

In subsection (b)(1) of this section, the reference to remanding the matter “to the Commission’s staff” is added for clarity and to reflect current practice.

In subsection (d) of this section, the defined term “aggrieved person” is substituted for the former reference to an “aggrieved party” for clarity and consistency throughout this part.

Also in subsection (d) of this section, the reference to “federal” law is substituted for the former reference to an “act of Congress” for brevity and consistency throughout this title.

Defined terms: “Aggrieved person” § 20–1020

“Commission” § 20–101

“Conciliation” § 20–1020

“Discriminatory housing practice” § 20–1020

“Respondent” § 20–101

## **20–1026. ELECTION OF CIVIL ACTION.**

**(A) ELECTION BY COMPLAINANT, RESPONDENT, OR AGGRIEVED PERSON.**

WHEN A CHARGE IS ISSUED AND SERVED UNDER § 20-1025 OF THIS SUBTITLE, A COMPLAINANT, RESPONDENT, OR AGGRIEVED PERSON ON WHOSE BEHALF THE COMPLAINT WAS FILED MAY ELECT TO HAVE THE CLAIMS ASSERTED IN THE CHARGE DECIDED IN A CIVIL ACTION UNDER § 20-1032 OF THIS SUBTITLE INSTEAD OF A HEARING UNDER § 20-1027 OF THIS SUBTITLE.

**(B) TIME FOR FILING ELECTION.**

AN ELECTION UNDER SUBSECTION (A) OF THIS SECTION SHALL BE MADE WITHIN:

(1) 20 DAYS AFTER THE COMPLAINANT, RESPONDENT, OR AGGRIEVED PERSON ON WHOSE BEHALF THE COMPLAINT WAS FILED RECEIVES SERVICE UNDER § 20-1025 OF THIS SUBTITLE; OR

(2) IF THE COMMISSION IS THE COMPLAINANT, 20 DAYS AFTER SERVICE UNDER § 20-1025 OF THIS SUBTITLE IS MADE ON ALL OTHER PARTIES.

**(C) NOTICE OF ELECTION.**

A PERSON THAT MAKES AN ELECTION UNDER SUBSECTION (A) OF THIS SECTION SHALL GIVE NOTICE OF THE ELECTION TO THE COMMISSION AND TO ALL OTHER COMPLAINANTS, RESPONDENTS, AND AGGRIEVED PERSONS ON WHOSE BEHALF THE COMPLAINT WAS FILED TO WHOM THE CHARGE RELATES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, § 32(a).

In subsection (a) of this section, the reference to a charge being "issued and served" is substituted for the former reference to a complaint being "filed" for accuracy and consistency with § 20-1025 of this subtitle.

In subsection (b)(2) of this section, the phrase "if the Commission is the complainant" is substituted for the former phrase "in the case of the Commission" for clarity.

Defined terms: "Aggrieved person" § 20-1020

"Commission" § 20-101

"Complainant" § 20-101

"Person" § 1-101

"Respondent" § 20-101

**20-1027. ADMINISTRATIVE HEARING.**



**(A) OPPORTUNITY FOR HEARING.**

IF AN ELECTION IS NOT MADE UNDER § 20-1026 OF THIS SUBTITLE, THE COMMISSION SHALL PROVIDE AN OPPORTUNITY FOR A HEARING ON THE RECORD WITH RESPECT TO A CHARGE ISSUED UNDER § 20-1025 OF THIS SUBTITLE.

**(B) CONDUCT OF HEARING.**

**(1) THE COMMISSION SHALL DELEGATE THE CONDUCT OF A HEARING UNDER THIS SECTION TO THE OFFICE OF ADMINISTRATIVE HEARINGS.**

**(2) AN ADMINISTRATIVE LAW JUDGE SHALL CONDUCT THE HEARING IN THE COUNTY WHERE THE DISCRIMINATORY HOUSING PRACTICE IS ALLEGED TO HAVE OCCURRED OR IS ABOUT TO OCCUR.**

**(3) (I) UNLESS IT IS IMPRACTICABLE TO DO SO, THE ADMINISTRATIVE LAW JUDGE SHALL COMMENCE THE HEARING UNDER THIS SECTION WITHIN 120 DAYS AFTER THE ISSUANCE OF THE CHARGE.**

**(II) IF THE ADMINISTRATIVE LAW JUDGE IS UNABLE TO COMMENCE THE HEARING WITHIN 120 DAYS AFTER THE ISSUANCE OF THE CHARGE, THE ADMINISTRATIVE LAW JUDGE SHALL NOTIFY THE COMMISSION, THE AGGRIEVED PERSON ON WHOSE BEHALF THE CHARGE WAS FILED, AND THE RESPONDENT IN WRITING OF THE REASONS FOR THE DELAY.**

**(4) AT A HEARING UNDER THIS SECTION, EACH PARTY MAY APPEAR IN PERSON, BE REPRESENTED BY COUNSEL, PRESENT EVIDENCE, CROSS-EXAMINE WITNESSES, AND OBTAIN THE ISSUANCE OF SUBPOENAS AS AUTHORIZED BY THIS SECTION.**

**(5) A HEARING UNDER THIS SECTION SHALL BE CONDUCTED AS EXPEDITIOUSLY AND INEXPENSIVELY AS POSSIBLE, CONSISTENT WITH THE NEEDS AND RIGHTS OF THE PARTIES TO OBTAIN A FAIR HEARING AND COMPLETE RECORD.**

**(C) SUBPOENAS; DISCOVERY.**

**(1) THE ADMINISTRATIVE LAW JUDGE MAY ISSUE SUBPOENAS AND ORDER DISCOVERY IN CONNECTION WITH A HEARING CONDUCTED UNDER THIS SECTION.**

**(2) DISCOVERY IN ADMINISTRATIVE PROCEEDINGS UNDER THIS SECTION SHALL BE CONDUCTED AS EXPEDITIOUSLY AND INEXPENSIVELY AS POSSIBLE, CONSISTENT WITH THE NEED OF ALL PARTIES TO OBTAIN RELEVANT EVIDENCE.**

**(D) EFFECT OF TRIAL OF CIVIL ACTION.**

**AFTER THE BEGINNING OF THE TRIAL OF A CIVIL ACTION THAT IS COMMENCED BY AN AGGRIEVED PERSON UNDER FEDERAL OR STATE LAW AND THAT SEEKS RELIEF FOR AN ALLEGED DISCRIMINATORY HOUSING PRACTICE, AN ADMINISTRATIVE LAW JUDGE MAY NOT CONTINUE ADMINISTRATIVE PROCEEDINGS UNDER THIS SECTION FOR THE SAME ALLEGED DISCRIMINATORY HOUSING PRACTICE.**

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, § 32(b), (c), (e), (d)(1) and (2), and (f)(1).

In subsection (d) of this section, the defined term "aggrieved person" is substituted for the former reference to an "aggrieved party" for clarity and consistency throughout this part.

Also in subsection (d) of this section, the reference to "federal" law is substituted for the former reference to an "act of Congress" for brevity and consistency throughout this title.

Defined terms: "Aggrieved person" § 20-1020

"Commission" § 20-101

"County" § 1-101

"Discriminatory housing practice" § 20-1020

"Respondent" § 20-101

**20-1028. DECISION OF ADMINISTRATIVE LAW JUDGE.**

**(A) DATE OF ISSUANCE.**

**(1) UNLESS IT IS IMPRACTICABLE TO DO SO, THE ADMINISTRATIVE LAW JUDGE SHALL MAKE FINDINGS OF FACT AND CONCLUSIONS OF LAW WITHIN 60 DAYS AFTER SUBMISSION OF POSTHEARING MEMORANDA.**

**(2) IF THE ADMINISTRATIVE LAW JUDGE IS UNABLE TO MAKE FINDINGS OF FACT AND CONCLUSIONS OF LAW WITHIN THE 60-DAY PERIOD OR ANY SUCCEEDING 60-DAY PERIOD, THE ADMINISTRATIVE LAW JUDGE SHALL NOTIFY THE COMMISSION, THE AGGRIEVED PERSON ON WHOSE BEHALF THE**

CHARGE WAS FILED, AND THE RESPONDENT IN WRITING OF THE REASONS FOR THE DELAY.

**(B) FINDING AGAINST RESPONDENT.**

**(1) IF THE ADMINISTRATIVE LAW JUDGE FINDS THAT A RESPONDENT HAS ENGAGED OR IS ABOUT TO ENGAGE IN A DISCRIMINATORY HOUSING PRACTICE, THE ADMINISTRATIVE LAW JUDGE SHALL PROMPTLY ISSUE AN ORDER FOR APPROPRIATE RELIEF, WHICH MAY INCLUDE ACTUAL DAMAGES SUFFERED BY THE AGGRIEVED PERSON AND INJUNCTIVE OR OTHER EQUITABLE RELIEF.**

**(2) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE ORDER MAY ASSESS A CIVIL PENALTY AGAINST THE RESPONDENT, TO BE PAID TO THE GENERAL FUND OF THE STATE:**

**1. IF THE RESPONDENT HAS NOT BEEN ADJUDICATED TO HAVE COMMITTED ANY PRIOR DISCRIMINATORY HOUSING PRACTICE, IN AN AMOUNT NOT EXCEEDING \$10,000;**

**2. IF THE RESPONDENT HAS BEEN ADJUDICATED TO HAVE COMMITTED ONE OTHER DISCRIMINATORY HOUSING PRACTICE DURING THE 5-YEAR PERIOD ENDING ON THE DATE OF THE FILING OF THE CURRENT CHARGE, IN AN AMOUNT NOT EXCEEDING \$25,000; AND**

**3. IF THE RESPONDENT HAS BEEN ADJUDICATED TO HAVE COMMITTED TWO OR MORE DISCRIMINATORY HOUSING PRACTICES DURING THE 7-YEAR PERIOD ENDING ON THE DATE OF THE FILING OF THE CURRENT CHARGE, IN AN AMOUNT NOT EXCEEDING \$50,000.**

**(II) IF THE DISCRIMINATORY HOUSING PRACTICE IS COMMITTED BY AN INDIVIDUAL WHO HAS BEEN PREVIOUSLY ADJUDICATED TO HAVE COMMITTED ONE OR MORE DISCRIMINATORY HOUSING PRACTICES, THE TIME PERIODS SET FORTH IN PARAGRAPH (2)(I)2 AND 3 OF THIS SUBSECTION DO NOT APPLY.**

**(C) EFFECT OF ORDER.**

**AN ORDER ISSUED UNDER SUBSECTION (B) OF THIS SECTION MAY NOT AFFECT ANY CONTRACT, SALE, ENCUMBRANCE, OR LEASE CONSUMMATED BEFORE THE ISSUANCE OF THE ORDER AND INVOLVING A BONA FIDE PURCHASER, ENCUMBRANCER, OR TENANT WITHOUT ACTUAL NOTICE OF THE CHARGE FILED UNDER THIS PART.**

**(D) FINDING FOR RESPONDENT.**

**(1) IF THE ADMINISTRATIVE LAW JUDGE FINDS THAT THE RESPONDENT HAS NOT ENGAGED IN A DISCRIMINATORY HOUSING PRACTICE, THE ADMINISTRATIVE LAW JUDGE SHALL ENTER AN ORDER DISMISSING THE CHARGE.**

**(2) THE COMMISSION SHALL PUBLICLY DISCLOSE EACH DISMISSAL.**

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, § 32(f)(2) through (5).

In subsection (b)(2)(i)2 and 3 of this section, the references to "the current" charge are substituted for the former references to "this" charge for clarity.

In subsection (b)(2)(ii) of this section, the phrase "the time periods set forth ... do not apply" is substituted for the former phrase "then the civil penalties set forth ... may be imposed without regard to the period of time within which any subsequent discriminatory housing practice occurred" for brevity and clarity.

Defined terms: "Aggrieved person" § 20-1020

"Commission" § 20-101

"Discriminatory housing practice" § 20-1020

"Includes" § 1-101

"Respondent" § 20-101

**20-1029. FINAL DECISION AND ORDER.****(A) ISSUANCE BY COMMISSION.**

**(1) IN ACCORDANCE WITH THE COMMISSION'S REGULATIONS, THE COMMISSION SHALL:**

**(I) REVIEW ANY FINDINGS, CONCLUSIONS, OR ORDERS ISSUED UNDER § 20-1028 OF THIS SUBTITLE; AND**

**(II) ISSUE A FINAL ORDER.**

**(2) IF A TIMELY APPEAL OF THE FINDINGS, CONCLUSIONS, OR ORDERS ISSUED UNDER § 20-1028 OF THIS SUBTITLE IS NOT FILED WITH THE COMMISSION IN ACCORDANCE WITH THE COMMISSION'S REGULATIONS, THE**

FINDINGS, CONCLUSIONS, OR ORDERS ISSUED BY THE ADMINISTRATIVE LAW JUDGE UNDER § 20–1028 OF THIS SUBTITLE SHALL BECOME A FINAL ORDER OF THE COMMISSION.

**(B) SERVICE OF ORDER.**

THE COMMISSION SHALL CAUSE THE FINDINGS OF FACT AND CONCLUSIONS OF LAW MADE WITH RESPECT TO ANY FINAL ORDER FOR RELIEF UNDER THIS SECTION, TOGETHER WITH A COPY OF THE ORDER, TO BE SERVED ON EACH AGGRIEVED PERSON AND RESPONDENT IN THE PROCEEDING.

**(C) ORDER CONCERNING LICENSED OR REGULATED BUSINESS.**

IF AN ORDER IS ISSUED CONCERNING A DISCRIMINATORY HOUSING PRACTICE THAT OCCURRED IN THE COURSE OF A BUSINESS SUBJECT TO LICENSING OR REGULATION BY A STATE OR LOCAL UNIT, THE COMMISSION SHALL, WITHIN 30 DAYS AFTER THE DATE OF THE ISSUANCE OF THE FINAL ORDER OF THE COMMISSION OR, IF THE ORDER IS JUDICIALLY REVIEWED, 30 DAYS AFTER THE FINAL ORDER IS AFFIRMED IN SUBSTANCE AFTER REVIEW:

**(1) SEND COPIES OF THE FINDINGS OF FACT AND CONCLUSIONS OF LAW AND THE FINAL ORDER TO THE STATE OR LOCAL UNIT; AND**

**(2) RECOMMEND TO THE STATE OR LOCAL UNIT APPROPRIATE DISCIPLINARY ACTION, INCLUDING, IF APPROPRIATE:**

**(I) THE SUSPENSION OR REVOCATION OF THE LICENSE OF THE RESPONDENT; OR**

**(II) THE SUSPENSION OR DEBARMENT OF THE RESPONDENT FROM PARTICIPATION IN STATE AND LOCAL LOAN, GRANT, OR OTHER REGULATED PROGRAMS.**

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, § 32(g).

In subsection (c) of this section, the references to a State or local "unit" are substituted for the former references to an "agency" for consistency throughout this title. See General Revisor's Note to title.

Defined terms: "Aggrieved person" § 20–1020

"Commission" § 20–101

"Discriminatory housing practice" § 20–1020

"Including" § 1–101

“Respondent” § 20–101

**20–1030. JUDICIAL REVIEW.**

**(A) IN GENERAL.**

**SUBJECT TO SUBSECTIONS (B) AND (C) OF THIS SECTION, ANY PARTY AGGRIEVED BY A FINAL ORDER FOR RELIEF UNDER § 20–1029 OF THIS SUBTITLE MAY OBTAIN JUDICIAL REVIEW OF THE ORDER IN ACCORDANCE WITH THE PROVISIONS FOR JUDICIAL REVIEW UNDER TITLE 10, SUBTITLE 2 OF THIS ARTICLE.**

**(B) TIME FOR FILING.**

**A PETITION FOR JUDICIAL REVIEW SHALL BE FILED WITHIN 30 DAYS AFTER THE FINAL ORDER IS ENTERED.**

**(C) VENUE.**

**A PETITION FOR JUDICIAL REVIEW SHALL BE FILED IN THE CIRCUIT COURT FOR THE COUNTY WHERE THE DISCRIMINATORY HOUSING PRACTICE IS ALLEGED TO HAVE OCCURRED.**

**(D) PARTIES.**

**IF THE COMMISSION ISSUES A FINAL ORDER IN WHICH A FINDING OF A DISCRIMINATORY HOUSING PRACTICE IS MADE, THE COMMISSION IS A PARTY IN ANY APPEAL OF THE FINAL ORDER.**

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 49B, § 32(h).

In subsection (a) of this section, the phrase “[s]ubject to” is substituted for the former phrase “[e]xcept as provided in” for clarity and accuracy.

In subsection (c) of the section, the requirement that “[a] petition for judicial review shall be filed in the circuit court for the county” is substituted for the former requirement that “[v]enue of the proceeding shall be in the judicial circuit” for accuracy and consistency with §§ 20–1031(a)(2) and (e), 20–1032(a)(2), and 20–1037(b) of this subtitle.

In subsection (d) of this section, the defined term “discriminatory housing practice” is substituted for the former reference to “discrimination” for consistency throughout this title.

Defined terms: "Commission" § 20-101

"County" § 1-101

"Discriminatory housing practice" § 20-1020

**20-1031. PETITION TO ENFORCE COMMISSION'S ORDER.**

**(A) PETITION BY COMMISSION.**

**(1) THE COMMISSION MAY FILE A PETITION FOR THE ENFORCEMENT OF AN ORDER OF THE COMMISSION AND FOR APPROPRIATE TEMPORARY RELIEF OR A RESTRAINING ORDER.**

**(2) THE PETITION SHALL BE FILED IN THE CIRCUIT COURT FOR THE COUNTY WHERE THE DISCRIMINATORY HOUSING PRACTICE IS ALLEGED TO HAVE OCCURRED OR WHERE ANY RESPONDENT RESIDES OR TRANSACTS BUSINESS.**

**(3) THE CLERK OF THE COURT SHALL SEND A COPY OF THE PETITION TO THE PARTIES TO THE PROCEEDINGS BEFORE THE COMMISSION UNDER § 20-1029 OF THIS SUBTITLE OR BEFORE THE ADMINISTRATIVE LAW JUDGE.**

**(B) INTERVENTION.**

**ANY PARTY TO THE PROCEEDINGS BEFORE THE COMMISSION UNDER § 20-1029 OF THIS SUBTITLE OR BEFORE THE ADMINISTRATIVE LAW JUDGE MAY INTERVENE IN THE CIRCUIT COURT IN AN ENFORCEMENT PROCEEDING BROUGHT UNDER THIS SECTION.**

**(C) PRESERVATION OF OBJECTIONS.**

**UNLESS THE FAILURE OR NEGLECT TO MAKE THE OBJECTION IS EXCUSED BECAUSE OF EXTRAORDINARY CIRCUMSTANCES, AN OBJECTION NOT MADE BEFORE THE COMMISSION UNDER § 20-1029 OF THIS SUBTITLE OR BEFORE THE ADMINISTRATIVE LAW JUDGE MAY NOT BE CONSIDERED BY THE COURT IN AN ENFORCEMENT PROCEEDING BROUGHT UNDER THIS SECTION.**

**(D) DATE OF FINALITY OF COMMISSION'S ORDER.**

**IF A PETITION FOR JUDICIAL REVIEW IS NOT FILED UNDER § 20-1030 OF THIS SUBTITLE, THE FINDINGS OF FACT AND CONCLUSIONS OF LAW IN THE COMMISSION'S FINAL ORDER SHALL BE CONCLUSIVE IN CONNECTION WITH ANY PETITION FOR ENFORCEMENT FILED BY THE COMMISSION UNDER SUBSECTION (A) OF THIS SECTION AFTER THE 45TH DAY AFTER THE ORDER IS ENTERED.**

**(E) PETITION BY PERSON ENTITLED TO RELIEF.**

**IF A PETITION FOR JUDICIAL REVIEW HAS NOT BEEN FILED UNDER § 20-1030 OF THIS SUBTITLE WITHIN 60 DAYS AFTER THE DATE THE COMMISSION'S FINAL ORDER IS ENTERED, AND THE COMMISSION HAS NOT SOUGHT ENFORCEMENT OF THE ORDER UNDER SUBSECTION (A) OF THIS SECTION, ANY PERSON ENTITLED TO RELIEF UNDER THE ORDER MAY PETITION FOR ENFORCEMENT OF THE ORDER IN THE CIRCUIT COURT FOR THE COUNTY IN WHICH THE DISCRIMINATORY HOUSING PRACTICE IS ALLEGED TO HAVE OCCURRED.**

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, § 32(i), (j), and (k).

In subsection (a)(1) of this section, the former reference to a "written" petition is deleted as surplusage.

In subsection (c) of this section, the reference to "[m]aking" an objection is substituted for the former reference to "urg[ing]" an objection for consistency within the subsection.

Defined terms: "Commission" § 20-101

"County" § 1-101

"Discriminatory housing practice" § 20-1020

"Person" § 1-101

"Respondent" § 20-101

**20-1032. CIVIL ACTION BY COMMISSION ON BEHALF OF AGGRIEVED PERSON.****(A) COMMENCEMENT OF ACTION; INTERVENTION.**

**(1) IF AN ELECTION IS MADE UNDER § 20-1026 OF THIS SUBTITLE, THE COMMISSION SHALL COMMENCE AND MAINTAIN A CIVIL ACTION SEEKING RELIEF UNDER SUBSECTION (B) OF THIS SECTION ON BEHALF OF THE AGGRIEVED PERSON.**

**(2) THE ACTION SHALL BE:**

**(1) COMMENCED WITHIN 60 DAYS AFTER THE ELECTION IS MADE; AND**



(II) FILED IN THE CIRCUIT COURT FOR THE COUNTY WHERE THE DWELLING THAT IS THE SUBJECT OF THE ALLEGED DISCRIMINATORY HOUSING PRACTICE IS LOCATED.

(3) ANY AGGRIEVED PERSON WITH RESPECT TO THE ISSUES TO BE DETERMINED IN A CIVIL ACTION UNDER THIS SECTION MAY INTERVENE AS OF RIGHT IN THE CIVIL ACTION.

(B) RELIEF; CIVIL PENALTIES.

(1) (I) IN A CIVIL ACTION UNDER THIS SECTION, IF THE COURT FINDS THAT A DISCRIMINATORY HOUSING PRACTICE HAS OCCURRED, THE COURT MAY GRANT ANY RELIEF, EXCEPT FOR PUNITIVE DAMAGES, THAT A COURT COULD GRANT WITH RESPECT TO THE DISCRIMINATORY HOUSING PRACTICE IN A CIVIL ACTION UNDER § 20-1035 OF THIS SUBTITLE.

(II) EXCEPT FOR PUNITIVE DAMAGES, ANY RELIEF THAT WOULD ACCRUE TO AN AGGRIEVED PERSON IN A CIVIL ACTION COMMENCED BY THAT AGGRIEVED PERSON UNDER § 20-1035 OF THIS SUBTITLE SHALL ALSO ACCRUE TO THE AGGRIEVED PERSON IN A CIVIL ACTION UNDER THIS SECTION.

(III) IF MONETARY RELIEF IS SOUGHT FOR THE BENEFIT OF AN AGGRIEVED PERSON THAT DOES NOT INTERVENE IN THE CIVIL ACTION, THE COURT MAY NOT AWARD THE RELIEF IF THE AGGRIEVED PERSON HAS NOT COMPLIED WITH DISCOVERY ORDERS ENTERED BY THE COURT.

(2) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, IN ADDITION TO THE RELIEF AUTHORIZED UNDER PARAGRAPH (1) OF THIS SUBSECTION, IF THE COURT FINDS THAT A DISCRIMINATORY HOUSING PRACTICE HAS OCCURRED, THE COURT MAY ASSESS A CIVIL PENALTY AGAINST THE RESPONDENT TO VINDICATE THE PUBLIC INTEREST AND TO BE PAID TO THE GENERAL FUND OF THE STATE:

1. IF THE RESPONDENT HAS NOT BEEN ADJUDICATED TO HAVE COMMITTED ANY PRIOR DISCRIMINATORY HOUSING PRACTICE, IN AN AMOUNT NOT EXCEEDING \$10,000;

2. IF THE RESPONDENT HAS BEEN ADJUDICATED TO HAVE COMMITTED ONE OTHER DISCRIMINATORY HOUSING PRACTICE DURING THE 5-YEAR PERIOD ENDING ON THE DATE OF THE FILING OF THE CURRENT CHARGE, IN AN AMOUNT NOT EXCEEDING \$25,000; AND

**3. IF THE RESPONDENT HAS BEEN ADJUDICATED TO HAVE COMMITTED TWO OR MORE DISCRIMINATORY HOUSING PRACTICES DURING THE 7-YEAR PERIOD ENDING ON THE DATE OF THE FILING OF THE CURRENT CHARGE, IN AN AMOUNT NOT EXCEEDING \$50,000.**

**(II) IF THE DISCRIMINATORY HOUSING PRACTICE IS COMMITTED BY AN INDIVIDUAL WHO HAS BEEN PREVIOUSLY ADJUDICATED TO HAVE COMMITTED ONE OR MORE DISCRIMINATORY HOUSING PRACTICES, THE TIME PERIODS SET FORTH IN PARAGRAPH (2)(I)2 AND 3 OF THIS SUBSECTION DO NOT APPLY.**

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, § 32(l).

In subsection (a)(1) of this section, the defined term "discriminatory housing practice" is substituted for the former reference to "discrimination" for consistency throughout this title.

Also in subsection (a)(1) of this section, the former reference to an election "to pursue judicial action" is deleted as unnecessary in light of the reference to an election "under § 20-1026 of this subtitle".

In the introductory language of subsection (b)(2)(i) of this section, the phrase "in addition to the relief authorized under paragraph (1) of this subsection" is added for clarity.

Also in the introductory language of subsection (b)(2)(i) of this section, the reference to the court "assess[ing]" a civil penalty is substituted for the former reference to the court "grant[ing] as relief" a civil penalty for accuracy and consistency with §§ 20-1016(a) and 20-1028(b)(2)(i) of this subtitle.

In subsection (b)(2)(i)2 and 3 of this section, the references to "the current" charge are substituted for the former references to "this" charge for clarity.

In subsection (b)(2)(ii) of this section, the phrase "the time periods set forth ... do not apply" is substituted for the former phrase "then the civil penalties set forth ... may be imposed without regard to the period of time within which any subsequent discriminatory housing practice occurred" for brevity and clarity.

Defined terms: "Aggrieved person" § 20-1020

"Commission" § 20-101

"County" § 1-101

"Discriminatory housing practice" § 20-1020

“Respondent” § 20–101

**20–1033. ATTORNEY’S FEES AND COSTS.**

**IN AN ADMINISTRATIVE PROCEEDING UNDER § 20–1027 OF THIS SUBTITLE, A COURT PROCEEDING ARISING FROM THE ADMINISTRATIVE PROCEEDING, OR A CIVIL ACTION UNDER § 20–1032 OF THIS SUBTITLE, THE ADMINISTRATIVE LAW JUDGE OR THE COURT MAY ALLOW THE PREVAILING PARTY, INCLUDING THE COMMISSION, REASONABLE ATTORNEY’S FEES AND COSTS.**

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 49B, § 32(m).

The former phrase “in its discretion” is deleted as surplusage.

Defined terms: “Commission” § 20–101

“Including” § 1–101

“Prevailing party” § 20–1020

**20–1034. REGULATIONS.**

**THE OFFICE OF ADMINISTRATIVE HEARINGS AND THE COMMISSION SHALL ADOPT REGULATIONS TO IMPLEMENT §§ 20–1026 THROUGH 20–1033 OF THIS SUBTITLE.**

REVISOR’S NOTE: This section is new language derived without substantive change from former Art. 49B, § 32(d)(3).

Defined term: “Commission” § 20–101

**20–1035. CIVIL ACTION BY AGGRIEVED PERSON.**

**(A) AUTHORIZED.**

**IN ACCORDANCE WITH THIS SECTION, AN AGGRIEVED PERSON MAY COMMENCE A CIVIL ACTION IN AN APPROPRIATE STATE COURT TO OBTAIN APPROPRIATE RELIEF FOR AN ALLEGED DISCRIMINATORY HOUSING PRACTICE OR THE BREACH OF A CONCILIATION AGREEMENT ENTERED INTO UNDER THIS PART.**

**(B) TIME FOR FILING.**

**(1) THE ACTION SHALL BE FILED WITHIN 2 YEARS AFTER THE LATER OF THE OCCURRENCE OR TERMINATION OF THE ALLEGED**

**DISCRIMINATORY HOUSING PRACTICE OR THE BREACH OF THE CONCILIATION AGREEMENT.**

**(2) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE COMPUTATION OF THE 2-YEAR PERIOD DOES NOT INCLUDE ANY TIME DURING WHICH AN ADMINISTRATIVE PROCEEDING UNDER THIS PART WAS PENDING FOR A COMPLAINT OR CHARGE BASED ON THE ALLEGED DISCRIMINATORY HOUSING PRACTICE.**

**(II) SUBPARAGRAPH (I) OF THIS PARAGRAPH DOES NOT APPLY TO AN ACTION ARISING FROM A BREACH OF A CONCILIATION AGREEMENT.**

**(3) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, AN AGGRIEVED PERSON MAY COMMENCE A CIVIL ACTION UNDER THIS SECTION:**

**(I) NOT SOONER THAN 130 DAYS AFTER A COMPLAINT HAS BEEN FILED UNDER § 20-1021 OF THIS SUBTITLE; AND**

**(II) REGARDLESS OF THE STATUS OF ANY COMPLAINT.**

**(C) EXCEPTIONS.**

**(1) IF THE COMMISSION OR A STATE OR LOCAL UNIT HAS OBTAINED A CONCILIATION AGREEMENT WITH THE CONSENT OF AN AGGRIEVED PERSON, THE AGGRIEVED PERSON MAY NOT FILE AN ACTION UNDER THIS SECTION FOR THE ALLEGED DISCRIMINATORY HOUSING PRACTICE THAT FORMS THE BASIS FOR THE COMPLAINT, EXCEPT FOR THE PURPOSE OF ENFORCING THE TERMS OF THE CONCILIATION AGREEMENT.**

**(2) AN AGGRIEVED PERSON MAY NOT COMMENCE A CIVIL ACTION UNDER THIS SECTION WITH RESPECT TO AN ALLEGED DISCRIMINATORY HOUSING PRACTICE THAT FORMS THE BASIS OF A CHARGE ISSUED BY THE COMMISSION, IF AN ADMINISTRATIVE LAW JUDGE HAS COMMENCED A HEARING ON THE RECORD UNDER THIS PART WITH RESPECT TO THE CHARGE.**

**(D) APPOINTMENT OF ATTORNEY; WAIVER OF FEES, COSTS, AND SECURITY.**

**ON APPLICATION BY A PERSON ALLEGING A DISCRIMINATORY HOUSING PRACTICE OR A PERSON AGAINST WHOM A DISCRIMINATORY HOUSING PRACTICE IS ALLEGED, THE COURT MAY:**

**(1) APPOINT AN ATTORNEY FOR THE PERSON; OR**

**(2) IF, IN THE OPINION OF THE COURT, THE PERSON IS FINANCIALLY UNABLE TO BEAR THE COSTS OF THE ACTION, AUTHORIZE THE COMMENCEMENT OR CONTINUATION OF A CIVIL ACTION UNDER SUBSECTION (A) OF THIS SECTION WITHOUT THE PAYMENT OF FEES, COSTS, OR SECURITY.**

**(E) RELIEF.**

**(1) IN A CIVIL ACTION UNDER THIS SECTION, IF THE COURT FINDS THAT A DISCRIMINATORY HOUSING PRACTICE HAS OCCURRED, THE COURT MAY:**

**(I) AWARD TO THE PLAINTIFF ACTUAL AND PUNITIVE DAMAGES; AND**

**(II) SUBJECT TO SUBSECTION (F) OF THIS SECTION, GRANT AS RELIEF, AS THE COURT CONSIDERS APPROPRIATE, ANY PERMANENT OR TEMPORARY INJUNCTION, TEMPORARY RESTRAINING ORDER, OR OTHER ORDER, INCLUDING AN ORDER ENJOINING THE DEFENDANT FROM ENGAGING IN THE PRACTICE OR ORDERING AFFIRMATIVE ACTION.**

**(2) IN A CIVIL ACTION UNDER THIS SECTION, THE COURT MAY ALLOW THE PREVAILING PARTY REASONABLE ATTORNEY'S FEES AND COSTS.**

**(F) EFFECT OF RELIEF GRANTED.**

**RELIEF GRANTED UNDER THIS SECTION MAY NOT AFFECT ANY CONTRACT, SALE, ENCUMBRANCE, OR LEASE CONSUMMATED BEFORE THE GRANTING OF RELIEF AND INVOLVING A BONA FIDE PURCHASER, ENCUMBRANCER, OR TENANT WITHOUT ACTUAL NOTICE OF THE FILING OF A COMPLAINT WITH THE COMMISSION OR CIVIL ACTION UNDER THIS PART.**

**(G) INTERVENTION BY COMMISSION.**

**IF THE COMMISSION CERTIFIES THAT THE CASE IS OF GENERAL PUBLIC IMPORTANCE AND ON TIMELY APPLICATION, THE COMMISSION MAY:**

**(1) INTERVENE IN A CIVIL ACTION BROUGHT UNDER THIS SECTION; AND**

**(2) OBTAIN ANY RELIEF THAT WOULD BE AVAILABLE TO THE COMMISSION UNDER § 20-1036(C) OF THIS SUBTITLE.**

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, § 33.

In subsection (b)(2)(i) of this section, the reference to the "alleged" discriminatory housing practice is added for consistency throughout this section.

In subsection (c)(1) of this section, the reference to a State or local "unit" is substituted for the former reference to an "agency" for consistency throughout this title. *See* General Revisor's Note to title.

In subsection (e)(1)(ii) of this section, the former reference to ordering affirmative action "as may be appropriate" is deleted as unnecessary in light of the authority of the court to grant relief "as the court considers appropriate".

In subsection (e)(2) of this section, the former phrase "in its discretion" is deleted as surplusage.

Defined terms: "Aggrieved person" § 20-1020

"Commission" § 20-101

"Conciliation agreement" § 20-1020

"Discriminatory housing practice" § 20-1020

"Including" § 1-101

"Person" § 1-101

"Prevailing party" § 20-1020

## **20-1036. CIVIL ACTION BY COMMISSION IN PUBLIC INTEREST.**

### **(A) AUTHORIZED.**

**THE COMMISSION MAY COMMENCE A CIVIL ACTION IN THE APPROPRIATE CIRCUIT COURT IF THE COMMISSION HAS PROBABLE CAUSE TO BELIEVE THAT:**

**(1) (I) A PERSON OR GROUP OF PERSONS IS ENGAGED IN A PATTERN OR PRACTICE OF RESISTANCE TO THE FULL ENJOYMENT OF ANY OF THE RIGHTS GRANTED BY THIS PART AND SUBTITLE 7 OF THIS TITLE; OR**

**(II) ANY GROUP OF PERSONS HAS BEEN DENIED ANY OF THE RIGHTS GRANTED BY THIS PART AND SUBTITLE 7 OF THIS TITLE; AND**

**(2) THE RESISTANCE OR DENIAL RAISES AN ISSUE OF GENERAL PUBLIC IMPORTANCE.**

**(B) ENFORCEMENT OF SUBPOENA.**

**THE COMMISSION OR OTHER PARTY AT WHOSE REQUEST A SUBPOENA IS ISSUED UNDER THIS PART MAY ENFORCE A SUBPOENA IN APPROPRIATE PROCEEDINGS IN THE CIRCUIT COURT FOR THE COUNTY IN WHICH THE PERSON TO WHOM THE SUBPOENA WAS ADDRESSED RESIDES, WAS SERVED, OR TRANSACTS BUSINESS.**

**(C) RELIEF; ATTORNEY'S FEES.**

**(1) IN A CIVIL ACTION UNDER SUBSECTION (A) OF THIS SECTION, THE COURT MAY:**

**(I) AWARD PREVENTIVE RELIEF, INCLUDING A PERMANENT OR TEMPORARY INJUNCTION, RESTRAINING ORDER, OR OTHER ORDER AGAINST THE PERSON RESPONSIBLE FOR A VIOLATION OF SUBTITLE 7 OF THIS TITLE AS NECESSARY TO ASSURE THE FULL ENJOYMENT OF THE RIGHTS GRANTED BY SUBTITLE 7 OF THIS TITLE;**

**(II) AWARD OTHER RELIEF THE COURT CONSIDERS APPROPRIATE, INCLUDING MONETARY DAMAGES TO AGGRIEVED PERSONS; AND**

**(III) TO VINDICATE THE PUBLIC INTEREST, ASSESS A CIVIL PENALTY AGAINST THE RESPONDENT:**

**1. IN AN AMOUNT NOT EXCEEDING \$50,000, FOR A FIRST VIOLATION; AND**

**2. IN AN AMOUNT NOT EXCEEDING \$100,000, FOR ANY SUBSEQUENT VIOLATION.**

**(2) IN A CIVIL ACTION UNDER THIS SECTION, THE COURT MAY ALLOW THE PREVAILING PARTY, INCLUDING THE COMMISSION, REASONABLE ATTORNEY'S FEES AND COSTS.**

**(D) INTERVENTION.**

**(1) ON TIMELY APPLICATION, A PERSON MAY INTERVENE IN A CIVIL ACTION COMMENCED BY THE COMMISSION UNDER SUBSECTION (A) OR (B) OF THIS SECTION, IF THE ACTION INVOLVES:**

**(I) AN ALLEGED DISCRIMINATORY HOUSING PRACTICE TO WHICH THE PERSON IS AN AGGRIEVED PERSON; OR**

**(II) A CONCILIATION AGREEMENT TO WHICH THE PERSON IS A PARTY.**

**(2) THE COURT MAY GRANT ANY APPROPRIATE RELIEF TO ANY INTERVENING PARTY THAT IS AUTHORIZED TO BE GRANTED TO A PLAINTIFF IN A CIVIL ACTION UNDER § 20-1035 OF THIS SUBTITLE.**

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, § 34.

In subsection (c)(2) of this section, the former phrase "in its discretion" is deleted as surplusage.

Defined terms: "Aggrieved person" § 20-1020

"Commission" § 20-101

"Conciliation agreement" § 20-1020

"County" § 1-101

"Discriminatory housing practice" § 20-1020

"Including" § 1-101

"Person" § 1-101

"Prevailing party" § 20-1020

"Respondent" § 20-101

**20-1037. CIVIL ACTION FOR TEMPORARY OR PRELIMINARY RELIEF.**

**(A) AUTHORIZED.**

**IF THE COMMISSION CONCLUDES AT ANY TIME AFTER THE FILING OF A COMPLAINT THAT PROMPT JUDICIAL ACTION IS NECESSARY TO CARRY OUT THE PURPOSES OF THIS PART AND SUBTITLE 7 OF THIS TITLE, THE COMMISSION MAY BRING A CIVIL ACTION FOR APPROPRIATE TEMPORARY OR PRELIMINARY RELIEF PENDING FINAL DISPOSITION OF THE COMPLAINT UNDER THIS PART.**

**(B) VENUE.**

**AN ACTION UNDER THIS SECTION SHALL BE BROUGHT IN THE CIRCUIT COURT FOR THE COUNTY WHERE THE DWELLING THAT IS THE SUBJECT OF THE ALLEGED DISCRIMINATORY HOUSING PRACTICE IS LOCATED.**

**(C) EFFECT ON ADMINISTRATIVE PROCEEDINGS.**

**THE COMMENCEMENT OF A CIVIL ACTION UNDER THIS SECTION DOES NOT AFFECT THE INITIATION OR CONTINUATION OF ADMINISTRATIVE PROCEEDINGS UNDER THIS PART.**



REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, § 29.

In subsection (a) of this section, the reference to “bring[ing]” a civil action is substituted for the former reference to “authoriz[ing]” a civil action for clarity.

In subsection (b) of this section, the defined term “discriminatory housing practice” is substituted for the former reference to “discrimination” for consistency throughout this title.

In subsection (c) of this section, the reference to this “section” is substituted for the former overbroad reference to this “subtitle”.

Defined terms: “Commission” § 20–101

“County” § 1–101

“Discriminatory housing practice” § 20–1020

## **SUBTITLE 11. PROHIBITED ACTS; CRIMINAL PENALTIES.**

### **20–1101. DISCLOSURE OF CONFIDENTIAL INFORMATION.**

**(A) CONFIDENTIALITY OF INVESTIGATION; DISCLOSURE OF INFORMATION PROHIBITED; EXCEPTIONS.**

**(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, DURING AN INVESTIGATION OF A COMPLAINT ALLEGING A DISCRIMINATORY ACT, AND UNTIL THE MATTER REACHES THE STAGE OF PUBLIC HEARINGS:**

**(I) THE ACTIVITIES OF ALL MEMBERS AND EMPLOYEES OF THE COMMISSION IN CONNECTION WITH THE INVESTIGATION SHALL BE CONDUCTED IN CONFIDENCE AND WITHOUT PUBLICITY; AND**

**(II) THE MEMBERS AND EMPLOYEES OF THE COMMISSION MAY NOT DISCLOSE ANY INFORMATION RELATING TO THE INVESTIGATION, INCLUDING THE IDENTITY OF THE COMPLAINANT AND THE RESPONDENT.**

**(2) (I) INFORMATION MAY BE DISCLOSED AT ANY TIME IF BOTH THE COMPLAINANT AND RESPONDENT AGREE TO THE DISCLOSURE IN WRITING.**

**(II) THE IDENTITY OF THE COMPLAINANT MAY BE DISCLOSED TO THE RESPONDENT AT ANY TIME.**

**(B) PENALTY.**

**A MEMBER OR EMPLOYEE OF THE COMMISSION WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 1 YEAR OR A FINE NOT EXCEEDING \$1,000 OR BOTH.**

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, § 13.

In the introductory language of subsection (a)(1) of this section, the defined term "discriminatory act" is substituted for the former reference to "a violation of § 5, § 7, § 8, § 16, § 17, § 22, § 23, or § 24 of this article" for brevity. Although the reference to a "discriminatory act" includes violations that were not listed in the former law (*e.g.*, former Art. 49B, § 8A (Leasing of Commercial Property)), the Human Relations Commission Law Article Review Committee suggests that the failure to make all investigations confidential was an apparent oversight. This substitution is called to the attention of the General Assembly.

In subsection (a)(1)(ii) of this section, the reference to the "members and employees of" the Commission is added for clarity and consistency with subsection (a)(1)(i) of this section.

Also in subsection (a)(1)(ii) of this section, the phrase "may not disclose" is substituted for the former phrase "shall hold confidential" for clarity and consistency with similar provisions in other revised articles. *See, e.g.*, HO § 14-411 and HU §§ 1-201 and 1-202. Correspondingly, in subsection (a)(2)(i) of this subsection, the words "disclosed" and "disclosure" are substituted for the former words "released" and "release", respectively.

Defined terms: "Commission" § 20-101

"Complainant" § 20-101

"Discriminatory act" § 20-101

"Including" § 1-101

"Respondent" § 20-101

**20-1102. DISOBEYING SUBPOENA OR DISCOVERY ORDER IN HOUSING DISCRIMINATION CASE; FALSIFYING DOCUMENTARY EVIDENCE.**

**(A) DISOBEYING SUBPOENA OR DISCOVERY ORDER.**

**IF IT IS IN THE PERSON'S POWER TO COMPLY, A PERSON MAY NOT WILLFULLY FAIL OR NEGLECT TO ATTEND AND TESTIFY, ANSWER ANY LAWFUL INQUIRY, OR PRODUCE RECORDS, DOCUMENTS, OR OTHER EVIDENCE, IN**

**COMPLIANCE WITH A SUBPOENA OR OTHER LAWFUL ORDER ISSUED UNDER § 20-1023(A) OF THIS TITLE.**

**(B) FALSIFYING DOCUMENTARY EVIDENCE.**

**A PERSON MAY NOT, WITH INTENT TO MISLEAD ANOTHER PERSON IN ANY PROCEEDING UNDER SUBTITLE 10, PART II OF THIS TITLE:**

**(1) MAKE OR CAUSE TO BE MADE ANY FALSE ENTRY OR STATEMENT OF FACT IN ANY REPORT, ACCOUNT, RECORD, OR OTHER DOCUMENT PRODUCED IN COMPLIANCE WITH A SUBPOENA OR OTHER LAWFUL ORDER ISSUED UNDER § 20-1023(A) OF THIS TITLE;**

**(2) WILLFULLY NEGLECT OR FAIL TO MAKE OR CAUSE TO BE MADE FULL, TRUE, AND CORRECT ENTRIES IN ANY REPORT, ACCOUNT, RECORD, OR OTHER DOCUMENT PRODUCED IN COMPLIANCE WITH A SUBPOENA OR OTHER LAWFUL ORDER ISSUED UNDER § 20-1023(A) OF THIS TITLE; OR**

**(3) WILLFULLY MUTILATE, ALTER, OR BY ANY OTHER MEANS FALSIFY ANY DOCUMENTARY EVIDENCE.**

**(C) PENALTY.**

**A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 1 YEAR OR A FINE NOT EXCEEDING \$100,000 OR BOTH.**

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, § 31(b).

In subsection (a) of this section, the reference to the person's power to "comply" is substituted for the former reference to the person's power to "do so" for clarity.

In subsection (b)(2) of this section, the reference to "any report, account, record, or other document produced in accordance with a subpoena or other lawful order issued under § 20-1023(a) of this title" is substituted for the former reference to "the reports, accounts, records, or other documents" for clarity and consistency with subsection (b)(1) of this section.

In subsection (c) of this section, the reference to being "guilty of a misdemeanor" is added to state expressly that which was only implied in the former law. In this State, any crime that was not a felony at common law and has not been declared a felony by statute is considered to be a

misdemeanor. *See State v. Canova*, 278 Md. 483, 490 (1976); *Bowser v. State*, 136 Md. 342, 345 (1920); *Williams v. State*, 4 Md. App. 342, 347 (1968); and *Dutton v. State*, 123 Md. 373, 378 (1914).

Defined term: "Person" § 1-101

**20-1103. INJURY, INTIMIDATION, OR INTERFERENCE WITH PROTECTED HOUSING ACTIVITIES.**

**(A) DEFINITIONS.**

IN THIS SECTION, "DISABILITY", "DWELLING", "FAMILIAL STATUS", "MARITAL STATUS", AND "RENT" HAVE THE MEANINGS STATED IN § 20-701 OF THIS TITLE.

**(B) PROHIBITED ACTS.**

WHETHER OR NOT ACTING UNDER COLOR OF LAW, A PERSON MAY NOT, BY FORCE OR THREAT OF FORCE, WILLFULLY INJURE, INTIMIDATE, INTERFERE WITH, OR ATTEMPT TO INJURE, INTIMIDATE, OR INTERFERE WITH:

(1) ANY PERSON BECAUSE OF RACE, COLOR, RELIGION, SEX, DISABILITY, MARITAL STATUS, FAMILIAL STATUS, SEXUAL ORIENTATION, OR NATIONAL ORIGIN AND BECAUSE THE PERSON IS OR HAS BEEN:

(I) SELLING, PURCHASING, RENTING, FINANCING, OCCUPYING, OR CONTRACTING OR NEGOTIATING FOR THE SALE, PURCHASE, RENTAL, FINANCING, OR OCCUPATION OF ANY DWELLING; OR

(II) APPLYING FOR OR PARTICIPATING IN ANY SERVICE, ORGANIZATION, OR FACILITY RELATING TO THE BUSINESS OF SELLING OR RENTING DWELLINGS;

(2) ANY PERSON BECAUSE THE PERSON IS OR HAS BEEN, OR IN ORDER TO INTIMIDATE THE PERSON OR ANY OTHER PERSON OR ANY CLASS OF PERSONS FROM:

(I) PARTICIPATING, WITHOUT DISCRIMINATION ON ACCOUNT OF RACE, COLOR, RELIGION, SEX, DISABILITY, MARITAL STATUS, FAMILIAL STATUS, SEXUAL ORIENTATION, OR NATIONAL ORIGIN, IN ANY OF THE ACTIVITIES, SERVICES, ORGANIZATIONS, OR FACILITIES DESCRIBED IN ITEM (1) OF THIS SUBSECTION; OR

(II) AFFORDING ANOTHER PERSON OR CLASS OF PERSONS THE OPPORTUNITY OR PROTECTION TO PARTICIPATE IN ANY OF THE ACTIVITIES, SERVICES, ORGANIZATIONS, OR FACILITIES DESCRIBED IN ITEM (1) OF THIS SUBSECTION; OR

(3) ANY PERSON BECAUSE THE PERSON IS OR HAS BEEN, OR IN ORDER TO DISCOURAGE THE PERSON OR ANY OTHER PERSON FROM:

(I) LAWFULLY AIDING OR ENCOURAGING OTHER PERSONS TO PARTICIPATE, WITHOUT DISCRIMINATION ON ACCOUNT OF RACE, COLOR, RELIGION, SEX, DISABILITY, MARITAL STATUS, FAMILIAL STATUS, SEXUAL ORIENTATION, OR NATIONAL ORIGIN, IN ANY OF THE ACTIVITIES, SERVICES, ORGANIZATIONS, OR FACILITIES DESCRIBED IN ITEM (1) OF THIS SUBSECTION; OR

(II) PARTICIPATING LAWFULLY IN SPEECH OR PEACEFUL ASSEMBLY OPPOSING ANY DENIAL OF THE OPPORTUNITY TO PARTICIPATE IN ANY OF THE ACTIVITIES, SERVICES, ORGANIZATIONS, OR FACILITIES DESCRIBED IN ITEM (1) OF THIS SUBSECTION.

(C) PENALTY.

A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO:

(1) IMPRISONMENT NOT EXCEEDING 1 YEAR OR A FINE NOT EXCEEDING \$1,000 OR BOTH;

(2) IF THE VIOLATION RESULTS IN BODILY INJURY, IMPRISONMENT NOT EXCEEDING 10 YEARS OR A FINE NOT EXCEEDING \$10,000 OR BOTH; OR

(3) IF THE VIOLATION RESULTS IN DEATH, IMPRISONMENT NOT EXCEEDING LIFE.

REVISOR'S NOTE: Subsection (a) of this section is new language added to provide a convenient cross-reference to terms defined elsewhere in this title.

Subsections (b) and (c) of this section are new language derived without substantive change from former Art. 49B, § 37.

In the introductory language of subsection (c) of this section, the reference to being "guilty of a misdemeanor" is added to state expressly

that which was only implied in the former law. In this State, any crime that was not a felony at common law and has not been declared a felony by statute is considered to be a misdemeanor. *See State v. Canova*, 278 Md. 483, 490 (1976); *Bowser v. State*, 136 Md. 342, 345 (1920); *Williams v. State*, 4 Md. App. 342, 347 (1968); and *Dutton v. State*, 123 Md. 373, 378 (1914).

In subsection (c)(3) of this section, the former reference to imprisonment “for any term of years” is deleted as unnecessary in light of the reference to imprisonment “not exceeding life”.

Defined terms: “Person” § 1–101  
 “Sexual orientation” § 20–101

#### **20–1104. MAKING COMPLAINT MALICIOUSLY.**

##### **(A) CONSTRUCTION OF SECTION.**

**THIS SECTION DOES NOT AFFECT THE RIGHT OF A RESPONDENT TO BRING A CIVIL ACTION AGAINST A PERSON THAT HAS FILED A COMPLAINT UNDER SUBTITLE 10, PART I OF THIS TITLE.**

##### **(B) PROHIBITED ACT.**

**A PERSON IS GUILTY OF A MISDEMEANOR IF:**

**(1) THE PERSON HAS CLAIMED TO BE AGGRIEVED UNDER SUBTITLE 10, PART I OF THIS TITLE;**

**(2) THE PERSON HAS PURSUED THE COMPLAINT UNDER §§ 20–1006 AND 20–1008 THROUGH 20–1011 OF THIS TITLE;**

**(3) THE COMMISSION HAS:**

**(I) FOUND THE COMPLAINT TO BE UNFOUNDED; OR**

**(II) DISMISSED THE COMPLAINT WITHOUT FURTHER ACTION AGAINST THE RESPONDENT; AND**

**(4) THE COURT HAS FOUND THE COMPLAINT TO HAVE BEEN MADE MALICIOUSLY.**

##### **(C) PENALTY.**

**A PERSON CONVICTED UNDER THIS SECTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 1 YEAR OR A FINE NOT EXCEEDING \$500 OR BOTH.**

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, § 12(b).

In subsection (a) of this section, the reference to "a person" that has filed a complaint is substituted for the former reference to "one" that has filed a complaint for clarity and consistency within this title.

In the introductory language of subsection (b) of this section, the former parenthetical "(including one acting for or on behalf of a firm, association, or corporation)" is deleted as included in the reference to a "person".

In subsection (c) of this section, the former phrases "in the appropriate criminal court" and "in the discretion of the court" are deleted as surplusage.

The Human Relations Commission Law Article Review Committee notes, for consideration by the General Assembly, that this section is an anachronism that doesn't make sense in the current statutory scheme. Under Subtitle 10, Part I of this title, it is not possible for a person to pursue a complaint administratively if the Human Relations Commission finds no probable cause to believe that a discriminatory act has been or is being committed. The General Assembly may wish to repeal this section. The Human Relations Commission Law Article Review Committee further notes that the repeal of this section would not affect the right of a respondent to bring a civil action against a person that has filed a complaint maliciously under Subtitle 10, Part I of this title.

Defined terms: "Commission" § 20-101

"Person" § 1-101

"Respondent" § 20-101

**20-1105. REMUNERATION FOR PARTICIPATION IN RACIAL DEMONSTRATION.**

**(A) PROHIBITED ACT.**

**A PERSON MAY NOT RECEIVE ANY REMUNERATION FOR PARTICIPATION IN A RACIAL DEMONSTRATION IN THE STATE.**

**(B) PENALTY.**

**A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 1 YEAR OR A FINE NOT EXCEEDING \$1,000 OR BOTH.**

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, § 6.

In subsection (a) of this section, the former reference to remuneration "of any kind whatsoever" is deleted as surplusage.

In subsection (b) of this section, the reference to being "guilty of a misdemeanor" is added to state expressly that which was only implied in the former law. In this State, any crime that was not a felony at common law and has not been declared a felony by statute is considered to be a misdemeanor. *See State v. Canova*, 278 Md. 483, 490 (1976); *Bowser v. State*, 136 Md. 342, 345 (1920); *Williams v. State*, 4 Md. App. 342, 347 (1968); and *Dutton v. State*, 123 Md. 373, 378 (1914).

The Human Relations Commission Law Article Review Committee notes, for consideration by the General Assembly, that the Office of the Attorney General has advised that "a court would likely hold that an attempt to enforce [this section] would violate the First Amendment of the United States Constitution, as well as Article 40 of the Maryland Declaration of Rights" and recommended that the General Assembly repeal this section when it revises Article 49B. The Human Relations Commission Law Article Review Committee concurs with this recommendation.

Defined term: "Person" § 1-101

## **SUBTITLE 12. CIVIL ACTIONS — VIOLATIONS OF COUNTY DISCRIMINATION LAWS.**

### **20-1201. "PREVAILING PARTY" DEFINED.**

**IN THIS SUBTITLE, "PREVAILING PARTY" HAS THE MEANING AS JUDICIALLY DETERMINED UNDER 42 U.S.C. § 1988.**

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, § 41.

The reference to having the meaning "as judicially determined under" 42 U.S.C. § 1988 is substituted for the former reference to having the meaning "stated in" that section for clarity and accuracy. "Prevailing party" is not defined in 42 U.S.C. § 1988, but has been interpreted by the federal courts under that section.



**20-1202. HOWARD, MONTGOMERY, AND PRINCE GEORGE'S COUNTIES.****(A) SCOPE OF SECTION.**

**THIS SECTION APPLIES ONLY IN HOWARD COUNTY, MONTGOMERY COUNTY, AND PRINCE GEORGE'S COUNTY.**

**(B) CIVIL ACTION AUTHORIZED.**

**IN ACCORDANCE WITH THIS SECTION, A PERSON THAT IS SUBJECTED TO A DISCRIMINATORY ACT PROHIBITED BY THE COUNTY CODE MAY BRING AND MAINTAIN A CIVIL ACTION AGAINST THE PERSON THAT COMMITTED THE ALLEGED DISCRIMINATORY ACT FOR DAMAGES, INJUNCTIVE RELIEF, OR OTHER CIVIL RELIEF.**

**(C) TIME FOR FILING; VENUE.**

**(1) AN ACTION UNDER SUBSECTION (B) OF THIS SECTION SHALL BE COMMENCED IN THE CIRCUIT COURT FOR THE COUNTY IN WHICH THE ALLEGED DISCRIMINATORY ACT OCCURRED WITHIN 2 YEARS AFTER THE OCCURRENCE OF THE ALLEGED DISCRIMINATORY ACT.**

**(2) (I) SUBJECT TO PARAGRAPH (1) OF THIS SUBSECTION, AN ACTION UNDER SUBSECTION (B) OF THIS SECTION ALLEGING DISCRIMINATION IN EMPLOYMENT OR PUBLIC ACCOMMODATIONS MAY NOT BE COMMENCED SOONER THAN 45 DAYS AFTER THE AGGRIEVED PERSON FILES A COMPLAINT WITH THE COUNTY UNIT RESPONSIBLE FOR HANDLING VIOLATIONS OF THE COUNTY DISCRIMINATION LAWS.**

**(II) SUBJECT TO PARAGRAPH (1) OF THIS SUBSECTION, AN ACTION UNDER SUBSECTION (B) OF THIS SECTION ALLEGING DISCRIMINATION IN REAL ESTATE MAY BE COMMENCED AT ANY TIME.**

**(D) FEES AND COSTS.**

**IN A CIVIL ACTION UNDER THIS SECTION, THE COURT MAY AWARD THE PREVAILING PARTY REASONABLE ATTORNEY'S FEES, EXPERT WITNESS FEES, AND COSTS.**

**REVISOR'S NOTE:** This section is new language derived without substantive change from former Art. 49B, §§ 42 and 40(a).

In subsections (b) and (c)(1) of this section, the references to a "discriminatory act" are substituted for the former references to an "act of

discrimination” and the “discrimination”, respectively, for consistency within this section.

In subsection (b) of this section, the reference to this “section” is substituted for the former overbroad reference to this “subtitle”.

In subsection (c)(2)(i) of this section, the reference to the county “unit” is substituted for the former reference to the county “agency” for consistency throughout this title. *See* General Revisor’s Note to title.

In subsection (d) of this section, the former phrase “in its discretion” is deleted as surplusage.

Defined terms: “Person” § 1–101  
“Prevailing party” § 20–1201

### **20–1203. BALTIMORE COUNTY.**

#### **(A) SCOPE OF SECTION.**

**THIS SECTION APPLIES ONLY IN BALTIMORE COUNTY.**

#### **(B) CIVIL ACTION AUTHORIZED.**

**IN ACCORDANCE WITH THIS SECTION, A PERSON THAT IS EMPLOYED BY AN EMPLOYER WITH FEWER THAN 15 EMPLOYEES AND THAT IS SUBJECTED TO A DISCRIMINATORY ACT PROHIBITED BY THE COUNTY CODE MAY BRING AND MAINTAIN A CIVIL ACTION AGAINST THE EMPLOYER THAT COMMITTED THE ALLEGED DISCRIMINATORY ACT FOR RELIEF AS PROVIDED UNDER SUBSECTION (D) OF THIS SECTION.**

#### **(C) TIME FOR FILING; VENUE.**

**(1) AN ACTION UNDER SUBSECTION (B) OF THIS SECTION SHALL BE COMMENCED IN THE CIRCUIT COURT FOR BALTIMORE COUNTY WITHIN 2 YEARS AFTER THE OCCURRENCE OF THE ALLEGED DISCRIMINATORY ACT.**

**(2) SUBJECT TO PARAGRAPH (1) OF THIS SUBSECTION, AN ACTION UNDER SUBSECTION (B) OF THIS SECTION MAY NOT BE COMMENCED SOONER THAN 60 DAYS AFTER THE AGGRIEVED PERSON FILES A COMPLAINT WITH THE COUNTY UNIT RESPONSIBLE FOR HANDLING VIOLATIONS OF THE COUNTY DISCRIMINATION LAWS.**

#### **(D) RELIEF; ATTORNEY’S FEES.**

**(1) IN A CIVIL ACTION UNDER THIS SECTION, THE COURT MAY AWARD THE PREVAILING PARTY:**

**(I) INJUNCTIVE RELIEF;**

**(II) COMPENSATORY DAMAGES, INCLUDING BACK PAY; OR**

**(III) BOTH INJUNCTIVE RELIEF AND COMPENSATORY DAMAGES.**

**(2) A PREVAILING PARTY MAY NOT BE AWARDED PUNITIVE DAMAGES UNDER THIS SECTION.**

**(3) THE COURT MAY AWARD THE PREVAILING PARTY REASONABLE ATTORNEY'S FEES.**

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 49B, §§ 43 and 40(b).

In subsection (b) of this section, the reference to this "section" is substituted for the former overbroad reference to this "subtitle".

Also in subsection (b) of this section, the reference to a "discriminatory act" is substituted for the former reference to an "act of discrimination" for consistency within this section.

Also in subsection (b) of this section, the former reference to "civil" relief is deleted as unnecessary in light of the references to a "civil action" and relief "as provided under subsection (d) of this section".

In subsection (c)(2) of this section, the reference to the county "unit" is substituted for the former reference to the county "agency" for consistency throughout this title. *See* General Revisor's Note to title.

In subsection (d) of this section, the former phrase "in its discretion" is deleted as surplusage.

Defined terms: "Including" § 1-101

"Person" § 1-101

"Prevailing party" § 20-1201

GENERAL REVISOR'S NOTE TO TITLE:

The Department of Legislative Services is charged with revising the law in a clear, concise, and organized manner, without changing the effect of the law. One precept of code revision has been that, once something is said, it should be said in the same way every time. To that end, the Human Relations Commission Law Article Review Committee conformed the language and organization of Title 20 to that of the rest of the State Government Article and other previously enacted revised articles to the extent possible.

It is the manifest intent both of the General Assembly and the Human Relations Commission Law Article Review Committee that this bulk revision of the substantive laws regarding human relations render no substantive change. The guiding principle of the preparation of Title 20 of the State Government Article is that stated in *Welch v. Humphrey*, 200 Md. 410, 417 (1952):

[T]he principal function of a Code is to reorganize the statutes and state them in simpler form. Consequently any changes made in them by a Code are presumed to be for the purpose of clarity rather than change of meaning. Therefore, even a change in the phraseology of a statute by a codification thereof will not ordinarily modify the law, unless the change is so radical and material that the intention of the Legislature to modify the law appears unmistakably from the language of the Code. (citations omitted).

Accordingly, except to the extent that changes, which are noted in Revisor's Notes, clarify the former law, the enactment of this title in no way is intended to make any change to the substantive law of Maryland.

Throughout this title, as in other revised articles, the word "regulations" generally is substituted for former references to "rules and regulations" to distinguish, to the extent possible, between regulations of executive units and rules of judicial or legislative units and to establish consistency in the use of the words. This substitution conforms to the practice of the Division of State Documents.

In many provisions in this title, as in other revised articles, the word "unit" is substituted for former references to governmental entities such as an "agency", "department", "board", or "commission". In revised articles of the Code, the word "unit" is used as the general term for an organization in government because it is broad enough to include all such entities.

References to current units and positions are substituted for obsolete references to entities and positions that have been abolished or have otherwise ceased to exist.

In § 20-202 of this article ("Membership"), there is a subsection captioned "Tenure; vacancies". A standard paragraph included in that subsection provides that a "member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies". This paragraph applies: (1) when a successor is appointed to replace a member who has died, resigned, or failed for any

other reason to complete a term; (2) when a member is appointed to succeed a member who has "held over" into the next term, pending the delayed appointment and qualification of the successor; or (3) when, in any other situation, a member takes office after a term has begun, *e.g.*, when, at the completion of a term, there is a delay in the appointment of a successor but the member who served the prior term does not "hold over".

In some instances, the staff of the Department of Legislative Services may create "Special Revisor's Notes" to reflect the substantive effect of legislation enacted during the 2009 Session on some provisions of this title.

SECTION 3. AND BE IT FURTHER ENACTED, That it is the intention of the General Assembly that, except as expressly provided in this Act, this Act shall be construed as a nonsubstantive revision, and may not otherwise be construed to render any substantive change in the law of the State.

SECTION 4. AND BE IT FURTHER ENACTED, That the catchlines, captions, Revisor's Notes, Special Revisor's Notes, and General Revisor's Notes contained in this Act are not law and may not be considered to have been enacted as a part of this Act.

SECTION 5. AND BE IT FURTHER ENACTED, That nothing in this Act affects the term of office of an appointed or elected member of any commission, office, department, agency, or other unit. An individual who is a member of a unit on the effective date of this Act shall remain a member for the balance of the term to which appointed or elected, unless the member sooner dies, resigns, or is removed under provisions of law.

SECTION 6. AND BE IT FURTHER ENACTED, That, except as expressly provided to the contrary in this Act, any transaction or employment status affected by or flowing from any change of nomenclature or any statute amended, repealed, or transferred by this Act and validly entered into or existing before the effective date of this Act and every right, duty, or interest flowing from a statute amended, repealed, or transferred by this Act remains valid after the effective date of this Act and may be terminated, completed, consummated, or enforced as required or allowed by any statute amended, repealed, or transferred by this Act as though the repeal, amendment, or transfer had not occurred. If a change in nomenclature involves a change in name or designation of any State unit, the successor unit shall be considered in all respects as having the powers and obligations granted the former unit.

SECTION 7. AND BE IT FURTHER ENACTED, That the continuity of every commission, office, department, agency, or other unit is retained. The personnel, records, files, furniture, fixtures, and other properties and all appropriations, credits, assets, liabilities, and obligations of each retained unit are continued as the personnel, records, files, furniture, fixtures, properties, appropriations, credits, assets, liabilities, and obligations of the unit under the laws enacted by this Act.

SECTION 8. AND BE IT FURTHER ENACTED, That this Act does not rescind, supersede, change, or modify any rule adopted by the Court of Appeals that is or was in effect on the effective date of this Act concerning the practice and procedure in and the administration of the appellate courts and the other courts of this State.

SECTION 9. AND BE IT FURTHER ENACTED, That the publisher of the Annotated Code of Maryland, in consultation with and subject to the approval of the Department of Legislative Services, shall correct, with no further action required by the General Assembly, cross-references and terminology rendered incorrect by this Act or by any other Act of the General Assembly of 2009 that affects provisions enacted by this Act. The publisher shall adequately describe any such correction in an editor's note following the section affected.

SECTION 10. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

**Approved by the Governor, April 14, 2009.**

---

## **Chapter 121**

### **(House Bill 52)**

AN ACT concerning

#### **Human Relations – Cross-References and Corrections**

FOR the purpose of correcting certain cross-references to Article 49B (Human Relations Commission) in the Annotated Code of Maryland; correcting a certain error in provisions of law relating to remedies available in a certain civil action; making certain technical and stylistic changes; and generally relating to the revision of Article 49B of the Code and cross-references and corrections to it.

BY repealing and reenacting, with amendments,  
Article – Business Occupations and Professions  
Section 17–526(a) and (d)  
Annotated Code of Maryland  
(2004 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,  
Article – Business Regulation  
Section 15–202  
Annotated Code of Maryland  
(2004 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,

Article – Economic Development  
Section 5–435  
Annotated Code of Maryland  
(2008 Volume)

BY repealing and reenacting, with amendments,  
Article – Health – General  
Section 19–355  
Annotated Code of Maryland  
(2005 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,  
Article – Public Safety  
Section 12–202(h)  
Annotated Code of Maryland  
(2003 Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,  
Article – State Finance and Procurement  
Section 19–107(a) and (d)(1) and 19–108(b)  
Annotated Code of Maryland  
(2006 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,  
Article – State Government  
Section 10–205(b) and 10–617(b)(1)  
Annotated Code of Maryland  
(2004 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, without amendments,  
Article – State Government  
Section 20–1013(d)  
Annotated Code of Maryland  
(As enacted by Chapter 120 (H.B. 51) of the Acts of the General Assembly of  
2009)

BY repealing and reenacting, with amendments,  
Article – State Government  
Section 20–1013(e)  
Annotated Code of Maryland  
(As enacted by Chapter 120 (H.B. 51) of the Acts of the General Assembly of  
2009)

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

**Article – Business Occupations and Professions**

17-526.

(a) The purpose of this section is to prohibit certain discriminatory real estate practices with respect to housing in Montgomery County to:

(1) ensure fair and equal real estate housing practices for all of its residents, regardless of race, color, religion, sex, marital status, national origin, or, as defined in [Article 49B, § 19 of the Code, physical or mental handicap] **§ 20-701 OF THE STATE GOVERNMENT ARTICLE, DISABILITY;**

(2) provide fair and equal real estate housing opportunities for all of its residents, regardless of race, color, religion, sex, marital status, national origin, or, as defined in [Article 49B, § 19 of the Code, physical or mental handicap] **§ 20-701 OF THE STATE GOVERNMENT ARTICLE, DISABILITY;**

(3) ensure fair and equal real estate housing practices and provide fair and equal real estate housing opportunities for those individuals who are at least 62 years of age; and

(4) protect and ensure the peace, health, safety, prosperity, and general welfare of all residents of Montgomery County.

(d) (1) A real estate broker, an associate real estate broker, or a real estate salesperson may not refuse to show any residential property or prospective site for a residence that is available for sale, rent, or sublease to a prospective buyer or renter because of:

(i) the race, color, religion, sex, marital status, national origin, or, as defined [by Article 49B, § 19 of the Code, physical or mental handicap] **IN § 20-701 OF THE STATE GOVERNMENT ARTICLE, DISABILITY** of the prospective buyer or renter; or

(ii) the composition or character of the neighborhood where the property is located.

(2) If the representation is made because of the race, color, religion, sex, marital status, national origin, or, as defined [by Article 49B, § 19 of the Code, physical or mental handicap] **IN § 20-701 OF THE STATE GOVERNMENT ARTICLE, DISABILITY** of the prospective buyer or renter or because of the composition or character of the neighborhood where the property is located, a real estate broker, an associate real estate broker, or a real estate salesperson may not represent to a prospective buyer or renter that the available residential properties, prospective sites for a residence, or listings in a specified price range are limited to those already shown when, in fact, there is an additional residential property, a prospective site for a



residence, or a listing in a specified price range that is available and within the price range specified by the prospective buyer or renter.

### Article – Business Regulation

15–202.

Except as provided in this subtitle for an individual who is under the age of 21 years, this subtitle may not be construed to alter the prohibition against discrimination by an innkeeper or lodging establishment [established] under [Article 49B, § 5 of the Code] **TITLE 20, SUBTITLE 3 OF THE STATE GOVERNMENT ARTICLE.**

### Article – Economic Development

5–435.

Financial assistance under this subtitle is:

- (1) subject to the provisions of [Article 49B of the Code] **TITLE 20 OF THE STATE GOVERNMENT ARTICLE** concerning discrimination and unlawful practices; and
- (2) not subject to Title 17, Subtitle 1 of the State Finance and Procurement Article (Security for construction projects).

### Article – Health – General

19–355.

- (a) A hospital or related institution may not discriminate in providing personal care for an individual because of the race, color, or national origin of the individual.
- (b) The Commission on Human Relations shall enforce this section as provided in [Article 49B of the Code] **TITLE 20 OF THE STATE GOVERNMENT ARTICLE.**

### Article – Public Safety

12–202.

- (h) (1) The Department shall cooperate with and provide technical assistance to the Human Relations Commission concerning an action brought by the Human Relations Commission to enforce [Article 49B, § 22 of the Code] **§ 20–705 OR § 20–706 OF THE STATE GOVERNMENT ARTICLE.**

(2) This section does not limit the authority of the Human Relations Commission to enforce [Article 49B, § 22 of the Code] **§§ 20-705 AND 20-706 OF THE STATE GOVERNMENT ARTICLE.**

#### Article – State Finance and Procurement

19-107.

(a) Commission staff shall be responsible for directing and conducting investigations of discrimination and retaliation complaints filed under this title in a manner consistent with [Article 49B, §§ 3, 10, and 11] **§§ 20-208, 20-1005, 20-1006, 20-1008, 20-1009, AND 20-1010 OF THE STATE GOVERNMENT ARTICLE.**

(d) (1) Consistent with [Article 49B, § 13 of the Code] **§ 20-1101 OF THE STATE GOVERNMENT ARTICLE**, the Public Information Act, and the Open Meetings Act, the Commission shall protect the confidential character of information relating to an investigation and may issue protective orders for good cause to limit, or otherwise impose conditions on, access by any person to any document in the possession of a party.

19-108.

(b) Based on a review and investigation consistent with [Article 49B, § 10 of the Code] **§ 20-1005 OF THE STATE GOVERNMENT ARTICLE**, Commission staff shall make an initial finding of each allegation stated in the complaint, that either:

(1) the investigation produced sufficient evidence to find that the alleged discrimination or retaliation did take place (“probable cause”);

(2) the investigation failed to produce sufficient evidence to find that the alleged discrimination or retaliation took place (“no probable cause”);

(3) the investigation produced sufficient evidence to establish that the complainant knowingly made one or more false or frivolous allegations, and further investigation did not appear likely to produce sufficient evidence that the alleged discrimination or retaliation did take place (“false or frivolous”);

(4) the allegation has been settled or otherwise resolved with the agreement of the respondent business entity, the complainant, and the State (“settled”); or

(5) the allegation has been withdrawn (“withdrawn”).

#### Article – State Government

10-205.

- (b) An agency may delegate to the Office the authority to issue:
- (1) proposed or final findings of fact;
  - (2) proposed or final conclusions of law;
  - (3) proposed or final findings of fact and conclusions of law;
  - (4) proposed or final orders or orders under [Article 49B of the Code] **TITLE 20 OF THIS ARTICLE**; or
  - (5) the final administrative decision of an agency in a contested case.

10-617.

(b) (1) In this subsection, "disability" has the meaning stated in [Article 49B, § 20 of the Code] **§ 20-701 OF THIS ARTICLE**.

20-1013.

(d) If the court finds that a discriminatory act occurred, the court may provide the remedies specified in § 20-1009(b) of this subtitle.

(e) (1) In addition to the relief authorized under subsection (d) of this section, the court may award punitive damages, if:

[(1)] (I) the respondent is not a governmental unit or political subdivision; and

[(2)] (II) the court finds that the respondent has engaged in or is engaging in an unlawful employment practice with actual malice.

**(2) IF THE COURT AWARDS PUNITIVE DAMAGES, THE SUM OF THE AMOUNT OF COMPENSATORY DAMAGES AWARDED TO EACH COMPLAINANT UNDER SUBSECTION (D) OF THIS SECTION AND THE AMOUNT OF PUNITIVE DAMAGES AWARDED UNDER THIS SUBSECTION MAY NOT EXCEED THE APPLICABLE LIMITATION ESTABLISHED UNDER § ~~20-2009(B)(3)~~ 20-1009(B)(3) OF THIS SUBTITLE.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

**Approved by the Governor, April 14, 2009.**

---

**Chapter 122****(House Bill 61)**

AN ACT concerning

**State Athletic Commission – Sunset Extension and Program Evaluation**

FOR the purpose of continuing the State Athletic Commission in accordance with the provisions of the Maryland Program Evaluation Act (sunset law) by extending to a certain date the termination provisions relating to the statutory and regulatory authority of the Commission; requiring that an evaluation of the Commission and the statutes and regulations that relate to the Commission be performed on or before a certain date; requiring the Commission to submit a certain report on or before a certain date; and generally relating to the State Athletic Commission.

BY repealing and reenacting, with amendments,  
Article – Business Regulation  
Section 4–208  
Annotated Code of Maryland  
(2004 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, without amendments,  
Article – State Government  
Section 8–403(a)  
Annotated Code of Maryland  
(2004 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,  
Article – State Government  
Section 8–403(b)(5)  
Annotated Code of Maryland  
(2004 Replacement Volume and 2008 Supplement)

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

**Article – Business Regulation**

4–208.

Subject to the evaluation and reestablishment provisions of the Maryland Program Evaluation Act, this subtitle and Subtitle 3 of this title and all regulations adopted under this subtitle and Subtitle 3 of this title shall terminate on July 1, [2011] **2021**.

**Article – State Government**

8–403.

(a) On or before December 15 of the 2nd year before the evaluation date of a governmental activity or unit, the Legislative Policy Committee, based on a preliminary evaluation, may waive as unnecessary the evaluation required under this section.

(b) Except as otherwise provided in subsection (a) of this section, on or before the evaluation date for the following governmental activities or units, an evaluation shall be made of the following governmental activities or units and the statutes and regulations that relate to the governmental activities or units:

(5) Athletic Commission, State (§ 4–201 of the Business Regulation Article: July 1, [2010] **2020**);

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before October 1, 2013, the State Athletic Commission shall submit a report to the Senate Education, Health, and Environmental Affairs Committee and the House Economic Matters Committee, in accordance with § 2–1246 of the State Government Article, on the Commission's implementation of mixed martial arts regulation. The report shall include, at a minimum, the following data on mixed martial arts by fiscal year for fiscal years 2009 through 2013:

- (1) the number of licensees;
- (2) the number of shows;
- (3) any complaints regarding activities; and
- (4) the amount of revenue from the boxing and wrestling tax attributable to mixed martial arts events.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2009.

**Approved by the Governor, April 14, 2009.**

---

**Chapter 123**

**(House Bill 62)**

AN ACT concerning

**State Board of Veterinary Medical Examiners – Sunset Extension and  
Program Evaluation**

FOR the purpose of continuing the State Board of Veterinary Medical Examiners in accordance with the provisions of the Maryland Program Evaluation Act (sunset law) by extending to a certain date the termination provisions relating to the statutory and regulatory authority of the Board; requiring that an evaluation of the Board and the statutes and regulations that relate to the Board be performed on or before a certain date; requiring the Board to submit a certain report on or before a certain date; and generally relating to the State Board of Veterinary Medical Examiners.

BY repealing and reenacting, with amendments,  
Article – Agriculture  
Section 2–316  
Annotated Code of Maryland  
(2007 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, without amendments,  
Article – State Government  
Section 8–403(a)  
Annotated Code of Maryland  
(2004 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,  
Article – State Government  
Section 8–403(b)(66)  
Annotated Code of Maryland  
(2004 Replacement Volume and 2008 Supplement)

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

**Article – Agriculture**

2–316.

The provisions of this subtitle creating the State Board of Veterinary Medical Examiners and relating to the regulation of veterinarians and any regulations promulgated under this subtitle are of no effect and may not be enforced after July 1, [2011] **2021**.

**Article – State Government**

8–403.

(a) On or before December 15 of the 2nd year before the evaluation date of a governmental activity or unit, the Legislative Policy Committee, based on a preliminary evaluation, may waive as unnecessary the evaluation required under this section.

(b) Except as otherwise provided in subsection (a) of this section, on or before the evaluation date for the following governmental activities or units, an evaluation shall be made of the following governmental activities or units and the statutes and regulations that relate to the governmental activities or units:

(66) Veterinary Medical Examiners, State Board of (§ 2–302 of the Agriculture Article: July 1, [2010] **2020**);

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before October 1, 2009, the State Board of Veterinary Medical Examiners shall submit a report to the Senate Education, Health, and Environmental Affairs Committee and the House Environmental Matters Committee, in accordance with § 2–1246 of the State Government Article. The report shall address the following issues as outlined in the Department of Legislative Services preliminary sunset evaluation dated December 2008:

- (1) Registered veterinary technicians;
- (2) Penalty authority;
- (3) Public outreach; and
- (4) Disciplinary caseload.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2009.

**Approved by the Governor, April 14, 2009.**

---

## Chapter 124

### (House Bill 71)

AN ACT concerning

#### Department of Legislative Services – Technical Changes

FOR the purpose of making technical changes to conform the law to current practice regarding the appointment of managers in the Office of Policy Analysis and the

Office of Legislative Information Systems in the Department of Legislative Services; and generally relating to the Department of Legislative Services.

BY repealing and reenacting, with amendments,

Article – State Government

Section 2–1231 and 2–1236

Annotated Code of Maryland

(2004 Replacement Volume and 2008 Supplement)

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

### Article – State Government

2–1231.

(a) Subject to the policies and directives of the President and the Speaker and the overall supervision and control of the Executive Director, the Director shall oversee the operation of the Office.

**(B) THE DIRECTOR, AFTER CONSULTATION WITH THE EXECUTIVE DIRECTOR, SHALL APPOINT QUALIFIED INDIVIDUALS TO SERVE IN MANAGEMENT FUNCTIONS IN THE OFFICE.**

**[(b)] (C)** The Director shall serve in a nonpartisan capacity and conduct the affairs of the Office in a nonpartisan manner.

2–1236.

(a) The head of the Office is the Director, who shall be appointed by the Executive Director, subject to the approval of the President and the Speaker.

(b) The Director serves without a fixed term and may be removed by the Executive Director, subject to the approval of the President and the Speaker.

(c) The Director is entitled to the salary provided in the State budget.

(d) Subject to the policies and directives of the President and the Speaker and the overall supervision and control of the Executive Director, the Director shall oversee the operation of the Office.

(e) The Director shall serve in a nonpartisan capacity and conduct the affairs of the Office in a nonpartisan manner.

(f) **[In consultation with the Director, the Executive Director] THE DIRECTOR, AFTER CONSULTATION WITH THE EXECUTIVE DIRECTOR,** shall



appoint an appropriate number of qualified individuals to serve in management functions in the Office.

(g) The Director shall facilitate the creation and oversee the operation of functional, subject matter, special project, and any other workgroups to achieve maximum cooperation and the greatest efficiency in the use of staff and resources in the Office.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

**Approved by the Governor, April 14, 2009.**

---

## Chapter 125

### (House Bill 76)

AN ACT concerning

#### **Hepatitis C Virus – Public Awareness and Outreach – ~~Repeal of Sunset~~ Sunset Extension**

FOR the purpose of ~~repealing~~ extending the termination date for a provision of law that requires the Department of Health and Mental Hygiene to conduct certain outreach and public awareness campaigns regarding the hepatitis C virus.

BY repealing and reenacting, with amendments,  
Chapter 457 of the Acts of the General Assembly of 2006  
Section 4

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

#### **Chapter 457 of the Acts of 2006**

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2006. ~~Section 2 of this Act shall remain effective for a period of 3 7 years and 6 months and, at the end of December 31, 2009~~ **JUNE 30, 2013**, with no further action required by the General Assembly, Section 2 of this Act shall be abrogated and of no further force and effect.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2009.

**Approved by the Governor, April 14, 2009.**

**Chapter 126****(House Bill 79)**

AN ACT concerning

**Real Property – Mortgage Fraud – Creation of Fraudulent Documents**

FOR the purpose of expanding the scope of the Maryland Mortgage Fraud Protection Act to prohibit the creation or production of a document that contains a deliberate misstatement, misrepresentation, or omission with the intent that the document be relied on by certain persons in the mortgage lending process; and generally relating to mortgage fraud.

BY repealing and reenacting, with amendments,  
Article – Real Property  
Section 7–401(d)  
Annotated Code of Maryland  
(2003 Replacement Volume and 2008 Supplement)

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

**Article – Real Property**

7–401.

(d) “Mortgage fraud” means any action by a person made with the intent to defraud that involves:

(1) Knowingly making any deliberate misstatement, misrepresentation, or omission during the mortgage lending process with the intent that the misstatement, misrepresentation, or omission be relied on by a mortgage lender, borrower, or any other party to the mortgage lending process;

**(2) KNOWINGLY CREATING OR PRODUCING A DOCUMENT FOR USE DURING THE MORTGAGE LENDING PROCESS THAT CONTAINS A DELIBERATE MISSTATEMENT, MISREPRESENTATION, OR OMISSION WITH THE INTENT THAT THE DOCUMENT CONTAINING THE MISSTATEMENT, MISREPRESENTATION, OR OMISSION BE RELIED ON BY A MORTGAGE LENDER, BORROWER, OR ANY OTHER PARTY TO THE MORTGAGE LENDING PROCESS;**

**[(2)] (3)** Knowingly using or facilitating the use of any deliberate misstatement, misrepresentation, or omission during the mortgage lending process

with the intent that the misstatement, misrepresentation, or omission be relied on by a mortgage lender, borrower, or any other party to the mortgage lending process;

[(3)] (4) Receiving any proceeds or any other funds in connection with a mortgage closing that the person knows resulted from a violation of item (1), [or] (2), OR (3) of this section;

[(4)] (5) Conspiring to violate any of the provisions of item (1), (2), [or] (3), OR (4) of this section; or

[(5)] (6) Filing or causing to be filed in the land records in the county where a residential real property is located, any document relating to a mortgage loan that the person knows to contain a deliberate misstatement, misrepresentation, or omission.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

**Approved by the Governor, April 14, 2009.**

---

## **Chapter 127**

### **(House Bill 90)**

AN ACT concerning

#### **Department of the Environment – Bay Restoration Fund and Bay Restoration Fee**

FOR the purpose of curing a previous Act of the General Assembly with a possible title defect (Chapter 666 of the Acts of 2008) by repealing and reenacting, without amendments, provisions of law to provide that the Bay Restoration Fee may not be reduced as long as certain bonds are outstanding, that money in the Bay Restoration Fund may not revert or be transferred to a special fund, that a certain committee is required to make a certain recommendation regarding the restoration fee, and that the Fund may be used for projects related to the removal of nitrogen from onsite sewage disposal systems and cover crop activities, subject to a certain condition; and generally relating to the Bay Restoration Fund and the Bay Restoration Fee.

BY repealing and reenacting, without amendments,  
Article – Environment  
Section 9–1605.2(b), (f), (i), and (j)  
Annotated Code of Maryland

(2007 Replacement Volume and 2008 Supplement)

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

**Article – Environment**

9–1605.2.

(b) (1) The Bay Restoration Fee is:

(i) Beginning January 1, 2005, for each residential dwelling that receives an individual sewer bill and each user of an onsite sewage disposal system or a holding tank that receives a water bill, \$2.50 per month;

(ii) Beginning October 1, 2005, for each user of an onsite sewage disposal system that does not receive a water bill, \$30 per year;

(iii) Beginning October 1, 2005, for each user of a sewage holding tank that does not receive a water bill, \$30 per year; and

(iv) Beginning January 1, 2005, for a building or group of buildings under single ownership or management that receives a sewer bill and that contains multiple residential dwellings that do not receive an individual sewer bill or for a nonresidential user:

1. For each equivalent dwelling unit not exceeding 3,000 equivalent dwelling units, \$2.50 per month;

2. For each equivalent dwelling unit exceeding 3,000 equivalent dwelling units and not exceeding 5,000 equivalent dwelling units, \$1.25 per month; and

3. For each equivalent dwelling unit exceeding 5,000 equivalent dwelling units, zero.

(2) (i) For a residential dwelling that receives an individual sewer bill, a user of an onsite sewage disposal system or a holding tank that receives a water bill, a building or group of buildings under single ownership or management that receives a water and sewer bill and that contains multiple residential dwellings that do not receive an individual sewer bill, and a nonresidential user, the restoration fee shall be:

1. Stated in a separate line on the sewer or water bill, as appropriate, that is labeled “Bay Restoration Fee”; and

2. Collected for each calendar quarter, unless a local government or billing authority for a water or wastewater facility established some other billing period on or before January 1, 2004.

(ii) 1. A. If the user does not receive a water bill, for users of an onsite sewage disposal system and for users of a sewage holding tank, the county in which the onsite sewage disposal system or holding tank is located shall be responsible for collecting the restoration fee.

B. A county may negotiate with a municipal corporation located within the county for the municipal corporation to collect the restoration fee from onsite sewage disposal systems and holding tanks located in the municipal corporation.

2. The governing body of each county, in consultation with the Bay Restoration Fund Advisory Committee, shall determine the method and frequency of collecting the restoration fee under subsubparagraph 1 of this subparagraph.

(3) The total fee imposed under paragraph (1) of this subsection may not exceed \$120,000 annually for a single site.

(4) (i) For purposes of measuring average daily wastewater flow, the local government or billing authority for a wastewater facility shall use existing methods of measurement, which may include water usage or other estimation methods.

(ii) The averaging period is:

1. The billing period established by the local government or billing authority; or

2. If a billing period is not established by the local government or billing authority, a quarter of a calendar year.

(5) The Bay Restoration Fee under this subsection may not be reduced as long as bonds are outstanding.

(f) (1) (i) The Bay Restoration Fund is a special, continuing, nonlapsing fund that is not subject to § 7-302 of the State Finance and Procurement Article and shall be available in perpetuity for the purpose of providing financial assistance in accordance with the provisions of this section.

(ii) Money in the Fund may not revert or be transferred to the General Fund or a special fund of the State.

(2) The Bay Restoration Fund shall be available for the purpose of providing financial assistance in accordance with the provisions of this section for:

(i) Eligible costs of projects relating to planning, design, construction, and upgrades of wastewater facilities to achieve enhanced nutrient removal as required by the conditions of a grant agreement and a discharge permit; and

(ii) All projects identified in subsections (h) and (i) of this section.

(3) Subject to the provisions of any applicable bond resolution regarding the holding or application of amounts in the Bay Restoration Fund, the Treasurer shall separately hold, and the Comptroller shall account for, the Bay Restoration Fund.

(4) Subject to the provisions of any applicable bond resolution governing the investment of amounts in the Bay Restoration Fund, the Bay Restoration Fund shall be invested and reinvested in the same manner as other State funds.

(5) Any investment earnings shall be retained to the credit of the Bay Restoration Fund.

(6) The Bay Restoration Fund shall be subject to audit by the Office of Legislative Audits as provided under § 2-1220 of the State Government Article.

(7) The Administration shall operate the Bay Restoration Fund in accordance with §§ 9-1616 through 9-1621 of this subtitle.

(i) (1) In this subsection, “eligible costs” means the additional costs that would be attributable to upgrading a wastewater facility from biological nutrient removal to enhanced nutrient removal, as determined by the Department.

(2) Funds in the Bay Restoration Fund shall be used only:

(i) To award grants for up to 100% of eligible costs of projects relating to planning, design, construction, and upgrade of a wastewater facility for flows up to the design capacity of the wastewater facility, as approved by the Department, to achieve enhanced nutrient removal in accordance with paragraph (3) of this subsection;

(ii) 1. In fiscal years 2005 through 2009, inclusive, for a portion of the costs of projects relating to combined sewer overflows abatement, rehabilitation of existing sewers, and upgrading conveyance systems, including pumping stations, not to exceed an annual total of \$5,000,000; and

2. In fiscal years 2010 and thereafter, for a portion of the operation and maintenance costs related to the enhanced nutrient removal technology, which may not exceed 10% of the total restoration fee collected from users of wastewater facilities under this section by the Comptroller annually;

(iii) As a source of revenue or security for the payment of principal and interest on bonds issued by the Administration if the proceeds of the sale of the bonds will be deposited in the Bay Restoration Fund;

(iv) To earn interest on Bay Restoration Fund accounts;

(v) For the reasonable costs of administering the Bay Restoration Fund, which may not exceed 1.5% of the total restoration fees imposed on users of wastewater facilities that are collected by the Comptroller annually;

(vi) For the reasonable administrative costs incurred by a local government or a billing authority for a water or wastewater facility collecting the restoration fees, in an amount not to exceed 5% of the total restoration fees collected by that local government or billing authority;

(vii) For future upgrades of wastewater facilities to achieve additional nutrient removal or water quality improvement, in accordance with paragraphs (6) and (7) of this subsection;

(viii) For costs associated with the issuance of bonds; and

(ix) Subject to the allocation of funds and the conditions under subsection (h) of this section, for projects related to the removal of nitrogen from onsite sewage disposal systems and cover crop activities.

(3) The grant agreement and State discharge permit, if applicable, shall require an owner of a wastewater facility to operate the enhanced nutrient removal facility in a manner that optimizes the nutrient removal capability of the facility in order to achieve enhanced nutrient removal performance levels.

(4) The grant agreement shall require a grantee to demonstrate, to the satisfaction of the Department, that steps were taken to include small business enterprises, minority business enterprises, and women's business enterprises by:

(i) Placing qualified small business enterprises, minority business enterprises, and women's business enterprises on solicitation lists;

(ii) Assuring that small business enterprises, minority business enterprises, and women's business enterprises are solicited whenever they are potential sources;

(iii) Dividing total requirements, when economically feasible, into small tasks or quantities to permit maximum participation of small business enterprises, minority business enterprises, and women's business enterprises;

(iv) Establishing delivery schedules, where the requirement permits, that encourage participation by small business enterprises, minority business enterprises, and women's business enterprises; and

(v) Using the services and assistance of the Maryland Department of Transportation and the Governor's Office of Minority Affairs in identifying and soliciting small business enterprises, minority business enterprises, and women's business enterprises.

(5) If the steps required under paragraph (4) of this subsection are not demonstrated to the satisfaction of the Department, the Department may withhold financial assistance for the project.

(6) (i) All wastewater facilities serving Maryland users that have contributed to the Bay Restoration Fund are eligible for grants under this section, including the Blue Plains Wastewater Treatment Plant in the District of Columbia.

(ii) Grants issued under paragraph (2)(i) of this subsection for upgrades to the Blue Plains Wastewater Treatment Plant may be awarded only if each party to the Blue Plains Intermunicipal Agreement of 1985 contributes a proportional share of the upgrade costs in accordance with the Blue Plains Intermunicipal Agreement of 1985, as revised and updated.

(7) Priority for funding an upgrade of a wastewater facility shall be given to enhanced nutrient removal upgrades at wastewater facilities with a design capacity of 500,000 gallons or more per day.

(8) (i) The eligibility and priority ranking of a project shall be determined by the Department based on criteria established in regulations adopted by the Department, in accordance with subsection (k) of this section.

(ii) The criteria adopted by the Department shall include, as appropriate, consideration of:

1. The cost-effectiveness in providing water quality benefit;
2. The water quality benefit to a body of water identified by the Department as impaired under Section 303(d) of the Clean Water Act;
3. The readiness of a wastewater facility to proceed to construction; and



4. The nitrogen and phosphorus loads discharged by a wastewater facility.

(9) A wastewater facility that has not been offered or has not received funds from the Department under this section or from any other fund in the Department may not be required to upgrade to enhanced nutrient removal levels, except as otherwise required under federal or State law.

(j) (1) There is a Bay Restoration Fund Advisory Committee.

(2) The Committee consists of the following members:

(i) The Secretaries of the Environment, Agriculture, Planning, Natural Resources, and Budget and Management, or their designees;

(ii) One member of the Senate, appointed by the President of the Senate;

(iii) One member of the House of Delegates, appointed by the Speaker of the House of Delegates;

(iv) Two individuals representing publicly owned wastewater facilities, appointed by the Governor;

(v) Two individuals representing environmental organizations, appointed by the Governor;

(vi) One individual each from the Maryland Association of Counties and the Maryland Municipal League, appointed by the Governor;

(vii) Two individuals representing the business community, appointed by the Governor;

(viii) Two individuals representing local health departments who have expertise in onsite sewage disposal systems, appointed by the Governor; and

(ix) One individual representing a university or research institute who has expertise in nutrient pollution, appointed by the Governor.

(3) The Governor shall appoint the chairman of the Committee from the designated members of the Committee.

(4) The Committee may consult with any stakeholder group as it deems necessary.

(5) (i) The term of a member is 4 years.

- (ii) A member continues to serve until a successor is appointed.
  - (iii) The terms of the members appointed by the Governor are staggered as required by the terms provided for members of the Committee on October 1, 2004.
  - (iv) At the end of a term, a member continues to serve until a successor is appointed and qualifies.
  - (v) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies.
- (6) The Committee shall:
- (i) Perform an analysis of the cost of nutrient removal from wastewater facilities;
  - (ii) Identify additional sources for funding the Bay Restoration Fund;
  - (iii) Make recommendations to improve the effectiveness of the Bay Restoration Fund in reducing nutrient loadings to the waters of the State;
  - (iv) Make recommendations regarding the appropriate increase in the restoration fee to be assessed in fiscal year 2008 and subsequent years as necessary to meet the financing needs of the Bay Restoration Fund;
  - (v) In consultation with the governing body of each county:
    - 1. Identify users of onsite sewage disposal systems and holding tanks; and
    - 2. Make recommendations to the governing body of each county on the best method of collecting the Bay Restoration Fee from the users of onsite sewage disposal systems and holding tanks that do not receive water bills;
  - (vi) Advise the Department on the components of an education, outreach, and upgrade program established within the Department under subsection (h)(2)(i)2 of this section;
  - (vii) Study the availability of money from the Fund for the supplemental assistance program within the Department to provide grants to smaller, economically disadvantaged communities in the State to upgrade their wastewater collection and treatment facilities;
  - (viii) Advise the Secretary concerning the adoption of regulations as described in subsection (k) of this section; and

(ix) Beginning January 1, 2006, and every year thereafter, report to the Governor and, subject to § 2-1246 of the State Government Article, the General Assembly on its findings and recommendations.

(7) Members of the Committee:

(i) May not receive compensation; but

(ii) Are entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(8) The Department of the Environment, Department of Agriculture, Department of Planning, Department of Natural Resources, and Department of Budget and Management shall provide staff support for the Committee.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

**Approved by the Governor, April 14, 2009.**

---

## Chapter 128

### (House Bill 109)

AN ACT concerning

#### **Health – Issuance of Birth Certificates – Surviving Spouse**

FOR the purpose of ~~requiring the Secretary of Health and Mental Hygiene to provide certain individuals with certain certificates on request;~~ altering a provision of law to allow ~~certain birth certificates~~ a certified or abridged copy of a birth certificate to be issued on request of a surviving spouse; and generally relating to the issuance of birth, ~~death, and marriage~~ certificates.

BY repealing and reenacting, without amendments,

Article – Health – General

Section 4-217(a)

Annotated Code of Maryland

(2005 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,

Article – Health – General

Section 4-217~~(a)~~ and (b)

Annotated Code of Maryland

(2005 Replacement Volume and 2008 Supplement)

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

**Article – Health – General**

4–217.

(a) (1) Except as provided in subsection (b) of this section, the Secretary shall provide, on request, ~~any person authorized by regulations adopted under this subtitle with~~ a certified or abridged copy of a birth, death, or fetal death certificate registered under this subtitle or of the certificate of a marriage performed after June 1, 1951, ~~to:~~

~~(I) AN INDIVIDUAL NAMED ON THE CERTIFICATE;~~

~~(II) A PARENT OF AN INDIVIDUAL NAMED ON THE CERTIFICATE;~~

~~(III) A LEGAL GUARDIAN OF AN INDIVIDUAL NAMED ON THE CERTIFICATE;~~

~~(IV) A SURVIVING SPOUSE OF AN INDIVIDUAL NAMED ON THE BIRTH OR DEATH CERTIFICATE; OR~~

~~(V) ANY REPRESENTATIVE AUTHORIZED BY REGULATIONS ADOPTED BY THE DEPARTMENT UNDER THIS SUBTITLE.~~

(2) Except as provided in subsection (b) of this section, a local health department may:

(i) Access electronically from the Department a certified or abridged copy of a birth certificate registered under this subtitle; and

(ii) On request, provide any person authorized by regulations adopted under this subtitle with a certified or abridged copy of a birth certificate registered under this subtitle.

(3) (i) The Secretary shall provide on request, to any person authorized by regulation adopted under this subtitle, a commemorative birth certificate.

(ii) The Department shall set a fee for the commemorative birth certificate.

(iii) The commemorative birth certificate shall:

1. Be in a form consistent with the need to protect the integrity of vital records but suitable for display; and
2. Have the same status as evidence as the original birth certificate.

(iv) A portion of the funds collected under this paragraph shall go to the Department for the production costs of issuing the commemorative birth certificates. The remainder of the funds collected shall be paid into the Children's Trust Fund established under § 13–2207 of this article to provide funding for the Child Abuse and Neglect Centers of Excellence Initiative.

(v) The Secretary shall adopt regulations to implement the provisions of this paragraph.

(b) (1) A certified or abridged copy of a birth certificate may be issued only:

- (i) On order of a court of competent jurisdiction;
- (ii) On request of the individual to whom the record relates;
- (iii) On request of a parent, guardian, **SURVIVING SPOUSE**, or other authorized representative of the individual; or
- (iv) In accordance with Title 5, Subtitle 3A or Subtitle 4B of the Family Law Article.

(2) A certified or abridged copy of a birth certificate may contain only the personal information that appears on the birth certificate and may not include any confidential medical information that appears on the birth certificate.

(3) Birth certificate information may not be given if it is to be used for commercial solicitation or private gain.

(4) A noncertified copy of a birth certificate including confidential medical information may be provided to a unit of the Department to carry out its legal mandate or to conduct Institutional Review Board (IRB) approved research or study. Any report resulting from this research or study may not contain personal identifiers unless authorized by the subject of the record or the subject's parent or authorized representative.

(5) A copy of a birth certificate may be given to the Maryland Immunization Program to improve childhood immunization rates.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, April 14, 2009.

---

## Chapter 129

### (House Bill 119)

AN ACT concerning

#### Children's Products Containing Lead – Modifications

FOR the purpose of altering the requirements for the testing entity that is to be used by a manufacturer of a children's product; altering certain definitions; defining a certain term; altering the electronic devices, products, and materials to which this Act does not apply; clarifying the manufacturers and importers that are required to perform certain testing; clarifying the children's products to be tested to determine whether they are lead-containing products; providing that a certain certificate is not required for the sale of certain products; making this Act an emergency measure; and generally relating to children's products containing lead.

BY repealing and reenacting, with amendments,  
Article – Environment  
Section 6–1301, 6–1302, and 6–1304  
Annotated Code of Maryland  
(2007 Replacement Volume and 2008 Supplement)

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

#### Article – Environment

6–1301.

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

(b) [(1) Subject to paragraph (2) of this subsection, “child”] **“CHILD”** means an individual who is under the age of [6] **13** years.

[(2) If a federal law establishing the permissible level of lead in children's products is enacted, “child” shall mean an individual who is the age specified in the federal law.]

(c) (1) “Children’s product” means[:

(i) A product that is marketed for use by a child; or

(ii) A product the use of which by a child is foreseeable] **A PRODUCT DESIGNED OR INTENDED PRIMARILY FOR A CHILD AS SPECIFIED IN FEDERAL LAW.**

(2) “Children’s product” does not include:

**(I) [food] FOOD as defined in § 21–101 of the Health – General Article; OR**

**(II) ANY COMPONENT PART OF A CHILDREN’S PRODUCT THAT IS NOT ACCESSIBLE TO A CHILD THROUGH NORMAL AND REASONABLY FORESEEABLE USE AND ABUSE OF THE PRODUCT AS SPECIFIED IN FEDERAL LAW.**

**(D) “FEDERAL LAW” MEANS THE CONSUMER PRODUCT SAFETY ACT OF 2008 AND REGULATIONS ADOPTED UNDER THE ACT.**

**[(d)] (E)** “Lead-containing product” means a product in which any part, component, or coating of the product contains lead or lead compounds greater than the lesser of:

(1) 0.06% by weight of the total weight of the part, component, or coating; or

(2) The standard established under federal law regarding the permissible level of lead in children’s products.

**[(e)] (F)** “Manufacturer” means a person that is the brand owner of a product.

**[(f)] (G)** “Product” includes:

(1) Accessories and jewelry;

(2) Clothing;

(3) Decorative objects;

(4) Furniture;

(5) Lunch boxes and eating utensils;

- (6) Toys; and
- (7) Any other item specified by the Department in regulation.

6–1302.

This subtitle does not apply to:

(1) An electronic device that [is a lead–containing product unless the Secretary determines that during the normal use of the electronic device there is a significant risk that a child could be exposed to the lead contained in the electronic device] **IS IN COMPLIANCE WITH FEDERAL LAW;**

(2) Any distribution operation or activity performed in a factory, warehouse, or establishment, or, in the course of surface transportation, at a port facility as defined in § 6–101 of the Transportation Article; [and]

(3) A vehicle as defined in § 11–176 of the Transportation Article, a product or part for use in a vehicle, or transportation equipment; **AND**

**(4) A PRODUCT OR MATERIAL EXCLUDED BY FEDERAL LAW.**

6–1304.

(a) A UNITED STATES manufacturer, **OR IF THE MANUFACTURER IS NOT A UNITED STATES MANUFACTURER, THE IMPORTER OF RECORD,** of a children’s product **FOR WHICH A CHILDREN’S PRODUCT CERTIFICATION IS REQUIRED UNDER FEDERAL LAW** shall:

(1) Test whether the children’s product is a lead–containing product by using [an independent third party qualified testing entity that:

(i) Is not owned, managed, controlled, or directed by the manufacturer; and

(ii) Is accredited in accordance with an accreditation process established or recognized by the Department] **A TESTING ENTITY QUALIFIED OR CERTIFIED UNDER FEDERAL LAW;** and

(2) If the children’s product tested under item (1) of this subsection is not a lead–containing product, issue a certificate that certifies that the children’s product is not a lead–containing product.

(b) A person shall ensure that the certificate issued in accordance with subsection (a) of this section is transmitted with the children’s product to any distributor or retailer who receives the children’s product.



(c) A manufacturer shall:

(1) Maintain a copy of any documents related to lead testing and any certificate issued in accordance with subsection (a) of this section; and

(2) Provide a copy to the Department or any person on request.

(d) A retailer shall:

(1) Maintain a copy of any certificate issued in accordance with subsection (a) of this section; and

(2) Provide a copy to the Department or any person on request.

(e) **(1) [A] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A person may not sell or offer for sale in the State, by any means, including transactions conducted through a sales outlet, a catalog, or the Internet, a children's product for which there is no certificate issued in accordance with subsection (a) of this section.**

**(2) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBTITLE, A CERTIFICATE IS NOT REQUIRED FOR THE SALE OF A USED CHILDREN'S PRODUCT AT A THRIFT STORE, CONSIGNMENT STORE, YARD SALE, OR ANY OTHER ~~SECOND-HAND~~ SECONDHAND POINT OF SALE.**

(f) A certificate issued in accordance with subsection (a) of this section shall be:

(1) Based on a test of each children's product or on a testing protocol that is established or recognized by the Department; and

(2) On a form created or approved by the Department.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a ye and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

**Approved by the Governor, April 14, 2009.**

---

**Chapter 130****(House Bill 127)**

AN ACT concerning

**Death Certificate – Correction – Notice of Right to Appeal Denial**

FOR the purpose of requiring the Secretary of Health and Mental Hygiene to include with a copy of ~~a certain death certificate~~ certain death certificates a certain notice advising a person in interest of the right to appeal a denial of a request to correct findings and conclusions as to the cause and manner of death recorded on a death certificate; requiring the Department to take a certain action at a certain time; and generally relating to death certificates and notice of the right to appeal a denial of a request for correction.

BY repealing and reenacting, without amendments,  
Article – Health – General  
Section 4–217(e) and 5–310(d)  
Annotated Code of Maryland  
(2005 Replacement Volume and 2008 Supplement)

BY adding to  
Article – Health – General  
Section 4–217(f)  
Annotated Code of Maryland  
(2005 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,  
Article – Health – General  
Section 4–217(f)  
Annotated Code of Maryland  
(2005 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, without amendments,  
Article – State Government  
Section 10–611(e)(3)  
Annotated Code of Maryland  
(2004 Replacement Volume and 2008 Supplement)

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

**Article – Health – General**

4–217.

(e) The Secretary shall include with every copy of a death certificate, in a form prescribed and provided by the Insurance Commissioner, a notice which advises that certain individuals may be entitled to continuation of group health insurance benefits under § 15–407 of the Insurance Article.

**(F) THE SECRETARY SHALL INCLUDE WITH EVERY COPY OF A DEATH CERTIFICATE THAT IS COMPLETED BY THE CHIEF MEDICAL EXAMINER A NOTICE THAT ADVISES A PERSON IN INTEREST, AS DEFINED IN § 10–611(E)(3) OF THE STATE GOVERNMENT ARTICLE, OF THE RIGHT TO APPEAL A DENIAL BY THE CHIEF MEDICAL EXAMINER OF A REQUEST TO CORRECT FINDINGS AND CONCLUSIONS AS TO THE CAUSE AND MANNER OF DEATH RECORDED ON A DEATH CERTIFICATE AS PROVIDED UNDER § 5–310(D) OF THIS ARTICLE.**

**[(f)] (G)** A person may use a photocopy of a birth, death, fetal death, or marriage certificate for any nonfraudulent and nondeceptive purpose.

5–310.

(d) (1) The individual who performs the autopsy shall prepare detailed written findings during the progress of the autopsy. These findings and the conclusions drawn from them shall be filed in the office of the medical examiner for the county where the death occurred. The original copy of the findings and conclusions shall be filed in the office of the Chief Medical Examiner.

(2) (i) Except in a case of a finding of homicide, a person in interest as defined in § 10–611(e)(3) of the State Government Article may request the medical examiner to correct findings and conclusions on the cause and manner of death recorded on a certificate of death under § 10–625 of the State Government Article within 60 days after the medical examiner files those findings and conclusions.

(ii) If the Chief Medical Examiner denies the request of a person in interest to correct findings and conclusions on the cause of death, the person in interest may appeal the denial to the Secretary, who shall refer the matter to the Office of Administrative Hearings. A contested case hearing under this paragraph shall be a hearing both on the denial and on the establishment of the findings and conclusions on the cause of death.

(iii) The administrative law judge shall submit findings of fact to the Secretary.

(iv) After reviewing the findings of the administrative law judge, the Secretary, or the Secretary's designee, shall issue an order to:

1. Adopt the findings of the administrative law judge; or

2. Reject the findings of the administrative law judge, and affirm the findings of the medical examiner.

(v) The appellant may appeal a rejection under subparagraph (iv)2 to a circuit court of competent jurisdiction.

(vi) If the final decision of the Secretary, or of the Secretary's designee, or of a court of competent jurisdiction on appeal, establishes a different finding or conclusion on the cause or manner of death of a deceased than that recorded on the certificate of death, the medical examiner shall amend the certificate to reflect the different finding or conclusion under §§ 4-212 and 4-214 of this article and § 10-625 of the State Government Article.

(vii) The final decision of the Secretary, or the Secretary's designee, or of a court under this paragraph may not give rise to any presumption concerning the application of any provision of or the resolution of any claim concerning a policy of insurance relating to the deceased.

(viii) If the findings of the medical examiner are upheld by the Secretary, the appellant is responsible for the costs of the contested case hearing. Otherwise, the Department is responsible for the costs of the hearing.

#### Article – State Government

10-611.

(e) “Person in interest” means:

(3) as to requests for correction of certificates of death under § 5-310(d)(2) of Health – General Article, the spouse, adult child, parent, adult sibling, grandparent, or guardian of the person of the deceased at the time of the deceased's death.

SECTION 2. AND BE IT FURTHER ENACTED, That the Department of Health and Mental Hygiene shall phase in the requirement under this Act, consistent with the establishment of an electronic death certificate system, so that the notice required under Section 1 of this Act is provided with the implementation of the electronic death certificate system.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

**Approved by the Governor, April 14, 2009.**

---

## Chapter 131

(House Bill 141)

AN ACT concerning

~~Insurance – Contracts Between Insurers and Health Care Providers –~~  
**Prohibitions Insurer Provider Panels – Health Care Providers**

FOR the purpose of prohibiting an insurer ~~and an entity that contracts with health care providers on behalf of an insurer from assigning, transferring, or subcontracting a health care provider's contract to an insurer that offers personal injury protection coverage or workers' compensation insurance under certain circumstances; prohibiting an insurer and an entity that contracts directly with health care providers on behalf of an insurer from terminating, limiting, or otherwise impairing the contract or employment of a health care provider with the insurer under certain circumstances~~ from using an insurer provider panel if the provider contract for the insurer provider panel requires a provider to participate on the insurer provider panel as a condition of participating on a health maintenance organization provider panel or a non-health maintenance organization provider panel; requiring insurers and entities that contract with health care providers on behalf of insurers ~~an entity arranging an insurer provider panel to provide certain information to a health care provider at certain times; defining certain terms; and generally relating to contracts between insurers~~ insurer provider panels and health care providers.

BY adding to

Article – Insurance

Section 19-115

Annotated Code of Maryland

(2006 Replacement Volume and 2008 Supplement)

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

**Article – Insurance**

19-115.

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

~~(2) "CONTRACT" MEANS THE IMPLIED OR EXPRESS AGREEMENT BETWEEN A HEALTH CARE PROVIDER AND AN INSURER OR AN ENTITY THAT CONTRACTS WITH HEALTH CARE PROVIDERS ON BEHALF OF AN INSURER,~~

~~INCLUDING THE RIGHTS, OBLIGATIONS, AND FEE SCHEDULE FOR THE PROVISION OF HEALTH CARE SERVICES.~~

~~(3) "HEALTH CARE PROVIDER" MEANS AN INDIVIDUAL WHO IS LICENSED, CERTIFIED, OR OTHERWISE AUTHORIZED UNDER THE HEALTH OCCUPATIONS ARTICLE TO PROVIDE HEALTH CARE SERVICES.~~

~~(B) (1) AN INSURER OR AN ENTITY THAT CONTRACTS DIRECTLY WITH HEALTH CARE PROVIDERS ON BEHALF OF AN INSURER MAY NOT IN ANY MANNER ASSIGN, TRANSFER, OR SUBCONTRACT A HEALTH CARE PROVIDER'S CONTRACT, WHOLLY OR PARTLY, TO AN INSURER THAT OFFERS PERSONAL INJURY PROTECTION COVERAGE UNDER § 19-505 OF THIS TITLE WITHOUT FIRST INFORMING THE HEALTH CARE PROVIDER AND OBTAINING THE HEALTH CARE PROVIDER'S EXPRESS WRITTEN CONSENT.~~

~~(2) AN INSURER OR AN ENTITY THAT CONTRACTS WITH HEALTH CARE PROVIDERS ON BEHALF OF AN INSURER MAY NOT TERMINATE, LIMIT, OR OTHERWISE IMPAIR THE CONTRACT OR EMPLOYMENT OF A HEALTH CARE PROVIDER WITH THE INSURER ON THE BASIS THAT THE HEALTH CARE PROVIDER REFUSED TO AGREE TO AN ASSIGNMENT, TRANSFER, OR SUBCONTRACT OF ALL OR PART OF THE HEALTH CARE PROVIDER'S CONTRACT TO AN INSURER THAT OFFERS PERSONAL INJURY PROTECTION COVERAGE UNDER § 19-505 OF THIS TITLE.~~

~~(C) (1) AN INSURER OR AN ENTITY THAT CONTRACTS DIRECTLY WITH HEALTH CARE PROVIDERS ON BEHALF OF AN INSURER MAY NOT IN ANY MANNER ASSIGN, TRANSFER, OR SUBCONTRACT A HEALTH CARE PROVIDER'S CONTRACT, WHOLLY OR PARTLY, TO AN INSURER THAT OFFERS WORKERS' COMPENSATION INSURANCE WITHOUT FIRST INFORMING THE HEALTH CARE PROVIDER AND OBTAINING THE HEALTH CARE PROVIDER'S EXPRESS WRITTEN CONSENT.~~

~~(2) AN INSURER OR AN ENTITY THAT CONTRACTS WITH HEALTH CARE PROVIDERS ON BEHALF OF AN INSURER MAY NOT TERMINATE, LIMIT, OR OTHERWISE IMPAIR THE CONTRACT OR EMPLOYMENT OF A HEALTH CARE PROVIDER WITH THE INSURER ON THE BASIS THAT THE HEALTH CARE PROVIDER REFUSED TO AGREE TO AN ASSIGNMENT, TRANSFER, OR SUBCONTRACT OF ALL OR PART OF THE HEALTH CARE PROVIDER'S CONTRACT TO AN INSURER THAT OFFERS WORKERS' COMPENSATION INSURANCE.~~

~~(D) AN INSURER OR AN ENTITY THAT CONTRACTS WITH HEALTH CARE PROVIDERS ON BEHALF OF AN INSURER SHALL PROVIDE TO A HEALTH CARE PROVIDER A SCHEDULE OF APPLICABLE FEES FOR UP TO THE 50 MOST COMMON SERVICES BILLED BY A HEALTH CARE PROVIDER IN THAT SPECIALTY;~~

~~(1) IN WRITING AT THE TIME OF CONTRACT EXECUTION;~~

~~(2) IN WRITING OR ELECTRONICALLY 30 DAYS PRIOR TO A CHANGE; AND~~

~~(3) IN WRITING OR ELECTRONICALLY UPON REQUEST OF THE HEALTH CARE PROVIDER.~~

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

(2) "HEALTH CARE PROVIDER" MEANS AN INDIVIDUAL WHO IS LICENSED, CERTIFIED, OR OTHERWISE AUTHORIZED UNDER THE HEALTH OCCUPATIONS ARTICLE TO PROVIDE HEALTH CARE SERVICES.

(3) "HMO PROVIDER PANEL" MEANS A PROVIDER PANEL FOR ONE OR MORE HEALTH MAINTENANCE ORGANIZATIONS.

(4) "INSURER PROVIDER PANEL" MEANS A PROVIDER PANEL FOR ONE OR MORE INSURERS ENGAGED IN THE BUSINESS OF CASUALTY INSURANCE OR PROPERTY INSURANCE.

(5) "NON-HMO PROVIDER PANEL" MEANS A PROVIDER PANEL FOR ONE OR MORE NONPROFIT HEALTH SERVICE PLANS OR INSURERS.

(6) "PROVIDER CONTRACT" MEANS A CONTRACT BETWEEN A HEALTH CARE PROVIDER AND AN ENTITY THAT CONTRACTS WITH A HEALTH CARE PROVIDER TO SERVE ON AN INSURER PROVIDER PANEL, AN HMO PROVIDER PANEL, OR A NON-HMO PROVIDER PANEL.

(B) (1) AN INSURER MAY NOT USE AN INSURER PROVIDER PANEL IF THE PROVIDER CONTRACT FOR THE INSURER PROVIDER PANEL REQUIRES A PROVIDER TO PARTICIPATE ON THE INSURER PROVIDER PANEL AS A CONDITION OF PARTICIPATING ON AN HMO PROVIDER PANEL OR A NON-HMO PROVIDER PANEL.

(2) AN ENTITY ARRANGING AN INSURER PROVIDER PANEL SHALL PROVIDE A HEALTH CARE PROVIDER A SCHEDULE OF APPLICABLE FEES FOR UP TO THE 50 MOST COMMON SERVICES BILLED BY A HEALTH CARE PROVIDER IN THE SPECIALTY OF THE HEALTH CARE PROVIDER:

(I) IN WRITING AT THE TIME OF EXECUTION OF A PROVIDER CONTRACT;

**(II) IN WRITING OR ELECTRONICALLY 30 DAYS BEFORE A CHANGE IN THE SCHEDULE OF APPLICABLE FEES; AND**

**(III) IN WRITING OR ELECTRONICALLY ON REQUEST OF THE HEALTH CARE PROVIDER.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

**Approved by the Governor, April 14, 2009.**

---

## **Chapter 132**

**(House Bill 149)**

AN ACT concerning

### **Estates and Trusts – Trust for Care of Animal**

FOR the purpose of establishing that the common-law rule against perpetuities does not apply to a certain trust created for the care of an animal alive during the lifetime of the settlor; authorizing the creation of a trust to provide for the care of an animal alive during the lifetime of the settlor; establishing when a certain trust terminates; authorizing a certain person to enforce a certain trust; authorizing a person having an interest in the welfare of an animal the care for which a trust is established to make certain requests to a court; establishing that the property of a certain trust may be applied only to the intended use of the trust, except to the extent the court may make a certain determination; requiring that property not required for the intended use of a certain trust be distributed in a certain manner; providing for the application of this Act; and generally relating to trusts for the care of animals.

BY repealing and reenacting, with amendments,

Article – Estates and Trusts

Section 11–102

Annotated Code of Maryland

(2001 Replacement Volume and 2008 Supplement)

BY adding to

Article – Estates and Trusts

Section 14–112

Annotated Code of Maryland

(2001 Replacement Volume and 2008 Supplement)



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

**Article – Estates and Trusts**

11–102.

(a) In this section, “usufructuary” means a person having a usufruct or right to enjoy a thing in which the person has no property interest.

(b) Subject to §§ 4–409 of this article and 11–103 of this subtitle, the common-law rule against perpetuities as now recognized in the State is preserved, but the rule does not apply to the following:

(1) A legacy or inter vivos conveyance having a value of \$5,000 or less, or of any burial lot of any value, in trust or otherwise, for the purpose of providing for the perpetual care or keeping in good order and condition, or making repairs to, any lot, vault, mausoleum, or other place of sepulture belonging to any individual or several individuals in any cemetery or graveyard, the lots in which are intended for the burial of members of the family, family connections, relatives, or friends of the owners, or their successors in ownership;

(2) A legacy or inter vivos conveyance intended to transfer assets from any corporation incorporated for charitable objects, to any other charitable corporation on a contingency or future event;

(3) A trust created by an employer as part of a pension, stock bonus, disability, death benefit, profit-sharing, retirement, welfare, or other plan for the exclusive benefit of some or all of the employees of the employer or their beneficiaries, to which contributions are made by the employer or employees, or both the employer and employees, for the purpose of making distributions to or for the benefit of employees or their beneficiaries out of the income or principal or both the income and principal of the trust, or for any other purposes set out in the plan;

(4) A trust for charitable purposes, which shall include all purposes as are within the spirit or letter of the statute of 43 Elizabeth Ch. 4 (1601), commonly known as the statute of charitable uses;

(5) A trust in which the governing instrument states that the rule against perpetuities does not apply to the trust and under which the trustee, or other person to whom the power is properly granted or delegated, has the power under the governing instrument, applicable statute, or common law to sell, lease, or mortgage property for any period of time beyond the period that is required for an interest created under the governing instrument to vest, so as to be good under the rule against perpetuities;

(6) An option of a tenant to renew a lease;

(7) An option of a tenant to purchase all or part of the premises leased by the tenant;

(8) An option of a usufructuary to extend the scope of an easement or profit;

(9) The right of a county, a municipality, a person from whom land is acquired, or the successor-in-interest of a person from whom land is acquired, to acquire land from the State in accordance with § 8-309 of the Transportation Article;

(10) A right or privilege, including an option, warrant, pre-emptive right, right of first refusal, right of first option, right of first negotiation, call right, exchange right, or conversion right, to acquire an interest in a domestic or foreign joint venture, partnership, limited liability partnership, limited partnership, limited liability limited partnership, corporation, cooperative, limited liability company, business trust, or similar enterprise, whether the interest is characterized as a joint venture interest, partnership interest, limited partnership interest, membership interest, security, stock, or otherwise; [or]

(11) A nondonative property interest as described in § 11-102.1 of this subtitle; OR

**(12) A TRUST CREATED UNDER § 14-112 OF THIS ARTICLE TO PROVIDE FOR THE CARE OF AN ANIMAL ALIVE DURING THE LIFETIME OF THE SETTLOR.**

**14-112.**

**(A) A TRUST MAY BE CREATED TO PROVIDE FOR THE CARE OF AN ANIMAL ALIVE DURING THE LIFETIME OF THE SETTLOR.**

**(B) A TRUST AUTHORIZED BY THIS SECTION TERMINATES:**

**(1) IF CREATED TO PROVIDE FOR THE CARE OF ONE ANIMAL ALIVE DURING THE LIFETIME OF THE SETTLOR, ON THE DEATH OF THE ANIMAL; OR**

**(2) IF CREATED TO PROVIDE FOR THE CARE OF MORE THAN ONE ANIMAL ALIVE DURING THE LIFETIME OF THE SETTLOR, ON THE DEATH OF THE LAST SURVIVING ANIMAL.**

**(C) (1) A TRUST AUTHORIZED BY THIS SECTION MAY BE ENFORCED BY A PERSON APPOINTED UNDER THE TERMS OF THE TRUST OR, IF NO PERSON IS APPOINTED, BY A PERSON APPOINTED BY THE COURT.**

(2) A PERSON HAVING AN INTEREST IN THE WELFARE OF AN ANIMAL THE CARE FOR WHICH A TRUST IS ESTABLISHED MAY REQUEST THE COURT TO APPOINT A PERSON TO ENFORCE THE TRUST OR TO REMOVE A PERSON APPOINTED.

(D) (1) EXCEPT TO THE EXTENT THAT THE COURT MAY DETERMINE THAT THE VALUE OF A TRUST AUTHORIZED BY THIS SECTION EXCEEDS THE AMOUNT REQUIRED FOR THE USE INTENDED BY THE TRUST, THE PROPERTY OF THE TRUST MAY BE APPLIED ONLY TO THE INTENDED USE OF THE TRUST.

(2) EXCEPT AS OTHERWISE PROVIDED UNDER THE TERMS OF THE TRUST, PROPERTY NOT REQUIRED FOR THE INTENDED USE OF THE TRUST SHALL BE DISTRIBUTED:

(I) TO THE SETTLOR, IF LIVING; OR

(II) IF THE SETTLOR IS DECEASED, TO THE SUCCESSORS IN INTEREST OF THE SETTLOR.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to a trust created before the effective date of this Act.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

**Approved by the Governor, April 14, 2009.**

---

## Chapter 133

### (House Bill 160)

AN ACT concerning

#### **Insurance – Fraudulent Acts – Insurance Producers and Adjusters**

FOR the purpose of altering the circumstances under which it is a fraudulent insurance act for a person to act as or represent to the public that the person is an insurance producer or a public adjuster in the State; and generally relating to fraudulent insurance acts.

BY repealing and reenacting, with amendments,  
Article – Insurance

Section 27-405  
Annotated Code of Maryland  
(2006 Replacement Volume and 2008 Supplement)

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

**Article – Insurance**

27-405.

(a) It is a fraudulent insurance act for a person to act as or represent to the public that the person is an insurance producer or **A PUBLIC** adjuster in the State if the person has not received the appropriate license under or otherwise complied with Title 10[, Subtitle 1] of this article.

(b) It is a fraudulent insurance act for an insurance producer:

(1) to solicit or take application for, procure, or place for others insurance for which the insurance producer has not obtained an appropriate license;

(2) knowingly to violate § 10-130 of this article; or

(3) intentionally to fail to report to an insurer the exact amount of consideration charged as a premium for an insurance contract, if different from the policy premium, and to fail to maintain records that show that information.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

**Approved by the Governor, April 14, 2009.**

---

**Chapter 134**

**(House Bill 200)**

AN ACT concerning

**Maryland Uniform Prudent Management of Institutional Funds Act**

FOR the purpose of repealing certain provisions of law relating to the management of institutional funds; establishing the Maryland Uniform Prudent Management of Institutional Funds Act; establishing a standard of conduct in managing and investing a certain institutional fund; authorizing a certain institution to appropriate for expenditure or accumulate so much of a certain endowment

fund as the institution determines is prudent for certain purposes; establishing a certain presumption of imprudence; requiring notice of a certain appropriation by an institution to the Attorney General under certain circumstances; requiring the institution to consider certain factors in making a certain determination; providing certain rules of construction; providing for the delegation of certain management and investment functions; establishing how certain restrictions on the management, investment, or purpose of an institutional fund may be released or modified; requiring that compliance with this Act be determined in a certain manner; providing for the application of this Act; establishing that this Act modifies, limits, and supersedes certain provisions of federal law; defining certain terms; making this Act an emergency measure; and generally relating to the management of institutional funds.

BY repealing

Article – Estates and Trusts

Section 15–401 through 15–409

Annotated Code of Maryland

(2001 Replacement Volume and 2008 Supplement)

BY adding to

Article – Estates and Trusts

Section 15–401 through 15–410 to be under the amended subtitle “Subtitle 4. Maryland Uniform Prudent Management of Institutional Funds Act”

Annotated Code of Maryland

(2001 Replacement Volume and 2008 Supplement)

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

#### **Article – Estates and Trusts**

Subtitle 4. Maryland Uniform **PRUDENT** Management of Institutional Funds Act.

[15–401.

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

(b) “Endowment fund” means an institutional fund, or any part of it not wholly expendable by the institution on a current basis under the terms of the applicable gift instrument.

(c) “Gift instrument” means a will, deed, grant, conveyance, agreement, memorandum, writing, or other governing document, including the terms of any institutional solicitations from which an institutional fund results, under which property is transferred to or held by an institution as an institutional fund.

(d) “Governing board” means the body responsible for the management of an institution or of an institutional fund.

(e) “Historic dollar value” means the aggregate fair value in dollars of (1) an endowment fund at the time it became an endowment fund, (2) each subsequent donation to the fund at the time it is made, and (3) each accumulation made pursuant to a direction in the applicable gift instrument at the time the accumulation is added to the fund. The determination of historic dollar value made in good faith by the institution is conclusive.

(f) “Institutional” means an incorporated or unincorporated organization organized and operated exclusively for educational, religious, charitable, or other eleemosynary purposes, or a governmental organization to the extent that it holds funds exclusively for any of these purposes.

(g) “Institutional fund” means a fund held by an institution for its exclusive use, benefit, or purposes but does not include (1) a fund held for an institution by a trustee that is not an institution or (2) a fund in which a beneficiary that is not an institution has an interest, other than possible rights that could arise upon violation or failure of the purposes of the fund.]

[15–402.

The governing board may appropriate for expenditure for the uses and purposes for which an endowment fund is established so much of the net appreciation, realized and unrealized, in the fair value of the assets of an endowment fund over the historic dollar value of the fund as is prudent under the standard established by § 15–406. This section does not limit the authority of the governing board to expend funds as permitted under other law, the terms of the applicable gift instrument, or the charter of the institution.]

[15–403.

Section 15–402 does not apply if the applicable gift instrument indicates the intention of the donor that net appreciation shall not be expended. A restriction upon the expenditure of net appreciation may not be implied from a designation of a gift as an endowment, or from a direction or authorization in the applicable gift instrument to use only “income”, “interest”, “dividends”, or “rents, issues or profits”, or “to preserve the principal intact”, or a direction which contains other words of similar import. This rule of construction applies to gift instruments executed or in effect before or after the effective date of this act.]

[15–404.

In an addition to an investment otherwise authorized by law or by the applicable gift instrument, and without restriction to investments a fiduciary may

make, the governing board, subject to any specific limitations set forth in the applicable gift instrument or in the applicable law other than law relating to investments by a fiduciary, may:

(1) Invest and reinvest an institutional fund in any real or personal property deemed advisable by the governing board, whether or not it produces a current return, including mortgages, stocks, bonds, debentures, and other securities of profit or nonprofit corporations, shares in or obligations of associations, partnerships, or individuals, and obligations of any government or subdivision or instrumentality thereof;

(2) Retain property contributed by a donor to an institutional fund for as long as the governing board deems advisable;

(3) Include all or any part of an institutional fund in any pooled or common fund maintained by the institution; and

(4) Invest all or any part of an institutional fund in any other pooled or common fund available for investment, including shares or interests in regulated investment companies, mutual funds, common trust funds, investment partnerships, real estate investment trust, or similar organizations in which funds are commingled and investment determinations are made by persons other than the governing board.]

[15-405.

Except as otherwise provided by the applicable gift instrument or by applicable law relating to governmental institutions or funds, the governing board may (1) delegate to its committees, officers, or employees of the institution or the fund, or agents, including investment counsel, the authority to act in place of the board in investment and reinvestment of institutional funds, (2) contract with independent investment advisors, investment counsel or managers, banks, or trust companies, so to act, and (3) authorize the payment of compensation for investment advisory or management services.]

[15-406.

In the administration of the powers to appropriate appreciation, to make and retain investments, and to delegate investment management of institutional funds, members of a governing board shall exercise ordinary business care and prudence under the facts and circumstances prevailing at the time of the action or decision. In so doing they shall consider long and short term needs of the institution in carrying out its educational, religious, charitable, or other eleemosynary purposes, its present and anticipated financial requirements, expected total return on its investments, price level trends, and general economic conditions.]

[15-407.

(a) With the written consent of the donor, the governing board may release, in whole or in part, a restriction imposed by the applicable gift instrument on the use or investment of an institutional fund.

(b) If written consent of the donor cannot be obtained by reason of his death, disability, unavailability, or impossibility of identification, the governing board may apply in the name of the institution to the circuit court for the county where the office of the governing board is located, for release of a restriction imposed by the applicable gift instrument on the use or investment of an institutional fund. The Attorney General shall be notified of the application and given an opportunity to be heard. If the court finds that the restriction is obsolete, inappropriate, or impracticable, it may by order release the restriction in whole or in part. A release under this subsection may not change an endowment fund to a fund that is not an endowment fund.

(c) A release under this section may not allow a fund to be used for purposes other than the educational, religious, charitable, or other eleemosynary purposes of the institution affected.

(d) This section does not limit the application of the doctrine of cy pres.]

[15-408.

This subtitle shall be so applied and construed as to effectuate its general purpose to make uniform the law with respect to the subject of this subtitle among those states which enact it.]

[15-409.

This subtitle may be cited as the "Maryland Uniform Management of Institutional Funds Act".]

**15-401.**

**(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.**

**(B) "CHARITABLE PURPOSE" MEANS THE RELIEF OF POVERTY, THE ADVANCEMENT OF EDUCATION OR RELIGION, THE PROMOTION OF HEALTH, THE PROMOTION OF A GOVERNMENTAL PURPOSE, OR ANY OTHER PURPOSE THE ACHIEVEMENT OF WHICH IS BENEFICIAL TO THE COMMUNITY.**

**(C) (1) "ENDOWMENT FUND" MEANS AN INSTITUTIONAL FUND OR PART OF AN INSTITUTIONAL FUND THAT, UNDER THE TERMS OF A GIFT INSTRUMENT, IS NOT WHOLLY EXPENDABLE BY THE INSTITUTION ON A CURRENT BASIS.**



(2) "ENDOWMENT FUND" DOES NOT INCLUDE ASSETS THAT AN INSTITUTION DESIGNATES AS AN ENDOWMENT FUND FOR THE USE OF THE INSTITUTION.

(D) "GIFT INSTRUMENT" MEANS A RECORD, INCLUDING AN INSTITUTIONAL SOLICITATION, UNDER WHICH PROPERTY IS GRANTED TO, TRANSFERRED TO, OR HELD BY AN INSTITUTION AS AN INSTITUTIONAL FUND.

(E) "INSTITUTION" MEANS:

(1) A PERSON, OTHER THAN AN INDIVIDUAL, ORGANIZED AND OPERATED EXCLUSIVELY FOR CHARITABLE PURPOSES;

(2) A GOVERNMENT OR GOVERNMENTAL SUBDIVISION, AGENCY, OR INSTRUMENTALITY, TO THE EXTENT THAT THE SUBDIVISION, AGENCY, OR INSTRUMENTALITY HOLDS FUNDS EXCLUSIVELY FOR A CHARITABLE PURPOSE; OR

(3) A TRUST THAT HAD BOTH CHARITABLE AND NONCHARITABLE INTERESTS, AFTER ALL NONCHARITABLE INTERESTS HAVE TERMINATED.

(F) (1) "INSTITUTIONAL FUND" MEANS A FUND HELD BY AN INSTITUTION EXCLUSIVELY FOR CHARITABLE PURPOSES.

(2) "INSTITUTIONAL FUND" DOES NOT INCLUDE:

(I) PROGRAM-RELATED ASSETS;

(II) A FUND HELD FOR AN INSTITUTION BY A TRUSTEE THAT IS NOT AN INSTITUTION; OR

(III) A FUND IN WHICH A BENEFICIARY THAT IS NOT AN INSTITUTION HAS AN INTEREST, OTHER THAN AN INTEREST THAT COULD ARISE ON VIOLATION OR FAILURE OF THE PURPOSES OF THE FUND.

(G) "PERSON" MEANS AN INDIVIDUAL, CORPORATION, BUSINESS TRUST, ESTATE, TRUST, PARTNERSHIP, LIMITED LIABILITY COMPANY, ASSOCIATION, JOINT VENTURE, PUBLIC CORPORATION, GOVERNMENT OR GOVERNMENTAL SUBDIVISION, AGENCY, OR INSTRUMENTALITY, OR ANY OTHER LEGAL OR COMMERCIAL ENTITY.

(H) “PROGRAM-RELATED ASSET” MEANS AN ASSET HELD BY AN INSTITUTION PRIMARILY TO ACCOMPLISH A CHARITABLE PURPOSE OF THE INSTITUTION AND NOT PRIMARILY FOR INVESTMENT.

(I) “RECORD” MEANS INFORMATION THAT IS INSCRIBED ON A TANGIBLE MEDIUM OR THAT IS STORED IN AN ELECTRONIC OR OTHER MEDIUM AND IS RETRIEVABLE IN PERCEIVABLE FORM.

15-402.

(A) SUBJECT TO THE INTENT OF A DONOR EXPRESSED IN A GIFT INSTRUMENT, AN INSTITUTION, IN MANAGING AND INVESTING AN INSTITUTIONAL FUND, SHALL CONSIDER THE CHARITABLE PURPOSES OF THE INSTITUTION AND THE PURPOSES OF THE INSTITUTIONAL FUND.

(B) IN ADDITION TO COMPLYING WITH THE DUTY OF LOYALTY IMPOSED BY LAW OTHER THAN THIS SUBTITLE, EACH PERSON RESPONSIBLE FOR MANAGING AND INVESTING AN INSTITUTIONAL FUND SHALL MANAGE AND INVEST THE FUND ~~IN GOOD FAITH AND WITH THE CARE AN ORDINARILY PRUDENT PERSON IN A LIKE POSITION WOULD EXERCISE UNDER SIMILAR CIRCUMSTANCES~~ EXERCISING ORDINARY BUSINESS CARE AND PRUDENCE UNDER THE FACTS AND CIRCUMSTANCES PREVAILING AT THE TIME OF THE ACTION OR DECISION.

(C) IN MANAGING AND INVESTING AN INSTITUTIONAL FUND, AN INSTITUTION:

(1) MAY INCUR ONLY COSTS THAT ARE APPROPRIATE AND REASONABLE IN RELATION TO THE ASSETS, THE PURPOSES OF THE INSTITUTION, AND THE SKILLS AVAILABLE TO THE INSTITUTION; AND

(2) SHALL MAKE A REASONABLE EFFORT TO VERIFY FACTS RELEVANT TO THE MANAGEMENT AND INVESTMENT OF THE FUND.

(D) AN INSTITUTION MAY POOL TWO OR MORE INSTITUTIONAL FUNDS FOR PURPOSES OF MANAGEMENT AND INVESTMENT.

(E) (1) THE PROVISIONS OF THIS SUBSECTION APPLY EXCEPT AS OTHERWISE PROVIDED BY A GIFT INSTRUMENT.

(2) IN MANAGING AND INVESTING AN INSTITUTIONAL FUND, THE FOLLOWING FACTORS, IF RELEVANT, SHALL BE CONSIDERED:

(I) GENERAL ECONOMIC CONDITIONS;

- (II) THE POSSIBLE EFFECT OF INFLATION OR DEFLATION;
  - (III) THE EXPECTED TAX CONSEQUENCES, IF ANY, OF INVESTMENT DECISIONS OR STRATEGIES;
  - (IV) THE ROLE THAT EACH INVESTMENT OR COURSE OF ACTION PLAYS WITHIN THE OVERALL INVESTMENT PORTFOLIO OF THE FUND;
  - (V) THE EXPECTED TOTAL RETURN FROM INCOME AND THE APPRECIATION OF INVESTMENTS;
  - (VI) OTHER RESOURCES OF THE INSTITUTION;
  - (VII) THE NEEDS OF THE INSTITUTION AND THE FUND TO MAKE DISTRIBUTIONS AND TO PRESERVE CAPITAL; AND
  - (VIII) THE SPECIAL RELATIONSHIP OR SPECIAL VALUE OF THE ASSET, IF ANY, TO THE CHARITABLE PURPOSES OF THE INSTITUTION.
- (3) MANAGEMENT AND INVESTMENT DECISIONS ABOUT AN INDIVIDUAL ASSET SHALL BE MADE NOT IN ISOLATION BUT IN THE CONTEXT OF THE PORTFOLIO OF INVESTMENTS OF THE INSTITUTIONAL FUND AS A WHOLE AND AS A PART OF AN OVERALL INVESTMENT STRATEGY HAVING RISK AND RETURN OBJECTIVES REASONABLY SUITED TO THE FUND AND TO THE INSTITUTION.
- (4) EXCEPT AS OTHERWISE PROVIDED BY LAW OTHER THAN THIS SUBTITLE, AN INSTITUTION MAY INVEST IN ANY KIND OF PROPERTY OR TYPE OF INVESTMENT CONSISTENT WITH THIS SECTION.
- (5) AN INSTITUTION SHALL DIVERSIFY THE INVESTMENTS OF AN INSTITUTIONAL FUND UNLESS THE INSTITUTION REASONABLY DETERMINES THAT, BECAUSE OF SPECIAL CIRCUMSTANCES, THE PURPOSES OF THE FUND ARE BETTER SERVED WITHOUT DIVERSIFICATION.
- (6) WITHIN A REASONABLE TIME AFTER RECEIVING PROPERTY, AN INSTITUTION SHALL MAKE AND CARRY OUT DECISIONS CONCERNING THE RETENTION OR DISPOSITION OF THE PROPERTY OR TO REBALANCE A PORTFOLIO, IN ORDER TO BRING THE INSTITUTIONAL FUND INTO COMPLIANCE WITH THE PURPOSES, TERMS, AND DISTRIBUTION REQUIREMENTS OF THE INSTITUTION AS NECESSARY TO MEET OTHER CIRCUMSTANCES OF THE INSTITUTION AND THE REQUIREMENTS OF THIS SUBTITLE.

(7) A PERSON THAT HAS SPECIAL SKILLS OR EXPERTISE, OR IS SELECTED IN RELIANCE ON THE REPRESENTATION BY THE PERSON THAT THE PERSON HAS SPECIAL SKILLS OR EXPERTISE, HAS A DUTY TO USE THOSE SKILLS OR THAT EXPERTISE IN MANAGING AND INVESTING INSTITUTIONAL FUNDS.

15-403.

(A) (1) ~~AN~~ SUBJECT TO THE INTENT OF A DONOR EXPRESSED IN THE GIFT INSTRUMENT, AN INSTITUTION MAY APPROPRIATE FOR EXPENDITURE OR ACCUMULATE SO MUCH OF AN ENDOWMENT FUND AS THE INSTITUTION DETERMINES IS PRUDENT FOR THE USES, BENEFITS, PURPOSES, AND DURATION FOR WHICH THE ENDOWMENT FUND IS ESTABLISHED.

(2) UNLESS STATED OTHERWISE IN THE GIFT INSTRUMENT, THE ASSETS IN AN ENDOWMENT FUND ARE DONOR-RESTRICTED ASSETS UNTIL APPROPRIATED FOR EXPENDITURE BY THE INSTITUTION.

(3) IN MAKING A DETERMINATION TO APPROPRIATE FOR EXPENDITURE OR ACCUMULATE UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE INSTITUTION SHALL ~~ACT IN GOOD FAITH, WITH THE CARE THAT AN ORDINARILY PRUDENT PERSON IN A LIKE POSITION WOULD EXERCISE UNDER SIMILAR CIRCUMSTANCES~~ EXERCISE ORDINARY BUSINESS CARE AND PRUDENCE UNDER THE FACTS AND CIRCUMSTANCES PREVAILING AT THE TIME OF THE ACTION OR DECISION, AND SHALL CONSIDER, IF RELEVANT, THE FOLLOWING FACTORS:

(I) THE DURATION AND PRESERVATION OF THE ENDOWMENT FUND;

(II) THE PURPOSES OF THE INSTITUTION AND THE ENDOWMENT FUND;

(III) GENERAL ECONOMIC CONDITIONS;

(IV) THE POSSIBLE EFFECT OF INFLATION OR DEFLATION;

(V) THE EXPECTED TOTAL RETURN FROM INCOME AND THE APPRECIATION OF INVESTMENTS;

(VI) OTHER RESOURCES OF THE INSTITUTION; AND

(VII) THE INVESTMENT POLICY OF THE INSTITUTION.

(B) TO LIMIT THE AUTHORITY TO APPROPRIATE FOR EXPENDITURE OR ACCUMULATE UNDER SUBSECTION (A) OF THIS SECTION, A GIFT INSTRUMENT MUST SPECIFICALLY STATE THE LIMITATION.

(C) TERMS IN A GIFT INSTRUMENT DESIGNATING A GIFT AS AN ENDOWMENT, OR A DIRECTION OR AUTHORIZATION IN THE GIFT INSTRUMENT TO USE ONLY "INCOME", "INTEREST", "DIVIDENDS", OR "RENTS, ISSUES, OR PROFITS", OR "TO PRESERVE THE PRINCIPAL INTACT", OR WORDS OF SIMILAR IMPORT:

(1) CREATE AN ENDOWMENT FUND OF PERMANENT DURATION UNLESS OTHER LANGUAGE IN THE GIFT INSTRUMENT LIMITS THE DURATION OR PURPOSE OF THE FUND; AND

(2) DO NOT OTHERWISE LIMIT THE AUTHORITY TO APPROPRIATE FOR EXPENDITURE OR ACCUMULATE UNDER SUBSECTION (A) OF THIS SECTION.

(D) (1) IN THIS SUBSECTION, FAIR MARKET VALUE SHALL BE CALCULATED:

(I) IF AN ENDOWMENT FUND HAS EXISTED AT LEAST 3 YEARS, ON THE BASIS OF THE MARKET VALUE DETERMINED AT LEAST QUARTERLY AND AVERAGED OVER A PERIOD OF NOT LESS THAN 3 YEARS IMMEDIATELY PRECEDING THE YEAR IN WHICH THE APPROPRIATION FOR EXPENDITURE IS MADE; OR

(II) IF AN ENDOWMENT FUND HAS EXISTED FOR FEWER THAN 3 YEARS, FOR THE PERIOD THE ENDOWMENT FUND HAS EXISTED.

(2) THE APPROPRIATION FOR EXPENDITURE IN ANY YEAR OF AN AMOUNT GREATER THAN 7 PERCENT OF THE FAIR MARKET VALUE OF AN ENDOWMENT FUND CREATES A REBUTTABLE PRESUMPTION OF IMPRUDENCE.

(3) THE INSTITUTION SHALL NOTIFY THE ATTORNEY GENERAL OF THE APPROPRIATION FOR EXPENDITURE IN ANY YEAR OF AN AMOUNT GREATER THAN 7 PERCENT OF THE FAIR MARKET VALUE OF AN ENDOWMENT FUND.

(4) THIS SUBSECTION DOES NOT:

(I) APPLY TO AN APPROPRIATION FOR EXPENDITURE PERMITTED UNDER LAW OTHER THAN THIS SUBTITLE OR BY THE GIFT INSTRUMENT; OR

**(II) CREATE A PRESUMPTION OF PRUDENCE FOR AN APPROPRIATION FOR EXPENDITURE OF AN AMOUNT LESS THAN OR EQUAL TO 7 PERCENT OF THE FAIR MARKET VALUE OF THE ENDOWMENT FUND.**

15-404.

(A) (1) SUBJECT TO ANY SPECIFIC LIMITATION SET FORTH IN A GIFT INSTRUMENT OR IN LAW OTHER THAN THIS SUBTITLE, AN INSTITUTION MAY DELEGATE TO AN EXTERNAL AGENT THE MANAGEMENT AND INVESTMENT OF AN INSTITUTIONAL FUND TO THE EXTENT THAT AN INSTITUTION COULD PRUDENTLY DELEGATE UNDER THE CIRCUMSTANCES.

(2) AN INSTITUTION SHALL ~~ACT IN GOOD FAITH, WITH THE CARE THAT AN ORDINARILY PRUDENT PERSON IN A LIKE POSITION WOULD EXERCISE UNDER SIMILAR CIRCUMSTANCES~~ EXERCISE ORDINARY BUSINESS CARE AND PRUDENCE UNDER THE FACTS AND CIRCUMSTANCES PREVAILING AT THE TIME OF THE ACTION OR DECISION, IN:

(I) SELECTING AN AGENT;

(II) ESTABLISHING THE SCOPE AND TERMS OF THE DELEGATION, CONSISTENT WITH THE PURPOSES OF THE INSTITUTION AND THE INSTITUTIONAL FUND; AND

(III) PERIODICALLY REVIEWING THE ACTIONS OF THE AGENT IN ORDER TO MONITOR THE PERFORMANCE AND COMPLIANCE OF THE AGENT WITH THE SCOPE AND TERMS OF THE DELEGATION.

(B) IN PERFORMING A DELEGATED FUNCTION, AN AGENT OWES A DUTY TO THE INSTITUTION TO EXERCISE REASONABLE CARE TO COMPLY WITH THE SCOPE AND TERMS OF THE DELEGATION.

~~(C) AN INSTITUTION THAT COMPLIES WITH SUBSECTION (A) OF THIS SECTION IS NOT LIABLE FOR THE DECISIONS OR ACTIONS OF AN AGENT TO WHICH THE FUNCTION WAS DELEGATED.~~

(C) THE STANDARD ESTABLISHED BY § 15-402(B) OF THIS SUBTITLE IS NOT LIMITED OR EXTINGUISHED BY THE APPOINTMENT OF AN EXTERNAL AGENT.

(D) BY ACCEPTING DELEGATION OF A MANAGEMENT OR INVESTMENT FUNCTION FROM AN INSTITUTION THAT IS SUBJECT TO THE LAWS OF THE STATE, AN AGENT SUBMITS TO THE JURISDICTION OF THE COURTS OF THE

STATE IN ALL PROCEEDINGS ARISING FROM OR RELATED TO THE DELEGATION OR THE PERFORMANCE OF THE DELEGATED FUNCTION.

(E) AN INSTITUTION MAY DELEGATE MANAGEMENT AND INVESTMENT FUNCTIONS TO THE COMMITTEES, OFFICERS, OR EMPLOYEES OF THE INSTITUTION AS AUTHORIZED BY LAW OTHER THAN THIS SUBTITLE.

15-405.

(A) (1) IF THE DONOR CONSENTS IN A RECORD, AN INSTITUTION MAY RELEASE OR MODIFY, IN WHOLE OR IN PART, A RESTRICTION CONTAINED IN A GIFT INSTRUMENT ON THE MANAGEMENT, INVESTMENT, OR PURPOSE OF AN INSTITUTIONAL FUND.

(2) A RELEASE OR MODIFICATION MAY NOT ALLOW A FUND TO BE USED FOR A PURPOSE OTHER THAN A CHARITABLE PURPOSE OF THE INSTITUTION.

(B) (1) ~~A~~ IF WRITTEN CONSENT OF THE DONOR CANNOT BE OBTAINED BY REASON OF THE DEATH, DISABILITY, UNAVAILABILITY, OR IMPOSSIBILITY OF IDENTIFICATION OF THE DONOR, A COURT OF COMPETENT JURISDICTION, ON APPLICATION OF AN INSTITUTION, MAY MODIFY A RESTRICTION CONTAINED IN A GIFT INSTRUMENT REGARDING THE MANAGEMENT OR INVESTMENT OF AN INSTITUTIONAL FUND IF THE RESTRICTION HAS BECOME IMPRACTICABLE OR WASTEFUL, IF THE RESTRICTION IMPAIRS THE MANAGEMENT OR INVESTMENT OF THE FUND OBSOLETE, INAPPROPRIATE, OR IMPRACTICABLE, OR IF, BECAUSE OF CIRCUMSTANCES NOT ANTICIPATED BY THE DONOR, A MODIFICATION OF A RESTRICTION WILL CLEARLY FURTHER THE PURPOSES OF THE FUND.

(2) (i) THE INSTITUTION SHALL NOTIFY THE ATTORNEY GENERAL OF THE INSTITUTION'S APPLICATION UNDER PARAGRAPH (1) OF THIS SUBSECTION, AND THE ATTORNEY GENERAL SHALL BE GIVEN AN OPPORTUNITY TO BE HEARD.

(ii) TO THE EXTENT PRACTICABLE, ANY MODIFICATION MADE UNDER PARAGRAPH (1) OF THIS SUBSECTION MUST BE MADE IN ACCORDANCE WITH THE DONOR'S PROBABLE INTENTION.

(C) (1) IF A PARTICULAR CHARITABLE PURPOSE OR A RESTRICTION CONTAINED IN A GIFT INSTRUMENT ON THE USE OF AN INSTITUTIONAL FUND BECOMES UNLAWFUL, IMPRACTICABLE, ~~IMPOSSIBLE TO ACHIEVE, OR WASTEFUL~~ OR IMPOSSIBLE TO ACHIEVE AND WRITTEN CONSENT OF THE DONOR CANNOT BE OBTAINED BY REASON OF THE DEATH, DISABILITY,

UNAVAILABILITY, OR IMPOSSIBILITY OF IDENTIFICATION OF THE DONOR, A COURT OF COMPETENT JURISDICTION, ON APPLICATION OF AN INSTITUTION, MAY MODIFY THE PURPOSE OF THE FUND OR THE RESTRICTION ON THE USE OF THE FUND ~~IN A MANNER CONSISTENT WITH THE CHARITABLE PURPOSES EXPRESSED IN THE GIFT INSTRUMENT~~ IF THE DONOR MANIFESTED A GENERAL CHARITABLE INTENT.

(2) THE INSTITUTION SHALL NOTIFY THE ATTORNEY GENERAL OF THE INSTITUTION'S APPLICATION UNDER PARAGRAPH (1) OF THIS SUBSECTION, AND THE ATTORNEY GENERAL SHALL BE GIVEN AN OPPORTUNITY TO BE HEARD.

(D) IF AN INSTITUTION DETERMINES THAT A RESTRICTION CONTAINED IN A GIFT INSTRUMENT ON THE MANAGEMENT, INVESTMENT, OR PURPOSE OF AN INSTITUTIONAL FUND IS UNLAWFUL, IMPRACTICABLE, ~~IMPOSSIBLE TO ACHIEVE, OR WASTEFUL~~ OR IMPOSSIBLE TO ACHIEVE, THE INSTITUTION, 60 DAYS AFTER NOTIFICATION TO THE ATTORNEY GENERAL, MAY RELEASE OR MODIFY THE RESTRICTION, IN WHOLE OR IN PART, IF:

(1) THE INSTITUTIONAL FUND SUBJECT TO THE RESTRICTION HAS A TOTAL VALUE OF LESS THAN \$50,000;

(2) MORE THAN 20 YEARS HAVE ELAPSED SINCE THE FUND WAS ESTABLISHED; AND

(3) THE INSTITUTION USES THE PROPERTY IN A MANNER CLEARLY CONSISTENT WITH THE CHARITABLE PURPOSES EXPRESSED IN THE GIFT INSTRUMENT.

15-406.

COMPLIANCE WITH THIS SUBTITLE SHALL BE DETERMINED IN LIGHT OF THE FACTS AND CIRCUMSTANCES EXISTING AT THE TIME A DECISION IS MADE OR ACTION IS TAKEN.

15-407.

(A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THIS SUBTITLE APPLIES TO INSTITUTIONAL FUNDS EXISTING ON OR ESTABLISHED AFTER THE EFFECTIVE DATE OF CHAPTER 134 (S.B.\_\_\_\_/H.B. 200) (9LR1493/9LR0345) OF THE ACTS OF THE GENERAL ASSEMBLY OF 2009.

(B) AS APPLIED TO INSTITUTIONAL FUNDS EXISTING ON THE EFFECTIVE DATE OF CHAPTER 134 (S.B.\_\_\_\_/H.B. 200 )



**(9LR1493/9LR0345) OF THE ACTS OF THE GENERAL ASSEMBLY OF 2009, THIS SUBTITLE GOVERNS ONLY DECISIONS MADE OR ACTIONS TAKEN ON OR AFTER THAT DATE.**

**15-408.**

**THIS SUBTITLE MODIFIES, LIMITS, AND SUPERSEDES THE ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT, 15 U.S.C. § 7001 ET SEQ., BUT DOES NOT MODIFY, LIMIT, OR SUPERSEDE ~~§ 101~~ § 101(C) OF THAT ACT, 15 U.S.C. ~~§ 7001(A)~~ § 7001(C), OR AUTHORIZE ELECTRONIC DELIVERY OF THE NOTICES DESCRIBED IN ~~§ 103~~ § 103(B) OF THAT ACT, 15 U.S.C. § 7003(B).**

**15-409.**

**IN APPLYING AND CONSTRUING THIS SUBTITLE, WHICH IS A UNIFORM ACT, CONSIDERATION SHALL BE GIVEN TO THE NEED TO PROMOTE UNIFORMITY OF THE LAW WITH RESPECT TO THE SUBJECT MATTER OF THE LAW AMONG THE STATES THAT ENACT THE LAW.**

**15-410.**

**THIS SUBTITLE MAY BE CITED AS THE “MARYLAND UNIFORM PRUDENT MANAGEMENT OF INSTITUTIONAL FUNDS ACT”.**

**SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a yea and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.**

**Approved by the Governor, April 14, 2009.**

---

**Chapter 135**

**(House Bill 218)**

**AN ACT concerning**

**Garrett County – Sanitary Commission – Collection of Unpaid Benefit Assessments**

FOR the purpose of authorizing the sanitary commission in Garrett County to take certain action to enforce the collection of certain unpaid benefit assessments or other charges; and generally relating to the powers of the sanitary commission in Garrett County.

BY repealing and reenacting, without amendments,  
Article – Environment  
Section 9–658(a)  
Annotated Code of Maryland  
(2007 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,  
Article – Environment  
Section 9–658(g)  
Annotated Code of Maryland  
(2007 Replacement Volume and 2008 Supplement)

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

#### **Article – Environment**

9–658.

(a) When the sanitary commission has determined a benefit assessment, and except as otherwise provided in this section, the sanitary commission shall levy a benefit assessment, so that the levy will be effective on the July 1 that next follows the first March 31 that occurs on or before which the construction is completed on the project for which the benefit assessment is made.

(g) (1) To enforce the collection of unpaid benefit assessments or other charges that are at least 60 days overdue, the sanitary commission, at any time, may:

(i) Sue any person who was an owner of record of the parcel at any time since the benefit assessment was last paid; or

(ii) File a bill in equity to enforce a lien through a decree of sale of property against any person who was an owner of record of the parcel at any time since the benefit assessment was last paid.

(2) In addition to the actions that the sanitary commission may take under paragraph (1) of this subsection, in Allegany County, Dorchester County, **GARRETT COUNTY**, and Somerset County, the sanitary commission may disconnect the service.

(3) When recorded, the lien is legal notice to any person who has any interest in a parcel.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

**Approved by the Governor, April 14, 2009.**

---

## Chapter 136

(House Bill 277)

AN ACT concerning

### **St. Mary's County – Appointment to Assistant Sheriff – Rank Eligibility**

FOR the purpose of altering a certain provision so as to provide that, in St. Mary's County, only a deputy sheriff who holds one of the two permanent ranks immediately preceding the rank of Assistant Sheriff is eligible for appointment to Assistant Sheriff; and generally relating to the appointment of the Assistant Sheriff of St. Mary's County.

BY repealing and reenacting, with amendments,  
The Public Local Laws of St. Mary's County  
Section 120–2B.(3)

Article 19 – Public Local Laws of Maryland  
(2007 Edition, as amended)

(As enacted by Chapter 495 of the Acts of the General Assembly of 2008)

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

### **Article 19 – St. Mary's County**

120–2.

B. (3) Only a deputy sheriff who holds **ONE OF** the **TWO** permanent [rank of Sergeant or Lieutenant] **RANKS IMMEDIATELY PRECEDING THE RANK OF ASSISTANT SHERIFF** in the St. Mary's County Sheriff's office is eligible for appointment to Assistant Sheriff.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

**Approved by the Governor, April 14, 2009.**

---

**Chapter 137****(House Bill 334)**

AN ACT concerning

**Garrett County – Alcoholic Beverages – Wine and Beer Tasting License –  
Off-Site Retail Delivery Procedures – Fees**

FOR the purpose of requiring the Garrett County Board of License Commissioners to charge an issuing fee of a certain amount for a wine and beer tasting license; authorizing an alcoholic beverages licensee or an employee of the licensee to make an off-site retail delivery of alcoholic beverages under certain circumstances; requiring that certain delivery forms be submitted to the Board on or before a certain day of the month following the delivery; requiring the Board to adopt certain regulations; altering certain fees; making certain stylistic changes; and generally relating to alcoholic beverages in Garrett County.

BY repealing and reenacting, with amendments,  
Article 2B – Alcoholic Beverages  
Section 8–406.1 and 10–503(m)  
Annotated Code of Maryland  
(2005 Replacement Volume and 2008 Supplement)

BY adding to  
Article 2B – Alcoholic Beverages  
Section 10–502(d) and 12–301(e)  
Annotated Code of Maryland  
(2005 Replacement Volume and 2008 Supplement)

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

**Article 2B – Alcoholic Beverages**

8–406.1.

(a) (1) In Garrett County, the Board of License Commissioners may issue a wine and beer tasting alcoholic beverages license.

(2) Notwithstanding any other provision of law, the Board OF LICENSE COMMISSIONERS may issue a license only to holders of a beer, wine and liquor license or a beer and wine license.

(3) The license permits the consumption of wine or beer authorized to be sold by the beer, wine and liquor license or the beer and wine license for tasting or sampling purposes only and for which no consideration may be charged or exacted.

(4) The Board of License Commissioners shall regulate:

(i) The quantity of wine or beer to be served to each person; and

(ii) The number of bottles of wine or beer from which this quantity is being served.

(5) The annual license fee is \$100 in addition to the cost of the beer, wine and liquor license or the beer and wine license.

**(6) IN ADDITION TO THE ANNUAL LICENSE FEE, THE BOARD OF LICENSE COMMISSIONERS SHALL CHARGE AN ISSUING FEE OF \$100 FOR A WINE AND BEER TASTING ALCOHOLIC BEVERAGES LICENSE.**

**[(6)] (7)** The privileges granted by this wine and beer tasting license may not be exercised during the Maryland Wine Festival.

(b) The [Garrett County] Board of License Commissioners may adopt rules or regulations providing additional requirements to implement this section.

10-502.

**(D) IN GARRETT COUNTY, THE FEE FOR A DUPLICATE LICENSE IS \$10.**

10-503.

(m) **(1)** [The provisions of subsection (a) of this section apply in Garrett County] **THIS SUBSECTION APPLIES ONLY IN GARRETT COUNTY.**

**(2) THE FEE FOR ASSIGNMENT OF TRANSFER OF AN ALCOHOLIC BEVERAGES LICENSE IS:**

**(I) \$200; AND**

**(II) THE COSTS OF PUBLICATION AND NOTICE.**

12-301.

**(E) (1) THIS SUBSECTION APPLIES ONLY IN GARRETT COUNTY.**

**(2) THE BOARD OF LICENSE COMMISSIONERS MAY ISSUE A DELIVERY OPTION THAT ENTITLES AN ALCOHOLIC BEVERAGES LICENSEE OR AN AUTHORIZED EMPLOYEE OF THE LICENSEE TO MAKE AN OFF-SITE RETAIL DELIVERY OF ALCOHOLIC BEVERAGES IF:**

**(I) THE DELIVERER IS AT LEAST 21 YEARS OLD AND CERTIFIED BY AN APPROVED ALCOHOL AWARENESS PROGRAM;**

**(II) THE DELIVERER AND PURCHASER ENDORSE A DELIVERY FORM THAT THE BOARD OF LICENSE COMMISSIONERS APPROVES CERTIFYING THAT:**

**1. THE PERSON WHO RECEIVES THE DELIVERY CLAIMS TO BE AT LEAST 21 YEARS OLD, AND THE CLAIM IS SUPPORTED BY DOCUMENTARY PROOF;**

**2. THE PERSON WHO RECEIVES THE DELIVERY KNOWS THAT IT IS A CRIMINAL OFFENSE FOR ALCOHOLIC BEVERAGES TO BE FURNISHED TO A PERSON UNDER THE AGE OF 21 YEARS; AND**

**3. THE DELIVERER EXAMINED THE PURCHASER'S IDENTIFICATION.**

**(3) EACH DELIVERY FORM ENDORSED UNDER PARAGRAPH (2)(II) OF THIS SUBSECTION SHALL BE SUBMITTED TO THE BOARD OF LICENSE COMMISSIONERS ON OR BEFORE THE 10TH DAY OF THE FOLLOWING MONTH.**

**(4) (I) THE ANNUAL FEE FOR A DELIVERY OPTION IS \$150.**

**(II) IN ADDITION TO AN ANNUAL FEE, THE BOARD OF LICENSE COMMISSIONERS SHALL CHARGE AN ISSUING FEE OF \$150.**

**(5) THE BOARD OF LICENSE COMMISSIONERS SHALL ADOPT REGULATIONS TO CARRY OUT THIS SUBSECTION.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2009.

Approved by the Governor, April 14, 2009.

---

**Chapter 138****(House Bill 374)**

AN ACT concerning

**Radiation Therapists, Radiographers, Nuclear Medicine Technologists, and Radiologist Assistants – Renewal Requirements for Licenses**

FOR the purpose of repealing a certain renewal requirement for certain licensed radiation therapists, radiographers, nuclear medicine technologists, and radiologist assistants; requiring certain licensees to meet any additional license renewal requirements established by the State Board of Physicians; and generally relating to radiation therapists, radiographers, nuclear medicine technologists, and radiologist assistants.

BY repealing and reenacting, with amendments,  
Article – Health Occupations  
Section 14–5B–12(c)  
Annotated Code of Maryland  
(2005 Replacement Volume and 2008 Supplement)

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

**Article – Health Occupations**

14–5B–12.

(c) Except as otherwise provided in this subtitle, before a license expires, the licensed individual may periodically renew it for an additional term, if the individual:

[(1) Otherwise is entitled to be licensed;

(2)] (1) Pays to the Board a renewal fee set by the Board; [and

(3)] (2) Submits to the Board:

(i) A renewal application on the form that the Board requires;  
and

(ii) Satisfactory evidence of compliance with any continuing education or competency requirements and other requirements required by the Board for license renewal; AND

**(3) MEETS ANY ADDITIONAL RENEWAL REQUIREMENTS ESTABLISHED BY THE BOARD.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

**Approved by the Governor, April 14, 2009.**

---

**Chapter 139**

**(House Bill 429)**

AN ACT concerning

**Caroline County – ~~Sheriff – Salary~~ Sheriff's Salary**

FOR the purpose of ~~increasing~~ altering the salary of the Sheriff of Caroline County ~~to a certain amount~~; providing that this Act does not apply to the salary or compensation of the incumbent Sheriff of Caroline County; and generally relating to the salary of the Sheriff of Caroline County.

BY repealing and reenacting, with amendments,  
 Article – Courts and Judicial Proceedings  
 Section 2–309(g)(1)  
 Annotated Code of Maryland  
 (2006 Replacement Volume and 2008 Supplement)

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

**Article – Courts and Judicial Proceedings**

2–309.

(g) (1) The Sheriff of Caroline County shall receive an annual salary of ~~[\$65,000]~~ **\$80,000**.

SECTION 2. AND BE IT FURTHER ENACTED, That, pursuant to Article III, § 35 of the Maryland Constitution, this Act may not be construed to extend or apply to the salary or compensation of the Sheriff of Caroline County in office on the effective date of this Act, but the provisions of this Act concerning the salary or compensation of the Sheriff of Caroline County shall take effect at the beginning of the next following term of office.



SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

**Approved by the Governor, April 14, 2009.**

---

## **Chapter 140**

### **(House Bill 438)**

AN ACT concerning

#### **Joint Information Technology and Biotechnology Committee – Membership and Duties**

FOR the purpose of codifying and renaming the Joint Technology Oversight Committee to be the Joint Information Technology and Biotechnology Committee; modifying the membership and duties of the Committee; and generally relating to the Joint Information Technology and Biotechnology Committee.

BY repealing

Chapter 11 of the Acts of the General Assembly of 2000  
Section 6

BY adding to

Article – State Government  
Section 2–10A–13  
Annotated Code of Maryland  
(2004 Replacement Volume and 2008 Supplement)

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

#### **Chapter 11 of the Acts of 2000**

[SECTION 6. AND BE IT FURTHER ENACTED, That:

(a) There is a Joint Technology Oversight Committee.

(b) The Committee consists of the following ten members:

(1) five members of the Senate of Maryland, appointed by the President of the Senate; and

(2) five members of the House of Delegates, appointed by the Speaker.

(c) The members of the Committee serve at the pleasure of the presiding officer who appointed them.

(d) The President and the Speaker shall jointly appoint a Senator and a Delegate to serve as co-chairmen who shall alternate in serving as the presiding chairman of the Committee each year.

(e) (1) The Committee shall:

(i) review the implementation of the Maryland Uniform Computer Information Transactions Act in this State; and

(ii) recommend to the Governor and the General Assembly any appropriate changes in State law based on the findings of the Committee.

(2) The Committee may examine and evaluate additional technology related issues as designated by the co-chairmen of the Committee.

(f) The Committee shall report its findings and recommendations to the Governor, the Legislative Policy Committee, the Senate Finance Committee, and the House Economic Matters Committee on or before December 1 of each year.]

#### **Article – State Government**

#### **2-10A-13.**

**(A) THERE IS A JOINT INFORMATION TECHNOLOGY AND BIOTECHNOLOGY COMMITTEE.**

**(B) THE COMMITTEE CONSISTS OF THE FOLLOWING 12 MEMBERS:**

**(1) SIX MEMBERS OF THE SENATE OF MARYLAND, APPOINTED BY THE PRESIDENT OF THE SENATE; AND**

**(2) SIX MEMBERS OF THE HOUSE OF DELEGATES, APPOINTED BY THE SPEAKER OF THE HOUSE.**

**(C) THE MEMBERS OF THE COMMITTEE SERVE AT THE PLEASURE OF THE PRESIDING OFFICER WHO APPOINTED THEM.**

**(D) THE PRESIDENT AND THE SPEAKER SHALL APPOINT JOINTLY A SENATOR AND A DELEGATE TO SERVE AS COCHAIRS WHO SHALL ALTERNATE IN SERVING AS THE PRESIDING CHAIR OF THE COMMITTEE EACH YEAR.**

**(E) (1) THE COMMITTEE SHALL:**

~~(I) WORK TO BROADEN THE SUPPORT, KNOWLEDGE, AND AWARENESS OF INFORMATION TECHNOLOGY AND BIOTECHNOLOGY INITIATIVES THAT CAN TO BENEFIT THE PEOPLE OF MARYLAND;~~

~~(II) SUPPORT EXISTING COMMITTEES AND MEMBERS WITH RESPONSIBILITIES RELEVANT TO THE INFORMATION TECHNOLOGY AND BIOTECHNOLOGY INDUSTRIES;~~

~~(III) ACT AS A LIAISON WITH EXECUTIVE BRANCH BOARDS AND COMMISSIONS ON ISSUES RELATED TO THE INFORMATION TECHNOLOGY AND BIOTECHNOLOGY INDUSTRIES;~~

~~(IV) PROVIDE AN EDUCATIONAL FORUM WHERE IDEAS AND ISSUES INVOLVING THE INFORMATION TECHNOLOGY AND BIOTECHNOLOGY INDUSTRIES WILL BE EXCHANGED; AND~~

~~(V) SUPPORT INITIATIVES, INCLUDING INITIATIVES IN EDUCATION AT ALL LEVELS, THAT FOSTER:~~

~~1. THE APPLICATION OF INFORMATION TECHNOLOGY AND BIOTECHNOLOGY ADVANCES TO THE PUBLIC AND PRIVATE SECTORS IN MARYLAND; AND~~

~~2. GOVERNMENT POLICIES TO PROMOTE OPPORTUNITIES FOR GOOD PAYING JOBS FOR RESIDENTS OF MARYLAND IN THE INFORMATION TECHNOLOGY AND BIOTECHNOLOGY INDUSTRIES.~~

(2) THE COMMITTEE MAY EXAMINE AND EVALUATE ADDITIONAL INFORMATION TECHNOLOGY- OR BIOTECHNOLOGY-RELATED ISSUES AS DESIGNATED BY THE COCHAIRS OF THE COMMITTEE.

(F) THE COMMITTEE SHALL REPORT ITS FINDINGS AND RECOMMENDATIONS TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THIS TITLE, THE LEGISLATIVE POLICY COMMITTEE, THE SENATE FINANCE COMMITTEE, AND THE HOUSE ECONOMIC MATTERS COMMITTEE ON OR BEFORE DECEMBER 1 OF EACH YEAR.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, April 14, 2009.

---

**Chapter 141****(House Bill 457)**

AN ACT concerning

**Principal Departments and Executive Branch Units – Dissemination of  
Information on Websites**

FOR the purpose of substituting a requirement that secretaries of certain departments and heads of certain units include certain organizational charts and descriptions on certain websites for the former requirement that secretaries of certain departments and heads of certain units submit to the General Assembly a certain organizational chart and description by a certain day each year; and generally relating to the posting of information by dissemination on websites by principal departments and executive branch units.

BY repealing and reenacting, with amendments,  
Article – State Government  
Section 8–305  
Annotated Code of Maryland  
(2004 Replacement Volume and 2008 Supplement)

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

**Article – State Government**

8–305.

[On or before the 1st day of each regular session of the General Assembly, the] **THE** secretary of each principal department and the head of each other unit in the Executive Branch of the State government that is not in a principal department shall [submit, subject to § 2–1246 of this article, to the General Assembly] **INCLUDE ON THE WEBSITE FOR THE DEPARTMENT OR UNIT:**

- (1) an organizational chart that:
  - (i) shows the major subunits in the unit; **AND**
  - (ii) lists the name and title of each individual who heads a subunit; and
  - [(iii) describes concisely the functions of each subunit; or**

(2) if an organizational chart is on file with the Department of Legislative Services, each change since the last chart was filed.]

**(2) A CONCISE DESCRIPTION OF THE DEPARTMENT OR UNIT AND EACH SUBUNIT.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

**Approved by the Governor, April 14, 2009.**

---

## Chapter 142

**(House Bill 507)**

AN ACT concerning

**Inmates – Hepatitis C – Counseling and Referral to Medical Assistance  
~~Program~~ Home**

FOR the purpose of requiring the Department of Public Safety and Correctional Services, in collaboration with the Department of Human Resources and the Department of Health and Mental Hygiene, to develop a process to refer certain inmates to the Department of Human Resources or the Department of Health and Mental Hygiene for enrollment in certain programs on or before a certain date; requiring the Department of Public Safety and Correctional Services to provide certain counseling to inmates with Hepatitis C; requiring the Department of Public Safety and Correctional Services, in collaboration with the Department of Human Resources and the Department of Health and Mental Hygiene, to develop certain regulations; and generally relating to inmates with Hepatitis C.

BY adding to

Article – Correctional Services

Section 9–613

Annotated Code of Maryland

(2008 Replacement Volume and 2008 Supplement)

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

### **Article – Correctional Services**

**9–613.**

(A) ~~THE~~ ON OR BEFORE JULY 1, 2010, THE DEPARTMENT, IN COLLABORATION WITH THE DEPARTMENT OF HUMAN RESOURCES AND THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE, SHALL DEVELOP A PROCESS TO REFER AN INMATE WHO HAS BEEN DIAGNOSED WITH HEPATITIS C TO THE DEPARTMENT OF HUMAN RESOURCES OR THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE FOR ENROLLMENT IN THE MARYLAND MEDICAL ASSISTANCE PROGRAM OR THE PRIMARY ADULT CARE PROGRAM ON RELEASE OF THE INMATE.

(B) THE DEPARTMENT SHALL PROVIDE COUNSELING TO INMATES WITH HEPATITIS C ON THE MANAGEMENT OF HEPATITIS C AND METHODS TO REDUCE THE TRANSMISSION OF HEPATITIS C.

(C) THE DEPARTMENT, IN COLLABORATION WITH THE DEPARTMENT OF HUMAN RESOURCES AND THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE, SHALL DEVELOP REGULATIONS TO IMPLEMENT SUBSECTION (A) OF THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, April 14, 2009.

---

## Chapter 143

(House Bill 542)

AN ACT concerning

### **Criminal Law – Human Trafficking – Inducing or Enticing**

FOR the purpose of altering a provision of law prohibiting a person from knowingly persuading or encouraging another by threat or promise to be taken to or placed in any place for prostitution to prohibit a person from knowingly persuading, inducing, enticing, or encouraging another to be taken to or placed in any place for prostitution; applying certain penalties; and generally relating to human trafficking.

BY repealing and reenacting, with amendments,

Article – Criminal Law

Section 11–303

Annotated Code of Maryland

(2002 Volume and 2008 Supplement)

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

**Article – Criminal Law**

11–303.

- (a) (1) A person may not knowingly:
- (i) take or cause another to be taken to any place for prostitution;
  - (ii) place, cause to be placed, or harbor another in any place for prostitution;
  - (iii) [persuade] **PERSUADE, INDUCE, ENTICE**, or encourage [by threat or promise] another to be taken to or placed in any place for prostitution;
  - (iv) unlawfully take or detain another with the intent to use force, threat, or persuasion to compel the other to marry the person or a third person or perform a sexual act, sexual contact, or vaginal intercourse; or
  - (v) receive consideration to procure for or place in a house of prostitution or elsewhere another with the intent of causing the other to engage in prostitution or assignation.
- (2) A parent, guardian, or person who has permanent or temporary care or custody or responsibility for supervision of another may not consent to the taking or detention of the other for prostitution.
- (b) A person may not violate subsection (a) of this section involving a victim who is a minor.
- (c) (1) (i) Except as provided in paragraph (2) of this subsection, a person who violates subsection (a) of this section is guilty of the misdemeanor of human trafficking and on conviction is subject to imprisonment not exceeding 10 years or a fine not exceeding \$5,000 or both.
- (ii) A person who violates subsection (a) of this section is subject to § 5–106(b) of the Courts Article.
- (2) A person who violates subsection (b) of this section is guilty of the felony of human trafficking and on conviction is subject to imprisonment not exceeding 25 years or a fine not exceeding \$15,000 or both.

(d) A person who violates this section may be charged, tried, and sentenced in any county in or through which the person transported or attempted to transport the other.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

**Approved by the Governor, April 14, 2009.**

---

## Chapter 144

(House Bill 552)

AN ACT concerning

### **Maryland Homeowners Association Act – Closed Meetings of Homeowners Association**

FOR the purpose of repealing a certain condition on which a meeting of the board of directors or other governing body of a homeowners association or a committee of a homeowners association may be held in closed session; altering certain conditions on which a meeting of a governing body or committee of a homeowners association may be held in closed session; authorizing a governing body or committee of a homeowners association to hold a meeting in closed session in order to discuss an individual owner assessment account; and generally relating to closed meetings of a homeowners association.

BY repealing and reenacting, without amendments,  
Article – Real Property  
Section 11B–111(1) and (5)  
Annotated Code of Maryland  
(2003 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,  
Article – Real Property  
Section 11B–111(4)  
Annotated Code of Maryland  
(2003 Replacement Volume and 2008 Supplement)

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

### **Article – Real Property**

11B–111.



Except as provided in this title, and notwithstanding anything contained in any of the documents of the homeowners association:

(1) Subject to the provisions of paragraph (4) of this section, all meetings of the homeowners association, including meetings of the board of directors or other governing body of the homeowners association or a committee of the homeowners association, shall be open to all members of the homeowners association or their agents;

(4) A meeting of the board of directors or other governing body of the homeowners association or a committee of the homeowners association may be held in closed session only for the following purposes:

(i) Discussion of matters pertaining to employees and personnel;

(ii) Protection of the privacy or reputation of individuals in matters not related to the homeowners association's business;

(iii) Consultation with legal counsel ON LEGAL MATTERS;

(iv) Consultation with staff personnel, consultants, attorneys, BOARD MEMBERS, or other persons in connection with pending or potential litigation OR OTHER LEGAL MATTERS;

(v) Investigative proceedings concerning possible or actual criminal misconduct;

(vi) Consideration of the terms or conditions of a business transaction in the negotiation stage if the disclosure could adversely affect the economic interests of the homeowners association; ~~OR~~

(vii) Compliance with a specific constitutional, statutory, or judicially imposed requirement protecting particular proceedings or matters from public disclosure; [or

(viii) On an individually recorded affirmative vote of two-thirds of the board or committee members present, some other exceptional reason so compelling as to override the general public policy in favor of open meetings;] ~~and~~ OR

(VIII) DISCUSSION OF INDIVIDUAL OWNER ASSESSMENT ACCOUNTS; AND

(5) If a meeting is held in closed session under paragraph (4) of this section:

(i) An action may not be taken and a matter may not be discussed if it is not permitted by paragraph (4) of this section; and

(ii) A statement of the time, place, and purpose of a closed meeting, the record of the vote of each board or committee member by which the meeting was closed, and the authority under this section for closing a meeting shall be included in the minutes of the next meeting of the board of directors or the committee of the homeowners association.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

**Approved by the Governor, April 14, 2009.**

---

## **Chapter 145**

### **(House Bill 613)**

AN ACT concerning

#### **Public Safety – Elevators – Inspections**

FOR the purpose of requiring that a State inspector make certain inspections relating to elevators and perform quality control monitoring of inspections by certain third-party qualified elevator inspectors; requiring an owner of an elevator to hire a third-party qualified elevator inspector to conduct certain inspections required by the Safety Code for elevator units; requiring an inspection by a third-party qualified elevator inspector to ensure that the elevator unit complies with the Safety Code and other regulations adopted by the Commissioner of Labor and Industry; requiring each elevator unit in the State to have a certain periodic annual inspection by a State inspector or by a third-party qualified elevator inspector; altering the procedures for issuing certain citations and assessing certain penalties; requiring the Commissioner to issue a certain citation under certain circumstances; requiring an owner who is issued a certain citation to post the citation or a copy of the citation in a certain manner; requiring the Commissioner to send by certified mail to the owner a certain notice within a reasonable time after issuance of a certain citation, authorizing an owner to request a hearing on the citation, within a certain period after receiving the notice; providing that a citation and penalties become a final order if a hearing is not requested; authorizing the Commissioner to establish, by regulation, procedures for the issuance of a warning notice instead of a citation for a certain de minimus violation; authorizing the Commissioner to delegate to the Office of Administrative Hearings the authority to hold a certain hearing and issue certain rulings; providing that a certain decision of an

administrative law judge shall become a final order of the Commissioner under certain circumstances; requiring the Commissioner to issue a certain order under certain circumstances; authorizing the Commissioner to assess and collect a certain civil penalty under certain circumstances; requiring the Commissioner to consider certain elements in determining a certain penalty; authorizing the Commissioner to assess and collect double administrative penalties on making a certain determination; authorizing the Commissioner to impose a certain penalty on an owner for failure to correct a certain violation; requiring a certain civil penalty to be paid into the General Fund of the State; making certain technical changes; and generally relating to the inspection of elevators.

BY repealing and reenacting, without amendments,

Article – Public Safety  
Section 12–801(a) and (r) and 12–814.1  
Annotated Code of Maryland  
(2003 Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,

Article – Public Safety  
Section 12–809, 12–812, and 12–814  
Annotated Code of Maryland  
(2003 Volume and 2008 Supplement)

BY adding to

Article – Public Safety  
Section 12–814.2 and 12–814.3  
Annotated Code of Maryland  
(2003 Volume and 2008 Supplement)

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

### **Article – Public Safety**

12–801.

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

(r) “Third–party qualified elevator inspector” means an inspector who:

(1) meets the qualifications, insurance requirements, and procedures established by the Commissioner; and

(2) is certified by an organization accredited by the American Society of Mechanical Engineers in accordance with the American National Standard/American Society of Mechanical Engineers Safety Code for Elevators,

Dumbwaiters, Escalators, and Moving Walks, known as ANSI A17.1–1971, and all subsequent amendments, and any related consensus standards.

12–809.

(a) [Except as provided in subsection (d) of this section, each inspection required by Part II of this subtitle shall be done by a State inspector.] **A STATE INSPECTOR SHALL MAKE THE FOLLOWING INSPECTIONS:**

**(1) FINAL ACCEPTANCE INSPECTION OF ALL NEW ELEVATOR UNITS PRIOR TO ISSUANCE OF FIRST CERTIFICATE;**

**(2) INVESTIGATION OF ACCIDENTS AND COMPLAINTS;**

**(3) FOLLOW–UP INSPECTIONS TO CONFIRM CORRECTIVE ACTION;**

**(4) FINAL ACCEPTANCE INSPECTION OF THE MODERNIZATION OR ALTERATION OF AN ELEVATOR UNIT;**

**(5) A COMPREHENSIVE 5–YEAR INSPECTION AS DEFINED BY REGULATION;**

**(6) EXCEPT AS PROVIDED BY § 12–807(B) OF THIS SUBTITLE, INSPECTIONS OF ELEVATOR UNITS OWNED BY THE STATE OR A POLITICAL SUBDIVISION; AND**

**(7) QUALITY CONTROL MONITORING OF INSPECTIONS CONDUCTED BY THIRD–PARTY QUALIFIED ELEVATOR INSPECTORS.**

(b) (1) A contractor, owner, or lessee shall provide the Commissioner with at least 60 days' notice of a requested inspection.

(2) If a contractor, owner, or lessee provides the Commissioner with less than 60 days' notice of a requested inspection that will be conducted by a State inspector, the Commissioner shall schedule the inspection at the convenience of the State subject to the availability of State resources.

(c) (1) For all inspections conducted by a State inspector, the contractor, owner, or lessee of an elevator unit shall pay a fee for an inspection under § 12–810(d) or § 12–812(d)(3) of this subtitle at the following rate:

(i) half day (up to 4 hours), not to exceed \$250; or

(ii) full day (up to 8 hours), not to exceed \$500.

(2) Each fee collected under this subsection shall be paid into the Elevator Safety Review Board Fund established under this subtitle.

(3) A contractor, owner, or lessee who notifies the Commissioner at least 24 hours in advance of a scheduled inspection that the elevator unit does not comply with the requirements of Part II of this subtitle may not be charged a fee under paragraph (1) of this subsection.

(d) (1) [Periodic annual no-load test inspections of elevator units required by Part II of this subtitle and the enforcement of the Safety Code for elevator units shall comply with regulations adopted by the Commissioner under this subsection.

(2) The Commissioner shall authorize inspections of periodic annual no-load tests of elevator units to be conducted by third-party qualified elevator inspectors.] **AN OWNER SHALL HIRE A THIRD-PARTY QUALIFIED ELEVATOR INSPECTOR TO CONDUCT ALL PERIODIC ANNUAL INSPECTIONS THAT ARE REQUIRED BY THE SAFETY CODE.**

**(2) AN INSPECTION BY A THIRD-PARTY QUALIFIED ELEVATOR INSPECTOR SHALL ENSURE THAT THE ELEVATOR UNIT COMPLIES WITH THE SAFETY CODE AND OTHER REGULATIONS ADOPTED BY THE COMMISSIONER UNDER PART II OF THIS SUBTITLE.**

(3) The Commissioner shall establish qualifications, insurance requirements, and procedures based on nationally accepted standards that the Commissioner considers necessary to register third-party qualified elevator inspectors under Part II of this subtitle.

(4) [When the Commissioner authorizes a third-party qualified elevator inspector to conduct a periodic annual no-load test inspection, the inspection shall ensure that the elevator unit complies with the Safety Code and any other regulation adopted by the Commissioner under Part II of this subtitle.

(5) Any fees collected by the Commissioner to register third-party qualified elevator inspectors shall be paid into the Elevator Safety Review Board Fund established under this subtitle.

12-812.

(a) A certificate is valid for the period indicated on the certificate.

(b) [(1) Except as provided in § 12-809(d) of this subtitle, the Commissioner shall conduct an inspection of each elevator unit at time intervals set forth in regulations adopted under this subtitle.

(2) The time intervals shall protect the public safety, taking into consideration the design, type, age, and operating characteristics of the elevator unit.] **EACH ELEVATOR UNIT IN THE STATE SHALL HAVE A PERIODIC ANNUAL INSPECTION BY A STATE INSPECTOR AS PROVIDED FOR IN § 12-809(A)(6) OF THIS SUBTITLE OR BY A THIRD-PARTY QUALIFIED ELEVATOR INSPECTOR AS PROVIDED FOR IN § 12-809(D) OF THIS SUBTITLE.**

(c) Before scheduling an inspection with the Commissioner or a third-party qualified elevator inspector, the contractor, owner, or lessee of an elevator unit shall:

(1) ensure that the elevator unit is operated, inspected, and repaired in accordance with Part II of this subtitle and the regulations adopted under Part II of this subtitle; and

(2) make inspection, maintenance, and repair records available to the inspector charged with inspecting the elevator unit.

(d) (1) When an inspector conducts an inspection and the elevator unit fails the inspection, the inspector shall issue an inspection checklist that specifies the corrections required.

(2) The inspection checklist shall be on a form provided by the Commissioner and shall specify the requirements for compliance with the Safety Code and other regulations adopted by the Commissioner.

(3) If a State inspector [is conducting the inspection and] **CONDUCTS** a follow-up inspection [is required] to ensure compliance with the corrections specified on the inspection checklist, the contractor, owner, or lessee shall pay a fee in accordance with § 12-809 of this subtitle.

12-814.

(a) When an inspection by a State inspector discloses that an elevator unit is in unsafe condition so that its continued operation will violate the Safety Code, or any other regulation adopted by the Commissioner under Part II of this subtitle, a citation may be issued and penalties may be assessed in accordance with [§§ 5-212 and 5-213 of the Labor and Employment Article] **§§ 12-814.2 AND 12-814.3 OF THIS SUBTITLE.**

(b) (1) When an inspection by a third-party qualified elevator inspector discloses that an elevator unit is in unsafe condition so that its continued operation will violate the Safety Code, or any other regulation adopted by the Commissioner under Part II of this subtitle, the third-party qualified elevator inspector shall notify the Commissioner immediately.

(2) On notification, the Commissioner shall conduct an inspection of the unsafe condition to determine whether to issue a citation and assess penalties in accordance with [§§ 5-212 and 5-213 of the Labor and Employment Article] §§ 12-814.2 AND 12-814.3 OF THIS SUBTITLE.

12-814.1.

(a) The Commissioner may prohibit use of an elevator unit after determining, based on an inspection, that:

(1) the elevator unit violates § 12-806 of this subtitle; or

(2) there is a substantial probability that death or serious physical harm could result from continued use of the elevator unit.

(b) The Commissioner shall issue a written notice prohibiting use of the elevator unit to the contractor, owner, lessee, or agent in charge of the elevator unit.

(c) A copy of the notice:

(1) shall be attached to the elevator unit; and

(2) may not be removed until a State inspector determines that the elevator unit complies with this subtitle.

(d) Use of the elevator unit is prohibited while a notice is posted on the elevator unit.

(e) A person aggrieved by the decision to prohibit use of an elevator unit may bring an action to modify or vacate the decision on the ground that it is unlawful or unreasonable.

(f) An action under this section shall be brought in the circuit court for the county where the elevator unit is located.

(g) In a proceeding under this section, a court may not stay an order of the Commissioner unless:

(1) the court gives the Commissioner notice and an opportunity for a hearing; and

(2) the aggrieved person posts security or meets any other condition that the court considers proper.

**12-814.2.**

(A) ~~IF~~ SUBJECT TO SUBSECTION (K) OF THIS SECTION, IF, AFTER AN INSPECTION OR INVESTIGATION, THE COMMISSIONER DETERMINES THAT, WITHIN THE IMMEDIATELY PRECEDING 6 MONTHS, AN ELEVATOR UNIT IS IN VIOLATION OF THE SAFETY CODE OR ANOTHER REGULATION ADOPTED BY THE COMMISSIONER UNDER PART II OF THIS SUBTITLE, THE COMMISSIONER SHALL ISSUE A CITATION TO THE OWNER.

(B) EACH CITATION UNDER THIS SECTION SHALL:

(1) BE IN WRITING;

(2) DESCRIBE, WITH PARTICULARITY, THE NATURE OF THE ALLEGED VIOLATION;

(3) REFERENCE THE PROVISION OF THE SAFETY CODE OR REGULATION THAT IS ALLEGED TO BE IN VIOLATION; AND

(4) SET A REASONABLE PERIOD OF TIME FOR ABATEMENT AND CORRECTION OF THE ALLEGED VIOLATION.

(C) AN OWNER WHO IS ISSUED A CITATION SHALL POST THE CITATION OR A COPY OF THE CITATION CONSPICUOUSLY AT OR NEAR THE ELEVATOR UNIT ALLEGED TO BE IN VIOLATION.

(D) WITHIN A REASONABLE TIME AFTER ISSUANCE OF A CITATION, THE COMMISSIONER SHALL SEND BY CERTIFIED MAIL TO THE OWNER:

(1) NOTICE OF THE VIOLATION WITH A COPY OF THE CITATION AND PROPOSED PENALTY; AND

(2) NOTICE OF THE OPPORTUNITY TO REQUEST A HEARING.

(E) WITHIN 15 DAYS AFTER AN OWNER RECEIVES A NOTICE UNDER SUBSECTION (D) OF THIS SECTION, THE OWNER MAY SUBMIT A WRITTEN REQUEST FOR A HEARING ON THE CITATION AND PROPOSED PENALTY.

(F) IF A HEARING IS NOT REQUESTED WITHIN 15 DAYS, THE CITATION, INCLUDING ANY PENALTIES, SHALL BECOME A FINAL ORDER OF THE COMMISSIONER.

(G) IF THE OWNER REQUESTS A HEARING, THE COMMISSIONER MAY DELEGATE TO THE OFFICE OF ADMINISTRATIVE HEARINGS THE AUTHORITY TO HOLD A HEARING AND ISSUE PROPOSED FINDINGS OF FACT, CONCLUSIONS OF



LAW, AND AN ORDER IN ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

(H) A DECISION OF AN ADMINISTRATIVE LAW JUDGE ISSUED IN ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE SHALL BECOME A FINAL ORDER OF THE COMMISSIONER UNLESS, WITHIN 15 DAYS AFTER THE ISSUANCE OF THE PROPOSED DECISION:

(1) THE COMMISSIONER ORDERS A REVIEW OF THE PROPOSED DECISION; OR

(2) AN OWNER SUBMITS TO THE COMMISSIONER A WRITTEN REQUEST FOR A REVIEW OF THE PROPOSED DECISION.

(I) AFTER REVIEW OF THE PROPOSED ORDER UNDER SUBSECTION (H) OF THIS SECTION, WHETHER OR NOT A HEARING ON THE RECORD IS HELD, THE COMMISSIONER SHALL ISSUE AN ORDER THAT, ON THE BASIS OF FINDINGS OF FACT AND CONCLUSIONS OF LAW, AFFIRMS, MODIFIES, OR VACATES THE PROPOSED DECISION.

(J) AN ORDER OF THE COMMISSIONER UNDER SUBSECTION (I) OF THIS SECTION IS THE FINAL ADMINISTRATIVE ORDER.

(K) THE COMMISSIONER MAY ESTABLISH, BY REGULATION, PROCEDURES FOR THE ISSUANCE OF A WARNING NOTICE INSTEAD OF A CITATION FOR A DE MINIMUS VIOLATION THAT HAS NO DIRECT OR IMMEDIATE RELATIONSHIP TO HEALTH OR SAFETY.

12-814.3.

(A) IF, AFTER INVESTIGATION, THE COMMISSIONER DETERMINES THAT AN OWNER VIOLATED THE SAFETY CODE OR A REGULATION ADOPTED BY THE COMMISSIONER UNDER PART II OF THIS SUBTITLE, THE COMMISSIONER MAY ASSESS AND COLLECT A CIVIL PENALTY OF UP TO \$5,000 FOR EACH ELEVATOR UNIT IN VIOLATION OF THE SAFETY CODE OR REGULATIONS.

(B) IN DETERMINING THE AMOUNT OF THE PENALTY, THE COMMISSIONER SHALL CONSIDER:

(1) THE GRAVITY OF THE VIOLATION;

(2) THE OWNER'S GOOD FAITH; AND

(3) THE OWNER'S HISTORY OF VIOLATIONS UNDER THIS SUBTITLE.

(C) IF, AFTER INVESTIGATION, THE COMMISSIONER DETERMINES THAT AN OWNER WILLFULLY OR REPEATEDLY VIOLATED THE SAFETY CODE OR A REGULATION ADOPTED BY THE COMMISSIONER UNDER PART II OF THIS SUBTITLE, THE COMMISSIONER MAY ASSESS AND COLLECT DOUBLE THE ADMINISTRATIVE PENALTIES SET FORTH IN SUBSECTION (A) OF THIS SECTION.

(D) IF, AFTER THE ISSUANCE OF A FINAL ORDER AFFIRMING A VIOLATION OF THE SAFETY CODE OR A REGULATION ADOPTED BY THE COMMISSIONER UNDER PART II OF THIS SUBTITLE, AN OWNER FAILS TO CORRECT THE VIOLATION WITHIN 10 DAYS, THE COMMISSIONER MAY IMPOSE A CIVIL PENALTY, NOT EXCEEDING \$1,000 FOR EACH DAY A VIOLATION CONTINUES, AGAINST THE OWNER.

(E) EACH CIVIL PENALTY SHALL BE PAID INTO THE GENERAL FUND OF THE STATE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2009.

Approved by the Governor, April 14, 2009.

---

## Chapter 146

(House Bill 616)

AN ACT concerning

**Howard County – Alcoholic Beverages – Hearing Board and Liquor Board  
Personnel**

**Ho. Co. 11-09**

FOR the purpose of specifying that personnel needed in Howard County to carry out the duties of the Appointed Alcoholic Beverage Hearing Board and the Board of License Commissioners be included in the staff of the County Council and supervised by the County Council Administrator; repealing a provision of law that requires the director of a certain agency to provide a single administrator to serve both the Appointed Alcoholic Beverage Hearing Board and the Board of License Commissioners; repealing a provision of law that authorizes the director of a certain agency to provide certain staffing; and generally relating to the regulation of alcoholic beverages in Howard County.

BY repealing and reenacting, without amendments,  
Article 2B – Alcoholic Beverages  
Section 15–107.1(a)(1) through (4) and (6)  
Annotated Code of Maryland  
(2005 Replacement Volume and 2008 Supplement)

BY repealing  
Article 2B – Alcoholic Beverages  
Section 15–107.1(g)(1)  
Annotated Code of Maryland  
(2005 Replacement Volume and 2008 Supplement)

BY adding to  
Article 2B – Alcoholic Beverages  
Section 15–107.1(g)(1)  
Annotated Code of Maryland  
(2005 Replacement Volume and 2008 Supplement)

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

**Article 2B – Alcoholic Beverages**

15–107.1.

- (a) (1) In this section the following words have the meanings indicated.
- (2) “County” means Howard County.
- (3) “County Council” means the County Council for Howard County.
- (4) “Hearing Board” means the Appointed Alcoholic Beverage Hearing Board in Howard County.
- (6) “Liquor Board” means the Board of License Commissioners for Howard County.

[(g) (1) The director of the County Department of Inspections, Licenses, and Permits shall provide a single administrator to serve both the Hearing Board and the Liquor Board, and may provide other staffing to the boards as necessary to carry out the duties of the boards.]

**(G) (1) PERSONNEL NEEDED TO CARRY OUT THE DUTIES OF THE HEARING BOARD AND THE LIQUOR BOARD SHALL BE:**

(I) INCLUDED IN THE STAFF OF THE COUNTY COUNCIL;  
 AND  
 (II) SUPERVISED BY THE COUNTY COUNCIL  
 ADMINISTRATOR.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2009.

**Approved by the Governor, April 14, 2009.**

---

## Chapter 147

(House Bill 624)

AN ACT concerning

### Allegany County – Alcoholic Beverages – Volunteer Company License

FOR the purpose of establishing a Class C (volunteer company) beer, wine and liquor license in Allegany County; specifying the persons to whom the license may be issued; specifying that a holder of the license may keep and sell alcoholic beverages for consumption on or off the premises; specifying that the patrons of a club for which a license is issued are not limited to certain individuals; providing for a license fee; making certain stylistic changes; and generally relating to alcoholic beverages in Allegany County.

BY repealing and reenacting, with amendments,  
 Article 2B – Alcoholic Beverages  
 Section 6–301(b)  
 Annotated Code of Maryland  
 (2005 Replacement Volume and 2008 Supplement)

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

### Article 2B – Alcoholic Beverages

6–301.

(b) (1) (I) This subsection applies only in Allegany County.

[2] (II) The annual license fee **FOR A CLASS C (GENERAL) BEER, WINE AND LIQUOR LICENSE** is \$500.

~~[(3)]~~ (III) Beverages may be sold for consumption on the premises or elsewhere.

(2) (I) **THERE IS A CLASS C (VOLUNTEER COMPANY) BEER, WINE AND LIQUOR LICENSE.**

(II) **A VOLUNTEER COMPANY LICENSE MAY BE ISSUED TO A VOLUNTEER FIRE COMPANY, A VOLUNTEER AMBULANCE COMPANY, OR A COMBINED VOLUNTEER FIRE AND AMBULANCE COMPANY.**

(III) **A HOLDER OF A VOLUNTEER COMPANY LICENSE MAY KEEP AND SELL ALL ALCOHOLIC BEVERAGES FOR CONSUMPTION ON OR OFF THE PREMISES.**

(IV) **PATRONS OF A CLUB FOR WHICH A VOLUNTEER COMPANY LICENSE IS ISSUED ARE NOT LIMITED TO THE MEMBERS OF THE LICENSE HOLDER AND THEIR GUESTS.**

(V) **THE ANNUAL LICENSE FEE IS \$500.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2009.

Approved by the Governor, April 14, 2009.

---

## Chapter 148

(House Bill 625)

AN ACT concerning

**Washington County – Office of the Sheriff – Special Deputy Sheriffs ~~and~~  
~~Deputized Individuals~~**

FOR the purpose of authorizing the Sheriff of Washington County to assign special deputy sheriffs to duties in areas of the county other than the municipality where the special deputy sheriff is a member of the police force; ~~authorizing the Sheriff of Washington County, in an emergency, to deputize temporarily any able bodied citizen to assist in carrying out the duties of the Sheriff's office; requiring the County Commissioners of Washington County to provide certain compensation to an individual deputized under certain circumstances; providing that an individual deputized under certain circumstances may remain~~

~~deputized only for a certain period of time;~~ making certain clarifying changes; and generally relating to the office of the Sheriff of Washington County.

BY repealing and reenacting, with amendments,  
 Article – Courts and Judicial Proceedings  
 Section 2–309(w)(4)  
 Annotated Code of Maryland  
 (2006 Replacement Volume and 2008 Supplement)

~~BY adding to  
 Article – Courts and Judicial Proceedings  
 Section 2–309(w)(5)  
 Annotated Code of Maryland  
 (2006 Replacement Volume and 2008 Supplement)~~

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

### Article – Courts and Judicial Proceedings

2–309.

(w) (4) (i) The Sheriff of Washington County may appoint special deputy sheriffs, including members of the police force of a Washington County municipality who are:

1. Selected by the chief of police of the municipality; and
2. Verified by the chief of police of the municipality as having achieved at least the minimum level of training for police duties in a municipality as designated by the Maryland Police Training Commission.

(ii) The appointment of special deputy sheriffs is subject to the following conditions:

1. The Sheriff shall assign the special deputy sheriff who is a member of the police force to duties in the municipality where the special deputy sheriff is a member of the police force[, or in the surrounding area] **OR TO DUTIES IN OTHER AREAS OF THE COUNTY;**

2. The Sheriff may terminate the appointment of the special deputy sheriff for cause or on completion of the assignment for which [he] **THE SPECIAL DEPUTY SHERIFF** was appointed;

3. The special deputy sheriff is not an employee of Washington County for the purpose of employment security or employee benefits; and

4. County liability insurance shall be provided to a special deputy sheriff only when [he] ~~THE SPECIAL DEPUTY SHERIFF~~ is acting within [his] ~~THE SPECIAL DEPUTY SHERIFF'S~~ official duties ~~AS SPECIAL DEPUTY SHERIFF~~.

~~(5) (I) IN CASE OF EMERGENCY, THE SHERIFF OF WASHINGTON COUNTY MAY DEPUTIZE TEMPORARILY ANY ABLE BODIED CITIZEN TO ASSIST THE SHERIFF IN CARRYING OUT THE DUTIES OF THE SHERIFF'S OFFICE.~~

~~(II) THE COUNTY COMMISSIONERS OF WASHINGTON COUNTY SHALL PROVIDE REASONABLE COMPENSATION FOR AN INDIVIDUAL DEPUTIZED UNDER THIS PARAGRAPH.~~

~~(III) AN INDIVIDUAL DEPUTIZED UNDER THIS PARAGRAPH MAY REMAIN DEPUTIZED ONLY FOR AS LONG AS THE SHERIFF DETERMINES THE EMERGENCY REQUIRES THE INDIVIDUAL'S SERVICE.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, April 14, 2009.

---

## Chapter 149

(House Bill 640)

AN ACT concerning

~~Real Property – Residential Real Property in Foreclosure – Notice~~  
Notification to Local Governments a County or Municipal Corporation

FOR the purpose of authorizing a county or municipal corporation to enact a local law requiring a certain person authorized to make a sale of residential real property to notify the county or municipal corporation where the property is located within a certain period of time after filing an action that notice be given to a county or municipal agency or official when an order to docket or a complaint to foreclose a mortgage or deed of trust on the property subject to the mortgage or deed of trust; providing certain information that must be provided to the county or municipal corporation in the notification is filed on residential property located within the county or municipal corporation; requiring a local law enacted under this Act to require a certain person to give a certain notice to a certain county or municipal agency or official within a certain time; defining a certain term; and generally relating to notice to local governments of

notification to a county or municipal corporation regarding residential real property in foreclosure.

BY repealing and reenacting, without amendments,

Article – Real Property

Section 7–105.1(a)

Annotated Code of Maryland

(2003 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,

Article – Real Property

Section 14–126

Annotated Code of Maryland

(2003 Replacement Volume and 2008 Supplement)

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

### Article – Real Property

#### 7–105.1.

(a) In this section, “residential property” means real property improved by four or fewer single family dwelling units.

#### 14–126.

(a) ~~(1)~~ In addition to any other foreclosure requirements under the law ~~AND EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION~~, after the commencement of an action to foreclose a lien on real property and before making a sale of the property subject to the lien, the person authorized to make the sale shall notify the county or municipal corporation where the property subject to the lien is located, not less than 15 days prior to sale, of:

~~{(1)}~~ ~~(1)~~ The name, address, and telephone number of the person authorized to make the sale; and

~~{(2)}~~ ~~(2)~~ The time, place, and terms of sale.

~~(2) IN ADDITION TO ANY OTHER FORECLOSURE REQUIREMENTS UNDER LAW, WITHIN 5 DAYS OF THE FILING OF AN ACTION TO FORECLOSE A MORTGAGE OR DEED OF TRUST ON RESIDENTIAL REAL PROPERTY, THE PERSON AUTHORIZED TO MAKE THE SALE OF THE PROPERTY SHALL NOTIFY THE COUNTY OR MUNICIPAL CORPORATION WHERE THE PROPERTY SUBJECT TO THE MORTGAGE OR DEED OF TRUST IS LOCATED OF:~~



~~(I) THE NAME, ADDRESS, AND CONTACT INFORMATION, INCLUDING TELEPHONE NUMBER, OF THE PERSON AUTHORIZED TO MAKE THE SALE;~~

~~(II) THE STREET ADDRESS OF THE RESIDENTIAL REAL PROPERTY; AND~~

~~(III) THE NAMES AND ADDRESSES, IF KNOWN, OF ALL PROPERTY OWNERS.~~

(b) A county or municipal corporation that receives the notice described under subsection (a)~~(1)~~ of this section shall notify the person authorized to make the sale of any outstanding liens, charges, taxes, or assessments that the county or municipal corporation has against the property not more than 10 days after receiving the notice of sale.

(C) (1) IN THIS SUBSECTION, "RESIDENTIAL PROPERTY" HAS THE MEANING STATED IN § 7-105.1 OF THIS ARTICLE.

(2) A COUNTY OR MUNICIPAL CORPORATION MAY ENACT A LOCAL LAW REQUIRING THAT NOTICE BE GIVEN TO A COUNTY OR MUNICIPAL AGENCY OR OFFICIAL WHEN AN ORDER TO DOCKET OR A COMPLAINT TO FORECLOSE A MORTGAGE OR DEED OF TRUST IS FILED ON RESIDENTIAL PROPERTY LOCATED WITHIN THE COUNTY OR MUNICIPAL CORPORATION.

(3) A LOCAL LAW ENACTED UNDER THIS SUBSECTION SHALL REQUIRE THAT WITHIN FIVE DAYS AFTER FILING AN ORDER TO DOCKET OR A COMPLAINT TO FORECLOSE A MORTGAGE OR DEED OF TRUST ON RESIDENTIAL PROPERTY, THE PERSON AUTHORIZED TO MAKE THE SALE SHALL GIVE NOTICE OF THE FILING TO THE COUNTY OR MUNICIPAL AGENCY OR OFFICIAL DESIGNATED BY THE LOCAL LAW.

(4) THE NOTICE REQUIRED UNDER PARAGRAPH (3) OF THIS SUBSECTION SHALL INCLUDE:

(I) THE STREET ADDRESS OF THE RESIDENTIAL PROPERTY SUBJECT TO THE FORECLOSURE ACTION;

(II) THE NAMES AND ADDRESSES, IF KNOWN, OF ALL OWNERS OF THE RESIDENTIAL PROPERTY SUBJECT TO THE FORECLOSURE ACTION; AND

(III) THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE PERSON AUTHORIZED TO MAKE THE SALE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2009.

**Approved by the Governor, April 14, 2009.**

---

## Chapter 150

(House Bill 676)

AN ACT concerning

### Maryland Agricultural Land Preservation Foundation – Easements

FOR the purpose of authorizing the Maryland Agricultural Land Preservation Foundation to enter into certain corrective easements to make certain adjustments, resolve certain violations, or accommodate certain plans; authorizing certain corrective easements to be accomplished in a certain manner; excluding certain corrective easements from certain requirements; authorizing the Foundation to adopt certain regulations; making technical corrections; and generally relating to easements under the Maryland Agricultural Land Preservation Program.

BY adding to

Article – Agriculture  
Section 2–513(b)(8)  
Annotated Code of Maryland  
(2007 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,

Article – Agriculture  
Section 2–513(b)(8)  
Annotated Code of Maryland  
(2007 Replacement Volume and 2008 Supplement)

### Preamble

WHEREAS, This Act is intended to further the Maryland Agricultural Land Preservation Foundation’s goals by authorizing it to enter into corrective easements to adjust boundary lines for purposes such as accommodating the movement of farm equipment within an easement property or resolving boundary line discrepancies between an easement property and adjacent parcels of land; and

WHEREAS, This Act is intended to further the Maryland Agricultural Land Preservation Foundation’s goals by authorizing it to enter into corrective easements to

accommodate a plan that the Foundation has determined will benefit agricultural operations, such as relocating a building lot from the middle of a productive field to the edge of the property, or adding productive farmland in exchange for easement property of equal or lesser agricultural value; now, therefore,

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

**Article – Agriculture**

2-513.

(b) ~~(8)~~ **(I) THE FOUNDATION MAY ENTER INTO CORRECTIVE EASEMENT EASEMENTS WITH LANDOWNERS IN ORDER TO:**

1. **ADJUST BOUNDARY LINES;**
2. **RESOLVE EASEMENT VIOLATIONS; OR**
3. **ACCOMMODATE A PLAN THAT THE FOUNDATION HAS DETERMINED WILL BENEFIT THE AGRICULTURAL OPERATIONS.**

**(II) ~~THE CORRECTIVE~~ CORRECTIVE EASEMENTS UNDER THIS PARAGRAPH MAY BE ACCOMPLISHED BY THE EXCHANGE AND RELEASE OF FARMLAND SUBJECT TO EASEMENT RESTRICTIONS WITH OTHER FARMLAND THAT MEETS THE REQUIREMENTS OF THIS SUBTITLE.**

**(III) ~~A CORRECTIVE EASEMENT~~ CORRECTIVE EASEMENTS APPROVED BY THE FOUNDATION ~~IS~~ ARE NOT SUBJECT TO THE REQUIREMENTS OF §§ 4-416 AND 10-305 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.**

**(IV) THE FOUNDATION SHALL ADOPT REGULATIONS TO CARRY OUT THIS PARAGRAPH.**

**[(8)] (9)** The restrictions of paragraphs (2) and (5) of this subsection concerning maximum lot sizes may be waived by the Foundation so that the maximum lot size is 2 acres if:

- (i) The Foundation receives a recommendation to allow a maximum lot size of more than 1 acre from the county agricultural preservation advisory board and the planning and zoning authority of the jurisdiction where the land is situated; and

(ii) The Foundation makes a determination that a lot size greater than 1 acre will not interfere significantly with the agricultural use of the land under easement.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ July 1, 2009.

**Approved by the Governor, April 14, 2009.**

---

## Chapter 151

(House Bill 721)

AN ACT concerning

### **Frederick County – Alcoholic Beverages – Wine Festival License**

FOR the purpose of establishing a special wine festival (WF) license in Frederick County; requiring that an applicant for a special WF license must be a holder of a certain other license; specifying that a holder of a special WF license may display and sell wine in a certain manner; requiring the Frederick County Board of License Commissioners to assure that the primary focus of the festival is the promotion of Maryland wine; requiring a holder of a special WF license to display and sell certain wine; providing for a license fee; providing that this Act does not prohibit the holder of a special WF license from holding another alcoholic beverages license; authorizing the Board to choose certain weekends for festivals; requiring the Board to choose certain locations for the festivals; requiring the Board to adopt certain regulations; defining certain terms; and generally relating to wine in Frederick County.

BY renumbering

Article 2B – Alcoholic Beverages

Section 8–308.1

to be Section 8–308.2

Annotated Code of Maryland

(2005 Replacement Volume and 2008 Supplement)

BY adding to

Article 2B – Alcoholic Beverages

Section 8–308.1

Annotated Code of Maryland

(2005 Replacement Volume and 2008 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 8-308.1 of Article 2B – Alcoholic Beverages of the Annotated Code of Maryland be renumbered to be Section(s) 8-308.2.

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

**Article 2B – Alcoholic Beverages**

**8-308.1.**

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

(2) “BOARD” MEANS THE FREDERICK COUNTY BOARD OF LICENSE COMMISSIONERS.

(3) “FESTIVAL” MEANS THE FREDERICK COUNTY WINE FESTIVAL.

(B) THIS SECTION APPLIES ONLY IN FREDERICK COUNTY.

(C) THE BOARD MAY ISSUE A SPECIAL WINE FESTIVAL (WF) LICENSE.

(D) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, TO BE ELIGIBLE FOR A SPECIAL WF LICENSE, AN APPLICANT MUST BE A HOLDER OF AN EXISTING STATE RETAIL ALCOHOLIC BEVERAGES LICENSE, A STATE CLASS 3 WINERY LICENSE, OR A STATE CLASS 4 LIMITED WINERY LICENSE.

(E) A SPECIAL WF LICENSE ENTITLES THE HOLDER TO DISPLAY AND SELL AT RETAIL WINE FOR CONSUMPTION ON OR OFF THE PREMISES ON THE DAYS AND FOR THE HOURS DESIGNATED FOR A FESTIVAL IN THE COUNTY.

(F) (1) THE BOARD SHALL ASSURE THAT THE PRIMARY FOCUS OF THE FESTIVAL IS THE PROMOTION OF MARYLAND WINE.

(2) A HOLDER OF A SPECIAL WF LICENSE SHALL DISPLAY AND SELL WINE THAT IS DISTRIBUTED IN THE STATE.

(G) THE SPECIAL WF LICENSE FEE IS \$20.

(H) THIS SECTION DOES NOT PROHIBIT THE HOLDER OF A SPECIAL WF LICENSE FROM HOLDING ANOTHER ALCOHOLIC BEVERAGES LICENSE OF A DIFFERENT CLASS OR NATURE.

(I) THE BOARD MAY CHOOSE 2 WEEKENDS ANNUALLY FOR FESTIVALS.

(J) THE BOARD SHALL CHOOSE LOCATIONS IN THE COUNTY FOR THE FESTIVALS THAT ARE NOT LICENSED UNDER THIS ARTICLE.

(K) THE BOARD SHALL ADOPT REGULATIONS TO CARRY OUT THIS SECTION.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2009.

Approved by the Governor, April 14, 2009.

---

## Chapter 152

(House Bill 731)

AN ACT concerning

**Baltimore County and Howard County – Alcoholic Beverages Licenses –  
Application Requirements – Citizenship Status**

**Ho. Co. 8–09**

FOR the purpose of altering certain provisions of law that apply to Baltimore County and Howard County with regard to certain required information on an application for an alcoholic beverages license that relates to the citizenship of the applicant; making stylistic changes; and generally relating to applications for alcoholic beverages licenses in Baltimore County and Howard County.

BY repealing and reenacting, with amendments,  
Article 2B – Alcoholic Beverages  
Section 10–103(b)  
Annotated Code of Maryland  
(2005 Replacement Volume and 2008 Supplement)

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

**Article 2B – Alcoholic Beverages**

10–103.

(b) Except as otherwise provided in this subtitle, every new application for a license shall be made to the Board of License Commissioners [upon] ON forms prescribed by the Comptroller and sworn to by the applicant. Every application for a license shall contain the following [statements]:

(1) The class of license desired;

(2) The name and residence of the applicant and how long he has resided at that address;

(3) ~~Except in Baltimore [and Howard counties] COUNTY,~~ a A statement that the applicant is a citizen of the United States;

**(3-A) (I) IN BALTIMORE COUNTY AND HOWARD COUNTY, A STATEMENT WHETHER THE APPLICANT IS A NATURAL-BORN CITIZEN OR A NATURALIZED CITIZEN AND, IF THE APPLICANT IS NOT A NATURAL-BORN CITIZEN OR A NATURALIZED CITIZEN, ~~THE APPLICANT SHALL PROVIDE THE INFORMATION OR DOCUMENTATION REQUIRED BY THE BALTIMORE COUNTY BOARD OF LIQUOR LICENSE COMMISSIONERS OR THE BOARD OF LICENSE COMMISSIONERS OF HOWARD COUNTY TO SHOW PROOF OF ALIEN STATUS.~~**

**(II) ~~THE BOARD~~ BALTIMORE COUNTY BOARD OF LIQUOR LICENSE COMMISSIONERS AND THE BOARD OF LICENSE COMMISSIONERS OF HOWARD COUNTY MAY OBTAIN INFORMATION FROM THE SOCIAL SECURITY ADMINISTRATION AND THE DEPARTMENT OF HOMELAND SECURITY – IMMIGRATION AND CUSTOMS TO VERIFY THE APPLICANT’S CITIZENSHIP OR ALIEN STATUS.**

(4) (i) Except as provided in subparagraph (ii) of this paragraph, a statement that the applicant has been for two years next preceding the filing of [his] **THE** application a resident of the county or of the City of Baltimore in which [he] **THE APPLICANT** proposes to operate under the license applied for. The Board of License Commissioners of Prince George’s County shall apply the residency requirements as specified in § 9–101 of this article;

(ii) In Dorchester County the residency requirement is 1 year;

(iii) In Carroll County, in addition to the applicant’s residential statement required under this section, the license shall remain valid only for as long as the resident applicant remains a resident of the county;

(5) The age and sex of the applicant;

(6) ~~Except in Baltimore [and Howard counties] COUNTY, the~~ **THE** place of birth of the applicant, and if a naturalized citizen, when and where [he] **THE APPLICANT** was naturalized;

(7) The particular place for which a license is desired, designating the same by street and number if practicable; if not, by such other apt description as definitely locates it and also a description of the portion of the building in which the business will be conducted;

(8) The name of the owner of the premises upon which the business sought to be licensed is to be carried on;

(9) (i) A statement that the applicant has never been convicted of a felony and a further statement as to whether he has ever been adjudged guilty of violating the laws governing the sale of alcoholic beverages or for the prevention of gambling in the State of Maryland;

(ii) In Worcester County a statement that the applicant has never offered a plea of nolo contendere to a felony indictment which was accepted by a court;

(iii) In Somerset and Wicomico counties, a statement that the applicant consents to the Board investigating the applicant's criminal record; and

(iv) 1. In Prince George's and Worcester counties, a signed statement by the applicant that the applicant has not been convicted of a felony or if the application is being made for the use of a corporation, that the applicant and none of the stockholders of that corporation have been convicted of a felony;

2. In Worcester County, that the owner of the corporation has not been convicted of a felony; and

3. In Charles County, a signed statement by the applicant that the applicant has not been convicted of a felony, or, except for an applicant for a Class B beer, wine and liquor (BLX) luxury restaurant license, if the application is being made for the use of a corporation, that the applicant and none of the stockholders of that corporation have been convicted of a felony;

(v) 1. A. In this subparagraph the following words have the meanings indicated.

B. "Applicant" means an applicant for a new alcoholic beverages license or for a transfer of an existing alcoholic beverages license.

C. "Board" means the Board of License Commissioners of Somerset County.



2. This subparagraph applies only in Somerset County.
3. The Board shall:
  - A. Require an applicant to be fingerprinted;
  - B. Forward the fingerprints to the Criminal Justice System Central Repository in the Department of Public Safety and Correctional Services; and
  - C. Request from the Central Repository a State and national criminal history records check of the applicant.
4. The Board may not disseminate information from criminal records to the public but may make information from criminal records available to members of the Board and their designees.
5. The Board shall charge an applicant a fee to cover the cost of fingerprinting and performing a State and national criminal history records check.
6. The Board may exempt from this subparagraph a license holder who seeks to renew an alcoholic beverages license.
  - (10) A statement that the applicant has a pecuniary interest in the business to be conducted under said license;
  - (11) A statement that the applicant has not had a license for the sale of alcoholic beverages revoked;
  - (12) A statement that the applicant, or person on behalf of whom the application is filed, is not pecuniarily interested in any other place of business in said county or City of Baltimore where or for which a license has been applied for, granted or issued under this article, except as otherwise permitted in this article;
- (13)
  - (i)
    1. A statement as to whether the applicant has ever been adjudged guilty of any offense against the laws of the State or of the United States.
    2. The respective boards shall destroy the records obtained under subparagraphs (ii), (iv), (v), (vi), (vii), (viii), (ix), and (xii) of this paragraph upon completion of its necessary use of the records;
  - (ii)
    1. The provisions of this subparagraph (ii) apply in the following:
      - A. Anne Arundel County;

- B. Harford County;
- C. Prince George's County;
- D. St. Mary's County;
- E. Worcester County; and
- F. Howard County.

2. The county board of license commissioners or the liquor control board may obtain criminal records on alcoholic beverages license applicants and their agents in its respective county from the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services and county police.

(iii) The Worcester County Board of License Commissioners also may obtain criminal records pursuant to the provisions of subparagraph (ii) of this paragraph on the stockholders which hold at least 10% interest in the corporation and owners of a corporation when the application is being made for the use of the corporation;

(iv) In Montgomery County:

1. The Board of License Commissioners shall:

A. Obtain criminal records of alcoholic beverages license applicants from the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services and Montgomery County Police;

B. Require applicants for alcoholic beverages licenses in the county to be fingerprinted; and

C. Forward the fingerprints through the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services for transmittal to the Federal Bureau of Investigation for a national criminal history records check; and

2. Applicants for license renewal may be subject to these provisions.

(v) In Frederick County:

1. The Board of License Commissioners shall:

A. Obtain criminal records of alcoholic beverages license applicants from the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services;

B. Require applicants for alcoholic beverages licenses in the county to be fingerprinted; and

C. Forward the fingerprints through the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services for transmittal to the Federal Bureau of Investigation for a national criminal history records check; and

2. Applicants for license renewal may not be subject to these provisions.

(vi) 1. The provisions of this subparagraph apply only in Cecil County, Charles County, Dorchester County, and Kent County.

2. The Boards of License Commissioners shall:

A. Obtain criminal records of new alcoholic beverages license applicants from the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services;

B. Require applicants for new alcoholic beverages licenses to be fingerprinted; and

C. Forward the fingerprints through the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services for transmittal to the Federal Bureau of Investigation (F.B.I.) for a national criminal history records check. Applications for license renewal are not subject to these provisions.

3. The County Commissioners may set a fee to cover the cost of obtaining the fingerprints and the Maryland and national criminal history records check.

4. Except as provided in sub-subparagraph 6 of this subparagraph, the Boards shall keep all criminal records in a sealed envelope available only to the members of the Boards and the clerks to the Boards.

5. The hearing for a new applicant and the issuance of a license may not be delayed due to the failure of the F.B.I. to provide the requested criminal history records check by the date of the scheduled hearing.

6. The Kent County Board of License Commissioners shall:

A. Keep all criminal records in a sealed envelope available only to the members of the Board and their designees; and

B. Adopt regulations to further preserve the confidentiality of information obtained under this subparagraph.

(vii) 1. The provisions of this subparagraph apply only in Wicomico County.

2. The Board of License Commissioners shall:

A. Obtain criminal records of license applicants from the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services;

B. Require applicants for licenses to be fingerprinted; and

C. Forward the fingerprints through the Department of Public Safety and Correctional Services for transmittal to the Federal Bureau of Investigation for a national criminal history records check;

(viii) In Harford County:

1. The Liquor Control Board shall:

A. Obtain criminal records of alcoholic beverages license applicants from the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services;

B. Require applicants for alcoholic beverages licenses in the county to be fingerprinted; and

C. Forward the fingerprints through the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services for transmittal to the Federal Bureau of Investigation for a national criminal history records check; and

2. Applicants for license renewal may not be subject to these provisions.

(ix) In Carroll County:

1. The Board of License Commissioners shall:

A. Obtain criminal records of alcoholic beverages license applicants from the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services;

B. Require applicants for alcoholic beverages licenses in the county to be fingerprinted; and

C. Forward the fingerprints through the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services for transmittal to the Federal Bureau of Investigation for a national criminal history records check; and

2. Applicants for license renewal may not be subject to these provisions.

(x) 1. This subparagraph applies only in Garrett County.

2. In this subparagraph, "applicant" includes:

A. An applicant for renewal of an alcoholic beverages license; and

B. A shareholder, member, partner, owner, or other person with an ownership interest in a business entity that applies for an alcoholic beverages license.

3. The Board of License Commissioners may:

A. Obtain criminal records of an alcoholic beverages license applicant from the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services and from other law enforcement agencies;

B. Require an applicant to be fingerprinted;

C. Forward the fingerprints through the Central Repository for transmittal to the Federal Bureau of Investigation for a national criminal records check; and

D. Set a fee to cover the cost of obtaining the fingerprints and State and national criminal records.

4. Criminal records shall be kept in a sealed envelope accessible only by Board members and their clerks, and the criminal records shall be destroyed on completion of their necessary use.

(xi) 1. In Calvert County, for each application for a new alcoholic beverages license or for a transfer of an existing alcoholic beverages license, the Board of License Commissioners shall:

A. Obtain criminal records of the license applicant from the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services;

B. Require a license applicant to be fingerprinted; and

C. Forward the fingerprints through the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services for transmittal to the Federal Bureau of Investigation for a national criminal history records check.

2. This subparagraph does not apply to an alcoholic beverages license renewal applicant.

(xii) In Howard County:

1. The Board of License Commissioners shall:

A. Obtain criminal records of alcoholic beverages license applicants from the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services and from the Federal Bureau of Investigation;

B. Require applicants for alcoholic beverages licenses in the county to be fingerprinted; and

C. Forward the fingerprints through the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services for transmittal to the Federal Bureau of Investigation for a national criminal history records check.

2. Applicants for license renewal may be subject to this subparagraph.

3. The Board shall:

A. Keep all criminal records confidential; and

B. Make all criminal records in its possession available only to members, clerks, administrators, and inspectors of the Board of License Commissioners and to members, clerks, administrators, and inspectors of the Howard County Alcoholic Beverage Hearing Board.

(xiii) 1. A. In this subparagraph the following words have the meanings indicated.

B. "Applicant" means an applicant for a new alcoholic beverages license or for a transfer of an existing alcoholic beverages license.

C. "Board" means the Board of Liquor License Commissioners of Talbot County.

2. This subparagraph applies only in Talbot County.

3. The Board shall:

A. Require an applicant to be fingerprinted;

B. Forward the fingerprints to the Criminal Justice System Central Repository in the Department of Public Safety and Correctional Services; and

C. Request from the Central Repository a State and national criminal history records check of the applicant.

4. The Board may not disseminate information from criminal records to the public but may make information from criminal records available to members of the Board and their designees.

5. The Board may charge an applicant for the cost of fingerprinting and performing a State and national criminal history records check.

6. The Board may exempt from this subparagraph a license holder who seeks to renew an alcoholic beverages license.

(xiv) In Baltimore City:

1. The Board of Liquor License Commissioners shall:

A. Obtain criminal records of alcoholic beverages license applicants from the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services;

B. Require applicants for alcoholic beverages licenses in Baltimore City to be fingerprinted; and

C. Forward the fingerprints through the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services for transmittal to the Federal Bureau of Investigation for a national criminal history records check; and

2. Applicants for license renewal may not be subject to the provisions of this subparagraph.

(14) A statement as to whether the applicant has ever held a license for the sale of alcoholic beverages, and if so, in what state and at what location therein;

(15) A statement that no person except the applicant is in any way pecuniarily interested in said license or in the business to be conducted thereunder during the continuance of the license applied for, and a further statement that no manufacturer, brewer, distiller, or wholesaler, directly or indirectly, has any financial interest in the premises or business of the applicant and that the applicant will not thereafter convey or grant to any such manufacturer, brewer, distiller or wholesaler any such interest, except as otherwise permitted in this article; and that the applicant has at the time of making the application no indebtedness or other financial obligations and will not thereafter incur any such indebtedness or other financial obligation, directly or indirectly, to any manufacturer, brewer, distiller or wholesaler other than for the purchase of alcoholic beverages;

(16) A statement that the applicant will, if granted a license, conform to all laws and regulations relating to the business in which the applicant proposes to engage;

(17) (i) A statement duly executed and acknowledged by the owner of the premises in which the business is to be conducted assenting to the granting of the license applied for, and authorizing the Comptroller, his duly authorized deputies, inspectors and clerks, the board of license commissioners of the county or city in which the place of business is located, its duly authorized agents and employees, any peace officer of that city or county, and any peace officer of any incorporated municipality in which the business is to be conducted, to inspect and search, without warrant, the premises upon which the business is to be conducted, and any and all parts of the building in which the business is to be conducted, at any and all hours.

(ii) In Montgomery County, a statement and acknowledgment is not required where the applicant for a license is the lessee of the entire building in which the business is to be conducted for the entire term of the license to be issued.

(iii) In Baltimore City, a statement and acknowledgment by the owner is not required when the applicant is applying for a license pursuant to § 9–204.1(d) of this article if the applicant files an affidavit that the applicant is the lessee of the premises and accompanies the affidavit with a copy of the executed lease;

(18) (i) A certificate signed by at least ten citizens who are owners of real estate and registered voters of the precinct in which the business is to be conducted, stating the length of time each has been acquainted with the applicant, or in the case of a corporation with the individuals making the application; that they have examined the application of the applicant and that they have good reason to



believe that all the statements contained in this application are true, and that they are of the opinion that the applicant is a suitable person to obtain the license. The certificate must have a statement that the signers of it are familiar with the premises upon which the proposed business is to be conducted, and that they believe the premises are suitable for the conduct of the business of a retail dealer in alcoholic beverages.

(ii) In Baltimore County, persons who are owners of real estate and registered voters of Baltimore County and who reside within 1 mile of the premises for which a license is sought shall be those persons signing the certificate.

(iii) In St. Mary's County, persons who are owners of real estate within 5 miles of the premises for which a license is sought and registered voters of St. Mary's County shall be those persons signing the certificate.

(iv) This certificate is not necessary for applications filed in Dorchester County, Prince George's County, Montgomery County and Anne Arundel County.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2009.

**Approved by the Governor, April 14, 2009.**

---

## Chapter 153

(House Bill 760)

AN ACT concerning

### **Kent County – Office of the Sheriff – Salary**

FOR the purpose of ~~increasing~~ establishing the annual salary of the Sheriff of Kent County in ~~a~~ certain calendar ~~year~~ years; providing that this Act does not apply to the salary or compensation of the incumbent Sheriff of Kent County; and generally relating to the salary of the Sheriff of Kent County.

BY repealing and reenacting, with amendments,  
Article – Courts and Judicial Proceedings  
Section 2–309(p)(1)  
Annotated Code of Maryland  
(2006 Replacement Volume and 2008 Supplement)

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

**Article – Courts and Judicial Proceedings**

2–309.

- (p) (1) The Sheriff of Kent County shall receive a salary of:
- (i) [\$48,000 for the calendar year 2003;
  - (ii) \$50,000 for the calendar year 2004;
  - (iii) \$52,000 for the calendar year 2005;
  - (iv) \$54,000 for the calendar year 2006;
  - (v) \$65,000 for the calendar year 2007;
  - (vi) \$66,000 for the calendar year 2008;
  - (vii)] \$67,000 for the calendar year 2009; [and
  - (viii)] **(II) \$68,000 for the calendar year 2010;**
  - (III) \$82,000 FOR THE CALENDAR YEAR 2011;**
  - (IV) \$83,000 FOR THE CALENDAR YEAR 2012;**
  - (V) \$84,000 FOR THE CALENDAR YEAR 2013; AND**
  - (VI) \$85,000 FOR THE CALENDAR YEAR 2014** and each calendar year thereafter.

SECTION 2. AND BE IT FURTHER ENACTED, That, pursuant to Article III, § 35 of the Maryland Constitution, this Act may not be construed to extend or apply to the salary or compensation of the Sheriff of Kent County in office on the effective date of this Act, but the provisions of this Act concerning the salary or compensation of the Sheriff of Kent County shall take effect at the beginning of the next following term of office.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

**Approved by the Governor, April 14, 2009.**

---

**Chapter 154****(House Bill 795)**

AN ACT concerning

**Baltimore County – Property Tax Credit – Loreley Beach Community Association**

FOR the purpose of authorizing the governing body of Baltimore County to grant, by law, a property tax credit against the county tax imposed on real property that is owned by the Loreley Beach Community Association; providing for the application of this Act; and generally relating to a property tax credit in Baltimore County for the Loreley Beach Community Association.

BY repealing and reenacting, with amendments,  
Article – Tax – Property  
Section 9–305(b)  
Annotated Code of Maryland  
(2007 Replacement Volume and 2008 Supplement)

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

**Article – Tax – Property**

9–305.

(b) The governing body of Baltimore County may grant, by law, a property tax credit under this section against the county property tax imposed on:

(1) real property that is owned by the Twin River Protective and Improvement Association, Incorporated;

(2) real property that is owned by the Bowley's Quarters Improvement Association, Incorporated;

(3) real property that is owned by the Oliver Beach Improvement Association, Incorporated;

(4) real property that is owned by the Baltimore County Game and Fish Association;

(5) real property that is owned by the Eastfield Civic Association, Incorporated;

- (6) real property that is owned by the Rockaway Beach Improvement Association;
- (7) real property that is used only for and occupied by the Fire Museum of Maryland;
- (8) real property that is owned by the Carney Rod and Gun Club;
- (9) real property improvements that promote business redevelopment, for which credit:
  - (i) the governing body shall define by law what improvements are eligible; and
  - (ii) on reassessment by the supervisor, the governing body shall determine the credit as a percentage of the actual cost of the improvements;
- (10) each unit of a condominium (as both are defined in § 11–101 of the Real Property Article), if:
  - (i) the governing body of the county consults with the council of unit owners (as defined in § 11–101 of the Real Property Article) of the condominium; and
  - (ii) the council of unit owners provides services or maintains common elements (as defined in § 11–101 of the Real Property Article) that would otherwise be the responsibility of the county;
- (11) dwellings, the land on which the dwelling is located and other improvements to the land if:
  - (i) the dwelling is in a homeowners' association where the dwelling has a declaration of covenants or restrictive covenants that may be enforced by an association of members;
  - (ii) the governing body of the county consults with the homeowners' association; and
  - (iii) the governing body of the county determines that the homeowners' association provides services that would otherwise be the responsibility of the county;
- (12) real property that is:
  - (i) owned by the Rosa Ponselle Charitable Foundation, Incorporated, known as "Villa Pace"; and

- (ii) not exempt under this article;
- (13) agricultural land, not including any improvements, that is located in an agricultural preservation district;
- (14) real property that is owned by Friends of the Oliver House, Inc.;
- (15) real property that is owned by the Bird River Beach Community Association, Inc.;
- (16) real property that is owned by Harewood Park Community League, Inc.;
- (17) real property that is owned by any other nonprofit community association, civic league or organization, or recreational or athletic organization;
- (18) personal property that is owned by the Genesee Valley Outdoor Learning Center, Inc.;
- (19) real property that is owned by The Maryland State Game and Fish Protective Association, Inc.; [and]
- (20) personal property that is owned by Leadership Through Athletics, Inc.; AND
- (21) REAL PROPERTY THAT IS OWNED BY THE LORELEY BEACH COMMUNITY ASSOCIATION.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2009, and shall be applicable to all taxable years beginning after June 30, 2009.

**Approved by the Governor, April 14, 2009.**

---

## **Chapter 155**

**(House Bill 821)**

AN ACT concerning

**Montgomery County – Alcoholic Beverages – Corporate Training Center  
License**

**MC 902–09**

FOR the purpose of establishing in Montgomery County a Special Class B – Corporate Training Center beer, wine and liquor license; authorizing the Board of License Commissioners to issue the license for use in a certain corporate headquarters support facility; specifying that sales of alcoholic beverages under the license are for on–premises consumption; setting a certain annual license fee; and generally relating to a Special Class B – Corporate Training Center beer, wine and liquor license in Montgomery County.

BY adding to

Article 2B – Alcoholic Beverages

Section 8–216.2

Annotated Code of Maryland

(2005 Replacement Volume and 2008 Supplement)

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

**Article 2B – Alcoholic Beverages**

**8–216.2.**

**(A) IN THIS SECTION, “BOARD” MEANS THE MONTGOMERY COUNTY BOARD OF LICENSE COMMISSIONERS.**

**(B) THIS SECTION APPLIES ONLY IN MONTGOMERY COUNTY.**

**(C) THERE IS A SPECIAL CLASS B – CORPORATE TRAINING CENTER BEER, WINE AND LIQUOR (ON–SALE) LICENSE.**

**(D) THE BOARD MAY ISSUE THE LICENSE FOR USE IN A CORPORATE HEADQUARTERS SUPPORT FACILITY THAT SERVES ONLY THE WORKFORCE TRAINING AND EDUCATION NEEDS OF EMPLOYEES, CUSTOMERS, AND VISITORS TO THE CORPORATE HEADQUARTERS OF A CORPORATION THAT EMPLOYS AT LEAST 500 EMPLOYEES IN THE COUNTY.**

**(E) SALES OF ALCOHOLIC BEVERAGES UNDER THIS SECTION ARE ONLY FOR ON–PREMISES CONSUMPTION.**

**(F) THE ANNUAL LICENSE FEE IS \$2,500.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2009.

**Approved by the Governor, April 14, 2009.**

**Chapter 156****(House Bill 833)**

AN ACT concerning

**Montgomery County – Winery Special Event Permits – Montgomery County  
Agricultural Fair****MC 928-09**

FOR the purpose of authorizing the Office of the Comptroller to issue a winery special event permit to certain limited wineries for use during the entire length of the Montgomery County Agricultural Fair; and generally relating to the use of winery special event permits in Montgomery County.

BY repealing and reenacting, with amendments,  
Article 2B – Alcoholic Beverages  
Section 2-101(u)  
Annotated Code of Maryland  
(2005 Replacement Volume and 2008 Supplement)

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

**Article 2B – Alcoholic Beverages**

2-101.

(u) (1) The Office of the Comptroller may issue a winery special event permit to a licensed Class 4 Maryland limited winery, provided that:

(i) No more than 12 winery special event permits are issued to the Class 4 Maryland limited winery in any given calendar year;

(ii) The permit does not exceed 3 consecutive days; and

(iii) No more than three winery special event permits are issued in any calendar year to any given limited winery for use in the same political subdivision.

**(2) IN ADDITION TO THE WINERY SPECIAL EVENT PERMIT UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE OFFICE OF THE COMPTROLLER MAY ISSUE A WINERY SPECIAL EVENT PERMIT TO A LICENSED CLASS 4 MARYLAND**

**LIMITED WINERY FOR USE DURING THE ENTIRE LENGTH OF THE MONTGOMERY COUNTY AGRICULTURAL FAIR.**

**[(2)] (3)** The winery special event permit may only be issued for an event which:

(i) Has as its major purpose an activity other than the sale and promotion of alcoholic beverages and for which the participation of the winery is a subordinate activity;

(ii) Is approved by the Department of Agriculture and the Office of the Comptroller; and

(iii) Is held on a nonlicensed premises or a premises on which a person may obtain a temporary alcoholic beverages license.

**[(3)] (4)** A winery special event permit shall authorize the holder to:

(i) Provide samples not to exceed 1 fluid ounce per brand to consumers;

(ii) Sell not more than four 750 ml bottles of wine to a consumer at any given event or festival for off-premises consumption; and

(iii) Sell by the glass wine produced by the licensee to persons participating in any event or festival and for on-premises consumption.

**[(4)] (5)** The winery special event permit application shall be filed with the Office of the Comptroller not less than 15 days prior to any event.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2009.

**Approved by the Governor, April 14, 2009.**

---

**Chapter 157**

**(House Bill 835)**

AN ACT concerning

**Montgomery County – Kensington – Expansion of Area for Alcoholic Beverages Licenses**



## MC 934-09

FOR the purpose of expanding the commercial area in the Town of Kensington in which the Montgomery County Board of License Commissioners may issue certain alcoholic beverages licenses for restaurants; specifying a certain time after which alcoholic beverages may not be served in a certain area; ~~specifying a certain minimum seating capacity for licensed restaurants;~~ and generally relating to alcoholic beverages licenses in Montgomery County.

BY repealing and reenacting, with amendments,  
Article 2B – Alcoholic Beverages  
Section 8-216(a)(2)(iv)  
Annotated Code of Maryland  
(2005 Replacement Volume and 2008 Supplement)

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

**Article 2B – Alcoholic Beverages**

8-216.

(a) (2) (iv) 1. In the town of Kensington, the Montgomery County Board of License Commissioners may issue a special B-K beer and wine license or a special B-K beer, wine and liquor license for use on the premises of a restaurant located in the following commercial areas:

A. The west side of Connecticut Avenue between Knowles Avenue and Perry Avenue;

B. The east side of Connecticut Avenue between Knowles Avenue and Dupont Street and between University Boulevard and Perry Avenue;

C. The west side of University Boulevard West;

D. Dupont Avenue, west of Connecticut Avenue;

E. Plyers Mill Road, west of Metropolitan Avenue;

F. Summit Avenue between Knowles Avenue and Howard Avenue;

G. Detrick Avenue between Knowles Avenue and Howard Avenue;

H. The southwest side of Metropolitan Avenue between North Kensington Parkway and Plyers Mill Road;

- I. East Howard Avenue;
- J. Armory Avenue between Howard Avenue and Knowles Avenue; [or]
- K. Montgomery Avenue between Howard Avenue and Kensington Parkway; OR
- L. KENSINGTON PARKWAY AND FREDERICK AVENUE, FROM MONTGOMERY AVENUE TO SILVER CREEK.**

2. A special B–K beer, wine and liquor license or a special B–K beer and wine license authorizes the holder to keep for sale and sell alcoholic beverages for consumption on the premises only.

3. A licensee shall maintain average daily receipts from the sale of food, not including carryout food, of at least 50% of the overall average daily receipts.

4. In addition to the restrictions in subsubparagraphs 2 and 3 of this subparagraph, the holder of a special B–K beer and wine license or a special B–K beer, wine and liquor license in the commercial areas specified in items I, J, [and] K, AND L of this subsubparagraph may not serve alcoholic beverages after 11 p.m.

~~5. A RESTAURANT FOR WHICH A LICENSE IS ISSUED UNDER THIS SUBPARAGRAPH SHALL HAVE A MINIMUM SEATING CAPACITY OF 20 PERSONS.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~July~~ June 1, 2009.

Approved by the Governor, April 14, 2009.

---

## Chapter 158

(House Bill 942)

AN ACT concerning

**Queen Anne's County – Local Detention Center – County's Authority to Continue Management**

FOR the purpose of providing that the County Commissioners of Queen Anne's County, may authorize, by resolution or law, the Warden of the County Detention Center to continue the management of the County Detention Center; and generally relating to the Queen Anne's County Detention Center.

BY repealing and reenacting, with amendments,  
Article – Correctional Services  
Section 11–201  
Annotated Code of Maryland  
(2008 Replacement Volume and 2008 Supplement)

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

**Article – Correctional Services**

11–201.

(a) (1) The sheriff of a county shall keep safely each individual committed by lawful authority to the custody of the sheriff until the individual is discharged by due course of law.

(2) (i) The sheriff shall receive and keep safely in a local correctional facility each individual committed to the custody of the sheriff under authority of the United States until the individual is discharged by due course of law.

(ii) An individual committed to the custody of the sheriff under the authority of the United States shall be kept in the same manner and be subject to the same penalties as an individual committed to the custody of the sheriff under the authority of the State.

(iii) For keeping and supporting an individual committed to the custody of the sheriff under the authority of the United States, a sheriff is entitled to receive 30 cents per day to be paid by the United States.

(b) (1) In a county that has adopted a charter under Article XI–A of the Maryland Constitution, the county council, by resolution or law, may provide for the appointment of a qualified individual as managing official of the local correctional facility and for qualified assistants necessary to perform the duties of that office.

(2) A managing official is responsible for the safekeeping, care, and feeding of inmates in the custody of a local correctional facility, including an inmate who is working on the public highways or going to and from that work, until the inmate is discharged, released, or withdrawn from the local correctional facility by due course of law.

(3) Except as specifically provided in paragraph (2) of this subsection, this subsection does not affect the powers and duties of the sheriff of a county relating to custody and safekeeping of inmates.

(c) (1) The County Council of Anne Arundel County, by resolution or law, may provide for the custody, safekeeping, and transportation of inmates by certified law enforcement officers other than the Sheriff.

(2) The County Commissioners of Kent County, by resolution or law, may provide for the custody, safekeeping, and transportation of inmates by corrections officers or law enforcement officers other than the Sheriff.

(d) The County Council of Baltimore County, by resolution or law, may require that the Sheriff of Baltimore County operate and administer the Baltimore County Jail.

**(E) THE COUNTY COMMISSIONERS OF QUEEN ANNE'S COUNTY, BY RESOLUTION OR LAW, MAY AUTHORIZE THE WARDEN OF THE COUNTY DETENTION CENTER TO CONTINUE THE MANAGEMENT OF THE COUNTY DETENTION CENTER.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2009.

**Approved by the Governor, April 14, 2009.**

---

## **Chapter 159**

**(House Bill 953)**

AN ACT concerning

**Fire, Rescue, and Emergency Medical Services in Anne Arundel County –  
Agreements with Federal Government – Reimbursement**

FOR the purpose of requiring that, in Anne Arundel County, any agreement entered into under a certain provision of law between a fire, rescue, or emergency medical services entity and the federal government to provide fire fighting or rescue activities on certain property shall include a provision that entitles the fire, rescue, or emergency medical services entity to obtain a certain reimbursement from the appropriate federal authority; and generally relating to agreements between the federal government and fire, rescue, and emergency medical services entities in Anne Arundel County.

BY repealing and reenacting, with amendments,

Article – Public Safety  
Section 7–104  
Annotated Code of Maryland  
(2003 Volume and 2008 Supplement)

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

**Article – Public Safety**

7–104.

(a) A fire, rescue, or emergency medical services entity may enter into an agreement with the federal government in accordance with this section to provide fire fighting or rescue activities on property under the jurisdiction of the United States.

(b) An agreement entered into under this section shall be limited to the provision of fire fighting or rescue equipment and personnel or both.

(c) An agreement entered into under this section shall include:

(1) a waiver by each party of any claim against any other party for compensation for any loss, damage, personal injury, or death that occurs in the performance of the agreement;

(2) a provision to indemnify and hold harmless each party to the agreement from any claim by a third party for property damage or personal injury, within the limitations permitted by federal law, that arise out of the activities of each party to the agreement; and

(3) [except in Anne Arundel County,] a provision that entitles the fire, rescue, or emergency medical services entity to obtain reimbursement from the appropriate federal authority for all or part of the cost of providing fire protection on property under the jurisdiction of the United States in accordance with federal law.

(d) If an individual engaging in an activity authorized under this section sustains an injury that arises out of the activity, the individual is entitled to any or all benefits available under the Maryland Workers' Compensation Act as the primary remedy for reimbursement of expenses for medical bills, loss of earnings, and disability that arises under or as a result of this section.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

**Approved by the Governor, April 14, 2009.**

---

**Chapter 160****(House Bill 1124)**

AN ACT concerning

**Coordinating Emerging Nanobiotechnology Research in Maryland Program –  
Public–Private Partnerships**

FOR the purpose of requiring the Maryland Technology Development Corporation to foster certain public–private partnerships as feasible to carry out the purpose of the Coordinating Emerging Nanobiotechnology Research in Maryland Program; and generally relating to the Coordinating Emerging Nanobiotechnology Research in Maryland Program.

BY repealing and reenacting, with amendments,  
Article – Economic Development  
Section 10–447  
Annotated Code of Maryland  
(2008 Volume)

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

**Article – Economic Development**

10–447.

(a) There is a Coordinating Emerging Nanobiotechnology Research in Maryland Program.

(b) The purpose of the CENTR Maryland Program is to:

(1) support and promote advanced research in nanobiotechnology in the State;

(2) support nanobiotechnology research activities at postsecondary education institutions; and

(3) establish the State as a key location for nanobiotechnology research and industry.

**(C) THE CORPORATION SHALL FOSTER PUBLIC–PRIVATE PARTNERSHIPS AS FEASIBLE TO CARRY OUT THE PURPOSE OF THE CENTR MARYLAND PROGRAM.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

**Approved by the Governor, April 14, 2009.**

---

## **Chapter 161**

### **(House Bill 1128)**

AN ACT concerning

**Prince George's County – Sheriff and Sheriff's Deputies – Alteration of Duties**

**PG 304–09**

FOR the purpose of repealing a certain termination date concerning certain duties of the Sheriff and Sheriff's deputies of Prince George's County; and generally relating to repealing a certain termination date concerning certain duties of the Sheriff and Sheriff's deputies of Prince George's County.

BY repealing and reenacting, with amendments,  
Article – Courts and Judicial Proceedings  
Section 2–309(r)(8)  
Annotated Code of Maryland  
(2006 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, without amendments,  
Article – Courts and Judicial Proceedings  
Section 2–309(r)(9) and (10)  
Annotated Code of Maryland  
(2006 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,  
Chapter 618 of the Acts of the General Assembly of 2007  
Section 2

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

### **Article – Courts and Judicial Proceedings**

2–309.

(r) (8) (i) The Sheriff and the Sheriff's deputies shall be limited in their duties as law enforcement officers, as follows:

1. The full power of arrest, the service of process of all writs, summonses, orders, petitions, subpoenas, warrants, rules to show cause, and all other legal papers;

2. The care and supervision of prisoners at any of the county detention centers, hospitals, penal institutions, or other places of confinement;

3. The security of all State and county courts and the performance of such duties as may be required of them by the courts;

4. The transportation of all legally detained persons;

5. The administration and enforcement of casino night permits as authorized by the governing body of the county; and

6. As of October 1, 2007, specific duties as authorized by the county governing body, including:

A. Responding to domestic violence calls;

B. Acting as school resource deputies in county schools;  
and

C. Providing security for Prince George's County public school sporting events and extracurricular activities that are held in the county, sponsored by a public school, and open to the public.

(ii) 1. The duties authorized in subparagraph (i)6 of this paragraph shall be enumerated in a memorandum of understanding entered into by the Prince George's County Police Department and the Office of the Sheriff of Prince George's County.

2. The memorandum of understanding may be revised only by the county governing body.

3. The memorandum of understanding is in effect from the date it is signed by both parties but not before October 1, 2007[, until the end of September 30, 2010].

(9) Neither the Sheriff of Prince George's County nor any of the Sheriff's deputies shall conduct criminal investigations, except:

(i) In matters concerning the Sheriff's department;

(ii) On request of the courts;



(iii) As necessary for the administration and enforcement of casino night permits as authorized by the county governing body; or

(iv) In investigations arising out of or incident to normally assigned duties, including those duties authorized by the county governing body under paragraph (8)(i)6 of this subsection.

(10) When a Sheriff or Sheriff's deputy has commenced an investigation under paragraph (9)(iv) of this subsection, the Sheriff or the Sheriff's deputy:

(i) Shall immediately notify the appropriate law enforcement agency that has jurisdiction over the matter; and

(ii) Shall transfer the investigation to an appropriate law enforcement agency that has jurisdiction over the matter on request of the agency.

### **Chapter 618 of the Acts of 2007**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007. [It shall remain effective for a period 3 years and, at the end of September 30, 2010, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.]

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

**Approved by the Governor, April 14, 2009.**

---

## **Chapter 162**

**(House Bill 1133)**

AN ACT concerning

**Washington Suburban Sanitary Commission – Comprehensive Whistleblower Protections**

**MC/PG 120–09**

FOR the purpose of requiring the Washington Suburban Sanitary Commission to adopt certain regulations on or before a certain date that establish certain comprehensive employee whistleblower protections; requiring the regulations to be similar to certain other provisions, prohibit a certain manager or supervisor from taking or refusing to take a certain personnel action against a certain employee under certain circumstances, require the Commission to provide

certain written notice to certain employees, set up a certain procedure for filing certain complaints or grievances, establish a system for investigating certain complaints, and set forth certain remedial actions that may be taken under certain circumstances; and generally relating to Washington Suburban Sanitary Commission regulations establishing comprehensive employee whistleblower protections.

BY adding to

Article 29 – Washington Suburban Sanitary District  
Section 18–109  
Annotated Code of Maryland  
(2003 Replacement Volume and 2008 Supplement)

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

**Article 29 – Washington Suburban Sanitary District**

**18–109.**

**(A) ON OR BEFORE OCTOBER 1, 2010, THE COMMISSION SHALL ADOPT REGULATIONS THAT ESTABLISH COMPREHENSIVE COMMISSION EMPLOYEE WHISTLEBLOWER PROTECTIONS.**

**(B) THE REGULATIONS ADOPTED UNDER SUBSECTION (A) OF THIS SECTION SHALL:**

**(1) BE SIMILAR TO THE PROVISIONS OF TITLE 5, SUBTITLE 3 OF THE STATE PERSONNEL AND PENSIONS ARTICLE;**

**(2) PROHIBIT A MANAGER OR SUPERVISOR FROM TAKING OR REFUSING TO TAKE A PERSONNEL ACTION AS A REPRISAL AGAINST AN EMPLOYEE WHO:**

**(I) DISCLOSES INFORMATION THAT THE EMPLOYEE REASONABLY BELIEVES EVIDENCES:**

**1. AN ABUSE OF AUTHORITY, GROSS MISMANAGEMENT, OR GROSS WASTE OF MONEY;**

**2. A SUBSTANTIAL AND SPECIFIC DANGER TO PUBLIC HEALTH OR SAFETY; OR**

**3. A VIOLATION OF LAW; OR**

(II) FOLLOWING A DISCLOSURE UNDER ITEM (I) OF THIS ITEM, SEEKS A REMEDY PROVIDED BY REGULATION OR ANY OTHER LAW;

(3) REQUIRE THE COMMISSION TO PROVIDE THE EMPLOYEES OF THE COMMISSION WITH WRITTEN NOTICE OF THE PROTECTIONS AND REMEDIES PROVIDED BY THE REGULATIONS;

(4) SET UP A PROCEDURE BY WHICH AN EMPLOYEE WHO SEEKS RELIEF FOR A VIOLATION OF THE REGULATIONS MAY FILE A COMPLAINT OR A GRIEVANCE;

(5) ESTABLISH A SYSTEM FOR INVESTIGATING COMPLAINTS AND GRIEVANCES; AND

(6) SET FORTH REMEDIAL ACTIONS THAT MAY BE TAKEN BY THE COMMISSION IF A VIOLATION OF THE REGULATIONS IS FOUND TO HAVE OCCURRED.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, April 14, 2009.

---

## Chapter 163

(House Bill 1150)

AN ACT concerning

### Health Occupations – Anatomic Pathology Services – Billing

FOR the purpose of ~~excluding the microscopic examination of certain cells in a certain test performed under certain circumstances from the definition of “cytopathology” as it relates to the billing for anatomic pathology services~~ requiring certain clinical laboratories, physicians, or group practices to present, or cause to be presented, to a health care practitioner who orders but does not supervise or perform an anatomic pathology service on a Pap test specimen, a claim, bill, or demand for payment for providing certain anatomic pathology services; providing that certain provisions of law do not prohibit a health care practitioner who takes a Pap test specimen and orders but does not supervise or perform certain anatomic pathology services from billing certain patients or payors if the health care practitioner complies with certain disclosure

requirements and ethics policies; and generally relating to anatomic pathology services.

BY repealing and reenacting, with amendments,  
Article – Health Occupations  
Section 1–306  
Annotated Code of Maryland  
(2005 Replacement Volume and 2008 Supplement)

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

### **Article – Health Occupations**

1–306.

- (a) (1) In this section the following words have the meanings indicated.
- (2) “Anatomic pathology services” means:
- (i) Histopathology or surgical pathology;
  - (ii) Cytopathology;
  - (iii) Hematology;
  - (iv) Subcellular pathology and molecular pathology; or
  - (v) Blood–banking services performed by pathologists.
- (3) “Clinical laboratory” means a facility that provides anatomic pathology services.
- (4) (i) “Cytopathology” means the microscopic examination of cells from fluids, aspirates, washings, brushings, or smears.
- (ii) “Cytopathology” includes the microscopic examination of cells in a Pap test examination performed by a physician or under the direct supervision of a physician.
- (5) “Hematology” means:
- (i) The microscopic evaluation of bone marrow aspirates and biopsies performed by a physician or under the direct supervision of a physician; or
  - (ii) Review of a peripheral blood smear if a physician or technologist requests that a pathologist review a blood smear.

(6) “Histopathology or surgical pathology” means gross and microscopic examination of organ tissue performed by a physician or under the direct supervision of a physician.

(7) (i) “Referring laboratory” means a clinical laboratory that sends a specimen to another clinical laboratory for histologic processing or anatomic pathology consultation.

(ii) “Referring laboratory” does not include a laboratory of a physician’s office or a group practice that collects a specimen and orders, but does not perform, anatomic pathology services for patients.

(b) Nothing in this section may be construed to:

(1) Mandate the assignment of benefits for anatomic pathology services; or

(2) Prohibit a health care practitioner who performs or supervises anatomic pathology services and is a member of a group practice, as defined under § 1–301 of this subtitle, from reassigning the right to bill for anatomic pathology services to the group practice if the billing complies with the requirements of subsection (c) of this section.

(c) A clinical laboratory, a physician, or a group practice located in this State or in another state that provides anatomic pathology services for a patient in this State shall present, or cause to be presented, a claim, bill, or demand for payment for the services to:

(1) Subject to the limitations of § 19–710(p) of the Health – General Article, the patient directly unless otherwise prohibited by law;

(2) A responsible insurer or other third-party payor;

(3) A hospital, public health clinic, or nonprofit health clinic ordering the services;

(4) A referring laboratory; ~~or~~

(5) On behalf of the patient, a governmental agency or its public or private agent, agency, or organization; **OR**

**(6) A ~~REFERRING PHYSICIAN~~ HEATH CARE PRACTITIONER WHO ORDERS BUT DOES NOT SUPERVISE OR PERFORM AN ANATOMIC PATHOLOGY SERVICE ON A PAP TEST SPECIMEN, PROVIDED ~~SUCH PHYSICIAN~~ THE HEALTH**

**CARE PRACTITIONER IS IN COMPLIANCE WITH SUBSECTION (E)(2) OF THIS SECTION.**

(d) Except as provided in subsection (e) of this section, a health care practitioner licensed under this article may not directly or indirectly charge, bill, or otherwise solicit payment for anatomic pathology services unless the services are performed:

(1) By the health care practitioner or under the direct supervision of the health care practitioner; and

(2) In accordance with the provisions for the preparation of biological products by service in the federal Public Health Service Act.

(e) This section does not prohibit:

(1) [a] A referring laboratory from billing for anatomic pathology services or histologic processing if the referring laboratory must send a specimen to another clinical laboratory for histologic processing or anatomic pathology consultation; AND

(2) A HEALTH CARE PRACTITIONER WHO TAKES A PAP TEST SPECIMEN FROM A PATIENT AND WHO ORDERS BUT DOES NOT SUPERVISE OR PERFORM AN ANATOMIC PATHOLOGY SERVICE ON THE SPECIMEN, FROM BILLING A PATIENT OR PAYOR FOR THE SERVICE, PROVIDED THE HEALTH CARE PRACTITIONER COMPLIES WITH:

(i) ~~THE DISCLOSURE REQUIREMENTS OF HEALTH OCCUPATIONS 14-404(16)~~ § 14-404(A)(16) OF THIS ARTICLE; AND

(ii) THE ETHICS POLICIES OF THE AMERICAN MEDICAL ASSOCIATION THAT RELATE TO REFERRING PHYSICIAN BILLING FOR LABORATORY SERVICES.

(f) A patient, insurer, third-party payor, hospital, public health clinic, or nonprofit health clinic is not required to reimburse a health care practitioner who violates the provisions of this section.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

**Approved by the Governor, April 14, 2009.**

---

**Chapter 164****(House Bill 1194)**

AN ACT concerning

**Open Meetings Act – Expansion of Definition of Public Body**

FOR the purpose of expanding the definition of “public body” under the Open Meetings Act to include certain ~~entities appointed by certain public bodies or certain officials of the public bodies if the membership of the entity has a certain composition~~ boards, commissions, or committees that are appointed by certain entities or officials in the Executive Branch of State government and include certain members; and generally relating to the definition of public body under the Open Meetings Act.

BY repealing and reenacting, with amendments,  
Article – State Government  
Section 10–502(h)  
Annotated Code of Maryland  
(2004 Replacement Volume and 2008 Supplement)

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

**Article – State Government**

10–502.

- (h) (1) “Public body” means an entity that:
- (i) consists of at least 2 individuals; and
  - (ii) is created by:
    - 1. the Maryland Constitution;
    - 2. a State statute;
    - 3. a county charter;
    - 4. an ordinance;
    - 5. a rule, resolution, or bylaw;
    - 6. an executive order of the Governor; or

7. an executive order of the chief executive authority of a political subdivision of the State.

(2) "Public body" includes:

(i) any multimember board, commission, or committee appointed by the Governor or the chief executive authority of a political subdivision of the State, or appointed by an official who is subject to the policy direction of the Governor or chief executive authority of the political subdivision, if the entity includes in its membership at least 2 individuals not employed by the State or the political subdivision; [and]

~~(II) ANY MULTIMEMBER BOARD, COMMISSION, OR COMMITTEE APPOINTED BY A PUBLIC BODY, AS OTHERWISE DEFINED BY THIS SUBSECTION, OR APPOINTED BY AN OFFICIAL WHO IS SUBJECT TO THE POLICY DIRECTION OF THE PUBLIC BODY, IF THE ENTITY INCLUDES IN ITS MEMBERSHIP AT LEAST 2 INDIVIDUALS WHO ARE NOT:~~

~~1. MEMBERS OF THE PUBLIC BODY; OR~~

~~2. EMPLOYED BY THE STATE OR POLITICAL SUBDIVISION OF WHICH THE PUBLIC BODY IS A PART; THAT:~~

~~1. IS APPOINTED BY:~~

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

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

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

[(ii)] (III) The Maryland School for the Blind.

(3) "Public body" does not include:

(i) any single member entity;

(ii) any judicial nominating commission;



- (iii) any grand jury;
- (iv) any petit jury;
- (v) the Appalachian States Low Level Radioactive Waste Commission established in § 7–302 of the Environment Article;
- (vi) except when a court is exercising rulemaking power, any court established in accordance with Article IV of the Maryland Constitution;
- (vii) the Governor's cabinet, the Governor's Executive Council as provided in Title 8, Subtitle 1 of this article, or any committee of the Executive Council;
- (viii) a local government's counterpart to the Governor's cabinet, Executive Council, or any committee of the counterpart of the Executive Council;
- (ix) except as provided in paragraph (1) of this subsection, a subcommittee of a public body as defined under paragraph (2)(i) of this subsection;
- (x) the governing body of a hospital as defined in § 19–301 of the Health – General Article; and
- (xi) a self–insurance pool that is established in accordance with Title 19, Subtitle 6 of the Insurance Article or § 9–404 of the Labor and Employment Article by:
  1. a public entity, as defined in § 19–602 of the Insurance Article; or
  2. a county or municipal corporation, as defined in § 9–404 of the Labor and Employment Article.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

**Approved by the Governor, April 14, 2009.**

---

## Chapter 165

**(House Bill 1218)**

AN ACT concerning

**Washington County – Deer Hunting – Dogs**

FOR the purpose of prohibiting a person from killing a dog found pursuing a deer in Washington County; and generally relating to deer hunting in Washington County.

BY repealing and reenacting, with amendments,  
Article – Natural Resources  
Section 10–416(b)  
Annotated Code of Maryland  
(2007 Replacement Volume and 2008 Supplement)

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

**Article – Natural Resources**

10–416.

(b) (1) Except as provided in regulations adopted by the Department under paragraph (2) of this subsection, a person may not:

(i) Take a dog into the woods or possess or control a dog in the woods; and

(ii) Use the dog to hunt or pursue deer.

(2) The Department shall adopt regulations governing the use of dogs to aid in the prompt recovery of killed, wounded, or injured deer.

(3) (i) In Baltimore, Harford, Howard, Montgomery, Prince George's, Somerset, **WASHINGTON**, and Worcester counties, a person may not kill a dog found pursuing a deer.

(ii) In all other counties, any Natural Resources police officer, law enforcement officer, or any other person may kill any dog found pursuing any deer, except in accordance with regulations adopted under paragraph (2) of this subsection.

(iii) In Caroline, Dorchester, Talbot, Kent, Anne Arundel, Cecil, Charles, Garrett, St. Mary's, Queen Anne's, Frederick, Carroll, and Calvert counties, dogs that are engaged in fox hunting and who have broken away may not be killed under this paragraph.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

**Approved by the Governor, April 14, 2009.**

**Chapter 166****(House Bill 1399)**

AN ACT concerning

**Department of Housing and Community Development – Neighborhood and Community Assistance Program – Individual Donor Eligibility – Tax Credit**

FOR the purpose of altering a certain community investment tax credit program to allow an individual to apply for the credit under certain circumstances; providing for the application of this Act; defining a certain term; and generally relating to tax credits allowed for contributions to an approved project under the Neighborhood and Community Assistance Program of the Department of Housing and Community Development.

BY repealing and reenacting, with amendments,  
Article – Housing and Community Development  
Section 6–401, 6–403, and 6–404  
Annotated Code of Maryland  
(2006 Volume and 2008 Supplement)

BY repealing and reenacting, without amendments,  
Article – Tax – General  
Section 10–101(a), (f), and (g)  
Annotated Code of Maryland  
(2004 Replacement Volume and 2008 Supplement)

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

**Article – Housing and Community Development**

6–401.

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

(b) “Approved project” means a project that the Department approves under § 6–405 of this subtitle.

(c) “Business entity” means a person that conducts a trade or business in the State and is subject to:

(1) the State income tax on individuals or corporations;

- (2) the public service company franchise tax; or
- (3) the insurance premiums tax.

**(D) “INDIVIDUAL” MEANS AN INDIVIDUAL AS DEFINED UNDER § 10-101 OF THE TAX – GENERAL ARTICLE.**

**[(d)] (E)** “Nonprofit organization” means a not for profit corporation, foundation, or other legal entity that is exempt from federal income tax under § 501(c)(3) of the Internal Revenue Code.

**[(e)] (F)** “Priority funding area” means a priority funding area under § 5-7B-02 of the State Finance and Procurement Article.

**[(f)] (G)** “Redevelopment assistance” means the money that nonprofit organizations spend for labor and materials used directly in the physical improvement of part or all of a priority funding area.

6-403.

The purposes of the Neighborhood and Community Assistance Program are to:

- (1) help nonprofit organizations to carry out approved projects in priority funding areas;
- (2) encourage business entities **AND INDIVIDUALS** to invest in priority funding areas; and
- (3) strengthen partnerships between public and private entities.

6-404.

(a) (1) For a contribution worth \$500 or more in goods, money, or real property to an approved project, a business entity **OR AN INDIVIDUAL** is entitled to a tax credit in the amount determined under subsection (b) of this section.

(2) No part of a tax credit under this section may be taken more than once.

(b) (1) Except as provided in paragraph (2) of this subsection, the credit allowed to a business entity **OR AN INDIVIDUAL** under this section equals 50% of the amount of contributions:

(i) that the Department approves under subsection (c) of this section; and

(ii) that were made during the taxable year for which the credit is claimed.

(2) The credit allowed under this section for any taxable year may not exceed the lesser of:

(i) \$250,000; and

(ii) the total amount of tax otherwise payable by the business entity **OR INDIVIDUAL** for the taxable year.

(3) Any excess credit that would be allowed but for the limits of paragraph (2) of this subsection may be carried over and applied as a credit for up to 5 taxable years after the taxable year in which the contribution was made, until the full amount of the excess is used.

(c) (1) To qualify for a credit for a contribution under this section, before making a contribution, a business entity **OR AN INDIVIDUAL** shall apply for and receive approval of the contribution from the Department.

(2) Each application for approval of a contribution shall contain:

(i) the name of the approved project to which the contribution will be made;

(ii) the amount of the contribution; and

(iii) a certification by an independent and unrelated third party as to the value of any nonmonetary contribution included or, for new goods, an invoice or receipt certifying the contribution's net cost to the business entity **OR INDIVIDUAL**.

(3) The Department may not approve an application if it determines that:

(i) the maximum amount of contributions eligible for a tax credit for the project for the fiscal year will be exceeded by the sum of:

1. the amount of the proposed contribution; and

2. the total amount of contributions previously approved for that project for the fiscal year; or

(ii) the applicant has overstated the value of a nonmonetary contribution.

(4) On or before January 31 of each year, the Department shall report to the Department of Assessments and Taxation, the Comptroller, and the Maryland

Insurance Administration the contributions that the Department has approved under this section in the preceding calendar year.

### Article – Tax – General

10–101.

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

(f) (1) “Fiduciary” means a person holding the legal title to property for the use and benefit of another person.

(2) “Fiduciary” does not include:

(i) an agent holding custody or possession of property that the principal of the agent owns; or

(ii) a guardian, as defined in § 13–101 of the Estates and Trusts Article.

(g) “Individual” means, unless expressly provided otherwise, a natural person or a fiduciary.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2009, and shall be applicable to all taxable years beginning after December 31, 2009.

**Approved by the Governor, April 14, 2009.**

---

## Chapter 167

**(House Bill 1407)**

AN ACT concerning

### Environmental Trust Fund – Environmental Surcharge – Sunset Extension

FOR the purpose of extending the termination date of a certain surcharge on electrical energy distributed to retail electric customers in the State; repealing an obsolete provision; and generally relating to the Environmental Trust Fund and the environmental surcharge on electricity distributed to retail electric customers.

BY repealing and reenacting, with amendments,  
 Article – Natural Resources  
 Section 3–302

Annotated Code of Maryland  
(2005 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,  
Article – Public Utility Companies  
Section 7–203  
Annotated Code of Maryland  
(2008 Replacement Volume and 2008 Supplement)

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

**Article – Natural Resources**

3–302.

(a) **(1)** There is an Environmental Trust Fund.

**(2)** For the purpose of this subtitle, there is established as an added cost of electricity distributed to retail electric customers within the State, an environmental surcharge per kilowatt hour of electric energy distributed in the State to be paid by any electric company as defined in § 1–101 of the Public Utility Companies Article. The Public Service Commission shall impose the surcharge per kilowatt hour of electric energy distributed to retail electric customers within the State and shall authorize the electric companies to add the full amount of the surcharge to retail electric customers' bills. To the extent that the surcharge is not collected from retail electric customers, the surcharge shall be deemed a cost of distribution and shall be allowed and computed as such, together with other allowable expenses, for rate-making purposes. Revenues from the surcharge shall be collected by the Comptroller and placed in the Fund.

(b) **(1)** The Secretary, in consultation with the Director of the Maryland Energy Administration, annually shall coordinate the preparation of a budget required to carry out the provisions of this subtitle. Upon approval of the budget by the General Assembly, the Public Service Commission shall establish the amount of the surcharge per kilowatt hour for the fiscal year beginning July 1, 1972, and for each subsequent fiscal year.

**(2)** Notwithstanding any other provisions of this subtitle, the amount of the surcharge for each account for each retail electric customer may not exceed the lesser of 0.15 mill per kilowatt hour or \$1,000 per month and the surcharge may not continue beyond fiscal year **[2010] 2015**.

**(3)** The Comptroller shall maintain the method of collection of the surcharge from the companies and the collections shall accrue to the Fund. The Department shall credit against the amount required to be paid into the Environmental Trust Fund by each electric company an amount equal to 0.75% of the

total surcharge attributed to each company on the basis of the electricity distributed within Maryland.

(c) (1) (I) The Secretary shall administer the Fund.

(II) The Fund is subject to the provisions for financial management and budgeting established by the Department of Budget and Management.

(III) Any investment earnings of the Fund shall be credited to the General Fund of the State.

(IV) The Fund is a special, nonlapsing fund that is not subject to § 7-302 of the State Finance and Procurement Article.

(V) Except as provided in paragraph (2) of this subsection, the moneys in the Fund shall be used to carry out the provisions of this subtitle as provided for in the budget[, except that 10% of all moneys accruing to the Fund from July 1, 1978 through June 30, 1983 shall be used to supplement funds necessary to carry out the duties of the People's Counsel of the Public Service Commission. The People's Counsel shall submit an annual budget of necessary supplemental funds to the Department to be incorporated in the Department's budget].

(VI) For the purposes of this subtitle, the Secretary, in consultation with the Director of the Maryland Energy Administration, may execute appropriate contracts with any State or federal agency, research organization, industry, or academic institution to conduct the necessary research, construct or acquire, or both, real property including physical predictive models, laboratories, buildings, land, and appurtenances, or support the technological development of extraordinary systems related to power plants designed to minimize environmental impact.

(VII) The Secretary may utilize available expertise in any other State unit in the development, execution, and management of contracts and agreements on projects relating to their areas of prime responsibility.

(2) Moneys in the Fund may be used for administrative costs calculated in accordance with § 1-103(b)(2) of this article.

(d) (1) The Maryland Energy Administration shall receive administrative and fiscal support from the Fund for studies relating to the conservation or production of electric energy.

(2) Fiscal support to the Maryland Energy Administration from the Fund may not exceed \$250,000 in any fiscal year.



(e) The Legislative Auditor shall conduct post audits of a fiscal and compliance nature of the Fund and of the appropriations and expenditures made for the purposes of this subtitle. The cost of the fiscal portion of the post audit examinations shall be an operating cost of the Fund.

### Article – Public Utility Companies

7–203.

(a) (1) The Commission shall:

(i) impose an environmental surcharge per kilowatt hour of electricity distributed to retail electric customers within the State; and

(ii) authorize each electric company to add the full amount of the surcharge to its customers' bills.

(2) To the extent that an electric company fails to collect the surcharge from its customers, the amount uncollected shall be deemed a cost of power distribution and allowed and computed as such together with other allowable expenses for purposes of rate making.

(b) (1) The Comptroller shall collect the revenue from the surcharge imposed under subsection (a) of this section and place the revenue into a special fund, the Environmental Trust Fund.

(2) The Comptroller shall maintain the method of collection of the surcharge from each electric company, and the money collected shall accrue to the Fund.

(c) (1) Each fiscal year, the Secretary of Natural Resources shall coordinate the preparation of the annual budget required to carry out the provisions of the Power Plant Research Program under Title 3, Subtitle 3 of the Natural Resources Article.

(2) Each fiscal year, on approval of the annual budget by the General Assembly for the Power Plant Research Program, the Commission shall establish the amount of the environmental surcharge per kilowatt hour of electric energy distributed in the State that is to be imposed on each electric company in accordance with subsection (a) of this section.

(d) (1) Notwithstanding any other provision of this subtitle, the amount of the surcharge for each account of each retail electric customer may not exceed the lesser of 0.15 mill per kilowatt hour or \$1,000 per month.

(2) The Department of Natural Resources shall credit against the amount the Commission requires each electric company to pay into the Environmental

Trust Fund 0.75% of the total surcharge amount attributed to the electric company on the basis of the amount of the electricity distributed in the State.

(e) To the extent that the Commission requires an electric company to report the total estimated kilowatt hours of electricity distributed in the State in order to calculate the surcharge under subsection (a)(1) of this section, a small rural electric cooperative described in § 7-502(a) of this title may satisfy the requirement by submitting to the Commission an estimate made in accordance with a formula approved by the Commission from information that the small rural electric cooperative submits to the rural utilities service that includes the required information.

(f) The surcharge imposed under this subtitle shall terminate on June 30, [2010] **2015**.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

**Approved by the Governor, April 14, 2009.**

---

## Chapter 168

**(House Bill 1417)**

AN ACT concerning

### **Water Quality and Drinking Water Quality Revolving Loan Funds – Use of Funds**

FOR the purpose of authorizing the use of the Maryland Water Quality Revolving Loan Fund and the Maryland Drinking Water Revolving Loan Fund to provide assistance in the form of grants, negative interest loans, forgiveness of principal, subsidized interest rates, and any other form of financial assistance as authorized or required by the American Recovery and Reinvestment Act of 2009; making this Act an emergency measure; and generally relating to the use of revolving loan funds in the Department of the Environment.

BY repealing and reenacting, with amendments,  
Article – Environment  
Section 9-1605, 9-1605.1, and 9-1606  
Annotated Code of Maryland  
(2007 Replacement Volume and 2008 Supplement)

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

**Article – Environment**

9–1605.

(a) (1) There is a Maryland Water Quality Revolving Loan Fund. The Water Quality Fund shall be maintained and administered by the Administration in accordance with the provisions of this subtitle and such rules or program directives as the Secretary or the Board may from time to time prescribe.

(2) The Water Quality Fund is a special, continuing, nonlapsing fund which is not subject to § 7–302 of the State Finance and Procurement Article and which shall be available in perpetuity for the purpose of providing financial assistance in accordance with the provisions of this subtitle and Title VI of the Federal Water Pollution Control Act.

(3) Subject to the provisions of any applicable bond resolution regarding the holding or application of amounts in the Water Quality Fund, the Treasurer shall separately hold, and the Comptroller shall account for, the Water Quality Fund.

(4) (i) Except as provided in subparagraph (ii) of this paragraph, and subject to the provisions of any applicable bond resolution governing the investment of amounts in the Water Quality Fund, the Water Quality Fund shall be invested and reinvested in the same manner as other State funds.

(ii) The Administration, in cooperation with the Treasurer, may establish a linked deposit program to carry out the purposes of this subtitle and Title VI of the Federal Water Pollution Control Act.

(5) Any investment earnings shall be retained to the credit of the Water Quality Fund.

(6) The Water Quality Fund shall be subject to biennial audit by the Office of Legislative Audits as provided for in § 2–1220 of the State Government Article.

(b) There shall be deposited in the Water Quality Fund:

(1) Federal capitalization grants and awards or other federal assistance received by the State pursuant to Title VI of the Federal Water Pollution Control Act and any funds transferred to the Water Quality Fund pursuant to § 302 of the federal Safe Drinking Water Act;

(2) Funds appropriated by the General Assembly for deposit to the Water Quality Fund;

(3) Payments received from any borrower in repayment of a loan, including amounts withheld by the State Comptroller and paid to the Administration pursuant to a pledge made by a borrower under § 9-1606(d) of this subtitle or § 7-222 of the State Finance and Procurement Article;

(4) Net proceeds of bonds issued by the Administration;

(5) Interest or other income earned on the investment of moneys in the Water Quality Fund; and

(6) Any additional moneys made available from any sources, public or private, for the purposes for which the Water Quality Fund has been established.

(c) **(1)** [The Administration may from time to time establish accounts and subaccounts within the Water Quality Fund as may be deemed desirable to effectuate the purposes of this subtitle, to comply with the provisions of any bond resolution, or to meet any requirement of the Federal Water Pollution Control Act or rules or program directives established by the Secretary or the Board.] **THE ADMINISTRATION MAY ESTABLISH ACCOUNTS AND SUBACCOUNTS WITHIN THE WATER QUALITY FUND AS MAY BE CONSIDERED DESIRABLE TO:**

**(I) EFFECTUATE THE PURPOSES OF THIS SUBTITLE;**

**(II) COMPLY WITH THE PROVISIONS OF ANY BOND RESOLUTION;**

**(III) MEET THE REQUIREMENTS OF ANY FEDERAL LAW, OR OF ANY FEDERAL GRANT OR AWARD TO THE WATER QUALITY FUND; OR**

**(IV) MEET ANY RULES OR PROGRAM DIRECTIVES ESTABLISHED BY THE SECRETARY OR THE BOARD.**

**(2)** [Such] **THE** accounts and subaccounts **ESTABLISHED UNDER PARAGRAPH (1) OF THIS SUBSECTION** may include:

**[(1)] (I)** A federal receipts account;

**[(2)] (II)** A State receipts account;

**[(3)] (III)** A management and administration expense account;

**[(4)] (IV)** A bond proceeds account;

**[(5)] (V)** An account to segregate a portion or portions of the revenues or corpus of the Water Quality Fund as security for bonds of the Administration;

~~[(6)] (VI)~~ A loan repayment account; and

~~[(7)] (VII)~~ An investment earnings account.

(d) Amounts in the Water Quality Fund may be used only:

(1) To make loans, on the condition that:

(i) The loans are made at or below market interest rates, including interest free loans, at terms not to exceed 20 years;

(ii) Annual principal and interest payments will commence not later than 1 year after completion of any wastewater facility and all loans will be fully amortized not later than 20 years after project completion;

(iii) The local government borrower will establish a dedicated source of revenue for repayment of loans;

(iv) In the case of a wastewater facility owned by a borrower other than a local government, the borrower will provide adequate security for repayment of loans; and

(v) The Water Quality Fund will be credited with all payments of principal and interest on all loans;

(2) To buy or refinance debt obligations of local governments at or below market rates, if such debt obligations were incurred after March 7, 1985;

(3) To guarantee, or purchase insurance for, bonds, notes, or other evidences of obligation issued by a local government for the purpose of financing all or a portion of the cost of a wastewater facility, if such action would improve credit market access or reduce interest rates;

(4) As a source of revenue or security for the payment of principal and interest on bonds issued by the Administration if the proceeds of the sale of such bonds will be deposited in the Water Quality Fund;

(5) To earn interest on Water Quality Fund accounts;

(6) To establish a linked deposit program to promote loans for controlling nonpoint sources of pollution and protecting the quality of the waters of the State;

(7) For the reasonable costs of administering the Water Quality Fund and conducting activities under Title VI of the Federal Water Pollution Control Act; [and]

(8) For any other purpose authorized by Title VI of the Federal Water Pollution Control Act or § 302 of the federal Safe Drinking Water Act; AND

**(9) TO PROVIDE FINANCIAL ASSISTANCE IN THE FORM OF GRANTS, NEGATIVE INTEREST LOANS, FORGIVENESS OF PRINCIPAL, SUBSIDIZED INTEREST RATES, AND ANY OTHER FORM OF FINANCIAL ASSISTANCE AS AUTHORIZED OR REQUIRED BY THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009, AS MAY BE AMENDED AND SUPPLEMENTED.**

(e) The costs of administering the Water Quality Fund shall be paid from federal capitalization grants and awards, from bond sale proceeds, and from amounts received from borrowers pursuant to loan agreements, and not from any State moneys appropriated to the Fund, except general funds of the State used to match federal capitalization grants and awards to the Water Quality Fund.

9-1605.1.

(a) (1) There is a Maryland Drinking Water Revolving Loan Fund. The Drinking Water Loan Fund shall be maintained and administered by the Administration in accordance with the provisions of this subtitle and such rules or program directives as the Secretary or the Board may from time to time prescribe.

(2) The Drinking Water Loan Fund is a special, continuing, nonlapsing fund which is not subject to § 7-302 of the State Finance and Procurement Article and which shall be available in perpetuity for the purpose of providing financial assistance in accordance with the provisions of this subtitle and the federal Safe Drinking Water Act.

(3) Subject to the provisions of any applicable bond resolution regarding the holding or application of amounts in the Drinking Water Loan Fund, the Treasurer shall separately hold, and the Comptroller shall account for, the Drinking Water Loan Fund.

(4) (i) Except as provided in subparagraph (ii) of this paragraph, and subject to the provisions of any applicable bond resolution governing the investment of amounts in the Drinking Water Loan Fund, the Drinking Water Loan Fund shall be invested and reinvested in the same manner as other State funds.

(ii) The Administration, in cooperation with the Treasurer, may establish a linked deposit program to carry out the purposes of this subtitle and the federal Safe Drinking Water Act.

(5) Any investment earnings shall be retained to the credit of the Drinking Water Loan Fund.

(6) The Drinking Water Loan Fund shall be subject to biennial audit by the Office of Legislative Audits as provided for in § 2-1220 of the State Government Article.

(7) The Administration shall operate the Drinking Water Loan Fund in accordance with §§ 9-1616 through 9-1621, inclusive, of this subtitle.

(b) There shall be deposited in the Drinking Water Loan Fund:

(1) Federal grants and awards or other federal assistance received by the State for the purpose of making loans to borrowers for water supply systems and any funds transferred from the Water Quality Fund pursuant to § 302 of the federal Safe Drinking Water Act;

(2) Funds appropriated by the General Assembly for deposit to the Drinking Water Loan Fund;

(3) Payments received from borrowers for deposit to the Drinking Water Loan Fund in repayment of a loan, including amounts withheld by the State Comptroller and paid to the Administration pursuant to a pledge made by a borrower under § 9-1606(d) of this subtitle or § 7-222 of the State Finance and Procurement Article;

(4) Net proceeds of bonds issued by the Administration;

(5) Interest or other income earned on the investment of moneys in the Drinking Water Loan Fund; and

(6) Any additional moneys made available from any sources, public or private, for the purposes for which the Drinking Water Loan Fund has been established.

(c) The Administration may from time to time establish accounts and subaccounts within the Drinking Water Loan Fund as may be deemed desirable to effectuate the purposes of this subtitle, to comply with the provisions of any bond resolution, to meet the requirements of any federal law, or of any federal grant or award to the Drinking Water Loan Fund, or to meet any rules or program directives established by the Secretary or the Board.

(d) Amounts in the Drinking Water Loan Fund may be used only:

(1) To make loans at or below market rates on the condition that:

(i) The local government borrower will establish a dedicated source of revenue;

(ii) In the case of a water supply system owned by a borrower other than a local government, the borrower shall provide adequate security for the repayment of the loan;

(iii) The Drinking Water Loan Fund will be credited with all payments of principal and interest on all loans; and

(iv) Annual principal and interest payments will commence not later than 1 year after completion of any drinking water facility and, except as provided in § 130 of the federal Safe Drinking Water Act, all loans will be fully amortized not later than 20 years after project completion;

(2) To buy or refinance debt obligations of local governments issued by a local government for the purposes of financing all or a portion of the cost of a water supply system at or below market rates, if such debt obligations were incurred after July 1, 1993;

(3) To guarantee or purchase insurance for bonds, notes, or other evidences of indebtedness issued by a local government for the purposes of financing all or a portion of the cost of a water supply system, if such action would improve credit market access or reduce interest rates;

(4) As a source of revenue or security for the payment of principal and interest on bonds issued by the Administration if the proceeds of the sale of such bonds will be deposited in the Drinking Water Loan Fund;

(5) To earn interest on Drinking Water Loan Fund accounts;

(6) For the reasonable costs of administering the Drinking Water Loan Fund and conducting activities under any federal law that may apply to federal deposits to the Drinking Water Loan Fund;

(7) To establish a linked deposit program for loans in accordance with this subtitle and the federal Safe Drinking Water Act;

(8) For loan subsidies for disadvantaged communities as provided by the federal Safe Drinking Water Act, including but not limited to loan forgiveness, provided that such loan subsidies shall not exceed 30% of the annual federal capitalization grant received by the Administration; [and]

(9) For any other purpose authorized for any federal funds deposited in the Drinking Water Loan Fund including, without limitation, any purpose authorized by the federal Safe Drinking Water Act, including source water protection expenditures eligible for assistance from the Drinking Water Loan Fund; **AND**



**(10) TO PROVIDE FINANCIAL ASSISTANCE IN THE FORM OF GRANTS, NEGATIVE INTEREST LOANS, FORGIVENESS OF PRINCIPAL, SUBSIDIZED INTEREST RATES, AND ANY OTHER FORM OF FINANCIAL ASSISTANCE AS AUTHORIZED OR REQUIRED BY THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009, AS MAY BE AMENDED AND SUPPLEMENTED.**

(e) The costs of administering the Drinking Water Loan Fund shall be paid from federal grants and awards, from bond sale proceeds, and from amounts received from borrowers pursuant to loan agreements, and may not be paid from any State moneys appropriated to the Drinking Water Loan Fund, except general funds of the State used to match federal grants and awards to the Drinking Water Loan Fund.

9-1606.

(a) A loan made by the Administration shall be evidenced by a loan agreement. Loans made from the Water Quality Fund, **EXCEPT FOR LOANS MADE IN ACCORDANCE WITH § 9-1605(D)(9) OF THIS SUBTITLE**, shall be subject to the provisions of § 9-1605(d)(1) of this subtitle. Loans made from the Drinking Water Loan Fund, **EXCEPT FOR LOANS MADE IN ACCORDANCE WITH § 9-1605.1(D)(10) OF THIS SUBTITLE**, shall be subject to the provisions of § 9-1605.1(d)(1) of this subtitle. Subject to the provisions of any applicable bond resolution, the Administration may consent to the modification, with respect to rate of interest, time of payment of any installment of principal or interest, security, or any other term of any loan agreement or loan obligation. In connection with any security received by or owned by the Administration, including any loan obligations, the Administration may commence any action to protect or enforce the rights conferred upon it by any law or loan agreement or loan obligation.

(b) Notwithstanding any other provision of public general or public local law, charter, or ordinance, a borrower may issue and sell loan obligations to the Administration:

- (1) At private sale, without public bidding;
- (2) Without regard to any limitations on the denomination of such obligations; and
- (3) At any interest rate or cost or at any price that the borrower considers necessary or desirable.

(c) A borrower may pay any fees or charges necessary to enable the Administration to sell its bonds, including any fees for the insurance of its loan obligations or bonds of the Administration, or to provide any other guarantee, credit enhancement, or additional security for any such loan obligations or bonds.

(d) Notwithstanding any other provision of public general or public local law, charter, or ordinance, a borrower may agree with the Administration to pledge any moneys that the borrower is entitled to receive from the State, including the borrower's share of the State income tax, to secure its obligations under a loan agreement. The State Comptroller and the State Treasurer shall cause any moneys withheld under such a pledge to be paid to, or applied at the direction of, the Administration.

(e) Each loan agreement shall contain a provision whereby the borrower acknowledges and agrees that the borrower's loan obligation is cancelable only upon repayment in full and that neither the Administration, the Secretary, nor the Board is authorized to forgive the repayment of all or any portion of the loan, except for loans to disadvantaged communities, pursuant to the federal Safe Drinking Water Act, **AND LOANS MADE IN ACCORDANCE WITH §§ 9-1605(D)(9) AND 9-1605.1(D)(10) OF THIS SUBTITLE.**

(f) In the event of a default on a loan obligation by a borrower other than a local government, the Administration may place a lien against property of the borrower securing the loan which, subject to the tax liens of the federal, State, and local governments, shall have the same priority and status as a lien of the State for unpaid taxes under §§ 14-804 and 14-805 of the Tax – Property Article. The Administration may exercise the same rights and powers in enforcing such lien and collecting funds for the payment of amounts in default under the loan obligation as the State may exercise in collecting unpaid taxes under Title 14, Subtitle 8 of the Tax – Property Article.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a ye and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

**Approved by the Governor, April 14, 2009.**

---

## **Chapter 169**

**(House Bill 1442)**

AN ACT concerning

### **Jane E. Lawton Conservation Fund – Renewable Energy Projects**

FOR the purpose of expanding the purposes of the Jane E. Lawton Conservation Fund to include support of certain renewable energy projects by certain entities; altering the local jurisdictions that may be eligible to receive a loan from the

Fund for certain purposes; authorizing certain loans to be deposited in certain funds under certain circumstances; authorizing a local jurisdiction to trade certain electricity on a certain energy market under certain circumstances; defining and altering certain terms; and generally relating to the Jane E. Lawton Conservation Fund and renewable energy infrastructure loans.

BY repealing and reenacting, with amendments,

Article – State Government

Section 9–20A–01, 9–20A–03, 9–20A–06, and 9–20A–09

Annotated Code of Maryland

(2004 Replacement Volume and 2008 Supplement)

BY repealing and reenacting, without amendments,

Article – State Government

Section 9–20A–02, 9–20A–04, 9–20A–05, 9–20A–07, and 9–20A–08

Annotated Code of Maryland

(2004 Replacement Volume and 2008 Supplement)

BY adding to

Article – State Government

Section 9–20A–09

Annotated Code of Maryland

(2004 Replacement Volume and 2008 Supplement)

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

### **Article – State Government**

9–20A–01.

- (a) In this subtitle the following words have the meanings indicated.
- (b) “Administration” means the Maryland Energy Administration.
- (c) “Borrower” means an eligible local jurisdiction, nonprofit organization, or eligible business that applies and qualifies for a loan under this Program.
- (d) “Eligible business” means a commercial enterprise or business:
  - (1) that is incorporated in the State; or
  - (2) whose principal owners are State residents and the business of which is principally carried out in the State.

(e) “Energy cost savings” means the actual reduction in operating expenses resulting from the improved energy efficiency generated by an energy conservation project financed under the Program.

(f) “Fund” means the Jane E. Lawton Conservation Fund.

(g) (1) “Local jurisdiction” means any county or municipality of the State.

(2) “Local jurisdiction” includes:

**(I)** a board of education of a county or municipality;

**(II) A SPECIAL DISTRICT THAT IS ESTABLISHED BY STATE LAW AND THAT OPERATES WITHIN A SINGLE COUNTY;**

**(III) A SPECIAL DISTRICT THAT IS ESTABLISHED BY A COUNTY UNDER PUBLIC GENERAL LAW; AND**

**(IV) AN OFFICE, BOARD, OR DEPARTMENT THAT IS ESTABLISHED IN A COUNTY UNDER STATE LAW AND THAT IS FUNDED, UNDER STATE LAW, AT LEAST IN PART BY THE COUNTY GOVERNING BODY.**

(h) “Municipality” means any municipal corporation in the State that is subject to the provisions of Article XI–E of the Maryland Constitution or any duly authorized agency or instrumentality of the municipality.

(i) “Nonprofit organization” means a corporation, foundation, school, hospital, or other legal entity, no part of the net earnings of which inure to the benefit of any private shareholder or individual holding an interest in the entity.

(j) “Program” means the Jane E. Lawton Conservation Loan Program.

(k) (1) “Project” means:

**(I)** one or more improvements or modifications that enhance the energy efficiency and reduce the operating expenses of a structure; **OR**

**(II) INSTALLATION OF INFRASTRUCTURE FOR RENEWABLE ENERGY GENERATION BY LOCAL JURISDICTIONS AND NONPROFIT ORGANIZATIONS.**

(2) “Project” includes:

**(I)** start-up opportunities for new businesses if the loan would enhance the energy efficiency of the borrower’s business;

**(II) INSTALLATION OF EQUIPMENT TO MAKE BUILDINGS SELF-SUSTAINING AND OF EMERGENCY GENERATING UNITS THAT USE RENEWABLE ENERGY RESOURCES; AND**

**(III) IMPLEMENTATION OF METHANE REMOVAL AT LANDFILLS.**

(3) "Project" does not include improvements or modifications for energy conservation **OR RENEWABLE ENERGY GENERATION** in structures used primarily for religious or fraternal activities.

**(L) "RENEWABLE ENERGY RESOURCE" HAS THE MEANING STATED IN § 1-101 OF THE PUBLIC UTILITY COMPANIES ARTICLE.**

9-20A-02.

There is a Jane E. Lawton Conservation Loan Program in the Administration.

9-20A-03.

The purpose of the Program is to provide financial assistance in the form of low interest loans to nonprofit organizations, local jurisdictions, and eligible businesses for projects in order to:

(1) promote:

**(I) energy conservation;**

**(II) THE DEVELOPMENT AND USE OF RENEWABLE ENERGY RESOURCES IN THE STATE;**

**(III) SELF-SUSTAINING BUILDINGS AND EMERGENCY GENERATING UNITS THAT USE RENEWABLE ENERGY RESOURCES; AND**

**(IV) THE INFRASTRUCTURE FOR RENEWABLE ENERGY GENERATION IN THE STATE;**

(2) reduce consumption of fossil fuels;

(3) improve energy efficiency; and

(4) enhance energy-related economic development and stability in business, commercial, and industrial sectors.

9-20A-04.

The Administration shall:

- (1) manage, supervise, and administer the Program;
- (2) adopt regulations to ensure that loans are provided only to projects that carry out the purpose of the Program;
- (3) attach specific terms to any loan that are considered necessary to ensure that the purpose of the Program is fulfilled; and
- (4) develop procedures for monitoring projects to assess whether the improvements or modifications made by an eligible entity or business that had received a loan under the Program have resulted in a measurable reduction in energy consumption.

9-20A-05.

(a) (1) To receive a loan under the Program, a borrower must file an application with the Administration.

(2) If the borrower is an eligible business, the application must be signed by the chief operating officer or an authorized officer of the business.

(3) If the borrower is a local jurisdiction, the application must be signed by the chief elected officer of the county or municipality, or if none, by the governing body of the county or municipality in which the project is located.

(4) If the borrower is a public school, the application must be signed by the board of education of the county in which the project is located.

(b) The application shall contain any information the Administration determines is necessary, including:

- (1) the projected cost to accomplish a proposed project;
- (2) if applicable, the amount of energy or fuel a proposed project is expected to save over a defined period of time after completion of the project;
- (3) the anticipated environmental benefits in the form of reduced emissions or pollution attributable to the proposed project;
- (4) the amount of cost savings expected to be generated over a defined period of time after completion of the proposed project;

(5) a description of the borrower's contribution to a proposed project as required by § 9–20A–06 of this subtitle; and

(6) any additional information relating to the borrower or the proposed project that may be required by the Administration in order to administer the Program.

9–20A–06.

(a) Loans from the Fund may be used for:

(1) the costs of implementing projects, including the costs of all necessary:

(i) technical assessments;

(ii) studies;

(iii) surveys;

(iv) plans and specifications; and

(v) start-up, architectural, engineering, or other special services;

(2) the costs of procuring necessary technology, equipment, licenses, or materials; and

(3) the costs of construction, rehabilitation, or modification, including the purchase and installation of any necessary machinery, equipment, or furnishings.

(b) Each borrower shall make a contribution to a project that is of a type and amount acceptable to the Administration.

(c) If the sole or primary purpose of the project is to reduce energy consumption, the borrower must document that the anticipated energy cost savings over a defined period after the completion of the project are greater than the cost of the project.

(d) Loans made under the Program shall:

(1) be repayable by the borrower from specified revenues that may include the energy cost savings generated by a project;

(2) bear interest at a rate that the Administration determines to be necessary and reasonable for the project; and

(3) be repayable in accordance with a schedule that the Administration sets, which may be on a deferred payment basis.

(e) (1) A borrower shall provide assurances for the repayment of a loan.

(2) The assurances:

(i) shall include a promissory note; and

(ii) may include superior or subordinate mortgage liens, guarantees of repayment, or other forms of collateral.

(f) Loans may be made in conjunction with, or in addition to, financial assistance provided through other State or federal programs.

**(G) (1) A LOAN UNDER THE FUND MAY BE DEPOSITED INTO A REVOLVING LOAN FUND OF A COUNTY'S ECONOMIC DEVELOPMENT COMMISSION IF THE COUNTY APPROVES THE TRANSACTION AND PROJECT FOR THE LOCAL JURISDICTION.**

**(2) IF A COUNTY ACCEPTS A LOAN UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE FUNDS DEPOSITED FROM THE FUND MAY BE USED ONLY FOR PURPOSES OF PROVIDING CAPITAL FOR RENEWABLE ENERGY INFRASTRUCTURE PROJECTS UNDER THIS SUBTITLE.**

9-20A-07.

(a) There is a Jane E. Lawton Conservation Fund.

(b) The Administration shall administer the Fund.

(c) (1) The Fund is a special, nonlapsing fund that is not subject to § 7-302 of the State Finance and Procurement Article.

(2) The State Treasurer shall hold the Fund and the Comptroller shall account for the Fund.

(d) The Fund consists of:

(1) money appropriated in the State budget to the Program;

(2) money received from any public or private source;

(3) interest and investment earnings on the Fund; and



(4) repayments and prepayments of principal and interest on loans made from the Fund.

(e) The Fund may be used only:

- (1) to pay the expenses of the Program; and
- (2) to provide loans to eligible borrowers and projects.

(f) (1) The State Treasurer shall invest and reinvest the money of the Fund in the same manner as other State money may be invested.

(2) Any investment earnings of the Fund shall be paid into the Fund.

(3) Any repayment of principal and interest on loans made from the Fund shall be paid into the Fund.

(g) (1) The Administration shall annually reserve a portion of the money from the Fund that is available for financial assistance under the Program for loans to nonprofit organizations.

(2) In a fiscal year in which requests for financial assistance from nonprofit organizations are less than the amount of money reserved under paragraph (1) of this subsection, the Administration may make the unencumbered or noncommitted portion of the reserve available to other borrowers in the Program.

9-20A-08.

The Administration may enter into contracts with third parties to make, service, or settle loans made under this subtitle.

**9-20A-09.**

**(A) A PROJECT IMPLEMENTED BY A LOCAL JURISDICTION FINANCED BY A LOAN FROM THE FUND, SUCH AS A SELF-SUSTAINING EMERGENCY GENERATING UNIT, THAT GENERATES ELECTRICITY IN EXCESS OF THE AMOUNT NEEDED FOR SUSTAINING THE UNIT MAY OFFER THE EXTRA ELECTRICITY FOR TRADE THROUGH MARKETS OPERATED BY PJM INTERCONNECTION, LLC.**

**(B) A LOCAL JURISDICTION THAT TRADES ELECTRICITY UNDER SUBSECTION (A) OF THIS SECTION SHALL USE THE PROCEEDS TO REPAY ITS LOAN OBLIGATIONS UNDER THIS SUBTITLE.**

[9-20A-09.] **9-20A-10.**

(a) A person may not knowingly make or cause to be made any false statement or report in any document required to be furnished to the Administration by any agreement relating to financial assistance.

(b) A person applying for financial assistance may not knowingly make or cause to be made any false statement for the purpose of influencing any action of the Administration on an application for financial assistance or for the purpose of influencing any action of the Administration affecting financial assistance already provided.

(c) A person who violates this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$50,000 or imprisonment not exceeding 1 year or both.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2009.

**Approved by the Governor, April 14, 2009.**

---

## Chapter 170

### (House Bill 1195)

AN ACT concerning

#### **Prescription Drugs – Wholesale Drug Distribution – Surety Bond Requirements**

FOR the purpose of altering surety bond requirements for an applicant for a wholesale distributor permit; specifying the entity to which the surety bond *or certain other security* is payable; specifying the amount of the surety bond *or other security*, depending on certain receipts of the applicant; authorizing the State Board of Pharmacy to require by regulation certain documentation; authorizing the Board to allow an applicant for a wholesale distributor permit or a wholesale distributor permit holder to rescind a surety bond or other security submitted before a certain date and submit a new surety bond or other security under certain circumstances; defining a certain term; making this Act an emergency measure; and generally relating to surety bond requirements for applicants for wholesale drug distributor permits.

BY repealing and reenacting, with amendments,

Article – Health Occupations

Section 12–6C–05(f)

Annotated Code of Maryland

(2005 Replacement Volume and 2008 Supplement)

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

**Article – Health Occupations**

12-6C-05.

(f) (1) IN THIS SUBSECTION, “GROSS RECEIPTS” MEANS GROSS RECEIPTS FROM SALES OF PRESCRIPTION DRUGS AND DEVICES IN THE STATE.

(2) This subsection does not apply to a pharmacy warehouse that is not engaged in wholesale distribution.

~~(2)~~ (3) (I) An applicant for a wholesale distributor permit shall submit a surety bond [of at least \$100,000,] or other equivalent means of security acceptable to the [State] STATE, such as an irrevocable letter of credit or a deposit in a trust account or financial institution, payable to THE ~~MARYLAND~~ STATE BOARD OF PHARMACY TO BE DEPOSITED INTO an account established by the State under paragraph ~~(6)~~ (7) of this subsection.

(II) THE SURETY BOND OR OTHER SECURITY SHALL BE IN THE AMOUNT OF:

1. \$100,000, IF THE ANNUAL GROSS RECEIPTS OF THE APPLICANT FOR THE PREVIOUS TAX YEAR ARE \$10,000,000 OR MORE; OR

2. \$50,000, IF THE ANNUAL GROSS RECEIPTS OF THE APPLICANT FOR THE PREVIOUS TAX YEAR ARE LESS THAN \$10,000,000.

(III) THE BOARD MAY REQUIRE BY REGULATION DOCUMENTATION FOR THE GROSS RECEIPTS OF THE WHOLESALE DISTRIBUTOR TO QUALIFY FOR A SURETY BOND OR OTHER SECURITY IN THE AMOUNT OF \$50,000 SURETY BOND.

~~(3)~~ (4) The purpose of the surety bond is to secure payment of any fines or penalties imposed by the Board and any fees and costs incurred by the State relating to the permit that:

(i) Are authorized under State law; and

(ii) Are not paid by the permit holder within 30 days after the fines, penalties, fees, or costs become final.

~~(4)~~ **(5)** The State may make a claim against the surety bond or other security until 2 years after the permit holder's permit ceases to be valid.

~~(5)~~ **(6)** A single surety bond shall cover all facilities operated by the applicant in the State.

~~(6)~~ **(7)** The Board shall establish an account, separate from its other accounts, in which to deposit the applicant's surety bond or other security.

SECTION 2. AND BE IT FURTHER ENACTED, That, if an applicant for a wholesale distributor permit or a wholesale distributor permit holder has submitted a surety bond or other security in the amount of \$100,000 before the effective date of this Act but demonstrates eligibility for a surety bond or other security in the amount of \$50,000, as provided in § 12-6C-05(f)(3)(ii)2 of the Health Occupations Article as enacted by Section 1 of this Act, the State Board of Pharmacy may allow the applicant or permit holder to rescind the surety bond or other security already submitted and submit a new surety bond or other security in the lower amount.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a yea and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

**Approved by the Governor, April 14, 2009.**

---