Laws

of the

State of Maryland

At the Session of the General Assembly Begun and Held in the
City of Annapolis on the Thirteenth Day of January 2010
and Ending on the Twelfth Day of April 2010

Bills vetoed by the Governor appear after the Laws

VOLUME I

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Laws of Maryland

MARYLAND, Sct.:

At a Session of the General Assembly of Maryland, begun and held in the City of Annapolis on the Thirteenth Day of January 2010, and ending on the Twelfth Day of April 2010, Martin O'Malley, being Governor of the State, the following laws were enacted, to wit:

Chapter 1

(Senate Bill 106)

AN ACT concerning

Labor and Employment – Job Creation and Recovery Tax Credit

FOR the purpose of establishing the Job Creation and Recovery Tax Credit; providing a credit against the State income tax for certain employers employing certain individuals in certain qualified positions; defining certain terms; providing for certification by the Department of Labor, Licensing, and Regulation of persons eligible for the credit and of the maximum amount of credit for which a qualified employer is eligible; limiting to a certain amount the credit each qualified employer may receive; providing for a cap of the total aggregate amount of the tax credit that the Department may approve; ~~allowing the credit as a credit against the payment of certain withholding taxes under certain circumstances;~~ making the credit refundable under certain circumstances; requiring certain reports; authorizing the adoption of certain regulations; making the provisions of this Act severable; making this Act an emergency measure; and generally relating to tax credits in connection with the employment of certain individuals in certain qualified positions in the State and the Job Creation and Recovery Tax Credit ~~program~~.

BY adding to
Article – Labor and Employment
Section 11–1101 through 11–1107 to be under the new subtitle "Subtitle 11. Job Creation and Recovery Tax Credit"

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

Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)

BY adding to
Article – Tax – General
Section 10–728
Annotated Code of Maryland
(2004 Replacement Volume and 2009 Supplement)

Preamble

WHEREAS, The current economic situation in the State and the country has left many Maryland workers unable to find new full–time employment; and

WHEREAS, Many of these workers are currently receiving unemployment insurance benefits from the State or have exhausted those benefits; and

WHEREAS, There are employers in the State who would like to hire new employees but face economic challenges in expanding their workforce at this time; and

WHEREAS, New jobs would reduce the burden of unemployment for Maryland workers and their families; and

WHEREAS, Expanding the State workforce would stimulate the State's economy by enhancing personal spending and tax revenues associated with increased employment; and

WHEREAS, Creating new jobs for workers currently receiving unemployment insurance benefits would reduce the burden on the Unemployment Insurance Trust Fund and the employers who contribute to that Fund; and

WHEREAS, A State tax credit program for employers based on the creation of new jobs in the State would encourage and assist them in expanding their workforces and in reducing the burden of unemployment on the State and its citizens; now, therefore,

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

Article – Labor and Employment

SUBTITLE 11. JOB CREATION AND RECOVERY TAX CREDIT.

11–1101.

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

(B) "QUALIFIED EMPLOYEE" MEANS AN INDIVIDUAL WHO, AT THE TIME OF HIRING:

(1) IS A RESIDENT OF THE STATE;

(2) (I) IS RECEIVING UNEMPLOYMENT INSURANCE BENEFITS; OR

(II) HAS EXHAUSTED THE INDIVIDUAL'S UNEMPLOYMENT INSURANCE BENEFITS WITHIN THE PAST 12 MONTHS; AND

(3) IS NOT EMPLOYED FULL TIME.

(C) "QUALIFIED EMPLOYER" MEANS A PERSON THAT IS:

(1) (I) CONDUCTING OR OPERATING A TRADE OR BUSINESS IN THE STATE AND FILING MARYLAND INCOME TAX RETURNS; OR

(II) AN ORGANIZATION OPERATING IN THE STATE THAT IS EXEMPT FROM TAXATION UNDER § 501(C) OF THE INTERNAL REVENUE CODE; AND

(2) CERTIFIED IN ACCORDANCE WITH § ~~11–1103~~ 11–1102 OF THIS SUBTITLE AS QUALIFYING FOR THE TAX CREDIT UNDER THIS SUBTITLE.

(D) (1) "QUALIFIED POSITION" MEANS A POSITION THAT:

(I) IS FULL TIME;

(II) REQUIRES OR IS EXPECTED TO REQUIRE THE SERVICES OF AN EMPLOYEE *FOR AN INDEFINITE DURATION AND* WITHOUT INTERRUPTION FOR A PERIOD OF 12 MONTHS OR MORE;

(III) IS LOCATED IN THE STATE; AND

(IV) IS NEWLY CREATED OR HAS BEEN VACANT FOR A PERIOD OF AT LEAST 6 MONTHS AT THE TIME OF HIRING.

(2) "QUALIFIED POSITION" DOES NOT INCLUDE A POSITION THAT IS CREATED:

(I) WHEN AN EMPLOYMENT FUNCTION IS SHIFTED FROM AN EXISTING BUSINESS FACILITY OF A BUSINESS ENTITY IN THE STATE TO

ANOTHER BUSINESS FACILITY OF THE SAME BUSINESS ENTITY IF THE POSITION IS NOT A NET NEW JOB IN THE STATE;

(II) THROUGH A CHANGE IN OWNERSHIP OF A TRADE OR BUSINESS;

(III) THROUGH A CONSOLIDATION, MERGER, OR RESTRUCTURING OF A BUSINESS ENTITY IF THE POSITION IS NOT A NET NEW JOB *IN THE STATE*;

(IV) WHEN AN EMPLOYMENT FUNCTION IS CONTRACTUALLY SHIFTED FROM AN EXISTING BUSINESS ENTITY TO ANOTHER BUSINESS ENTITY; OR

(V) BY DISPLACING AN EXISTING EMPLOYEE.

11–1102.

(A) THE SECRETARY OR THE SECRETARY'S DESIGNEE SHALL CERTIFY A PERSON AS A QUALIFIED EMPLOYER ELIGIBLE FOR A TAX CREDIT UNDER THIS SUBTITLE IF THE PERSON MEETS THE REQUIREMENTS OF THIS SECTION.

(B) TO BE ELIGIBLE FOR A TAX CREDIT UNDER THIS SUBTITLE, A PERSON MUST HIRE A QUALIFIED EMPLOYEE TO FILL A QUALIFIED POSITION AND BEGIN EMPLOYMENT IN THAT POSITION BETWEEN ~~JANUARY 1, 2010,~~ *THE EFFECTIVE DATE OF CHAPTER 1 (S.B. 106) OF THE ACTS OF THE GENERAL ASSEMBLY OF 2010* AND DECEMBER 31, 2010.

(C) TO BE CERTIFIED AS A QUALIFIED EMPLOYER FOR A TAX CREDIT UNDER THIS SUBTITLE, A PERSON SHALL SUBMIT TO THE DEPARTMENT AN APPLICATION CERTIFIED AND EXECUTED UNDER THE PENALTY OF PERJURY THAT SPECIFIES:

(1) THE NAME AND SOCIAL SECURITY NUMBER OF EACH QUALIFIED EMPLOYEE;

(2) THE DATE OF HIRE OF EACH QUALIFIED EMPLOYEE, THE WAGES PAID TO EACH QUALIFIED EMPLOYEE, THE DATE WAGES BEGAN TO BE PAID TO EACH QUALIFIED EMPLOYEE, AND THE POSITION FOR WHICH EACH QUALIFIED EMPLOYEE WAS HIRED;

(3) THE NUMBER OF QUALIFIED POSITIONS CREATED;

(4) THE EVIDENCE THAT THE EMPLOYER MEETS THE REQUIREMENTS OF § 11–1101(C) OF THIS SUBTITLE;

(5) THE EVIDENCE THAT THE POSITION MEETS THE REQUIREMENTS OF § 11–1101(D) OF THIS SUBTITLE; AND

(6) ANY OTHER INFORMATION THAT THE DEPARTMENT MAY REQUIRE.

(D) BASED ON THE INFORMATION PROVIDED TO THE DEPARTMENT UNDER SUBSECTION (C) OF THIS SECTION, AND IN ACCORDANCE WITH THE PROVISIONS OF SUBSECTION (E) OF THIS SECTION, ***WITHIN 60 DAYS AFTER RECEIVING THE APPLICATION***, THE SECRETARY OR THE SECRETARY'S DESIGNEE SHALL CERTIFY THE MAXIMUM AMOUNT OF THE TAX CREDIT FOR WHICH A QUALIFIED EMPLOYER IS ELIGIBLE.

(E) (1) SUBJECT TO THE LIMITATIONS IN PARAGRAPHS (2), (3), AND (4) OF THIS SUBSECTION, THE CREDIT EARNED UNDER THIS SECTION IS ~~$3,000~~ **$5,000** MULTIPLIED BY THE NUMBER OF QUALIFIED EMPLOYEES HIRED BY THE QUALIFIED EMPLOYER ~~DURING THE 2010 CALENDAR YEAR~~ ***BETWEEN THE EFFECTIVE DATE OF CHAPTER 1 (S.B. 106) OF THE ACTS OF THE GENERAL ASSEMBLY OF 2010 AND DECEMBER 31, 2010***.

(2) THE CREDIT EARNED BY A QUALIFIED EMPLOYER UNDER THIS SUBTITLE MAY NOT EXCEED $250,000.

(3) THE TOTAL AMOUNT OF CREDITS APPROVED BY THE DEPARTMENT UNDER THIS SUBTITLE MAY NOT EXCEED $20,000,000.

(4) THE CREDITS WILL BE AVAILABLE AND CERTIFIED ON A FIRST–COME, FIRST–SERVED BASIS AT THE TIME OF APPLICATION.

(F) FOR ANY QUALIFIED POSITION CERTIFIED UNDER SUBSECTION (D) OF THIS SECTION THAT IS VACATED FOR ANY REASON, THE QUALIFIED EMPLOYER MUST SUBMIT AN AMENDED APPLICATION UNDER SUBSECTION (C) OF THIS SECTION TO RECEIVE THE TAX CREDIT FOR HIRING A REPLACEMENT QUALIFIED EMPLOYEE FOR THAT VACATED POSITION.

(G) THE SECRETARY AND THE COMPTROLLER MAY JOINTLY ADOPT REGULATIONS TO CARRY OUT THIS SUBTITLE AND THE PROVISIONS OF § 10–728 OF THE TAX – GENERAL ARTICLE.

11–1103.

(A) AFTER RECEIVING THE CERTIFICATION IN ACCORDANCE WITH § 11–1102(D) OF THIS SUBTITLE, AND IN ACCORDANCE WITH § 11–1107 OF THIS SUBTITLE, A QUALIFIED EMPLOYER MAY CLAIM AN INCOME TAX CREDIT IN THE AMOUNT PROVIDED IN THAT CERTIFICATION.

(B) TO CLAIM THE CREDIT CERTIFIED UNDER § 11–1102(D) OF THIS SUBTITLE, A QUALIFIED EMPLOYER SHALL SUBMIT TO THE COMPTROLLER:

(1) A TAX RETURN FOR THE TAXABLE YEAR TO WHICH THE CERTIFICATION APPLIES, CLAIMING THE CREDIT; AND

(2) A COPY OF THE DEPARTMENT'S CERTIFICATION OF THE APPROVED CREDIT AMOUNT.

11–1104.

(A) (1) A QUALIFIED POSITION MUST REMAIN FILLED FOR A PERIOD OF 1 YEAR AFTER THE QUALIFIED EMPLOYEE IS HIRED AND BEGINS EMPLOYMENT.

(2) IF THE POSITION IS VACATED PRIOR TO THE EXPIRATION OF THE 1–YEAR PERIOD, THE EMPLOYER SHALL IMMEDIATELY NOTIFY THE DEPARTMENT OF THE VACANCY.

(B) IF A POSITION IS FILLED FOR LESS THAN THE REQUIRED 1–YEAR PERIOD, THE EMPLOYER SHALL BE ENTITLED TO A PRO–RATA PORTION OF THE TAX CREDIT BASED ON THE DURATION OF EMPLOYMENT.

11–1105.

(A) THE DEPARTMENT, THE COMPTROLLER, AND THE DEPARTMENT OF BUSINESS AND ECONOMIC DEVELOPMENT MAY SHARE ANY INFORMATION RECEIVED FROM A QUALIFIED EMPLOYER ABOUT ELIGIBILITY FOR A CREDIT ALLOWED UNDER THIS SUBTITLE FOR THE PURPOSE OF ADMINISTERING THIS TAX CREDIT.

(B) INFORMATION THAT IS RECEIVED UNDER SUBSECTION (A) OF THIS SECTION IS SUBJECT TO THE CONFIDENTIALITY REQUIREMENTS THAT APPLY TO THE DEPARTMENT, THE COMPTROLLER, *THE DEPARTMENT OF BUSINESS AND ECONOMIC DEVELOPMENT*, AND THE UNIT THAT RECEIVES THE INFORMATION.

11–1106.

ON OR BEFORE APRIL 1, 2011, THE DEPARTMENT SHALL REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON THE QUALIFIED EMPLOYERS CERTIFIED AS ELIGIBLE FOR JOB CREATION AND RECOVERY TAX CREDITS ~~AND~~, THE NUMBER OF ~~JOBS~~ *QUALIFIED POSITIONS* FOR WHICH THEY WERE CERTIFIED, *THE TOTAL AMOUNT OF CREDITS CERTIFIED FOR EACH QUALIFIED EMPLOYER, AND THE TOTAL AMOUNT OF CREDITS CERTIFIED*.

11–1107.

(A) (1) THE TAX CREDIT AUTHORIZED UNDER THIS SUBTITLE:

~~(1)~~ (I) MAY BE CLAIMED ONLY FOR INDIVIDUALS HIRED INTO QUALIFIED POSITIONS FOR WHICH THEY BEGIN RECEIVING WAGES ON OR AFTER ~~JANUARY 1, 2010,~~ *THE EFFECTIVE DATE OF CHAPTER 1 (S.B. 106) OF THE ACTS OF THE GENERAL ASSEMBLY OF 2010* BUT ON OR BEFORE DECEMBER 31, 2010; AND

~~(2)~~ ~~(I)~~ (II) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, MUST BE CLAIMED ON THE QUALIFIED EMPLOYER'S 2010 OR 2011 STATE INCOME TAX RETURN.

~~(II)~~ ~~1.~~ (2) IN DETERMINING WHICH YEAR OR YEARS TO CLAIM THE CREDIT, THE QUALIFIED EMPLOYER SHALL CLAIM THE CREDIT FOR EACH CALENDAR MONTH OF 2010 AS THAT MONTH CORRESPONDS TO THE QUALIFIED EMPLOYER'S TAXABLE YEAR.

~~2.~~ (3) IF THE QUALIFIED EMPLOYER'S 2009 TAX YEAR INCLUDES 2010 CALENDAR MONTHS, THE QUALIFIED EMPLOYER SHALL CLAIM THE CREDIT ON THE QUALIFYING EMPLOYER'S 2009 TAX RETURN FOR THOSE 2010 CALENDAR MONTHS CORRESPONDING TO THE QUALIFIED EMPLOYER'S 2009 TAXABLE YEAR.

(B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE AMOUNT OF CREDIT THAT MAY BE CLAIMED IN A TAXABLE YEAR FOR EACH QUALIFIED EMPLOYEE IS ~~$250~~ $416.67 MULTIPLIED BY THE NUMBER OF MONTHS THE QUALIFIED EMPLOYEE WAS EMPLOYED IN THAT TAXABLE YEAR, PROVIDED THAT THE TOTAL NUMBER OF MONTHS FOR WHICH THE CREDIT IS CLAIMED FOR A PARTICULAR QUALIFIED EMPLOYEE DOES NOT EXCEED 12 MONTHS.

(2) IF, AT THE TIME OF FILING, A QUALIFIED EMPLOYER'S TAX RETURN FOR TAXABLE YEAR 2010 INCLUDES A QUALIFIED EMPLOYEE WHO REMAINED EMPLOYED DURING CALENDAR YEAR 2011, A QUALIFIED EMPLOYER

MAY CLAIM ON THAT TAX RETURN THE TAX CREDIT APPLICABLE TO THAT EMPLOYEE FOR THE MONTHS DURING 2011, PROVIDED THAT THE TOTAL NUMBER OF MONTHS FOR WHICH THE CREDIT IS CLAIMED FOR A PARTICULAR QUALIFIED EMPLOYEE DOES NOT EXCEED 12 MONTHS.

(C) ~~EXCEPT AS PROVIDED IN SUBSECTION (E) OF THIS SECTION, IF~~ *IF* THE CREDIT ALLOWED UNDER THIS SECTION IN ANY CORRESPONDING TAXABLE YEAR EXCEEDS THE TOTAL TAX OTHERWISE PAYABLE BY THE BUSINESS ENTITY OR INDIVIDUAL FOR THAT TAXABLE YEAR, THE BUSINESS ENTITY OR INDIVIDUAL MAY CLAIM A REFUND IN THE AMOUNT OF THE EXCESS.

(D) A REFUND PAYABLE UNDER SUBSECTION (C) OF THIS SECTION:

(1) OPERATES TO REDUCE THE INCOME TAX REVENUE FROM CORPORATIONS IF THE PERSON ENTITLED TO THE REFUND IS A CORPORATION SUBJECT TO TAXATION UNDER TITLE 10 OF THE TAX – GENERAL ARTICLE; AND

(2) OPERATES TO REDUCE THE INCOME TAX REVENUE FROM INDIVIDUALS IF THE PERSON ENTITLED TO THE REFUND IS:

(I) AN INDIVIDUAL SUBJECT TO THE INCOME TAX UNDER TITLE 10 OF THE TAX – GENERAL ARTICLE; OR

(II) AN ORGANIZATION EXEMPT FROM TAXATION UNDER § 501(C) OF THE INTERNAL REVENUE CODE.

(E) IF, AT THE TIME OF FILING, A PERSON IS DELINQUENT IN THE PAYMENT OF UNEMPLOYMENT INSURANCE CONTRIBUTIONS, STATE INCOME TAXES, WITHHOLDING TAXES, OR OTHER DEBT OR DELINQUENT ACCOUNTS DUE TO THE STATE, THE PERSON IS NOT ELIGIBLE FOR A ~~REFUND~~ *CREDIT* UNDER THIS ~~SECTION~~ *SUBTITLE*.

Article – Tax – General

10–728.

(A) AN INDIVIDUAL OR A CORPORATION MAY CLAIM A STATE TAX CREDIT AGAINST THE INCOME TAX AS PROVIDED UNDER TITLE 11, SUBTITLE 11 OF THE LABOR AND EMPLOYMENT ARTICLE.

(B) AN ORGANIZATION EXEMPT FROM TAXATION UNDER § 501(C) OF THE INTERNAL REVENUE CODE MAY APPLY THE CREDIT UNDER THIS SUBSECTION~~:~~

~~(1)~~ AS A CREDIT AGAINST STATE INCOME TAX DUE ON UNRELATED BUSINESS TAXABLE INCOME AS PROVIDED UNDER §§ 10–304 AND 10–812 OF THIS TITLE~~; OR~~

~~(2) AS A CREDIT FOR THE PAYMENT TO THE COMPTROLLER OF TAXES THAT THE ORGANIZATION:~~

~~(I) IS REQUIRED TO WITHHOLD FROM THE WAGES OF EMPLOYEES UNDER § 10–908 OF THIS TITLE; AND~~

~~(II) IS REQUIRED TO PAY TO THE COMPTROLLER UNDER § 10–906(A) OF THIS TITLE~~.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be applicable to individuals hired and beginning work on or after ~~January 1, 2010,~~ *the effective date of this Act* but on or before December 31, 2010.

SECTION 3. AND BE IT FURTHER ENACTED, That if any provision of this Act or the application thereof to any person or circumstance is held invalid for any reason in a court of competent jurisdiction, the invalidity does not affect other provisions or any other application of this Act which can be given effect without the invalid provision or application, and for this purpose the provisions of this Act are declared severable.

SECTION 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 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, March 25, 2010.

Chapter 2

(Senate Bill 107)

AN ACT concerning

~~Labor and Employment –~~ Unemployment Insurance – Tax Deferment, Trust Fund Solvency, and Cost–Neutral Modernization ~~and Tax Relief~~ Act

FOR the purpose of providing for an alternative method to determine the base period for unemployment insurance purposes under certain circumstances; altering certain provisions relating to benefit eligibility of certain part–time workers;

providing that certain training benefits may not be charged to employers; creating an additional training benefit for certain individuals; providing for the calculation and limit for the additional training benefits; prohibiting the denial of additional training benefits under certain circumstances; prohibiting payment of additional training benefits after a certain period; ~~reducing the interest rate on certain late payments; adjusting the applicable table of contribution rates for a certain time period under certain circumstances;~~ altering the minimum amount of wages paid to a claimant for covered employment for the claimant to be eligible for benefits; decreasing the threshold for subtracting wages to determine an eligible claimant's weekly benefit amount; repealing a provision that prohibits the denial of certain benefits for failure to meet a certain requirement if the failure results from a certain illness or disability; altering the criteria used to determine when a disqualification for a finding of gross misconduct in connection with employment ends; altering the criteria used to determine when a disqualification for a finding of misconduct in connection with employment ends; requiring certain regulations to require the Secretary to offer certain payment plan options under certain circumstances; requiring the Secretary to offer certain payment plan options for certain calendar years; reducing the interest rate on certain late payments under certain circumstances; reducing the interest rate of certain late payments for certain calendar years; clarifying that certain money received during a certain period under the federal American Recovery and Reinvestment Act shall be included among certain total funds available for benefits; requiring the Joint Committee on Unemployment Insurance Oversight to study certain changes that would provide a certain cost–neutral plan to effectuate a certain increase in the maximum weekly benefit amount; requiring the study to include a certain determination of the impact of lowering the amount of wages that may be subtracted in the calculation of the weekly benefit amount; requiring the Joint Committee to report on or before a certain date; defining certain terms; altering certain definitions; providing for the effective dates and application of this Act; making this Act an emergency measure; and generally relating to unemployment insurance.

BY repealing and reenacting, without amendments,
Article – Labor and Employment
Section 8–101(a), 8–607(a) through (c), and 8–802
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – Labor and Employment
Section 8–101(b) and (v), ~~8–611(e), 8–612(d)(6), 8–628, and 8–903(a)~~ 8–607(d), 8–611(e), 8–628, 8–903(a), 8–907, 8–1002, and 8–1003
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, without amendments,

Article – Labor and Employment
Section 8–803(a) and (c)
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)
(As enacted by Chapters 287 and 288 of the Acts of the General Assembly of 2009)

BY repealing and reenacting, with amendments,
Article – Labor and Employment
Section 8–803(b) and (d)
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)
(As enacted by Chapters 287 and 288 of the Acts of the General Assembly of 2009)

BY adding to
Article – Labor and Employment
Section 8–812
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)

Preamble

WHEREAS, The national recession has resulted in an unprecedented demand on Maryland's Unemployment Insurance Fund; and

WHEREAS, This prolonged recession of unanticipated severity has triggered a mandated increase in employers' rates for 2010 while the State's businesses are still struggling with the effects of the economic downturn; and

WHEREAS, Despite increased revenues from the rate shift and the relative health of Maryland's Unemployment Insurance Fund compared to ~~25~~ 28 other State funds that are currently borrowing from the federal government, with some in bankruptcy, the Fund's solvency will remain at risk through 2010; and

WHEREAS, The State must pursue simultaneously the critical objectives of helping employers push through the recession with greater resources for job creation and preservation while also maintaining Fund solvency to ensure continued benefit payments for unemployed workers; and

WHEREAS, The State can help replenish the Fund by securing federal incentive funds made available to states through the American Recovery and Reinvestment Act of 2009; and

WHEREAS, States may secure these incentive distributions by enacting certain measures designed to modernize their unemployment insurance laws to reflect the changing modern workforce; and

WHEREAS, Modernization incentive distributions in the amount of $126.8 million dollars have been earmarked for Maryland's Unemployment Insurance Fund; and

WHEREAS, If the State does not meet the federal requirements for modernization by September 30, 2011, its $126.8 million share of the total federal incentive funds will no longer be available; and

WHEREAS, The State can help employers retain more resources for job creation and preservation during this recession by temporarily ~~reducing and~~ deferring their unemployment insurance rate obligations and by returning rates to lower levels more quickly by securing $126.8 million for the Fund without imposing any short– or long–term costs on employers; and

WHEREAS, ~~Reducing and deferring employers' unemployment insurance rate obligations while also securing federal incentive funds will ease the burden of the recession on employers and help them preserve and create jobs without further jeopardizing the Fund's solvency and the continued payment of workers' benefits~~ Securing the $126.8 million will also benefit workers as employers feel less pressure to lay off more employees as the State works to climb out of the recession, and the cost–neutral modernization measures will make more workers eligible for benefits without putting additional pressure on the Fund or imposing any costs on employers; now, therefore,

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, 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.

(b) "Base period" means**:**

(1) the first 4 of the last 5 completed calendar quarters immediately preceding the start of the benefit year**; OR**

(2) THE 4 MOST RECENTLY COMPLETED CALENDAR QUARTERS IMMEDIATELY PRECEDING THE START OF THE BENEFIT YEAR ONLY IF THE INDIVIDUAL APPLYING FOR BENEFITS DOES NOT QUALIFY FOR ANY BENEFITS UNDER § 8–802 OF THIS TITLE USING THE DEFINITION IN ITEM (1) OF THIS SUBSECTION.

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**]** **WORKED** **[**predominantly on a part–time basis throughout the year for**]** at least 20 hours per week **IN PART–TIME WORK FOR A MAJORITY OF THE WEEKS OF WORK IN THE BASE PERIOD**.

~~8–612.~~

~~(d) (6) **(I)** For any calendar year beginning on or after January 1, 2006, when the Unemployment Insurance Fund balance on September 30 of the immediately preceding calendar year is not in excess of 3% of the total taxable wages in covered employment for the 4 completed calendar quarters immediately preceding September 30, the Table of Rates in this paragraph of this subsection shall apply.~~

~~**(II) NOTWITHSTANDING SUBPARAGRAPH (I) OF THIS PARAGRAPH, FOR ANY CALENDAR YEAR IN WHICH THE TAXABLE WAGE BASE OF THE PRECEDING YEAR DECREASED BY MORE THAN $1 BILLION, AND THE UNEMPLOYMENT INSURANCE FUND RECEIVES FUNDS FROM SOURCES OTHER THAN THOSE IN § 8–403(A)(1) THROUGH (7) OF THIS TITLE IN AN AMOUNT GREATER THAN THE DIFFERENCE IN REVENUES COLLECTED IN TABLE E AND TABLE F, THE TABLE OF RATES IN PARAGRAPH (5) OF THIS SUBSECTION SHALL APPLY.**~~

~~Table of Rates – Table F~~

~~Employing Unit's Benefit Ratio~~	~~Employing Unit's Rate~~	
~~(1)~~	~~.0000 —~~	~~2.20%~~
~~(2)~~	~~.0001 — .0027~~	~~3.10%~~
~~(3)~~	~~.0028 — .0054~~	~~3.40%~~
~~(4)~~	~~.0055 — .0081~~	~~3.70%~~
~~(5)~~	~~.0082 — .0108~~	~~4.00%~~

~~(6)~~	~~.0109 — .0135~~	~~4.30%~~
~~(7)~~	~~.0136 — .0162~~	~~4.60%~~
~~(8)~~	~~.0163 — .0189~~	~~4.90%~~
~~(9)~~	~~.0190 — .0216~~	~~5.20%~~
~~(10)~~	~~.0217 — .0243~~	~~5.50%~~
~~(11)~~	~~.0244 — .0270~~	~~5.80%~~
~~(12)~~	~~.0271 — .0297~~	~~6.10%~~
~~(13)~~	~~.0298 — .0324~~	~~6.40%~~
~~(14)~~	~~.0325 — .0351~~	~~6.70%~~
~~(15)~~	~~.0352 — .0378~~	~~7.00%~~
~~(16)~~	~~.0379 — .0405~~	~~7.30%~~
~~(17)~~	~~.0406 — .0432~~	~~7.60%~~
~~(18)~~	~~.0433 — .0459~~	~~7.90%~~
~~(19)~~	~~.0460 — .0486~~	~~8.20%~~
~~(20)~~	~~.0487 — .0513~~	~~8.50%~~
~~(21)~~	~~.0514 — .0540~~	~~8.80%~~
~~(22)~~	~~.0541 — .0567~~	~~9.10%~~
~~(23)~~	~~.0568 — .0594~~	~~9.40%~~
~~(24)~~	~~.0595 — .0621~~	~~9.70%~~
~~(25)~~	~~.0622 — .0648~~	~~10.00%~~
~~(26)~~	~~.0649 — .0675~~	~~10.30%~~
~~(27)~~	~~.0676 — .0702~~	~~10.60%~~
~~(28)~~	~~.0703 — .0729~~	~~10.90%~~
~~(29)~~	~~.0730 — .0756~~	~~11.20%~~
~~(30)~~	~~.0757 — .0783~~	~~11.50%~~
~~(31)~~	~~.0784 — .0810~~	~~11.80%~~
~~(32)~~	~~.0811 — .0837~~	~~12.10%~~
~~(33)~~	~~.0838 — .0864~~	~~12.40%~~
~~(34)~~	~~.0865 — .0891~~	~~12.70%~~
~~(35)~~	~~.0892 — .0918~~	~~13.00%~~
~~(36)~~	~~.0919 — .0945~~	~~13.30%~~
~~(37)~~	~~.0946 — and over~~	~~13.50%~~

~~8–628.~~

~~Except as provided in § 8–201.1 of this title, a contribution or reimbursement payment that is due and unpaid shall accrue interest at the rate of **[**1.5%**] 1.0%** per month or part of a month from the date on which it is due until the Secretary receives the contribution or payment in lieu of contributions and the interest.~~

8–802.

An individual is eligible for benefits if, during the base period:

(1) the individual was paid wages of at least the lower quarterly wage amount in line 1 of the schedule of benefits in § 8–803 of this subtitle for covered

employment during the calendar quarter in which the individual's wages were highest; and

(2) the individual was paid wages for covered employment that, during at least 2 calendar quarters combined, are at least 1.5 times the upper limit of the wages for the line in the schedule of benefits for which the individual qualifies.

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:**]** **A PART–TIME WORKER MAY NOT BE DETERMINED TO BE INELIGIBLE FOR THE RECEIPT OF BENEFITS FOR A WEEK IN WHICH THE PART–TIME WORKER IS AVAILABLE FOR AND SEEKING ONLY PART–TIME WORK 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; **AND**

[(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)**] (II)** is in a labor market in which a reasonable demand exists for part–time work.

(4) FOR THE PURPOSES OF PARAGRAPH (3) OF THIS SUBSECTION, AN INDIVIDUAL IS SEEKING ONLY PART–TIME WORK IF THE INDIVIDUAL IS ABLE TO WORK:

(I) HOURS THAT ARE COMPARABLE TO THE INDIVIDUAL'S WORK AT THE TIME OF THE MOST RECENT SEPARATION FROM PART–TIME EMPLOYMENT; AND

(II) AT LEAST 20 HOURS PER WEEK.

SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Labor and Employment

8–611.

(e) The Secretary may not charge benefits paid to a claimant against the earned rating record of an employing unit if:

(1) the claimant left employment voluntarily without good cause attributable to the employing unit;

(2) the claimant was discharged by the employing unit for gross misconduct as defined in § 8–1002 of this title;

(3) the claimant was discharged by the employing unit for aggravated misconduct as defined in § 8–1002.1 of this title;

(4) the claimant left employment voluntarily to accept better employment or enter training approved by the Secretary; **[**or**]**

(5) the employing unit participates in a work release program that is designed to give an inmate of a correctional institution an opportunity to work while imprisoned and unemployment was the result of the claimant's release from prison**; OR**

(6) THE CLAIMANT WAS PAID ADDITIONAL TRAINING BENEFITS UNDER § 8–812 OF THIS TITLE.

8–812.

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

(2) "DECLINING OCCUPATION" MEANS AN OCCUPATION IN WHICH:

(I) THERE IS A CURRENT LACK OF EMPLOYMENT OPPORTUNITIES IN THE INDIVIDUAL'S LABOR MARKET AREA FOR THE OCCUPATIONAL SKILLS FOR WHICH THE INDIVIDUAL IS QUALIFIED BY TRAINING AND EXPERIENCE; AND

(II) THE LACK OF EMPLOYMENT OPPORTUNITIES IS EXPECTED TO CONTINUE FOR AN EXTENDED PERIOD OF TIME.

(3) "DEMAND OCCUPATION" MEANS AN OCCUPATION IN A LABOR MARKET AREA WHERE WORK OPPORTUNITIES ARE AVAILABLE AND QUALIFIED APPLICANTS ARE LACKING.

(4) (I) "SIMILAR STIPEND" MEANS AN AMOUNT PROVIDED UNDER A PROGRAM WITH SIMILAR AIMS, SUCH AS PROVIDING TRAINING TO INCREASE EMPLOYABILITY, AND IN APPROXIMATELY THE SAME AMOUNTS.

(II) "SIMILAR STIPEND" DOES NOT INCLUDE TRAINING COSTS SUCH AS PAYMENTS FOR TUITION AND BOOKS.

(B) AN INDIVIDUAL WHO IS ENTITLED TO BENEFITS UNDER THIS TITLE SHALL BE ELIGIBLE FOR ADDITIONAL TRAINING BENEFITS UNDER THIS SECTION IF THE SECRETARY DETERMINES THAT THE INDIVIDUAL:

(1) IS UNEMPLOYED;

(2) HAS EXHAUSTED ALL RIGHTS TO UNEMPLOYMENT INSURANCE BENEFITS UNDER FEDERAL AND STATE LAW;

(3) (I) SEPARATED FROM A DECLINING OCCUPATION; OR

(II) HAS BEEN INVOLUNTARILY AND INDEFINITELY SEPARATED FROM EMPLOYMENT AS A RESULT OF A PERMANENT REDUCTION OF OPERATIONS AT THE INDIVIDUAL'S PLACE OF EMPLOYMENT; AND

(4) IS ENROLLED IN A TRAINING PROGRAM APPROVED BY THE SECRETARY OR IN A JOB TRAINING PROGRAM AUTHORIZED BY THE WORKFORCE INVESTMENT ACT OF 1998, AS AMENDED, THAT PREPARES THE

INDIVIDUAL FOR ENTRY INTO A DEMAND OCCUPATION IF THE SECRETARY DETERMINES THAT THE INDIVIDUAL:

(I) ENROLLED IN THE TRAINING BEFORE THE END OF THE BENEFIT YEAR ESTABLISHED WITH RESPECT TO THE SEPARATION THAT MADE THE INDIVIDUAL ELIGIBLE FOR THE TRAINING BENEFIT;

(II) IS MAKING SATISFACTORY PROGRESS TO COMPLETE THE TRAINING; AND

(III) IS NOT RECEIVING SIMILAR STIPENDS OR OTHER ALLOWANCES FOR NONTRAINING COSTS.

(C) THE ADDITIONAL WEEKLY TRAINING BENEFIT AMOUNT SHALL EQUAL THE INDIVIDUAL'S WEEKLY BENEFIT AMOUNT FOR THE MOST RECENT BENEFIT YEAR LESS ANY DEDUCTIBLE INCOME AS DETERMINED UNDER THIS TITLE.

(D) THE MAXIMUM AMOUNT OF ADDITIONAL TRAINING BENEFITS PAYABLE TO AN INDIVIDUAL SHALL BE EQUAL TO 26 TIMES THE INDIVIDUAL'S AVERAGE WEEKLY BENEFIT AMOUNT FOR THE MOST RECENT BENEFIT YEAR.

(E) AN INDIVIDUAL WHO IS RECEIVING ADDITIONAL TRAINING BENEFITS MAY NOT BE DENIED THOSE BENEFITS DUE TO THE APPLICATION OF § 8–903(A)(1)(II) AND (III) OF THIS TITLE.

(F) ADDITIONAL TRAINING BENEFITS MAY NOT BE PAYABLE FOR MORE THAN 1 YEAR FOLLOWING THE END OF THE BENEFIT YEAR ESTABLISHED WITH RESPECT TO THE SEPARATION THAT MADE THE INDIVIDUAL ELIGIBLE FOR ADDITIONAL TRAINING BENEFITS.

SECTION 4. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Labor and Employment

8–803.

(a) (1) To determine the weekly benefit amount to assign to a claimant in the schedule of benefits in subsection (b) of this section, the line in the schedule of benefits shall be located in which the high quarter wages in column (A) correspond to wages that the claimant was paid for covered employment in the calendar quarter of the claimant's base period in which those wages were highest.

(2) The claimant shall be assigned:

(i) the weekly benefit amount in column (B) of the schedule for that line; or

(ii) if the claimant is not eligible under § 8–802 of this subtitle for that weekly benefit amount but was paid wages to qualify in 1 of the next 6 lower lines of the schedule, the weekly benefit amount in the next lower line in column (B) of the schedule.

(b)

SCHEDULE OF BENEFITS

Line	High Quarter Wages (A)	Weekly Benefit Amount (B)	Minimum Qualifying Wages (C)
[(1)	$ 576.01 to $ 600.00	25.00	900.00
(2)	$ 600.01 to $ 624.00	26.00	936.00
(3)	$ 624.01 to $ 648.00	27.00	972.00
(4)	$ 648.01 to $ 672.00	28.00	1,008.00
(5)	$ 672.01 to $ 696.00	29.00	1,044.00
(6)	$ 696.01 to $ 720.00	30.00	1,080.00
(7)	$ 720.01 to $ 744.00	31.00	1,116.00
(8)	$ 744.01 to $ 768.00	32.00	1,152.00
(9)	$ 768.01 to $ 792.00	33.00	1,188.00
(10)	$ 792.01 to $ 816.00	34.00	1,224.00
(11)	$ 816.01 to $ 840.00	35.00	1,260.00
(12)	$ 840.01 to $ 864.00	36.00	1,296.00
(13)	$ 864.01 to $ 888.00	37.00	1,332.00
(14)	$ 888.01 to $ 912.00	38.00	1,368.00
(15)	$ 912.01 to $ 936.00	39.00	1,404.00
(16)	$ 936.01 to $ 960.00	40.00	1,440.00
(17)	$ 960.01 to $ 984.00	41.00	1,476.00
(18)	$ 984.01 to $1,008.00	42.00	1,512.00
(19)	$1,008.01 to $1,032.00	43.00	1,548.00
(20)	$1,032.01 to $1,056.00	44.00	1,584.00
(21)	$1,056.01 to $1,080.00	45.00	1,620.00
(22)	$1,080.01 to $1,104.00	46.00	1,656.00
(23)	$1,104.01 to $1,128.00	47.00	1,692.00
(24)	$1,128.01 to $1,152.00	48.00	1,728.00
(25)	$1,152.01 to $1,176.00	49.00	1,764.00
(26)**] (1)**	$1,176.01 to $1,200.00	50.00	1,800.00
[(27)**] (2)**	$1,200.01 to $1,224.00	51.00	1,836.00
[(28)**] (3)**	$1,224.01 to $1,248.00	52.00	1,872.00
[(29)**] (4)**	$1,248.01 to $1,272.00	53.00	1,908.00

[(30)**] (5)**	$1,272.01 to $1,296.00	54.00	1,944.00
[(31)**] (6)**	$1,296.01 to $1,320.00	55.00	1,980.00
[(32)**] (7)**	$1,320.01 to $1,344.00	56.00	2,016.00
[(33)**] (8)**	$1,344.01 to $1,368.00	57.00	2,052.00
[(34)**] (9)**	$1,368.01 to $1,392.00	58.00	2,088.00
[(35)**] (10)**	$1,392.01 to $1,416.00	59.00	2,124.00
[(36)**] (11)**	$1,416.01 to $1,440.00	60.00	2,160.00
[(37)**] (12)**	$1,440.01 to $1,464.00	61.00	2,196.00
[(38)**] (13)**	$1,464.01 to $1,488.00	62.00	2,232.00
[(39)**] (14)**	$1,488.01 to $1,512.00	63.00	2,268.00
[(40)**] (15)**	$1,512.01 to $1,536.00	64.00	2,304.00
[(41)**] (16)**	$1,536.01 to $1,560.00	65.00	2,340.00
[(42)**] (17)**	$1,560.01 to $1,584.00	66.00	2,376.00
[(43)**] (18)**	$1,584.01 to $1,608.00	67.00	2,412.00
[(44)**] (19)**	$1,608.01 to $1,632.00	68.00	2,448.00
[(45)**] (20)**	$1,632.01 to $1,656.00	69.00	2,484.00
[(46)**] (21)**	$1,656.01 to $1,680.00	70.00	2,520.00
[(47)**] (22)**	$1,680.01 to $1,704.00	71.00	2,556.00
[(48)**] (23)**	$1,704.01 to $1,728.00	72.00	2,592.00
[(49)**] (24)**	$1,728.01 to $1,752.00	73.00	2,628.00
[(50)**] (25)**	$1,752.01 to $1,776.00	74.00	2,664.00
[(51)**] (26)**	$1,776.01 to $1,800.00	75.00	2,700.00
[(52)**] (27)**	$1,800.01 to $1,824.00	76.00	2,736.00
[(53)**] (28)**	$1,824.01 to $1,848.00	77.00	2,772.00
[(54)**] (29)**	$1,848.01 to $1,872.00	78.00	2,808.00
[(55)**] (30)**	$1,872.01 to $1,896.00	79.00	2,844.00
[(56)**] (31)**	$1,896.01 to $1,920.00	80.00	2,880.00
[(57)**] (32)**	$1,920.01 to $1,944.00	81.00	2,916.00
[(58)**] (33)**	$1,944.01 to $1,968.00	82.00	2,952.00
[(59)**] (34)**	$1,968.01 to $1,992.00	83.00	2,988.00
[(60)**] (35)**	$1,992.01 to $2,016.00	84.00	3,024.00
[(61)**] (36)**	$2,016.01 to $2,040.00	85.00	3,060.00
[(62)**] (37)**	$2,040.01 to $2,064.00	86.00	3,096.00
[(63)**] (38)**	$2,064.01 to $2,088.00	87.00	3,132.00
[(64)**] (39)**	$2,088.01 to $2,112.00	88.00	3,168.00
[(65)**] (40)**	$2,112.01 to $2,136.00	89.00	3,204.00
[(66)**] (41)**	$2,136.01 to $2,160.00	90.00	3,240.00
[(67)**] (42)**	$2,160.01 to $2,184.00	91.00	3,276.00
[(68)**] (43)**	$2,184.01 to $2,208.00	92.00	3,312.00
[(69)**] (44)**	$2,208.01 to $2,232.00	93.00	3,348.00
[(70)**] (45)**	$2,232.01 to $2,256.00	94.00	3,384.00
[(71)**] (46)**	$2,256.01 to $2,280.00	95.00	3,420.00
[(72)**] (47)**	$2,280.01 to $2,304.00	96.00	3,456.00

[(73)**] (48)**	$2,304.01 to $2,328.00	97.00	3,492.00
[(74)**] (49)**	$2,328.01 to $2,352.00	98.00	3,528.00
[(75)**] (50)**	$2,352.01 to $2,376.00	99.00	3,564.00
[(76)**] (51)**	$2,376.01 to $2,400.00	100.00	3,600.00
[(77)**] (52)**	$2,400.01 to $2,424.00	101.00	3,636.00
[(78)**] (53)**	$2,424.01 to $2,448.00	102.00	3,672.00
[(79)**] (54)**	$2,448.01 to $2,472.00	103.00	3,708.00
[(80)**] (55)**	$2,472.01 to $2,496.00	104.00	3,744.00
[(81)**] (56)**	$2,496.01 to $2,520.00	105.00	3,780.00
[(82)**] (57)**	$2,520.01 to $2,544.00	106.00	3,816.00
[(83)**] (58)**	$2,544.01 to $2,568.00	107.00	3,852.00
[(84)**] (59)**	$2,568.01 to $2,592.00	108.00	3,888.00
[(85)**] (60)**	$2,592.01 to $2,616.00	109.00	3,924.00
[(86)**] (61)**	$2,616.01 to $2,640.00	110.00	3,960.00
[(87)**] (62)**	$2,640.01 to $2,664.00	111.00	3,996.00
[(88)**] (63)**	$2,664.01 to $2,688.00	112.00	4,032.00
[(89)**] (64)**	$2,688.01 to $2,712.00	113.00	4,068.00
[(90)**] (65)**	$2,712.01 to $2,736.00	114.00	4,104.00
[(91)**] (66)**	$2,736.01 to $2,760.00	115.00	4,140.00
[(92)**] (67)**	$2,760.01 to $2,784.00	116.00	4,176.00
[(93)**] (68)**	$2,784.01 to $2,808.00	117.00	4,212.00
[(94)**] (69)**	$2,808.01 to $2,832.00	118.00	4,248.00
[(95)**] (70)**	$2,832.01 to $2,856.00	119.00	4,284.00
[(96)**] (71)**	$2,856.01 to $2,880.00	120.00	4,320.00
[(97)**] (72)**	$2,880.01 to $2,904.00	121.00	4,356.00
[(98)**] (73)**	$2,904.01 to $2,928.00	122.00	4,392.00
[(99)**] (74)**	$2,928.01 to $2,952.00	123.00	4,428.00
[(100)**] (75)**	$2,952.01 to $2,976.00	124.00	4,464.00
[(101)**] (76)**	$2,976.01 to $3,000.00	125.00	4,500.00
[(102)**] (77)**	$3,000.01 to $3,024.00	126.00	4,536.00
[(103)**] (78)**	$3,024.01 to $3,048.00	127.00	4,572.00
[(104)**] (79)**	$3,048.01 to $3,072.00	128.00	4,608.00
[(105)**] (80)**	$3,072.01 to $3,096.00	129.00	4,644.00
[(106)**] (81)**	$3,096.01 to $3,120.00	130.00	4,680.00
[(107)**] (82)**	$3,120.01 to $3,144.00	131.00	4,716.00
[(108)**] (83)**	$3,144.01 to $3,168.00	132.00	4,752.00
[(109)**] (84)**	$3,168.01 to $3,192.00	133.00	4,788.00
[(110)**] (85)**	$3,192.01 to $3,216.00	134.00	4,824.00
[(111)**] (86)**	$3,216.01 to $3,240.00	135.00	4,860.00
[(112)**] (87)**	$3,240.01 to $3,264.00	136.00	4,896.00
[(113)**] (88)**	$3,264.01 to $3,288.00	137.00	4,932.00
[(114)**] (89)**	$3,288.01 to $3,312.00	138.00	4,968.00
[(115)**] (90)**	$3,312.01 to $3,336.00	139.00	5,004.00

[(116)**] (91)**	$3,336.01 to $3,360.00	140.00	5,040.00
[(117)**] (92)**	$3,360.01 to $3,384.00	141.00	5,076.00
[(118)**] (93)**	$3,384.01 to $3,408.00	142.00	5,112.00
[(119)**] (94)**	$3,408.01 to $3,432.00	143.00	5,148.00
[(120)**] (95)**	$3,432.01 to $3,456.00	144.00	5,184.00
[(121)**] (96)**	$3,456.01 to $3,480.00	145.00	5,220.00
[(122)**] (97)**	$3,480.01 to $3,504.00	146.00	5,256.00
[(123)**] (98)**	$3,504.01 to $3,528.00	147.00	5,292.00
[(124)**] (99)**	$3,528.01 to $3,552.00	148.00	5,328.00
[(125)**] (100)**	$3,552.01 to $3,576.00	149.00	5,364.00
[(126)**] (101)**	$3,576.01 to $3,600.00	150.00	5,400.00
[(127)**] (102)**	$3,600.01 to $3,624.00	151.00	5,436.00
[(128)**] (103)**	$3,624.01 to $3,648.00	152.00	5,472.00
[(129)**] (104)**	$3,648.01 to $3,672.00	153.00	5,508.00
[(130)**] (105)**	$3,672.01 to $3,696.00	154.00	5,544.00
[(131)**] (106)**	$3,696.01 to $3,720.00	155.00	5,580.00
[(132)**] (107)**	$3,720.01 to $3,744.00	156.00	5,616.00
[(133)**] (108)**	$3,744.01 to $3,768.00	157.00	5,652.00
[(134)**] (109)**	$3,768.01 to $3,792.00	158.00	5,688.00
[(135)**] (110)**	$3,792.01 to $3,816.00	159.00	5,724.00
[(136)**] (111)**	$3,816.01 to $3,840.00	160.00	5,760.00
[(137)**] (112)**	$3,840.01 to $3,864.00	161.00	5,796.00
[(138)**] (113)**	$3,864.01 to $3,888.00	162.00	5,832.00
[(139)**] (114)**	$3,888.01 to $3,912.00	163.00	5,868.00
[(140)**] (115)**	$3,912.01 to $3,936.00	164.00	5,904.00
[(141)**] (116)**	$3,936.01 to $3,960.00	165.00	5,940.00
[(142)**] (117)**	$3,960.01 to $3,984.00	166.00	5,976.00
[(143)**] (118)**	$3,984.01 to $4,008.00	167.00	6,012.00
[(144)**] (119)**	$4,008.01 to $4,032.00	168.00	6,048.00
[(145)**] (120)**	$4,032.01 to $4,056.00	169.00	6,084.00
[(146)**] (121)**	$4,056.01 to $4,080.00	170.00	6,120.00
[(147)**] (122)**	$4,080.01 to $4,104.00	171.00	6,156.00
[(148)**] (123)**	$4,104.01 to $4,128.00	172.00	6,192.00
[(149)**] (124)**	$4,128.01 to $4,152.00	173.00	6,228.00
[(150)**] (125)**	$4,152.01 to $4,176.00	174.00	6,264.00
[(151)**] (126)**	$4,176.01 to $4,200.00	175.00	6,300.00
[(152)**] (127)**	$4,200.01 to $4,224.00	176.00	6,336.00
[(153)**] (128)**	$4,224.01 to $4,248.00	177.00	6,372.00
[(154)**] (129)**	$4,248.01 to $4,272.00	178.00	6,408.00
[(155)**] (130)**	$4,272.01 to $4,296.00	179.00	6,444.00
[(156)**] (131)**	$4,296.01 to $4,320.00	180.00	6,480.00
[(157)**] (132)**	$4,320.01 to $4,344.00	181.00	6,516.00
[(158)**] (133)**	$4,344.01 to $4,368.00	182.00	6,552.00

[(159)**] (134)**	$4,368.01 to $4,392.00	183.00	6,588.00
[(160)**] (135)**	$4,392.01 to $4,416.00	184.00	6,624.00
[(161)**] (136)**	$4,416.01 to $4,440.00	185.00	6,660.00
[(162)**] (137)**	$4,440.01 to $4,464.00	186.00	6,696.00
[(163)**] (138)**	$4,464.01 to $4,488.00	187.00	6,732.00
[(164)**] (139)**	$4,488.01 to $4,512.00	188.00	6,768.00
[(165)**] (140)**	$4,512.01 to $4,536.00	189.00	6,804.00
[(166)**] (141)**	$4,536.01 to $4,560.00	190.00	6,840.00
[(167)**] (142)**	$4,560.01 to $4,584.00	191.00	6,876.00
[(168)**] (143)**	$4,584.01 to $4,608.00	192.00	6,912.00
[(169)**] (144)**	$4,608.01 to $4,632.00	193.00	6,948.00
[(170)**] (145)**	$4,632.01 to $4,656.00	194.00	6,984.00
[(171)**] (146)**	$4,656.01 to $4,680.00	195.00	7,020.00
[(172)**] (147)**	$4,680.01 to $4,704.00	196.00	7,056.00
[(173)**] (148)**	$4,704.01 to $4,728.00	197.00	7,092.00
[(174)**] (149)**	$4,728.01 to $4,752.00	198.00	7,128.00
[(175)**] (150)**	$4,752.01 to $4,776.00	199.00	7,164.00
[(176)**] (151)**	$4,776.01 to $4,800.00	200.00	7,200.00
[(177)**] (152)**	$4,800.01 to $4,824.00	201.00	7,236.00
[(178)**] (153)**	$4,824.01 to $4,848.00	202.00	7,272.00
[(179)**] (154)**	$4,848.01 to $4,872.00	203.00	7,308.00
[(180)**] (155)**	$4,872.01 to $4,896.00	204.00	7,344.00
[(181)**] (156)**	$4,896.01 to $4,920.00	205.00	7,380.00
[(182)**] (157)**	$4,920.01 to $4,944.00	206.00	7,416.00
[(183)**] (158)**	$4,944.01 to $4,968.00	207.00	7,452.00
[(184)**] (159)**	$4,968.01 to $4,992.00	208.00	7,488.00
[(185)**] (160)**	$4,992.01 to $5,016.00	209.00	7,524.00
[(186)**] (161)**	$5,016.01 to $5,040.00	210.00	7,560.00
[(187)**] (162)**	$5,040.01 to $5,064.00	211.00	7,596.00
[(188)**] (163)**	$5,064.01 to $5,088.00	212.00	7,632.00
[(189)**] (164)**	$5,088.01 to $5,112.00	213.00	7,668.00
[(190)**] (165)**	$5,112.01 to $5,136.00	214.00	7,704.00
[(191)**] (166)**	$5,136.01 to $5,160.00	215.00	7,740.00
[(192)**] (167)**	$5,160.01 to $5,184.00	216.00	7,776.00
[(193)**] (168)**	$5,184.01 to $5,208.00	217.00	7,812.00
[(194)**] (169)**	$5,208.01 to $5,232.00	218.00	7,848.00
[(195)**] (170)**	$5,232.01 to $5,256.00	219.00	7,884.00
[(196)**] (171)**	$5,256.01 to $5,280.00	220.00	7,920.00
[(197)**] (172)**	$5,280.01 to $5,304.00	221.00	7,956.00
[(198)**] (173)**	$5,304.01 to $5,328.00	222.00	7,992.00
[(199)**] (174)**	$5,328.01 to $5,352.00	223.00	8,028.00
[(200)**] (175)**	$5,352.01 to $5,376.00	224.00	8,064.00
[(201)**] (176)**	$5,376.01 to $5,400.00	225.00	8,100.00

[(202)**] (177)**	$5,400.01 to $5,424.00	226.00	8,136.00
[(203)**] (178)**	$5,424.01 to $5,448.00	227.00	8,172.00
[(204)**] (179)**	$5,448.01 to $5,472.00	228.00	8,208.00
[(205)**] (180)**	$5,472.01 to $5,496.00	229.00	8,244.00
[(206)**] (181)**	$5,496.01 to $5,520.00	230.00	8,280.00
[(207)**] (182)**	$5,520.01 to $5,544.00	231.00	8,316.00
[(208)**] (183)**	$5,544.01 to $5,568.00	232.00	8,352.00
[(209)**] (184)**	$5,568.01 to $5,592.00	233.00	8,388.00
[(210)**] (185)**	$5,592.01 to $5,616.00	234.00	8,424.00
[(211)**] (186)**	$5,616.01 to $5,640.00	235.00	8,460.00
[(212)**] (187)**	$5,640.01 to $5,664.00	236.00	8,496.00
[(213)**] (188)**	$5,664.01 to $5,688.00	237.00	8,532.00
[(214)**] (189)**	$5,688.01 to $5,712.00	238.00	8,568.00
[(215)**] (190)**	$5,712.01 to $5,736.00	239.00	8,604.00
[(216)**] (191)**	$5,736.01 to $5,760.00	240.00	8,640.00
[(217)**] (192)**	$5,760.01 to $5,784.00	241.00	8,676.00
[(218)**] (193)**	$5,784.01 to $5,808.00	242.00	8,712.00
[(219)**] (194)**	$5,808.01 to $5,832.00	243.00	8,748.00
[(220)**] (195)**	$5,832.01 to $5,856.00	244.00	8,784.00
[(221)**] (196)**	$5,856.01 to $5,880.00	245.00	8,820.00
[(222)**] (197)**	$5,880.01 to $5,904.00	246.00	8,856.00
[(223)**] (198)**	$5,904.01 to $5,928.00	247.00	8,892.00
[(224)**] (199)**	$5,928.01 to $5,952.00	248.00	8,928.00
[(225)**] (200)**	$5,952.01 to $5,976.00	249.00	8,964.00
[(226)**] (201)**	$5,976.01 to $6,000.00	250.00	9,000.00
[(227)**] (202)**	$6,000.01 to $6,024.00	251.00	9,036.00
[(228)**] (203)**	$6,024.01 to $6,048.00	252.00	9,072.00
[(229)**] (204)**	$6,048.01 to $6,072.00	253.00	9,108.00
[(230)**] (205)**	$6,072.01 to $6,096.00	254.00	9,144.00
[(231)**] (206)**	$6,096.01 to $6,120.00	255.00	9,180.00
[(232)**] (207)**	$6,120.01 to $6,144.00	256.00	9,216.00
[(233)**] (208)**	$6,144.01 to $6,168.00	257.00	9,252.00
[(234)**] (209)**	$6,168.01 to $6,192.00	258.00	9,288.00
[(235)**] (210)**	$6,192.01 to $6,216.00	259.00	9,324.00
[(236)**] (211)**	$6,216.01 to $6,240.00	260.00	9,360.00
[(237)**] (212)**	$6,240.01 to $6,264.00	261.00	9,396.00
[(238)**] (213)**	$6,264.01 to $6,288.00	262.00	9,432.00
[(239)**] (214)**	$6,288.01 to $6,312.00	263.00	9,468.00
[(240)**] (215)**	$6,312.01 to $6,336.00	264.00	9,504.00
[(241)**] (216)**	$6,336.01 to $6,360.00	265.00	9,540.00
[(242)**] (217)**	$6,360.01 to $6,384.00	266.00	9,576.00
[(243)**] (218)**	$6,384.01 to $6,408.00	267.00	9,612.00
[(244)**] (219)**	$6,408.01 to $6,432.00	268.00	9,648.00

[(245)**] (220)**	$6,432.01 to $6,456.00	269.00	9,684.00
[(246)**] (221)**	$6,456.01 to $6,480.00	270.00	9,720.00
[(247)**] (222)**	$6,480.01 to $6,504.00	271.00	9,756.00
[(248)**] (223)**	$6,504.01 to $6,528.00	272.00	9,792.00
[(249)**] (224)**	$6,528.01 to $6,552.00	273.00	9,828.00
[(250)**] (225)**	$6,552.01 to $6,576.00	274.00	9,864.00
[(251)**] (226)**	$6,576.01 to $6,600.00	275.00	9,900.00
[(252)**] (227)**	$6,600.01 to $6,624.00	276.00	9,936.00
[(253)**] (228)**	$6,624.01 to $6,648.00	277.00	9,972.00
[(254)**] (229)**	$6,648.01 to $6,672.00	278.00	10,008.00
[(255)**] (230)**	$6,672.01 to $6,696.00	279.00	10,044.00
[(256)**] (231)**	$6,696.01 to $6,720.00	280.00	10,080.00
[(257)**] (232)**	$6,720.01 to $6,744.00	281.00	10,116.00
[(258)**] (233)**	$6,744.01 to $6,768.00	282.00	10,152.00
[(259)**] (234)**	$6,768.01 to $6,792.00	283.00	10,188.00
[(260)**] (235)**	$6,792.01 to $6,816.00	284.00	10,224.00
[(261)**] (236)**	$6,816.01 to $6,840.00	285.00	10,260.00
[(262)**] (237)**	$6,840.01 to $6,864.00	286.00	10,296.00
[(263)**] (238)**	$6,864.01 to $6,888.00	287.00	10,332.00
[(264)**] (239)**	$6,888.01 to $6,912.00	288.00	10,368.00
[(265)**] (240)**	$6,912.01 to $6,936.00	289.00	10,404.00
[(266)**] (241)**	$6,936.01 to $6,960.00	290.00	10,440.00
[(267)**] (242)**	$6,960.01 to $6,984.00	291.00	10,476.00
[(268)**] (243)**	$6,984.01 to $7,008.00	292.00	10,512.00
[(269)**] (244)**	$7,008.01 to $7,032.00	293.00	10,548.00
[(270)**] (245)**	$7,032.01 to $7,056.00	294.00	10,584.00
[(271)**] (246)**	$7,056.01 to $7,080.00	295.00	10,620.00
[(272)**] (247)**	$7,080.01 to $7,104.00	296.00	10,656.00
[(273)**] (248)**	$7,104.01 to $7,128.00	297.00	10,692.00
[(274)**] (249)**	$7,128.01 to $7,152.00	298.00	10,728.00
[(275)**] (250)**	$7,152.01 to $7,176.00	299.00	10,764.00
[(276)**] (251)**	$7,176.01 to $7,200.00	300.00	10,800.00
[(277)**] (252)**	$7,200.01 to $7,224.00	301.00	10,836.00
[(278)**] (253)**	$7,224.01 to $7,248.00	302.00	10,872.00
[(279)**] (254)**	$7,248.01 to $7,272.00	303.00	10,908.00
[(280)**] (255)**	$7,272.01 to $7,296.00	304.00	10,944.00
[(281)**] (256)**	$7,296.01 to $7,320.00	305.00	10,980.00
[(282)**] (257)**	$7,320.01 to $7,344.00	306.00	11,016.00
[(283)**] (258)**	$7,344.01 to $7,368.00	307.00	11,052.00
[(284)**] (259)**	$7,368.01 to $7,392.00	308.00	11,088.00
[(285)**] (260)**	$7,392.01 to $7,416.00	309.00	11,124.00
[(286)**] (261)**	$7,416.01 to $7,440.00	310.00	11,160.00
[(287)**] (262)**	$7,440.01 to $7,464.00	311.00	11,196.00

[(288)**] (263)**	$7,464.01 to $7,488.00	312.00	11,232.00
[(289)**] (264)**	$7,488.01 to $7,512.00	313.00	11,268.00
[(290)**] (265)**	$7,512.01 to $7,536.00	314.00	11,304.00
[(291)**] (266)**	$7,536.01 to $7,560.00	315.00	11,340.00
[(292)**] (267)**	$7,560.01 to $7,584.00	316.00	11,376.00
[(293)**] (268)**	$7,584.01 to $7,608.00	317.00	11,412.00
[(294)**] (269)**	$7,608.01 to $7,632.00	318.00	11,448.00
[(295)**] (270)**	$7,632.01 to $7,656.00	319.00	11,484.00
[(296)**] (271)**	$7,656.01 to $7,680.00	320.00	11,520.00
[(297)**] (272)**	$7,680.01 to $7,704.00	321.00	11,556.00
[(298)**] (273)**	$7,704.01 to $7,728.00	322.00	11,592.00
[(299)**] (274)**	$7,728.01 to $7,752.00	323.00	11,628.00
[(300)**] (275)**	$7,752.01 to $7,776.00	324.00	11,664.00
[(301)**] (276)**	$7,776.01 to $7,800.00	325.00	11,700.00
[(302)**] (277)**	$7,800.01 to $7,824.00	326.00	11,736.00
[(303)**] (278)**	$7,824.01 to $7,848.00	327.00	11,772.00
[(304)**] (279)**	$7,848.01 to $7,872.00	328.00	11,808.00
[(305)**] (280)**	$7,872.01 to $7,896.00	329.00	11,844.00
[(306)**] (281)**	$7,896.01 to $7,920.00	330.00	11,880.00
[(307)**] (282)**	$7,920.01 to $7,944.00	331.00	11,916.00
[(308)**] (283)**	$7,944.01 to $7,968.00	332.00	11,952.00
[(309)**] (284)**	$7,968.01 to $7,992.00	333.00	11,988.00
[(310)**] (285)**	$7,992.01 to $8,016.00	334.00	12,024.00
[(311)**] (286)**	$8,016.01 to $8,040.00	335.00	12,060.00
[(312)**] (287)**	$8,040.01 to $8,064.00	336.00	12,096.00
[(313)**] (288)**	$8,064.01 to $8,088.00	337.00	12,132.00
[(314)**] (289)**	$8,088.01 to $8,112.00	338.00	12,168.00
[(315)**] (290)**	$8,112.01 to $8,136.00	339.00	12,204.00
[(316)**] (291)**	$8,136.01 to $8,160.00	340.00	12,240.00
[(317)**] (292)**	$8,160.01 to $8,184.00	341.00	12,276.00
[(318)**] (293)**	$8,184.01 to $8,208.00	342.00	12,312.00
[(319)**] (294)**	$8,208.01 to $8,232.00	343.00	12,348.00
[(320)**] (295)**	$8,232.01 to $8,256.00	344.00	12,384.00
[(321)**] (296)**	$8,256.01 to $8,280.00	345.00	12,420.00
[(322)**] (297)**	$8,280.01 to $8,304.00	346.00	12,456.00
[(323)**] (298)**	$8,304.01 to $8,328.00	347.00	12,492.00
[(324)**] (299)**	$8,328.01 to $8,352.00	348.00	12,528.00
[(325)**] (300)**	$8,352.01 to $8,376.00	349.00	12,564.00
[(326)**] (301)**	$8,376.01 to $8,400.00	350.00	12,600.00
[(327)**] (302)**	$8,400.01 to $8,424.00	351.00	12,636.00
[(328)**] (303)**	$8,424.01 to $8,448.00	352.00	12,672.00
[(329)**] (304)**	$8,448.01 to $8,472.00	353.00	12,708.00
[(330)**] (305)**	$8,472.01 to $8,496.00	354.00	12,744.00

[(331)**] (306)**	$8,496.01 to $8,520.00	355.00	12,780.00
[(332)**] (307)**	$8,520.01 to $8,544.00	356.00	12,816.00
[(333)**] (308)**	$8,544.01 to $8,568.00	357.00	12,852.00
[(334)**] (309)**	$8,568.01 to $8,592.00	358.00	12,888.00
[(335)**] (310)**	$8,592.01 to $8,616.00	359.00	12,924.00
[(336)**] (311)**	$8,616.01 to $8,640.00	360.00	12,960.00
[(337)**] (312)**	$8,640.01 to $8,664.00	361.00	12,996.00
[(338)**] (313)**	$8,664.01 to $8,688.00	362.00	13,032.00
[(339)**] (314)**	$8,688.01 to $8,712.00	363.00	13,068.00
[(340)**] (315)**	$8,712.01 to $8,736.00	364.00	13,104.00
[(341)**] (316)**	$8,736.01 to $8,760.00	365.00	13,140.00
[(342)**] (317)**	$8,760.01 to $8,784.00	366.00	13,176.00
[(343)**] (318)**	$8,784.01 to $8,808.00	367.00	13,212.00
[(344)**] (319)**	$8,808.01 to $8,832.00	368.00	13,248.00
[(345)**] (320)**	$8,832.01 to $8,856.00	369.00	13,284.00
[(346)**] (321)**	$8,856.01 to $8,880.00	370.00	13,320.00
[(347)**] (322)**	$8,880.01 to $8,904.00	371.00	13,356.00
[(348)**] (323)**	$8,904.01 to $8,928.00	372.00	13,392.00
[(349)**] (324)**	$8,928.01 to $8,952.00	373.00	13,428.00
[(350)**] (325)**	$8,952.01 to $8,976.00	374.00	13,464.00
[(351)**] (326)**	$8,976.01 to $9,000.00	375.00	13,500.00
[(352)**] (327)**	$9,000.01 to $9,024.00	376.00	13,536.00
[(353)**] (328)**	$9,024.01 to $9,048.00	377.00	13,572.00
[(354)**] (329)**	$9,048.01 to $9,072.00	378.00	13,608.00
[(355)**] (330)**	$9,072.01 to $9,096.00	379.00	13,644.00
[(356)**] (331)**	$9,096.01 to $9,120.00	380.00	13,680.00
[(357)**] (332)**	$9,120.01 to $9,144.00	381.00	13,716.00
[(358)**] (333)**	$9,144.01 to $9,168.00	382.00	13,752.00
[(359)**] (334)**	$9,168.01 to $9,192.00	383.00	13,788.00
[(360)**] (335)**	$9,192.01 to $9,216.00	384.00	13,824.00
[(361)**] (336)**	$9,216.01 to $9,240.00	385.00	13,860.00
[(362)**] (337)**	$9,240.01 to $9,264.00	386.00	13,896.00
[(363)**] (338)**	$9,264.01 to $9,288.00	387.00	13,932.00
[(364)**] (339)**	$9,288.01 to $9,312.00	388.00	13,968.00
[(365)**] (340)**	$9,312.01 to $9,336.00	389.00	14,004.00
[(366)**] (341)**	$9,336.01 to $9,360.00	390.00	14,040.00
[(367)**] (342)**	$9,360.01 to $9,384.00	391.00	14,076.00
[(368)**] (343)**	$9,384.01 to $9,408.00	392.00	14,112.00
[(369)**] (344)**	$9,408.01 to $9,432.00	393.00	14,148.00
[(370)**] (345)**	$9,432.01 to $9,456.00	394.00	14,184.00
[(371)**] (346)**	$9,456.01 to $9,480.00	395.00	14,220.00
[(372)**] (347)**	$9,480.01 to $9,504.00	396.00	14,256.00
[(373)**] (348)**	$9,504.01 to $9,528.00	397.00	14,292.00

[(374)**] (349)**	$9,528.01 to $9,552.00	398.00	14,328.00
[(375)**] (350)**	$9,552.01 to $9,576.00	399.00	14,364.00
[(376)**] (351)**	$9,576.01 to $9,600.00	400.00	14,400.00
[(377)**] (352)**	$9,600.01 to $9,624.00	401.00	14,436.00
[(378)**] (353)**	$9,624.01 to $9,648.00	402.00	14,472.00
[(379)**] (354)**	$9,648.01 to $9,672.00	403.00	14,508.00
[(380)**] (355)**	$9,672.01 to $9,696.00	404.00	14,544.00
[(381)**] (356)**	$9,696.01 to $9,720.00	405.00	14,580.00
[(382)**] (357)**	$9,720.01 to $9,744.00	406.00	14,616.00
[(383)**] (358)**	$9,744.01 to $9,768.00	407.00	14,652.00
[(384)**] (359)**	$9,768.01 to $9,792.00	408.00	14,688.00
[(385)**] (360)**	$9,792.01 to $9,816.00	409.00	14,724.00
[(386)**] (361)**	$9,816.01 to $9,840.00	410.00	14,760.00
[(387)**] (362)**	$9,840.01 to $9,864.00	411.00	14,796.00
[(388)**] (363)**	$9,864.01 to $9,888.00	412.00	14,832.00
[(389)**] (364)**	$9,888.01 to $9,912.00	413.00	14,868.00
[(390)**] (365)**	$9,912.01 to $9,936.00	414.00	14,904.00
[(391)**] (366)**	$9,936.01 to $9,960.00	415.00	14,940.00
[(392)**] (367)**	$9,960.01 to $9,984.00	416.00	14,976.00
[(393)**] (368)**	$9,984.01 to $10,008.00	417.00	15,012.00
[(394)**] (369)**	$10,008.01 to $10,032.00	418.00	15,048.00
[(395)**] (370)**	$10,032.01 to $10,056.00	419.00	15,084.00
[(396)**] (371)**	$10,056.01 to $10,080.00	420.00	15,120.00
[(397)**] (372)**	$10,080.01 to $10,104.00	421.00	15,156.00
[(398)**] (373)**	$10,104.01 to $10,128.00	422.00	15,192.00
[(399)**] (374)**	$10,128.01 to $10,152.00	423.00	15,228.00
[(400)**] (375)**	$10,152.01 to $10,176.00	424.00	15,264.00
[(401)**] (376)**	$10,176.01 to $10,200.00	425.00	15,300.00
[(402)**] (377)**	$10,200.01 to $10,224.00	426.00	15,336.00
[(403)**] (378)**	$10,224.01 to $10,248.00	427.00	15,372.00
[(404)**] (379)**	$10,248.01 to $10,272.00	428.00	15,408.00
[(405)**] ~~(381)~~ (380)**	$10,272.01 to $10,296.00	429.00	15,444.00
[(406)**] ~~(382)~~ (381)**	$10,296.01 and over	430.00	15,480.00

(c) The schedule of benefits that is in effect on the 1st day of a claimant's benefit year applies to the claimant throughout that benefit year.

SECTION 5. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Labor and Employment

8–803.

(d) (1) Except as provided in § 8–1207 of this title for the work sharing program and § 8–1604 of this title for the Self–Employment Assistance Program, an eligible claimant shall be paid a weekly benefit amount that is computed by:

(i) determining the claimant's weekly benefit amount under this section;

(ii) adding any allowance for a dependent to which the claimant is entitled under § 8–804 of this subtitle; and

(iii) subtracting any wages exceeding **[**$100**] $50** payable to the claimant for the week.

(2) In computing benefits under this subsection, a fraction of a dollar shall be rounded to the next lower dollar.

8–907.

(a) **[**An individual may not be denied benefits for any week of unemployment for failure to meet the requirements of § 8–903(a)(1) of this subtitle to be able to work, available for work, and actively seeking work if the failure results from illness or disability that occurs after the individual has registered for work, provided that no work that would have been considered suitable at the time of the initial registration is offered to the individual after the beginning of the illness or disability.

(b)**]** An individual may not be denied benefits for any week of unemployment for failure to meet the requirements of § 8–903(a)(1) of this subtitle to be able to work, be available to work, and actively seeking work if the failure results from a summons to appear for jury duty.

[(c)**](B)** An individual may not be denied benefits for any week of unemployment for failure to meet the requirement of § 8–903(a)(1)(iii) of this subtitle to seek work actively if the individual:

(1) is at least 60 years old; and

(2) has been furloughed temporarily and is subject to recall.

8–1002.

(a) In this section, "gross misconduct":

(1) means conduct of an employee that is:

(i) deliberate and willful disregard of standards of behavior that an employing unit rightfully expects and that shows gross indifference to the interests of the employing unit; or

(ii) repeated violations of employment rules that prove a regular and wanton disregard of the employee's obligations; and

(2) does not include:

(i) aggravated misconduct, as defined under § 8–1002.1 of this subtitle; or

(ii) other misconduct, as defined under § 8–1003 of this subtitle.

(b) An individual who otherwise is eligible to receive benefits is disqualified from receiving benefits if unemployment results from discharge or suspension as a disciplinary measure for behavior that the Secretary finds is gross misconduct in connection with employment.

(c) A disqualification under this section shall:

(1) begin with the first week for which unemployment is caused by discharge or suspension for gross misconduct as determined under this section; and

(2) continue until the individual is reemployed and has earned wages in covered employment that equal at least **[**20**] 25** times the weekly benefit amount of the individual.

8–1003.

(a) An individual who otherwise is eligible to receive benefits is disqualified from receiving benefits if the Secretary finds that unemployment results from discharge or suspension as a disciplinary measure for behavior that the Secretary finds is misconduct in connection with employment but that is not:

(1) aggravated misconduct, under § 8–1002.1 of this subtitle; or

(2) gross misconduct under § 8–1002 of this subtitle.

(b) A disqualification under this section shall:

(1) begin with the first week for which unemployment is caused by discharge or suspension for misconduct; and

(2) continue for a total of at least **[**5**] 10** but not more than **[**10**] 15** weeks, as determined by the Secretary, based on the seriousness of the misconduct.

SECTION 6. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Labor and Employment

8–607.

(a) Except as provided in Part III of this subtitle, an employing unit shall pay to the Secretary contributions for the Unemployment Insurance Fund on taxable wages for covered employment that is performed for the employing unit.

(b) (1) Subject to paragraph (2) of this subsection, the taxable wage base is the first $8,500 in wages that:

(i) an employing unit pays to each employee for covered employment during a calendar year;

(ii) an employing unit pays to each employee for covered employment in this State and another state during a calendar year if the employee was continuously employed immediately before and after a transfer of a business from another state during a calendar year;

(iii) a reorganized employer pays to each employee for covered employment if the employee was continuously employed immediately before and after the reorganization in a calendar year and if the contribution rate of the reorganized employer is based on the experience with payrolls and benefit charges of the employing unit before the reorganization in accordance with § 8–613(b) of this subtitle; or

(iv) an employing unit or predecessor employer or combination of both pays to each employee for covered employment during a calendar year if the payrolls and benefit charges of the predecessor employing unit are transferred to the successor employing unit in accordance with § 8–613(d) or (e) of this subtitle.

(2) If the Federal Unemployment Tax Act or any other federal tax law that allows a credit for a contribution to a state unemployment insurance fund increases the maximum amount of wages taxable under that law in a calendar year to more than $8,500, the taxable wage base under paragraph (1) of this subsection shall be the same as under the federal law.

(c) (1) The Secretary shall determine the rate of contribution for each employing unit as of the computation date for the next calendar year.

(2) The rate of contribution is effective for 1 calendar year.

(d) (1) **(I)** By regulation, the Secretary shall set:

[(i)**]** **1.** the date when contributions are due; and

[(ii)**]** **2.** the manner in which contributions are to be paid.

(II) THE REGULATIONS SHALL REQUIRE THAT, FOR ANY CALENDAR YEAR IN WHICH TABLE F IS APPLICABLE UNDER § 8–612(6) OF THIS TITLE, THE SECRETARY OFFER A VARIETY OF PAYMENT PLAN OPTIONS THAT SPREAD THROUGH THE END OF AUGUST THE DATES WHEN CONTRIBUTIONS ARE DUE ON TAXABLE WAGES FOR COVERED EMPLOYMENT OF THE FIRST 6 MONTHS OF THE CALENDAR YEAR.

(2) In accordance with regulations adopted by the Secretary, an employing unit shall:

(i) submit to the Secretary periodic reports for determination of the amount of contributions due; and

(ii) pay the contribution.

(3) For payment of contributions, a fractional part of a cent:

(i) that is less than one–half cent shall be disregarded; and

(ii) that is one–half cent or more shall be increased to 1 cent.

SECTION 7. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Labor and Employment

8–628.

(A) Except as provided in § 8–201.1 of this title, a contribution or reimbursement payment that is due and unpaid shall accrue interest at the rate of 1.5% per month or part of a month from the date on which it is due until the Secretary receives the contribution or payment in lieu of contributions and the interest.

(B) NOTWITHSTANDING SUBSECTION (A) OF THIS SECTION, EXCEPT AS PROVIDED IN § 8–201.1 OF THIS TITLE, FOR ANY CALENDAR YEAR IN WHICH TABLE F IS APPLICABLE UNDER § 8–612(6) OF THIS SUBTITLE, A CONTRIBUTION OR REIMBURSEMENT PAYMENT THAT IS DUE AND UNPAID SHALL ACCRUE INTEREST AT THE RATE OF 0.5% PER MONTH OR PART OF A MONTH FROM THE DATE ON WHICH IT IS DUE UNTIL THE SECRETARY RECEIVES THE CONTRIBUTION OR PAYMENT IN LIEU OF CONTRIBUTIONS AND THE INTEREST.

SECTION 8. AND BE IT FURTHER ENACTED, That, for the purpose of making any computation under § 8–612 of the Labor and Employment Article for calendar year 2011, any money receivable by the Unemployment Insurance Fund under the federal American Recovery and Reinvestment Act during calendar year 2010 as a result of the enactment of this Act shall be included among the total funds available for benefits under § 8–612(e) of the Labor and Employment Article.

SECTION 9. AND BE IT FURTHER ENACTED, That, for calendar years 2010 and 2011, the Secretary of Labor, Licensing, and Regulation shall offer a variety of payment plan options that spread through the end of December the dates when contributions are due on taxable wages for covered employment of the first 9 months of the calendar year.

SECTION 10. AND BE IT FURTHER ENACTED, That, notwithstanding § 8–628 of the Labor and Employment Article, as enacted by Section 7 of this Act, for calendar years 2010 and 2011, a contribution or reimbursement payment that is due and unpaid shall accrue interest at a rate of 0.5% per month or part of a month from the date on which it is due until the Secretary receives the contribution or payment in lieu of contributions and the interest.

SECTION 11. AND BE IT FURTHER ENACTED, That:

(1) The Joint Committee on Unemployment Insurance Oversight shall study changes to the unemployment insurance system that would provide a cost–neutral plan to effectuate a graduated increase of the maximum weekly benefit to 54% of the average weekly wage.

(2) (i) The study shall include a determination of whether the change made under § 8–803(d)(1)(iii) of the Labor and Employment Article, as enacted by Section 5 of this Act, serves as a disincentive for claimants to return to work and whether the computation under § 8–803(d)(1)(iii) of the Labor and Employment Article, as enacted by Section 5 of this Act, should be changed to be based on the amount of weekly wages. The Joint Committee shall review any research on this issue to assist in this determination.

(ii) If the study indicates that the computation under § 8–803(d)(1)(iii) of the Labor and Employment Article, as enacted by Section 5 of this Act, should be changed in a manner that increases benefit payouts, the Joint Committee shall determine a method for obtaining an equivalent amount of savings to the Unemployment Insurance Fund.

(iii) If the study is inconclusive, the Joint Committee shall continue each year to monitor whether the change made under § 8–803(d)(1)(iii) of the Labor and Employment Article, as enacted by Section 5 of this Act, serves as a disincentive for claimants to return to work.

(3) The Joint Committee shall report on or before December 1, 2010, to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly with its recommendations.

SECTION 12. AND BE IT FURTHER ENACTED, That Section 4 of this Act shall take effect March 1, 2012, and shall apply to all claims filed establishing a new benefit year on or after March 4, 2012.

SECTION 13. AND BE IT FURTHER ENACTED, That Sections 6 and 7 of this Act shall take effect January 1, 2012, and shall apply to contributions on taxable wages for covered employment beginning on or after January 1, 2012.

SECTION ~~4.~~ 14. AND BE IT FURTHER ENACTED, That ~~Section 1~~ Sections 1, 2, and 5 of this Act shall take effect March 1, 2011, and shall apply to all claims filed establishing a new benefit year on or after March 6, 2011.

SECTION ~~5.~~ 15. AND BE IT FURTHER ENACTED, That Section 3 of this Act shall take effect March 1, 2011, and shall apply to all claimants in approved training on or after March 6, 2011.

SECTION ~~6.~~ 16. 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, except as provided in Sections ~~4 and 5~~ 12, 13, 14, and 15 of this Act, shall take effect from the date it is enacted.

Approved by the Governor, March 25, 2010.

Chapter 3

(Senate Bill 18)

AN ACT concerning

Vehicle Laws – Manufacturers, Distributors, and Factory Branches – Benefits to Employees of Dealers

FOR the purpose of repealing certain provisions relating to a manufacturer, distributor, or factory branch providing certain benefits, payments, or gifts to an employee of a vehicle dealer; providing that an incentive payment, a reimbursement payment, cash, a gift, or a thing of value to be given by a manufacturer, distributor, or factory branch to an employee of a dealer may be given directly to the employee or to the dealer to be distributed to the employee in a certain manner; requiring a manufacturer, distributor, or factory branch to

make certain information available to a dealer about an incentive payment, a reimbursement payment, cash, a gift, or a thing of value totaling more than a certain amount that is given directly to an employee of the dealer; providing for the application of this Act; making this Act an emergency measure; and generally relating to manufacturers, distributors, and factory branches.

BY repealing and reenacting, with amendments,
Article – Transportation
Section 15–212.1
Annotated Code of Maryland
(2009 Replacement Volume and 2009 Supplement)

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

Article – Transportation

15–212.1.

(a) Upon the filing of a claim, a manufacturer, factory branch, or distributor shall compensate a dealer for any incentive or reimbursement program sponsored by the manufacturer, factory branch, or distributor, under the terms of which the dealer is eligible for compensation.

(b) (1) A claim filed under this section shall be:

(i) In the manner and form prescribed by the manufacturer, factory branch, or distributor; and

(ii) Approved or disapproved within 30 days of receipt.

(2) A claim not approved or disapproved within 30 days of receipt shall be deemed approved.

(3) Payment of a claim filed under this section shall be made within 30 days of approval.

(c) (1) If a claim filed under this section is shown by the manufacturer, factory branch, or distributor to be false or unsubstantiated, the manufacturer, factory branch, or distributor may charge back the claim within 6 months from the payment of the incentive or reimbursement.

(2) This paragraph does not limit the right of a manufacturer, factory branch, or distributor to:

(i) Conduct an audit of any claim filed under this section; or

(ii) Charge back for any claim that is proven to be fraudulent.

(3) An audit under this paragraph shall be conducted according to generally accepted accounting principles.

(d) A manufacturer, distributor, or factory branch may not refuse to pay, or claim reimbursement from, a dealer for sales, incentives, or payments related to a motor vehicle sold by the dealer because the purchaser of the motor vehicle exported or resold the motor vehicle in violation of the policy of the manufacturer, distributor, or factory branch unless the manufacturer, distributor, or factory branch can show that, at the time of sale, the dealer knew or should have known of the purchaser's intention to export or resell the motor vehicle.

[(e) (1) A manufacturer, distributor, or factory branch may not give any incentive payment, reimbursement payment, cash, gift, or anything of value totaling more than $200 in any calendar year directly to an employee of the dealer.

(2) Any incentive payment, reimbursement payment, cash, gift, or anything of value from a manufacturer, distributor, or factory branch to an employee shall be made to the dealer who shall disburse the funds to the employee as part of the payroll process after making the appropriate deductions.

(3) The dealer may retain a reasonable portion of any payments under paragraph (2) of this subsection to cover the cost of processing the payments.**]**

(E) (1) THIS SUBSECTION APPLIES ONLY TO AN INCENTIVE PAYMENT, A REIMBURSEMENT PAYMENT, CASH, A GIFT, OR A THING OF VALUE EARNED BY AN EMPLOYEE OF A DEALER ON OR AFTER MAY 1, 2009.

(2) (I) AN INCENTIVE PAYMENT, A REIMBURSEMENT PAYMENT, CASH, A GIFT, OR A THING OF VALUE TO BE GIVEN BY A MANUFACTURER, DISTRIBUTOR, OR FACTORY BRANCH TO AN EMPLOYEE OF A DEALER MAY BE GIVEN:

1. DIRECTLY TO THE EMPLOYEE; OR

2. TO THE DEALER TO BE DISTRIBUTED TO THE EMPLOYEE.

(II) AN INCENTIVE PAYMENT, A REIMBURSEMENT PAYMENT, OR CASH GIVEN TO A DEALER FOR DISTRIBUTION TO AN EMPLOYEE UNDER THIS PARAGRAPH SHALL BE DISTRIBUTED TO THE EMPLOYEE AS PART OF THE PAYROLL PROCESS AFTER THE APPROPRIATE PAYROLL DEDUCTIONS HAVE BEEN MADE BY THE DEALER.

(3) A MANUFACTURER, DISTRIBUTOR, OR FACTORY BRANCH SHALL MAKE INFORMATION AVAILABLE TO A DEALER ABOUT ANY INCENTIVE PAYMENT, REIMBURSEMENT PAYMENT, CASH, GIFT, OR THING OF VALUE TOTALING MORE THAN $200 IN A CALENDAR YEAR THAT IS GIVEN DIRECTLY TO AN EMPLOYEE OF THE DEALER.

~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.~~

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, March 25, 2010.

Chapter 4

(Senate Bill 279)

AN ACT concerning

Maryland False Health Claims Act of 2010

FOR the purpose of prohibiting certain actions constituting false claims against a State health plan or a State health program; providing certain penalties for making false claims against a State health plan or a State health program; requiring the court to consider and give special attention to certain factors in determining the amount of fines and penalties provided for in this Act; authorizing the State to file a civil action against a person who makes a false claim against a State health plan or a State health program under certain circumstances; authorizing a person other than the State to file a civil action on behalf of the person and the State against a person who makes a false claim against a State health plan or a State health program; providing for the procedures to be followed in a civil action; providing for certain remedies under a civil action; requiring the State to investigate a civil action alleging a false claim against a State health plan or a State health program; requiring the State to make certain efforts to coordinate certain investigations and to establish a certain objective for the State; authorizing the State to intervene and proceed with the action with or without the person who initiated the action; authorizing the State to elect not to intervene and proceed with the action; ~~authorizing the person that initiated the action to proceed~~ requiring the court to dismiss the action if the State elects not to intervene; authorizing the court to limit the

participation of the person who initiated the action under certain circumstances; authorizing the State ~~to intervene at a later time in the proceedings or~~ to pursue alternative remedies; providing for certain damages and payments to the person who initiated the action under certain circumstances; providing for certain payments to the person charged under certain circumstances if the person charged prevails; providing certain limitations on civil actions filed under this Act; prohibiting a person from taking retaliatory action against an employee, contractor, or agent under certain circumstances; authorizing an employee, contractor, or agent to file a civil action against a person who takes retaliatory action against the employee, contractor, or agent under certain circumstances; providing certain remedies for retaliatory action; requiring an employer to make certain disclosures to employees; requiring the Comptroller to deposit a certain penalty or damages in the General Fund of the State; requiring certain persons to report certain information annually to the General Assembly; authorizing the Department of Health and Mental Hygiene or the Inspector General of the Department to adopt certain regulations; defining certain terms; and generally relating to false claims against State health plans and State health programs.

BY adding to
Article – Health – General
Section 2–601 through 2–611 to be under the new subtitle "Subtitle 6. False Claims Against State Health Plans and State Health Programs"
Annotated Code of Maryland
(2009 Replacement Volume)

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

Article – Health – General

SUBTITLE 6. FALSE CLAIMS AGAINST STATE HEALTH PLANS AND STATE HEALTH PROGRAMS.

2–601.

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

(B) (1) "CLAIM" MEANS A REQUEST OR DEMAND, UNDER A CONTRACT OR OTHERWISE, FOR MONEY OR OTHER PROPERTY, WHETHER OR NOT THE STATE HAS TITLE TO THE MONEY OR PROPERTY, THAT IS:

(I) PRESENTED THROUGH A STATE HEALTH PLAN OR A STATE HEALTH PROGRAM TO AN OFFICER, EMPLOYEE, OR AGENT OF THE STATE; OR

(II) MADE TO A CONTRACTOR, GRANTEE, OR OTHER RECIPIENT, IF THE MONEY OR OTHER PROPERTY IS TO BE SPENT OR USED ON THE STATE'S BEHALF OR TO ADVANCE A STATE INTEREST THROUGH A STATE HEALTH PLAN OR STATE HEALTH PROGRAM, AND THE STATE:

1. PROVIDES OR HAS PROVIDED ANY PORTION OF THE MONEY OR OTHER PROPERTY REQUESTED OR DEMANDED; OR

2. WILL REIMBURSE THE CONTRACTOR, GRANTEE, OR OTHER RECIPIENT FOR ANY PORTION OF THE MONEY OR OTHER PROPERTY THAT IS REQUESTED OR DEMANDED.

(2) "CLAIM" DOES NOT INCLUDE REQUESTS OR DEMANDS FOR MONEY OR OTHER PROPERTY THAT THE STATE THROUGH A STATE HEALTH PLAN OR STATE HEALTH PROGRAM HAS PAID TO AN INDIVIDUAL AS COMPENSATION FOR STATE EMPLOYMENT OR AS AN INCOME SUBSIDY WITH NO RESTRICTIONS ON THAT INDIVIDUAL'S USE OF THE MONEY OR OTHER PROPERTY.

(C) "DOCUMENTARY MATERIAL" INCLUDES:

(1) THE ORIGINAL OR A COPY OF:

(I) A BOOK;

(II) A RECORD;

(III) A REPORT;

(IV) A MEMORANDUM;

(V) A PAPER;

(VI) A COMMUNICATION;

(VII) A TABULATION;

(VIII) A CHART;

(IX) A DOCUMENT; OR

(X) DATA COMPILATION STORED IN OR ACCESSIBLE THROUGH A COMPUTER OR OTHER INFORMATION RETRIEVAL SYSTEM,

INCLUDING INSTRUCTIONS AND ALL OTHER MATERIALS NECESSARY TO USE OR INTERPRET THE DATA COMPILATION; AND

(2) ANY PRODUCT OF DISCOVERY, INCLUDING:

(I) THE ORIGINAL OR DUPLICATE OF ANY DEPOSITION, INTERROGATORY, DOCUMENT, THING, RESULT OF AN INSPECTION OF LAND OR OTHER PROPERTY, EXAMINATION, OR ADMISSION THAT IS OBTAINED BY ANY METHOD OF DISCOVERY IN ANY JUDICIAL OR ADMINISTRATIVE PROCEEDING OF AN ADVERSARIAL NATURE;

(II) ANY DIGEST, ANALYSIS, SELECTION, COMPILATION, OR DERIVATION OF ANY ITEM LISTED IN ITEM (I) OF THIS ITEM; AND

(III) ANY INDEX OR OTHER MANNER OF ACCESS TO ANY ITEM LISTED IN ITEM (I) OF THIS ITEM.

(D) "EMPLOYEE" MEANS AN INDIVIDUAL WHO PERFORMS SERVICES:

(1) FOR AND UNDER THE CONTROL AND DIRECTION OF AN EMPLOYER; AND

(2) UNDER AN EMPLOYER'S PROMISE OR IMPLIED PROMISE OF PAYMENT OF WAGES OR OTHER REMUNERATION.

(E) "EMPLOYER" MEANS A PERSON OR GROUP OF PERSONS WHO, ACTING DIRECTLY OR INDIRECTLY ON BEHALF OF ANOTHER PERSON OR GROUP OF PERSONS:

(1) ALLOWS AN EMPLOYEE TO PERFORM SERVICES UNDER THE EMPLOYER'S CONTROL AND DIRECTION; AND

(2) PROMISES OR IMPLIES THAT THE EMPLOYEE WILL RECEIVE WAGES OR OTHER REMUNERATION IN PAYMENT FOR THE PERFORMANCE OF THOSE SERVICES.

(F) (1) "KNOWING" OR "KNOWINGLY" MEANS, WITH RESPECT TO INFORMATION AND WITHOUT REQUIRING PROOF OF SPECIFIC INTENT TO DEFRAUD, THAT A PERSON:

~~(1)~~ (I) HAS ACTUAL KNOWLEDGE OF THE INFORMATION;

~~(2)~~ (II) ACTS IN DELIBERATE IGNORANCE OF THE TRUTH OR FALSITY OF THE INFORMATION; OR

~~(3)~~ (III) ACTS IN RECKLESS DISREGARD OF THE TRUTH OR FALSITY OF THE INFORMATION.

(2) "KNOWING" OR "KNOWINGLY" DOES NOT MEAN, WITH RESPECT TO INFORMATION, THAT A PERSON ACTS IN A MANNER THAT CONSTITUTES MISTAKE OR NEGLIGENCE.

(G) "MATERIAL" MEANS HAVING A NATURAL TENDENCY TO INFLUENCE OR BE CAPABLE OF INFLUENCING THE PAYMENT OR RECEIPT OF MONEY OR OTHER PROPERTY.

(H) "OBLIGATION" MEANS AN ESTABLISHED DUTY, WHETHER OR NOT FIXED, ARISING FROM:

(1) AN EXPRESS OR IMPLIED:

(I) CONTRACTUAL RELATIONSHIP;

(II) GRANTOR–GRANTEE RELATIONSHIP; OR

(III) LICENSO–LICENSEE RELATIONSHIP;

(2) A FEE–BASED OR SIMILAR RELATIONSHIP;

(3) STATUTE OR REGULATION; OR

(4) THE RETENTION OF AN OVERPAYMENT.

(I) "PROVIDER" HAS THE MEANING STATED IN § 2–501 OF THIS TITLE.

(J) "PUBLIC BODY" MEANS:

(1) THE GENERAL ASSEMBLY OR ANY OTHER ELECTED BODY;

(2) A MEMBER OR AN EMPLOYEE OF THE GENERAL ASSEMBLY OR OTHER ELECTED BODY;

(3) A STATE COURT;

(4) A MEMBER OR AN EMPLOYEE OF A STATE COURT;

(5) A STATE OR LOCAL REGULATORY, ADMINISTRATIVE, OR PUBLIC AGENCY OR AUTHORITY;

(6) AN INSTRUMENTALITY OF A STATE OR LOCAL REGULATORY, ADMINISTRATIVE, OR PUBLIC AGENCY OR AUTHORITY;

(7) A STATE OR LOCAL LAW ENFORCEMENT AGENCY, PROSECUTORIAL OFFICE, OR POLICE OR PEACE OFFICER;

(8) A STATE OR LOCAL DEPARTMENT OF AN EXECUTIVE BRANCH OF GOVERNMENT; OR

(9) A DIVISION, BOARD, BUREAU, OFFICE, COMMITTEE, OR COMMISSION OF ANY OF THE PUBLIC BODIES LISTED IN THIS SUBSECTION.

(K) "RETALIATORY ACTION" MEANS:

(1) DISCHARGING, SUSPENDING, DEMOTING, THREATENING, HARASSING, OR DISCRIMINATING AGAINST AN EMPLOYEE, CONTRACTOR, OR AGENT; OR

(2) ANY OTHER ADVERSE ACTION TAKEN AGAINST AN EMPLOYEE, CONTRACTOR, OR AGENT RELATING TO THE CONDITIONS OF EMPLOYMENT, CONTRACT, OR AGENCY.

(L) (1) "STATE HEALTH PLAN" MEANS:

(I) THE STATE MEDICAL ASSISTANCE PLAN ESTABLISHED IN ACCORDANCE WITH THE FEDERAL SOCIAL SECURITY ACT OF 1939, AS AMENDED;

(II) A MEDICAL ASSISTANCE PLAN ESTABLISHED BY THE STATE; OR

(III) A PRIVATE HEALTH INSURANCE CARRIER, HEALTH MAINTENANCE ORGANIZATION, MANAGED CARE ORGANIZATION AS DEFINED IN § 15–101 OF THIS ARTICLE, HEALTH CARE COOPERATIVE OR ALLIANCE, OR ANOTHER PERSON THAT PROVIDES OR CONTRACTS TO PROVIDE HEALTH CARE SERVICES THAT ARE WHOLLY OR PARTIALLY REIMBURSED BY, OR ARE A REQUIRED BENEFIT OF, A HEALTH PLAN ESTABLISHED IN ACCORDANCE WITH THE FEDERAL SOCIAL SECURITY ACT OF 1939, AS AMENDED, OR BY THE STATE.

(2) "STATE HEALTH PLAN" INCLUDES A PERSON WHO PROVIDES OR CONTRACTS OR SUBCONTRACTS TO PROVIDE HEALTH CARE SERVICES FOR AN ENTITY DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION.

(M) "STATE HEALTH PROGRAM" MEANS THE MEDICAL ASSISTANCE PROGRAM, THE CIGARETTE RESTITUTION FUND PROGRAM, THE MENTAL HYGIENE ADMINISTRATION, THE DEVELOPMENTAL DISABILITIES ADMINISTRATION, THE ALCOHOL AND DRUG ABUSE ADMINISTRATION, THE FAMILY HEALTH ADMINISTRATION, THE ~~COMMUNITY~~ INFECTIOUS DISEASE AND ENVIRONMENTAL HEALTH ADMINISTRATION, OR ANY OTHER UNIT OF THE DEPARTMENT THAT PAYS A PROVIDER FOR A SERVICE RENDERED OR CLAIMED TO HAVE BEEN RENDERED TO A RECIPIENT.

(N) "SUPERVISOR" MEANS AN INDIVIDUAL WITHIN AN EMPLOYER'S ORGANIZATION WHO HAS THE AUTHORITY TO:

(1) DIRECT AND CONTROL THE WORK PERFORMANCE OF AN EMPLOYEE; OR

(2) TAKE CORRECTIVE ACTION REGARDING THE VIOLATION OF A LAW OR REGULATION THAT IS THE SUBJECT OF A COMPLAINT OR CHARGE UNDER THIS SUBTITLE.

2–602.

(A) A PERSON MAY NOT:

(1) KNOWINGLY PRESENT OR CAUSE TO BE PRESENTED A FALSE OR FRAUDULENT CLAIM FOR PAYMENT OR APPROVAL;

(2) KNOWINGLY MAKE, USE, OR CAUSE TO BE MADE OR USED A FALSE RECORD OR STATEMENT MATERIAL TO A FALSE OR FRAUDULENT CLAIM;

(3) CONSPIRE TO COMMIT A VIOLATION UNDER THIS SUBTITLE;

(4) HAVE POSSESSION, CUSTODY, OR CONTROL OF MONEY OR OTHER PROPERTY USED BY OR ON BEHALF OF THE STATE UNDER A STATE HEALTH PLAN OR A STATE HEALTH PROGRAM AND KNOWINGLY DELIVER OR CAUSE TO BE DELIVERED TO THE STATE LESS THAN ALL OF THAT MONEY OR OTHER PROPERTY;

(5) (I) BE AUTHORIZED TO MAKE OR DELIVER A RECEIPT OR OTHER DOCUMENT CERTIFYING RECEIPT OF MONEY OR OTHER PROPERTY USED OR TO BE USED BY THE STATE UNDER A STATE HEALTH PLAN OR A STATE HEALTH PROGRAM; AND

(II) INTENDING TO DEFRAUD THE STATE OR THE DEPARTMENT, MAKE OR DELIVER A RECEIPT OR DOCUMENT KNOWING THAT THE INFORMATION CONTAINED IN THE RECEIPT OR DOCUMENT IS NOT TRUE;

(6) KNOWINGLY BUY OR RECEIVE AS A PLEDGE OF AN OBLIGATION OR DEBT PUBLICLY OWNED PROPERTY FROM AN OFFICER, EMPLOYEE, OR AGENT OF A STATE HEALTH PLAN OR A STATE HEALTH PROGRAM WHO LAWFULLY MAY NOT SELL OR PLEDGE THE PROPERTY;

(7) KNOWINGLY MAKE, USE, OR CAUSE TO BE MADE OR USED, A FALSE RECORD OR STATEMENT MATERIAL TO AN OBLIGATION TO PAY OR TRANSMIT MONEY OR OTHER PROPERTY TO THE STATE;

(8) KNOWINGLY CONCEAL, OR KNOWINGLY AND IMPROPERLY AVOID OR DECREASE, AN OBLIGATION TO PAY OR TRANSMIT MONEY OR OTHER PROPERTY TO THE STATE; OR

(9) KNOWINGLY MAKE ANY OTHER FALSE OR FRAUDULENT CLAIM AGAINST A STATE HEALTH PLAN OR A STATE HEALTH PROGRAM.

(B) (1) ~~EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A~~ A PERSON WHO IS FOUND TO HAVE VIOLATED SUBSECTION (A) OF THIS SECTION IS LIABLE TO THE STATE FOR:

(I) A CIVIL PENALTY OF ~~NOT LESS THAN $5,000 AND~~ NOT MORE THAN $10,000 FOR EACH VIOLATION OF SUBSECTION (A) OF THIS SECTION; AND

(II) AN ADDITIONAL AMOUNT ~~EQUAL TO~~ OF NOT MORE THAN THREE TIMES THE AMOUNT OF DAMAGES THAT THE STATE SUSTAINS AS A RESULT OF THE ACTS OF THAT PERSON IN VIOLATION OF SUBSECTION (A) OF THIS SECTION.

~~(2) AS AN ALTERNATIVE TO PARAGRAPH (1) OF THIS SUBSECTION, A COURT MAY ASSESS NOT LESS THAN TWO TIMES THE AMOUNT OF DAMAGES THAT THE STATE SUSTAINS AS A RESULT OF A PERSON'S ACTS IN VIOLATION OF SUBSECTION (A) OF THIS SECTION, AND NO CIVIL PENALTY, IF THE COURT FINDS THAT:~~

~~(I) THE PERSON COMMITTING THE VIOLATION PROVIDED STATE OFFICIALS RESPONSIBLE FOR INVESTIGATING FALSE CLAIMS VIOLATIONS INVOLVING STATE HEALTH PLANS OR STATE HEALTH PROGRAMS WITH ANY INFORMATION ABOUT THE VIOLATION KNOWN TO THE PERSON~~

~~WITHIN 30 DAYS AFTER THE DATE ON WHICH THE PERSON FIRST OBTAINED THE INFORMATION;~~

~~(II) THE PERSON COOPERATED FULLY WITH ANY STATE INVESTIGATION OF THE VIOLATION; AND~~

~~(III) AT THE TIME THE PERSON PROVIDED THE STATE WITH THE INFORMATION ABOUT THE VIOLATION:~~

~~1. NO CRIMINAL PROSECUTION, CIVIL ACTION, OR ADMINISTRATIVE ACTION RELATING TO THE SAME VIOLATION HAD BEEN INITIATED; AND~~

~~2. THE PERSON DID NOT HAVE ACTUAL PRIOR KNOWLEDGE OF THE EXISTENCE OF AN INVESTIGATION OF THE VIOLATION.~~

(2) THE TOTAL AMOUNT OWED BY A PERSON UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY NOT BE LESS THAN THE AMOUNT OF THE ACTUAL DAMAGES THE STATE HEALTH PLAN OR STATE HEALTH PROGRAM INCURS AS A RESULT OF THE PERSON'S VIOLATION OF SUBSECTION (A) OF THIS SECTION.

(C) (1) IN DETERMINING THE APPROPRIATE AMOUNT OF FINES AND DAMAGES UNDER SUBSECTION (B) OF THIS SECTION, THE COURT SHALL CONSIDER:

(I) THE NUMBER, NATURE, AND SEVERITY OF THE VIOLATIONS OF THIS SUBTITLE FOR WHICH THE PERSON HAS BEEN FOUND LIABLE;

(II) THE NUMBER, NATURE, AND SEVERITY OF ANY PREVIOUS VIOLATIONS OF THIS SUBTITLE;

(III) THE DEGREE OF LOSS SUFFERED BY THE STATE HEALTH PLAN OR STATE HEALTH PROGRAM;

(IV) THE PERSON'S HISTORY OF BILLING COMPLIANCE;

(V) WHETHER THE PERSON HAS A COMPLIANCE PROGRAM IN PLACE;

(VI) THE EXTENT TO WHICH THE PERSON HAS TAKEN STEPS TO ADDRESS AND CORRECT THE VIOLATION SINCE THE PERSON BECAME AWARE OF THE VIOLATION;

(VII) THE EXTENT TO WHICH THE VIOLATION CAUSED HARM OR DETRIMENT TO PATIENTS OR CONSUMERS OF THE STATE HEALTH PLAN OR STATE HEALTH PROGRAM;

(VIII) ANY FUNDS PREVIOUSLY RETURNED TO THE STATE HEALTH PLAN OR STATE HEALTH PROGRAM IN COMPLIANCE WITH FEDERAL REQUIREMENTS REGARDING OVERPAYMENTS, TO THE EXTENT THE FUNDS REPRESENTED LOSSES TO THE STATE HEALTH PLAN OR STATE HEALTH PROGRAM CAUSED BY THE VIOLATION;

(IX) WHETHER THE PERSON SELF–REPORTED THE VIOLATION, THE TIMELINESS OF THE SELF–REPORTING, THE EXTENT TO WHICH THE PERSON OTHERWISE COOPERATED IN THE INVESTIGATION OF THE VIOLATION, AND THE EXTENT TO WHICH THE PERSON HAD PRIOR KNOWLEDGE OF AN INVESTIGATION OR OTHER ACTION RELATING TO THE VIOLATION; AND

(X) ANY OTHER FACTOR AS JUSTICE REQUIRES.

(2) IN WEIGHING THE FACTORS SET FORTH IN PARAGRAPH (1) OF THIS SUBSECTION, THE COURT SHALL, WHERE APPROPRIATE, GIVE SPECIAL CONSIDERATION TO:

(I) THE EXTENT TO WHICH THE PERSON'S SIZE, OPERATIONS, OR FINANCIAL CONDITION MAY HAVE AFFECTED EACH OF THE FACTORS SET FORTH IN PARAGRAPH (1) OF THIS SUBSECTION; AND

(II) THE EXTENT TO WHICH THE PERSON'S SIZE, OPERATIONS, OR FINANCIAL CONDITION MAY AFFECT THE PERSON'S ABILITY TO PROVIDE CARE AND CONTINUE OPERATIONS AFTER PAYMENT OF DAMAGES AND FINES.

~~(C)~~ (D) THE PENALTIES PROVIDED IN SUBSECTION (B) OF THIS SECTION ARE IN ADDITION TO ANY CRIMINAL, CIVIL, OR ADMINISTRATIVE PENALTIES PROVIDED UNDER ANY OTHER STATE OR FEDERAL STATUTE OR REGULATION.

2–603.

(A) IF THE STATE FINDS THAT A PERSON HAS VIOLATED OR IS VIOLATING § 2–602(A) OF THIS SUBTITLE, THE STATE MAY FILE A CIVIL ACTION IN A COURT OF COMPETENT JURISDICTION WITHIN THE STATE AGAINST THE PERSON.

(B) IN FILING A CIVIL ACTION UNDER THIS SECTION, THE STATE MAY SEEK:

(1) THE PENALTIES PROVIDED UNDER § 2–602(B) OF THIS SUBTITLE; AND

(2) ~~COMPENSATORY DAMAGES TO COMPENSATE THE STATE FOR INJURIES INCURRED AS A DIRECT RESULT OF A VIOLATION OF § 2–602(A) OF THIS SUBTITLE; AND~~

~~(3)~~ ~~COURT~~ SUBJECT TO THE GUIDELINES SET FORTH IN § 2–605(A)(4) OF THIS SUBTITLE, COURT COSTS AND ATTORNEY'S FEES.

2–604.

(A) (1) (I) A PERSON MAY FILE A CIVIL ACTION ON BEHALF OF THE PERSON AND THE STATE IN A COURT OF COMPETENT JURISDICTION WITHIN THE STATE AGAINST A PERSON WHO HAS ACTED OR IS ACTING IN VIOLATION OF § 2–602(A) OF THIS SUBTITLE.

(II) A CIVIL ACTION FILED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL BE BROUGHT IN THE NAME OF THE STATE.

(2) A PERSON FILING AN ACTION UNDER THIS SECTION MAY SEEK:

(I) ~~ANY REMEDY AVAILABLE IN COMMON LAW TORT;~~

~~(II)~~ THE PENALTIES PROVIDED UNDER § 2–602(B) OF THIS SUBTITLE; AND

~~(III) COMPENSATORY DAMAGES TO COMPENSATE THE STATE FOR INJURIES INCURRED AS A DIRECT RESULT OF A VIOLATION OF § 2–602(A) OF THIS SUBTITLE; AND~~

~~(IV)~~ (II) ~~COURT~~ SUBJECT TO THE GUIDELINES SET FORTH IN § 2–605(A)(4) OF THIS SUBTITLE, COURT COSTS AND ATTORNEY'S FEES.

(3) (I) THE PERSON SHALL SERVE ON THE STATE A COPY OF THE COMPLAINT AND A WRITTEN DISCLOSURE OF SUBSTANTIALLY ALL MATERIAL EVIDENCE AND INFORMATION THAT THE PERSON POSSESSES, IN ACCORDANCE WITH THE PROVISIONS OF TITLE 2 OF THE MARYLAND RULES FOR SERVING PROCESS ON THE STATE.

(II) 1. THE COMPLAINT SHALL BE FILED IN CAMERA AND SHALL REMAIN UNDER SEAL FOR AT LEAST 60 DAYS.

2. THE COMPLAINT MAY NOT BE SERVED ON THE DEFENDANT UNTIL THE COMPLAINT IS UNSEALED AND THE COURT ORDERS THE COMPLAINT SERVED.

3. WITHIN 60 DAYS AFTER THE STATE RECEIVES THE COMPLAINT AND THE MATERIAL EVIDENCE AND INFORMATION, THE STATE MAY ELECT TO INTERVENE AND PROCEED WITH THE ACTION.

(4) (I) FOR GOOD CAUSE SHOWN, THE STATE MAY MOVE THE COURT FOR EXTENSIONS OF THE TIME DURING WHICH THE COMPLAINT REMAINS UNDER SEAL UNDER PARAGRAPH (3)(II)1 OF THIS SUBSECTION.

(II) ANY MOTIONS MADE UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH MAY BE SUPPORTED BY AFFIDAVITS OR OTHER SUBMISSIONS IN CAMERA.

(5) (I) THE DEFENDANT MAY NOT BE REQUIRED TO ANSWER A COMPLAINT FILED UNDER THIS SECTION UNTIL AFTER THE COMPLAINT IS:

1. UNSEALED AND ORDERED BY THE COURT TO BE SERVED; AND

2. SERVED ON THE DEFENDANT IN ACCORDANCE WITH TITLE 2 OF THE MARYLAND RULES.

(II) WHEN ANSWERING A COMPLAINT FILED UNDER THIS SECTION, A DEFENDANT SHALL FOLLOW THE TIME FRAMES AND OTHER PROVISIONS FOR FILING ANSWERS TO A COMPLAINT AS REQUIRED UNDER TITLE 2, CHAPTER 300 OF THE MARYLAND RULES.

(III) DURING THE PERIOD IN WHICH THE COMPLAINT IS UNDER SEAL, IF THE STATE'S INVESTIGATION REVEALS THAT THE ACT, TRANSACTION, OR OCCURRENCE THAT GAVE RISE TO THE ALLEGED VIOLATION OF THIS SUBTITLE IS REASONABLY LIKELY TO BE CONTINUING, THE STATE SHALL NOTIFY THE DEFENDANT AS SOON AS PRACTICABLE WITHOUT JEOPARDIZING THE COURSE AND CONDUCT OF THE STATE'S OR THE FEDERAL GOVERNMENT'S INVESTIGATION OF THE VIOLATION, COMPROMISING THE DEVELOPMENT OF EVIDENCE, OR VIOLATING ANY STATE OR FEDERAL LAW.

(6) BEFORE THE LATER OF THE EXPIRATION OF THE 60–DAY PERIOD DURING WHICH THE COMPLAINT REMAINS UNDER SEAL UNDER

PARAGRAPH (3)(II)1 OF THIS SUBSECTION OR ANY EXTENSION OF THE 60–DAY PERIOD OBTAINED UNDER PARAGRAPH (4) OF THIS SUBSECTION, THE STATE SHALL:

(I) INTERVENE AND PROCEED WITH THE ACTION IN A COURT OF COMPETENT JURISDICTION WITHIN THE STATE; OR

(II) NOTIFY THE COURT THAT IT WILL NOT INTERVENE AND PROCEED WITH THE ACTION.

(7) IF THE STATE DOES NOT ELECT TO INTERVENE AND PROCEED WITH THE ACTION UNDER PARAGRAPH (6) OF THIS SUBSECTION, BEFORE UNSEALING THE COMPLAINT, THE COURT SHALL DISMISS THE ACTION.

~~(7)~~ (8) IF A PERSON INITIATES AN ACTION UNDER THIS SECTION, NO PERSON OTHER THAN THE STATE MAY INTERVENE IN THE ACTION OR INITIATE A RELATED ACTION BASED ON THE FACTS UNDERLYING THE PENDING ACTION.

(B) (1) IF THE STATE INTERVENES AND PROCEEDS WITH THE ACTION UNDER SUBSECTION (A)(6)(I) OF THIS SECTION:

(I) THE STATE SHALL HAVE THE PRIMARY RESPONSIBILITY FOR PROCEEDING WITH THE ACTION AND MAY NOT BE BOUND BY ANY ACT OF THE PERSON WHO INITIATED THE ACTION; AND

(II) SUBJECT TO PARAGRAPHS (3) THROUGH (6) OF THIS SUBSECTION, THE PERSON WHO INITIATED THE ACTION MAY CONTINUE AS A PARTY TO THE ACTION.

(2) (I) DURING AN INVESTIGATION BY THE STATE CONDUCTED EITHER INDEPENDENTLY OR IN CONJUNCTION WITH A CIVIL ACTION FILED UNDER THIS SUBTITLE, THE ATTORNEY GENERAL SHALL HAVE THE SAME RIGHTS OF DISCOVERY AS A CIVIL LITIGANT IN THE CIRCUIT COURT UNDER TITLE 2, CHAPTER 400 OF THE MARYLAND RULES.

(II) A PERSON FROM WHOM THE ATTORNEY GENERAL SEEKS DISCOVERY SHALL BE CONSIDERED A PARTY UNDER TITLE 2, CHAPTER 400 OF THE MARYLAND RULES.

(3) (I) NOTWITHSTANDING THE OBJECTIONS OF THE PERSON INITIATING THE ACTION, THE STATE MAY ~~PETITION THE COURT TO DISMISS AN ACTION IF:~~ ELECT AT ANY POINT TO WITHDRAW ITS INTERVENTION AS A PARTY TO THE ACTION.

(II) IF THE STATE ELECTS TO WITHDRAW AS A PARTY TO THE ACTION:

1. THE STATE SHALL NOTIFY THE COURT AND THE PARTY INITIATING THE ACTION; AND

2. THE COURT SHALL DISMISS THE ACTION.

~~(I) THE PERSON INITIATING THE ACTION IS NOTIFIED BY THE STATE OF THE FILING OF THE MOTION TO DISMISS; AND~~

~~(II) THE COURT PROVIDES THE PERSON INITIATING THE ACTION WITH AN OPPORTUNITY FOR A HEARING ON THE MOTION TO DISMISS.~~

(4) NOTWITHSTANDING THE OBJECTIONS OF THE PERSON INITIATING THE ACTION, IF THE COURT DETERMINES AFTER A HEARING THAT A PROPOSED SETTLEMENT IS FAIR, ADEQUATE, AND REASONABLE UNDER THE CIRCUMSTANCES, THE STATE MAY SETTLE A CIVIL ACTION FILED UNDER THIS SECTION.

(5) ~~THE~~ ON MOTION OF THE STATE OR THE DEFENDANT OR ON THE COURT'S OWN MOTION, THE COURT MAY IMPOSE LIMITATIONS ON THE PARTICIPATION OF THE PERSON INITIATING AN ACTION UNDER THIS SECTION IF:

(I) THE STATE SHOWS THAT THE PERSON'S UNRESTRICTED PARTICIPATION IN THE ACTION WOULD:

1. INTERFERE WITH OR UNDULY DELAY THE STATE IN ITS PURSUIT OF THE CIVIL ACTION; OR

2. BE REPETITIOUS, IRRELEVANT, OR HARASSING TO THE DEFENDANT; OR

(II) THE DEFENDANT SHOWS THAT UNRESTRICTED PARTICIPATION BY THE PERSON INITIATING THE ACTION WOULD HARASS THE DEFENDANT OR CAUSE THE DEFENDANT UNDUE BURDEN OR UNNECESSARY EXPENSE.

(6) LIMITATIONS IMPOSED BY THE COURT UNDER PARAGRAPH (5) OF THIS SUBSECTION MAY INCLUDE:

(I) A LIMITATION ON THE NUMBER OF WITNESSES THE PERSON MAY CALL TO TESTIFY;

(II) A LIMITATION ON THE LENGTH OF THE TESTIMONY OF WITNESSES CALLED BY THE PERSON;

(III) A LIMITATION ON THE PERSON'S CROSS–EXAMINATION OF WITNESSES; OR

(IV) A LIMITATION ON THE PARTICIPATION OF THE PERSON IN THE LITIGATION.

~~**(C) (1) IF THE STATE ELECTS NOT TO INTERVENE AND PROCEED WITH THE ACTION UNDER SUBSECTION (A)(6)(II) OF THIS SECTION, THE PERSON INITIATING THE ACTION SHALL HAVE THE RIGHT TO PROCEED WITH THE ACTION.**~~

~~**(2) NOTWITHSTANDING THE STATE'S ELECTION NOT TO INTERVENE, IF THE STATE REQUESTS, THE COURT SHALL ORDER THAT THE STATE BE SERVED AT THE STATE'S OWN EXPENSE WITH COPIES OF:**~~

~~**(I) ALL PLEADINGS FILED IN THE ACTION; AND**~~

~~**(II) ALL DEPOSITION TRANSCRIPTS.**~~

~~**(3) (I) IF A PERSON PROCEEDS WITH AN ACTION UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE COURT, WITHOUT LIMITING THE STATUS AND RIGHTS OF THE PERSON INITIATING THE ACTION, MAY ALLOW THE STATE TO INTERVENE AT A LATER DATE ON A SHOWING OF GOOD CAUSE.**~~

~~**(II) IF THE STATE SUBSEQUENTLY INTERVENES UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE PERSON INITIATING THE ACTION SHALL THEREAFTER BE SUBJECT TO THE LIMITATIONS PROVIDED UNDER SUBSECTION (B)(3) THROUGH (6) OF THIS SECTION.**~~

~~**(D)**~~ **(C) (1) INSTEAD OF PROCEEDING WITH A CIVIL ACTION FILED UNDER THIS SUBTITLE, THE STATE MAY PURSUE ANY ALTERNATIVE REMEDY AVAILABLE TO THE STATE, INCLUDING ANY APPROPRIATE ADMINISTRATIVE PROCEEDING TO DETERMINE A CIVIL MONEY PENALTY.**

(2) IF THE STATE SEEKS AN ALTERNATIVE REMEDY IN ANOTHER PROCEEDING AFTER INTERVENING IN A CIVIL ACTION FILED UNDER THIS SECTION, THE PERSON INITIATING THE ACTION SHALL HAVE THE SAME RIGHTS

IN THE ALTERNATIVE PROCEEDING AS THE PERSON WOULD HAVE HAD IF THE CIVIL ACTION HAD CONTINUED UNDER THIS SECTION.

(3) (I) A FINDING OF FACT OR CONCLUSION OF LAW MADE IN ANY ALTERNATIVE PROCEEDING THAT HAS BECOME FINAL SHALL BE CONCLUSIVE ON ALL PARTIES TO AN ACTION FILED UNDER THIS SUBTITLE.

(II) FOR PURPOSES OF SUBPARAGRAPH (I) OF THIS PARAGRAPH, A FINDING OR CONCLUSION IS FINAL IF:

1. IT HAS BEEN FINALLY DETERMINED ON APPEAL TO THE APPROPRIATE COURT OF THE STATE;

2. ALL TIME FOR FILING THE APPEAL WITH RESPECT TO THE FINDING OR CONCLUSION HAS EXPIRED; OR

3. THE FINDING OR CONCLUSION IS NOT SUBJECT TO JUDICIAL REVIEW.

~~(E)~~ (D) (1) ~~WHETHER OR NOT THE STATE INTERVENES AND PROCEEDS WITH A CIVIL ACTION FILED UNDER THIS SECTION, ON~~ ON A SHOWING IN CAMERA BY THE STATE THAT CERTAIN ACTIONS OF DISCOVERY BY THE PERSON INITIATING THE ACTION WOULD INTERFERE WITH THE STATE'S INVESTIGATION OR PROSECUTION OF A CRIMINAL OR CIVIL MATTER ARISING OUT OF THE SAME FACTS, THE COURT MAY STAY THE DISCOVERY FOR A PERIOD OF NOT MORE THAN 60 DAYS.

(2) THE COURT MAY EXTEND THE 60–DAY PERIOD ON A FURTHER SHOWING IN CAMERA THAT:

(I) THE STATE HAS PURSUED THE CRIMINAL OR CIVIL INVESTIGATION OR PROCEEDING WITH REASONABLE DILIGENCE; AND

(II) ANY PROPOSED DISCOVERY IN THE CIVIL ACTION WILL INTERFERE WITH THE ONGOING CRIMINAL OR CIVIL INVESTIGATION OR PROCEEDING.

2–605.

(A) (1) IF THE STATE INTERVENES AND PROCEEDS WITH AN ACTION FILED UNDER § 2–604 OF THIS SUBTITLE AND THE STATE PREVAILS, THE COURT SHALL AWARD THE PERSON INITIATING THE ACTION AN AMOUNT THAT IS:

(I) NOT LESS THAN 15% AND NOT MORE THAN 25% OF THE PROCEEDS OF THE ACTION OR SETTLEMENT OF THE CLAIM; AND

(II) PROPORTIONAL TO THE AMOUNT OF TIME AND EFFORT THAT THE PERSON SUBSTANTIALLY CONTRIBUTED TO THE FINAL RESOLUTION OF THE CIVIL ACTION.

(2) (I) IF THE COURT FINDS THAT THE ACTION IS BASED PRIMARILY ON DISCLOSURES OF SPECIFIC INFORMATION RELATING TO ALLEGATIONS OR TRANSACTIONS IN A CRIMINAL, CIVIL, OR ADMINISTRATIVE HEARING, IN A LEGISLATIVE OR ADMINISTRATIVE REPORT, HEARING, AUDIT, OR INVESTIGATION, OR FROM THE NEWS MEDIA, THE COURT MAY MAKE AN AWARD TO THE PERSON INITIATING THE ACTION THAT:

1. THE COURT CONSIDERS APPROPRIATE, TAKING INTO ACCOUNT THE SIGNIFICANCE OF THE INFORMATION AND THE ROLE OF THE PERSON INITIATING THE ACTION IN ADVANCING THE CASE TO LITIGATION; AND

2. DOES NOT EXCEED 10% OF THE PROCEEDS OF THE ACTION.

(II) THE INFORMATION DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH DOES NOT INCLUDE INFORMATION DISCLOSED AND PROVIDED BY THE PERSON INITIATING THE ACTION.

(3) ANY PAYMENT TO A PERSON UNDER PARAGRAPH (1) OR (2) OF THIS SUBSECTION SHALL BE MADE FROM THE PROCEEDS OF THE ACTION.

(4) (I) IN ADDITION TO THE AMOUNT PROVIDED UNDER PARAGRAPHS (1) AND (2) OF THIS SUBSECTION, A COURT ~~SHALL~~ MAY AWARD THE PERSON INITIATING THE ACTION:

1. AN AMOUNT FOR REASONABLE EXPENSES THAT THE COURT FINDS TO HAVE BEEN NECESSARILY INCURRED; AND

2. REASONABLE ATTORNEY'S FEES AND COSTS.

(II) IN DETERMINING THE AMOUNT OF ANY AWARD UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE COURT SHALL CONSIDER THE AMOUNT OF ANY PENALTIES AND DAMAGES RECOVERED IN THE ACTION AND ANY OTHER FACTOR AS JUSTICE MAY REQUIRE.

~~(II)~~ (III) ~~ALL~~ ANY EXPENSES, FEES, AND COSTS AWARDED UNDER THIS PARAGRAPH SHALL BE AWARDED AGAINST THE DEFENDANT.

~~(B) (1) IF THE STATE DOES NOT INTERVENE AND PROCEED WITH AN ACTION FILED UNDER § 2–604 OF THIS SUBTITLE AND THE PERSON INITIATING THE ACTION PREVAILS, THE COURT SHALL AWARD THE PERSON INITIATING THE ACTION AN AMOUNT THAT IS REASONABLE FOR COLLECTING THE CIVIL PENALTY AND DAMAGES ON THE STATE'S BEHALF.~~

~~(2) AN AMOUNT AWARDED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE:~~

~~(I) NOT LESS THAN 25% OR MORE THAN 30% OF THE PROCEEDS OF THE ACTION OR SETTLEMENT OF THE CLAIM; AND~~

~~(II) PAID OUT OF THE PROCEEDS OF THE ACTION.~~

~~(3) (I) THE COURT ALSO SHALL AWARD THE PERSON INITIATING THE ACTION:~~

~~1. AN AMOUNT FOR REASONABLE EXPENSES THAT THE COURT FINDS TO HAVE BEEN NECESSARILY INCURRED; AND~~

~~2. REASONABLE ATTORNEY'S FEES AND COSTS.~~

~~(II) ALL EXPENSES, FEES, AND COSTS AWARDED UNDER THIS PARAGRAPH SHALL BE AWARDED AGAINST THE DEFENDANT.~~

~~(C)~~ (B) (1) ~~WHETHER OR NOT THE STATE INTERVENES AND PROCEEDS WITH AN ACTION FILED UNDER § 2–604 OF THIS SUBTITLE, IF~~ IF A COURT FINDS THAT THE ACTION IS INITIATED BY A PERSON WHO PLANNED AND INITIATED OR OTHERWISE DELIBERATELY PARTICIPATED IN THE VIOLATION ON WHICH THE ACTION WAS BASED, THE COURT MAY, TO THE EXTENT IT CONSIDERS APPROPRIATE, REDUCE THE SHARE OF THE PROCEEDS OF THE ACTION THAT THE PERSON OTHERWISE WOULD HAVE RECEIVED UNDER THIS SECTION.

(2) IN REDUCING THE SHARE OF THE PROCEEDS OF THE PERSON INITIATING THE ACTION UNDER THIS SUBSECTION, THE COURT SHALL CONSIDER:

(I) THE ROLE OF THE PERSON IN ADVANCING THE CASE TO LITIGATION; AND

(II) ANY RELEVANT CIRCUMSTANCES RELATING TO THE UNDERLYING VIOLATION.

(3) (I) IF THE PERSON INITIATING A CIVIL ACTION UNDER § 2–604 OF THIS SUBTITLE IS CONVICTED OF CRIMINAL CONDUCT ARISING FROM THE PERSON'S PARTICIPATION IN THE VIOLATION ON WHICH THE ACTION WAS BASED PRIOR TO A FINAL DETERMINATION OF THE ACTION, THE PERSON:

1. SHALL BE DISMISSED FROM THE ACTION; AND

2. MAY NOT RECEIVE ANY SHARE OF THE PROCEEDS OF THE ACTION.

(II) THE DISMISSAL OF THE PERSON INITIATING THE ACTION IN ACCORDANCE WITH THIS PARAGRAPH DOES NOT PREJUDICE THE RIGHT OF THE STATE TO CONTINUE THE ACTION.

(4) IF THE PERSON INITIATING A CIVIL ACTION UNDER § 2–604 OF THIS SUBTITLE IS CONVICTED OF CRIMINAL CONDUCT ARISING FROM THE PERSON'S PARTICIPATION IN THE VIOLATION ON WHICH THE ACTION WAS BASED AFTER THE PROCEEDS FROM THE ACTION ARE AWARDED TO THAT PERSON, THE COURT SHALL ORDER THE PERSON TO REPAY THE PROCEEDS PREVIOUSLY AWARDED.

~~(D)~~ (C) A COURT ~~SHALL~~ MAY AWARD REASONABLE ATTORNEY'S FEES AND EXPENSES TO A DEFENDANT AND AGAINST THE PERSON INITIATING THE ACTION IF:

(1) THE DEFENDANT PREVAILS IN THE ACTION; AND

(2) THE COURT FINDS THAT THE CLAIM OF THE PERSON INITIATING THE ACTION WAS ~~CLEARLY FRIVOLOUS, VEXATIOUS, OR~~ BROUGHT PRIMARILY FOR PURPOSES OF HARASSMENT OR OTHERWISE BROUGHT IN BAD FAITH~~; AND~~

~~(3) THE STATE DID NOT INTERVENE AND PROCEED WITH THE ACTION, AND THE PERSON INITIATING THE ACTION CONDUCTED THE ACTION~~.

2–606.

(A) NO COURT IN THIS STATE SHALL HAVE JURISDICTION OVER AN ACTION FILED UNDER § 2–604 OF THIS SUBTITLE AGAINST ANY MEMBER OF THE LEGISLATIVE BRANCH OR THE JUDICIARY OF THE STATE, ANY MEMBER OF THE GOVERNOR'S EXECUTIVE COUNCIL, THE ATTORNEY GENERAL, THE

COMPTROLLER, OR THE STATE TREASURER IF THE ACTION IS BASED ON EVIDENCE OR INFORMATION KNOWN TO THE STATE WHEN THE ACTION WAS FILED.

(B) A CIVIL ACTION MAY NOT BE BROUGHT UNDER THIS SUBTITLE BY A PERSON WHO IS OR WAS A PUBLIC EMPLOYEE OR PUBLIC OFFICIAL IF THE ALLEGATIONS OF THE ACTION ARE BASED SUBSTANTIALLY ON:

(1) ALLEGATIONS OF WRONGDOING OR MISCONDUCT THAT THE PERSON HAD A DUTY OR OBLIGATION TO REPORT OR INVESTIGATE WITHIN THE SCOPE OF THE PERSON'S PUBLIC EMPLOYMENT OR OFFICE; OR

(2) INFORMATION OR RECORDS TO WHICH THE PERSON HAD ACCESS AS A RESULT OF THE PERSON'S PUBLIC EMPLOYMENT OR OFFICE.

(C) A PERSON MAY NOT BRING AN ACTION UNDER § 2–604 OF THIS SUBTITLE THAT IS BASED ON ALLEGATIONS OR TRANSACTIONS THAT ARE THE SUBJECT OF A CIVIL SUIT OR AN ADMINISTRATIVE CIVIL MONEY PENALTY PROCEEDING IN WHICH THE STATE IS ALREADY A PARTY.

(D) (1) EXCEPT AS PROVIDED IN ~~PARAGRAPH (2)~~ PARAGRAPHS (2) AND (3) OF THIS SUBSECTION, NO COURT IN THIS STATE SHALL HAVE JURISDICTION OVER AN ACTION FILED UNDER § 2–604 OF THIS SUBTITLE THAT IS BASED ON THE PUBLIC DISCLOSURE OF ALLEGATIONS OR TRANSACTIONS:

(I) IN A CRIMINAL, CIVIL, OR AN ADMINISTRATIVE HEARING;

(II) IN A LEGISLATIVE OR AN ADMINISTRATIVE REPORT, A HEARING, AN AUDIT, OR AN INVESTIGATION; OR

(III) FROM THE NEWS MEDIA.

(2) PARAGRAPH (1) OF THIS SUBSECTION DOES NOT APPLY IF THE ACTION IS INITIATED BY A PERSON WHO:

(I) HAS DIRECT AND INDEPENDENT KNOWLEDGE OF THE INFORMATION ON WHICH THE ALLEGATIONS ARE BASED; AND

(II) HAS VOLUNTARILY PROVIDED THE INFORMATION TO THE STATE BEFORE FILING AN ACTION UNDER § 2–604 OF THIS SUBTITLE THAT IS BASED ON THE INFORMATION.

(3) THE STATE, THROUGH THE ATTORNEY GENERAL, MAY FILE A CIVIL ACTION UNDER § 2–603 OF THIS SUBTITLE BASED ON THE PUBLIC DISCLOSURE DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION.

(E) THE STATE IS NOT LIABLE FOR EXPENSES THAT A PERSON INCURS IN BRINGING AN ACTION UNDER § 2–604 OF THIS SUBTITLE.

(F) A PERSON WHO IS OR WAS EMPLOYED BY THE STATE, A LOCAL GOVERNMENT, OR ANY OTHER POLITICAL SUBDIVISION OF THE STATE AS AN AUDITOR, INVESTIGATOR, ATTORNEY, FINANCIAL OFFICER, OR CONTRACTING OFFICER MAY NOT BRING AN ACTION UNDER § 2–604 OF THIS SUBTITLE THAT IS BASED ON ALLEGATIONS OR TRANSACTIONS THAT THE PERSON DISCOVERED OR LEARNED OF WHILE ACTING IN THE PERSON'S CAPACITY AS AN AUDITOR, INVESTIGATOR, ATTORNEY, FINANCIAL OFFICER, OR CONTRACTING OFFICER FOR THE STATE, LOCAL GOVERNMENT, OR OTHER POLITICAL SUBDIVISION OF THE STATE.

2–607.

(A) A PERSON MAY NOT TAKE A RETALIATORY ACTION AGAINST AN EMPLOYEE, CONTRACTOR, OR GRANTEE BECAUSE THE EMPLOYEE, CONTRACTOR, OR GRANTEE:

(1) ACTS LAWFULLY IN FURTHERANCE OF AN ACTION FILED UNDER THIS SUBTITLE, INCLUDING AN INVESTIGATION FOR, INITIATION OF, TESTIMONY FOR, OR ASSISTANCE IN AN ACTION FILED OR TO BE FILED UNDER THIS SUBTITLE;

(2) DISCLOSES OR THREATENS TO DISCLOSE TO A SUPERVISOR OR TO A PUBLIC BODY AN ACTIVITY, POLICY, OR PRACTICE OF THE PERSON THAT THE EMPLOYEE, CONTRACTOR, OR GRANTEE REASONABLY BELIEVES IS IN VIOLATION OF § 2–602(A) OF THIS SUBTITLE OR A REGULATION ADOPTED UNDER THIS SUBTITLE;

(3) PROVIDES INFORMATION TO, OR TESTIFIES BEFORE, A PUBLIC BODY CONDUCTING AN INVESTIGATION, HEARING, OR INQUIRY INTO A VIOLATION OF § 2–602(A) OF THIS SUBTITLE OR A REGULATION ADOPTED UNDER THIS SUBTITLE THAT IS ALLEGEDLY OR ACTUALLY COMMITTED BY THE PERSON; OR

(4) OBJECTS TO OR REFUSES TO PARTICIPATE IN ANY ACTIVITY, POLICY, OR PRACTICE THAT THE EMPLOYEE, CONTRACTOR, OR GRANTEE REASONABLY BELIEVES IS IN VIOLATION OF § 2–602(A) OF THIS SUBTITLE OR A REGULATION ADOPTED UNDER THIS SUBTITLE.

(B) (1) AN EMPLOYEE, CONTRACTOR, OR GRANTEE MAY FILE A CIVIL ACTION AGAINST A PERSON OTHER THAN A SUPERVISOR IN STATE GOVERNMENT, AN APPOINTING AUTHORITY IN STATE GOVERNMENT, OR THE HEAD OF A PRINCIPAL UNIT IN STATE GOVERNMENT IF THE PERSON TAKES A RETALIATORY ACTION AGAINST THE EMPLOYEE, CONTRACTOR, OR GRANTEE IN VIOLATION OF SUBSECTION (A) OF THIS SECTION.

(2) THE EMPLOYEE, CONTRACTOR, OR GRANTEE MAY SEEK IN THE CIVIL ACTION:

(I) AN INJUNCTION TO RESTRAIN A CONTINUING VIOLATION OF SUBSECTION (A) OF THIS SECTION;

(II) REINSTATEMENT TO THE SAME SENIORITY STATUS HELD BEFORE THE RETALIATORY ACTION;

(III) REINSTATEMENT OF FULL FRINGE BENEFITS AND SENIORITY RIGHTS;

(IV) TWO TIMES THE AMOUNT OF LOST WAGES, BENEFITS, AND OTHER REMUNERATION, INCLUDING ANY INTEREST ACCUMULATED;

(V) PAYMENT BY THE PERSON OF REASONABLE COSTS AND ATTORNEY'S FEES;

(VI) PUNITIVE DAMAGES;

(VII) AN ASSESSMENT OF A CIVIL PENALTY:

1. NOT EXCEEDING $1,000 FOR THE FIRST VIOLATION; AND

2. NOT EXCEEDING $5,000 FOR EACH SUBSEQUENT VIOLATION; AND

(VIII) ANY OTHER RELIEF NECESSARY TO MAKE THE EMPLOYEE, CONTRACTOR, OR GRANTEE WHOLE.

(3) THE REMEDIES PROVIDED UNDER THIS SECTION DO NOT DIMINISH OR AFFECT THE RIGHTS, PRIVILEGES, OR REMEDIES AVAILABLE TO THE EMPLOYEE, CONTRACTOR, OR GRANTEE UNDER:

(I) ANY OTHER FEDERAL OR STATE STATUTE OR REGULATION; OR

(II) ANY COLLECTIVE BARGAINING AGREEMENT OR EMPLOYEE CONTRACT.

(C) THIS SECTION DOES NOT APPLY TO AN EMPLOYEE AS DEFINED IN § 1–501 OF THE HEALTH OCCUPATIONS ARTICLE OR A STATE EMPLOYEE.

(D) (1) AN EMPLOYEE AS DEFINED IN § 1–501 OF THE HEALTH OCCUPATIONS ARTICLE WHO IS SUBJECT TO RETALIATORY ACTION IN VIOLATION OF SUBSECTION (A) OF THIS SECTION MAY FILE A CIVIL ACTION UNDER TITLE 1, SUBTITLE 5 OF THE HEALTH OCCUPATIONS ARTICLE.

(2) A STATE EMPLOYEE WHO IS SUBJECT TO RETALIATORY ACTION IN VIOLATION OF SUBSECTION (A) OF THIS SECTION MAY FILE A COMPLAINT UNDER TITLE 5, SUBTITLE 3 OF THE STATE PERSONNEL AND PENSIONS ARTICLE.

2–608.

AN EMPLOYER SHALL:

(1) CONSPICUOUSLY DISPLAY NOTICES OF THE PROTECTIONS PROVIDED TO AND OBLIGATIONS REQUIRED OF ITS EMPLOYEES UNDER THIS SUBTITLE; AND

(2) USE ANY APPROPRIATE MEANS TO INFORM ITS EMPLOYEES OF THE PROTECTIONS AND OBLIGATIONS PROVIDED UNDER THIS SUBTITLE.

2–609.

(A) A CIVIL ACTION FILED UNDER ~~§ 2–604 OF~~ THIS SUBTITLE MAY NOT BE FILED AFTER THE LATER OF:

(1) 6 YEARS AFTER THE DATE ON WHICH THE UNDERLYING VIOLATION OF § 2–602(A) OF THIS SUBTITLE OCCURRED; OR

(2) 3 YEARS AFTER THE DATE WHEN FACTS MATERIAL TO THE RIGHT OF ACTION ARE KNOWN <u>BY THE RELATOR, THE STATE'S INSPECTOR GENERAL, OR THE DIRECTOR OF THE STATE'S MEDICAID FRAUD CONTROL UNIT</u> OR REASONABLY SHOULD HAVE BEEN KNOWN, BUT IN NO EVENT MORE THAN 10 YEARS AFTER THE DATE ON WHICH THE UNDERLYING VIOLATION OF § 2–602(A) OF THIS SUBTITLE IS COMMITTED.

(B) A CIVIL ACTION MAY BE FILED UNDER ~~§ 2–604 OF~~ THIS SUBTITLE FOR ACTIVITY THAT OCCURRED PRIOR TO OCTOBER 1, 2010, IF THE LIMITATIONS PERIOD UNDER SUBSECTION (A) OF THIS SECTION HAS NOT LAPSED.

(C) IF THE STATE ELECTS TO INTERVENE AND PROCEED WITH AN ACTION BROUGHT UNDER THIS SUBTITLE, THE STATE, THROUGH THE OFFICE OF THE ATTORNEY GENERAL, MAY:

(1) FILE ITS OWN COMPLAINT; OR

(2) AMEND THE COMPLAINT OF THE PERSON WHO BROUGHT THE ACTION TO CLARIFY, ADD DETAIL TO THE COMPLAINT, OR ADD ADDITIONAL CLAIMS TO THE COMPLAINT.

(D) TO THE EXTENT THAT THE CLAIM OF THE STATE ARISES OUT OF THE CONDUCT, TRANSACTIONS, OR OCCURRENCES SET FORTH, OR ATTEMPTED TO BE SET FORTH BY A PERSON, A STATE PLEADING RELATES BACK TO THE FILING DATE OF THE COMPLAINT OF THE PERSON WHO ORIGINALLY BROUGHT THE ACTION.

(E) IN AN ACTION FILED UNDER THIS SUBTITLE, ALL ESSENTIAL ELEMENTS OF THE CAUSE OF ACTION, INCLUDING DAMAGES, SHALL BE PROVEN BY A PREPONDERANCE OF THE EVIDENCE.

(F) NOTWITHSTANDING ANY OTHER PROVISION OF LAW OR RULE OF PROCEDURE OR EVIDENCE IN THE MARYLAND RULES, A FINAL JUDGMENT RENDERED IN FAVOR OF THE STATE IN ANY CRIMINAL PROCEEDING CHARGING FRAUD OR FALSE STATEMENTS, WHETHER ON A VERDICT AFTER TRIAL OR ON A PLEA OF GUILTY OR NOLO CONTENDERE, SHALL STOP THE DEFENDANT FROM DENYING THE ESSENTIAL ELEMENTS OF THE OFFENSE IN ANY ACTION FILED UNDER THIS SUBTITLE THAT INVOLVES THE SAME ACT, TRANSACTION, OR OCCURRENCE AS IN THE CRIMINAL PROCEEDING.

2–610.

(A) ANY REMEDY PROVIDED UNDER THIS SUBTITLE IS IN ADDITION TO ANY OTHER APPROPRIATE LEGAL OR EQUITABLE RELIEF PROVIDED UNDER ANY OTHER APPLICABLE STATE OR FEDERAL STATUTE OR REGULATION.

(B) (1) THE STATE SHALL MAKE ALL REASONABLE EFFORTS TO COORDINATE ANY INVESTIGATION OF AN ALLEGED VIOLATION UNDER THIS

SUBTITLE WITH ANY INVESTIGATION CONDUCTED BY THE FEDERAL GOVERNMENT INVOLVING THE SAME VIOLATION.

(2) THE STATE'S OBJECTIVE SHALL BE TO AVOID UNNECESSARY DUPLICATION OF EFFORT ON THE PART OF THE PERSON ALLEGED TO HAVE COMMITTED THE VIOLATION AND TO MINIMIZE THE BURDEN OF THE INVESTIGATION ON THE PERSON.

~~(B)~~ (C) THE COMPTROLLER SHALL DEPOSIT ANY CIVIL PENALTY OR DAMAGES COLLECTED UNDER THIS SUBTITLE IN THE GENERAL FUND OF THE STATE.

~~(C)~~ (D) THE DEPARTMENT OR THE INSPECTOR GENERAL OF THE DEPARTMENT MAY ADOPT REGULATIONS TO CARRY OUT THE PROVISIONS OF THIS SUBTITLE.

2–611.

(A) BEGINNING OCTOBER 1, 2010, THE INSPECTOR GENERAL OF THE DEPARTMENT AND THE DIRECTOR OF THE MEDICAID FRAUD CONTROL UNIT IN THE OFFICE OF THE ATTORNEY GENERAL SHALL REPORT ANNUALLY TO THE GENERAL ASSEMBLY, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE FOLLOWING INFORMATION FOR THE PREVIOUS FISCAL YEAR:

(1) THE NUMBER OF CIVIL ACTIONS FILED UNDER THIS SUBTITLE;

(2) THE NUMBER OF CIVIL ACTIONS UNDER THIS SUBTITLE IN WHICH A JUDGMENT WAS ENTERED, WHETHER BY SETTLEMENT OR ADJUDICATION; AND

(3) THE NUMBER OF CLAIMS MADE BY THE STATE BASED ON ALLEGED VIOLATIONS OF § 2–602(A) OF THIS SUBTITLE THAT ARE SETTLED WITHOUT THE FILING OF A CIVIL ACTION UNDER THIS SUBTITLE.

(B) UNLESS THE ACTION IS UNDER SEAL IN ACCORDANCE WITH § 2–604 OF THIS SUBTITLE, FOR EACH CIVIL ACTION REPORTED UNDER SUBSECTION (A)(1) OR (2) OF THIS SECTION, THE REPORT SHALL STATE:

(1) WHETHER THE ACTION WAS FILED BY THE STATE OR BY A PERSON ON BEHALF OF THE STATE AND, IF FILED BY A PERSON, WHETHER THE STATE INTERVENED AND PROCEEDED WITH THE ACTION;

(2) THE NAME OF THE DEFENDANT~~;~~ AND THE FOLLOWING INFORMATION ABOUT THE DEFENDANT:

(I) THE NUMBER OF EMPLOYEES AND ANY OTHER DATA RELEVANT TO THE SIZE OF THE DEFENDANT;

(II) THE AMOUNT OF PAYMENTS MADE TO THE DEFENDANT IN THE YEAR PRIOR TO THE FILING OF THE ACTION FROM STATE HEALTH PLANS AND, TO THE EXTENT KNOWN BY THE INSPECTOR GENERAL AND THE MEDICAID FRAUD CONTROL UNIT, FROM OTHER SOURCES; AND

(III) WHETHER THE DEFENDANT IS A MINORITY–OWNED BUSINESS ENTERPRISE AS DEFINED BY § 14–301 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(3) A DESCRIPTION OF THE VIOLATION OR ALLEGED VIOLATION OF § 2–602 OF THIS SUBTITLE; AND

(4) THE AMOUNT SOUGHT IN THE ACTION AND, IF APPLICABLE, THE AMOUNT FOR WHICH THE DEFENDANT IS LIABLE UNDER A SETTLEMENT AGREEMENT OR COURT ORDER.

(C) FOR EACH CLAIM REPORTED UNDER SUBSECTION (A)(3) OF THIS SECTION, THE REPORT SHALL STATE:

(1) A DESCRIPTION OF THE VIOLATION OR ALLEGED VIOLATION OF § 2–602 OF THIS SUBTITLE;

(2) THE RESOLUTION OF THE CLAIM;

(3) THE AMOUNT, IF ANY, THE PERSON AGAINST WHOM THE CLAIM WAS MADE AGREED TO PAY IN SETTLEMENT OF THE CLAIM; AND

(4) THE AMOUNT, IF ANY, COLLECTED BY THE STATE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 5

(Senate Bill 855)

AN ACT concerning

Patient Centered Medical Home Program

FOR the purpose of requiring the Maryland Health Care Commission to establish a Maryland Patient Centered Medical Home Program under certain circumstances; authorizing certain health insurance carriers to elect to participate in the Program; requiring certain health insurance carriers to participate in the Program; authorizing the Department of Health and Mental Hygiene to require certain managed care organizations and certain enrollees to participate in the Program under certain circumstances; requiring the Department to ensure that participation in the Program of managed care organizations and certain enrollees will support certain standards; authorizing the Commission to authorize a health insurance carrier to implement a certain single carrier patient centered medical home program; providing for the construction of certain provisions of this Act; requiring the Commission, in consultation with the Department, carriers, managed care organizations, and primary care practices, to adopt certain standards and practices for the Program; requiring the Commission to adopt certain payment methods for the Program; requiring the Commission to adopt certain health care quality and performance measures to be reported to the Commission and to certain carriers and managed care organizations; requiring the Commission to consider certain information when developing certain standards; requiring ~~the Commission to consult with certain carriers and primary care practices in developing certain payment methods~~ certain standards to define a certain payment method and a certain methodology; establishing certain enrollment procedures for the Program; requiring the Commission to conduct certain educational activities and ensure that a participating patient centered medical home provides certain care for a certain purpose; authorizing the Commission to adopt certain regulations; authorizing certain health insurance carriers to pay a patient centered medical home for certain services, pay certain bonuses and fees, and share certain medical information about certain individuals; requiring certain insurers, nonprofit health service plans, and health maintenance ~~organizations, and managed care~~ organizations to comply with certain provisions of this Act pertaining to the Program; making certain provisions of this Act applicable to health maintenance organizations; defining certain terms; requiring the Commission to retain a consultant or consulting firm to conduct a certain independent evaluation; requiring the Commission to consider certain information in the evaluation; requiring the Commission to report its findings to certain committees; requiring the Commission to consult with the Maryland Community Health Resources Commission for a certain purpose; authorizing the Maryland Community Health Resources Commission to provide certain assistance and leverage certain assets for a certain purpose; providing for the termination of this Act; and generally relating to ~~the Maryland Patient Centered Medical Home Program~~ patient centered medical home programs.

BY adding to
Article – Insurance
Section 15–1801 and 15–1802 to be under the new subtitle "Subtitle 18. Exemption for a Patient Centered Medical Home Program"
Annotated Code of Maryland
(2006 Replacement Volume and 2009 Supplement)

BY adding to
Article – Health – General
Section 19–1A–01 through ~~19–1A–04~~ 19–1A–05 to be under the new subtitle "Subtitle 1A. Patient Centered Medical Home Program"; and 19–706(cccc)
Annotated Code of Maryland
(2009 Replacement Volume)

Preamble

WHEREAS, Health care costs continue to increase, making it more difficult for individuals, families, and businesses to afford a health benefit plan; and

WHEREAS, The increase in health care costs is, in part, attributable to inadequate coordination of care among providers, difficulties accessing primary care, and a lack of engagement between patients and their primary care providers; and

WHEREAS, Patient centered medical homes enhance care coordination and promote high quality, cost–effective care by engaging patients and their primary care providers; and

WHEREAS, The standards qualifying a primary care practice as a patient centered medical home, the quality measures that primary care practices must gather and report to demonstrate quality care, and the payment methodologies used to reimburse patient centered medical homes are inconsistent across carriers, and that inconsistency presents a major barrier to developing effective patient centered medical homes; and

WHEREAS, Patient centered medical homes are more likely to succeed if all carriers in Maryland use a single definition, a common set of quality measures, and a uniform payment methodology; and

WHEREAS, As a result of the complexity of establishing patient centered medical home programs, the State seeks to develop best practices in how to structure such a program through the experience to be gained in a State–sponsored patient centered medical home program and through programs that may be developed by private carriers and Medicaid managed care organizations; and

WHEREAS, Inconsistent access to health care services and variable quality of care provided to patients have been shown to result in poorer health outcomes and health care disparities; and

WHEREAS, It is desirable to have an ongoing process by which the effectiveness of patient centered medical homes can be evaluated; and

WHEREAS, Establishing and promoting patient centered medical homes in Maryland through both a State–sponsored program and similar programs implemented by private carriers and Medicaid managed care organizations will achieve higher quality health care for Maryland citizens ~~and will~~, help slow the continuing escalation of health care costs, and improve health outcomes for Maryland citizens; now, therefore,

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

Article – Insurance

SUBTITLE 18. EXEMPTION FOR A PATIENT CENTERED MEDICAL HOME PROGRAM.

15–1801.

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

(B) "CARRIER" MEANS:

(1) AN INSURER THAT HOLDS A CERTIFICATE OF AUTHORITY IN THE STATE AND PROVIDES HEALTH BENEFIT PLANS IN THE STATE;

(2) A HEALTH MAINTENANCE ORGANIZATION THAT IS LICENSED TO OPERATE IN THE STATE;

~~**(3) A MANAGED CARE ORGANIZATION AUTHORIZED TO RECEIVE MEDICAID PREPAID CAPITATION PAYMENTS UNDER TITLE 15, SUBTITLE 1 OF THE HEALTH – GENERAL ARTICLE;**~~ **OR**

~~**(4)**~~ **(3) A NONPROFIT HEALTH SERVICE PLAN THAT IS LICENSED TO OPERATE IN THE STATE.**

(C) "COMMISSION" MEANS THE MARYLAND HEALTH CARE COMMISSION ESTABLISHED UNDER TITLE 19, SUBTITLE 1 OF THE HEALTH – GENERAL ARTICLE.

(D) "COVERED MEDICAL SERVICES" MEANS THE HEALTH CARE SERVICES THAT ARE INCLUDED AS BENEFITS UNDER A HEALTH BENEFIT PLAN ISSUED BY A CARRIER.

(E) ~~(1)~~ "HEALTH BENEFIT PLAN" HAS THE MEANING STATED IN § 15–1301 OF THIS TITLE.

~~(2) "HEALTH BENEFIT PLAN" INCLUDES COVERAGE PROVIDED TO ENROLLEES OF A MANAGED CARE ORGANIZATION AUTHORIZED UNDER TITLE 15, SUBTITLE 1 OF THE HEALTH – GENERAL ARTICLE.~~

(F) "QUALIFYING INDIVIDUAL" HAS THE MEANING STATED IN § 19–1A–01 OF THE HEALTH – GENERAL ARTICLE.

(G) "PATIENT CENTERED MEDICAL HOME" HAS THE MEANING STATED IN § 19–1A–01 OF THE HEALTH – GENERAL ARTICLE.

(H) "SINGLE CARRIER PATIENT CENTERED MEDICAL HOME PROGRAM" MEANS A PROGRAM IMPLEMENTED BY A ~~PRIVATE~~ CARRIER TO PROMOTE THE DEVELOPMENT OF A PATIENT CENTERED MEDICAL HOME.

15–1802.

(A) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE OR THE HEALTH – GENERAL ARTICLE, A CARRIER THAT IS PARTICIPATING IN THE MARYLAND PATIENT CENTERED MEDICAL HOME PROGRAM UNDER TITLE 19, SUBTITLE 1A OF THE HEALTH – GENERAL ARTICLE OR A CARRIER THAT HAS BEEN AUTHORIZED BY THE COMMISSION TO IMPLEMENT A SINGLE CARRIER PATIENT CENTERED MEDICAL HOME PROGRAM MAY:

(1) PAY A PATIENT CENTERED MEDICAL HOME FOR SERVICES ASSOCIATED WITH COORDINATION OF COVERED MEDICAL SERVICES TO QUALIFYING INDIVIDUALS;

(2) PAY A PATIENT CENTERED MEDICAL HOME PROVIDER A BONUS, FEE BASED INCENTIVE, BUNDLED FEES, OR OTHER INCENTIVES APPROVED BY THE COMMISSION; AND

(3) SHARE MEDICAL INFORMATION ABOUT A QUALIFYING INDIVIDUAL WHO HAS ELECTED TO PARTICIPATE IN THE PATIENT CENTERED MEDICAL HOME WITH THE QUALIFYING INDIVIDUAL'S PATIENT CENTERED MEDICAL HOME AND OTHER TREATING PROVIDERS RENDERING HEALTH CARE SERVICES TO THE QUALIFYING INDIVIDUAL.

(B) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION:

(1) AN INSURER OR NONPROFIT HEALTH SERVICE PLAN THAT PARTICIPATES IN THE MARYLAND PATIENT CENTERED MEDICAL HOME PROGRAM UNDER TITLE 19, SUBTITLE 1A OF THE HEALTH – GENERAL ARTICLE OR THAT IS AUTHORIZED BY THE COMMISSION TO IMPLEMENT A SINGLE CARRIER PATIENT CENTERED MEDICAL HOME PROGRAM SHALL COMPLY WITH THIS ARTICLE; AND

(2) A HEALTH MAINTENANCE ORGANIZATION ~~OR MANAGED CARE ORGANIZATION~~ THAT PARTICIPATES IN THE MARYLAND PATIENT CENTERED MEDICAL HOME PROGRAM UNDER TITLE 19, SUBTITLE 1A OF THE HEALTH – GENERAL ARTICLE OR THAT IS AUTHORIZED BY THE COMMISSION TO IMPLEMENT A SINGLE CARRIER PATIENT CENTERED MEDICAL HOME PROGRAM SHALL COMPLY WITH THIS ARTICLE, WHERE APPLICABLE, AND TITLE 19, SUBTITLE 7 OF THE HEALTH – GENERAL ARTICLE.

Article – Health – General

SUBTITLE 1A. PATIENT CENTERED MEDICAL HOME PROGRAM.

19–1A–01.

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

(B) "CARRIER" HAS THE MEANING STATED IN § 15–1801 OF THE INSURANCE ARTICLE.

(C) "FEDERALLY QUALIFIED HEALTH CENTER" HAS THE MEANING STATED IN 42 U.S.C. § 254B.

(D) "HEALTH ~~BENEFITS~~ BENEFIT PLAN" HAS THE MEANING STATED IN § 15–1801 OF THE INSURANCE ARTICLE.

(E) "MANAGED CARE ORGANIZATION" HAS THE MEANING STATED IN § 15–101 OF THIS ARTICLE.

~~(E)~~ (F) "PATIENT CENTERED MEDICAL HOME" MEANS A PRIMARY CARE PRACTICE ORGANIZED TO PROVIDE A FIRST, COORDINATED, ONGOING, AND COMPREHENSIVE SOURCE OF CARE TO PATIENTS TO:

(1) FOSTER A PARTNERSHIP WITH A QUALIFYING INDIVIDUAL;

(2) COORDINATE HEALTH CARE SERVICES FOR A QUALIFYING INDIVIDUAL; AND

(3) EXCHANGE MEDICAL INFORMATION WITH CARRIERS, OTHER PROVIDERS, AND QUALIFYING INDIVIDUALS.

~~(F)~~ (G) "PRIMARY CARE PRACTICE" MEANS A PRACTICE OR FEDERALLY QUALIFIED HEALTH CENTER ORGANIZED BY OR INCLUDING PEDIATRICIANS, GENERAL INTERNAL MEDICINE PHYSICIANS, FAMILY MEDICINE PHYSICIANS, OR NURSE PRACTITIONERS.

~~(G)~~ (H) (1) "PROMINENT CARRIER" MEANS A CARRIER REPORTING AT LEAST $90,000,000 IN WRITTEN PREMIUMS FOR HEALTH BENEFIT PLANS IN THE STATE IN THE MOST RECENT MARYLAND HEALTH BENEFIT PLAN REPORT SUBMITTED TO THE INSURANCE COMMISSIONER AS REQUIRED UNDER § 15–605 OF THE INSURANCE ARTICLE.

(2) "PROMINENT CARRIER" DOES NOT INCLUDE A GROUP MODEL HEALTH MAINTENANCE ORGANIZATION AS DEFINED IN § 19–713.6 OF THIS TITLE.

~~(H)~~ (I) "QUALIFYING INDIVIDUAL" MEANS ~~A~~:

(1) A PERSON COVERED UNDER A HEALTH BENEFIT PLAN ISSUED BY A CARRIER; OR

(2) A MEMBER OF A MANAGED CARE ORGANIZATION.

~~(I)~~ (J) "SINGLE ~~PAYER~~ CARRIER PATIENT CENTERED MEDICAL HOME PROGRAM" ~~MEANS A PROGRAM IMPLEMENTED BY A SINGLE CARRIER OR MEDICAID MANAGED CARE ORGANIZATION TO PROMOTE THE DEVELOPMENT OF A PATIENT-CENTERED MEDICAL HOME~~ HAS THE MEANING STATED IN § 15–1801 OF THE INSURANCE ARTICLE.

19–1A–02.

(A) SUBJECT TO § 19–1A–03(A) OF THIS SUBTITLE, THE COMMISSION SHALL ESTABLISH THE MARYLAND PATIENT CENTERED MEDICAL HOME PROGRAM TO PROMOTE DEVELOPMENT OF PATIENT CENTERED MEDICAL HOMES.

(B) (1) A CARRIER MAY ELECT TO PARTICIPATE IN THE MARYLAND PATIENT CENTERED MEDICAL HOME PROGRAM.

(2) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (1) OF THIS SUBSECTION, A PROMINENT CARRIER ~~OTHER THAN A MEDICAID MANAGED CARE ORGANIZATION~~ SHALL PARTICIPATE IN THE MARYLAND PATIENT CENTERED MEDICAL HOME PROGRAM.

(3) ~~NOTWITHSTANDING THE PROVISIONS OF PARAGRAPHS (1) AND (2) OF THIS SUBSECTION,~~ SUBJECT TO THE LIMITATIONS OF THE STATE BUDGET, THE DEPARTMENT ~~MAY~~:

(I) MAY REQUIRE THAT CERTAIN ~~MEDICAID~~ MANAGED CARE ORGANIZATIONS PARTICIPATE IN THE MARYLAND PATIENT CENTERED MEDICAL HOME PROGRAM AS ALLOWED BY LAW ~~AND SUBJECT TO THE LIMITATIONS OF THE STATE BUDGET~~; AND

(II) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, MAY MANDATE THE PARTICIPATION IN THE MARYLAND PATIENT CENTERED MEDICAL HOME PROGRAM OF MARYLAND MEDICAL ASSISTANCE PROGRAM ENROLLEES.

(4) THE DEPARTMENT SHALL ENSURE THAT PARTICIPATION IN THE MARYLAND PATIENT CENTERED MEDICAL HOME PROGRAM OF MANAGED CARE ORGANIZATIONS AND MARYLAND MEDICAL ASSISTANCE PROGRAM ENROLLEES SHALL SUPPORT THE QUALITY AND EFFICIENCY STANDARDS ESTABLISHED IN THE HEALTHCHOICE PROGRAM.

(C) THE COMMISSION MAY ALSO AUTHORIZE A CARRIER TO IMPLEMENT A SINGLE CARRIER PATIENT CENTERED MEDICAL HOME PROGRAM THAT:

(1) PAYS AND SHARES MEDICAL INFORMATION WITH A PATIENT CENTERED MEDICAL HOME IN ACCORDANCE WITH § 15–1802 OF THE INSURANCE ARTICLE; AND

(2) CONFORMS WITH THE PRINCIPLES OF THE PATIENT CENTERED MEDICAL HOME AS ADOPTED BY A NATIONAL COALITION OF PHYSICIANS, CARRIERS, PURCHASERS, AND CONSUMERS.

(D) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO LIMIT OR PROHIBIT A CARRIER FROM PROVIDING A BONUS, FEE BASED INCENTIVES, BUNDLED INCENTIVES, OR OTHER INCENTIVE–BASED COMPENSATION:

(1) AS AUTHORIZED BY THE COMMISSION FOR A PATIENT CENTERED MEDICAL HOME; OR

(2) AS ALLOWED UNDER § 15–113 OF THE INSURANCE ARTICLE.

19–1A–03.

(A) NOTWITHSTANDING ANY STATE OR FEDERAL LAW THAT PROHIBITS THE COLLABORATION OF CARRIERS OR PROVIDERS ON PAYMENT, THE COMMISSION MAY ESTABLISH THE MARYLAND PATIENT CENTERED MEDICAL HOME PROGRAM, IF THE COMMISSION CONCLUDES THAT THE PROGRAM:

(1) IS LIKELY TO RESULT IN THE DELIVERY OF MORE EFFICIENT AND EFFECTIVE HEALTH CARE SERVICES; AND

(2) IS IN THE PUBLIC INTEREST.

(B) IN ESTABLISHING THE MARYLAND PATIENT CENTERED MEDICAL HOME PROGRAM, THE COMMISSION, IN CONSULTATION WITH THE DEPARTMENT, CARRIERS, MANAGED CARE ORGANIZATIONS, AND PRIMARY CARE PRACTICES, SHALL ADOPT:

(1) STANDARDS QUALIFYING A PRIMARY CARE PRACTICE AS A PARTICIPANT IN THE MARYLAND PATIENT CENTERED MEDICAL HOME PROGRAM;

(2) ~~THE PAYMENT METHOD TO BE~~ GENERAL STANDARDS THAT MAY BE USED BY A CARRIER OR A MANAGED CARE ORGANIZATION TO PAY A PARTICIPATING PATIENT CENTERED MEDICAL HOME FOR SERVICES ASSOCIATED WITH THE COORDINATION OF COVERED HEALTH CARE SERVICES;

(3) ~~STANDARDS TO BE USED TO DETERMINE~~ GENERAL STANDARDS TO GOVERN THE BONUS, FEE BASED INCENTIVE, BUNDLED FEES, OR OTHER INCENTIVES A CARRIER OR A MANAGED CARE ORGANIZATION MAY PAY TO A PARTICIPATING PATIENT CENTERED MEDICAL HOME BASED ON THE SAVINGS FROM REDUCED HEALTH CARE EXPENDITURES THAT ARE ASSOCIATED WITH IMPROVED HEALTH OUTCOMES AND CARE COORDINATION BY QUALIFYING INDIVIDUALS ATTRIBUTED TO THE PARTICIPATING PATIENT CENTERED MEDICAL HOME;

(4) THE METHOD FOR ATTRIBUTING A PATIENT TO A PARTICIPATING PATIENT CENTERED MEDICAL HOME;

(5) THE UNIFORM SET OF HEALTH CARE QUALITY AND PERFORMANCE MEASURES THAT THE PARTICIPATING PATIENT CENTERED MEDICAL HOME IS TO REPORT TO THE COMMISSION AND TO CARRIERS OR MANAGED CARE ORGANIZATIONS;

(6) THE ENROLLMENT FORM NOTIFYING CARRIERS OR MANAGED CARE ORGANIZATIONS A QUALIFYING INDIVIDUAL HAS VOLUNTARILY AGREED TO PARTICIPATE IN THE MARYLAND PATIENT CENTERED MEDICAL HOME PROGRAM; AND

(7) THE PROCESS FOR PRIMARY CARE PRACTICES TO COMMENCE AND TERMINATE PARTICIPATION IN THE MARYLAND PATIENT CENTERED MEDICAL HOME PROGRAM.

(C) IN DEVELOPING THE STANDARDS REQUIRED IN SUBSECTION (B)(1) OF THIS SECTION, THE COMMISSION SHALL CONSIDER:

(1) THE USE OF HEALTH INFORMATION TECHNOLOGY, INCLUDING ELECTRONIC MEDICAL RECORDS;

(2) THE RELATIONSHIP BETWEEN THE PRIMARY CARE PRACTICE, SPECIALISTS, OTHER PROVIDERS, AND HOSPITALS;

(3) THE ACCESS STANDARDS FOR QUALIFYING INDIVIDUALS TO RECEIVE PRIMARY MEDICAL CARE IN A TIMELY MANNER; ~~AND~~

(4) THE ABILITY OF THE PRIMARY CARE PRACTICE TO FOSTER A PARTNERSHIP WITH QUALIFYING INDIVIDUALS; AND

(5) THE USE OF COMPREHENSIVE MEDICATION MANAGEMENT TO IMPROVE CLINICAL OUTCOMES.

(D) ~~IN DEVELOPING THE PAYMENT METHOD REQUIRED IN SUBSECTION (B)(2) OF THIS SECTION, THE COMMISSION, IN CONSULTATION WITH CARRIERS AND PRIMARY CARE PRACTICES,~~ THE GENERAL STANDARDS REQUIRED IN SUBSECTION (B)(2) AND (3) OF THIS SECTION SHALL:

(1) DEFINE THE PAYMENT METHOD USED BY A CARRIER TO PAY A PARTICIPATING PATIENT CENTERED MEDICAL HOME FOR SERVICES ASSOCIATED WITH THE COORDINATION OF COVERED HEALTH CARE SERVICES; AND

(2) DEFINE THE METHODOLOGY FOR DETERMINING ANY BONUS, FEE BASED INCENTIVE, BUNDLED FEES, OR OTHER INCENTIVES TO BE PAID BY A CARRIER TO A PARTICIPATING PATIENT CENTERED MEDICAL HOME BASED ON IMPROVEMENTS IN QUALITY OR EFFICIENCY.

(E) (1) TO COMMENCE, RENEW, OR TERMINATE PARTICIPATION IN THE MARYLAND PATIENT CENTERED MEDICAL HOME PROGRAM, A

QUALIFYING INDIVIDUAL SHALL COMPLETE FORMS ADOPTED BY THE COMMISSION.

(2) THE ENROLLMENT FORM SHALL AUTHORIZE THE CARRIER, THE PARTICIPATING PATIENT CENTERED MEDICAL HOME TREATING THE QUALIFYING INDIVIDUAL, AND OTHER PROVIDERS TREATING THE QUALIFYING INDIVIDUAL TO SHARE MEDICAL INFORMATION ABOUT THE QUALIFYING INDIVIDUAL WITH EACH OTHER.

(3) THE AUTHORIZATION UNDER PARAGRAPH (2) OF THIS SUBSECTION SHALL BE VALID FOR A PERIOD NOT TO EXCEED 1 YEAR.

(4) THE RENEWAL FORM SHALL EXTEND THE AUTHORIZATION UNDER PARAGRAPH (2) OF THIS SUBSECTION FOR AN ADDITIONAL PERIOD NOT TO EXCEED 1 YEAR.

(5) A CARRIER PARTICIPATING IN THE MARYLAND PATIENT CENTERED MEDICAL HOME PROGRAM SHALL ACCEPT FORMS ADOPTED BY THE COMMISSION AS THE SOLE INSTRUMENT FOR NOTIFICATION THAT A QUALIFYING INDIVIDUAL HAS VOLUNTARILY AGREED TO PARTICIPATE OR TERMINATE PARTICIPATION IN THE MARYLAND PATIENT CENTERED MEDICAL HOME PROGRAM.

(F) (1) THE COMMISSION SHALL CONDUCT CULTURALLY AND LINGUISTICALLY APPROPRIATE PROVIDER AND PATIENT EDUCATIONAL ACTIVITIES TO INCREASE AWARENESS OF THE POTENTIAL BENEFITS FOR PROVIDERS AND PATIENTS OF PARTICIPATING IN THE MARYLAND PATIENT CENTERED MEDICAL HOME PROGRAM.

(2) THE COMMISSION SHALL ENSURE THAT A PARTICIPATING PATIENT CENTERED MEDICAL HOME PROVIDES, ON AN ONGOING BASIS, CULTURALLY AND LINGUISTICALLY APPROPRIATE CARE FOR THE PURPOSE OF REDUCING HEALTH DISPARITIES.

19–1A–04.

~~(F)~~ THE COMMISSION MAY ADOPT REGULATIONS ~~TO ESTABLISH~~ TO:

(1) ESTABLISH THE MARYLAND PATIENT CENTERED MEDICAL HOME ~~PROGRAM~~ PROGRAM; AND

(2) AUTHORIZE A CARRIER TO IMPLEMENT A SINGLE CARRIER PATIENT CENTERED MEDICAL HOME PROGRAM.

~~19–1A–04.~~ 19–1A–05.

(A) (1) THE COMMISSION SHALL RETAIN A CONSULTANT OR CONSULTING FIRM TO CONDUCT AN INDEPENDENT EVALUATION OF THE EFFECTIVENESS OF THE MARYLAND PATIENT CENTERED MEDICAL HOME PROGRAM IN REDUCING HEALTH CARE COSTS AND IMPROVING HEALTH CARE OUTCOMES.

(2) ~~THE COMMISSION MAY INCLUDE ANY~~ A SINGLE CARRIER PATIENT CENTERED MEDICAL HOME PROGRAM MAY REQUEST TO BE INCLUDED IN THE EVALUATION DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION.

(3) IN CONDUCTING THE EVALUATION, THE COMMISSION SHALL CONSIDER, SUBJECT TO BUDGET LIMITATIONS, IMPROVEMENTS IN HEALTH CARE DELIVERY, ~~THE SATISFACTION OF QUALIFYING INDIVIDUALS AND PRIMARY CARE PRACTICES, AND THE IMPACT ON HEALTH CARE EXPENDITURES~~ IMPROVED CLINICAL CARE PROCESSES, INCREASED ACCESS TO CARE COORDINATION, ADEQUACY OF ENHANCED PAYMENTS TO COVER EXPANDED SERVICES, INCREASED PATIENT SATISFACTION WITH CARE, INCREASED CLINICIAN AND STAFF WORK SATISFACTION, LOWER TOTAL COSTS OF CARE, AND REDUCTIONS IN HEALTH DISPARITIES RESULTING FROM THE MARYLAND PATIENT CENTERED MEDICAL HOME PROGRAM AND ANY AUTHORIZED SINGLE CARRIER PATIENT CENTERED MEDICAL HOME PROGRAM INCLUDED IN THE STUDY.

(B) ON OR BEFORE DECEMBER 1, 2014, THE COMMISSION SHALL REPORT ITS FINDINGS, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, TO THE SENATE FINANCE COMMITTEE AND THE HOUSE HEALTH AND GOVERNMENT OPERATIONS COMMITTEE.

19–706.

(CCCC) THE PROVISIONS OF TITLE 15, SUBTITLE 18 OF THE INSURANCE ARTICLE APPLY TO HEALTH MAINTENANCE ORGANIZATIONS.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) The Maryland Health Care Commission shall consult with the Maryland Community Health Resources Commission regarding the inclusion of federally qualified health centers and other primary care practices in the Maryland Patient Centered Medical Home Program established by Section 1 of this Act.

(b) The Maryland Community Health Resources Commission, in consultation with the Maryland Health Care Commission, may assist federally qualified health centers and other primary care practices to become patient centered medical homes as

defined in § 19–1A–01 of the Health – General Article, as enacted by Section 1 of this Act, and identify ways that Maryland Community Health Resources Commission resources can leverage additional assets to support the participation of federally qualified health centers and other primary care practices in a patient centered medical home program.

SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010. It shall remain effective for a period of 5 years and 6 months and, at the end of December 31, 2015, 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 13, 2010.

Chapter 6

(House Bill 929)

AN ACT concerning

Patient Centered Medical Home Program

FOR the purpose of requiring the Maryland Health Care Commission to establish a Maryland Patient Centered Medical Home Program under certain circumstances; authorizing certain health insurance carriers to elect to participate in the Program; requiring certain health insurance carriers to participate in the Program; authorizing the Department of Health and Mental Hygiene to require certain managed care organizations and certain enrollees to participate in the Program under certain circumstances; requiring the Department to ensure that participation in the Program of managed care organizations and certain enrollees will support certain standards; authorizing the Commission to authorize a health insurance carrier to implement a certain single carrier patient centered medical home program; providing for the construction of certain provisions of this Act; requiring the Commission, in consultation with the Department, carriers, managed care organizations, and primary care practices, to adopt certain standards and practices for the Program; requiring the Commission to adopt certain payment methods for the Program; requiring the Commission to adopt certain health care quality and performance measures to be reported to the Commission and to certain carriers and managed care organizations; requiring the Commission to consider certain information when developing certain standards; requiring ~~the Commission to consult with certain carriers and primary care practices in developing certain payment methods~~ certain standards to define a certain payment method and a certain methodology; establishing certain enrollment procedures for the Program; requiring the Commission to conduct certain educational activities and ensure that a participating patient centered medical home provides certain

care for a certain purpose; authorizing the Commission to adopt certain regulations; authorizing certain health insurance carriers to pay a patient centered medical home for certain services, pay certain bonuses and fees, and share certain medical information about certain individuals; requiring certain insurers, nonprofit health service plans, and health maintenance ~~organizations, and managed care~~ organizations to comply with certain provisions of this Act pertaining to the Program; making certain provisions of this Act applicable to health maintenance organizations; defining certain terms; requiring the Commission to retain a consultant or consulting firm to conduct a certain independent evaluation; requiring the Commission to consider certain information in the evaluation; requiring the Commission to report its findings to certain committees; requiring the Commission to consult with the Maryland Community Health Resources Commission for a certain purpose; authorizing the Maryland Community Health Resources Commission to provide certain assistance and leverage certain assets for a certain purpose; providing for the termination of this Act; and generally relating to ~~the Maryland Patient Centered Medical Home Program~~ patient centered medical home programs.

BY adding to
Article – Insurance
Section 15–1801 and 15–1802 to be under the new subtitle "Subtitle 18. Exemption for a Patient Centered Medical Home Program"
Annotated Code of Maryland
(2006 Replacement Volume and 2009 Supplement)

BY adding to
Article – Health – General
Section 19–1A–01 through ~~19–1A–04~~ 19–1A–05 to be under the new subtitle "Subtitle 1A. Patient Centered Medical Home Program"; and 19–706(cccc)
Annotated Code of Maryland
(2009 Replacement Volume)

Preamble

WHEREAS, Health care costs continue to increase, making it more difficult for individuals, families, and businesses to afford a health benefit plan; and

WHEREAS, The increase in health care costs is, in part, attributable to inadequate coordination of care among providers, difficulties accessing primary care, and a lack of engagement between patients and their primary care providers; and

WHEREAS, Patient centered medical homes enhance care coordination and promote high quality, cost–effective care by engaging patients and their primary care providers; and

WHEREAS, The standards qualifying a primary care practice as a patient centered medical home, the quality measures that primary care practices must gather

and report to demonstrate quality care, and the payment methodologies used to reimburse patient centered medical homes are inconsistent across carriers, and that inconsistency presents a major barrier to developing effective patient centered medical homes; and

WHEREAS, Patient centered medical homes are more likely to succeed if all carriers in Maryland use a single definition, a common set of quality measures, and a uniform payment methodology; and

WHEREAS, As a result of the complexity of establishing patient centered medical home programs, the State seeks to develop best practices in how to structure such a program through the experience to be gained in a State–sponsored patient centered medical home program and through programs that may be developed by private carriers and Medicaid managed care organizations; and

WHEREAS, Inconsistent access to health care services and variable quality of care provided to patients have been shown to result in poorer health outcomes and health care disparities; and

WHEREAS, It is desirable to have an ongoing process by which the effectiveness of patient centered medical homes can be evaluated; and

WHEREAS, Establishing and promoting patient centered medical homes in Maryland through both a State–sponsored program and similar programs implemented by private carriers and Medicaid managed care organizations will achieve higher quality health care for Maryland citizens ~~and will~~, help slow the continuing escalation of health care costs, and improve health outcomes for Maryland citizens; now, therefore,

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

Article – Insurance

SUBTITLE 18. EXEMPTION FOR A PATIENT CENTERED MEDICAL HOME PROGRAM.

15–1801.

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

(B) "CARRIER" MEANS:

(1) AN INSURER THAT HOLDS A CERTIFICATE OF AUTHORITY IN THE STATE AND PROVIDES HEALTH BENEFIT PLANS IN THE STATE;

(2) A HEALTH MAINTENANCE ORGANIZATION THAT IS LICENSED TO OPERATE IN THE STATE;

~~(3) A MANAGED CARE ORGANIZATION AUTHORIZED TO RECEIVE MEDICAID PREPAID CAPITATION PAYMENTS UNDER TITLE 15, SUBTITLE 1 OF THE HEALTH – GENERAL ARTICLE;~~ OR

~~(4)~~ (3) A NONPROFIT HEALTH SERVICE PLAN THAT IS LICENSED TO OPERATE IN THE STATE.

(C) "COMMISSION" MEANS THE MARYLAND HEALTH CARE COMMISSION ESTABLISHED UNDER TITLE 19, SUBTITLE 1 OF THE HEALTH – GENERAL ARTICLE.

(D) "COVERED MEDICAL SERVICES" MEANS THE HEALTH CARE SERVICES THAT ARE INCLUDED AS BENEFITS UNDER A HEALTH BENEFIT PLAN ISSUED BY A CARRIER.

(E) ~~(1)~~ "HEALTH BENEFIT PLAN" HAS THE MEANING STATED IN § 15–1301 OF THIS TITLE.

~~(2) "HEALTH BENEFIT PLAN" INCLUDES COVERAGE PROVIDED TO ENROLLEES OF A MANAGED CARE ORGANIZATION AUTHORIZED UNDER TITLE 15, SUBTITLE 1 OF THE HEALTH – GENERAL ARTICLE.~~

(F) "QUALIFYING INDIVIDUAL" HAS THE MEANING STATED IN § 19–1A–01 OF THE HEALTH – GENERAL ARTICLE.

(G) "PATIENT CENTERED MEDICAL HOME" HAS THE MEANING STATED IN § 19–1A–01 OF THE HEALTH – GENERAL ARTICLE.

(H) "SINGLE CARRIER PATIENT CENTERED MEDICAL HOME PROGRAM" MEANS A PROGRAM IMPLEMENTED BY A ~~PRIVATE~~ CARRIER TO PROMOTE THE DEVELOPMENT OF A PATIENT CENTERED MEDICAL HOME.

15–1802.

(A) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE OR THE HEALTH – GENERAL ARTICLE, A CARRIER THAT IS PARTICIPATING IN THE MARYLAND PATIENT CENTERED MEDICAL HOME PROGRAM UNDER TITLE 19, SUBTITLE 1A OF THE HEALTH – GENERAL ARTICLE OR A CARRIER THAT HAS BEEN AUTHORIZED BY THE COMMISSION TO IMPLEMENT A SINGLE CARRIER PATIENT CENTERED MEDICAL HOME PROGRAM MAY:

(1) PAY A PATIENT CENTERED MEDICAL HOME FOR SERVICES ASSOCIATED WITH COORDINATION OF COVERED MEDICAL SERVICES TO QUALIFYING INDIVIDUALS;

(2) PAY A PATIENT CENTERED MEDICAL HOME PROVIDER A BONUS, FEE BASED INCENTIVE, BUNDLED FEES, OR OTHER INCENTIVES APPROVED BY THE COMMISSION; AND

(3) SHARE MEDICAL INFORMATION ABOUT A QUALIFYING INDIVIDUAL WHO HAS ELECTED TO PARTICIPATE IN THE PATIENT CENTERED MEDICAL HOME WITH THE QUALIFYING INDIVIDUAL'S PATIENT CENTERED MEDICAL HOME AND OTHER TREATING PROVIDERS RENDERING HEALTH CARE SERVICES TO THE QUALIFYING INDIVIDUAL.

(B) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION:

(1) AN INSURER OR NONPROFIT HEALTH SERVICE PLAN THAT PARTICIPATES IN THE MARYLAND PATIENT CENTERED MEDICAL HOME PROGRAM UNDER TITLE 19, SUBTITLE 1A OF THE HEALTH – GENERAL ARTICLE OR THAT IS AUTHORIZED BY THE COMMISSION TO IMPLEMENT A SINGLE CARRIER PATIENT CENTERED MEDICAL HOME PROGRAM SHALL COMPLY WITH THIS ARTICLE; AND

(2) A HEALTH MAINTENANCE ORGANIZATION ~~OR MANAGED CARE ORGANIZATION~~ THAT PARTICIPATES IN THE MARYLAND PATIENT CENTERED MEDICAL HOME PROGRAM UNDER TITLE 19, SUBTITLE 1A OF THE HEALTH – GENERAL ARTICLE OR THAT IS AUTHORIZED BY THE COMMISSION TO IMPLEMENT A SINGLE CARRIER PATIENT CENTERED MEDICAL HOME PROGRAM SHALL COMPLY WITH THIS ARTICLE, WHERE APPLICABLE, AND TITLE 19, SUBTITLE 7 OF THE HEALTH – GENERAL ARTICLE.

Article – Health – General

SUBTITLE 1A. PATIENT CENTERED MEDICAL HOME PROGRAM.

19–1A–01.

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

(B) "CARRIER" HAS THE MEANING STATED IN § 15–1801 OF THE INSURANCE ARTICLE.

(C) "FEDERALLY QUALIFIED HEALTH CENTER" HAS THE MEANING STATED IN 42 U.S.C. § 254B.

(D) "HEALTH ~~BENEFITS~~ BENEFIT PLAN" HAS THE MEANING STATED IN § 15–1801 OF THE INSURANCE ARTICLE.

(E) "MANAGED CARE ORGANIZATION" HAS THE MEANING STATED IN § 15–101 OF THIS ARTICLE.

~~(E)~~ (F) "PATIENT CENTERED MEDICAL HOME" MEANS A PRIMARY CARE PRACTICE ORGANIZED TO PROVIDE A FIRST, COORDINATED, ONGOING, AND COMPREHENSIVE SOURCE OF CARE TO PATIENTS TO:

(1) FOSTER A PARTNERSHIP WITH A QUALIFYING INDIVIDUAL;

(2) COORDINATE HEALTH CARE SERVICES FOR A QUALIFYING INDIVIDUAL; AND

(3) EXCHANGE MEDICAL INFORMATION WITH CARRIERS, OTHER PROVIDERS, AND QUALIFYING INDIVIDUALS.

~~(F)~~ (G) "PRIMARY CARE PRACTICE" MEANS A PRACTICE OR FEDERALLY QUALIFIED HEALTH CENTER ORGANIZED BY OR INCLUDING PEDIATRICIANS, GENERAL INTERNAL MEDICINE PHYSICIANS, FAMILY MEDICINE PHYSICIANS, OR NURSE PRACTITIONERS.

~~(G)~~ (H) (1) "PROMINENT CARRIER" MEANS A CARRIER REPORTING AT LEAST $90,000,000 IN WRITTEN PREMIUMS FOR HEALTH BENEFIT PLANS IN THE STATE IN THE MOST RECENT MARYLAND HEALTH BENEFIT PLAN REPORT SUBMITTED TO THE INSURANCE COMMISSIONER AS REQUIRED UNDER § 15–605 OF THE INSURANCE ARTICLE.

(2) "PROMINENT CARRIER" DOES NOT INCLUDE A GROUP MODEL HEALTH MAINTENANCE ORGANIZATION AS DEFINED IN § 19–713.6 OF THIS TITLE.

~~(H)~~ (I) "QUALIFYING INDIVIDUAL" MEANS ~~A~~ :

(1) A PERSON COVERED UNDER A HEALTH BENEFIT PLAN ISSUED BY A CARRIER; OR

(2) A MEMBER OF A MANAGED CARE ORGANIZATION.

~~(I)~~ (J) "SINGLE ~~PAYER~~ CARRIER PATIENT CENTERED MEDICAL HOME PROGRAM" ~~MEANS A PROGRAM IMPLEMENTED BY A SINGLE CARRIER OR MEDICAID MANAGED CARE ORGANIZATION TO PROMOTE THE DEVELOPMENT OF A PATIENT CENTERED MEDICAL HOME~~ HAS THE MEANING STATED IN § 15–1801 OF THE INSURANCE ARTICLE.

19–1A–02.

(A) SUBJECT TO § 19–1A–03(A) OF THIS SUBTITLE, THE COMMISSION SHALL ESTABLISH THE MARYLAND PATIENT CENTERED MEDICAL HOME PROGRAM TO PROMOTE DEVELOPMENT OF PATIENT CENTERED MEDICAL HOMES.

(B) (1) A CARRIER MAY ELECT TO PARTICIPATE IN THE MARYLAND PATIENT CENTERED MEDICAL HOME PROGRAM.

(2) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (1) OF THIS SUBSECTION, A PROMINENT CARRIER ~~OTHER THAN A MEDICAID MANAGED CARE ORGANIZATION~~ SHALL PARTICIPATE IN THE MARYLAND PATIENT CENTERED MEDICAL HOME PROGRAM.

(3) ~~NOTWITHSTANDING THE PROVISIONS OF PARAGRAPHS (1) AND (2) OF THIS SUBSECTION,~~ SUBJECT TO THE LIMITATIONS OF THE STATE BUDGET, THE DEPARTMENT ~~MAY~~ :

(I) MAY REQUIRE THAT CERTAIN ~~MEDICAID~~ MANAGED CARE ORGANIZATIONS PARTICIPATE IN THE MARYLAND PATIENT CENTERED MEDICAL HOME PROGRAM AS ALLOWED BY LAW ~~AND SUBJECT TO THE LIMITATIONS OF THE STATE BUDGET~~ ; AND

(II) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, MAY MANDATE THE PARTICIPATION IN THE MARYLAND PATIENT CENTERED MEDICAL HOME PROGRAM OF MARYLAND MEDICAL ASSISTANCE PROGRAM ENROLLEES.

(4) THE DEPARTMENT SHALL ENSURE THAT PARTICIPATION IN THE MARYLAND PATIENT CENTERED MEDICAL HOME PROGRAM OF MANAGED CARE ORGANIZATIONS AND MARYLAND MEDICAL ASSISTANCE PROGRAM ENROLLEES SHALL SUPPORT THE QUALITY AND EFFICIENCY STANDARDS ESTABLISHED IN THE HEALTHCHOICE PROGRAM.

(C) THE COMMISSION MAY ALSO AUTHORIZE A CARRIER TO IMPLEMENT A SINGLE CARRIER PATIENT CENTERED MEDICAL HOME PROGRAM THAT:

(1) PAYS AND SHARES MEDICAL INFORMATION WITH A PATIENT CENTERED MEDICAL HOME IN ACCORDANCE WITH § 15–1802 OF THE INSURANCE ARTICLE; AND

(2) CONFORMS WITH THE PRINCIPLES OF THE PATIENT CENTERED MEDICAL HOME AS ADOPTED BY A NATIONAL COALITION OF PHYSICIANS, CARRIERS, PURCHASERS, AND CONSUMERS.

(D) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO LIMIT OR PROHIBIT A CARRIER FROM PROVIDING A BONUS, FEE BASED INCENTIVES, BUNDLED INCENTIVES, OR OTHER INCENTIVE–BASED COMPENSATION:

(1) AS AUTHORIZED BY THE COMMISSION FOR A PATIENT CENTERED MEDICAL HOME; OR

(2) AS ALLOWED UNDER § 15–113 OF THE INSURANCE ARTICLE.

19–1A–03.

(A) NOTWITHSTANDING ANY STATE OR FEDERAL LAW THAT PROHIBITS THE COLLABORATION OF CARRIERS OR PROVIDERS ON PAYMENT, THE COMMISSION MAY ESTABLISH THE MARYLAND PATIENT CENTERED MEDICAL HOME PROGRAM, IF THE COMMISSION CONCLUDES THAT THE PROGRAM:

(1) IS LIKELY TO RESULT IN THE DELIVERY OF MORE EFFICIENT AND EFFECTIVE HEALTH CARE SERVICES; AND

(2) IS IN THE PUBLIC INTEREST.

(B) IN ESTABLISHING THE MARYLAND PATIENT CENTERED MEDICAL HOME PROGRAM, THE COMMISSION, IN CONSULTATION WITH THE DEPARTMENT, CARRIERS, MANAGED CARE ORGANIZATIONS, AND PRIMARY CARE PRACTICES, SHALL ADOPT:

(1) STANDARDS QUALIFYING A PRIMARY CARE PRACTICE AS A PARTICIPANT IN THE MARYLAND PATIENT CENTERED MEDICAL HOME PROGRAM;

(2) ~~THE PAYMENT METHOD TO BE~~ GENERAL STANDARDS THAT MAY BE USED BY A CARRIER OR A MANAGED CARE ORGANIZATION TO PAY A PARTICIPATING PATIENT CENTERED MEDICAL HOME FOR SERVICES ASSOCIATED WITH THE COORDINATION OF COVERED HEALTH CARE SERVICES;

(3) ~~STANDARDS TO BE USED TO DETERMINE~~ GENERAL STANDARDS TO GOVERN THE BONUS, FEE BASED INCENTIVE, BUNDLED FEES, OR OTHER INCENTIVES A CARRIER OR A MANAGED CARE ORGANIZATION MAY PAY TO A PARTICIPATING PATIENT CENTERED MEDICAL HOME BASED ON THE SAVINGS FROM REDUCED HEALTH CARE EXPENDITURES THAT ARE ASSOCIATED WITH IMPROVED HEALTH OUTCOMES AND CARE COORDINATION BY QUALIFYING INDIVIDUALS ATTRIBUTED TO THE PARTICIPATING PATIENT CENTERED MEDICAL HOME;

(4) THE METHOD FOR ATTRIBUTING A PATIENT TO A PARTICIPATING PATIENT CENTERED MEDICAL HOME;

(5) THE UNIFORM SET OF HEALTH CARE QUALITY AND PERFORMANCE MEASURES THAT THE PARTICIPATING PATIENT CENTERED MEDICAL HOME IS TO REPORT TO THE COMMISSION AND TO CARRIERS OR MANAGED CARE ORGANIZATIONS;

(6) THE ENROLLMENT FORM NOTIFYING CARRIERS OR MANAGED CARE ORGANIZATIONS A QUALIFYING INDIVIDUAL HAS VOLUNTARILY AGREED TO PARTICIPATE IN THE MARYLAND PATIENT CENTERED MEDICAL HOME PROGRAM; AND

(7) THE PROCESS FOR PRIMARY CARE PRACTICES TO COMMENCE AND TERMINATE PARTICIPATION IN THE MARYLAND PATIENT CENTERED MEDICAL HOME PROGRAM.

(C) IN DEVELOPING THE STANDARDS REQUIRED IN SUBSECTION (B)(1) OF THIS SECTION, THE COMMISSION SHALL CONSIDER:

(1) THE USE OF HEALTH INFORMATION TECHNOLOGY, INCLUDING ELECTRONIC MEDICAL RECORDS;

(2) THE RELATIONSHIP BETWEEN THE PRIMARY CARE PRACTICE, SPECIALISTS, OTHER PROVIDERS, AND HOSPITALS;

(3) THE ACCESS STANDARDS FOR QUALIFYING INDIVIDUALS TO RECEIVE PRIMARY MEDICAL CARE IN A TIMELY MANNER; ~~AND~~

(4) THE ABILITY OF THE PRIMARY CARE PRACTICE TO FOSTER A PARTNERSHIP WITH QUALIFYING INDIVIDUALS; AND

(5) THE USE OF COMPREHENSIVE MEDICATION MANAGEMENT TO IMPROVE CLINICAL OUTCOMES.

(D) ~~IN DEVELOPING THE PAYMENT METHOD REQUIRED IN SUBSECTION (B)(2) OF THIS SECTION, THE COMMISSION, IN CONSULTATION WITH CARRIERS AND PRIMARY CARE PRACTICES,~~ THE GENERAL STANDARDS REQUIRED IN SUBSECTION (B)(2) AND (3) OF THIS SECTION SHALL:

(1) DEFINE THE PAYMENT METHOD USED BY A CARRIER TO PAY A PARTICIPATING PATIENT CENTERED MEDICAL HOME FOR SERVICES ASSOCIATED WITH THE COORDINATION OF COVERED HEALTH CARE SERVICES; AND

(2) DEFINE THE METHODOLOGY FOR DETERMINING ANY BONUS, FEE BASED INCENTIVE, BUNDLED FEES, OR OTHER INCENTIVES TO BE PAID BY A CARRIER TO A PARTICIPATING PATIENT CENTERED MEDICAL HOME BASED ON IMPROVEMENTS IN QUALITY OR EFFICIENCY.

(E) (1) TO COMMENCE, RENEW, OR TERMINATE PARTICIPATION IN THE MARYLAND PATIENT CENTERED MEDICAL HOME PROGRAM, A QUALIFYING INDIVIDUAL SHALL COMPLETE FORMS ADOPTED BY THE COMMISSION.

(2) THE ENROLLMENT FORM SHALL AUTHORIZE THE CARRIER, THE PARTICIPATING PATIENT CENTERED MEDICAL HOME TREATING THE QUALIFYING INDIVIDUAL, AND OTHER PROVIDERS TREATING THE QUALIFYING INDIVIDUAL TO SHARE MEDICAL INFORMATION ABOUT THE QUALIFYING INDIVIDUAL WITH EACH OTHER.

(3) THE AUTHORIZATION UNDER PARAGRAPH (2) OF THIS SUBSECTION SHALL BE VALID FOR A PERIOD NOT TO EXCEED 1 YEAR.

(4) THE RENEWAL FORM SHALL EXTEND THE AUTHORIZATION UNDER PARAGRAPH (2) OF THIS SUBSECTION FOR AN ADDITIONAL PERIOD NOT TO EXCEED 1 YEAR.

(5) A CARRIER PARTICIPATING IN THE MARYLAND PATIENT CENTERED MEDICAL HOME PROGRAM SHALL ACCEPT FORMS ADOPTED BY THE COMMISSION AS THE SOLE INSTRUMENT FOR NOTIFICATION THAT A QUALIFYING INDIVIDUAL HAS VOLUNTARILY AGREED TO PARTICIPATE OR TERMINATE PARTICIPATION IN THE MARYLAND PATIENT CENTERED MEDICAL HOME PROGRAM.

(F) (1) THE COMMISSION SHALL CONDUCT CULTURALLY AND LINGUISTICALLY APPROPRIATE PROVIDER AND PATIENT EDUCATIONAL ACTIVITIES TO INCREASE AWARENESS OF THE POTENTIAL BENEFITS FOR

PROVIDERS AND PATIENTS OF PARTICIPATING IN THE MARYLAND PATIENT CENTERED MEDICAL HOME PROGRAM.

(2) THE COMMISSION SHALL ENSURE THAT A PARTICIPATING PATIENT CENTERED MEDICAL HOME PROVIDES, ON AN ONGOING BASIS, CULTURALLY AND LINGUISTICALLY APPROPRIATE CARE FOR THE PURPOSE OF REDUCING HEALTH DISPARITIES.

19–1A–04.

~~(F)~~ THE COMMISSION MAY ADOPT REGULATIONS ~~TO ESTABLISH~~ TO:

(1) ESTABLISH THE MARYLAND PATIENT CENTERED MEDICAL HOME ~~PROGRAM~~ PROGRAM; AND

(2) AUTHORIZE A CARRIER TO IMPLEMENT A SINGLE CARRIER PATIENT CENTERED MEDICAL HOME PROGRAM.

~~19–1A–04.~~ 19–1A–05.

(A) (1) THE COMMISSION SHALL RETAIN A CONSULTANT OR CONSULTING FIRM TO CONDUCT AN INDEPENDENT EVALUATION OF THE EFFECTIVENESS OF THE MARYLAND PATIENT CENTERED MEDICAL HOME PROGRAM IN REDUCING HEALTH CARE COSTS AND IMPROVING HEALTH CARE OUTCOMES.

(2) ~~THE COMMISSION MAY INCLUDE ANY~~ A SINGLE CARRIER PATIENT CENTERED MEDICAL HOME PROGRAM MAY REQUEST TO BE INCLUDED IN THE EVALUATION DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION.

(3) IN CONDUCTING THE EVALUATION, THE COMMISSION SHALL CONSIDER, SUBJECT TO BUDGET LIMITATIONS, IMPROVEMENTS IN HEALTH CARE DELIVERY, ~~THE SATISFACTION OF QUALIFYING INDIVIDUALS AND PRIMARY CARE PRACTICES, AND THE IMPACT ON HEALTH CARE EXPENDITURES~~ IMPROVED CLINICAL CARE PROCESSES, INCREASED ACCESS TO CARE COORDINATION, ADEQUACY OF ENHANCED PAYMENTS TO COVER EXPANDED SERVICES, INCREASED PATIENT SATISFACTION WITH CARE, INCREASED CLINICIAN AND STAFF WORK SATISFACTION, LOWER TOTAL COSTS OF CARE, AND REDUCTIONS IN HEALTH DISPARITIES RESULTING FROM THE MARYLAND PATIENT CENTERED MEDICAL HOME PROGRAM AND ANY AUTHORIZED SINGLE CARRIER PATIENT CENTERED MEDICAL HOME PROGRAM INCLUDED IN THE STUDY.

(B) ON OR BEFORE DECEMBER 1, 2014, THE COMMISSION SHALL REPORT ITS FINDINGS, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, TO THE SENATE FINANCE COMMITTEE AND THE HOUSE HEALTH AND GOVERNMENT OPERATIONS COMMITTEE.

19–706.

(CCCC) THE PROVISIONS OF TITLE 15, SUBTITLE 18 OF THE INSURANCE ARTICLE APPLY TO HEALTH MAINTENANCE ORGANIZATIONS.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) The Maryland Health Care Commission shall consult with the Maryland Community Health Resources Commission regarding the inclusion of federally qualified health centers and other primary care practices in the Maryland Patient Centered Medical Home Program established by Section 1 of this Act.

(b) The Maryland Community Health Resources Commission, in consultation with the Maryland Health Care Commission, may assist federally qualified health centers and other primary care practices to become patient centered medical homes as defined in § 19–1A–01 of the Health – General Article, as enacted by Section 1 of this Act, and identify ways that Maryland Community Health Resources Commission resources can leverage additional assets to support the participation of federally qualified health centers and other primary care practices in a patient centered medical home program.

SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010. It shall remain effective for a period of 5 years and 6 months and, at the end of December 31, 2015, 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 13, 2010.

Chapter 7

(Senate Bill 11)

AN ACT concerning

Business Regulation – Returnable Containers – Plastic Secondary Packaging

FOR the purpose of prohibiting certain persons from ~~accepting possession of~~ purchasing more than a certain number of items of plastic secondary packaging for a certain purpose; requiring certain persons that purchase certain plastic

secondary packaging to make a certain record of each transaction in which a person sells a certain number of items of plastic secondary packaging; requiring certain purchasers to verify the identity of certain sellers in a certain manner; requiring certain purchasers to keep certain records of certain transactions; requiring certain records to be kept for a certain period of time; providing that a person that violates this Act is guilty of a misdemeanor and subject to a certain fine; defining a certain term; and generally relating to the ~~possession and~~ purchase of plastic secondary packaging.

BY adding to
Article – Business Regulation
Section 19–308
Annotated Code of Maryland
(2004 Replacement Volume and 2009 Supplement)

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

Article – Business Regulation

19–308.

(A) (1) IN THIS SECTION, "PLASTIC SECONDARY PACKAGING" MEANS A PLASTIC CRATE OR SHELL USED FOR THE BULK TRANSPORTATION, STORAGE, OR CARRYING OF RETAIL ITEMS.

(2) "PLASTIC SECONDARY PACKAGING" INCLUDES MILK CRATES, BAKERY AND SOFT DRINK TRAYS, AND OTHER COMMERCIAL PLASTIC SECONDARY PACKAGING.

(B) OTHER THAN A MANUFACTURER OF PLASTIC SECONDARY PACKAGING, A PERSON MAY NOT ~~ACCEPT POSSESSION OF~~ PURCHASE FOUR OR MORE ITEMS OF PLASTIC SECONDARY PACKAGING FOR THE PURPOSE OF RECYCLING, SHREDDING, OR DESTROYING THE ITEMS.

(C) (1) EACH PERSON THAT PURCHASES AN ITEM OF PLASTIC SECONDARY PACKAGING, INCLUDING A PERSON THAT IS IN THE BUSINESS OF RECYCLING, SHREDDING, OR DESTROYING PLASTIC SECONDARY PACKAGING, SHALL MAKE A WRITTEN RECORD OF EACH TRANSACTION IN WHICH A PERSON SELLS FOUR OR MORE ITEMS OF PLASTIC SECONDARY PACKAGING, THAT SHOWS THAT THE PERSON SELLING THE PLASTIC SECONDARY PACKAGING HAS LAWFUL POSSESSION OR OWNERSHIP OF THE PLASTIC SECONDARY PACKAGING.

(2) FOR EACH TRANSACTION SUBJECT TO PARAGRAPH (1) OF THIS SUBSECTION, THE PURCHASER SHALL:

(I) VERIFY THE SELLER'S IDENTITY BY A DRIVER'S LICENSE OR OTHER GOVERNMENT–ISSUED IDENTIFICATION; AND

(II) MAKE A RECORD OF EACH TRANSACTION THAT INCLUDES:

1. THE NAME, ADDRESS, TELEPHONE NUMBER, AND SIGNATURE OF THE SELLER OR THE SELLER'S AUTHORIZED REPRESENTATIVE;

2. THE NAME AND ADDRESS OF THE ~~BUYER~~ PURCHASER;

3. THE REGISTRATION NUMBER AND LICENSE TAG NUMBER OF ANY VEHICLE USED IN THE DELIVERY OF THE PLASTIC SECONDARY PACKAGING;

4. A DESCRIPTION OF THE ITEMS SOLD, INCLUDING THE NUMBER OF UNITS; AND

5. THE DATE OF THE TRANSACTION.

(D) THE PURCHASER SHALL KEEP THE RECORDS REQUIRED BY THIS SECTION FOR AT LEAST 1 YEAR AFTER THE DATE OF PURCHASE.

(E) A PERSON THAT VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE OF $100.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 8

(House Bill 1267)

AN ACT concerning

Business Regulation – Returnable Containers – Plastic Secondary Packaging

FOR the purpose of prohibiting certain persons from purchasing more than a certain number of items of plastic secondary packaging for a certain purpose; requiring

certain persons that purchase certain plastic secondary packaging to make a certain record of each transaction in which a person sells a certain number of items of plastic secondary packaging; requiring certain purchasers to verify the identity of certain sellers in a certain manner; requiring certain purchasers to keep certain records of certain transactions; requiring certain records to be kept for a certain period of time; providing that a person that violates this Act is guilty of a misdemeanor and subject to a certain fine; defining a certain term; and generally relating to the purchase of plastic secondary packaging.

BY adding to
Article – Business Regulation
Section 19–308
Annotated Code of Maryland
(2004 Replacement Volume and 2009 Supplement)

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

Article – Business Regulation

19–308.

(A) (1) IN THIS SECTION, "PLASTIC SECONDARY PACKAGING" MEANS A PLASTIC CRATE OR SHELL USED FOR THE BULK TRANSPORTATION, STORAGE, OR CARRYING OF RETAIL ITEMS.

(2) "PLASTIC SECONDARY PACKAGING" INCLUDES MILK CRATES, BAKERY AND SOFT DRINK TRAYS, AND OTHER COMMERCIAL PLASTIC SECONDARY PACKAGING.

(B) OTHER THAN A MANUFACTURER OF PLASTIC SECONDARY PACKAGING, A PERSON MAY NOT PURCHASE FOUR OR MORE ITEMS OF PLASTIC SECONDARY PACKAGING FOR THE PURPOSE OF RECYCLING, SHREDDING, OR DESTROYING THE ITEMS.

(C) (1) EACH PERSON THAT PURCHASES AN ITEM OF PLASTIC SECONDARY PACKAGING, INCLUDING A PERSON THAT IS IN THE BUSINESS OF RECYCLING, SHREDDING, OR DESTROYING PLASTIC SECONDARY PACKAGING, SHALL MAKE A WRITTEN RECORD OF EACH TRANSACTION IN WHICH A PERSON SELLS FOUR OR MORE ITEMS OF PLASTIC SECONDARY PACKAGING, THAT SHOWS THAT THE PERSON SELLING THE PLASTIC SECONDARY PACKAGING HAS LAWFUL POSSESSION OR OWNERSHIP OF THE PLASTIC SECONDARY PACKAGING.

(2) FOR EACH TRANSACTION SUBJECT TO PARAGRAPH (1) OF THIS SUBSECTION, THE PURCHASER SHALL:

(I) VERIFY THE SELLER'S IDENTITY BY A DRIVER'S LICENSE OR OTHER GOVERNMENT–ISSUED IDENTIFICATION; AND

(II) MAKE A RECORD OF EACH TRANSACTION THAT INCLUDES:

1. THE NAME, ADDRESS, TELEPHONE NUMBER, AND SIGNATURE OF THE SELLER OR THE SELLER'S AUTHORIZED REPRESENTATIVE;

2. THE NAME AND ADDRESS OF THE PURCHASER;

3. THE REGISTRATION NUMBER AND LICENSE TAG NUMBER OF ANY VEHICLE USED IN THE DELIVERY OF THE PLASTIC SECONDARY PACKAGING;

4. A DESCRIPTION OF THE ITEMS SOLD, INCLUDING THE NUMBER OF UNITS; AND

5. THE DATE OF THE TRANSACTION.

(D) THE PURCHASER SHALL KEEP THE RECORDS REQUIRED BY THIS SECTION FOR AT LEAST 1 YEAR AFTER THE DATE OF PURCHASE.

(E) A PERSON THAT VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE OF $100.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 9

(Senate Bill 26)

AN ACT concerning

Maryland Constitutional Convention – Sense of the Voters

FOR the purpose of providing, at the general election to be held in November 2010, for the taking of the sense of the voters of the State as to the calling of a convention

for altering the Maryland Constitution or for framing a new one under Article XIV, Section 2 of the Maryland Constitution.

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That:

(1) At the general election to be held on the first Tuesday after the first Monday in November in the year 2010, there shall be submitted to the legal and qualified voters of the State, for their decision, the question whether there shall be called a convention for the purpose of altering the Maryland Constitution or of framing a new Constitution, this question being submitted under the provisions of Section 2 of Article XIV of the Maryland Constitution.

(2) There shall be placed upon the ballots to be used at that general election in the manner prescribed by the General Election Laws of this State the words "For a Constitutional Convention" and "Against a Constitutional Convention," so that each voter may clearly indicate in the manner prescribed in the General Election Laws whether the voter is for or against calling a convention for altering the present Maryland Constitution or framing a new one.

(3) The vote on the question of calling or not calling a constitutional convention shall be received, counted, and canvassed in the manner prescribed by the General Election Laws. The canvassing boards for each of the counties and the City of Baltimore shall certify the vote on the question of calling a constitutional convention to the Governor and the State Board of Elections. The Board of State Canvassers, at the time of its meeting to make a statement of the vote cast for the candidates voted for at that election, also shall make a statement of the vote cast on the question of calling a constitutional convention. The Board of State Canvassers shall transmit the statement to the Governor who, after receiving the statement, shall make a proclamation of the result of the vote on the question of calling a constitutional convention.

SECTION 2. AND BE IT FURTHER ENACTED, T hat notice of the question of calling a constitutional convention that is to be submitted to the legal and qualified voters of the State shall be given in the same manner and for the same time as is required by § 8–102 (Notice of Elections) of the Election Law Article of the Annotated Code of Maryland.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 10

(Senate Bill 31)

AN ACT concerning

Maryland Communities for a Lifetime Commission

FOR the purpose of reestablishing the Statewide Empowerment Zones for Seniors Commission as the Maryland Communities for a Lifetime Commission to continue the work of the Statewide Empowerment Zones for Seniors Commission; providing for the membership of the Commission; authorizing the Commission to consult with certain individuals and entities; requiring the Secretary of Aging to perform certain duties; requiring the Commission to assist in the implementation of certain recommendations; requiring the Department of Aging to staff the Commission; providing that a member of the Commission may receive reimbursement for certain expenses; *requiring the Commission to be funded with federal funds;* prohibiting the use of certain funds to pay any costs of the Commission; stating the intent of the General Assembly; making this Act an emergency measure; providing for the termination of this Act; and generally relating to the Maryland Communities for a Lifetime Commission.

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That:

(a) There is a Maryland Communities for a Lifetime Commission.

(b) The Commission consists of the following members:

(1) one member of the Senate of Maryland, appointed by the President of the Senate;

(2) one member of the House of Delegates, appointed by the Speaker of the House;

(3) the Secretary of Aging, or the Secretary's designee;

(4) the Secretary of Health and Mental Hygiene, or the Secretary's designee;

(5) the Secretary of Housing and Community Development, or the Secretary's designee;

(6) the Secretary of Transportation, or the Secretary's designee;

(7) the Secretary of Planning, or the Secretary's designee;

(8) one representative from local government;

(9) one representative from the Maryland Association of Area Agencies on Aging;

(10) two representatives from providers of senior services;

(11) two representatives from senior advocacy organizations;

(12) one representative from a neighborhood or community organization;

(13) one representative from a trade association whose members provide services to seniors;

(14) one consumer member at least 60 years old; and

(15) one representative from an academic institution who has expertise in aging studies or a related field.

(c) In performing its duties, the Commission may consult with individuals and entities that the Secretary of Aging considers appropriate.

(d) The Secretary of Aging shall:

(1) chair the Commission;

(2) appoint the nondesignated membership of the Commission; and

(3) establish subcommittees and appoint subcommittee chairs as necessary to facilitate the work of the Commission.

(e) To the extent practicable, the members appointed to the Commission shall reasonably reflect the geographic, racial, ethnic, cultural, and gender diversity of this State.

(f) The Commission shall assist in the implementation of the recommendations made in the "Report of the Statewide Empowerment Zones for Seniors Commission" submitted on July 1, 2009, in accordance with Chapters 511 and 512 of the Acts of the General Assembly of 2007.

(g) (1) The Department of Aging shall provide staff support to the Commission.

(2) A member of the Commission may not receive compensation as a member of the Commission, but is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(3) *(i)* *Subject to subparagraph (ii) of this paragraph, the Commission shall be funded with federal funds.*

(ii) Funding provided ~~in the State budget or~~ under any federal program to assist naturally occurring retirement communities may not be used to pay any costs of the Commission.

SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that the appointees to the Maryland Communities for a Lifetime Commission be those individuals who formerly were appointed to the Statewide Empowerment Zones for Seniors Commission established under Chapters 511 and 512 of the Acts of the General Assembly of 2007 and who were serving on the Commission as of September 29, 2009.

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. It shall remain effective for a period of 1 year from the date it is enacted and, at the end of the 1–year period, 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 13, 2010.

Chapter 11

(Senate Bill 41)

AN ACT concerning

Dorchester County – Alcoholic Beverages – Clubs – Membership

FOR the purpose of reducing in Dorchester County the membership requirements for certain fraternal organizations and armed forces organizations or clubs to obtain a Class C beer, wine and liquor license; and generally relating to alcoholic beverages licenses in Dorchester County.

BY repealing and reenacting, without amendments,
Article 2B – Alcoholic Beverages
Section 6–301(a)(1) and (k)(1)
Annotated Code of Maryland
(2005 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,

Article 2B – Alcoholic Beverages
Section 6–301(k)(4) and (5)
Annotated Code of Maryland
(2005 Replacement Volume and 2009 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.

(a) (1) Except as provided in subsection (n) of this section, a Class C beer, wine and liquor license shall be issued by the license issuing authority of the county in which the place of business is located. It authorizes the holder to keep for sale and sell all alcoholic beverages at retail at any club, at the place described in the license, for consumption on the premises only.

(k) (1) This subsection applies only in Dorchester County.

(4) A license may be obtained by any local unit of a nationwide bona fide nonprofit organization or club composed solely of members who served in the armed forces of the United States in any war in which the United States has engaged and:

(i) Has held a charter from a national veterans' organization for a period of not less than 5 years prior to the time of making application for the license;

(ii) Has a bona fide membership of not less than **[**125**]** **50** persons and dues of not less than $5 per year per person;

(iii) Operates solely for the use of its own members and their guests when accompanied by such members; and

(iv) Meets in a clubhouse principally used for no other purpose.

(5) A license may be obtained by any lodge or chapter of any bona fide nonprofit and nationwide fraternal organization composed of members duly elected and initiated in accordance with the rites and customs of the fraternal organization which:

(i) Has been in existence and operating in Dorchester County for a period of not less than 5 years prior to the time of making application for the license;

(ii) Has a bona fide membership of not less than **[**250**]** **125** persons and dues of not less than $5 per annum per member;

(iii) Owns or operates a home or clubhouse principally for the use of its members and their guests when accompanied by such members; and

(iv) Is not directly or indirectly owned or operated as a public business.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 12

(Senate Bill 42)

AN ACT concerning

Caroline County – Orphans' Court Judges – Pensions

FOR the purpose of removing Caroline County from the list of counties that are excepted from the requirement to pay a certain pension to each judge of the Orphans' Court under certain circumstances.

BY repealing and reenacting, with amendments,
Article – Estates and Trusts
Section 2–108(y)
Annotated Code of Maryland
(2001 Replacement Volume and 2009 Supplement)

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

Article – Estates and Trusts

2–108.

(y) (1) Except in Montgomery, Frederick, Carroll, Talbot, **[**Caroline,**]** Cecil, Kent, Queen Anne's, Baltimore, Garrett, and Harford counties and Baltimore City, and except as provided in paragraphs (3) and (4) of this subsection, a county shall pay a pension, in the same manner as salaries are paid during active service, to each judge of the Orphans' Court who:

(i) Has terminated active service;

(ii) Has reached 60 years of age; and

(iii) Has completed at least two terms of office.

(2) Except as provided in paragraph (5) of this subsection, the salary or pension shall be the greater of:

(i) $1,200 annually; or

(ii) An annual amount calculated at the rate of 4 percent of the last annual amount of compensation multiplied by the number of years or partial years of service, not exceeding 12 years.

(3) An Orphans' Court judge in Somerset County and Worcester County is eligible for a pension under this subsection only if he is in office on or before July 1, 1979.

(4) In Wicomico County, an Orphans' Court judge who has completed at least 12 years in office is eligible for a pension under this subsection.

(5) In Prince George's County, the salary or pension to each Orphans' Court judge shall be the greater of:

(i) $1,200 annually; or

(ii) An annual amount calculated at the rate of 4 percent of the last annual amount of compensation multiplied by the number of years or partial years of service, not exceeding 20 years.

(6) The pension or salary may be suspended during any month the judge is a full–time employee of any county or of this State.

(7) Notwithstanding any provision of this section an Orphans' Court judge may not receive a pension under this section if he is receiving any other State pension based on service as an Orphans' Court judge.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 13

(Senate Bill 43)

AN ACT concerning

Public Safety – Board of Boiler Rules – Membership

FOR the purpose of altering the membership of the Board of Boiler Rules in the Division of Labor and Industry in the Department of Labor, Licensing, and Regulation to include a representative of owners of agricultural, model, or historical steam engine equipment rather than a representative of owners and users of heating boilers.

BY repealing and reenacting, without amendments,
Article – Public Safety
Section 12–904(a)
Annotated Code of Maryland
(2003 Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – Public Safety
Section 12–904(b)
Annotated Code of Maryland
(2003 Volume and 2009 Supplement)

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

Article – Public Safety

12–904.

(a) There is a Board of Boiler Rules in the Division of Labor and Industry in the Department of Labor, Licensing, and Regulation.

(b) (1) The Board consists of the following 10 members:

(i) as an ex officio member, the Commissioner; and

(ii) nine members appointed by the Governor with the advice of the Secretary and with the advice and consent of the Senate.

(2) Of the nine appointed members of the Board:

(i) one shall be a representative of owners and users of power boilers;

(ii) one shall be a representative of owners **[**and users of heating boilers**]** **OF AGRICULTURAL, MODEL, OR HISTORICAL STEAM ENGINE EQUIPMENT**;

(iii) one shall be a representative of owners and users of pressure vessels;

(iv) one shall be a representative of manufacturers or assemblers of boilers or pressure vessels;

(v) one shall be a representative of an insurer authorized to insure boilers or pressure vessels;

(vi) one shall be a mechanical engineer on the faculty of a recognized engineering college in the State;

(vii) one shall be a stationary engineer;

(viii) one shall be a professional engineer with boiler or pressure vessel experience; and

(ix) one shall be a consumer member.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 14

(Senate Bill 54)

AN ACT concerning

Business and Economic Development – Maryland Economic Adjustment Fund

FOR the purpose of altering the approving authority of loans and grants from the Maryland Economic Adjustment Fund; repealing the Maryland Economic Adjustment Financing Committee; altering certain uses of the Fund; altering the priority of uses of the Fund; altering certain requirements of the application for assistance from the Fund; repealing a certain minimum interest rate; and generally relating to the Maryland Economic Adjustment Fund.

BY repealing and reenacting, with amendments,
Article – Economic Development
Section 5–201, 5–202, 5–203(e), 5–205(b), and 5–206
Annotated Code of Maryland

(2008 Volume and 2009 Supplement)

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

Article – Economic Development

5–201.

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

[(b) "Committee" means the Maryland Economic Adjustment Financing Committee.

(c) "Defense contractor" means a company that, in the 5 years preceding the loan application under this subtitle, derived a substantial amount of its revenue from defense contracts.**]**

[(d)**] (B)** "Fund" means the Maryland Economic Adjustment Fund.

[(e)**] (C)** (1) "Working capital" means money for current operations of a business.

(2) "Working capital" includes money for supplies, materials, labor, equipment, rent, software, marketing, insurance, and fees for professional services.

5–202.

[(a) There is a Maryland Economic Adjustment Financing Committee.

(b) (1) The Committee consists of at least seven members appointed by the Secretary.

(2) The Secretary shall:

(i) ensure that the membership of the Committee reflects the geographic, racial, ethnic, and gender makeup of the State; and

(ii) consider appointing to the Committee at least one current or former defense worker or other representative of labor.

(c) (1) The term of a member is 2 years.

(2) The Secretary shall stagger the terms of members.

(3) At the end of a term, a member continues to serve until a successor is appointed.

(4) A member who is appointed after a term has begun serves only for the remainder of the term and until a successor is appointed.

(5) A member may be removed by the Secretary with or without cause.

(d) The Committee may elect a chair and vice chair from among its members.

(e) (1) The Committee shall set the times and places of its meetings.

(2) A member of the Committee is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(f) The Committee shall exercise its powers and perform its duties subject to the authority of the Secretary.

(g) The Committee may:

(1) adopt bylaws for the conduct of its business;

(2) retain consultants; and

(3) do anything necessary or convenient to carry out the powers of the Committee and the purposes of this subtitle.

(h) Even though a determination by the Committee about financial assistance is subject to the Maryland Public Ethics Law, the existence of a conflict of interest or a violation of the Maryland Public Ethics Law does not affect:

(1) the validity of a finding or determination made under this subtitle; or

(2) the enforceability of an agreement made under this subtitle.**]**

(A) FINANCIAL ASSISTANCE FROM THE FUND MAY BE APPROVED BY THE SECRETARY OR THE SECRETARY'S DESIGNEE.

[(i)**] (B)** The exercise by the **[**Committee**] DEPARTMENT** of the powers granted under this subtitle is the performance of an essential governmental function.

5–203.

(e) (1) The Fund shall be used to:

(i) make loans to new or existing companies **[**in communities that suffer dislocation due to defense adjustments, enabling the companies to:

1. modernize manufacturing operations;

2. develop commercial applications for technology; or

3. compete in new economic markets**]** **WITH 50 OR FEWER EMPLOYEES**;

(ii) make grants to local or regional governmental or not–for–profit economic development revolving loan funds in the State; and

(iii) pay all expenses and disbursements authorized by the Department for administering the Fund.

(2) A loan to an eligible company under this subtitle may include:

(i) advances of loan proceeds for loans; and

(ii) to the extent allowed by the regulations of the federal Economic Development Administration of the United States Department of Commerce, money for expenses for administrative, legal, actuarial, technical, and other services.

(3) **[**In making loans under this subtitle, the Department shall give priority to:

(i) defense contractors; and

(ii) companies started by former defense workers who lost employment with defense contractors.

(4)**]** Subject to the restrictions of this subtitle, the Department may make a loan from the Fund to an applicant only if:

(i) the applicant meets the qualifications under this subtitle; and

(ii) the applicant meets any additional requirements imposed by the source of the money to be loaned.

5–205.

(b) The application shall include:

(1) a detailed strategic business plan **[**for achieving a goal of commercialization of technology or modernization of manufacturing for long–term growth**]**;

(2) the amount of money required for the activities described in the strategic business plan;

(3) the money available to the applicant without financial assistance from the Department;

(4) the amount of financial assistance requested from the Department;

(5) **[**each location in the State of a financed activity;

(6) the economic impact that is expected on each location because of the activities;

(7) evidence that the applicant was unable to obtain the financing necessary for the activities on affordable terms through normal lending channels;

(8)**]** information relating to the financial status of the applicant, including, if applicable:

(i) a current balance sheet;

(ii) a profit and loss statement; and

(iii) credit references; and

[(9)**] (6)** any other relevant information that the Department requests.

5–206.

(a) Except as otherwise provided in this subtitle, the Department may set the terms and conditions for loans and grants made under this subtitle.

(b) The **[**Committee**] DEPARTMENT** shall:

(1) determine whether to approve loan requests from qualified applicants for loans under this subtitle; **[**and**]**

(2) set the terms and conditions for loans made under this subtitle**; AND**

(3) DETERMINE THAT THE APPLICANT WAS UNABLE TO OBTAIN THE FINANCING NECESSARY FOR THE ACTIVITIES ON AFFORDABLE TERMS THROUGH THE NORMAL LENDING CHANNELS.

(c) The maximum amount of a loan made with money from the Economic Development Administration of the United States Department of Commerce may not exceed the limit it sets by regulation.

(d) **[**The minimum interest rate for a loan under this subtitle is an annual fixed rate of 4%.

(e)**]** The proceeds of a loan may be used for working capital, equipment, furnishings, fixtures, or the construction, rehabilitation, or purchase of real property for the activities that the **[**Committee**] DEPARTMENT** approves.

[(f)**] (E)** The **[**Committee**] DEPARTMENT** may authorize a flexible repayment schedule for a loan under this subtitle.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010.

Approved by the Governor, April 14, 2010.

Chapter 15

(Senate Bill 55)

AN ACT concerning

Business and Economic Development – Maryland Military Installation Council – Sunset Repeal, Membership, and Terms

FOR the purpose of repealing the termination provision applicable to the Maryland Military Installation Council; removing certain limits on the terms of certain Council members; adding certain members to the Council; <u>altering the membership of the Council;</u> providing for the terms of certain appointed members; removing the requirement for the issuance of a final report by the Council; repealing certain contingent provisions; and generally relating to the Maryland Military Installation Council.

BY repealing and reenacting, with amendments,
Article – Economic Development
Section 11–203(a) and (b) and 11–207
Annotated Code of Maryland

(2008 Volume and 2009 Supplement)

BY repealing
Article – Economic Development
Section 11–203(c)
Annotated Code of Maryland
(2008 Volume and 2009 Supplement)

BY adding to
Article – Economic Development
Section 11–203(c)
Annotated Code of Maryland
(2008 Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Chapter 634 of the Acts of the General Assembly of 2006
Section 3

BY repealing
Chapter 306 of the Acts of the General Assembly of 2008
Section 20 and 24

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

Article – Economic Development

11–203.

(a) The Council consists of the following members:

(1) three members selected by the President of the Senate of Maryland to represent community interests, of which:

(i) one shall be a member of the Senate; and

(ii) two shall be citizens representing communities adjacent to military installations;

(2) three members selected by the Speaker of the House of Delegates to represent community interests, of which:

(i) one shall be a member of the House of Delegates; and

(ii) two shall be citizens representing communities adjacent to military installations;

(3) the Secretary, or the designee of the Secretary;

(4) the Secretary of Transportation, or the designee of the Secretary of Transportation;

(5) the Secretary of the Environment, or the designee of the Secretary of the Environment;

(6) the Secretary of Planning, or the designee of the Secretary of Planning;

(7) THE SECRETARY OF VETERANS AFFAIRS, OR THE DESIGNEE OF THE SECRETARY OF VETERANS AFFAIRS;

(8) THE ADJUTANT GENERAL OF THE MARYLAND NATIONAL GUARD, OR THE DESIGNEE OF THE ADJUTANT GENERAL;

[(7)**] (9)** the President of the Southern Maryland Navy Alliance;

[(8)**] (10)** the President of the Army Alliance;

[(9)**] (11)** the President of the ~~Naval Energetics Alliance~~ **INDIAN HEAD DEFENSE ALLIANCE**;

[(10)**] (12)** the President of the Maritime Alliance;

[(11)**] (13)** the President of the Fort Detrick Alliance;

[(12)**] (14)** the President of the Fort Meade Alliance;

[(13)**] (15)** the President of the Andrews Business and Community Alliance; and

[(14)**] (16)** five members selected by the Governor.

(b) (1) The President of the Senate and the Speaker of the House of Delegates shall each appoint three **[**new**]** members representing community interests to serve as members of the Council **[**from July 1, 2009, to December 31, 2011**]**.

(2) The chair may appoint:

(i) additional members who are presidents of other military base advocacy groups that are not–for–profit organizations and recognized by the Department; and

(ii) ex officio members as necessary to address specific issues, including a representative of the Maryland National Guard.

[(c) Except as provided in subsection (b)(1) of this section, the term of a member of the Council appointed by the President of the Senate or the Speaker of the House of Delegates expires on June 30, 2009.**]**

(C) (1) THE TERM OF AN APPOINTED MEMBER IS 4 YEARS.

(2) THE TERMS OF THE APPOINTED MEMBERS ARE STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR APPOINTED MEMBERS OF THE COUNCIL ON JULY 1, 2010.

11–207.

[(a)**]** On or before December 31 of each year, the Council shall report its findings and recommendations to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly.

[(b) On or before December 1, 2011, the Council shall issue a final report to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly.**]**

Chapter 634 of the Acts of 2006

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2006. **[**Section 1 of this Act shall remain effective for a period of 5 years and 7 months and, at the end of December 31, 2011, with no further action required by the General Assembly, Section 1 of this Act shall be abrogated and of no further force and effect.**]**

SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 20 and 24 of Chapter 306 of the Acts of the General Assembly of 2008 be repealed.

SECTION 3. AND BE IT FURTHER ENACTED, That the terms of the members appointed by the President of the Senate and the Speaker of the House of Delegates under § 11–203(b) of the Economic Development Article, as enacted by this Act, shall expire as follows:

(1) two members in 2011;

(2) three members in 2012;

(3) three members in 2013; and

(4) three members in 2014.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 16

(Senate Bill 56)

AN ACT concerning

Health Insurance – Medicare Supplement Policies – Repeal of Requirement to Offer Plan I

FOR the purpose of repealing a certain requirement that certain carriers make available a Medicare supplement policy plan I to certain individuals if an application for a Medicare supplement policy or certificate is submitted during certain time periods; making conforming changes; and generally relating to health insurance and Medicare supplement policies.

BY repealing and reenacting, with amendments,
Article – Insurance
Section 15–909(b)
Annotated Code of Maryland
(2006 Replacement Volume and 2009 Supplement)

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

Article – Insurance

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 Medicare supplement policy plans A**[**, C, and I**]** **AND C** 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 A**[**, C, or I**]** **OR C** 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 A**[**, C, or I**]** **OR C** 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 A**[**, C, or I**]** **OR C** 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 plans A**[**, C, and I**]** **AND C** 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 this Act shall take effect June 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 17

(Senate Bill 57)

AN ACT concerning

Health Insurance – *Conformity with Federal Law* – Mental Health Benefits – ~~Group Health Plans~~ ~~and~~, Medical and Surgical Benefits for Mastectomies – ~~Parity with Federal Law~~, *and the Federal Patient Protection and Affordable Care Act*

FOR the purpose of providing that it is not discriminatory, under certain provisions of law that prohibit certain health insurance policies, contracts, or certificates from discriminating against a person with a mental illness, emotional disorder, drug abuse disorder, or alcohol abuse disorder, if the benefits for partial hospitalization and outpatient expenses under certain group ~~health plans~~ contracts covering employees of one or more large employers are covered in a certain manner; providing that, under certain group ~~health plans~~ contracts covering employees of one or more large employers, certain benefits for mental illnesses, emotional disorders, drug abuse disorders, or alcohol abuse disorders may be delivered under a managed care system only if the benefits for physical illnesses are delivered under a managed care system; requiring certain factors used to manage certain benefits for mental illnesses, emotional disorders, drug abuse disorders, or alcohol abuse disorders under certain group contracts to be comparable as written and in operation to, and applied no more stringently than, the factors used to manage the benefits for certain physical illnesses; requiring certain contracts to provide coverage for certain physical complications of all stages of mastectomy in a certain manner; *providing that certain provisions of law enacted after a certain date do not apply to certain group health plans and certain health insurance coverage under certain circumstances; providing for a certain exception; providing that certain provisions of federal law apply to certain insurers, nonprofit health service plans, and health maintenance organizations; authorizing the Maryland Insurance Commissioner to enforce certain provisions of law; making certain provisions of this Act applicable to health maintenance organizations;* defining certain terms;

altering a certain definition; making conforming and technical changes; making this Act an emergency measure; *providing for the termination of certain provisions of this Act;* and generally relating to health insurance ~~and mental health benefits~~.

BY repealing and reenacting, with amendments,
Article – Health – General
Section 19–703.1
Annotated Code of Maryland
(2009 Replacement Volume)

BY adding to
Article – Health – General
Section 19–706(cccc) and (dddd)
Annotated Code of Maryland
(2009 Replacement Volume)

BY adding to
Article – Insurance
Section 15–134 and 15–135
Annotated Code of Maryland
(2006 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – Insurance
Section 15–802 and 15–815
Annotated Code of Maryland
(2006 Replacement Volume and 2009 Supplement)

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

Article – Health – General

19–703.1.

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

(2) "Alcohol abuse" has the meaning stated in § 8–101 of this article.

(3) "Drug abuse" has the meaning stated in § 8–101 of this article.

~~**(4) "GROUP HEALTH PLAN" MEANS AN EMPLOYER-SPONSORED HEALTH BENEFIT PLAN SUBJECT TO THE PROVISIONS OF 29 U.S.C. § 1185A OR 26 U.S.C. § 9812.**~~

~~(5)~~ (4) **"HEALTH BENEFIT PLAN" HAS THE MEANING STATED IN § 15–1401 OF THE INSURANCE ARTICLE.**

(5) "LARGE EMPLOYER" MEANS AN EMPLOYER THAT HAS MORE THAN 50 EMPLOYEES AND IS NOT A SMALL EMPLOYER.

[(4)**] (6)** "Managed care system" means a method that a carrier uses to review and preauthorize a treatment plan that a health care practitioner develops for a covered person using a variety of cost containment methods to control utilization, quality, and claims.

[(5)**] (7)** "Partial hospitalization" means the provision of medically directed intensive or intermediate short–term treatment for mental illness, emotional disorders, drug abuse or alcohol abuse for a period of less than 24 hours but more than 4 hours in a day for a member or subscriber in a licensed or certified facility or program.

(8) "SMALL EMPLOYER" HAS THE MEANING STATED IN § 15–1201 OF THE INSURANCE ARTICLE.

(b) (1) Subject to the provisions of this section, each contract or certificate issued to a member or subscriber by a health maintenance organization that provides health benefits and services for diseases may not discriminate against any person with a mental illness, emotional disorder or a drug abuse or alcohol abuse disorder by failing to provide benefits for treatment and diagnosis of these illnesses under the same terms and conditions as provided for covered benefits offered under the contract or certificate for the treatment of physical illness.

(2) It shall not be considered to be discriminatory under paragraph (1) of this subsection if at least the following benefits are provided:

(i) With respect to inpatient benefits provided in a licensed or certified facility, which shall include hospital inpatient benefits, the total number of days for which benefits are payable shall be**[**:

1. Except as provided in subsection (d) of this section, from July 1, 1994 through June 30, 1995, at least 60 days in any calendar year or benefit period of not more than 12 months under the same terms and conditions that apply to benefits available under the contract or certificate for physical illness; and

2. On or after July 1, 1995,**]** at least equal to the same terms and conditions that apply to the benefits available under the contract or certificate for physical illness;

(ii) **[**Subject**] EXCEPT AS PROVIDED IN ITEM (III) OF THIS PARAGRAPH AND SUBJECT** to subsection **[**(f)**] (E)** of this section, with respect to

benefits for partial hospitalization, at least 60 days of partial hospitalization shall be covered under the same terms and conditions that apply to the benefit available under the contract or certificate for physical illness; **[**and**]**

~~**(III) FOR GROUP HEALTH PLANS, WITH RESPECT TO BENEFITS FOR PARTIAL HOSPITALIZATION, THE BENEFITS SHALL BE COVERED UNDER THE SAME TERMS AND CONDITIONS THAT APPLY TO THE BENEFITS AVAILABLE UNDER THE CONTRACT FOR OUTPATIENT HOSPITAL ADMISSIONS FOR PHYSICAL ILLNESS FOR AT LEAST 60 DAYS;**~~

(III) FOR GROUP CONTRACTS COVERING EMPLOYEES OF ONE OR MORE LARGE EMPLOYERS, WITH RESPECT TO BENEFITS FOR PARTIAL HOSPITALIZATION FOR THE TREATMENT OF MENTAL ILLNESS, EMOTIONAL DISORDERS, DRUG ABUSE, AND ALCOHOL ABUSE, THE GREATER OF:

1. THE SAME BENEFITS PAYABLE UNDER THE CONTRACT FOR PARTIAL HOSPITALIZATION FOR PHYSICAL ILLNESS; OR

2. AT LEAST 60 DAYS OF PARTIAL HOSPITALIZATION COVERED UNDER THE SAME TERMS AND CONDITIONS THAT APPLY TO OUTPATIENT TREATMENT OF PHYSICAL ILLNESSES;

[(iii)**] (IV) [**With**] EXCEPT AS PROVIDED IN ITEM (V) OF THIS PARAGRAPH, WITH** respect to outpatient coverage, other than for inpatient or partial hospitalization services, benefits for covered expenses arising from services, including psychological and neuropsychological testing for diagnostic purposes, **[**which**] THAT** are rendered to treat mental illness, emotional disorders, drug abuse, and alcohol abuse shall be at a rate **[**which**] THAT** is, after the applicable deductible, not less than:

1. 80 percent for the first 5 visits in any calendar year or benefit period of not more than 12 months;

2. 65 percent for the 6th through 30th visit in any calendar year or benefit period of not more than 12 months; and

3. 50 percent for the 31st visit and any visit after the 31st visit in any calendar year or benefit period of not more than 12 months**; AND**

(V) FOR GROUP ~~**HEALTH PLANS**~~ **CONTRACTS COVERING EMPLOYEES OF ONE OR MORE LARGE EMPLOYERS, BENEFITS FOR COVERED OUTPATIENT EXPENSES ARISING FROM SERVICES, INCLUDING ALL OFFICE VISITS AND PSYCHOLOGICAL AND NEUROPSYCHOLOGICAL TESTING FOR DIAGNOSTIC PURPOSES, THAT ARE RENDERED TO TREAT MENTAL ILLNESS, EMOTIONAL DISORDERS, DRUG ABUSE, AND ALCOHOL ABUSE SHALL BE**

COVERED UNDER THE SAME TERMS AND CONDITIONS THAT APPLY TO SIMILAR BENEFITS AVAILABLE UNDER THE CONTRACT FOR PHYSICAL ILLNESS.

(c) (1) The benefits under this section shall be required only for expenses arising for treatment of mental illnesses, emotional disorders, drug abuse, and alcohol abuse **[**which**]** **THAT** in the professional judgment of practitioners is medically necessary and treatable.

(2) The benefits required under this section shall be provided as one set of benefits covering mental illnesses, emotional disorders, drug abuse, and alcohol abuse.

(3) **[**The**]** **SUBJECT TO PARAGRAPH (4) OF THIS SUBSECTION, THE** benefits required under this section may be delivered under a managed care system.

(4) FOR GROUP ~~HEALTH PLANS~~ CONTRACTS COVERING EMPLOYEES OF ONE OR MORE LARGE EMPLOYERS, THE BENEFITS REQUIRED UNDER THIS SECTION MAY BE DELIVERED UNDER A MANAGED CARE SYSTEM ONLY IF THE BENEFITS FOR PHYSICAL ILLNESSES COVERED UNDER THE CONTRACT ARE DELIVERED UNDER A MANAGED CARE SYSTEM.

(5) FOR GROUP CONTRACTS COVERING EMPLOYEES OF ONE OR MORE LARGE EMPLOYERS, THE PROCESSES, STRATEGIES, EVIDENTIARY STANDARDS, OR OTHER FACTORS USED TO MANAGE THE BENEFITS REQUIRED UNDER THIS SECTION MUST BE COMPARABLE AS WRITTEN AND IN OPERATION TO, AND APPLIED NO MORE STRINGENTLY THAN, THE PROCESSES, STRATEGIES, EVIDENTIARY STANDARDS, OR OTHER FACTORS USED TO MANAGE THE BENEFITS FOR PHYSICAL ILLNESSES COVERED UNDER THE CONTRACT.

[(4)**]** **~~(5)~~** **(6)** Except as specifically provided in this section, benefits for illnesses covered by this section and the benefits for physical illnesses covered under a contract or certificate shall have the same terms and conditions.

[(5)**]** **~~(6)~~** **(7)** Except for the coinsurance provisions in subsection **[**(b)(2)(iii)**]** **(B)(2)(IV)** of this section, a contract or certificate that is subject to this section may not have:

(i) Separate lifetime maximums for physical illnesses and illnesses covered under this section;

(ii) Separate deductibles and coinsurance amounts for physical illnesses and illnesses covered under this section; or

(iii) Separate out–of–pocket limits in a benefit period of not more than 12 months for physical illnesses and illnesses covered under this section.

[(6)**]** ~~(7)~~ **(8)** (i) Subject to subparagraph (ii) of this paragraph, any copayments required under a contract or certificate for benefits for illnesses covered under this section shall be:

1. Actuarially equivalent to any coinsurance requirements under this section; or

2. Where there are no coinsurance requirements, not greater than a copayment required for a benefit under the contract or a certificate for a physical illness.

(ii) A health maintenance organization may not charge a copayment that is greater than 50% of the daily cost for methadone maintenance treatment.

(d) **[**Notwithstanding the provisions of subsection (b)(2)(i)1 of this section, until July 1, 1995, a contract or certificate that is subject to this section that offers less than 60 days coverage for inpatient care for health care for physical illness must only include coverage for mental illness, emotional disorders, drug abuse, and alcohol abuse that is at least equal to the benefit offered for those other types of health care. On and after July 1, 1995, the provisions of subsection (b)(2)(i)2 of this section shall apply.

(e)**]** An office visit to a physician or other health care provider for the purpose of medication management may not be counted against the number of visits required to be covered as a part of the benefits required under subsection **[**(b)(2)(iii)**]** **(B)(2)(IV)** of this section and shall be reimbursed under the same terms and conditions as an office visit for physical illnesses covered under the contract or certificate.

[(f)**]** **(E)** Nothing in this section shall be construed to prohibit exceeding the minimum benefits required under subsection (b)(2)(ii) **OR (III)** of this section for any partial hospitalization day that is medically necessary and would serve to prevent inpatient hospitalization.

19–706.

(CCCC) THE PROVISIONS OF § 15–134 OF THE INSURANCE ARTICLE APPLY TO HEALTH MAINTENANCE ORGANIZATIONS.

Article – Insurance

15–134.

(A) IN THIS SECTION, "GRANDFATHERED HEALTH PLAN" HAS THE MEANING STATED IN THE FEDERAL PATIENT PROTECTION AND AFFORDABLE

CARE ACT, AS AMENDED BY THE FEDERAL HEALTH CARE AND EDUCATION RECONCILIATION ACT OF 2010.

(B) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, A PROVISION OF THIS TITLE OR TITLE 14 OF THIS ARTICLE ENACTED AFTER JANUARY 1, 2010, MAY NOT APPLY TO A GROUP HEALTH PLAN THAT IS A GRANDFATHERED HEALTH PLAN OR HEALTH INSURANCE COVERAGE THAT IS A GRANDFATHERED HEALTH PLAN IF THE PROVISION WOULD PREVENT THE GROUP HEALTH PLAN OR HEALTH INSURANCE COVERAGE FROM BEING CONSIDERED A GRANDFATHERED HEALTH PLAN.

(C) SUBSECTION (B) OF THIS SECTION DOES NOT APPLY TO ANY PROVISION OF THIS TITLE OR TITLE 14 OF THIS ARTICLE ENACTED AFTER JANUARY 1, 2010, TO ENFORCE A PROVISION OF FEDERAL LAW THAT WAS ENACTED ON OR BEFORE JANUARY 1, 2010.

15–802.

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

(2) "Alcohol abuse" has the meaning stated in § 8–101 of the Health – General Article.

(3) "Drug abuse" has the meaning stated in § 8–101 of the Health – General Article.

~~**(4) "GROUP HEALTH PLAN" MEANS AN EMPLOYER SPONSORED HEALTH BENEFIT PLAN SUBJECT TO THE PROVISIONS OF 29 U.S.C. § 1185A OR 26 U.S.C. § 9812.**~~

~~**(5)**~~ **(4) "HEALTH BENEFIT PLAN" HAS THE MEANING STATED IN § 15–1401 OF THIS TITLE.**

(5) "LARGE EMPLOYER" MEANS AN EMPLOYER THAT HAS MORE THAN 50 EMPLOYEES AND IS NOT A SMALL EMPLOYER.

[(4)**] (6)** "Managed care system" means a system of cost containment methods that a carrier uses to review and preauthorize a treatment plan developed by a health care provider for a covered individual in order to control utilization, quality, and claims.

[(5)**] (7)** "Partial hospitalization" means the provision of medically directed intensive or intermediate short–term treatment:

(i) to an insured, subscriber, or member;

(ii) in a licensed or certified facility or program;

(iii) for mental illness, emotional disorders, drug abuse, or alcohol abuse; and

(iv) for a period of less than 24 hours but more than 4 hours in a day.

(8) "SMALL EMPLOYER" HAS THE MEANING STATED IN § 15–1201 OF THIS TITLE.

(b) This section 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 and that provides coverage on an expense–incurred basis.

(c) A policy or contract subject to this section may not discriminate against an individual with a mental illness, emotional disorder, drug abuse disorder, or alcohol abuse disorder by failing to provide benefits for the diagnosis and treatment of these illnesses under the same terms and conditions that apply under the policy or contract for the diagnosis and treatment of physical illnesses.

(d) It is not discriminatory under subsection (c) of this section if at least the following benefits are provided:

(1) with respect to inpatient benefits for services provided in a licensed or certified facility, including hospital inpatient benefits, the total number of days for which benefits are payable and the terms and conditions that apply to those benefits are at least equal to those that apply to the benefits available under the policy or contract for physical illnesses;

(2) **EXCEPT AS PROVIDED IN ITEM (3) OF THIS SUBSECTION AND** subject to subsection (g) of this section, with respect to benefits for partial hospitalization, at least 60 days of partial hospitalization are covered under the same terms and conditions that apply to the benefits available under the policy or contract for physical illnesses; **[**and**]**

~~**(3) FOR GROUP HEALTH PLANS, WITH RESPECT TO BENEFITS FOR PARTIAL HOSPITALIZATION, THE BENEFITS ARE COVERED UNDER THE SAME TERMS AND CONDITIONS THAT APPLY TO THE BENEFITS AVAILABLE UNDER THE CONTRACT FOR OUTPATIENT HOSPITAL ADMISSIONS FOR PHYSICAL ILLNESS FOR AT LEAST 60 DAYS;**~~

(3) FOR GROUP CONTRACTS COVERING EMPLOYEES OF ONE OR MORE LARGE EMPLOYERS, WITH RESPECT TO BENEFITS FOR PARTIAL

HOSPITALIZATION FOR THE TREATMENT OF MENTAL ILLNESS, EMOTIONAL DISORDERS, DRUG ABUSE, AND ALCOHOL ABUSE, THE GREATER OF:

(I) THE SAME BENEFITS PAYABLE UNDER THE CONTRACT FOR PARTIAL HOSPITALIZATION FOR PHYSICAL ILLNESS; OR

(II) AT LEAST 60 DAYS OF PARTIAL HOSPITALIZATION COVERED UNDER THE SAME TERMS AND CONDITIONS THAT APPLY TO OUTPATIENT TREATMENT OF PHYSICAL ILLNESSES;

[(3)**] (4) EXCEPT AS PROVIDED IN ITEM (5) OF THIS SUBSECTION,** with respect to outpatient coverage, other than for inpatient or partial hospitalization services, benefits for covered expenses arising from services, including psychological and neuropsychological testing for diagnostic purposes, provided to treat mental illnesses, emotional disorders, drug abuse, or alcohol abuse are at a rate that, after the applicable deductible, is not less than:

(i) 80% for the first five visits in a calendar year or benefit period of not more than 12 months;

(ii) 65% for the 6th through 30th visit in a calendar year or benefit period of not more than 12 months; and

(iii) 50% for the 31st visit and any subsequent visit in a calendar year or benefit period of not more than 12 months**; AND**

(5) FOR GROUP ~~HEALTH PLANS~~ CONTRACTS COVERING EMPLOYEES OF ONE OR MORE LARGE EMPLOYERS, BENEFITS FOR COVERED OUTPATIENT EXPENSES ARISING FROM SERVICES, INCLUDING ALL OFFICE VISITS AND PSYCHOLOGICAL AND NEUROPSYCHOLOGICAL TESTING FOR DIAGNOSTIC PURPOSES, PROVIDED TO TREAT MENTAL ILLNESSES, EMOTIONAL DISORDERS, DRUG ABUSE, OR ALCOHOL ABUSE ARE COVERED UNDER THE SAME TERMS AND CONDITIONS THAT APPLY TO SIMILAR BENEFITS AVAILABLE UNDER THE CONTRACT FOR PHYSICAL ILLNESSES.

(e) (1) The benefits under this section are required only for expenses arising from the treatment of mental illnesses, emotional disorders, drug abuse, or alcohol abuse if, in the professional judgment of health care providers:

(i) the mental illness, emotional disorder, drug abuse, or alcohol abuse is treatable; and

(ii) the treatment is medically necessary.

(2) The benefits required under this section:

(i) shall be provided as one set of benefits covering mental illnesses, emotional disorders, drug abuse, and alcohol abuse;

(ii) shall have the same terms and conditions as the benefits for physical illnesses covered under the policy or contract subject to this section, except as specifically provided in this section; and

(iii) **SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION,** may be delivered under a managed care system.

(3) FOR GROUP ~~HEALTH PLANS~~ CONTRACTS COVERING EMPLOYEES OF ONE OR MORE LARGE EMPLOYERS, THE BENEFITS REQUIRED UNDER THIS SECTION MAY BE DELIVERED UNDER A MANAGED CARE SYSTEM ONLY IF THE BENEFITS FOR PHYSICAL ILLNESSES COVERED UNDER THE CONTRACT ARE DELIVERED UNDER A MANAGED CARE SYSTEM.

(4) FOR GROUP CONTRACTS COVERING EMPLOYEES OF ONE OR MORE LARGE EMPLOYERS, THE PROCESSES, STRATEGIES, EVIDENTIARY STANDARDS, OR OTHER FACTORS USED TO MANAGE THE BENEFITS REQUIRED UNDER THIS SECTION MUST BE COMPARABLE AS WRITTEN AND IN OPERATION TO, AND APPLIED NO MORE STRINGENTLY THAN, THE PROCESSES, STRATEGIES, EVIDENTIARY STANDARDS, OR OTHER FACTORS USED TO MANAGE THE BENEFITS FOR PHYSICAL ILLNESSES COVERED UNDER THE CONTRACT.

[(3)**]** **~~(4)~~** **(5)** Except for the coinsurance requirements under subsection **[**(d)(3)**]** **(D)(4)** of this section, a policy or contract subject to this section may not have:

(i) separate lifetime maximums for physical illnesses and illnesses covered under this section;

(ii) separate deductibles and coinsurance amounts for physical illnesses and illnesses covered under this section; or

(iii) separate out–of–pocket limits in a benefit period of not more than 12 months for physical illnesses and illnesses covered under this section.

[(4)**]** **~~(5)~~** **(6)** (i) Subject to subparagraph (ii) of this paragraph, any copayments required under a policy or contract subject to this section for benefits for illnesses covered under this section shall be:

1. actuarially equivalent to any coinsurance requirements under this section; or

2. if there are no coinsurance requirements, not greater than any copayment required under the policy or contract for a benefit for a physical illness.

(ii) An insurer or nonprofit health service plan may not charge a copayment that is greater than 50% of the daily cost for methadone maintenance treatment.

(f) An office visit to a physician or other health care provider for medication management:

(1) may not be counted against the number of visits required to be covered as a part of the benefits required under subsection **[**(d)(3)**]** **(D)(4)** of this section; and

(2) shall be reimbursed under the same terms and conditions as an office visit for a physical illness covered under the policy or contract subject to this section.

(g) This section does not prohibit exceeding the minimum benefits required under subsection (d)(2) **OR (3)** of this section for any partial hospitalization day that is medically necessary and would serve to prevent inpatient hospitalization.

15–815.

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

(2) "Mastectomy" means the surgical removal of all or part of a breast **[**as a result of breast cancer**]**.

(3) (i) "Reconstructive breast surgery" means surgery performed as a result of a mastectomy to reestablish symmetry between the two breasts.

(ii) "Reconstructive breast surgery" includes augmentation mammoplasty, reduction mammoplasty, and mastopexy.

(b) This section applies to **CONTRACTS ISSUED BY**:

(1) insurers and nonprofit health service plans that provide **[**hospital, medical, or**]** **MEDICAL AND** surgical benefits to individuals or groups on an expense–incurred basis under health insurance **[**policies**]** **CONTRACTS** that are issued or delivered in the State; and

(2) health maintenance organizations that provide **[**hospital, medical, or**]** **MEDICAL AND** surgical benefits to individuals or groups under contracts that are issued or delivered in the State.

(c) **[**An entity**] A CONTRACT** subject to this section shall provide coverage for**:**

(1) reconstructive breast surgery, including coverage for all stages of reconstructive breast surgery performed on a nondiseased breast to establish symmetry with the diseased breast when reconstructive breast surgery is performed on the diseased breast**; AND**

(2) PHYSICAL COMPLICATIONS OF ALL STAGES OF MASTECTOMY, INCLUDING LYMPHEDEMAS, IN A MANNER DETERMINED IN CONSULTATION WITH THE ATTENDING PHYSICIAN AND THE PATIENT.

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

Article – Health – General

19–706.

(DDDD) THE PROVISIONS OF § 15–135 OF THE INSURANCE ARTICLE APPLY TO HEALTH MAINTENANCE ORGANIZATIONS.

Article – Insurance

15–135.

(A) THE PROVISIONS OF TITLE I, SUBTITLES A AND C OF THE FEDERAL PATIENT PROTECTION AND AFFORDABLE CARE ACT, AS AMENDED BY §§ 10101 AND 10103 OF THAT ACT AND THE FEDERAL HEALTH CARE AND EDUCATION RECONCILIATION ACT OF 2010, APPLY TO ALL INSURERS, NONPROFIT HEALTH SERVICE PLANS, AND HEALTH MAINTENANCE ORGANIZATIONS THAT DELIVER OR ISSUE FOR DELIVERY INDIVIDUAL, GROUP, OR BLANKET HEALTH INSURANCE POLICIES OR CONTRACTS IN THE STATE.

(B) THE COMMISSIONER MAY ENFORCE THIS SECTION UNDER ANY APPLICABLE PROVISIONS OF THIS ARTICLE.

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. *Section 2 of this Act shall remain effective through June 30, 2011, and, at the end of June 30, 2011, with no further action required by the*

General Assembly, Section 2 of this Act shall be abrogated and of no further force and effect.

Approved by the Governor, April 13, 2010.

Chapter 18

(Senate Bill 61)

AN ACT concerning

Family Law – Criminal History Records Checks – Employees and Employers in Facilities and Other Individuals That Care for or Supervise Children

FOR the purpose of altering the locations at which certain employees, employers, and individuals are required to apply for a certain criminal history records check; altering the facilities that are required to require employees and employers to obtain a criminal history records check; repealing a requirement that certain fingerprints be taken on standard fingerprint cards; altering the State unit authorized to waive a certain fingerprint requirement; altering the conditions under which a certain fingerprint requirement may be waived; repealing a requirement that the Department of Public Safety and Correctional Services mail certain receipts and statements to certain persons and units; altering certain procedures and requirements relating to issuance of certain printed statements; altering the procedure for contesting certain findings in a certain printed statement; defining certain terms; making certain conforming and technical changes; and generally relating to criminal history records checks.

BY repealing and reenacting, with amendments,
Article – Family Law
Section 5–560, 5–561, 5–562, 5–563, 5–564, and 5–565
Annotated Code of Maryland
(2006 Replacement Volume and 2009 Supplement)

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

Article – Family Law

5–560.

(a) In this Part VI of this subtitle, the following words have the meanings indicated.

(b) "Conviction" means a plea or verdict of guilty or a plea of nolo contendere.

(c) "Department" means the Department of Public Safety and Correctional Services.

(d) (1) "Employee" means a person that for compensation is employed to work in a facility identified in § 5–561 of this subtitle and who:

(i) cares for or supervises children in the facility; or

(ii) has access to children who are cared for or supervised in the facility.

(2) "Employee" includes a person who:

(i) participates in a pool described in subsection (e)(2) of this section;

(ii) for compensation will be employed on a substitute or temporary basis to work in a facility identified in § 5–561(b)(1) or (2) of this subtitle; and

(iii) will care for or supervise children in the facility or will have access to children who are cared for or supervised in the facility.

(3) "Employee" does not include any person employed to work for compensation by the Department of Juvenile Services.

(e) (1) "Employer" means an owner, operator, proprietor, or manager of a facility identified in § 5–561 of this subtitle who has frequent contact with children who are cared for or supervised in the facility.

(2) For purposes of §§ 5–561(g), 5–563(b)(1), 5–564(a)(2)(i) and (d)(1)(i) and (2), and 5–567 of this subtitle, "employer" includes a child care resource and referral center, an association of registered family day care providers, and an association of licensed child care centers to the extent that the center or association establishes and maintains a pool of individuals who are qualified to work as substitute or temporary employees in a facility identified in § 5–561(b)(1) or (2) of this subtitle.

(3) "Employer" does not include a State or local agency responsible for the temporary or permanent placement of children in a facility identified in § 5–561 of this subtitle.

(F) "PRIVATE ENTITY" MEANS A NONGOVERNMENTAL AGENCY, ORGANIZATION, OR EMPLOYER.

[(f)**] (G)** "Secretary" means the Secretary of Public Safety and Correctional Services.

5–561.

(a) Notwithstanding any provision of law to the contrary, an employee and employer in a facility identified in subsection (b) of this section and **[**persons**]** **INDIVIDUALS** identified in subsection (c) of this section shall apply for a national and State criminal history records check at any designated law enforcement office in this State **OR OTHER LOCATION APPROVED BY THE DEPARTMENT**.

(b) The following facilities shall require employees and employers to obtain a criminal history records check under this Part VI of this subtitle:

(1) a child care center required to be licensed under Part VII of this subtitle;

(2) a family day care home required to be registered under Part V of this subtitle;

(3) a child care home required to be licensed under this subtitle or under Title 9 of the Human Services Article;

(4) a child care institution required to be licensed under this subtitle or under Title 9 of the Human Services Article;

(5) a juvenile detention, correction, or treatment facility provided for in Title 9 of the Human Services Article;

(6) a public school as defined in Title 1 of the Education Article;

(7) a private or nonpublic school required to report annually to the State Board of Education under Title 2 of the Education Article;

(8) a foster care family home or group facility as defined under this subtitle;

(9) a recreation center or recreation program operated by **THE** State **[**or**]**, **A** local government**, OR A PRIVATE ENTITY** primarily serving minors; **[**or**]**

(10) a day or residential camp, as defined in Title 10, Subtitle 16 of the Code of Maryland Regulations, primarily serving minors**; OR**

(11) A HOME HEALTH AGENCY OR RESIDENTIAL SERVICE AGENCY LICENSED BY THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE AND AUTHORIZED UNDER TITLE 19 OF THE HEALTH – GENERAL ARTICLE TO PROVIDE HOME– OR COMMUNITY–BASED HEALTH SERVICES FOR MINORS.

(c) The following individuals shall obtain a criminal history records check under this Part VI of this subtitle:

(1) an individual who is seeking to adopt a child through a child placement agency;

(2) an individual who is seeking to become a guardian through a local department;

(3) an individual whom the juvenile court appoints as a guardian of a child;

(4) an adult relative with whom a child, committed to a local department, is placed by the local department;

(5) any adult known by a local department to be residing in:

(i) a family day care home required to be registered under this title;

(ii) a home of an adult relative of a child with whom the child, committed to a local department, is placed by the local department;

(iii) a foster care home or child care home required to be approved under this title;

(iv) a home of an individual seeking to adopt a child through a child placement agency; or

(v) a home of an individual seeking to become a guardian through a local department; and

(6) if requested by a local department:

(i) a parent or guardian of a child who is committed to the local department and is or has been placed in an out–of–home placement within the past year; and

(ii) any adult known by the local department to be residing in the home of the parent or guardian.

(d) An employer at a facility under subsection (b) of this section may require a volunteer at the facility to obtain a criminal history records check under this Part VI of this subtitle.

(e) A local department may require a volunteer of that department who works with children to obtain a criminal history records check under this Part VI of this subtitle.

(f) An employer at a facility not identified in subsection (b) of this section who employs individuals to work with children may require employees, including volunteers, to obtain a criminal history records check under this Part VI of this subtitle.

(g) An employer, as defined in § 5–560(e)(2) of this subtitle, shall require an employee, as defined in § 5–560(d)(2) of this subtitle, to obtain a criminal history records check under this Part VI of this subtitle.

(h) (1) Except as provided in paragraph (2) of this subsection, a person who is required to have a criminal history records check under this Part VI of this subtitle shall pay for:

(i) the mandatory processing fee required by the Federal Bureau of Investigation for a national criminal history records check;

(ii) reasonable administrative costs to the Department, not to exceed 10% of the processing fee; and

(iii) the fee authorized under § 10–221(b)(7) of the Criminal Procedure Article for access to Maryland criminal history records.

(2) A volunteer under subsection (d), (e), or (f) of this section who volunteers for a program that is registered with the Maryland Mentoring Partnership is not required to pay for costs or fees under paragraph (1)(ii) and (iii) of this subsection.

(i) (1) An employer or other party may pay for the costs borne by the employee or other individual under subsection (h) of this section.

(2) The local department shall reimburse:

(i) an adult residing in a foster care home for the costs borne by the individual under subsection (h) of this section; and

(ii) an individual described in subsection (c)(4)(ii) of this section for the costs borne by the individual under subsection (h) of this section.

5–562.

(a) (1) On or before the 1st day of actual employment, an employee shall apply to the Department for a printed statement.

(2) On or before the 1st day of actual operation of a facility identified in § 5–561 of this subtitle, an employer shall apply to the Department for a printed statement.

(3) Within 5 days after a local department places a child who is committed to the local department with an adult relative, an individual identified in § 5–561(c) or (e) of this subtitle shall apply to the Department for a printed statement.

(b) As part of the application for a criminal history records check, the employee, employer, and individual identified in § 5–561(c), (d), (e), or (f) of this subtitle shall submit:

(1) except as provided in subsection (c) of this section, a complete set of legible fingerprints **[**taken on standard fingerprint cards**]** at any designated State or local law enforcement office in the State or other location approved by the Department;

(2) the disclosure statement required under § 5–563 of this subtitle; and

(3) payment for the costs of the criminal history records check.

(c) The requirement that a complete set of legible fingerprints **[**taken on standard fingerprint cards**]** be submitted as part of the application for a criminal history records check may be waived by the Department **[**of Human Resources**]** if:

(1) the application is submitted by a person who has attempted to have a complete set of fingerprints taken on at least **[**3**] 2** occasions;

(2) the taking of a complete set of legible fingerprints is not possible because of a physical or medical condition of the person's fingers or hands;

(3) the person submits documentation satisfactory to the Department **[**of Human Resources**]** of the requirements of this subsection; and

(4) the person submits the other information required for a criminal history records check.

5–563.

[(a)**]** As part of the application process for a criminal history records check, the employee, employer, and individual identified in § 5–561(c), (d), (e), or (f) of this subtitle shall complete and sign a sworn statement or affirmation disclosing the existence of a criminal conviction, probation before judgment disposition, not criminally responsible disposition, or pending criminal charges without a final disposition.

[(b) (1) The Department or its designee shall mail an acknowledged receipt of the application with a sworn statement or affirmation from an employee to the employer within 3 days of the application.

(2) The Department or its designee shall mail an acknowledged receipt of the application with a sworn statement or affirmation from an employer to the appropriate State or local licensing, registering, approving, or certifying agency, within 3 days of the application.

(3) The Department or its designee shall mail an acknowledged receipt of the application with a sworn statement or affirmation from an individual identified in § 5–561(c), (d), (e), or (f) of this subtitle to the appropriate child placement or registering agency or facility.**]**

5–564.

(a) (1) (i) The Department shall conduct the criminal history records check and issue the printed statement provided for under this Part VI of this subtitle.

(ii) It shall update an initial criminal history records check for an employee, employer, or individual identified in § 5–561(c), (d), (e), or (f) of this subtitle and issue a revised printed statement**[**, listing any convictions, probation before judgment dispositions, not criminally responsible dispositions, or pending criminal charges occurring in the State after the date of the initial criminal history records check**]** **IN ACCORDANCE WITH FEDERAL LAW AND REGULATIONS ON DISSEMINATION OF FBI IDENTIFICATION RECORDS**.

(2) The Department shall adopt regulations requiring:

(i) employers to verify periodically the continuing employment of an employee and the continuing assignment of a volunteer;

(ii) State or local agencies that license, register, approve, or certify any of the facilities identified in § 5–561(b) of this subtitle to verify periodically the continuing licensure, registration, approval, or certification of a facility or the continuing assignment of individuals identified in § 5–561(e) of this subtitle; and

(iii) child placement agencies that place a child as described in § 5–561(c) of this subtitle to verify periodically the continuing participation or presence of individuals identified in § 5–561(c) of this subtitle.

(3) The employee, employer, volunteer, or other individual identified in § 5–561 of this subtitle is not responsible for payment of any fee to update criminal history records checks.

(b) (1) The Department shall provide an initial and a revised statement of the applicant's State criminal record to:

(i) the recipients of the **[**acknowledgments**]** **PRINTED STATEMENT** specified in **[**§ 5–563(b) of this subtitle**]** **SUBSECTION (C) OF THIS SECTION**; and

(ii) the State Department of Education if the applicant is an employee of:

1. a child care center that is required to be licensed or to hold a letter of compliance under Part VII of this subtitle; or

2. a family day care home that is required to be registered under Part V of this subtitle.

(2) The Department shall**[**:

(i) record on a printed statement the existence of a conviction, a probation before judgment disposition, a not criminally responsible disposition, or pending charge reported in the criminal history record information received from the FBI Identification Division; and

(ii)**]** distribute the printed statement in accordance with federal law and regulations on dissemination of FBI identification records.

[(c) The recording of the existence of a conviction, a probation before judgment disposition, a not criminally responsible disposition, or pending charge, contained in the criminal history record information received from the FBI Identification Division:

(1) may not identify or disclose to a private entity the specific crime or attempted crime in the employee's, employer's, or applicant's criminal history record; and

(2) shall disclose to a private entity the existence of a conviction, a probation before judgment disposition, a not criminally responsible disposition, or pending charges for any of the crimes, attempted crimes, or a criminal offense that is equivalent to those enumerated in the regulations adopted by the Department.**]**

[(d)**]** **(C)** (1) Upon completion of the criminal history records check of an employee, the Department shall submit the printed statement to:

(i) the employee's current or prospective employer at the facility or program;

(ii) the employee; and

(iii) for an employee of a child care center that is required to be licensed or to hold a letter of compliance under Part VII of this subtitle or an employee of a family day care home that is required to be registered under Part V of this subtitle, the State Department of Education.

(2) Upon receiving a written request from an employee, the Department shall submit the printed statement to additional employers, if the criminal history records check was completed during the prior 180 days.

(3) Upon completion of the criminal history records check of an employer, the Department shall submit the printed statement to:

(i) the appropriate State or local agency responsible for the licensure, registration, approval, or certification of the employer's facility; and

(ii) the employer.

(4) Upon completion of the criminal history records check of an individual identified in § 5–561(c), (d), (e), or (f) of this subtitle, the Department shall submit the printed statement to the appropriate child placement or registering agency.

[(e)**] (D)** Information obtained from the Department under this Part VI of this subtitle shall be confidential and may be disseminated only to the individual who is the subject of the criminal history records check and to the participants in the hiring or approval process.

[(f)**] (E)** Information obtained from the Department under this Part VI of this subtitle may not:

(1) be used for any purpose other than that for which it was disseminated; or

(2) be redisseminated.

[(g)**] (F)** Information obtained from the Department under this Part VI of this subtitle shall be maintained in a manner to insure the security of the information.

5–565.

[(a) In conformity with the following procedures, an**] AN** individual may contest the finding of a criminal conviction, a probation before judgment disposition, a not criminally responsible disposition, or pending charge reported in a printed statement **IN ACCORDANCE WITH §§ 10–223 THROUGH 10–228 OF THE CRIMINAL PROCEDURE ARTICLE**.

[(b) In contesting the finding of a conviction, a probation before judgment disposition, a not criminally responsible disposition, or a pending charge, the individual shall contact the office of the Secretary, or a designee of the Secretary, and a hearing shall be convened within 20 workdays, unless subsequently waived by the individual. The Secretary, or a designee of the Secretary, shall render a decision regarding the appeal within 5 workdays of the hearing.

(c) For purposes of this Part VI of this subtitle, the record of a conviction, a probation before judgment disposition, or a not criminally responsible disposition for a crime or a copy thereof certified by the clerk of the court or by a judge of the court in which the conviction or disposition occurred, shall be conclusive evidence of the conviction or disposition. In a case where a pending charge is recorded, documentation provided by a court to the Secretary, or a designee of the Secretary, that a pending charge for a crime which has not been finally adjudicated shall be conclusive evidence of the pending charge.

(d) Failure of the individual to appear at the scheduled hearing shall be considered grounds for dismissal of the appeal.**]**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 19

(Senate Bill 62)

AN ACT concerning

Maryland Horse Industry Fund – Fees

FOR the purpose of requiring certain revenue collected by the Maryland Horse Industry Board be paid into the Maryland Horse Industry Fund; establishing a certain fee for a certain license; altering the fees for certain licensure renewal and inspection of horse stables; and generally relating to the Maryland Horse Industry Fund fees.

BY repealing
Article – Agriculture
Section 2–708
Annotated Code of Maryland
(2007 Replacement Volume and 2009 Supplement)

BY adding to
Article – Agriculture
Section 2–708
Annotated Code of Maryland
(2007 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, without amendments,
Article – Agriculture
Section 2–708.2(a)
Annotated Code of Maryland
(2007 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – Agriculture
Section 2–708.2(f), 2–711, 2–712, and 2–713
Annotated Code of Maryland
(2007 Replacement Volume and 2009 Supplement)

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

Article – Agriculture

[2–708.

Except as provided in § 2–708.2 of this subtitle, the Board shall pay all funds collected under this subtitle into the General Fund of this State.**]**

2–708.

ALL FUNDS COLLECTED BY THE BOARD SHALL BE PAID INTO THE MARYLAND HORSE INDUSTRY FUND UNDER § 2–708.2 OF THIS SUBTITLE.

2–708.2.

(a) In this section, "Fund" means the Maryland Horse Industry Fund.

(f) The Fund consists of:

(1) Moneys made available from an assessment on equine feed as required under § 6–107.2 of this article;

(2) Moneys made available to the Fund by general, federal, or special fund appropriations; **[**and**]**

(3) Moneys made available to the Fund by gifts, grants or transfers from any government or unit or instrumentality of a government or from any private sector sources**; AND**

(4) MONEYS MADE AVAILABLE FROM LICENSING AND INSPECTION OF HORSE STABLES AS REQUIRED UNDER §§ 2–711, 2–712, AND 2–713 OF THIS SUBTITLE.

2–711.

To apply for a license, an applicant shall:

(1) Submit an application to the Board on the form that it requires; **[**and**]**

(2) Pay to the Board a nonrefundable inspection fee of **[**$25**] $50; AND**

(3) PAY TO THE BOARD A LICENSE FEE OF $75.

2–712.

(a) A license expires on the June 30 after its effective date, unless the license is renewed for a 1–year term as provided in this section.

(b) Before his license expires, a licensee periodically may renew his license for additional 1–year terms, if the licensee:

(1) Otherwise is entitled to be licensed;

(2) Pays to the Board a renewal fee of **[**$50**] $75**; and

(3) Submits to the Board a renewal application on the form that it requires.

2–713.

(a) Each horse riding stable licensed under this subtitle shall be inspected at least every 2 years.

(b) Each licensee shall pay to the Board annually an inspection fee of **[**$25**] $50**.

(c) If more than one inspection is necessary in any licensing period, the licensee shall pay an additional inspection fee of **[**$25**] $50** for each inspection. If, after three inspections, existing deficiencies have not been corrected by the licensee, the Board shall bring formal charges against the licensee, and an administrative

hearing shall be held in order to determine if the license should be suspended or revoked for any of the reasons listed in § 2–715 of this subtitle.

(d) An inspection shall be deemed necessary if, during a previous inspection, deficiencies are found and the licensee has not submitted evidence to the Board within a reasonable period of time that satisfactory corrective measures have been completed.

(e) Based on criteria it develops, the Board may create additional classes of licenses, all of which shall have the usual annual fee under this subtitle.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 20

(Senate Bill 64)

AN ACT concerning

Maryland Research and Development Tax Credit – Sunset Extension

FOR the purpose of extending the termination date applicable to the Maryland Research and Development Tax Credit; extending the applicability of the credit to certain taxable years; and generally relating to the Maryland Research and Development Tax Credit.

BY repealing and reenacting, with amendments,
Chapter 515 of the Acts of the General Assembly of 2000, as amended by Chapter 98 of the Acts of the General Assembly of 2005
Section 2 and 4

BY repealing and reenacting, with amendments,
Chapter 516 of the Acts of the General Assembly of 2000, as amended by Chapter 98 of the Acts of the General Assembly of 2005
Section 2 and 4

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

Chapter 515 of the Acts of 2000, as amended by Chapter 98 of the Acts of 2005

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) Except as otherwise provided in this section, this Act shall be applicable to all taxable years beginning after December 31, 1999 but before January 1, **[**2011**] 2020**.

(b) If a taxpayer's taxable year for income tax purposes is not the calendar year:

(1) for the taxable year that ends in calendar year 2000, the taxpayer may apply for a prorated credit for research and development expenses paid or incurred in the taxable year for that part of the taxable year that falls in calendar year 2000; and

(2) for the taxable year that begins in calendar year **[**2010**] 2019**, the taxpayer may apply for only a prorated credit for research and development expenses paid or incurred in the taxable year for that part of the taxable year that falls in calendar year **[**2010**] 2019**.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2000. It shall remain effective for a period of **[**12**] 21** years and, at the end of June 30, **[**2012**] 2021**, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Chapter 516 of the Acts of 2000, as amended by Chapter 98 of the Acts of 2005

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) Except as otherwise provided in this section, this Act shall be applicable to all taxable years beginning after December 31, 1999 but before January 1, **[**2011**] 2020**.

(b) If a taxpayer's taxable year for income tax purposes is not the calendar year:

(1) for the taxable year that ends in calendar year 2000, the taxpayer may apply for a prorated credit for research and development expenses paid or incurred in the taxable year for that part of the taxable year that falls in calendar year 2000; and

(2) for the taxable year that begins in calendar year **[**2010**] 2019**, the taxpayer may apply for only a prorated credit for research and development expenses paid or incurred in the taxable year for that part of the taxable year that falls in calendar year **[**2010**] 2019**.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2000. It shall remain effective for a period of **[**12**] 21** years and, at the end of

June 30, **[**2012**] 2021**, 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 July 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 21

(Senate Bill 67)

AN ACT concerning

Vehicle Laws – Issuance of Temporary Registration Plates by Dealers – Transmission of Information and Record Keeping

FOR the purpose of requiring a dealer who issues a temporary registration plate for a vehicle to electronically transmit certain information to the Motor Vehicle Administration in the format required by the Administration; reducing the period of time during which a dealer is required to keep certain temporary registration plate records; and generally relating to the temporary registration of motor vehicles.

BY repealing and reenacting, with amendments,
Article – Transportation
Section 13–602 and 13–606
Annotated Code of Maryland
(2009 Replacement Volume and 2009 Supplement)

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

Article – Transportation

13–602.

(a) (1) Subject to the provisions of this part, a licensed dealer may issue one temporary registration plate for a vehicle to the person who buys the vehicle from the dealer, whether or not the vehicle is to be registered in this State.

(2) The dealer may not issue more than one temporary registration for any vehicle.

(b) Before a temporary registration plate may be issued for a vehicle, the buyer of the vehicle shall complete and deliver to the dealer a temporary registration plate application, on the form that the Administration requires.

(c) On the same day that a dealer issues a temporary registration plate for a vehicle, the dealer shall **[**send**]:**

(1) SEND to the Administration a copy of the temporary registration plate application completed by the buyer of the vehicle**; AND**

(2) ELECTRONICALLY TRANSMIT TO THE ADMINISTRATION, IN THE FORMAT THAT THE ADMINISTRATION REQUIRES, THE VEHICLE, OWNER, INSURANCE, AND TEMPORARY REGISTRATION INFORMATION CONTAINED ON THE TEMPORARY REGISTRATION PLATE APPLICATION.

13–606.

(a) Each dealer who has applied for temporary registration plates under § 13–601 of this subtitle shall keep a **[**permanent**]** record **FOR 3 YEARS** of all temporary registration plates delivered to the dealer.

(b) Each dealer who has applied for temporary registration plates under § 13–601 of this subtitle shall keep a **[**permanent**]** record **FOR 3 YEARS** of all temporary registration plates issued by the dealer.

(c) Each dealer who has applied for temporary registration plates under § 13–601 of this subtitle shall keep a **[**permanent**]** record **FOR 3 YEARS** of any other relevant information that the Administration requires.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 22

(Senate Bill 71)

AN ACT concerning

Procurement – Small Business Reserve Program – Sunset Extension

FOR the purpose of continuing until a certain date the provisions of the State Procurement Law relating to the Small Business Reserve Program; making a

technical change; and generally relating to the Small Business Reserve Program.

BY repealing and reenacting, without amendments,
Article – State Finance and Procurement
Section 14–501 and 14–503 through 14–505
Annotated Code of Maryland
(2009 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 14–502
Annotated Code of Maryland
(2009 Replacement Volume)

BY repealing and reenacting, with amendments,
Chapter 75 of the Acts of the General Assembly of 2004, as amended by Chapter 514 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 – State Finance and Procurement

14–501.

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

(b) "Designated procurement unit" means:

(1) the State Treasurer;

(2) the Department of Information Technology;

(3) the Department of Business and Economic Development;

(4) the Department of the Environment;

(5) the Department of General Services;

(6) the Department of Health and Mental Hygiene;

(7) the Department of Housing and Community Development;

(8) the Department of Human Resources;

(9) the Department of Juvenile Services;

(10) the Department of Labor, Licensing, and Regulation;

(11) the Department of Natural Resources;

(12) the State Department of Education;

(13) the Department of State Police;

(14) the Department of Public Safety and Correctional Services;

(15) the Department of Transportation;

(16) the University System of Maryland;

(17) the Maryland Port Commission;

(18) the State Retirement Agency;

(19) the Maryland Insurance Administration;

(20) the Maryland Stadium Authority;

(21) the State Lottery Agency;

(22) the Morgan State University; and

(23) the Maryland Transportation Authority.

(c) "Small business" means:

(1) a certified minority business enterprise, as defined in § 14–301 of this title, that meets the criteria specified under paragraph (2) of this subsection; or

(2) a business, other than a broker, that meets the following criteria:

(i) the business is independently owned and operated;

(ii) the business is not a subsidiary of another business;

(iii) the business is not dominant in its field of operation;

(iv) the wholesale operations of the business did not employ more than 50 persons, and the gross sales of the business did not exceed an average of $4,000,000 in its most recently completed 3 fiscal years;

(v) the retail operations of the business did not employ more than 25 persons, and the gross sales of the business did not exceed an average of $3,000,000 in its most recently completed 3 fiscal years;

(vi) the manufacturing operations of the business did not employ more than 100 persons, and the gross sales of the business did not exceed an average of $2,000,000 in its most recently completed 3 fiscal years;

(vii) the service operations of the business did not employ more than 100 persons, and the gross sales of the business did not exceed an average of $10,000,000 in its most recently completed 3 fiscal years;

(viii) the construction operations of the business did not employ more than 50 persons, and the gross sales of the business did not exceed an average of $7,000,000 in its most recently completed 3 fiscal years; and

(ix) the architectural and engineering services of the business did not employ more than 100 persons, and the gross sales of the business did not exceed an average of $4,500,000 in its most recently completed 3 fiscal years.

(d) "Small business reserve" means those procurements that are limited to responses from small businesses under § 14–502(b) of this subtitle.

14–502.

(a) Except as provided in subsection (d) of this section, this subtitle applies to all procurements by a designated procurement unit.

(b) This subsection does not apply to procurements subject to Subtitle 1 of this title.

(c) A designated procurement unit shall structure its procurement procedures to achieve a minimum of 10% of the unit's total dollar value of goods, supplies, services, maintenance, construction, construction–related services, **AND** architectural **[**service,**]** and engineering service contracts to be made directly to small businesses.

(d) The total dollar value of procurements by a designated procurement unit does not include the value of contracts to which this section does not apply because of a conflict with federal law.

14–503.

(a) The Department of General Services shall adopt regulations to establish procedures for compiling and maintaining a comprehensive bidder's list of qualified small businesses that shall be posted on the Department's website.

(b) Each designated procurement unit shall ensure compliance with the regulations set forth in subsection (a) of this section.

14–504.

(a) Any procurement by a designated procurement unit of goods, supplies, services, maintenance, construction, construction–related services, architectural services, and engineering services shall be eligible for designation for the small business reserve.

(b) A solicitation for procurement that has been designated for a small business reserve shall be published in the same manner as required for an invitation for bids as set forth in § 13–103(c) of this article.

(c) The procurement officer of a designated procurement unit shall award a procurement contract designated for a small business reserve to the small business that submits a responsive bid that:

(1) is the lowest bid price;

(2) if the invitation for bids so provides, is the lowest evaluated bid price; or

(3) is the bid or proposal most favorable to the State within the small business reserve.

14–505.

(a) Within 90 days after the end of each fiscal year, each designated procurement unit shall submit a report on the operation and effectiveness of the Small Business Reserve Program that complies with subsection (d)(2) of this section to the Board of Public Works.

(b) Within 60 days after receipt of all reports required under subsection (a) of this section, the Board of Public Works shall compile the information and report on the operation and effectiveness of the entire Small Business Reserve Program to the Legislative Policy Committee, subject to § 2–1246 of the State Government Article.

(c) Within 60 days after the enactment of the budget bill by the General Assembly, each designated procurement unit shall submit a report to the Governor's Office of Minority Affairs that complies with the reporting requirements set forth in COMAR 21.11.01.06.

(d) (1) Within 90 days after the end of each fiscal year, each unit shall submit a report to the Governor's Office of Minority Affairs that complies with the requirements of paragraph (2) of this subsection.

(2) For the preceding fiscal year, the report shall:

(i) state the total number and the dollar value of payments the unit made to small businesses under designated small business reserve contracts;

(ii) state the total number and the dollar value of payments the unit made to small businesses under nondesignated small business reserve contracts, including purchase card procurements;

(iii) state the total dollar value of payments the unit made under procurement contracts; and

(iv) contain other such information as required by the Governor's Office of Minority Affairs.

(e) On or before December 31 of each year, the Governor's Office of Minority Affairs shall submit to the Board of Public Works and, subject to § 2–1246 of the State Government Article, to the Legislative Policy Committee a report summarizing the information the Office receives under subsection (b) of this section.

Chapter 75 of the Acts of 2004, as amended by Chapter 514 of the Acts of 2007

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2004. It shall remain effective for a period of **[**6**] 12** years and, at the end of September 30, **[**2010**] 2016**, with no further action required by the General Assembly, this Act, and any regulations adopted under the provisions 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, 2010.

Approved by the Governor, April 13, 2010.

Chapter 23

(Senate Bill 72)

AN ACT concerning

Maryland Militia – Membership

FOR the purpose of amending the requirements for membership of the Maryland militia; expanding eligibility to include citizens who take an oath of allegiance to the State; and generally relating to membership in the militia of the State.

BY repealing and reenacting, with amendments,
Article – Public Safety
Section 13–202
Annotated Code of Maryland
(2003 Volume and 2009 Supplement)

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

Article – Public Safety

13–202.

(a) Except as provided in subsection (b) of this section, the militia consists of able–bodied individuals who are:

(1) citizens of the State; **[**or**]**

(2) CITIZENS OF THE UNITED STATES WHO TAKE AN OATH OF ALLEGIANCE TO THE STATE; OR

[(2)**] (3)** of foreign birth and who:

(i) are residents of the State; and

(ii) have declared their intention to become citizens of the State.

(b) Subject to subsection (c) of this section, an individual is exempt from subsection (a) of this section if the individual:

(1) is exempted by the laws of the United States;

(2) is exempted by the laws of the State;

(3) is a member of a regularly organized fire or police department in a county, city, village, or town;

(4) is a judge or clerk of a court of record;

(5) is a register of wills and deeds;

(6) is a sheriff;

(7) is a member of the clergy;

(8) is a practicing physician;

(9) is a superintendent, officer, or assistant of a hospital or correctional facility;

(10) has been judged mentally incompetent;

(11) is addicted to narcotic drugs; or

(12) has been convicted of an infamous crime.

(c) An individual exempted under subsection (b)(3) through (12) of this section shall be available for military duty in case of war, insurrection, or invasion, or when the danger of war, insurrection, or invasion is imminent.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 24

(Senate Bill 73)

AN ACT concerning

Maryland Emergency Management Agency – Director

FOR the purpose of altering certain provisions of law so as to require the Governor to appoint directly the Director of the Maryland Emergency Management Agency (MEMA); requiring the Director of MEMA to be responsible to the Governor for carrying out the State emergency management program, to develop certain mutual aid agreements without a certain approval, and to employ personnel in a certain manner that is not subject to a certain authority; and generally relating to the Director of the Maryland Emergency Management Agency.

BY repealing and reenacting, with amendments,
Article – Public Safety
Section 14–104 and 14–112(c)(1)
Annotated Code of Maryland
(2003 Volume and 2009 Supplement)

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

Article – Public Safety

14–104.

(a) The **[**Adjutant General**]** **GOVERNOR** shall appoint the director of MEMA **[**with the approval of the Governor**]**.

(b) The Director serves at the pleasure of the **[**Adjutant General**]** **GOVERNOR**.

(c) (1) The Director is in the executive service of the State Personnel Management System and is entitled to the salary provided in the State budget.

(2) The Director's employment is not subject to the conditions and limitations of the State Personnel and Pensions Article.

(d) (1) The Director is the executive head of MEMA.

(2) The Director is responsible to the Governor **[**and the Adjutant General**]** for carrying out the State emergency management program.

(3) If the Governor has formally declared the threat or occurrence of an emergency, the Director shall coordinate the activities of all organizations for emergency management operations in the State.

(4) **[**With the approval of the Adjutant General and**]** **THE DIRECTOR,** in collaboration with other public and private agencies in the State, **[**the Director**]** shall develop or cause to be developed mutual aid agreements for reciprocal emergency aid and assistance in case of emergency of an extreme nature that affects two or more political subdivisions.

(5) The Director shall maintain liaison and cooperate with emergency management agencies and organizations of other states and the federal government.

(e) **[**Subject to the authority of the Adjutant General, the**]** **THE** Director may employ personnel in accordance with the State budget and subject to the conditions and limitations of the State Personnel and Pensions Article.

(f) The Director may make expenditures within the appropriations in the State budget or from other money made available to the Director for purposes of emergency management as necessary to carry out this subtitle.

14–112.

(c) (1) In carrying out this subtitle, the Governor, **[**Adjutant General,**]** **DIRECTOR,** and executive officers or governing bodies of the political subdivisions

shall use the services, equipment, supplies, and facilities of existing agencies and units of the State and the political subdivisions to the maximum extent practicable.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 25

(Senate Bill 74)

AN ACT concerning

Education – Comprehensive Master Plans

FOR the purpose of requiring a local board of education to submit certain updates to the board's comprehensive master plan on or before certain dates; altering certain dates by which a local board is required to submit a certain plan and certain updates to the plan; altering the time frame for submitting copies of certain plans or updates to certain persons; authorizing a local board to submit a preexisting management plan to satisfy certain requirements; requiring the State Superintendent of Education to approve the plan as the county board's plan <u>or update</u> if certain requirements are met; and generally relating to comprehensive master plans and updates to master plans submitted by local boards of education.

BY repealing and reenacting, with amendments,
Article – Education
Section 5–401
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)

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

Article – Education

5–401.

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

(2) "Local performance standards" means standards for student and school performance developed by a county board.

(3) "Plan" means a comprehensive master plan.

(4) "State performance standards" means standards for student and school performance approved by the State Board.

(5) "Update" means an annual update to a county board's comprehensive master plan.

(b) (1) Each county board shall develop and implement a comprehensive master plan that describes the goals, objectives, and strategies that will be used to improve student achievement and meet State performance standards and local performance standards in each segment of the student population.

(2) (i) Each county board shall submit a plan to the Department on or before October 1, 2003.

(ii) Each county board shall submit an update to the plan required under paragraph (2)(i) of this subsection for review and approval by the State Superintendent of Schools on or before:

1. October 15, 2008; **[**and**]**

2. October 15, 2009**;**

3. OCTOBER 15, 2010; AND

4. OCTOBER 15, 2011.

(3) (i) On or before October 15, **[**2010**] 2012**, each county board shall submit a plan to the Department.

(ii) Beginning in **[**2011**] 2013**, each county board shall submit an annual update for review and approval by the State Superintendent of Schools on or before October 15 of each year.

(4) (i) Subject to subsection (i) of this section, the plan and updates required under paragraph (3) of this subsection shall cover a 5–year period.

(ii) At least **[**60**] 30** days before submitting a plan or update to the Department, a county board shall provide a copy of the **PROPOSED** plan or update**, WITH A COPY OF THE FINAL PLAN OR UPDATE TO FOLLOW,** to the:

1. County council and if applicable, county executive; or

2. County commissioners.

(5) Each county board shall submit with the update required under paragraph (3)(ii) of this subsection:

(i) A detailed summary of how the board's current year approved budget and increases in expenditures over the prior year are consistent with the master plan; and

(ii) A summary of how the board's actual prior year budget and additional expenditures in the prior year's budget aligned with the master plan.

(c) The plan or update shall include:

(1) Goals and objectives as required under subsections (d) through (f) of this section that are aligned with State performance standards and local performance standards;

(2) Implementation strategies for meeting goals and objectives;

(3) Methods for measuring progress toward meeting goals and objectives;

(4) Time lines for implementation of the strategies for meeting goals and objectives;

(5) Time lines for meeting goals and objectives;

(6) A description of the alignment of the county board's budget with goals, objectives, and strategies for improving student achievement;

(7) The impact of the proposed goals, objectives, and implementation strategies on public school facilities and capital improvements that may be needed to implement the plan or update; and

(8) Any other information required by the State Superintendent.

(d) The plan or update shall include goals, objectives, and strategies regarding the performance of:

(1) Students requiring special education, as defined in § 5–209 of this title;

(2) Students with limited–English proficiency, as defined in § 5–208 of this title;

(3) Prekindergarten students;

(4) Kindergarten students;

(5) Gifted and talented students, as defined in § 8–201 of this article;

(6) Students enrolled in career and technology courses;

(7) Students failing to meet, or failing to make progress toward meeting, State performance standards, including any segment of the student population that is, on average, performing at a lower achievement level than the student population as a whole; and

(8) Any other segment of the student population identified by the State Superintendent.

(e) With regard to subsection (d)(7) of this section, the plan or update shall include strategies to address any disparities in achievement identified for any segment of the student population.

(f) (1) (i) The State Superintendent shall review each plan or update to determine whether the plan or update complies with the requirements of subsections (b) through (e) of this section.

(ii) If the State Superintendent determines that a plan or update does not comply with the requirements of subsections (b) through (e) of this section, the State Superintendent may require specific revisions to the plan or update.

(2) (i) The State Superintendent may review the content of each plan or update to assess whether the plan or update will have the effect of improving student achievement and increasing progress toward meeting State performance standards.

(ii) If the State Superintendent determines that a plan or update will not have the effect of improving student achievement and increasing progress toward meeting State performance standards, the State Superintendent may require specific revisions to the plan or update.

(3) A county board may not implement a plan or update unless it has been approved by the State Superintendent.

(G) (1) A COUNTY BOARD MAY SUBMIT A PREEXISTING MANAGEMENT PLAN TO THE DEPARTMENT AS THE COUNTY BOARD'S PLAN <u>OR UPDATE</u> UNDER SUBSECTION (B) OF THIS SECTION.

(2) IF THE STATE SUPERINTENDENT DETERMINES THAT THE PREEXISTING MANAGEMENT PLAN MEETS THE REQUIREMENTS SET FORTH IN THIS SECTION, THE STATE SUPERINTENDENT SHALL APPROVE THE PREEXISTING MANAGEMENT PLAN AS THE COUNTY BOARD'S PLAN <u>OR UPDATE</u>.

(h) (1) The State Superintendent annually shall review how each county board's current year approved budget and actual prior year budget align with the master plan and any updates to the master plan. This review may be based on the information required to be submitted by the county board under subsection (b)(5) of this section and any other information required by the State Superintendent.

(2) The State Superintendent annually shall report the results of the budget review by December 31 to the Governor, the county governing body, and, subject to § 2–1246 of the State Government Article, the General Assembly.

(i) (1) If a school system fails to demonstrate progress toward improving student achievement and meeting State performance standards in each segment of the student population during a school year, the State Superintendent shall review the content of the plan, any updates to the plan, and the results of the annual review required under subsection (h)(1) of this section to assess whether the plan or update will have the effect of improving student achievement and increasing progress toward meeting State performance standards.

(2) If the State Superintendent determines that a plan or update will not have the effect of improving student achievement and increasing progress toward meeting State performance standards, the State Superintendent shall require specific revisions to the plan or update.

(j) The State Superintendent shall advise the Governor and the General Assembly concerning the distribution of State funds to a county that fails to make progress toward improving student achievement and meeting State performance standards in each segment of the student population.

(k) (1) The State Superintendent shall review academic intervention programs and behavior modification programs to identify best practices.

(2) The State Superintendent shall periodically report on the best practices to the State Board, the county boards, the Governor, and, subject to § 2–1246 of the State Government Article, the General Assembly.

(l) (1) Subject to paragraph (2) of this subsection, the Department shall adopt regulations as necessary to implement this section.

(2) The Department shall consult with county superintendents and county boards before promulgating proposed regulations to implement this section.

(m) The Department may provide technical assistance to county boards in developing and implementing a plan.

(n) The Governor shall include an appropriation for the Department in the State budget for each fiscal year in amount sufficient to cover the costs associated with implementing this section.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 26

(Senate Bill 75)

AN ACT concerning

Education – Nonpublic School Employees – Criminal Convictions

FOR the purpose of requiring the State Board of Education, instead of the State Department of Education, to revoke the certificate of approval or letter of tentative approval of a nonpublic school that is in violation of certain provisions of law relating to the employment of certain employees who have been convicted of certain crimes; and generally relating to nonpublic schools.

BY repealing and reenacting, with amendments,
Article – Education
Section 2–206.1
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)

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

Article – Education

2–206.1.

(a) A nonpublic school that is subject to the requirements of this title may not hire or retain any employee who works with or has access to students and who the school knows has been convicted of a crime involving:

(1) An offense under § 3–307 of the Criminal Law Article;

(2) Child sexual abuse under § 3–602 of the Criminal Law Article, or an offense under the laws of another state that would constitute child sexual abuse under § 3–602 of the Criminal Law Article if committed in this State; or

(3) A crime of violence as defined in § 14–101 of the Criminal Law Article, or an offense under the laws of another state that would be a violation of § 14–101 of the Criminal Law Article if committed in this State.

(b) The **[**Department**]** **STATE BOARD** shall revoke the certificate of approval or letter of tentative approval of a nonpublic school that violates this section.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 27

(Senate Bill 76)

AN ACT concerning

Education – Disruptive Youth – Funding

FOR the purpose of repealing a requirement that the State appropriate certain funds to local education agencies for certain programs for disruptive youth; repealing certain reporting requirements related to certain programs for disruptive youth; and generally relating to programs for disruptive youth.

BY repealing and reenacting, with amendments,
Article – Education
Section 7–304
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)

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

Article – Education

7–304.

(a) The purpose of this section is to require each county board of education to provide a continuum model of prevention and intervention activities and programs that encourage and promote positive behavior and reduce disruption.

(b) Each county board of education and the Board of School Commissioners of Baltimore City shall establish special programs in the county and Baltimore City for students in the public school system who exhibit disruptive classroom behavior.

(c) Two or more county boards may establish special programs for their joint use.

[(d) The State shall appropriate an amount of money for allocation by the State Department of Education to local education agencies for schools or clusters of schools to support the development and expansion of special programs for disruptive youth. Within the resources available, the State Superintendent shall award funds to the local school systems which submit proposals pursuant to the criteria established in subsection (e) of this section.

(e) Each local education agency that is applying for State support for special programs for disruptive youth shall submit proposals for funding of programs to the State Department of Education that include:

(1) An assessment of the number of students in each school in need of special services;

(2) Specific plans with goals and measurable objectives for activities and programs that provide a continuum model for the prevention and intervention of disruptive student behaviors including but not limited to removal and re–entry programs necessary for effective learning;

(3) Adherence to the State Board regulations on disciplinary policies and programs and other guidelines established by the State Department of Education;

(4) A procedure involving the participation of administrators, teachers, parents, students, and other members of the community; and

(5) In–service training and staff development for administrators, teachers, and other school personnel.

(f) (1) At the end of each fiscal year, each participating local education agency shall submit a written statement to the State Department of Education that describes:

(i) The assessment, the educational problems determined, the overall program developed with goals and procedures, and a yearly evaluation of the success of the program as provided under the provisions of this section; and

(ii) Information regarding the number of students identified as being habitually truant as provided under the provisions of § 7–302(c) of this subtitle.

(2) On or before December 1 of each year, the State Department of Education shall submit a summary of the reports required under this subsection to the Governor and, subject to § 2–1246 of the State Government Article, to the General Assembly.]

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 28

(Senate Bill 77)

AN ACT concerning

Health General – Disease Prevention and Testing – Inmates of Correctional Institutions

FOR the purpose of expanding the definition of health care provider as it relates to certain provisions of law on testing for human immunodeficiency virus (HIV); adding a type of sample to be furnished by certain inmates for HIV testing; and generally relating to disease prevention and testing in correctional facilities.

BY repealing and reenacting, with amendments,
Article – Health – General
Section 18–338(a) and (b)
Annotated Code of Maryland
(2009 Replacement Volume)

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

Article – Health – General

18–338.

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

(2) "Correctional institution" means a place of detention or correctional confinement operated by or for the State or a local government.

(3) "Correctional employee" means:

(i) A person who is employed by a correctional institution; or

(ii) A person who performs duties in a correctional institution by virtue of federal, State, or local government employment.

(4) "Exposure" means, as between a correctional employee and an inmate:

(i) Percutaneous contact with blood, semen, or blood contaminated fluids;

(ii) Mucocutaneous contact with blood, semen, or blood contaminated fluids;

(iii) Open wound, including dermatitis, exudative lesions, or chapped skin, contact with blood, semen, or blood contaminated fluids; and

(iv) Intact skin contact with large amounts of blood, semen, or blood contaminated fluids for a prolonged period.

(5) "Health care provider" means**:**

(I) [any**] ANY** person, including a physician or hospital, who is licensed or otherwise authorized in this State to provide health care services and is under contract with or operated by the correctional facility**; OR**

(II) AN EMPLOYEE'S PRIVATE PHYSICIAN.

(b) An inmate shall furnish to the correctional institution a blood sample **OR** ~~**BRONCHIAL**~~ **BUCCAL (CHEEK) SWAB** to be tested for the presence of human immunodeficiency virus (HIV) when:

(1) There has been an exposure involving the inmate;

(2) The exposure occurred in connection with the inmate's violation of institutional regulations;

(3) The inmate has been found guilty of the violation of institutional regulations described in paragraph (2) of this subsection;

(4) The correctional employee involved in the exposure has given written notice of the exposure to the managing official of the correctional institution, or the official's designee; and

(5) The exposure is confirmed by a health care provider.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 29

(Senate Bill 78)

AN ACT concerning

Washington Cemetery Board of Trustees

FOR the purpose of abolishing the Washington Cemetery Board of Trustees; providing for the supervision of the Washington Cemetery by the Department of Veterans Affairs; defining a certain term; and generally relating to the Washington Cemetery.

BY repealing and reenacting, with amendments,
Article – State Government
Section 9–906
Annotated Code of Maryland
(2009 Replacement Volume)

BY repealing and reenacting, without amendments,
Chapter 213 of the Acts of the General Assembly of 1870
Section 1, 2, 9, 10, and 11

BY repealing
Chapter 213 of the Acts of the General Assembly of 1870
Section 4, 5, 7, and 8

BY repealing
Chapter 213 of the Acts of the General Assembly of 1870, as amended by Chapter 97 of the Acts of the General Assembly of 1970
Section 3 and 6

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

Article – State Government

9–906.

(a) (1) In this section**[**,**]** **THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.**

(2) "State veterans' cemetery" means a cemetery that the Department establishes under this section.

[(2)**] (3)** In this section and in § 9–907 of this subtitle, "veteran" means an individual who:

(i) served other than dishonorably on active duty in the armed forces of the United States; or

(ii) served other than dishonorably as a member of the State militia ordered into active service of the United States by order of the President and was killed in the line of duty.

(4) "WASHINGTON CEMETERY" MEANS THE CIVIL WAR CEMETERY GROUNDS AUTHORIZED BY CHAPTER 213 OF THE ACTS OF THE GENERAL ASSEMBLY OF 1870.

(b) The Department may establish one or more cemeteries in the State for the burial of veterans and their eligible spouse or dependents as authorized by the Secretary.

(c) The Department may accept land, on behalf of the State or a political subdivision of the State, or otherwise acquire land for a State veterans' cemetery, if the Department has the approval of:

(1) the governing body of the county where the State veterans' cemetery is to be located;

(2) the delegation in the General Assembly for the county where the State veterans' cemetery is to be located; and

(3) the Board of Public Works.

(d) (1) The Department shall maintain and supervise each State veterans' cemetery.

(2) The Washington Cemetery **[**Board of Trustees**]** shall be under the supervision of the Department.

(e) The Department shall provide a plot in a State veterans' cemetery, without charge, to a veteran who meets the requirements of this section.

(f) To qualify for a plot in a State veterans' cemetery:

(1) the applicant must be a veteran who meets the requirements for burial at a national veterans' cemetery or an eligible spouse or dependent of a veteran who meets the requirements of this subsection; and

(2) if a veteran, the veteran must also have been a resident of the State:

(i) when the veteran entered the armed forces;

(ii) when the veteran died; or

(iii) for 2 years, unless, for a reason that the Department finds compelling, the Department waives the time period.

(g) To obtain a plot in a State veterans' cemetery, an applicant shall submit to the Department an application on the form that the Department provides.

(h) (1) In a plot that is allotted to a veteran, the Department shall bury:

(i) the veteran; and

(ii) any member of the immediate family who is an eligible spouse or dependent of the veteran if the family member can be buried in a space above or below the veteran or in the next available plot.

(2) (i) With each plot, the Department shall provide one grave liner.

(ii) For an eligible veteran, the Department shall pay for the grave liner.

(iii) For an eligible spouse or dependent, the grave liner shall be paid for by the family or estate.

(i) (1) The Department shall bury the veteran without charge.

(2) For burial of a member of the immediate family who is an eligible spouse or dependent, the Department may set a fee that does not exceed the cost of burial.

Chapter 213 of the Acts of 1870

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That chapter one hundred and four, of the Acts of eighteen hundred and sixty–eight be and the same is hereby repealed, and the following enacted in lieu thereof:

Sec. 2. AND BE IT ENACTED, That a portion of ground, not exceeding ten acres, to be located within one mile of Hagerstown, be purchased, enclosed and devoted in perpetuity for the purpose of the burial and final resting place of the remains of the Confederate dead, and all other of both armies in the late war, who fell in the battles of Antietam, South Mountain, Monocacy, and other points in the State of Maryland, or who died from wounds received in said battles, and also those who fell in the battle of Gettysburg, in the State of Pennsylvania; but the power and right are hereby given to the Trustees appointed under this Act to agree with any Cemetery Association now established within one mile of Hagerstown, for the purchase or occupation of so much of their land as may be necessary to carry out the objects and purposes of this Act.

[Sec. 4. AND BE IT ENACTED, That the care and management of the grounds referred to in this Act, are hereby entrusted solely to the Trustees mentioned in the third section of this Act, together with the Trustees that may be appointed by other States, and their successors, and it shall be their duty, out of funds that may come into their hands by State appropriations or otherwise, to remove the remains of all the soldiers referred to in the second section of this Act, and to have them properly interred in the aforementioned grounds.**]**

[Sec. 5. AND BE IT ENACTED, That the aforesaid Trustees, with any others that may in the meantime be appointed by other States, shall hold their first meeting in Hagerstown, in Washington County, on the first Wednesday in the month of May next, or as soon thereafter as practicable, and organize by the election of one of their members President, and appoint a Secretary and Treasurer, and shall have power to employ such other officers and agents as may be needful; they shall require the Treasurer to bond to the corporation in double the probable amount of money that may be in his hands at any time during the term of his office, with two or more sufficient securities, conditioned for the faithful discharge of his duties and the correct accounting for the paying over of the money; said bond to be approved by the Circuit Court of Washington County, and recorded in the Clerk's office of said County; the term of office of the officers of the Board of Trustees aforesaid shall expire on the first day of January of each year, or as soon thereafter as their successors may be duly chosen and qualified to act.**]**

[Sec. 7. AND BE IT ENACTED, That the Board of Trustees shall adopt such by–laws, rules and regulations as they may deem necessary for their government, and for the government of their officers and agents and employees, such by–laws, rules and regulations to be consistent with this Act of Incorporation and the laws. If any State Legislature fail or refuse to make an appropriation, and the same shall be made to the amount of one thousand dollars ($1,000), by any association, or by individuals, nothing in this Act shall be so construed as to prevent such association or individuals from being represented by a Trustee in the Board; but no State, except Maryland, shall have more than one Trustee.**]**

[Sec. 8. BE IT ENACTED, That the Corporation shall have power to receive appropriations from the United States, from State Legislatures, associations and individuals, and also devises, bequests, gifts, annuities, and all other kinds of property, real and personal, for the purpose of the burial of the dead, enclosing and ornamenting the grounds and maintaining the same, and erecting a monument or monuments therein.]

Sec. 9. AND BE IT ENACTED, That the grounds and property of said Cemetery shall be forever free from the levy of any State, County or Municipal tax, and the State of Maryland hereby releases and exempts the Corporation created by this Act from the payment of any tax whatever that might be imposed by existing laws; all the laws of this State now in force, or which may hereafter be enacted for the protection of cemeteries, burial grounds and places of sepulchre, shall apply with full force and effect to this Cemetery hereby incorporated, immediately from and after the passage of this Act.

Sec. 10. AND BE IT ENACTED, That the sum of five thousand dollars be and the same is hereby appropriated to carry into effect this Act, which amount shall be paid to the Treasurer of the Corporation upon the warrant of the Governor, in such sums as may be by him deemed necessary. Before any money is paid, it shall be the duty of the Trustees to select a site for the Cemetery, in accordance with this Act, to report the same to the Governor for his approval, stating the price to be paid, and the location, and such other information as the Governor may require.

Sec. 11. AND BE IT ENACTED, That this Act shall take effect from the date of its passage.

Chapter 213 of the Acts of 1870, as amended by Chapter 97 of the Acts of 1970

[SECTION 3. AND BE IT ENACTED, That the Secretary of General Services shall appoint three Trustees for the State of Maryland, to serve for three years, and who may be reappointed in the discretion of the Secretary of General Services, and there shall be one Trustee for each of the other States, to be appointed by the Governors of their respective States, and the same are hereby created a body politic, in law, under the style and name and title of the Washington Cemetery, which shall be a part of the Department of General Services, and by that name, style and title shall have perpetual succession, and be able and capable in law to have and use a common seal, to sue and be sued, plead and be impleaded, in all courts of law and equity, and to whom shall be conveyed in trust, for the purpose above recited, the ground so purchased; said Trustees shall have all the incidental authority necessary to carry into effect the object of this corporation.]

[SECTION 6. AND BE IT ENACTED, That in case of neglect or failure of the Governor of any State to fill a vacancy in the Board of Trustees, the Trustees may supply the place by appointing a citizen of the particular State which is represented in

the Board by reason of such vacancy. It shall be the duty of the Trustees to report to the Secretary of General Services on the first day of January in each and every year, of the condition and management of the Cemetery, which report shall contain a detailed statement of the receipts and expenditures of the Corporation, and a copy thereof shall be forwarded to the Governor of each State represented in the Corporation. The expenses incident to the removal of the dead, inclosing and ornamenting the Cemetery, and all the work connected therewith and its further maintenance, shall be apportioned among the States connecting themselves with the Corporation according to the number of dead they may have upon the aforementioned battlefields.**]**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 30

(Senate Bill 81)

AN ACT concerning

State Board of Veterinary Medical Examiners – License Suspensions and Revocations – Maximum Penalties

FOR the purpose of ~~altering the~~ providing that a certain maximum penalty that may be imposed by the State Board of Veterinary Medical Examiners under certain circumstances applies only to a first offense; establishing a maximum penalty for a second or subsequent offense that may be imposed by the Board under certain circumstances; and generally relating to the authority of the State Board of Veterinary Medical Examiners to impose penalties on license suspension or revocation.

BY repealing and reenacting, with amendments,
Article – Agriculture
Section 2–310.1
Annotated Code of Maryland
(2007 Replacement Volume and 2009 Supplement)

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

Article – Agriculture

2–310.1.

(a) In lieu of or in addition to suspension of the license, the Board may impose a penalty of not more than ~~[~~$5,000~~]~~ ~~$10,000~~ **FOR A FIRST OFFENSE**.

(b) In addition to revocation of the license, the Board may impose a penalty of not more than ~~[~~$5,000~~]~~ ~~$10,000~~ **FOR A FIRST OFFENSE**.

(C) IN ADDITION TO SUSPENSION OR REVOCATION OF THE LICENSE, THE BOARD MAY IMPOSE A PENALTY OF NOT MORE THAN $10,000 FOR A SECOND OR SUBSEQUENT OFFENSE.

~~(c)~~ **(D)** Penalties collected by the Board under this section shall be paid into the General Fund of the State.

~~(d)~~ **(E)** The Board shall establish such rules and regulations as are necessary to carry out the provisions of this section.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 31

(Senate Bill 82)

AN ACT concerning

Maryland Commercial Feed Law – Definitions – Prohibition on Sale

FOR the purpose of prohibiting a person from adulterating or misbranding a commercial feed, distributing, removing, or disposing of a commercial feed under certain circumstances, or altering certain labels; altering certain definitions; and generally relating to the sale of feed under the Maryland Commercial Feed Law.

BY repealing and reenacting, without amendments,
Article – Agriculture
Section 6–101(a)
Annotated Code of Maryland
(2007 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – Agriculture
Section 6–101(b) and (d)

Annotated Code of Maryland
(2007 Replacement Volume and 2009 Supplement)

BY adding to
Article – Agriculture
Section 6–112.1
Annotated Code of Maryland
(2007 Replacement Volume and 2009 Supplement)

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

Article – Agriculture

6–101.

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

(b) A commercial feed is "adulterated" if:

(1) **[**Any poisonous, deleterious, or nonnutritive ingredient is added in sufficient amount to render it injurious to health when fed in accordance with directions for use on the label**]** **THE FEED CONTAINS ANY POISONOUS OR DELETERIOUS SUBSTANCE THAT MAY RENDER THE FEED INJURIOUS TO HUMAN OR ANIMAL HEALTH, EXCEPT WHEN THE SUBSTANCE IS NOT ADDED TO THE FEED AND THE QUANTITY OF THE SUBSTANCE DOES NOT ORDINARILY RENDER IT INJURIOUS TO HUMAN OR ANIMAL HEALTH**;

(2) A valuable constituent is omitted or abstracted wholly or partially from it or any less valuable substance is substituted for it;

(3) Its composition or quality falls below or differs from that which it is purported or is represented to possess by its labeling; **[**or**]**

(4) **[**It contains added hulls, screenings, straw, cobs, or other high fiber material, unless the name of each material is stated on the label.**]** **THE FEED CONTAINS ANY ADDED POISONOUS, ADDED DELETERIOUS, OR ADDED NONNUTRITIVE SUBSTANCE WHICH IS UNSAFE;**

(5) THE FEED CONSISTS, IN WHOLE OR PART, OF ANY FILTHY, PUTRID, OR DECOMPOSED SUBSTANCE, OR IS OTHERWISE UNFIT FOR FEED; OR

(6) THE FEED HAS BEEN PREPARED, PACKED, OR HELD UNDER UNSANITARY CONDITIONS WHERE THE FEED MAY HAVE BECOME

CONTAMINATED WITH FILTH OR RENDERED INJURIOUS TO HUMAN OR ANIMAL HEALTH.

(d) "Commercial feed" means **[**a material which is distributed for use as feed or for mixing in feed for any animal, other than man, except:

(1) Unmixed and unprocessed whole seeds or meal made directly from the entire seeds;

(2) Unground hay; or

(3) Whole or ground straw, stover, silage, cobs, and hulls not mixed with any other material.**] A MATERIAL OR COMBINATION OF MATERIALS DISTRIBUTED, OR INTENDED FOR DISTRIBUTION, FOR USE AS FEED, OR FOR MIXING IN FEED FOR ANY ANIMAL OTHER THAN MAN INCLUDING FEED PREPARED AND DISTRIBUTED FOR CONSUMPTION BY DOGS AND CATS, OR ANY DOMESTICATED ANIMAL NORMALLY MAINTAINED IN A CAGE OR TANK, INCLUDING GERBILS, HAMSTERS, CANARIES, PSITTACINE BIRDS, MYNAHS, FINCHES, TROPICAL FISH, GOLDFISH, SNAKES, AND TURTLES, EXCEPT:**

(1) UNMIXED WHOLE SEEDS AND PHYSICALLY ALTERED ENTIRE UNMIXED SEEDS THAT ARE NOT CHEMICALLY ALTERED OR ADULTERATED; OR

(2) COMMODITIES SUCH AS HAY, STRAW, STOVER, SILAGE, COBS, HUSKS, HULLS, AND INDIVIDUAL CHEMICAL COMPOUNDS OR SUBSTANCES WHEN THE COMMODITIES, COMPOUNDS, OR SUBSTANCES ARE NOT INTERMIXED WITH OTHER MATERIALS OR ADULTERATED.

6–112.1.

A PERSON MAY NOT:

(1) ADULTERATE OR MISBRAND A COMMERCIAL FEED;

(2) DISTRIBUTE A COMMERCIAL FEED THAT IS NOT REGISTERED WITH THE DEPARTMENT;

(3) REMOVE OR DISPOSE OF A COMMERCIAL FEED IN VIOLATION OF A "STOP SALE" ORDER ISSUED UNDER § 6–113 OF THIS SUBTITLE; OR

(4) DETACH, ALTER, DEFACE, OR DESTROY, WHOLLY OR PARTIALLY, ANY LABEL OR LABELING REQUIRED UNDER THIS SUBTITLE OR DEPARTMENT REGULATIONS.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 32

(Senate Bill 85)

AN ACT concerning

Vehicle Laws – Electronic Transmission of Title Information by Dealers

FOR the purpose of providing that, within a certain time period, a licensed dealer transferring a vehicle may send or electronically transmit certain required taxes, fees, and other titling documents or data to the Motor Vehicle Administration; and generally relating to the electronic transmission of title information to the Motor Vehicle Administration.

BY repealing and reenacting, without amendments,
Article – Transportation
Section 13–104.1 and 13–108.1
Annotated Code of Maryland
(2009 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – Transportation
Section 13–113(e)
Annotated Code of Maryland
(2009 Replacement Volume and 2009 Supplement)

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

Article – Transportation

13–104.1.

If an application for a certificate of title is for a new vehicle, the application also shall be accompanied by:

(1) The manufacturer's certificate of origin for the vehicle, assigned by the transferor to the transferee; or

(2) If the vehicle was acquired in another state or country the laws of which do not provide for a manufacturer's certificate of origin, a certified bill of sale or other documents required by law in the other state or country, showing any security interest retained by the seller or created at the time of sale to secure the payment of the purchase price.

13–108.1.

(a) Notwithstanding any other provision of this title, the Administration may develop and implement an electronic system for the issuance of certificates of title and the recording and releasing of security interests.

(b) The electronic system may provide for:

(1) Recording titling and registration data without the issuance of a certificate of title; and

(2) Recording and releasing liens without the issuance of a security interest filing.

(c) The electronic system may provide for the electronic transmission of vehicle data to and from licensed dealers.

(d) The Administration shall adopt regulations to govern the electronic transmission of titling and registration information authorized under this section.

13–113.

(e) (1) If a licensed dealer holds a vehicle for sale and transfers the vehicle to someone other than another licensed dealer who holds the vehicle for sale, the dealer shall:

(i) Execute an assignment and warranty of title to the transferee in the manner and on the form that the Administration requires; and

(ii) Comply with the provisions specified in this subsection.

(2) If the vehicle is a Class A (passenger) vehicle, Class D (motorcycle) vehicle, Class G (trailer) travel trailer or camping trailer, or Class M (multipurpose) vehicle and is to be registered and titled in this State, the transferring dealer shall:

(i) Obtain from the transferee a completed application and collect all taxes and fees required for titling the vehicle; and

(ii) Within 30 days of the date of delivery of the vehicle, send **OR ELECTRONICALLY TRANSMIT** them, together with every other document **OR DATA**

required by **[**§ 13–104**] §§ 13–104, 13–104.1, AND 13–108.1** of this subtitle, to the Administration.

(3) If the vehicle is to be registered and titled in this State, but is not a Class A (passenger) vehicle, Class D (motorcycle) vehicle, Class G (trailer) travel trailer or camping trailer, or Class M (multipurpose) vehicle, the transferring dealer shall, within 30 days of the delivery of the vehicle, either:

(i) Deliver the certificate of title to the transferee; or

(ii) Send **OR ELECTRONICALLY TRANSMIT** the transferee's completed application and all taxes and fees required for titling the vehicle, together with every other document **OR DATA** required by **[**§ 13–104**] §§ 13–104, 13–104.1, AND 13–108.1** of this subtitle, to the Administration.

(4) If the vehicle is not to be titled in this State and is to be registered in another state, the transferring dealer shall deliver the certificate of title to the transferee within 30 days of delivery of the vehicle.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 33

(Senate Bill 87)

AN ACT concerning

Education – Physical Education and Athletic Programs for Students with Disabilities – Reporting Requirements

FOR the purpose of altering the reporting date for county boards of education to report on certain requirements relating to physical education and athletic programs for students with disabilities; altering the reporting date for the State Department of Education to issue a certain report to the General Assembly; and generally relating to physical education and athletic programs for students with disabilities.

BY repealing and reenacting, with amendments,
Article – Education
Section 7–4B–05
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)

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

Article – Education

7–4B–05.

(a) On or before **[**February 1**]** **MAY 15** of each year, each county board shall submit to the Department a report of the school system's compliance with the provisions of this subtitle.

(b) The first annual report completed by a county board in accordance with subsection (a) of this section shall include:

(1) The number of students with disabilities that participate in the school system's mainstream physical education or mainstream athletic programs; and

(2) A description of plans by the county board to affirmatively engage students with disabilities in mainstream physical education or mainstream athletic programs.

(c) Reports submitted by a county board subsequent to the report submitted under subsection (b) of this section shall be consistent with regulations adopted by the State Board.

(d) On or before **[**May**]** **AUGUST** 1 of each year, the Department shall, subject to § 2–1246 of the State Government Article, submit to the General Assembly a report of compliance with the provisions of this subtitle.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 34

(Senate Bill 90)

AN ACT concerning

Secretary of Agriculture – Farm Quarantine

FOR the purpose of authorizing the Secretary of Agriculture to establish a farm quarantine and issue certain orders under certain circumstances; requiring the

Secretary to consult with the Governor, the Secretary of Health and Mental Hygiene, and the Secretary of the Environment before establishing a quarantine; requiring the Secretary to give certain notice of a quarantine; requiring the Secretary to provide procedures to alter or remove a quarantine; authorizing the Secretary to take certain actions, including entering private property for certain purposes under certain circumstances; prohibiting a person from resisting a certain order or quarantine of the Secretary or concealing certain facts; authorizing a quarantine to provide for a civil penalty for certain purposes, not to exceed to a certain amount; authorizing the Secretary to bring an action for injunctive relief under certain circumstances; providing that certain provisions of this Act do not limit the authority of the Secretary of the Environment under a certain provision of law; authorizing the Secretary to apply to a court for an administrative search warrant under certain circumstances; authorizing a judge to issue an administrative search warrant under certain circumstances; and generally relating to the authority of the Secretary of Agriculture to establish and to enforce a quarantine order to control or restrict the use of farmland, crops, livestock, poultry, or a farm product.

BY adding to
Article – Agriculture
Section 2–103.1 and 2–103.2
Annotated Code of Maryland
(2007 Replacement Volume and 2009 Supplement)

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

Article – Agriculture

2–103.1.

(A) THE SECRETARY MAY ESTABLISH A FARM QUARANTINE AND ISSUE APPROPRIATE ORDERS NECESSARY TO CONTROL OR RESTRICT THE USE OF FARMLAND, CROPS, LIVESTOCK, POULTRY, OR A FARM PRODUCT EXISTING ON A FARM THAT:

(1) HAS BEEN EXPOSED TO OR CONTAMINATED BY A RADIOLOGICAL OR CHEMICAL TOXIC MATERIAL OR AGENT; OR

(2) IS INFECTED OR INFESTED WITH A DISEASE OR PEST.

(B) BEFORE ESTABLISHING A QUARANTINE FOR A FARM, THE SECRETARY SHALL CONSULT WITH THE GOVERNOR, THE SECRETARY OF HEALTH AND MENTAL HYGIENE, AND THE SECRETARY OF THE ENVIRONMENT ON ISSUES OF HUMAN HEALTH AND THE ENVIRONMENT.

(C) BEFORE A QUARANTINE OR ORDER ISSUED UNDER THIS SECTION TAKES EFFECT, THE SECRETARY SHALL GIVE REASONABLE NOTICE OF THE QUARANTINE OR ORDER:

(1) IN A NEWSPAPER OF GENERAL CIRCULATION IN THE QUARANTINE AREA;

(2) THROUGH TELEVISION OR RADIO SERVING THE QUARANTINED AREA;

(3) BY CIRCULATING NOTICES OR POSTING SIGNS AT CONSPICUOUS PLACES IN THE QUARANTINE AREA; OR

(4) BY NOTIFYING EACH LANDOWNER ~~OR~~, TENANT, OR ANIMAL OWNER OF THE QUARANTINE OR ORDER.

(D) (1) THE SECRETARY SHALL ESTABLISH PROCEDURES TO ALLOW A LANDOWNER ~~OR~~, TENANT, OR ANIMAL OWNER TO REQUEST THE AMENDMENT, RESCISSION, OR TERMINATION OF A QUARANTINE OR ORDER ISSUED UNDER THIS SECTION.

(2) A REQUEST TO AMEND, RESCIND, OR TERMINATE A QUARANTINE OR ORDER ISSUED UNDER THIS SECTION MAY NOT SUSPEND A QUARANTINE OR ORDER OF THE SECRETARY.

(E) FOR THE PURPOSE OF CONTROLLING OR RESTRICTING THE USE OF FARMLAND, CROPS, LIVESTOCK, POULTRY, OR FARM PRODUCTS AS PROVIDED BY THIS SECTION, THE SECRETARY MAY:

(1) QUARANTINE A FARM AREA OF THE STATE KNOWN OR REASONABLY BELIEVED TO CONTAIN A FARM PRODUCT, CROPS, LIVESTOCK, POULTRY, OR FARMLAND IN AN INFECTED, INFESTED, OR CONTAMINATED CONDITION;

(2) REGULATE THE MOVEMENT, DISTRIBUTION, SALE, OR TRANSPORTATION OF A CROP, LIVESTOCK, POULTRY, OR FARM PRODUCT WHEN IT IS REASONABLY LIKELY TO TRANSFER INFESTATION, INFECTION, OR CONTAMINATION;

(3) REGULATE OR PROHIBIT THE ON–FARM GRAZING OF LIVESTOCK AND POULTRY, SLAUGHTER AND PROCESSING OF LIVESTOCK AND POULTRY, PROCESSING OF EGGS, AND HARVESTING OR PLANTING OF A CROP IN

A QUARANTINED AREA WHEN THE SECRETARY DETERMINES THAT THE ACTION MAY PREVENT, LIMIT, CONTROL, OR ERADICATE ANY THREAT;

(4) DIRECT AS PART OF A QUARANTINE ORDER FOR A QUARANTINED FARM AREA, TREATMENTS OR DECONTAMINATION;

(5) ENTER PRIVATE LAND THAT IS PART OF A FARM OPERATION TO INSPECT, SAMPLE, OR TEST SOIL OR CROPS, LIVESTOCK, POULTRY, OR A FARM PRODUCT ON A FARM; AND

(6) DIRECT THE TREATMENT, STOP–SALE, DETENTION, CONDEMNATION, SEIZURE, OR DESTRUCTION OF ANY CROP, LIVESTOCK, POULTRY, OR FARM PRODUCT WHEN THE SECRETARY KNOWS OR REASONABLY BELIEVES THAT THE ACTION IS NECESSARY TO CONTROL, RETARD, OR ERADICATE A THREAT ON A FARM.

(F) A PERSON MAY NOT RESIST THE APPLICATION OF A QUARANTINE OR ORDER OF THE SECRETARY.

(G) A PERSON MAY NOT CONCEAL THE FACT THAT A FARM HAS BEEN EXPOSED TO OR CONTAMINATED BY ANY RADIOLOGICAL OR CHEMICAL AGENT OR TOXIC MATERIAL OR HAS BEEN INFECTED OR INFESTED WITH ANY DISEASE OR PEST.

(H) ANY FARM QUARANTINE OR ORDER BY THE SECRETARY UNDER THIS SECTION MAY PROVIDE FOR:

(1) THE IMPOSITION OF A CIVIL PENALTY NOT EXCEEDING $10,000 FOR EACH VIOLATION; AND

(2) THE METHOD AND CONDITIONS OF COLLECTING THE CIVIL PENALTY.

(I) (1) THE SECRETARY MAY BRING AN ACTION FOR AN INJUNCTION AGAINST A PERSON VIOLATING THE PROVISIONS OF THIS SECTION, OR VIOLATING A VALID ORDER OR FARM QUARANTINE ISSUED BY THE SECRETARY.

(2) IN AN ACTION FOR AN INJUNCTION BROUGHT UNDER THIS SECTION, A FINDING OF THE SECRETARY AFTER A HEARING SHALL BE PRIMA FACIE EVIDENCE OF EACH FACT FOUND.

(3) ON A SHOWING BY THE SECRETARY THAT A PERSON IS VIOLATING OR IS ABOUT TO VIOLATE THE PROVISIONS OF THIS SECTION OR IS VIOLATING OR IS ABOUT TO VIOLATE ANY VALID ORDER OR QUARANTINE

ISSUED BY THE SECRETARY, AN INJUNCTION SHALL BE GRANTED WITHOUT THE NECESSITY OF SHOWING A LACK OF ADEQUATE REMEDY AT LAW.

(4) IN CIRCUMSTANCES OF AN EMERGENCY CREATING CONDITIONS OF IMMINENT DANGER TO AGRICULTURE, PUBLIC HEALTH AND SAFETY, OR THE ENVIRONMENT, THE SECRETARY MAY INSTITUTE AN ACTION FOR AN IMMEDIATE INJUNCTION TO HALT ANY ACTIVITY CAUSING THE DANGER.

(5) AN INJUNCTION INSTITUTED UNDER THIS SECTION SHALL BE ISSUED WITHOUT BOND.

(J) THE SECRETARY MAY ORDER ANY SHERIFF, DEPUTY SHERIFF, OR OTHER LAW ENFORCEMENT OFFICER OF THE STATE OR OF ANY COUNTY TO PROVIDE INFORMATION OR ASSIST IN THE EXECUTION OR ENFORCEMENT OF ANY FARM QUARANTINE OR ORDER OF THE SECRETARY.

(K) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO LIMIT ANY AUTHORITY OF THE SECRETARY OF THE ENVIRONMENT UNDER § 8–105 OF THE ENVIRONMENT ARTICLE.

2–103.2.

(A) THE SECRETARY OR A DESIGNEE OF THE SECRETARY MAY APPLY TO A JUDGE OF THE DISTRICT COURT OR A CIRCUIT COURT FOR AN ADMINISTRATIVE SEARCH WARRANT TO ENTER ANY FARM TO CONDUCT ANY INSPECTION REQUIRED OR AUTHORIZED BY LAW TO DETERMINE COMPLIANCE WITH THE PROVISIONS RELATING TO THE CONTROL AND RESTRICTION OF FARMLAND, CROPS, LIVESTOCK, POULTRY, OR FARM PRODUCTS, EXPOSED TO OR CONTAMINATED BY ANY RADIOLOGICAL OR CHEMICAL TOXIC MATERIAL OR AGENT OR INFECTED OR INFESTED WITH ANY DISEASE OR PEST.

(B) (1) THE APPLICATION SHALL BE IN WRITING AND SIGNED AND SWORN TO BY THE APPLICANT AND SHALL PARTICULARLY DESCRIBE THE PLACE, STRUCTURE, PREMISES, VEHICLE, OR RECORDS TO BE INSPECTED AND THE NATURE, SCOPE, AND PURPOSE OF THE INSPECTION TO BE PERFORMED BY THE APPLICANT.

(2) BEFORE THE FILING OF A SEARCH WARRANT APPLICATION WITH A COURT, IT SHALL BE APPROVED BY THE ATTORNEY GENERAL OF MARYLAND AS TO ITS LEGALITY IN BOTH FORM AND SUBSTANCE UNDER THE STANDARDS AND CRITERIA OF THIS SECTION, AND A STATEMENT TO THIS EFFECT SHALL BE INCLUDED AS PART OF THE APPLICATION.

(C) A JUDGE OF A COURT REFERRED TO IN SUBSECTION (A) OF THIS SECTION MAY ISSUE THE WARRANT ON FINDING THAT:

(1) THE APPLICANT HAS SOUGHT ACCESS TO THE PROPERTY FOR THE PURPOSE OF MAKING AN INSPECTION;

(2) (I) AFTER REQUESTING, AT A REASONABLE TIME, THE OWNER, TENANT, OR OTHER INDIVIDUAL IN CHARGE OF THE PROPERTY TO ALLOW ACCESS, ACCESS TO THE PROPERTY HAS BEEN DENIED; OR

(II) AFTER MAKING A REASONABLE EFFORT, THE APPLICANT HAS BEEN UNABLE TO LOCATE THE OWNER, TENANT, OR OTHER INDIVIDUAL IN CHARGE OF THE PROPERTY;

(3) THE REQUIREMENTS OF SUBSECTION (B) OF THIS SECTION ARE MET;

(4) THE SECRETARY OR DESIGNEE OF THE SECRETARY IS AUTHORIZED OR REQUIRED BY LAW TO MAKE AN INSPECTION OF THE PROPERTY FOR WHICH THE WARRANT IS SOUGHT; AND

(5) PROBABLE CAUSE FOR THE ISSUANCE OF THE WARRANT HAS BEEN DEMONSTRATED BY THE APPLICANT BY SPECIFIC EVIDENCE OF ANY FARMLAND, CROPS, LIVESTOCK, <u>POULTRY,</u> OR FARM PRODUCT EXPOSED TO OR CONTAMINATED BY ANY RADIOLOGICAL OR CHEMICAL AGENT OR INFECTED OR INFESTED WITH ANY DISEASE OR PEST.

(D) (1) AN ADMINISTRATIVE SEARCH WARRANT ISSUED UNDER THIS SECTION SHALL SPECIFY THE PLACE, STRUCTURE, PREMISES, VEHICLE, OR RECORDS TO BE INSPECTED.

(2) THE INSPECTION CONDUCTED MAY NOT EXCEED THE LIMITS SPECIFIED IN THE WARRANT.

(E) AN ADMINISTRATIVE SEARCH WARRANT ISSUED UNDER THIS SECTION AUTHORIZES THE SECRETARY OR DESIGNEE OF THE SECRETARY TO ENTER THE SPECIFIED PROPERTY TO PERFORM THE INSPECTION, SAMPLING, AND OTHER FUNCTIONS AUTHORIZED BY LAW TO DETERMINE WHETHER THE FARMLAND, CROPS, LIVESTOCK, <u>POULTRY,</u> OR FARM PRODUCT IS CONTAMINATED BY A RADIOLOGICAL OR CHEMICAL AGENT OR INFECTED OR INFESTED WITH A DISEASE OR PEST.

(F) AN ADMINISTRATIVE SEARCH WARRANT ISSUED UNDER THIS SECTION SHALL BE EXECUTED AND RETURNED TO THE JUDGE BY WHOM IT WAS ISSUED WITHIN:

(1) THE TIME SPECIFIED IN THE WARRANT, NOT TO EXCEED 30 DAYS; OR

(2) IF NO TIME PERIOD IS SPECIFIED IN THE WARRANT, 15 DAYS FROM THE DATE OF ISSUANCE OF THE WARRANT.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 35

(Senate Bill 92)

AN ACT concerning

Department of Natural Resources – Boating Safety Requirements

FOR the purpose of altering a certain definition to make the prohibition on a person from operating a vessel unless certain individuals are wearing a personal flotation device apply based solely on the age of the individuals; altering the required age for a child to wear a personal flotation device; requiring individuals under a certain age to ~~obtain~~ possess a certain certificate of boating safety education ~~under certain circumstances and~~ or comply with certain other requirements under certain circumstances; clarifying language; making this Act an emergency measure; providing for the effective date of certain provisions of this Act; and generally relating to boating safety requirements.

BY repealing and reenacting, with amendments,
Article – Natural Resources
Section 8–712.2(a) and 8–743
Annotated Code of Maryland
(2007 Replacement Volume and 2009 Supplement)

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

Article – Natural Resources

8–712.2.

(a) (1) Except as otherwise provided in paragraphs (3) ~~and (4)~~**, (4), AND (5)** of this subsection, **[**on or after July 1, 1988**]** a person born on or after July 1, 1972 may not operate on the waters of the State a vessel for pleasure that is required to be numbered in accordance with this subtitle or a vessel for pleasure that is required to be numbered in accordance with the Federal Boat Safety Act of 1971 without first obtaining a certificate of boating safety education.

(2) A person who is subject to the provisions of paragraph (1) of this subsection shall:

(i) Possess the certificate of boating safety education when operating a vessel on waters of the State; and

(ii) Show the certificate on the demand of a Natural Resources police officer or other law enforcement officer.

(3) The following persons are exempt from the requirements of this section:

(i) A person who is operating a vessel in connection with commercial purposes;

(ii) A person who is a resident of another state and who is visiting the State for 60 days or less in a vessel that is numbered in another state if:

1. The person is 16 years old or older; or

2. The person has been issued a boating safety certificate in accordance with the provisions of subsection (c)(6) of this section;

(iii) A person who is visiting the State for 90 days or less in a vessel from a country other than the United States;

(iv) A person operating a vessel on a body of water located on private property; and

(v) Any other person exempted by regulation of the Department.

(4) When a vessel numbered in accordance with this subtitle or in accordance with the Federal Boat Safety Act of 1971 is operated for pleasure on waters of the State, at least 1 person on the vessel must:

(i) Possess the certificate of boating safety education; or

(ii) Be exempt from the certification requirements of paragraph (1) of this subsection.

(5) A PERSON WHO IS UNDER THE AGE OF 16 AND WHO OPERATES A VESSEL NUMBERED IN ACCORDANCE WITH THIS SUBTITLE OR IN ACCORDANCE WITH THE FEDERAL BOAT SAFETY ACT OF 1971 MUST:

(I) POSSESS A CERTIFICATE OF BOATING SAFETY EDUCATION;

(II) 1. ~~BE~~ IF OPERATING A VESSEL UNDER 11 FEET IN LENGTH, BE UNDER THE SUPERVISION OF A PERSON WHO HAS OBTAINED A CERTIFICATE OF BOATING SAFETY EDUCATION AND IS ABOARD THE VESSEL; OR

2. IF OPERATING A VESSEL 11 FEET IN LENGTH OR GREATER, BE UNDER THE SUPERVISION OF A PERSON WHO IS 18 YEARS OR OLDER AND HAS OBTAINED A CERTIFICATE OF BOATING SAFETY EDUCATION AND IS ABOARD THE VESSEL; OR

(III) BE UNDER THE SUPERVISION OF A PERSON WHO WAS BORN BEFORE JULY 1, 1972 AND IS ABOARD THE VESSEL.

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

Article – Natural Resources

8–743.

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

(2) "Child" means an individual who**[**:

(i) Is**]** **IS** under the age of **[**7**]** **13** years**[**, regardless of the individual's weight; or

(ii) Weighs 50 pounds or less, regardless of the individual's age**]**.

(3) "Personal flotation device" means a Type I, II, III, or V U.S. Coast Guard approved personal flotation device that is:

(i) The proper size for the child; and

(ii) In good and serviceable condition.

(4) (i) "Vessel" means:

1. A vessel used for recreational purposes; or

2. A vessel leased, rented, or chartered for noncommercial use.

(ii) "Vessel" does not include a vessel carrying passengers for hire under the command of an individual licensed by the U.S. Coast Guard to carry passengers for hire, or a vessel displaying a valid seafood harvester's license number while engaged in the harvesting of seafood for sale.

(b) (1) A person may not operate or permit the operation of a vessel under 21 feet in length while there is present in the vessel a child not wearing a personal flotation device which is securely and properly attached to the child.

(2) If the child is under the age of 4 years, the personal flotation device shall feature additional safety precautions, as appropriate for an infant, toddler, or young child, so as to:

(i) Hold the child securely within the personal flotation device, including a strap that is secured between the child's legs to fasten together the front and back of the personal flotation device;

(ii) Maintain the buoyancy of the child, including an inflatable headrest or high collar; and

(iii) Ensure the ready accessibility of the child from the vessel, including a web handle.

(c) Subsection (b) does not apply to:

(1) A vessel that is moored or anchored; or

(2) A child who is below deck or in an enclosed cabin.

SECTION 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall take effect October 1, 2010.

SECTION 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 yea and nay vote supported by three–fifths of all the members elected to each of the two Houses of the General Assembly and, except as provided in Section 3 of this Act, shall take effect from the date it is enacted.

Approved by the Governor, April 13, 2010.

Chapter 36

(Senate Bill 95)

AN ACT concerning

Maryland Agricultural Land Preservation Foundation – Farmland Preservation Partnership Program

FOR the purpose of authorizing the Maryland Agricultural Land Preservation Foundation to establish a Farmland Preservation Partnership Program to purchase certain agricultural preservation easements under certain circumstances; requiring the Foundation to develop certain criteria for participation in the Partnership Program; altering the date for the submission of a certain annual report to the Governor and the General Assembly by the Foundation; and generally relating to the Maryland Agricultural Land Preservation Foundation.

BY repealing and reenacting, with amendments,
Article – Agriculture
Section 2–506
Annotated Code of Maryland
(2007 Replacement Volume and 2009 Supplement)

BY adding to
Article – Agriculture
Section 2–517.1
Annotated Code of Maryland
(2007 Replacement Volume and 2009 Supplement)

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

Article – Agriculture

2–506.

The Foundation on or before **[**November 1**]** **JANUARY 15** of each year, shall transmit to the Governor and, subject to § 2–1246 of the State Government Article, to the General Assembly a report of the Foundation's proceedings and activity for the preceding fiscal year, including an inventory of all easements or other interests in agricultural land and woodland acquired during that time, and including a report on the condition of the Maryland Agricultural Land Preservation Fund.

2–517.1.

(A) (1) (I) THE FOUNDATION MAY ESTABLISH A FARMLAND PRESERVATION PARTNERSHIP PROGRAM THAT IS GOVERNED BY THE REQUIREMENTS OF THIS SECTION.

(II) THE OBJECTIVE OF THE PARTNERSHIP PROGRAM IS TO PRESERVE PRODUCTIVE AGRICULTURAL AND FORESTED LANDS.

(2) (I) THE FOUNDATION MAY FORM PARTNERSHIPS FOR THE PURPOSE OF PURCHASING EASEMENTS ON QUALIFYING PROPERTIES.

(II) THE FOUNDATION'S PARTNERS SHALL COVER THE FULL PURCHASE PRICE, WHICH MAY INCLUDE THE ADMINISTRATIVE COSTS OF ANY EASEMENT FOR WHICH THE FOUNDATION WILL BE THE GRANTEE OR THE CO–GRANTEE.

(III) THE PROPERTIES THAT QUALIFY FOR THE PARTNERSHIP PROGRAM SHALL MEET THE CRITERIA DEVELOPED BY THE FOUNDATION IN ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION.

(B) (1) THE FOUNDATION SHALL DEVELOP CRITERIA THAT DETERMINE WHEN A FARM QUALIFIES FOR THE PARTNERSHIP PROGRAM.

(2) AT A MINIMUM, ANY QUALIFYING FARM SHALL:

(I) MEET THE FOUNDATION'S SIZE CRITERIA;

(II) AS DETERMINED BY THE FOUNDATION, CONTAIN SIGNIFICANT PRODUCTIVE AGRICULTURAL SOIL OR FOREST SOIL; AND

(III) BE APPROVED FOR PARTICIPATION IN THE PARTNERSHIP PROGRAM BY THE GOVERNING BODY OF THE LOCAL JURISDICTION IN WHICH THE PROPERTY IS LOCATED.

(C) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBTITLE, AN EASEMENT ACQUIRED BY THE FOUNDATION IN ACCORDANCE WITH THIS SECTION IS NOT SUBJECT TO THE RANKING, VALUATION, OR DEVELOPMENT RESTRICTIONS OF THIS SUBTITLE, EXCEPT AS DETERMINED BY THE FOUNDATION'S BOARD OF TRUSTEES.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 37

(Senate Bill 96)

AN ACT concerning

Washington Suburban Sanitary Commission

FOR the purpose of adding a new division to the Public Utility Companies Article of the Annotated Code of Maryland, to be designated and known as "Division II. Washington Suburban Sanitary Commission"; revising, restating, and recodifying certain laws relating to the Washington Suburban Sanitary Commission, including laws relating to the members and employees of the Commission and the powers and duties of the Commission; revising, restating, and recodifying certain laws relating to personnel management and collective bargaining for Commission employees, ethics laws for the Commission, Commission procurements, the authority of the Commission to acquire and dispose of certain property, Prince George's County quick take condemnation, certain zoning map referrals, certain urban renewal projects, the issuance and sale of certain bonds and notes, certain taxes imposed by Montgomery County and Prince George's County, certain water and sewer systems, the construction of certain subdivision lines and service connections, the Commission's capital improvements program, certain construction projects and sewer cleaning, the imposition of certain rates and charges by the Commission, the provision of water from the Commission's system to certain other counties, authorities and duties of the Commission regarding the right to enter on or disturb certain public roadways under certain circumstances, the Commission police force, prohibited acts and penalties for the violation of certain provisions, and stormwater management in Montgomery County and Prince George's County; transferring certain provisions relating to flood control and the use of certain lands acquired for flood control and navigation purposes; amending and transferring a certain provision relating to flood control and navigation bonds to the Session Laws; defining certain terms; adding the designation of a new division to the Public Utility Companies Article of the Annotated Code of Maryland, to be known as "Division I. Public Services and Utilities"; renaming the Public Utility Companies Article to be the Public Utilities Article of the Annotated Code; providing for the construction and application of this Act; providing for the continuity of a certain unit 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; providing for the effective dates of certain provisions of this Act; providing for the termination of certain provisions of this Act; and generally relating to the laws of the State concerning the Washington Suburban Sanitary Commission.

BY repealing
Article 29 – Washington Suburban Sanitary District
Section 1–101 through 1–107, the title "Title 1. Definitions; General Provisions", and the subtitle "Subtitle 1. In General"; 1–201 through 1–208 and the subtitle "Subtitle 2. Legal and Financial Affairs"; 1–301 through 1–304 and the subtitle "Subtitle 3. Payment of Commission Obligations"; 2–101 through 2–104 and the title "Title 2. Prince George's County Quick Take"; 3–101 through 3–110, the title "Title 3. Water, Sewers, and Drainage", and the subtitle "Subtitle 1. In General"; 3–201 through 3–207 and the subtitle "Subtitle 2. Special Provisions"; 3–301 and the subtitle "Subtitle 3. Sewer Cleaning"; 4–101 through 4–110, 4–111A, and 4–112, the title "Title 4. Bonds and Anticipation Notes Generally", and the subtitle "Subtitle 1. General Obligation Bonds and Notes"; 4–201 through 4–212 and the subtitle "Subtitle 2. Revenue Bonds"; 5–101 through 5–109 and the title "Title 5. Front Foot Benefit Charges"; 6–101 through 6–113 and the title "Title 6. Rates and Charges Generally"; 7–101 through 7–107 and the title "Title 7. WSSC Capital Improvements Program"; 8–101 through 8–104 and the title "Title 8. Plumbing, Waterworks, and Sewer Construction"; 9–101 and 9–102 and the title "Title 9. Miscellaneous Powers and Duties of WSSC"; 10–101 through 10–108 and the title "Title 10. Highways and Streets"; 11–101 through 11–117 and the title "Title 11. Merit System"; 11.5–101 through 11.5–114 and the title "Title 11.5 Collective Bargaining"; 12–101 through 12–106, the title "Title 12. Ethics", and the subtitle "Subtitle 1. Conflicts of Interest and Lobbying"; 14–101 through 14–103 and the title "Title 14. Water System in Anne Arundel County"; 15–101 through 15–106 and the title "Title 15. Water System in Howard County"; 16–101 through 16–103 and the title "Title 16. Urban Renewal Projects"; 18–101 through 18–103, 18–104(a)(1) through (6) and (8) through (11) and (b) through (h), and 18–105 through 18–108 and the title "Title 18. Miscellaneous Provisions"; and 19–101 and the title "Title 19. Area Laws and Boundary Descriptions"
Annotated Code of Maryland
(2003 Replacement Volume and 2009 Supplement)

BY repealing
The article designation "Article 29 – Washington Suburban Sanitary District"
Annotated Code of Maryland
(2003 Replacement Volume and 2009 Supplement)

BY transferring
Article 29 – Washington Suburban Sanitary District
Section 13–101 and 13–102, respectively, and the title "Title 13. Flood Control"
Annotated Code of Maryland
(2003 Replacement Volume and 2009 Supplement)
to be
Article 28 – Maryland–National Capital Park and Planning Commission

Section 9–101 and 9–102, respectively, and the title "Title 9. Flood Control"
Annotated Code of Maryland
(2003 Replacement Volume and 2009 Supplement)

BY adding to
Article – Public Utility Companies
Section 16–101 and the title "Title 16. Definitions"; 17–101 through 17–501 and the title "Title 17. Commission"; 18–101 through 18–217 and the title "Title 18. Personnel"; 19–101 through 19–108 and the title "Title 19. Ethics"; 20–101 through 20–304 and the title "Title 20. Procurement"; 21–101 through 21–403 and the title "Title 21. Property and Land Use Matters"; 22–101 through 22–210 and the title "Title 22. Bonds and Notes"; 23–101 through 23–316 and the title "Title 23. Water, Sewers, and Drainage"; 24–101 through 24–201 and the title "Title 24. Plumbing, Waterworks, and Sewer Construction"; 25–101 through 25–508 and the title "Title 25. Rates and Charges"; 26–101 through 26–206 and the title "Title 26. Water Systems in Anne Arundel County and Howard County"; 27–101 through 27–108 and the title "Title 27. Highways and Streets"; 28–101 and 28–201 and the title "Title 28. Miscellaneous Provisions"; and 29–101 through 29–107 and the title "Title 29. Prohibited Acts; Penalties" to be under the new division "Division II. Washington Suburban Sanitary Commission"
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)

BY adding to
Article 24 – Political Subdivisions – Miscellaneous Provisions
Section 24–101 through 24–801 to be under the new title "Title 24. Stormwater Management"
Annotated Code of Maryland
(2005 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – Public Utility Companies
Section 25–403(b)
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)
(As enacted by Section 3 of this Act and Chapter 423 of Acts of the General Assembly of 2007)

BY adding to
Article – Public Utility Companies
The new division designation "Division I. Public Services and Utilities" to immediately precede Section 1–101
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments, and transferring to the Session Laws
Article 29 – Washington Suburban Sanitary District
Section 18–104(a)(7)
Annotated Code of Maryland
(2003 Replacement Volume and 2009 Supplement)

BY renaming
Article – Public Utility Companies
to be
Article – Public Utilities
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the following Section(s) of the Annotated Code of Maryland be repealed:

Article 29 – Washington Suburban Sanitary District
Section 1–101 through 1–107, the title "Title 1. Definitions; General Provisions", and the subtitle "Subtitle 1. In General"; 1–201 through 1–208 and the subtitle "Subtitle 2. Legal and Financial Affairs"; 1–301 through 1–304 and the subtitle "Subtitle 3. Payment of Commission Obligations"; 2–101 through 2–104 and the title "Title 2. Prince George's County Quick Take"; 3–101 through 3–110, the title "Title 3. Water, Sewers, and Drainage", and the subtitle "Subtitle 1. In General"; 3–201 through 3–207 and the subtitle "Subtitle 2. Special Provisions"; 3–301 and the subtitle "Subtitle 3. Sewer Cleaning"; 4–101 through 4–110, 4–111A, and 4–112, the title "Title 4. Bonds and Anticipation Notes Generally", and the subtitle "Subtitle 1. General Obligation Bonds and Notes"; 4–201 through 4–212 and the subtitle "Subtitle 2. Revenue Bonds"; 5–101 through 5–109 and the title "Title 5. Front Foot Benefit Charges"; 6–101 through 6–113 and the title "Title 6. Rates and Charges Generally"; 7–101 through 7–107 and the title "Title 7. WSSC Capital Improvements Program"; 8–101 through 8–104 and the title "Title 8. Plumbing, Waterworks, and Sewer Construction"; 9–101 and 9–102 and the title "Title 9. Miscellaneous Powers and Duties of WSSC"; 10–101 through 10–108 and the title "Title 10. Highways and Streets"; 11–101 through 11–117 and the title "Title 11. Merit System"; 11.5–101 through 11.5–114 and the title "Title 11.5 Collective Bargaining"; 12–101 through 12–106, the title "Title 12. Ethics", and the subtitle "Subtitle 1. Conflicts of Interest and Lobbying"; 14–101 through 14–103 and the title "Title 14. Water System in Anne Arundel County"; 15–101 through 15–106 and the title "Title 15. Water System in Howard County"; 16–101 through 16–103 and the title "Title 16. Urban Renewal Projects"; 18–101 through 18–103, 18–104(a)(1) through (6) and (8) through (11) and (b) through (h), and 18–105 through 18–108 and the title "Title 18. Miscellaneous Provisions"; and 19–101 and the title "Title 19. Area Laws and Boundary Descriptions"

The article designation "Article 29 – Washington Suburban Sanitary District"

SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 13–101 and 13–102, respectively, and the title "Title 13. Flood Control" of Article 29 – Washington Suburban Sanitary District of the Annotated Code of Maryland be transferred to be Section(s) 9–101 and 9–102, respectively, and the title "Title 9. Flood Control" of Article 28 – Maryland–National Capital Park and Planning Commission of the Annotated Code of Maryland.

SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Public Utility Companies

DIVISION II. WASHINGTON SUBURBAN SANITARY COMMISSION.

TITLE 16. DEFINITIONS.

16–101. DEFINITIONS.

(A) IN GENERAL.

IN THIS DIVISION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection formerly was Art. 29, § 1–101(a).

The only change is in style.

(B) COMMISSION.

"COMMISSION" MEANS THE WASHINGTON SUBURBAN SANITARY COMMISSION.

REVISOR'S NOTE: This subsection formerly was Art. 29, § 1–101(j).

The only change is in style.

(C) COMMISSIONER.

"COMMISSIONER" MEANS A MEMBER OF THE WASHINGTON SUBURBAN SANITARY COMMISSION.

REVISOR'S NOTE: This subsection formerly was Art. 29, § 1–101(b).

No changes are made.

(D) COUNTY.

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

REVISOR'S NOTE: This subsection is new language added as the standard definition of "county".

Defined term: "State" § 16–101

(E) HOOKUP.

"HOOKUP" MEANS A CONNECTION BETWEEN THE PLUMBING ON THE OWNER'S PROPERTY AND THE COMMISSION SERVICE CONNECTION.

REVISOR'S NOTE: This subsection formerly was Art. 29, § 1–101(c).

The only changes are in style.

Defined term: "Commission" § 16–101

(F) MUNICIPALITY.

"MUNICIPALITY" MEANS A MUNICIPAL CORPORATION THAT IS ORGANIZED UNDER ARTICLE XI–E OF THE MARYLAND CONSTITUTION.

REVISOR'S NOTE: This subsection is new language added for clarity.

(G) PERSON.

"PERSON" MEANS AN INDIVIDUAL, RECEIVER, TRUSTEE, GUARDIAN, PERSONAL REPRESENTATIVE, FIDUCIARY, OR REPRESENTATIVE OF ANY KIND AND ANY PARTNERSHIP, FIRM, ASSOCIATION, CORPORATION, OR OTHER ENTITY.

REVISOR'S NOTE: This subsection formerly was Art. 29, § 1–101(f).

No changes are made.

(H) PUBLIC ROADWAY.

"PUBLIC ROADWAY" MEANS ANY STATE, COUNTY, OR MUNICIPAL STREET, ROAD, ALLEY, OR HIGHWAY.

REVISOR'S NOTE: This subsection formerly was Art. 29, § 1–101(g).

No changes are made.

Defined terms: "County" § 16–101
"State" § 16–101

(I) SANITARY DISTRICT.

(1) "SANITARY DISTRICT" MEANS THE WASHINGTON SUBURBAN SANITARY DISTRICT, AS DESCRIBED IN CHAPTER 805 OF THE ACTS OF THE GENERAL ASSEMBLY OF 1981.

(2) "SANITARY DISTRICT" DOES NOT INCLUDE ANY SPECIAL EXEMPTION PROVIDED FOR BY LAW.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 29, § 1–101(i).

In paragraph (2) of this subsection, the reference to any special exemption "provided for by law" is substituted for the former reference to any special exemptions "of Title 19 of this article" for clarity and accuracy.

(J) SERVICE CONNECTION.

"SERVICE CONNECTION" MEANS A LATERAL SERVICE LINE THAT IS CONSTRUCTED BY THE COMMISSION FROM A COMMISSION WATER OR SEWER MAIN TO A PROPERTY LINE.

REVISOR'S NOTE: This subsection formerly was Art. 29, § 1–101(h).

The only change is in style.

Defined term: "Commission" § 16–101

(K) STATE.

(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, "STATE" MEANS:

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

(II) THE DISTRICT OF COLUMBIA.

(2) WHEN CAPITALIZED, "STATE" MEANS MARYLAND.

REVISOR'S NOTE: This subsection is new language added to provide an express definition of the terms "state" and "State" in this division that is consistent with the term defined in recently revised articles of the Code. *See, e.g.*, EC § 1–101(g).

REVISOR'S NOTE TO SECTION:

Former Art. 29, § 1–101(d), which defined "includes" or "including", is deleted as duplicative of Art. 1, § 30.

Former Art. 29, § 1–101(e), which defined "municipal corporation" to exclude the Commission for any purpose under Article XI–E of the Maryland Constitution, is deleted as unnecessary in light of the defined term "municipality" that restricts the term to those entities subject to Article XI–E of the Maryland Constitution and given that Article XI–E does not apply to the Commission because the term "municipal corporation" has a geographical connotation with a political body representative of and governing its inhabitants. *See Maryland–National Capital Park and Planning Commission v. Montgomery County*, 267 Md. 82, 296 A.2d 692 (1972).

TITLE 17. COMMISSION.

SUBTITLE 1. COMMISSIONERS.

17–101. ESTABLISHED.

(A) IN GENERAL.

THERE IS A WASHINGTON SUBURBAN SANITARY COMMISSION.

(B) JURISDICTION.

THE COMMISSION HAS JURISDICTION OVER THE SANITARY DISTRICT.

REVISOR'S NOTE: This section formerly was Art. 29, § 1–102(a).

The only changes are in style.

Defined terms: "Commission" § 16–101
"Sanitary district" § 16–101

17–102. MEMBERSHIP.

(A) COMPOSITION; APPOINTMENT OF MEMBERS.

THE COMMISSION CONSISTS OF:

(1) THREE COMMISSIONERS FROM PRINCE GEORGE'S COUNTY, APPOINTED BY THE COUNTY EXECUTIVE SUBJECT TO THE CONFIRMATION OF THE COUNTY COUNCIL; AND

(2) THREE COMMISSIONERS FROM MONTGOMERY COUNTY, APPOINTED BY THE COUNTY EXECUTIVE SUBJECT TO THE CONFIRMATION OF THE COUNTY COUNCIL.

(B) QUALIFICATIONS OF MEMBERS.

(1) EACH COMMISSIONER SHALL BE A RESIDENT OF THE SANITARY DISTRICT.

(2) (I) EACH COMMISSIONER FROM MONTGOMERY COUNTY SHALL BE A REGISTERED VOTER OF MONTGOMERY COUNTY.

(II) EACH COMMISSIONER FROM PRINCE GEORGE'S COUNTY SHALL BE A REGISTERED VOTER OF PRINCE GEORGE'S COUNTY.

(C) RESTRICTIONS ON MEMBERS.

(1) AN INDIVIDUAL MAY NOT BE APPOINTED OR CONTINUE IN OFFICE AS A COMMISSIONER IF THE INDIVIDUAL HOLDS ANY OTHER POSITION OF PROFIT OR TRUST UNDER THE CONSTITUTION OR LAWS OF THE STATE OR ANY POLITICAL SUBDIVISION OF THE STATE.

(2) NOT MORE THAN TWO COMMISSIONERS FROM MONTGOMERY COUNTY MAY BE OF THE SAME POLITICAL PARTY.

(D) TENURE; VACANCIES.

(1) THE TERM OF A COMMISSIONER IS 4 YEARS AND BEGINS ON JUNE 1 OF THE YEAR OF APPOINTMENT.

(2) THE TERMS OF COMMISSIONERS ARE STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR COMMISSIONERS ON JULY 1, 1982.

(3) AT THE END OF A TERM, A COMMISSIONER CONTINUES TO SERVE UNTIL A SUCCESSOR IS APPOINTED AND TAKES THE OATH OF OFFICE.

(4) 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 TAKES THE OATH OF OFFICE.

(5) A VACANCY ON THE COMMISSION DOES NOT IMPAIR THE RIGHT OF THE REMAINING COMMISSIONERS TO EXERCISE ALL THE POWERS OF THE COMMISSION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 1–102(b), (c), (d), and (e).

In subsection (b) of this section, the references to "commissioner" are substituted for the former references to "appointee" for consistency within this section.

Defined terms: "Commission" § 16–101
"Commissioner" § 16–101
"Sanitary district" § 16–101
"State" § 16–101

17–103. APPOINTMENT PROCEDURES.

(A) LIST OF APPLICANTS.

(1) THE COUNTY EXECUTIVE SHALL MAKE AN APPOINTMENT FROM A LIST OF APPLICANTS.

(2) THE LIST SHALL BE:

(I) COMPLETED AT LEAST 3 WEEKS BEFORE THE DATE THE APPOINTMENT IS MADE; AND

(II) OPEN TO THE PUBLIC FOR INSPECTION FROM THE TIME THE LIST IS PREPARED UNTIL THE APPOINTMENT IS MADE.

(3) (I) IF AN INDIVIDUAL IS NOT APPOINTED FROM THE NAMES ON THE LIST, THE COUNTY EXECUTIVE SHALL PREPARE ADDITIONAL LISTS AND FOLLOW THE PROCEDURE UNDER PARAGRAPH (2) OF THIS SUBSECTION.

(II) THE 3–WEEK PERIOD BEFORE THE DATE THE APPOINTMENT IS MADE BEGINS WITH THE CLOSING OF EACH LIST.

(B) CONFLICTS OF INTEREST.

(1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE COUNTY EXECUTIVE OR A DESIGNEE OF THE COUNTY EXECUTIVE MAY INTERVIEW IN PRIVATE EACH APPLICANT FOR APPOINTMENT OR REAPPOINTMENT TO THE COMMISSION REGARDING POSSIBLE OR POTENTIAL CONFLICTS OF INTEREST.

(2) BEFORE APPOINTMENT, THE COUNTY EXECUTIVE OR A DESIGNEE OF THE COUNTY EXECUTIVE SHALL INTERVIEW IN PRIVATE AN APPLICANT WHO IS SELECTED FOR APPOINTMENT TO THE COMMISSION REGARDING POSSIBLE OR POTENTIAL CONFLICTS OF INTEREST.

(3) BEFORE APPOINTMENT, THE COUNTY EXECUTIVE OF PRINCE GEORGE'S COUNTY OR A DESIGNEE OF THE COUNTY EXECUTIVE SHALL INFORM THE PRINCE GEORGE'S COUNTY COUNCIL OF POSSIBLE OR POTENTIAL CONFLICTS OF INTEREST OF AN APPLICANT WHO IS SELECTED FOR APPOINTMENT TO THE COMMISSION.

(C) INTERVIEW AND TRANSCRIPT.

(1) A WRITTEN TRANSCRIPT OF AN INTERVIEW UNDER SUBSECTION (B) OF THIS SECTION:

(I) SHALL BE MADE;

(II) MAY BE REVIEWED BY THE APPLICANT, UNLESS THE RIGHT TO REVIEW IS WAIVED BY THE APPLICANT;

(III) MAY BE ALTERED FOR THE APPLICANT BY THE TRANSCRIBING OFFICER, IF THE TRANSCRIPT IS ACCOMPANIED BY A STATEMENT OF THE REASON GIVEN BY THE APPLICANT FOR THE ALTERATION; AND

(IV) SHALL BE SIGNED BY THE APPLICANT.

(2) THE TRANSCRIBING OFFICER SHALL CERTIFY ON THE TRANSCRIPT THAT:

(I) THE APPLICANT WAS SWORN BY THE OFFICER; AND

(II) THE TRANSCRIPT IS A TRUE RECORD OF THE TESTIMONY GIVEN BY THE APPLICANT.

(3) THE COUNTY EXECUTIVE OF MONTGOMERY COUNTY OR A DESIGNEE OF THE COUNTY EXECUTIVE SHALL:

(I) PUBLICLY DISCLOSE THE COMPLETE TRANSCRIBED TESTIMONY OF AN APPOINTEE TO THE COMMISSION 3 WEEKS AFTER THE APPOINTMENT; AND

(II) DESTROY IMMEDIATELY THE COMPLETE TRANSCRIPT OF ANY OTHER APPLICANT WITHOUT DISCLOSURE OF ANY INFORMATION CONTAINED IN THE TRANSCRIPT.

(D) MONTGOMERY COUNTY — INTERVIEW AND DOCUMENTS.

(1) IN MONTGOMERY COUNTY, IF THE COUNTY EXECUTIVE OR A DESIGNEE OF THE COUNTY EXECUTIVE CONDUCTS AN INTERVIEW UNDER SUBSECTION (B) OF THIS SECTION, THE APPLICANT SHALL BE INTERVIEWED:

(I) IN A QUESTION AND ANSWER FASHION;

(II) UNDER OATH; AND

(III) ABOUT ALL SOURCES OF INCOME, PROPERTY HOLDINGS, BUSINESS INTERESTS, AND FINANCIAL INTERESTS OF THE APPLICANT AND THE APPLICANT'S SPOUSE, FATHER, MOTHER, BROTHER, SISTER, AND CHILD.

(2) THE COUNTY EXECUTIVE OF MONTGOMERY COUNTY OR A DESIGNEE OF THE COUNTY EXECUTIVE MAY REQUIRE THE APPLICANT TO PRODUCE DOCUMENTS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 1–103.

In subsection (a)(2)(i) of this section, the former reference to the "County Executive" making the appointment is deleted as surplusage. Similarly, in subsection (a)(2)(ii) of this section, the former reference to the appointment being made "by the County Executive" is deleted.

Also in subsection (a)(2)(i) of this section, the former reference to the "actual" appointment is deleted as surplusage. Similarly, in subsection (c)(3)(i) of this section, the former reference to an "actual" appointee is deleted.

In subsection (a)(2)(ii) of this section, the reference to when the list is "prepared" is substituted for the former reference to when the list is "first begun" for clarity.

In subsection (a)(3)(i) of this section, the phrase "[i]f an individual is not appointed" is substituted for the former phrase "[i]f the County Executive does not choose to appoint an individual" for brevity.

Also in subsection (a)(3)(i) of this section, the reference to the procedure "under paragraph (2) of this subsection" is substituted for the former reference to the procedure "applicable to the first list" for clarity.

In subsection (a)(3)(ii) of this section, the reference to the 3–week period "before the date the appointment is made" is added for clarity.

In the introductory language of subsection (c)(1) of this section, the reference to an interview "under subsection (b) of this section" is added for clarity.

In subsection (c)(1)(ii) of this section, the reference to the "right to review" the transcript is added for clarity.

In subsection (c)(1)(iii) of this section, the reference to "the transcript" is added for clarity.

In subsection (c)(2)(i) of this section, the former reference to being "duly" sworn is deleted as surplusage.

In subsection (c)(3)(ii) of this section, the former reference to disclosure "to anyone" is deleted as surplusage.

In subsection (d)(1)(iii) of this section, the reference to "and" is substituted for the former reference to "or" for clarity.

In subsection (d)(2) of this section, the reference to requiring "the applicant to produce documents" is substituted for the former reference to requiring "the production of any documents that the County Executive or designee wishes the applicant to produce" for brevity.

Defined term: "Commission" § 16–101

17–104. REMOVAL OF COMMISSIONERS.

(A) IN GENERAL.

A COMMISSIONER MAY BE REMOVED BEFORE THE COMPLETION OF THE COMMISSIONER'S TERM:

(1) IN MONTGOMERY COUNTY:

(I) BY THE COUNTY EXECUTIVE WITH THE APPROVAL OF A MAJORITY OF THE MEMBERS OF THE COUNTY COUNCIL; OR

(II) UNLESS THE COUNTY EXECUTIVE DISAPPROVES THE RESOLUTION IN WRITING WITHIN 30 DAYS AFTER ITS ADOPTION, BY RESOLUTION OF A MAJORITY OF THE MEMBERS OF THE COUNTY COUNCIL; AND

(2) IN PRINCE GEORGE'S COUNTY, BY THE COUNTY EXECUTIVE WITH THE APPROVAL OF A MAJORITY OF THE MEMBERS OF THE COUNTY COUNCIL.

(B) PUBLIC HEARING.

(1) UNLESS A HEARING IS WAIVED IN WRITING BY THE COMMISSIONER DESIGNATED FOR REMOVAL, BEFORE ANY REMOVAL UNDER THIS SECTION, A PUBLIC HEARING SHALL BE HELD:

(I) IN MONTGOMERY COUNTY, BY THE BODY INITIATING THE REMOVAL PROCEEDING; OR

(II) IN PRINCE GEORGE'S COUNTY, BY THE COUNTY COUNCIL.

(2) THE COMMISSIONER SHALL BE GIVEN AN OPPORTUNITY AT THE HEARING TO PRESENT A DEFENSE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 1–104.

In subsection (a)(1)(ii) of this section, the reference to within 30 days "after" adoption of the resolution is substituted for the former reference to within 30 days "of" its adoption for clarity.

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

Defined term: "Commissioner" § 16–101

17–105. OFFICERS.

(A) IN GENERAL.

FROM AMONG ITS MEMBERS, THE COMMISSION SHALL ELECT A CHAIR AND A VICE CHAIR.

(B) ELECTIONS; TENURE.

(1) THE ELECTION OF THE CHAIR AND VICE CHAIR SHALL BE AT THE FIRST MEETING OF THE COMMISSION IN JUNE OF EACH YEAR, OR AS SOON AFTER THE MEETING AS POSSIBLE.

(2) OF THE CHAIR AND VICE CHAIR:

(I) ONE SHALL BE FROM MONTGOMERY COUNTY AND THE OTHER SHALL BE FROM PRINCE GEORGE'S COUNTY; AND

(II) EACH OFFICE SHALL ALTERNATE ANNUALLY BETWEEN MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY.

(3) (I) BY UNANIMOUS VOTE THE COMMISSION MAY WAIVE THE PROVISIONS OF PARAGRAPH (2)(II) OF THIS SUBSECTION FOR 1 YEAR.

(II) THE COMMISSION MAY NOT WAIVE THE PROVISIONS OF PARAGRAPH (2)(II) OF THIS SUBSECTION FOR 2 SUCCESSIVE YEARS.

(4) EACH OFFICER SHALL SERVE FOR 1 YEAR OR UNTIL A SUCCESSOR IS ELECTED.

(C) DUTIES.

EACH OFFICER SHALL PERFORM THE DUTIES DESIGNATED BY THE COMMISSION.

(D) VACANCIES.

(1) IF A VACANCY EXISTS IN THE POSITION OF CHAIR OR VICE CHAIR, THE COMMISSION PROMPTLY SHALL ELECT A NEW CHAIR OR VICE CHAIR FOR THE REMAINING PORTION OF THE 1–YEAR TERM OF OFFICE.

(2) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, IF THE VACANCY IN THE POSITION OF CHAIR OR VICE CHAIR RESULTS FROM RESIGNATION OR REMOVAL FROM THE COMMISSION, THE

ELECTION TO FILL THE UNEXPIRED PORTION OF THE OFFICER'S TERM SHALL BE HELD ONLY AFTER THE COMMISSION VACANCY HAS BEEN FILLED.

(II) THE COMMISSION MAY ELECT AN ACTING CHAIR OR VICE CHAIR TO SERVE UNTIL THE VACANCY HAS BEEN FILLED.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 1–105(b) and (c).

Throughout this section, the references to "chair" and "vice chair" are substituted for the former references to "chairman" and "vice–chairman", respectively, because SG § 2–1238 requires the use of words that are neutral as to gender to the extent practicable.

In subsection (b)(1) of this section, the reference to "after the meeting" is substituted for the former reference to "thereafter" for clarity.

In subsection (b)(2)(ii) of this section, the reference to "annually" is substituted for the former reference to "from year to year" for brevity.

In subsection (d)(2)(i) of this section, the former references to "that officer's" resignation or removal "for any reason" are deleted as surplusage.

Defined term: "Commission" § 16–101

17–106. MEETINGS; MINUTES.

(A) MEETINGS.

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

(B) FORM OF MINUTES.

THE COMMISSION SHALL KEEP MINUTES IN THE USUAL CORPORATE FORM.

(C) RECORDATION OF VOTES.

(1) THE VOTES OF THE COMMISSIONERS SHALL BE:

(I) TAKEN AND RECORDED FOR ANY ACTION THAT:

1. AUTHORIZES, MODIFIES, OR RESCINDS A WATER OR SANITARY SEWER EXTENSION; OR

2. ADOPTS OR AMENDS A WATER OR SEWER PROGRAM OF EXTENSIONS;

(II) TAKEN SEPARATELY; AND

(III) RECORDED AS YEAS, NAYS, OR ABSTENTIONS.

(2) THE COMMISSION SHALL RECORD IN THE MINUTES:

(I) THE NAME OF A COMMISSIONER WHO VOTES OR ABSTAINS;

(II) THE REASON FOR AN ABSTENTION;

(III) A BRIEF SUMMARY OF THE MATTERS ON WHICH A VOTE IS TAKEN; AND

(IV) ANY DISCLOSURE MADE UNDER § 19–103 OF THIS ARTICLE.

(D) PUBLIC INSPECTION.

THE MINUTES SHALL BE OPEN TO PUBLIC INSPECTION AT THE PRINCIPAL OFFICE OF THE COMMISSION DURING BUSINESS HOURS.

REVISOR'S NOTE: Subsection (a) of this section is standard language added for clarity.

Subsections (b) through (d) of this section are new language derived without substantive change from former Art. 29, § 12–102.

Defined terms: "Commission" § 16–101
"Commissioner" § 16–101

17–107. COMPENSATION; BENEFITS; STAFF.

(A) COMPENSATION.

(1) THE MEMBERS OF THE COMMISSION ARE ENTITLED TO THE FOLLOWING ANNUAL SALARIES:

(I) CHAIR $13,500;

(II) VICE CHAIR ..... $13,000; AND

(III) COMMISSIONERS ..... $13,000.

(2) THE SALARY SHALL BE PAID EVERY 2 WEEKS.

(B) BENEFITS.

WHILE IN OFFICE, COMMISSIONERS MAY PARTICIPATE IN ANY COMMISSION PROGRAM OF GROUP HEALTH, LIFE, AND DISABILITY INSURANCE TO THE SAME EXTENT AND UNDER THE SAME TERMS AS COMMISSION STAFF.

(C) STAFF.

THE COMMISSION MAY EMPLOY A STAFF IN ACCORDANCE WITH THE COMMISSION'S BUDGET.

REVISOR'S NOTE: Subsections (a) and (b) of this section are new language derived without substantive change from former Art. 29, § 1–105(a).

Subsection (c) of this section is standard language added for clarity.

In the introductory language of subsection (a)(1) of this section, the reference to "annual" salaries is added for clarity.

Also in the introductory language of subsection (a)(1) of this section, the phrase "are entitled to" the following annual salaries is substituted for the former phrase "shall receive" for consistency with similar provisions in other revised articles of the Code.

In subsection (a)(1)(i) and (ii) of this section, the references to the "chair" and "vice chair" are substituted for the former references to the "[c]hairman" and "[v]ice–[c]hairman", respectively, because SG § 2–1238 requires the use of words that are neutral as to gender to the extent practicable.

In subsection (b) of this section, the reference to "staff" is substituted for the former reference to "officers and employees" for clarity and brevity.

The Washington Suburban Sanitary Commission Law Review Committee notes, for consideration by the General Assembly, that the General Assembly may wish to add a provision to subsection (a) of this section that states that commissioners are entitled to reimbursement for

expenses for consistency with standard language throughout the Code providing for the reimbursement of expenses for members of commissions.

Defined terms: "Commission" § 16–101
"Commissioner" § 16–101

SUBTITLE 2. LEGAL AND FINANCIAL AFFAIRS.

17–201. INCORPORATION; JUDGMENTS; PREVIOUS ACTS.

(A) INCORPORATION.

(1) THE COMMISSION IS A BODY CORPORATE.

(2) THE COMMISSION MAY:

(I) USE A COMMON SEAL;

(II) SUE AND BE SUED; AND

(III) DO ANY OTHER CORPORATE ACT FOR THE PURPOSE OF CARRYING OUT THIS DIVISION.

(B) JUDGMENTS; THREATENED OR PENDING LITIGATION.

(1) THE COMMISSION SHALL CERTIFY TO THE COUNTY COUNCILS OF MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY A TAX RATE THAT WILL, WHEN IMPOSED AND COLLECTED IN ACCORDANCE WITH § 22–106 OF THIS ARTICLE, PRODUCE AN AMOUNT SUFFICIENT TO SATISFY:

(I) A JUDGMENT AGAINST THE COMMISSION, INCLUDING RELATED COSTS AND ATTORNEY'S FEES; OR

(II) A SETTLEMENT AGREEMENT TO RESOLVE THREATENED OR PENDING LITIGATION, INCLUDING RELATED COSTS AND ATTORNEY'S FEES.

(2) THE COMMISSION SHALL CERTIFY THE TAX RATE UNDER PARAGRAPH (1) OF THIS SUBSECTION AT THE BEGINNING OF THE TAXABLE YEAR FOR PROPERTY TAXES OF THE COUNTY COUNCILS OF MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY IMMEDIATELY FOLLOWING THE DATE OF THE JUDGMENT OR SETTLEMENT AGREEMENT DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION.

(3) THE TAX RATE DESCRIBED IN THIS SUBSECTION IS IN ADDITION TO ANY TAX REQUIRED UNDER THIS DIVISION FOR INTEREST, SERIAL BONDS, OR SINKING FUND REQUIREMENTS.

(C) PREVIOUS ACTS.

ALL ACTS, ORDERS, AND REGULATIONS PREVIOUSLY PASSED BY THE COMMISSION WHILE SITTING IN THE DISTRICT OF COLUMBIA ARE RATIFIED AND SHALL BE GIVEN THE SAME FORCE AND EFFECT AS IF PASSED IN THE STATE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 1–201.

In subsection (a)(1) of this section, the reference to the "Commission" is substituted for the former reference to the "members of the WSSC" for accuracy.

Also in subsection (a)(1) of this section, the former phrase "by the name of the 'Washington Suburban Sanitary Commission'" is deleted as unnecessary in light of the use of the defined term "Commission".

In subsection (a)(2)(iii) of this section, the former reference to any "and all" other corporate acts is deleted as implicit in the reference to "any" other corporate act.

In the introductory language of subsection (b)(1) of this section, the reference to "imposed" is substituted for the former reference to "levied" for clarity and consistency with terminology used in the Tax – General Article and the Tax – Property Article.

In subsection (b)(1)(i) and (ii) of this section, the references to "related" costs and attorney's fees are added for clarity.

In subsection (b)(1)(i) of this section, the former reference to a judgment "at law or in equity" is deleted as obsolete to reflect the merger of law and equity effected by Md. Rule 2–301, which mandates "one form of action known as the 'civil action'".

Also in subsection (b)(1)(i) of this section, the former reference to a judgment being "recovered" is deleted as unnecessary.

In subsection (b)(1)(ii) of this section, the reference to a "settlement agreement" is substituted for the former reference to "other sum" for clarity. Similarly, in subsection (b)(2) of this section, the reference to a

"settlement agreement" is substituted for the former reference to a "compromise".

Also in subsection (b)(1)(ii) of this section, the reference to "resolve" is substituted for the former reference to "amicably adjust" for clarity and brevity.

In subsection (b)(2) of this section, the reference to the "beginning of the taxable year for property taxes" is substituted for the former reference to the "annual tax levying period" for clarity and consistency with § 22–106 of this article.

Also in subsection (b)(2) of this section, the reference to "immediately following" is substituted for the former reference to "next succeeding" for clarity.

Also in subsection (b)(2) of this section, the reference to "date" is substituted for the former reference to "rendition" for clarity.

In subsection (b)(3) of this section, the reference to any tax required "under this division" is added for clarity.

In subsection (c) of this section, the former reference to "confirmed" is deleted as implicit in the reference to "ratified".

Defined terms: "Commission" § 16–101
"State" § 16–101

17–202. CAPITAL AND OPERATING BUDGETS.

(A) PREPARATION AND SUBMISSION OF BUDGETS; CONTENT.

THE COMMISSION:

(1) BEFORE JANUARY 15 OF EACH YEAR, SHALL PREPARE CAPITAL AND OPERATING BUDGETS FOR THE NEXT FISCAL YEAR THAT SHALL INCLUDE PROJECTS AND CONTRACTS AUTHORIZED UNDER §§ 17–204 AND 17–205 OF THIS SUBTITLE;

(2) SHALL MAKE AVAILABLE TO THE PUBLIC, ON REQUEST, COPIES OF THE BUDGETS DESCRIBED IN ITEM (1) OF THIS SUBSECTION;

(3) BEFORE FEBRUARY 15 OF EACH YEAR, SHALL HOLD A PUBLIC HEARING ON THE PROPOSED CAPITAL AND OPERATING BUDGETS AFTER GIVING AT LEAST 21 DAYS' NOTICE OF THE HEARING BY PUBLICATION IN AT LEAST TWO

NEWSPAPERS OF GENERAL CIRCULATION IN MONTGOMERY COUNTY AND TWO NEWSPAPERS OF GENERAL CIRCULATION IN PRINCE GEORGE'S COUNTY;

(4) ON OR BEFORE MARCH 1 OF EACH YEAR, SHALL SUBMIT TO THE COUNTY EXECUTIVES OF MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY THE PROPOSED CAPITAL AND OPERATING BUDGETS FOR THE NEXT FISCAL YEAR, INCLUDING THE RECORD OF ANY PUBLIC HEARING ON THE PROPOSED CAPITAL OR OPERATING BUDGET HELD BY THE COMMISSION;

(5) SHALL IDENTIFY THE SOURCES OF REVENUE ALLOCABLE TO EACH PROPOSED EXPENDITURE;

(6) SHALL PROPOSE A COMPLETE SCHEDULE OF RATES FOR WATER SERVICE CHARGES, SEWER USAGE CHARGES, AND AD VALOREM TAXES THAT THE COMMISSION CONSIDERS NECESSARY TO FINANCE THE CAPITAL AND OPERATING BUDGETS;

(7) SHALL CERTIFY THE AMOUNT NECESSARY TO BE RAISED FOR THE NEXT FISCAL YEAR FOR DEBT SERVICE PAYMENTS ON ALL OUTSTANDING BONDS AND NOTES OF THE COMMISSION; AND

(8) BETWEEN MARCH 1 AND APRIL 1 OF EACH YEAR, MAY SUBMIT TO THE COUNTY EXECUTIVES OF MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY AMENDMENTS TO THE PROPOSED CAPITAL OR OPERATING BUDGET, INCLUDING A DECLARATION OF NEED IDENTIFYING THE SOURCES OF REVENUE ALLOCABLE TO THE PROPOSED AMENDMENTS.

(B) DUTIES OF COUNTY EXECUTIVES.

THE COUNTY EXECUTIVES OF MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY SHALL SUBMIT TO THE RESPECTIVE COUNTY COUNCIL:

(1) ON OR BEFORE MARCH 15 OF EACH YEAR, THE PROPOSED CAPITAL AND OPERATING BUDGETS, INCLUDING:

(I) RECOMMENDATIONS ON THE PROPOSED CAPITAL AND OPERATING BUDGETS; AND

(II) THE RECORD OF ANY PUBLIC HEARING ON THE CAPITAL OR OPERATING BUDGET HELD BY THE COMMISSION; AND

(2) ANY AMENDMENTS TO THE PROPOSED CAPITAL AND OPERATING BUDGETS WITH THE COUNTY EXECUTIVE'S RECOMMENDATIONS WITHIN 10 DAYS AFTER RECEIPT OF THE AMENDMENTS.

(C) POWERS AND DUTIES OF COUNTY COUNCILS.

(1) THE COUNTY COUNCILS OF MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY:

(I) AFTER GIVING PUBLIC NOTICE, MAY HOLD PUBLIC HEARINGS ON THE PROPOSED CAPITAL AND OPERATING BUDGETS NOT EARLIER THAN 21 CALENDAR DAYS AFTER RECEIPT OF THE CAPITAL AND OPERATING BUDGETS FROM THE RESPECTIVE COUNTY EXECUTIVE;

(II) MAY ADD TO, DELETE FROM, INCREASE, OR DECREASE AN ITEM OF THE CAPITAL OR OPERATING BUDGET;

(III) ON OR BEFORE MAY 15 OF EACH YEAR, SHALL SUBMIT ANY PROPOSED CHANGES TO THE CAPITAL OR OPERATING BUDGETS TO THE OTHER COUNTY COUNCIL FOR REVIEW AND CONCURRENCE; AND

(IV) ON OR BEFORE JUNE 1 OF EACH YEAR, SHALL APPROVE THE CAPITAL AND OPERATING BUDGETS AND SUBMIT THEM TO THE COMMISSION.

(2) (I) IF THE COUNTY COUNCILS FAIL TO CONCUR IN A CHANGE WITH RESPECT TO ANY ITEM IN THE CAPITAL OR OPERATING BUDGET ON OR BEFORE JUNE 1 OF EACH YEAR, THE FAILURE TO CONCUR CONSTITUTES APPROVAL OF THE ITEM AS SUBMITTED BY THE COMMISSION.

(II) IF THE COUNTY COUNCILS FAIL TO APPROVE THE CAPITAL AND OPERATING BUDGETS ON OR BEFORE JUNE 1 OF EACH YEAR, THE PROPOSED CAPITAL AND OPERATING BUDGETS OF THE COMMISSION ARE DEEMED APPROVED.

(D) BUDGET SUPPLEMENTS.

(1) THE COMMISSION MAY SUBMIT DETAILED PROPOSED SUPPLEMENTS TO THE APPROVED CAPITAL AND OPERATING BUDGETS TO THE COUNTY EXECUTIVES OF MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY.

(2) WITHIN 10 DAYS AFTER RECEIPT OF A PROPOSED BUDGET SUPPLEMENT, EACH COUNTY EXECUTIVE SHALL SUBMIT THE PROPOSED BUDGET SUPPLEMENT, INCLUDING RECOMMENDATIONS, TO THE RESPECTIVE COUNTY COUNCIL.

(3) EACH COUNTY COUNCIL:

(I) MAY HOLD PUBLIC HEARINGS ON THE PROPOSED BUDGET SUPPLEMENT; AND

(II) MAY ADD TO, DELETE FROM, INCREASE, OR DECREASE THE PROPOSED BUDGET SUPPLEMENT.

(4) THE FAILURE OF THE COUNTY COUNCILS TO JOINTLY APPROVE OR AMEND THE PROPOSED BUDGET SUPPLEMENT WITHIN 90 DAYS AFTER THE DATE THAT THE COMMISSION SUBMITS THE PROPOSED BUDGET SUPPLEMENT TO THE COUNTY EXECUTIVES CONSTITUTES DISAPPROVAL OF THE SUPPLEMENT AS SUBMITTED BY THE COMMISSION.

(E) WATER AND SEWER RATE AND AD VALOREM TAX LEVY RECOMMENDATION.

(1) ON SUBMISSION OF THE APPROVED CAPITAL AND OPERATING BUDGETS THE COUNTY COUNCILS OF MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY MAY JOINTLY RECOMMEND TO THE COMMISSION RATES FOR:

(I) WATER SERVICE CHARGES;

(II) SEWER USAGE CHARGES; AND

(III) AD VALOREM TAXES.

(2) (I) ON RECEIPT OF THE CAPITAL AND OPERATING BUDGETS AND RECOMMENDATIONS FROM THE COUNTY COUNCILS, THE COMMISSION SHALL APPROVE A RATE SCHEDULE.

(II) IN APPROVING A RATE SCHEDULE THE COMMISSION SHALL CONSIDER THE PROPOSED RATE CHANGES JOINTLY RECOMMENDED BY THE COUNTY COUNCILS.

(3) SUBJECT TO § 25–101 OF THIS ARTICLE, THE RATES FOR WATER SERVICE CHARGES AND SEWER USAGE CHARGES SHALL BE UNIFORM THROUGHOUT THE SANITARY DISTRICT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 1–204.

Throughout this section, the references to "capital and operating" budgets and "capital or operating" budgets are added for clarity.

In subsection (a)(1) of this section, the former reference to the capital and operating budgets being "open for inspection by the public" is deleted as unnecessary in light of the requirement in subsection (a)(2) of this section that the Commission "make available to the public, on request, copies of the budgets".

In subsection (a)(3) of this section, the former references to providing notice in newspapers "published" in each county are deleted in light of the references to newspapers "of general circulation" and Art. 1, § 28.

In subsection (a)(4) of this section, the reference to the "proposed" capital and operating budgets is added for consistency with terminology used throughout this section.

Also in subsection (a)(4) of this section, the reference to any hearing held "by the Commission" is added for accuracy and consistency with subsection (b)(1)(ii) of this section.

Also in subsection (a)(4) of this section, the former reference to budget "for the WSSC" is deleted as unnecessary.

Also in subsection (a)(4) of this section, the former requirement that the WSSC "prepare" the capital and operating budgets is deleted as unnecessary in light of the requirement in subsection (a)(1) of this section that the Commission prepare the budgets.

In subsection (a)(5) of this section, the reference to "each proposed expenditure" is substituted for the former reference to "the various proposed expenditures" for clarity.

In subsections (a)(6) and (e)(1)(i) of this section, the references to water "service" are substituted for the former references to water "consumption" for consistency with terminology used throughout this division. Similarly, in subsection (e)(3) of this section, the reference to water "service" is substituted for the former reference to water "usage".

In subsections (a)(6) and (e)(1)(iii) of this section, the former references to tax "levied" is deleted as unnecessary.

In subsection (a)(7) of this section, the reference to "fiscal" year is added for clarity.

Also in subsection (a)(7) of this section, the reference to "debt service payments" is substituted for the former reference to "payment of interest and principal" for brevity since "debt service" is defined elsewhere in the Code as "the amount annually needed to pay the maturing principal of and interest on bonds, notes, and other evidences of obligation and to meet sinking fund requirements for these purposes". *See* TR § 3–101(e).

In subsections (a)(8) and (b)(2) of this section, the references to "amendments" are substituted for the former references to "amendatory items" for clarity and brevity.

In the introductory language of subsection (b) of this section, the reference to "[t]he county executives of Montgomery County and Prince George's County" is substituted for the former reference to "[e]ach County Executive" for accuracy. Correspondingly, the reference to the "respective" county council is added for clarity.

In the introductory language of subsection (b)(1) of this section, the reference to "on or before" March 15 is substituted for the former reference to "not later than" March 15 for clarity and consistency with terminology used throughout this section.

In subsection (b)(1)(ii) of this section, the reference to a hearing "on the capital or operating budget" is added for accuracy.

In the introductory language of subsection (c)(1) of this section, the reference to "[t]he county councils of Montgomery County and Prince George's County" is substituted for the former reference to "[e]ach County Council" for accuracy. Correspondingly, in subsection (c)(1)(i) of this section, the reference to the "respective" county executive is added for clarity.

In subsection (c)(1)(i) and the introductory language of subsection (e)(1) of this section, the former references to budgets "of the WSSC" are deleted as unnecessary.

In subsection (c)(1)(i) of this section, the reference to "after giving" public notice is substituted for the former reference to "[o]n" public notice for clarity.

Also in subsection (c)(1)(i) of this section, the reference to receipt "of the capital and operating budgets" is added for clarity.

In subsection (c)(1)(iii) and (2)(i) of this section, the references to "on or before" a certain date are substituted for the former references to "by" a certain date for consistency with terminology used throughout this section.

In subsection (c)(1)(iii) of this section, the reference to May 15 "of each year" is added for clarity and consistency with terminology used throughout this section.

In subsection (c)(2)(i) of this section, the reference to an item "in the capital or operating budget" is added for clarity.

In subsection (c)(2)(ii) of this section, the reference to the Commission's budgets being "deemed approved" is substituted for the former reference to the Commission's budgets being "adopted" for accuracy.

In subsection (d) of this section, the references to proposed "budget" supplements are added for clarity.

In subsection (d)(1) of this section, the reference to the county executives "of Montgomery County and Prince George's County" is substituted for the former reference to the county executives "of the counties" for accuracy.

Also in subsection (d)(1) of this section, the reference to "detailed" proposed supplements is substituted for the former requirement that "[t]he submittals shall include full particulars" for brevity and clarity.

In subsection (d)(2) of this section, the reference to the "respective" county council is substituted for the former reference to the county council "of that county" for brevity and consistency with terminology used throughout this section.

In subsection (d)(4) of this section, the reference to the date "that the Commission submits" the proposed budget supplement is substituted for the former reference to the date "of transmittal … by the WSSC" for clarity and consistency throughout this subtitle.

In the introductory language of subsection (e)(1) of this section, the reference to the county councils "of Montgomery County and Prince George's County" is added for clarity.

Defined terms: "Commission" § 16–101
"Sanitary district" § 16–101

17–203. APPROVAL OF NEW ADMINISTRATION BUILDING OR ADDITION.

APPROVAL BY THE GOVERNING BODIES OF MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY IS REQUIRED BEFORE THE CONSTRUCTION OF ANY NEW COMMISSION ADMINISTRATION BUILDING OR ANY SUBSTANTIAL ADDITION TO AN EXISTING COMMISSION ADMINISTRATION BUILDING.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 1–205.

The reference to "the governing bodies" of Montgomery County and Prince George's County is added for clarity.

The reference to an existing "Commission" administration building is added for clarity.

Defined term: "Commission" § 16–101

17–204. CONTRACTS WITH FEDERAL, STATE, COUNTY, OR MUNICIPAL AUTHORITIES.

(A) WATER SUPPLY, SEWER, OR DRAINAGE SYSTEMS.

(1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE COMMISSION MAY ENTER INTO A CONTRACT OR AGREEMENT CONCERNING THE CONSTRUCTION, MAINTENANCE, AND OPERATION OF THE WATER SUPPLY, SEWER, OR DRAINAGE SYSTEMS UNDER ITS CONTROL OR UNDER THE CONTROL OR OWNERSHIP OF THE DISTRICT OF COLUMBIA OR ANY OTHER AGENCY, AUTHORITY, OR COMMISSION SPECIFIED IN THIS SECTION.

(2) THE COMMISSION MAY ENTER INTO A CONTRACT OR AGREEMENT UNDER PARAGRAPH (1) OF THIS SUBSECTION WITH:

(I) THE DISTRICT OF COLUMBIA;

(II) ANY FEDERAL, STATE, COUNTY, OR MUNICIPAL AUTHORITY IN THE STATE OR ANY OTHER STATE; OR

(III) ANY PUBLIC WATER, SEWER, OR DRAINAGE COMMISSION IN THE STATE OR ANY OTHER STATE.

(B) WATER OR WASTE WATER SYSTEMS.

THE COMMISSION MAY CONTRACT WITH, AS A PRIMARY PARTY OR AS A SUBCONTRACTOR, OR INVEST IN ANY PERSON FOR THE OWNERSHIP, JOINT–VENTURING, MANAGEMENT, OPERATION, SUPERVISION, ASSISTANCE, PARTICIPATION, OR ANY OTHER ACTIVITY RELATING TO THE DESIGN, CONSTRUCTION, OPERATION, MAINTENANCE, OR MANAGEMENT OF WATER OR WASTEWATER SYSTEMS, INCLUDING SYSTEMS, SERVICES, EXPERTISE, INTELLECTUAL PROPERTY, AND TECHNIQUES DEVELOPED IN CONNECTION WITH, OR USABLE OR MARKETABLE WITH RESPECT TO, WATER OR WASTEWATER SYSTEMS.

(C) FORCE AND EFFECT.

(1) ANY CONTRACT OR AGREEMENT ENTERED INTO UNDER THIS SECTION HAS THE FULL EFFECT OF A CONTRACT BETWEEN THE DISTRICT OF COLUMBIA AND THE STATE OR BETWEEN THE OTHER AGENCIES, AUTHORITIES, OR PERSONS DESCRIBED IN THE SECTION AND THIS STATE.

(2) THE AUTHORITY GRANTED IN THIS SECTION IS IN ADDITION TO, AND IS NOT LIMITED BY, THE AUTHORITY GRANTED BY ANY OTHER ACT OF THE GENERAL ASSEMBLY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 1–206(a), (b), (c), and (e).

In subsection (a)(1) of this section, the former reference to "any matter necessary, advisable, or expedient" is deleted as unnecessary.

Also in subsection (a)(1) of this section, the former reference to "proper" construction, maintenance, and operation is deleted as unnecessary.

Also in subsection (a)(1) of this section, the former reference to any other "type of" agency is deleted as surplusage.

In subsection (c)(1) of this section, the former reference to a contract entered into under "subsection (a) or (b)" of this section is deleted as unnecessary in light of the fact that subsections (a) and (b) now compose the remainder of the entire section.

Defined terms: "Commission" § 16–101
"County" § 16–101
"Person" § 16–101
"State" § 16–101

17–205. PRODUCTS AND TECHNOLOGIES.

(A) DEFINITIONS.

IN THIS SECTION, "PRODUCT" OR "TECHNOLOGY" DOES NOT INCLUDE WATER OR SEWER SERVICE PROVIDED AS PART OF THE PRIMARY MISSION OF THE COMMISSION IN THE SANITARY DISTRICT OR THROUGH SYSTEMS CONNECTED DIRECTLY TO AND OPERATED AS PART OF THE WATER AND SEWER SYSTEM IN THE SANITARY DISTRICT.

(B) AUTHORITY TO SELL, LEASE, OR LICENSE PRODUCTS AND TECHNOLOGIES.

SUBJECT TO SUBSECTION (D) OF THIS SECTION, THE COMMISSION MAY SELL, LEASE, OR LICENSE TO THE PUBLIC, OR ENTER INTO A CONTRACT CONCERNING:

(1) ANY PRODUCT OR TECHNOLOGY THAT IS PRODUCED OR DEVELOPED BY THE COMMISSION IN THE NORMAL COURSE OF OPERATIONS, INCLUDING PATENTS, TRADEMARKS, AND COPYRIGHTS;

(2) ANY SERVICE DIRECTLY RELATED TO A PRODUCT OR TECHNOLOGY DESCRIBED IN ITEM (1) OF THIS SUBSECTION; OR

(3) ANY SYSTEM, SERVICE, EXPERTISE, INTELLECTUAL PROPERTY, OR TECHNIQUE DEVELOPED, OWNED, OR CONTROLLED BY OR UNDER THE JURISDICTION OF THE COMMISSION.

(C) PRICE STRUCTURE.

THE COMMISSION MAY ADOPT A PRICE STRUCTURE FOR AN ITEM DESCRIBED IN SUBSECTION (B) OF THIS SECTION BASED ON ANY FACTORS THAT THE COMMISSION CONSIDERS RELEVANT, INCLUDING:

(1) THE COSTS OF CREATING, DEVELOPING, REPRODUCING, AND DELIVERING THE PRODUCT OR TECHNOLOGY;

(2) OVERHEAD AND LABOR COSTS; AND

(3) THE FAIR MARKET VALUE OF THE PRODUCT OR TECHNOLOGY.

(D) ACCOUNTING.

(1) THE COMMISSION SHALL ACCOUNT FOR EXPENDITURES AND REVENUES RESULTING FROM SALES UNDER THIS SECTION BY ESTABLISHING A SEPARATE SET OF ACCOUNTS.

(2) THE ACCOUNTS ESTABLISHED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE ITEMIZED AND INCLUDED IN THE COMMISSION'S ANNUAL BUDGET.

(E) USE OF NET REVENUES.

THE COMMISSION SHALL USE ANY NET REVENUES EARNED FROM PROJECTS AND CONTRACTS ENTERED INTO UNDER THIS SECTION TO STABILIZE OR REDUCE RATES AND TO REDUCE DEBT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 1–208(a) through (d).

In subsection (a) of this section, the reference to "water and sewer system in" the sanitary district is added for clarity.

In the introductory language of subsection (c) of this section, the former reference to an item "authorized under" subsection (b) of this section is deleted as unnecessary in light of the reference to an item "described in" subsection (b) of this section.

Defined terms: "Commission" § 16–101
"Sanitary district" § 16–101

17–206. PROJECTS.

(A) FINANCING.

THE COMMISSION MAY FINANCE INITIAL PROGRAM DEVELOPMENT COSTS AND OTHER PROJECT COSTS FOR A PROJECT SUBJECT TO THIS SUBTITLE FROM COMMISSION FUNDING SOURCES OTHER THAN REVENUE BOND PROCEEDS ONLY IF THOSE COSTS ARE REIMBURSED FROM PROJECT REVENUES.

(B) FUNDING NOT TO EXCEED PERCENTAGE OF GROSS REVENUES.

IN ANY FISCAL YEAR, FUNDING OF INITIAL PROGRAM DEVELOPMENT COSTS AND OTHER PROJECT COSTS UNDER SUBSECTION (A) OF THIS SECTION MAY NOT EXCEED AN AMOUNT EQUAL TO 3% OF THE GROSS REVENUES OF THE COMMISSION FROM WATER SERVICE CHARGES AND SEWER USAGE CHARGES FOR THE IMMEDIATELY PRECEDING FISCAL YEAR.

(C) PROJECTS UTILIZING REVENUE BONDS.

ANY PROJECT, CONTRACT, OR TRANSACTION ENTERED INTO UNDER THIS SUBTITLE THAT USES REVENUE BONDS ISSUED UNDER TITLE 22, SUBTITLE 2 OF THIS ARTICLE SHALL BE ENTERED INTO BY THE COMMISSION THROUGH THE USE OF:

(1) A LIMITED LIABILITY COMPANY;

(2) A LIMITED LIABILITY PARTNERSHIP;

(3) A LIMITED PARTNERSHIP; OR

(4) ANOTHER COMPARABLE LIMITED LIABILITY ENTITY OR ARRANGEMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, §§ 1–206(d), (f), and (g) and 1–208(e), (f), and (g).

In subsection (a) of this section, the phrase "[t]he Commission may" is added for clarity.

Also in subsection (a) of this section, the former reference to a project subject to "a contract or agreement under" this subtitle is deleted as unnecessary.

In subsection (b) of this section, the reference to initial program "development" costs is added for clarity and consistency with subsection (a) of this section.

Also in subsection (b) of this section, the reference to water "service" is substituted for the former reference to water "consumption" for consistency with terminology used throughout this division.

In the introductory language of subsection (c) of this section, the former reference to a project being entered into "only" through the use of certain entities is deleted as unnecessary.

Defined term: "Commission" § 16–101

SUBTITLE 3. PAYMENT OF COMMISSION OBLIGATIONS.

17–301. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection formerly was Art. 29, § 1–301(a).

No changes are made.

(B) PROPER INVOICE.

"PROPER INVOICE" MEANS AN INVOICE THAT:

(1) CONTAINS THE CONTRACTOR'S FEDERAL EMPLOYER'S IDENTIFICATION NUMBER OR SOCIAL SECURITY NUMBER;

(2) CONTAINS THE CONTRACT OR PURCHASE ORDER NUMBER OR OTHER DESCRIPTION OF THE CONTRACT; AND

(3) CONTAINS OR IS ACCOMPANIED BY THE SUBSTANTIATING INFORMATION AND DOCUMENTATION REQUIRED BY REGULATION OR CONTRACT.

REVISOR'S NOTE: This subsection formerly was Art. 29, § 1–301(c).

The only changes are in style.

(C) RECEIPT DATE.

"RECEIPT DATE" MEANS THE DATE THAT A PROPER INVOICE IS RECEIVED BY THE COMMISSION.

REVISOR'S NOTE: This subsection formerly was Art. 29, § 1–301(d).

No changes are made.

Defined terms: "Commission" § 16–101
"Proper invoice" § 17–301

17–302. WHEN PAYMENTS ON WRITTEN CONTRACTS MADE.

IT IS THE POLICY OF THE COMMISSION THAT THE COMMISSION SHALL MAKE A PAYMENT IN ACCORDANCE WITH ANY AUTHORIZED, WRITTEN

PROCUREMENT CONTRACT TO THE CONTRACTOR WITHIN 30 CALENDAR DAYS AFTER THE RECEIPT DATE OF A PROPER INVOICE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 1–302.

Defined terms: "Commission" § 16–101
"Proper invoice" § 17–301
"Receipt date" § 17–301

17–303. INTEREST ON UNPAID CONTRACTS; RATE.

ANY AMOUNT DUE AND PAYABLE UNDER LAW AND AN AUTHORIZED, WRITTEN PROCUREMENT CONTRACT THAT REMAINS UNPAID FOR MORE THAN 45 CALENDAR DAYS AFTER THE RECEIPT DATE SHALL ACCRUE INTEREST, AT THE RATE SPECIFIED IN § 11–107(A) OF THE COURTS ARTICLE, FOR THE PERIOD THAT BEGINS 31 CALENDAR DAYS AFTER THE RECEIPT DATE.

REVISOR'S NOTE: This section formerly was Art. 29, § 1–303.

The only changes are in style.

Defined term: "Receipt date" § 17–301

17–304. LIABILITY OF COMMISSION FOR PAYMENT OF INTEREST.

THE COMMISSION IS NOT LIABLE FOR THE PAYMENT OF INTEREST UNDER THIS SUBTITLE:

(1) IF A PROPER INVOICE FOR ACCRUED INTEREST IS NOT SUBMITTED WITHIN 30 CALENDAR DAYS AFTER THE DATE OF THE COMMISSION'S CHECK FOR PAYMENT OF THE AMOUNT ON WHICH THE INTEREST ACCRUED;

(2) FOR MORE THAN 1 YEAR FOLLOWING THE 31ST CALENDAR DAY AFTER THE RECEIPT DATE;

(3) ON AMOUNTS REPRESENTING UNPAID INTEREST; OR

(4) IF THERE IS A DISPUTE, AS DETERMINED BY THE COMMISSION, AS TO ANY MATERIAL FACTOR IN THE CONTRACT OR PURCHASE ORDER.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, §§ 1–304 and 1–301(b).

In item (1) of this section, the former reference to the defined term "payment date" is revised as part of the substantive provision because the former defined term appeared only once.

Defined terms: "Commission" § 16–101
"Proper invoice" § 17–301
"Receipt date" § 17–301

SUBTITLE 4. MISCELLANEOUS POWERS AND DUTIES.

17–401. AUDIT; FINANCIAL STATEMENT; PUBLIC INFORMATION.

(A) DUTIES OF COMMISSION.

THE COMMISSION SHALL:

(1) PUBLISH ANNUALLY IN AT LEAST ONE NEWSPAPER IN MONTGOMERY COUNTY AND ONE NEWSPAPER IN PRINCE GEORGE'S COUNTY A COPY OF THE CURRENT FINANCIAL STATEMENT OF THE COMMISSION;

(2) EMPLOY A CERTIFIED PUBLIC ACCOUNTANT LICENSED TO PRACTICE IN THE STATE TO AUDIT THE BOOKS AND ACCOUNTS OF THE COMMISSION;

(3) KEEP AVAILABLE FOR PUBLIC INSPECTION DURING BUSINESS HOURS AT ITS PRINCIPAL OFFICE THE ANNUAL AUDIT AND CURRENT FINANCIAL STATEMENT; AND

(4) FILE ANNUALLY WITH THE COUNTY EXECUTIVES AND COUNTY COUNCILS OF MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY, AND THE MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY SENATE AND HOUSE DELEGATIONS TO THE MARYLAND GENERAL ASSEMBLY A CERTIFIED COPY OF THE ANNUAL AUDIT AND CURRENT FINANCIAL STATEMENT.

(B) COUNTIES — AUDIT AND EXAMINATION OF BOOKS.

(1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE COUNTY COUNCIL OR COUNTY EXECUTIVE OF MONTGOMERY COUNTY OR PRINCE GEORGE'S COUNTY MAY, IN PERSON OR BY A DULY AUTHORIZED AGENT, AUDIT AND EXAMINE THE BOOKS AND RECORDS OF THE COMMISSION.

(2) THE COMMISSION MAY NOT BE REQUIRED TO PAY THE COST OF THE AUDIT OR EXAMINATION UNDER PARAGRAPH (1) OF THIS SUBSECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, §§ 1–106 and 4–101(d).

In subsection (a)(3) of this section, the reference to keeping the audit and financial statement available "for" public inspection is substituted for the former reference to keeping them available "and open to" public inspection for brevity.

In subsection (b)(1) of this section, the former reference to "at any time" is deleted as unnecessary.

In subsection (b)(2) of this section, the reference to the Commission "not be[ing] required to pay the costs" is substituted for the former reference to "be[ing] without cost" for clarity.

Defined terms: "Commission" § 16–101
"State" § 16–101

17–402. DISCRIMINATION PROHIBITED.

THE COMMISSION MAY NOT DISCRIMINATE AGAINST A PERSON ON THE BASIS OF SEX, RACE, CREED, COLOR, AGE, MENTAL OR PHYSICAL DISABILITY, SEXUAL ORIENTATION, OR NATIONAL ORIGIN.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 1–107.

The reference to a mental or physical "disability" is substituted for the former obsolete reference to a mental or physical "handicap".

Defined terms: "Commission" § 16–101
"Person" § 16–101

17–403. REGULATIONS — GENERALLY.

(A) AUTHORITY OF COMMISSION.

(1) EXCEPT AS OTHERWISE PROVIDED BY THIS DIVISION, THE COMMISSION MAY ADOPT REGULATIONS TO CARRY OUT THE PROVISIONS OF THIS DIVISION AND ANY OTHER LAWS THE ADMINISTRATION AND ENFORCEMENT OF WHICH ARE VESTED IN THE COMMISSION.

(2) THE COMMISSION MAY:

(I) LIMIT OR REGULATE THE USE AND SUPPLY OF WATER SERVICE AND SANITARY SEWER SERVICE ON A TEMPORARY BASIS IN ANY AREA OR TO ANY PREMISES SERVED BY THE COMMISSION'S FACILITIES, AS THE NEEDS OF THE OCCASION AND THE PROTECTION OF THE COMMISSION'S SYSTEMS REQUIRE;

(II) ADOPT REGULATIONS THAT THE COMMISSION CONSIDERS NECESSARY FOR THE PUBLIC SAFETY, HEALTH, COMFORT, OR CONVENIENCE IN THE CONSTRUCTION, OPERATION, MAINTENANCE, EXPANSION, RELOCATION, REPLACEMENT, RENOVATION, AND REPAIR OF THE COMMISSION'S WATER SYSTEM AND SANITARY SEWER SYSTEM; AND

(III) ESTABLISH THE FORMS OF PERMITS AND SPECIFY THE NATURE, TYPE, AND AMOUNT OF INFORMATION, DETAIL, AND ENGINEERING DATA THAT A PERSON MUST SUBMIT TO THE COMMISSION FOR ANY PERMIT AUTHORIZED OR REQUIRED BY THIS DIVISION.

(B) NOTICE.

EXCEPT FOR THE IMMEDIATE PRESERVATION OF THE PUBLIC HEALTH AND SAFETY OR FOR EMERGENCY PROVISIONS REQUIRED TO PROTECT THE COMMISSION'S SYSTEMS, THE COMMISSION SHALL PUBLISH A NOTICE OF ANY NEW REGULATION THAT IS AUTHORIZED BY THIS SECTION AT LEAST 30 DAYS BEFORE ITS EFFECTIVE DATE IN AT LEAST ONE NEWSPAPER OF GENERAL CIRCULATION IN EACH COUNTY OF THE SANITARY DISTRICT.

(C) FORCE AND AUTHORITY OF LAW.

A REGULATION ADOPTED BY THE COMMISSION UNDER THIS SECTION HAS THE FORCE AND AUTHORITY OF LAW.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 9–101.

In this section and throughout this subtitle, the former references to "rule[s]" are deleted as unnecessary in light of the use of the word "regulation[s]". *See* General Revisor's Note to division.

In subsection (a)(2)(ii) of this section, the former reference to regulations "not inconsistent with law" is deleted as unnecessary since all regulations are required to be consistent with law.

In subsection (a)(2)(iii) of this section, the reference to "establish[ing]" the forms of permits is substituted for the former reference to "[f]ix[ing]" the forms for clarity.

In subsection (b) of this section, the former reference to "separate" notice is deleted as unnecessary.

Also in subsection (b) of this section, the reference to each county "of the sanitary district" is added for clarity.

Also in subsection (b) of this section, the reference to a newspaper "of general circulation" is substituted for the former reference to a newspaper "published" for consistency with the other similar provisions of this division and in light of Art. 1, § 28.

Defined term: "Commission" § 16–101

17–404. REGULATIONS — GAS FIXTURES, DEVICES, AND CONNECTIONS.

(A) AUTHORITY OF COMMISSION.

THE COMMISSION MAY:

(1) ADOPT REGULATIONS FOR THE INSTALLATION OF FUEL GAS PIPING, APPLIANCES, APPURTENANCES, AND CONNECTIONS FROM THE POINT OF SERVICE SUPPLYING ANY PREMISES IN THE SANITARY DISTRICT; AND

(2) REQUIRE A PERMIT AND CHARGE A FEE FOR THE INSTALLATION OF FUEL GAS PIPING, APPLIANCES, APPURTENANCES, AND CONNECTIONS.

(B) NOTICE.

THE COMMISSION SHALL PUBLISH A NOTICE OF ANY NEW REGULATION THAT IS AUTHORIZED BY THIS SECTION AT LEAST 30 DAYS BEFORE ITS EFFECTIVE DATE IN AT LEAST TWO NEWSPAPERS OF GENERAL CIRCULATION IN EACH COUNTY OF THE SANITARY DISTRICT.

(C) VIOLATION OF REGULATIONS PROHIBITED.

A PERSON MAY NOT VIOLATE A REGULATION ADOPTED UNDER THIS SECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 9–102.

In subsection (a)(1) of this section, the former reference to regulations "that the WSSC considers necessary or desirable" is deleted as unnecessary.

In subsection (b) of this section, the former reference to "separate" notice is deleted as unnecessary.

Also in subsection (b) of this section, the reference to each county "of the sanitary district" is added for clarity.

Also in subsection (b) of this section, the reference to newspapers "of general circulation" is substituted for the former reference to a newspaper "published" for consistency with the other similar provisions of this division and in light of Art. 1, § 28.

In subsection (c) of this section, the former reference to a regulation adopted "by the WSSC" is deleted as unnecessary.

The Washington Suburban Sanitary Commission Law Review Committee notes, for consideration by the General Assembly, that the provision in subsection (a)(2) of this section that authorizes the Commission to charge a fee for the installation of fuel gas piping, appliances, appurtenances, and connections is inconsistent with current practice. The Commission does not currently perform installations but does charge a fee for a permit to install fuel gas piping, appliances, appurtenances, and connections. The General Assembly may wish to conform this section to current practice.

Defined terms: "Commission" § 16–101
"Person" § 16–101
"Sanitary district" § 16–101

17–405. REGULATIONS — PUBLICLY OWNED WATERSHED PROPERTY.

(A) AUTHORITY OF COMMISSION.

UNDER THE AUTHORITY GRANTED TO THE COMMISSION UNDER § 17–403 OF THIS SUBTITLE, THE COMMISSION MAY ADOPT REGULATIONS GOVERNING ALL PUBLICLY OWNED WATERSHED PROPERTY ACQUIRED BY OR UNDER THE JURISDICTION OF THE COMMISSION.

(B) NOTICE.

(1) THE COMMISSION SHALL POST THE WATERSHED REGULATIONS AT EACH PUBLIC RECREATION SITE IN THE WATERSHED AREAS.

(2) THE COMMISSION SHALL PUBLISH THE WATERSHED REGULATIONS AT LEAST 30 DAYS BEFORE THEIR ADOPTION IN AT LEAST ONE NEWSPAPER OF GENERAL CIRCULATION IN EACH COUNTY OF THE SANITARY DISTRICT.

(3) (I) THE POSTING AND PUBLICATION OF THE WATERSHED REGULATIONS IS SUFFICIENT NOTICE.

(II) THE SWORN CERTIFICATE OF A COMMISSIONER AS TO THE POSTING AND PUBLICATION OF THE WATERSHED REGULATIONS IS PRIMA FACIE EVIDENCE OF POSTING AND PUBLICATION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 18–104.1(a).

In subsection (a) of this section, the reference to the authority "granted to the Commission" is added for clarity.

Also in subsection (a) of this section, the reference to regulations "governing" all property is substituted for the former reference to regulations "for the government and use of" all property for brevity.

In subsection (b)(2) of this section, the requirement that the "Commission" publish the watershed regulations is added for clarity.

Also in subsection (b)(2) of this section, the reference to a newspaper "of general circulation" is substituted for the former reference to a newspaper "published" for consistency with similar provisions of this division and in light of Art. 1, § 28.

In subsection (b)(3)(i) of this section, the former reference to posting and publication of the regulations being sufficient notice "to all persons" is deleted as surplusage.

In subsection (b)(3)(ii) of this section, the reference to evidence of "posting and publication" is substituted for the former reference to evidence of these facts" for clarity.

The Washington Suburban Sanitary Commission Law Review Committee notes, for the consideration of the General Assembly, that subsection (b)(3)(ii) of this section may be obsolete.

Defined terms: "Commission" § 16–101
"Commissioner" § 16–101
"Sanitary district" § 16–101

17–406. ADDITIONAL REGULATIONS.

(A) AUTHORITY OF COMMISSION.

THE COMMISSION MAY ADOPT REGULATIONS GOVERNING:

(1) EROSION AND SEDIMENT CONTROL FOR UTILITY CONSTRUCTION UNDER AUTHORITY OF § 17–403 OF THIS SUBTITLE AND § 4–105 OF THE ENVIRONMENT ARTICLE, AFTER REVIEW AND APPROVAL OF THE PROPOSED REGULATIONS BY THE SOIL CONSERVATION DISTRICTS OF MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY AND THE DEPARTMENT OF NATURAL RESOURCES;

(2) SEWER CLEANING UNDER AUTHORITY OF § 24–201 OF THIS ARTICLE;

(3) PLUMBING UNDER AUTHORITY OF § 17–403 OF THIS SUBTITLE AND §§ 24–106, 26–102, AND 26–204 OF THIS ARTICLE;

(4) GAS FITTING UNDER AUTHORITY OF § 17–404 OF THIS SUBTITLE;

(5) REQUIRED PERMITS FOR PUBLIC UTILITY CONSTRUCTION UNDER AUTHORITY OF §§ 27–101 AND 27–107 OF THIS ARTICLE; AND

(6) THE COMMISSION PRETREATMENT PROGRAM UNDER AUTHORITY OF § 17–403 OF THIS SUBTITLE AND § 9–332 OF THE ENVIRONMENT ARTICLE.

(B) NOTICE.

(1) THE COMMISSION SHALL PUBLISH THE REGULATIONS AS PROVIDED UNDER § 17–403(B) OF THIS SUBTITLE.

(2) THE SWORN CERTIFICATE OF A COMMISSIONER AS TO THE PUBLICATION OF THE REGULATIONS IS PRIMA FACIE EVIDENCE OF PUBLICATION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 18–104.2(b).

In subsection (a)(1) of this section, the reference to the review and approval "of the proposed regulations" is added for clarity.

In subsection (b)(1) of this section, the requirement that the "Commission" publish the regulations is added for clarity.

In subsection (b)(2) of this section, the reference to the publication "of the regulations" is substituted for the former reference to publication "under this section" for clarity.

The Washington Suburban Sanitary Commission Law Review Committee notes, for the consideration of the General Assembly, that subsection (b)(2) of this section may be obsolete.

Defined terms: "Commission" § 16–101
"Commissioner" § 16–101

17–407. PAYMENT FOR PROPERTY DAMAGE CAUSED BY SANITARY SEWER BACKUP OR WATER MAIN BREAK.

(A) PROPERTY DAMAGE.

(1) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, IN ACCORDANCE WITH ITS REGULATIONS, THE COMMISSION MAY PAY FOR ACTUAL PROPERTY DAMAGE CAUSED BY:

(I) A SANITARY SEWER BACKUP; OR

(II) A WATER MAIN BREAK ON OR AFTER OCTOBER 1, 1999.

(2) PAYMENT MADE BY THE COMMISSION UNDER THIS SECTION IS NOT AN ADMISSION OF LIABILITY.

(B) INTENTIONAL ACT OR NEGLIGENCE.

THE COMMISSION MAY NOT PAY FOR ACTUAL PROPERTY DAMAGE CAUSED BY A SANITARY SEWER BACKUP OR WATER MAIN BREAK IF THE SANITARY SEWER BACKUP, WATER MAIN BREAK, OR RESULTING DAMAGE FROM THE BACKUP OR BREAK WAS CAUSED BY AN INTENTIONAL ACT OR NEGLIGENCE OF THE OWNER OR TENANT OF THE PROPERTY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 18–106.

In subsection (a)(1)(i) of this section, the former reference to a sanitary sewer backup "occurring on or after July 1, 1979" is deleted as unnecessary.

Defined term: "Commission" § 16–101

17–408. COMPOSTING FACILITIES.

(A) LIMITATIONS ON LOCATION OF SITE.

UNLESS THE COMMISSION TAKES PRECAUTIONS TO MAKE A COMPOSTING FACILITY FREE OF OFFENSIVE OFF–SITE ODORS, THE COMMISSION MAY NOT CONSTRUCT THE FACILITY IN AN AREA THAT HAS MORE THAN 100 HOMES THAT ARE LOCATED WITHIN 5 MILES OF THE FACILITY.

(B) CONSTRUCTION AND OPERATION.

THE COMMISSION SHALL ADOPT REGULATIONS THAT PROVIDE STANDARDS FOR THE CONSTRUCTION AND OPERATION OF A COMPOSTING FACILITY THAT IS FREE OF OFFENSIVE OFF–SITE ODORS.

(C) CLOSING FACILITIES.

IF THE COMMISSION DOES NOT CONTROL AND ELIMINATE ANY OFFENSIVE OFF–SITE ODOR THAT IS CAUSED BY A COMPOSTING FACILITY THAT IS CONSTRUCTED AFTER JULY 1, 1986, THE COMMISSION SHALL CLOSE THE FACILITY WITHIN 4 MONTHS AFTER THE DATE THE OFFENSIVE OFF–SITE ODOR IS EMITTED FROM THE FACILITY.

(D) ALTERNATIVES FOR DISPOSITION OF SLUDGE AT CLOSED FACILITIES.

IF A COMPOSTING FACILITY IS CLOSED FOR FAILURE TO MEET ANY STANDARDS ADOPTED BY THE COMMISSION UNDER THIS SECTION, MONTGOMERY COUNTY SHALL SELECT AN ALTERNATIVE METHOD OR LOCATION FOR THE DISPOSITION OF SLUDGE LOCATED AT THE CLOSED FACILITY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 18–107(a), (b), (c), and (e).

In subsection (d) of this section, the former reference to the Montgomery County "government" is deleted as unnecessary.

Former Art. 29, § 18–107(d), which required certain actions regarding composting facilities in existence on July 1, 1986, to be taken on or before January 1, 1987, is deleted as obsolete.

The Washington Suburban Sanitary Commission Law Review Committee notes, for the consideration of the General Assembly, that the Commission does not currently own or run any composting facilities.

The Washington Suburban Sanitary Commission Law Review Committee also notes, for the consideration of the General Assembly, that although former Art. 29, § 18–107(e), revised in subsection (d) of this section, states that Montgomery County shall select an alternative method or location for the disposition of certain sludge on the closing of a composting facility, the intent probably is that the governing body of the county in which the composting facility was located shall select an alternate method or location for the disposition of the sludge. The General Assembly may wish to clarify this provision.

Defined term: "Commission" § 16–101

SUBTITLE 5. BOUNDARY DESCRIPTION OF SANITARY DISTRICT.

17–501. BOUNDARIES.

THE SANITARY DISTRICT IS COMPOSED OF THOSE PARTS OF MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY THAT ARE DESCRIBED IN CHAPTER 766 OF THE ACTS OF THE GENERAL ASSEMBLY OF 1982.

REVISOR'S NOTE: This section formerly was Art. 29, § 19–101.

The only change is in style.

Defined term: "Sanitary district" § 16–101

TITLE 18. PERSONNEL.

SUBTITLE 1. PERSONNEL MANAGEMENT.

18–101. "SECRETARY" DEFINED.

IN THIS SUBTITLE, "SECRETARY" MEANS THE SECRETARY OF BUDGET AND MANAGEMENT.

REVISOR'S NOTE: This section is new language added to avoid repetition of the full reference to the "Secretary of Budget and Management".

18–102. EFFECT OF SUBTITLE.

THIS SUBTITLE DOES NOT PROHIBIT THE COMMISSION FROM EMPLOYING CONSULTING OR OUTSIDE ENGINEERING SERVICES THAT THE COMMISSION CONSIDERS NECESSARY.

REVISOR'S NOTE: This section formerly was Art. 29, § 11–101(c).

The former reference to "other" outside engineering services is deleted as unnecessary.

The only other changes are in style.

Defined term: "Commission" § 16–101

18–103. APPLICABILITY OF STATE PERSONNEL AND PENSIONS ARTICLE TO COMMISSION.

EXCEPT AS OTHERWISE PROVIDED BY LAW, THE PROVISIONS OF THE STATE PERSONNEL AND PENSIONS ARTICLE THAT GOVERN SKILLED SERVICE AND PROFESSIONAL SERVICE EMPLOYEES DO NOT APPLY TO THE COMMISSION.

REVISOR'S NOTE: This section formerly was Art. 29, § 11–116(b).

The only change is in style.

Defined term: "Commission" § 16–101

18–104. EMPLOYMENT OF PERSONNEL; EXPENDITURES; REIMBURSEMENT.

THE COMMISSION:

(1) MAY EMPLOY PERSONNEL AND MAKE EXPENDITURES NECESSARY TO CARRY OUT THE PURPOSES OF THIS SUBTITLE; AND

(2) SHALL REIMBURSE THE STATE FOR ANY REASONABLE COST INCURRED BY THE DEPARTMENT OF BUDGET AND MANAGEMENT IN CARRYING OUT THE FUNCTIONS UNDER THIS SUBTITLE.

REVISOR'S NOTE: This section formerly was Art. 29, § 11–117.

The only changes are in style.

Defined terms: "Commission" § 16–101
"State" § 16–101

18–105. REGULATIONS.

(A) AUTHORITY TO ADOPT.

THE COMMISSION MAY ADOPT REGULATIONS TO CARRY OUT THIS SUBTITLE.

(B) APPROVAL OF CHANGES.

(1) THE COMMISSION SHALL SUBMIT ANY CHANGE IN A REGULATION TO THE SECRETARY FOR APPROVAL.

(2) FAILURE OF THE SECRETARY TO ACT WITHIN 60 DAYS AFTER RECEIPT OF THE PROPOSED REGULATION CONSTITUTES APPROVAL.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 11–102(b).

In this section and throughout this subtitle, the former references to "rule[s]" are deleted as unnecessary in light of the use of the word "regulation[s]". *See* General Revisor's Note to division.

In subsection (a) of this section, the former reference to adopting regulations "that the WSSC considers necessary and proper" is deleted as implicit in the discretionary authority of the Commission to adopt regulations "to carry out this subtitle".

In subsection (b)(1) of this section, the reference to submitting any change in a regulation to the Secretary "for approval" is added for clarity and consistency with subsection (b)(2) of this section.

In subsection (b)(2) of this section, the reference to receipt of the "proposed" regulation is added for clarity.

Defined terms: "Commission" § 16–101
"Secretary" § 18–101

18–106. GENERAL DUTY AND AUTHORITY TO MANAGE EMPLOYEES.

(A) ORGANIZATION REQUIRED.

THE COMMISSION SHALL ORGANIZE ITS EMPLOYEES IN A MANNER THAT PROMOTES THE EFFICIENT DISPOSITION OF ALL MATTERS WITHIN THE COMMISSION'S JURISDICTION.

(B) AUTHORITY.

TO CARRY OUT THIS DIVISION, THE COMMISSION MAY:

(1) ORGANIZE ITS EMPLOYEES INTO DEPARTMENTS OR OTHER DIVISIONAL ORGANIZATIONS;

(2) ESTABLISH THE FUNCTIONS, DUTIES, AND RESPONSIBILITIES OF THE GENERAL MANAGER, SECRETARY, TREASURER, CHIEF ENGINEER, GENERAL COUNSEL, AND OTHER EMPLOYEES THE COMMISSION CONSIDERS NECESSARY; AND

(3) APPOINT, DISCHARGE, AND SET THE COMPENSATION OF ITS EMPLOYEES IN ACCORDANCE WITH THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 11–101(a) and (b).

In this section, the references to "employees" are substituted for the former references to "staff" for consistency with the terminology used throughout this subtitle.

In subsection (b)(2) of this section, the former reference to "[a]ppoint[ing]" employees is deleted as redundant of the same reference in subsection (b)(3) of this section.

In subsection (b)(3) of this section, the former reference to "all of" the Commission's employees is deleted as surplusage.

Defined term: "Commission" § 16–101

18–107. MERIT SYSTEM.

(A) ESTABLISHMENT AUTHORIZED.

THE COMMISSION MAY ESTABLISH A MERIT SYSTEM THAT INCLUDES ALL OF ITS EMPLOYEES EXCEPT:

(1) THE GENERAL MANAGER, SECRETARY, TREASURER, AND CHIEF ENGINEER;

(2) THE HEAD OF A DEPARTMENT; AND

(3) A PART TIME, TEMPORARY, OR CONTRACT EMPLOYEE.

(B) APPOINTMENTS AND PROMOTIONS.

THE COMMISSION MAY:

(1) APPOINT OR PROMOTE A MERIT SYSTEM EMPLOYEE TO THE POSITION OF GENERAL MANAGER OR DEPARTMENT HEAD OR DESIGNATE A MERIT SYSTEM EMPLOYEE AS THE GENERAL MANAGER OR DEPARTMENT HEAD ON AN ACTING BASIS;

(2) RETAIN THE EMPLOYEE IN THE MERIT SYSTEM IN THE POSITION OR GRADE FROM WHICH THE EMPLOYEE WAS APPOINTED OR PROMOTED; AND

(3) CONTINUE TO EXCLUDE THE POSITIONS OF GENERAL MANAGER AND DEPARTMENT HEAD FROM THE MERIT SYSTEM.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 11–102(a).

In this section and throughout this subtitle, the references to "merit system" are substituted for the former references to "classified service" for accuracy and to reflect current practice. Similarly, in this section and throughout this subtitle, the reference to a "merit system" employee are substituted for the former references to a "classified" employee. Similarly, in this section and throughout this subtitle, the former references to merit system "or classified service" are deleted. *See* General Revisor's Note to subtitle.

In subsection (a)(1) of this section, the former reference to "creat[ing]" a merit system or classified service is deleted in light of the reference to "establish[ing]" a merit system.

In subsection (b)(1) of this section, the reference to the "position" of general manager or department head is substituted for the former reference to the "office" of general manager or department head for consistency with subsection (b)(3) of this section. Correspondingly, in subsection (b)(1) of this section, the reference to "the general manager or a department head" is substituted for the former reference to the "incumbent of any of these offices".

In subsection (b)(2) of this section, the reference to "retain[ing]" the employee is substituted for the former reference to "[p]rovid[ing] for" the employee's "retention" for brevity.

In subsection (b)(3) of this section, the reference to continuing to "exclude" certain positions from the merit system is substituted for the former reference to continuing to "except" the positions for clarity.

The Washington Suburban Sanitary Commission Law Review Committee notes, for the consideration of the General Assembly, that the intent of subsection (b) of this section is ambiguous. The provision appears to both allow an employee who is promoted to the position of the general manager or department head to retain their previous merit system status but also allow the Commission to exclude those positions from the merit system, which appears contradictory. The General Assembly may wish to address this ambiguity.

Defined term: "Commission" § 16–101

18–108. POSITION CLASSIFICATIONS.

(A) ESTABLISHMENT AND FILING OF LIST.

THE COMMISSION SHALL:

(1) ESTABLISH A LIST OF EACH POSITION TO BE INCLUDED UNDER THE MERIT SYSTEM AND ITS CORRESPONDING SALARY; AND

(2) FILE THE LIST WITH THE SECRETARY.

(B) CHANGES.

THE COMMISSION MAY:

(1) ESTABLISH ADDITIONAL POSITION CLASSIFICATIONS; AND

(2) COMBINE, ALTER, OR ABOLISH EXISTING POSITION CLASSIFICATIONS AND THEIR CORRESPONDING SALARIES.

(C) SUBMISSION TO SECRETARY.

THE COMMISSION SHALL SUBMIT TO THE SECRETARY:

(1) FOR THE SECRETARY'S APPROVAL, EACH POSITION CLASSIFICATION TO BE ESTABLISHED OR ABOLISHED; AND

(2) THE REASON FOR ITS ESTABLISHMENT OR ABOLISHMENT.

(D) ACTION BY SECRETARY.

WITHIN 60 DAYS AFTER RECEIPT OF A PROPOSAL TO ESTABLISH OR ABOLISH A POSITION CLASSIFICATION, THE SECRETARY:

(1) SHALL APPROVE OR DISAPPROVE THE PROPOSAL; AND

(2) IF DISAPPROVING, SHALL GIVE THE REASON FOR THE DISAPPROVAL TO THE COMMISSION.

(E) FAILURE TO ACT.

FAILURE OF THE SECRETARY TO ACT WITHIN 60 DAYS AFTER RECEIPT OF THE PROPOSAL CONSTITUTES APPROVAL.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 11–103.

In the introductory language of subsection (b) of this section, the word "may" is substituted for the former word "[s]hall" to clarify the apparent intent of the General Assembly that the Commission be given discretion, and not be required, to establish additional position classifications. Under the former law, the classifications established by the Commission are those that it "considers necessary". The Washington Suburban Sanitary Commission Law Review Committee calls this substitution to the attention of the General Assembly.

Also in subsection (b)(1) of this section, the former reference to additional position classifications "that the WSSC considers necessary" is deleted as surplusage.

In subsection (b)(2) of this section, the reference to "position" classifications is added for clarity and consistency within this section.

Also in subsection (b)(2) of this section, the reference to existing position classifications and "their corresponding" salaries is added for clarity and consistency with subsection (a)(1) of this section.

In subsection (d)(1) of this section, the reference to the "proposal" is substituted for the former reference to the "change" for consistency within this section.

In subsection (d)(2) of this section, the phrase "if disapproving" is added to clarify that a reason need not be given if a proposal is approved.

Defined terms: "Commission" § 16–101

"Secretary" § 18–101

18–109. ADMINISTRATION OF EXAMINATIONS.

(A) IN GENERAL.

PROMPTLY AFTER FILING THE LIST OF MERIT SYSTEM POSITIONS AND CORRESPONDING SALARIES WITH THE SECRETARY AS REQUIRED UNDER § 18–108 OF THIS SUBTITLE, THE COMMISSION SHALL PREPARE AND HOLD EXAMINATIONS TO ESTABLISH A LIST OF INDIVIDUALS ELIGIBLE FOR APPOINTMENT TO VACANCIES IN THE POSITIONS.

(B) ADDITIONAL LISTS.

THE COMMISSION MAY HOLD EXAMINATIONS WHENEVER THE COMMISSION CONSIDERS IT NECESSARY TO ESTABLISH AN ADDITIONAL LIST OF ELIGIBLE INDIVIDUALS FOR ANY POSITION IN THE MERIT SYSTEM.

(C) FORM AND NATURE OF EXAMINATIONS.

EACH EXAMINATION SHALL BE:

(1) A FAIR TEST OF THE RELATIVE ABILITIES OF THE CANDIDATES TO PERFORM THE DUTIES OF THE CLASSIFICATION TO WHICH THEY SEEK TO BE APPOINTED;

(2) COMPETITIVE, FREE, AND OPEN TO ALL INDIVIDUALS WHO LAWFULLY MAY BE APPOINTED TO A POSITION IN THE CLASSIFICATION FOR WHICH THE EXAMINATION IS HELD; AND

(3) IN ONE OR ANY COMBINATION OF THE FOLLOWING FORMS:

(I) ORAL;

(II) WRITTEN; OR

(III) A DEMONSTRATION OF SKILL.

(D) SUBMISSION TO SECRETARY.

ALL EXAMINATIONS SHALL BE SUBMITTED TO THE SECRETARY FOR APPROVAL BEFORE BEING HELD.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 11–104(a) and (b)(1) through (4).

In subsection (a) of this section, the reference to "corresponding" salaries is added for clarity and consistency with other similar provisions of this subtitle.

Also in subsection (a) of this section, the phrase "as required under § 18–108 of this subtitle" is added for clarity.

Also in subsection (a) of this section, the former reference to appointment to vacancies in the "various" positions is deleted as surplusage.

In subsection (b) of this section, the reference to any position in the "merit system" is substituted for the former reference to any position in the "classified list" for clarity.

In the introductory language of subsection (c) of this section, the word "shall" is substituted for the former word "[m]ay" to clarify that while an examination may be in one or a combination of the forms listed in subsection (c)(3) of this section, no forms other than those listed are permissible.

In subsection (c)(2) of this section, the reference to all "individuals" is substituted for the former reference to all "persons" because only a human being, and not the other entities included in the defined term "person", can take an examination.

Also in subsection (c)(2) of this section, the reference to the "classification" is substituted for the former reference to the "class" for consistency with subsection (c)(1) of this section.

In subsection (d) of this section, the reference to an examination being "held" is substituted for the former reference to an examination being "given" for consistency within this section.

Defined terms: "Commission" § 16–101
"Secretary" § 18–101

18–110. NOTICE OF EXAMINATIONS.

AT LEAST ONCE A WEEK FOR AT LEAST 2 SUCCESSIVE WEEKS BEFORE THE DAY ON WHICH AN EXAMINATION IS TO BE HELD, THE COMMISSION SHALL PUBLISH IN A NEWSPAPER OF GENERAL CIRCULATION IN EACH COUNTY OF THE SANITARY DISTRICT:

(1) THE TIME, PLACE, AND SCOPE OF THE EXAMINATION; AND

(2) THE DUTIES, COMPENSATION, AND QUALIFICATIONS FOR EACH POSITION IN THE CLASSIFICATION FOR WHICH THE EXAMINATION IS TO BE HELD.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 11–106.

In the introductory language of this section, the reference to 2 successive weeks "before the day on which an examination is to be held" is substituted for the former reference to 2 successive weeks "preceding the examination" for clarity.

Also in the introductory language of this section, the reference to each county "of the sanitary district" is added for clarity.

Also in the introductory language of this section, the former requirement to publish "separate" notices is deleted as unnecessary.

In item (1) of this section, the former reference to the "general" scope of the examination is deleted as implicit in the meaning of the word "scope".

In item (2) of this section, the reference to "compensation" is substituted for the former reference to "pay" for clarity.

Also in item (2) of this section, the reference to "qualifications" is substituted for the former reference to "experience advantageous or required" for brevity.

Also in item (2) of this section, the reference to each position in the "classification" is substituted for the former reference to each position in the "class" for consistency with § 18–109(c) of this subtitle.

Defined term: "Commission" § 16–101

18–111. EXAMINATIONS FOR VETERANS.

ON ALL EXAMINATIONS FOR APPOINTMENT, AN HONORABLY DISCHARGED VETERAN OF THE UNITED STATES ARMED FORCES WHO WAS A BONA FIDE RESIDENT OF THE STATE WHEN THE VETERAN ENTERED THE UNITED STATES ARMED FORCES SHALL RECEIVE A CREDIT OF 5%.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 11–105.

The references to the "armed forces" are substituted for the former references to the "military or naval services" for clarity.

Defined term: "State" § 16–101

18–112. INSPECTION OF EXAMINATIONS.

(A) PERMITTED.

ON REQUEST, A CANDIDATE MAY INSPECT THE CANDIDATE'S EXAMINATION PAPERS AND SCORES.

(B) REVIEW BY SECRETARY.

(1) IF A CANDIDATE IS NOT SATISFIED WITH THE SCORE RECEIVED FROM THE COMMISSION, THE CANDIDATE MAY APPEAL TO THE SECRETARY.

(2) THE SECRETARY SHALL REVIEW THE CANDIDATE'S EXAMINATION AND SCORE.

(3) THE DECISION OF THE SECRETARY IS FINAL.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 11–107(a)(3).

In subsection (a) of this section, the reference to "score" is substituted for the former reference to "marks" for clarity. Similarly, in subsection (b)(1) of this section, the reference to "score" is substituted for the former reference to "marking".

In subsection (b)(2) of this section, the reference to reviewing the "candidate's examination and score" is substituted for the former reference to reviewing the "matter" for clarity.

Defined terms: "Commission" § 16–101
"Secretary" § 18–101

18–113. ESTABLISHMENT OF ELIGIBLE LISTS; APPOINTMENTS.

(A) IN GENERAL.

THE COMMISSION SHALL:

(1) ESTABLISH A LIST OF THE NAMES OF INDIVIDUALS WHOSE GENERAL AVERAGE AND SCORE ON ANY PART OF AN EXAMINATION HELD BY THE COMMISSION EXCEED THE MINIMUM SET BY THE COMMISSION; AND

(2) SEND A COPY OF THE LIST TO THE SECRETARY.

(B) EFFECTIVE PERIOD.

(1) EACH LIST OF ELIGIBLE INDIVIDUALS IS EFFECTIVE FOR 1 YEAR FROM THE DATE THE LIST IS ESTABLISHED.

(2) THE COMMISSION MAY EXTEND THE EFFECTIVE PERIOD FOR A LIST BY ACTION:

(I) TAKEN BEFORE THE EFFECTIVE PERIOD FOR THE LIST EXPIRES; AND

(II) RECORDED IN THE COMMISSION'S MINUTES.

(C) APPOINTMENTS FROM LISTS.

THE COMMISSION MAY APPOINT TO A VACANCY IN THE MERIT SYSTEM ANY INDIVIDUAL WHO IS ON A LIST ESTABLISHED UNDER SUBSECTION (A) OF THIS SECTION.

(D) EXAMINATION REQUIRED FOR APPOINTMENT.

EXCEPT FOR PRESENT EMPLOYEES OF THE COMMISSION, AND EXCEPT AS PROVIDED IN SUBSECTIONS (E) AND (F) OF THIS SECTION, AN INDIVIDUAL MAY NOT BE APPOINTED TO A POSITION UNDER THE MERIT SYSTEM UNLESS THE INDIVIDUAL IS QUALIFIED BY EXAMINATION AS PROVIDED IN THIS SUBTITLE.

(E) TEMPORARY APPOINTMENTS.

(1) IF A POSITION MUST BE ESTABLISHED IMMEDIATELY, THE COMMISSION MAY APPOINT ANY INDIVIDUAL TO THE POSITION WITHOUT AN EXAMINATION, AT ANY SALARY, FOR A PERIOD NOT TO EXCEED 6 MONTHS.

(2) THE COMMISSION MAY EXTEND THE APPOINTMENT ONE TIME FOR A PERIOD NOT TO EXCEED 6 MONTHS.

(F) LABORERS.

THE COMMISSION MAY ADOPT:

(1) RULES EXEMPTING FROM A COMPETITIVE EXAMINATION PROCESS POSITIONS TO BE FILLED BY SEMISKILLED OR UNSKILLED LABORERS; AND

(2) INSTEAD OF A COMPETITIVE EXAMINATION, A SYSTEM THAT THE COMMISSION CONSIDERS WILL BEST PROVIDE FOR FILLING THOSE POSITIONS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, §§ 11–104(b)(5) and 11–107(a)(1) and (2), (b), and (c).

In subsection (a)(1) of this section, the reference to an examination "held by the Commission" is added for clarity.

Also in subsection (a)(1) of this section, the reference to "establish" is substituted for the former reference to "[p]repare" for clarity. Similarly in subsection (b)(1) of this section, the reference to "established" is substituted for the former reference to "prepar[ed]".

Also in subsection (a)(1) of this section, the reference to "score" is substituted for the former reference to "marks" for clarity.

Also in subsection (a)(1) of this section, the former reference to the minimum "of the rules" is deleted as unnecessary.

In subsection (b)(1) of this section, the reference to "[e]ach list of eligible individuals" is substituted for the former reference to "[t]hese lists" for clarity.

Also in subsection (b)(1) of this section, the reference to a list "[being] effective" is substituted for the former requirement that a list "shall continue in force" for brevity and clarity.

In the introductory language of subsection (b)(2) of this section, the reference to the "effective period for a list" is substituted for the former reference to "this period" for clarity.

In subsection (b)(2)(i) of this section, the reference to action taken before the "effective period for the list expires" is substituted for the former reference to action taken before the "expiration of the list" for clarity.

In subsection (d) of this section, the phrase "except as provided in subsections (e) and (f) of this section" is added for clarity and accuracy.

Also in subsection (d) of this section, the references to an "individual" are substituted for the former references to a "person" because only a human being, and not the other entities included in the defined term "person", can be appointed to a position or qualify by examination for appointment.

In subsection (e) of this section, the references to a period "not to exceed" 6 months are substituted for the former references to a period "of" 6 months to clarify that an appointment and its extension may be made for any period of time that is 6 months or less.

In subsection (e)(1) of this section, the reference to appointing any individual "to the position" is added for clarity.

Also in subsection (e)(1) of this section, the phrase "[i]f a position must be established immediately" is substituted for the former phrase "[w]here there is need for the immediate establishment of a position" for brevity.

In subsection (f)(1) of this section, the reference to a competitive examination "process" is added for clarity.

Also in subsection (f)(1) of this section, the former reference to "[g]eneral" rules is deleted as surplusage.

In subsection (f)(2) of this section, the reference to "filling" the positions is added for clarity.

Also in subsection (f)(2) of this section, the former reference to a system "for laborers" is deleted as unnecessary in light of the reference to a system for filling "those positions".

Defined terms: "Commission" § 16–101
"Secretary" § 18–101

18–114. COMPENSATION FOR SERVICES.

UNLESS OTHERWISE PROVIDED BY LAW, THE COMMISSION MAY NOT APPROVE OR PAY ANY COMPENSATION FOR SERVICES UNLESS THE INDIVIDUAL TO WHOM THE COMPENSATION IS PAID IS AN EMPLOYEE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 11–112.

The phrase "[u]nless otherwise provided by law" is added for clarity.

The reference to an "individual" is substituted for the former reference to a "person" because only a human being, and not the other entities included in the defined term "person", can be an employee.

The reference to the individual to whom the compensation being paid as "an employee" is substituted for the former references to the individual "[e]mployed in the classified service", "[e]xempted or excepted by the WSSC under the provisions of this article", and "[a] temporary or emergency employee" for brevity and clarity.

The former reference to compensation for "classified" services is deleted as unnecessary.

The former references to "salary" and "wage" are deleted as included in the references to "compensation".

The former reference to "[a]n auditor … and a disbursing officer of" the Commission is deleted as unnecessary.

Defined term: "Commission" § 16–101

18–115. LEAVE TIME — ANNUAL.

(A) IN GENERAL.

EACH MERIT SYSTEM EMPLOYEE IS ENTITLED TO THE NUMBER OF DAYS OF ANNUAL LEAVE WITH PAY THAT THE COMMISSION SPECIFIES BY REGULATION.

(B) LIMITATIONS.

THE NUMBER OF DAYS OF ANNUAL LEAVE WITH PAY SPECIFIED BY A REGULATION ADOPTED UNDER THIS SECTION SHALL BE:

(1) AT LEAST 10 DAYS BUT NOT MORE THAN 30 DAYS IN A CALENDAR YEAR; AND

(2) GENERALLY CONSISTENT WITH THE ANNUAL LEAVE SCHEDULES PROVIDED BY OTHER GOVERNMENTAL AGENCIES IN THE AREA OF THE SANITARY DISTRICT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 11–111(a).

In this section, the references to "annual" leave are substituted for the former references to "vacation" leave for consistency with § 18–116(a) of this subtitle and to conform with the terminology used by the Commission.

In subsection (a) of this section, the reference to an employee "[being] entitled to" annual leave is substituted for the former requirement that an employee "shall receive" annual leave to conform with similar provisions in Title 9 of the State Personnel and Pensions Article.

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

In subsection (b)(1) of this section, the reference to days in a "calendar" year is added for clarity and consistency with § 18–116(a) of this subtitle.

Defined terms: "Commission" § 16–101
"Sanitary district" § 16–101

18–116. LEAVE TIME — SICK.

(A) IN GENERAL.

IN ADDITION TO ANNUAL LEAVE, EACH MERIT SYSTEM EMPLOYEE IS ENTITLED TO UP TO 15 DAYS OF SICK LEAVE WITH PAY IN A CALENDAR YEAR.

(B) USE.

(1) AN EMPLOYEE MAY USE SICK LEAVE AT ANY TIME.

(2) AN EMPLOYEE WHO USES 3 OR MORE CONSECUTIVE DAYS OF SICK LEAVE MUST PRESENT A CERTIFICATE FROM A LICENSED PHYSICIAN BEFORE THE EMPLOYEE MAY RECEIVE PAYMENT FOR THE PERIOD OF ABSENCE.

(C) ACCUMULATION OF UNUSED SICK LEAVE.

AN EMPLOYEE MAY ACCUMULATE UNUSED SICK LEAVE UP TO 60 DAYS OR MORE AS THE COMMISSION SPECIFIES BY REGULATION.

(D) EXTENDED LEAVE PERIOD.

THE COMMISSION, BY REGULATION, MAY PROVIDE FOR GRANTING A LEAVE OF ABSENCE FOR A LONGER PERIOD, WITH FULL OR PARTIAL PAY, TO AN EMPLOYEE WHO IS DISABLED THROUGH AN INJURY OR ILLNESS RESULTING OR ARISING FROM THE EMPLOYEE'S EMPLOYMENT WITH THE COMMISSION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 11–111(b).

In subsections (a) and (c) of this section, the former references to "working" days of sick leave are deleted as unnecessary.

In subsection (a) of this section, the reference to an employee "[being] entitled to" sick leave is substituted for the former requirement that an employee "shall receive" sick leave to conform with similar provisions in Title 9 of the State Personnel and Pensions Article.

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

In subsection (c) of this section, the former introductory language, "[i]f any employee in any calendar year uses less than the full amount of sick leave allowable", is deleted as implicit in the right of an employee to "accumulate unused sick leave".

In subsection (d) of this section, the reference to "full" or partial pay is added for clarity.

Also in subsection (d) of this section, the reference to the employee's employment "with the Commission" is added for clarity.

Defined term: "Commission" § 16–101

18–117. PAYMENT TO BENEFICIARY FOR SALARY AND UNUSED ANNUAL LEAVE.

(A) IN GENERAL.

THE COMMISSION, BY REGULATION, MAY PROVIDE FOR THE DESIGNATION BY A MERIT SYSTEM EMPLOYEE OF THE INDIVIDUAL TO WHOM THE EMPLOYEE'S FINAL SALARY PAYMENT, AND ANY PAYMENT DUE FOR UNUSED ANNUAL LEAVE, SHOULD BE MADE ON THE DEATH OF THE EMPLOYEE.

(B) REQUIREMENTS FOR DESIGNATION.

(1) THE DESIGNATION OF THE BENEFICIARY SHALL BE:

(I) IN WRITING; AND

(II) ON FILE WITH THE COMMISSION BEFORE THE DEATH OF THE EMPLOYEE.

(2) (I) THE WRITING NEED NOT BE IN TESTAMENTARY FORM.

(II) THE DESIGNATION AND PAYMENT ARE NOT TESTAMENTARY DISPOSITIONS.

(C) PAYMENT.

THE COMMISSION MAY MAKE THE PAYMENTS DESCRIBED IN SUBSECTION (A) OF THIS SECTION DIRECTLY TO THE BENEFICIARY DESIGNATED BY THE EMPLOYEE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 11–114.

Also in subsection (a) of this section, the reference to any "payment" due is substituted for the former reference to any "sum which may be" due for brevity and clarity.

Also in subsection (a) of this section, the reference to "annual" leave is substituted for the former reference to "vacation" leave for consistency with § 18–116(a) of this subtitle and to conform with the terminology used by the Commission.

Also in subsection (a) of this section, the former reference to unused "earned" leave is deleted as implicit in the meaning of the word "leave".

In subsection (c) of this section, the reference to making the payments "described in subsection (a) of this section" is substituted for the former reference to paying "any sum due to the deceased employee for salary and for any unused, earned vacation leave" for brevity.

Also in subsection (c) of this section, the former reference to "[t]he disbursing officer of" the Commission is deleted as unnecessary.

Defined term: "Commission" § 16–101

18–118. PENSION OR RETIREMENT PLAN.

(A) IN GENERAL.

THE COMMISSION MAY ESTABLISH A PENSION OR RETIREMENT PLAN FOR ITS EMPLOYEES.

(B) PLAN CONTRACTS; CONTRIBUTIONS.

(1) THE COMMISSION MAY:

(I) CONTRACT WITH AN INSURANCE COMPANY FOR A GROUP, ANNUITY, RETIREMENT, OR PENSION PLAN; AND

(II) CONTRIBUTE TO THE PLAN AS THE COMMISSION CONSIDERS EQUITABLE OR AS REQUIRED BY CONTRACT.

(2) THE COMMISSION'S CONTRIBUTION UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION SHALL BE CHARGED AS EXPENSES OF THE SEVERAL FUNCTIONS OF THE COMMISSION IN THE SAME PROPORTION THAT THE RECEIPTS OF THE RESPECTIVE FUNCTIONS BEAR TO THE TOTAL RECEIPTS OF THE COMMISSION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 11–113.

In subsection (a) of this section, the reference to "establish[ing]" a pension or retirement plan is substituted for the former reference to "formulat[ing] and adopt[ing]" a pension or retirement plan for clarity and brevity.

In subsection (b)(1)(i) of this section, the former reference to contracting with an "established" insurance company is deleted as implicit.

In subsection (b)(2) of this section, the reference to "[t]he Commission's contribution under paragraph (1)(ii) of this subsection" is substituted for the former reference to "[t]his contribution" for clarity.

Also in subsection (b)(2) of this section, the former reference to "payment" is deleted as unnecessary in light of the reference to "contribution".

Defined term: "Commission" § 16–101

18–119. TRANSFERS OF EMPLOYEES.

(A) AUTHORIZED.

THE COMMISSION MAY TRANSFER AN EMPLOYEE FROM ONE DEPARTMENT TO ANOTHER.

(B) LIMITATION.

A TRANSFER MAY NOT RESULT IN A DIMINUTION OF AN EMPLOYEE'S SALARY UNLESS:

(1) THE EMPLOYEE AGREES TO THE REDUCED SALARY; OR

(2) THE SECRETARY CONCURS IN THE REDUCTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 11–108.

Defined terms: "Commission" § 16–101
"Secretary" § 18–101

18–120. SEPARATIONS FROM MERIT SYSTEM GENERALLY.

AN EMPLOYEE MAY BE SEPARATED FROM THE MERIT SYSTEM:

(1) TEMPORARILY THROUGH SUSPENSION, LAYOFF, OR LEAVE OF ABSENCE; OR

(2) PERMANENTLY THROUGH REMOVAL OR RESIGNATION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 11–109(a)(1).

18–121. TEMPORARY SEPARATIONS — SUSPENSIONS.

(A) IN GENERAL.

THE COMMISSION MAY SUSPEND AN EMPLOYEE FOR DISCIPLINARY PURPOSES FOR UP TO 30 DAYS.

(B) WITHOUT PAY.

EACH SUSPENSION SHALL BE WITHOUT PAY.

(C) LIMITATION.

AN EMPLOYEE MAY NOT BE SUSPENDED FOR DISCIPLINARY PURPOSES FOR MORE THAN 30 DAYS IN A CALENDAR YEAR.

REVISOR'S NOTE: This section formerly was Art. 29, § 11–110(b).

The only changes are in style.

Defined term: "Commission" § 16–101

18–122. TEMPORARY SEPARATIONS — LAYOFFS.

(A) IN GENERAL.

AN EMPLOYEE WHO IS LAID OFF BECAUSE A POSITION HAS BEEN ABOLISHED, DISCONTINUED, OR VACATED BECAUSE OF A CHANGE IN DEPARTMENTAL ORGANIZATION OR BECAUSE OF A STOPPAGE OR LACK OF WORK SHALL BE PLACED ON THE ELIGIBLE LIST FOR THE CLASSIFICATION OF POSITION FROM WHICH THE EMPLOYEE IS LAID OFF.

(B) REEMPLOYMENT.

IF A VACANCY OCCURS IN THE EMPLOYEE'S MERIT SYSTEM POSITION, THE EMPLOYEE SHALL BE REEMPLOYED IN PREFERENCE TO ANY ELIGIBLE INDIVIDUAL WHO IS NOT AN EMPLOYEE OF THE COMMISSION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 11–110(a).

In subsection (a) of this section, the reference to the "classification" of position is substituted for the former reference to the "class" of position for consistency with § 18–109(c) of this subtitle.

In subsection (b) of this section, the reference to an "individual" is substituted for the former reference to a "person" because only a human being, and not the other entities included in the defined term "person", can be an employee of the Commission.

Defined term: "Commission" § 16–101

18–123. PERMANENT SEPARATIONS — REMOVAL.

(A) IN GENERAL.

AN EMPLOYEE MAY NOT BE PERMANENTLY REMOVED EXCEPT FOR CAUSE AND AFTER AN OPPORTUNITY TO BE HEARD.

(B) RIGHT TO APPEAL.

AN EMPLOYEE WHO IS PERMANENTLY REMOVED MAY APPEAL TO THE OFFICE OF ADMINISTRATIVE HEARINGS IN ACCORDANCE WITH § 4–401 OF THE STATE PERSONNEL AND PENSIONS ARTICLE.

(C) LIMITATION.

AN EMPLOYEE MAY NOT BE PERMANENTLY REMOVED FROM THE MERIT SYSTEM BECAUSE OF RELIGIOUS OR POLITICAL OPINIONS OR AFFILIATIONS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 11–109(b).

In subsection (b) of this section, the reference to an employee "who is permanently removed" is substituted for the former reference to a "discharged" employee for consistency with subsection (a) of this section and SP § 4–401(4).

In subsection (c) of this section, the reference to an employee being "permanently" removed is added for consistency within this section and with § 18–120 of this subtitle.

18–124. PERMANENT SEPARATIONS — RESIGNATIONS.

(A) ESTABLISHMENT BY REGULATION REQUIRED.

THE COMMISSION, BY REGULATION, SHALL ESTABLISH WHAT CONSTITUTES A RESIGNATION.

(B) APPROVAL BY SECRETARY.

A REGULATION ADOPTED UNDER SUBSECTION (A) OF THIS SECTION IS SUBJECT TO THE APPROVAL OF THE SECRETARY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 11–109(a)(2).

In subsection (b) of this section, the reference to "[a]" regulation "adopted under subsection (a) of this section" is substituted for the former reference to "[t]he" regulation for clarity.

Defined terms: "Commission" § 16–101
"Secretary" § 18–101

18–125. WHISTLEBLOWER PROTECTIONS.

(A) REGULATIONS.

ON OR BEFORE OCTOBER 1, 2010, THE COMMISSION SHALL ADOPT REGULATIONS THAT ESTABLISH COMPREHENSIVE COMMISSION EMPLOYEE WHISTLEBLOWER PROTECTIONS.

(B) REQUIREMENTS.

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.

REVISOR'S NOTE: This section formerly was Art. 29, § 18–109.

No changes are made.

Defined term: "Commission" § 16–101

18–126. PROHIBITED ACTS.

(A) IMPERSONATING ANOTHER IN AN EXAMINATION.

A PERSON MAY NOT IMPERSONATE ANOTHER IN AN EXAMINATION HELD UNDER THIS SUBTITLE.

(B) FALSIFYING EXAMINATION SCORE OR REPORT.

A PERSON MAY NOT WILLFULLY OR CORRUPTLY FALSIFY A SCORE OR REPORT ON AN EXAMINATION HELD UNDER THIS SUBTITLE.

(C) ACTIONS AFFECTING EXAMINATIONS.

(1) A PERSON, ACTING ALONE OR IN COOPERATION WITH ANOTHER, MAY NOT:

(I) WILLFULLY OR CORRUPTLY DECEIVE AN INDIVIDUAL ABOUT THE RIGHT TO TAKE AN EXAMINATION HELD UNDER THIS SUBTITLE;

(II) WILLFULLY OR CORRUPTLY INTERFERE WITH THE RIGHT OF AN INDIVIDUAL TO TAKE AN EXAMINATION HELD UNDER THIS SUBTITLE;

(III) FALSIFY, OR ASSIST ANOTHER TO FALSIFY, A SCORE, GRADE, ESTIMATE, OR REPORT ON THE EXAMINATION OR STANDING OF AN INDIVIDUAL EXAMINED UNDER THIS SUBTITLE; OR

(IV) GIVE TO AN INDIVIDUAL ANY SPECIAL INFORMATION IN ORDER TO IMPROVE OR HARM THE INDIVIDUAL'S RATING FOR APPOINTMENT OR EMPLOYMENT.

(2) NOTWITHSTANDING PARAGRAPH (1)(IV) OF THIS SUBSECTION, A PERSON MAY ANSWER ANY INQUIRY FROM THE SECRETARY.

(D) DECEPTION BY CANDIDATE.

A CANDIDATE FOR EMPLOYMENT MAY NOT DECEIVE THE COMMISSION OR THE SECRETARY IN ORDER TO IMPROVE THE CANDIDATE'S CHANCES FOR APPOINTMENT.

(E) RESIGNATION BEFORE APPOINTMENT.

(1) A CANDIDATE FOR APPOINTMENT TO A MERIT SYSTEM POSITION MAY NOT SIGN A RESIGNATION FROM THAT POSITION IN ADVANCE OF THE APPOINTMENT.

(2) A RESIGNATION SIGNED IN VIOLATION OF PARAGRAPH (1) OF THIS SUBSECTION IS VOID AND OF NO EFFECT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 11–115.

In subsections (a) and (c)(1)(i) and (ii) of this section, the references to this "subtitle" are substituted for the former, overly broad references to this "article" for clarity and accuracy.

In subsection (a) of this section, the former reference to a person impersonating another "person" is deleted as implicit. Similarly, in the introductory language of subsection (c)(1) of this section, the former reference to a person acting in cooperation with another "person" is deleted.

In subsections (b) and (c)(1)(iii) of this section, the references to "score" are substituted for the former references to "mark" for clarity.

In subsection (b) of this section, the reference to an examination "held under this subtitle" is added for clarity.

In the introductory language of subsection (c)(1) of this section, the reference to a person "acting alone" is substituted for the former reference to a person "[b]y himself" for clarity.

In subsection (c)(1)(i) and (ii) of this section, the references to the right "to take an" examination are substituted for the former references to the right "of" examination for clarity.

In subsection (c)(1)(ii) of this section, the prohibition against "interfer[ing]" with a certain right is substituted for the former

prohibition against "defeat[ing]" or "obstruct[ing]" the right for brevity and clarity.

In subsection (c)(1)(iv) of this section, the references to an "individual" are substituted for the former references to a "person" because only a human being, and not the other entities included in the defined term "person", can have a rating for appointment or employment.

In subsection (e)(1) of this section, the reference to a resignation "from that position" is added for clarity.

Also in subsection (e)(1) of this section, the reference to a "candidate for appointment" is substituted for the former reference to a "person about to be appointed" for brevity.

Also in subsection (e)(1) of this section, the former reference to "execut[ing]" a resignation is deleted in light of the reference to "sign[ing]" a resignation.

In subsection (e)(2) of this section, the reference to a resignation being "void and" of no effect is added for clarity.

In subsection (e)(2) of this section, the reference to "[a] resignation signed in violation of paragraph (1) of this subsection" is substituted for the former reference to "[a]ny such resignation" for clarity.

Defined terms: "Commission" § 16–101
"Person" § 16–101
"Secretary" § 18–101

GENERAL REVISOR'S NOTE TO SUBTITLE:

Throughout this subtitle, the references to "merit system" are substituted for the former references to "classified service". It appears that the Commission does not currently have a classified service but does currently have an established merit system. This substitution is called to the attention of the General Assembly.

Former Art. 29, § 11–116(a), which required the Secretary to carry out the duties of this subtitle, is deleted as implicit in the authority of the Secretary to carry out the responsibilities of the Department of Budget and Management under this subtitle.

SUBTITLE 2. COLLECTIVE BARGAINING.

18–201. APPLICABILITY OF RIGHTS AND DESIGNATION OF BARGAINING UNITS.

(A) DEFINITIONS; APPLICABILITY.

(1) (I) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(II) "CONFIDENTIAL EMPLOYEE" MEANS AN EMPLOYEE WHO ASSISTS OR ACTS IN A CONFIDENTIAL CAPACITY WITH RESPECT TO AN INDIVIDUAL WHO FORMULATES, DETERMINES, OR IMPLEMENTS MANAGEMENT POLICIES IN THE FIELD OF LABOR–MANAGEMENT RELATIONS.

(III) "PROBATIONARY EMPLOYEE" MEANS A COMMISSION MERIT SYSTEM EMPLOYEE DURING THE EMPLOYEE'S INITIAL PROBATIONARY PERIOD AFTER HIRING.

(2) THE RIGHTS GRANTED TO COMMISSION MERIT SYSTEM EMPLOYEES UNDER THIS SUBTITLE DO NOT APPLY TO:

(I) ATTORNEYS IN THE OFFICE OF THE GENERAL COUNSEL;

(II) CONFIDENTIAL EMPLOYEES;

(III) PROBATIONARY EMPLOYEES;

(IV) EMPLOYEES IN THE OFFICE OF THE GENERAL MANAGER;

(V) EMPLOYEES IN THE INTERNAL AUDIT OFFICE;

(VI) EMPLOYEES IN THE OFFICE OF THE SECRETARY; OR

(VII) SUPERVISORS, AS DEFINED IN § 2(11) OF THE NATIONAL LABOR RELATIONS ACT, 29 U.S.C. § 152(11).

(B) BARGAINING UNITS.

(1) COMMISSION EMPLOYEES ARE DIVIDED INTO FOUR BARGAINING UNITS CONSISTING OF:

(I) AN OFFICE/TECHNICAL UNIT THAT INCLUDES:

1. OFFICE CLASSIFICATION TITLES IN WHICH EMPLOYEES ARE RESPONSIBLE FOR INTERNAL AND EXTERNAL

COMMUNICATIONS, RECORDING AND RETRIEVING INFORMATION, AND PAPERWORK REQUIRED IN AN OFFICE;

2. TECHNICAL CLASSIFICATION TITLES IN WHICH EMPLOYEES HAVE A COMBINATION OF BASIC SCIENTIFIC OR TECHNICAL KNOWLEDGE AND MANUAL SKILL THAT IS USUALLY ACQUIRED THROUGH SPECIALIZED POSTSECONDARY SCHOOL EDUCATION OR THROUGH EQUIVALENT ON–THE–JOB TRAINING;

3. PARAPROFESSIONAL CLASSIFICATION TITLES IN WHICH EMPLOYEES PERFORM, IN A SUPPORTIVE ROLE, SOME OF THE DUTIES OF A PROFESSIONAL OR A TECHNICIAN BUT THAT USUALLY REQUIRE LESS FORMAL TRAINING OR EXPERIENCE THAN THOSE DUTIES PERFORMED BY THOSE WITH PROFESSIONAL OR TECHNICAL STATUS; AND

4. ALL OTHER NONPROFESSIONAL JOB TITLES CURRENTLY UNREPRESENTED BY ANY OTHER UNION;

(II) A PROFESSIONAL UNIT THAT INCLUDES PROFESSIONAL CLASSIFICATION TITLES IN WHICH EMPLOYEES HAVE SPECIAL OR THEORETICAL KNOWLEDGE THAT IS USUALLY ACQUIRED THROUGH COLLEGE TRAINING OR OTHER TRAINING THAT PROVIDES COMPARABLE KNOWLEDGE OR WORK EXPERIENCE;

(III) A SERVICE, LABOR, AND TRADE UNIT THAT INCLUDES:

1. CLASSIFICATION TITLES IN WHICH EMPLOYEES:

A. PERFORM SERVICE AND MAINTENANCE;

B. MAY OPERATE SPECIALIZED MACHINERY OR HEAVY EQUIPMENT; AND

C. HAVE DUTIES THAT CONTRIBUTE TO THE COMFORT AND CONVENIENCE OF THE PUBLIC OR TO THE UPKEEP AND CARE OF COMMISSION BUILDINGS, FACILITIES, OR GROUNDS;

2. CLASSIFICATION TITLES IN WHICH EMPLOYEES ARE REQUIRED TO HAVE A SPECIAL MANUAL SKILL AND THOROUGH KNOWLEDGE OF PROCESSES THAT ARE REQUIRED THROUGH ON–THE–JOB TRAINING, EXPERIENCE, APPRENTICESHIP, OR OTHER FORMAL TRAINING PROGRAMS; AND

3. CLASSIFICATION TITLES INCLUDED IN THE SERVICE, LABOR, AND TRADE BARGAINING UNIT AS CONSTITUTED ON JANUARY 1, 2003; AND

(IV) A LAW ENFORCEMENT UNIT THAT INCLUDES COMMISSION POLICE OFFICERS.

(2) IF A SINGLE EMPLOYEE ORGANIZATION IS CERTIFIED TO REPRESENT MORE THAN ONE BARGAINING UNIT, THE COMMISSION SHALL NEGOTIATE A SINGLE CONTRACT WITH THAT ORGANIZATION COVERING ALL EMPLOYEES THE ORGANIZATION REPRESENTS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, §§ 11.5–101 and 11.5–102.

In subsection (a)(1)(i) of this section, the reference to this "subsection" is substituted for the former reference to this "title" because the terms are used only in this particular subsection.

In the introductory language of subsection (a)(2) of this section and throughout this subtitle, the references to this "subtitle" are substituted for the former erroneous references to "section" for accuracy. *See* General Revisor's Note to subtitle.

In subsection (a)(2)(v) and (vi) of this section, the references to the "Internal Audit Office" and the "Office of the Secretary" are substituted for the former reference to the "Internal Audit/Secretary's office" to reflect the current organizational structure of the Commission.

In subsection (a)(2)(vii) of this section, the reference to "29 U.S.C. § 152(11)" is added for clarity.

Defined term: "Commission" § 16–101

18–202. EMPLOYEE ORGANIZATION AS EXCLUSIVE REPRESENTATIVE OF BARGAINING UNIT.

(A) IN GENERAL.

THE COMMISSION SHALL RECOGNIZE THE RIGHT OF AN EMPLOYEE ORGANIZATION, CERTIFIED UNDER THIS SUBTITLE AS THE EXCLUSIVE REPRESENTATIVE OF A BARGAINING UNIT, TO REPRESENT THE EMPLOYEES OF THE BARGAINING UNIT IN COLLECTIVE BARGAINING AND IN THE SETTLEMENT OF GRIEVANCES.

(B) PURPOSE OF EMPLOYEE ORGANIZATION.

AN EMPLOYEE ORGANIZATION CERTIFIED AS THE EXCLUSIVE REPRESENTATIVE OF A BARGAINING UNIT SHALL:

(1) SERVE AS THE SOLE BARGAINING AGENT FOR THE UNIT IN COLLECTIVE BARGAINING; AND

(2) REPRESENT ALL EMPLOYEES IN THE BARGAINING UNIT FAIRLY, WITHOUT DISCRIMINATION, AND WITHOUT REGARD TO WHETHER AN EMPLOYEE IS A MEMBER OF THE EMPLOYEE ORGANIZATION.

(C) EMPLOYEE ORGANIZATION — REQUIREMENTS.

AN EMPLOYEE ORGANIZATION MEETS THE REQUIREMENTS OF SUBSECTION (B)(2) OF THIS SECTION IF THE EMPLOYEE ORGANIZATION'S ACTIONS WITH RESPECT TO EMPLOYEES WHO ARE MEMBERS OF THE EMPLOYEE ORGANIZATION AND EMPLOYEES WHO ARE NOT MEMBERS OF THE EMPLOYEE ORGANIZATION ARE NOT ARBITRARY, DISCRIMINATORY, OR IN BAD FAITH.

REVISOR'S NOTE: This section formerly was Art. 29, § 11.5–103.

The only changes are in style.

Defined term: "Commission" § 16–101

18–203. LABOR RELATIONS ADMINISTRATOR.

(A) INITIAL APPOINTMENT.

AFTER A PUBLIC HEARING, THE COMMISSION SHALL APPOINT AN EXPERIENCED NEUTRAL THIRD PARTY TO SERVE AS LABOR RELATIONS ADMINISTRATOR FOR 1 YEAR.

(B) SECOND APPOINTMENT.

(1) AFTER THE TERM FOR THE LABOR RELATIONS ADMINISTRATOR APPOINTED UNDER SUBSECTION (A) OF THIS SECTION EXPIRES, THE EXCLUSIVE REPRESENTATIVE OR REPRESENTATIVES AND THE COMMISSION SHALL JOINTLY APPOINT A LABOR RELATIONS ADMINISTRATOR FROM A LIST OF FIVE NOMINEES ON WHOM THEY HAVE AGREED.

(2) IF THE EXCLUSIVE REPRESENTATIVE OR REPRESENTATIVES AND THE COMMISSION ARE UNABLE TO JOINTLY AGREE ON A LIST OF FIVE

NOMINEES OR ARE UNABLE TO JOINTLY APPOINT A LABOR RELATIONS ADMINISTRATOR FROM THE LIST, THE COMMISSION SHALL REQUEST FROM THE AMERICAN ARBITRATION ASSOCIATION A LIST OF 15 CANDIDATES LOCATED IN THE STATE OR THE WASHINGTON, D.C. METROPOLITAN AREA.

(3) THE COMMISSION AND THE EXCLUSIVE REPRESENTATIVE OR REPRESENTATIVES SHALL SELECT THE LABOR RELATIONS ADMINISTRATOR BY EACH OF THE PARTIES STRIKING ONE NAME FROM THE LIST UNTIL THE LAST NAME REMAINS.

(4) A RANDOM DRAWING SHALL DETERMINE THE ORDER IN WHICH THE PARTIES SHALL STRIKE NAMES.

(5) THE LABOR RELATIONS ADMINISTRATOR SHALL BE APPOINTED FOR A TERM OF 3 YEARS.

(C) SUBSEQUENT APPOINTMENT.

AFTER THE TERM FOR THE LABOR RELATIONS ADMINISTRATOR APPOINTED UNDER SUBSECTION (A) OF THIS SECTION EXPIRES AND AFTER A PUBLIC HEARING ON THE APPOINTMENT, IF NO EXCLUSIVE REPRESENTATIVE HAS BEEN CERTIFIED UNDER THIS SUBTITLE, THE COMMISSION SHALL APPOINT THE NEXT LABOR RELATIONS ADMINISTRATOR FOR A TERM NOT EXCEEDING 1 YEAR.

(D) REAPPOINTMENT.

A LABOR RELATIONS ADMINISTRATOR IS ELIGIBLE FOR REAPPOINTMENT.

REVISOR'S NOTE: This section formerly was Art. 29, § 11.5–104.

In subsection (b)(2) of this section, the reference to an exclusive representative "or representatives" is added for consistency with subsection (b)(1) and (3) of this section.

The only other changes are in style.

The Washington Suburban Sanitary Commission Law Review Committee notes, for consideration by the General Assembly, that subsection (a) of this section is vague. It is unclear whether the appointment by the Commission of a labor relations administrator under subsection (a) of this section could be interpreted to mean only the first appointment of a labor relations administrator after the original enactment of the statute, or each time a labor relations administrator is appointed. The General Assembly may wish to clarify this subsection.

The Washington Suburban Sanitary Commission Law Review Committee notes, for consideration by the General Assembly, that subsection (c) of this section is vague. The subsection does not take into account any unions that may have been in existence before the enactment of former Article 29, Title 11.5. Likewise, it is unclear as to whether the appointment of the labor relations administrator should be under the procedures listed under subsection (a) of this section or the procedures under subsection (b) of this section. The General Assembly may wish to clarify this subsection.

Defined terms: "Commission" § 16–101
"State" § 16–101

18–204. SUBMISSION OF CONSTITUTION AND BYLAWS TO LABOR RELATIONS ADMINISTRATOR.

(A) IN GENERAL.

AN EMPLOYEE ORGANIZATION THAT IS CERTIFIED OR THAT SEEKS CERTIFICATION AS AN EXCLUSIVE REPRESENTATIVE UNDER THIS SUBTITLE SHALL SUBMIT TO THE LABOR RELATIONS ADMINISTRATOR:

(1) A COPY OF THE EMPLOYEE ORGANIZATION'S CONSTITUTION AND BYLAWS; AND

(2) ANY SUBSEQUENT CHANGE IN THE EMPLOYEE ORGANIZATION'S CONSTITUTION OR BYLAWS.

(B) CONTENTS.

THE CONSTITUTION OR BYLAWS SHALL INCLUDE:

(1) A PLEDGE THAT THE EMPLOYEE ORGANIZATION ACCEPT MEMBERS WITHOUT REGARD TO AGE, MARITAL STATUS, NATIONAL ORIGIN, RACE, RELIGION, DISABILITY, SEXUAL ORIENTATION, OR GENDER;

(2) THE RIGHT OF MEMBERS TO PARTICIPATE IN THE AFFAIRS OF THE EMPLOYEE ORGANIZATION;

(3) PROCEDURES FOR PERIODIC ELECTIONS FOR OFFICERS BY SECRET BALLOT;

(4) FAIR PROCEDURES GOVERNING DISCIPLINARY ACTIONS;

(5) PROCEDURES FOR THE ACCURATE ACCOUNTING OF ALL INCOME AND EXPENDITURES;

(6) A REQUIREMENT THAT AN INDEPENDENT ANNUAL FINANCIAL REPORT BE PRODUCED; AND

(7) THE RIGHT OF MEMBERS TO INSPECT THE ORGANIZATION'S ACCOUNTS.

REVISOR'S NOTE: This section formerly was Art. 29, § 11.5–105.

The only changes are in style.

18–205. ELECTION OF EXCLUSIVE REPRESENTATIVE.

(A) IN GENERAL.

THE LABOR RELATIONS ADMINISTRATOR SHALL CONDUCT AN ELECTION FOR AN EXCLUSIVE REPRESENTATIVE AFTER:

(1) AN EMPLOYEE ORGANIZATION DEMONSTRATES, BY PETITION, THAT AT LEAST 30% OF THE ELIGIBLE EMPLOYEES IN A BARGAINING UNIT SUPPORT REPRESENTATION BY AN EXCLUSIVE REPRESENTATIVE FOR COLLECTIVE BARGAINING; OR

(2) AN EMPLOYEE OR AN EMPLOYEE ORGANIZATION DEMONSTRATES, BY PETITION, THAT AT LEAST 30% OF THE ELIGIBLE EMPLOYEES IN A BARGAINING UNIT NO LONGER SUPPORT THE CURRENT EXCLUSIVE REPRESENTATIVE.

(B) NOTICE.

(1) AT LEAST 45 DAYS BEFORE AN ELECTION, THE LABOR RELATIONS ADMINISTRATOR SHALL PROVIDE, AND THE COMMISSION SHALL POST IN CONSPICUOUS PLACES IN THE COMMISSION'S FACILITIES, A NOTICE OF THE UPCOMING ELECTION.

(2) THE NOTICE SHALL CONTAIN:

(I) THE DATE, TIME, AND PLACE OF THE ELECTION;

(II) A DESCRIPTION OF WHICH EMPLOYEES ARE ELIGIBLE TO VOTE IN THE ELECTION;

(III) NOTIFICATION THAT A LIST OF THE NAMES AND HOME ADDRESSES OF EMPLOYEES ELIGIBLE TO VOTE WILL BE PROVIDED TO THE PARTICIPATING EMPLOYEE ORGANIZATIONS;

(IV) INSTRUCTIONS ON HOW EMPLOYEES CAN REMOVE THEIR ADDRESSES FROM THE LIST IN ACCORDANCE WITH SUBSECTION (C)(2) OF THIS SECTION; AND

(V) ANY OTHER INFORMATION THAT, IN THE JUDGMENT OF THE LABOR RELATIONS ADMINISTRATOR, IS APPROPRIATE TO CONVEY TO COMMISSION EMPLOYEES.

(C) VOTING LIST.

(1) AT LEAST 45 DAYS BEFORE AN ELECTION, THE LABOR RELATIONS ADMINISTRATOR SHALL OBTAIN FROM THE COMMISSION THE ELIGIBLE EMPLOYEE VOTING LIST, WHICH INCLUDES THE NAMES AND HOME ADDRESSES OF EVERY EMPLOYEE IN THE BARGAINING UNIT.

(2) COMMISSION EMPLOYEES MAY HAVE THEIR ADDRESSES REMOVED FROM THE ELIGIBLE EMPLOYEE VOTING LIST BY INDIVIDUALLY NOTIFYING THE LABOR RELATIONS ADMINISTRATOR IN WRITING WITHIN 15 DAYS AFTER THE POSTING OF THE NOTICE REQUIRED IN SUBSECTION (B) OF THIS SECTION.

(3) AFTER THE 15–DAY PERIOD, THE LABOR RELATIONS ADMINISTRATOR SHALL PROVIDE THE REDACTED ELIGIBLE EMPLOYEE VOTING LIST TO THE EMPLOYEE ORGANIZATION.

(4) THE PROVISION OF THE ELIGIBLE EMPLOYEE VOTING LIST UNDER THIS SUBSECTION BY THE COMMISSION, THE LABOR RELATIONS ADMINISTRATOR, OR A COMMISSION OFFICIAL, EMPLOYEE, OR OTHER AGENT DOES NOT CONSTITUTE A VIOLATION OF § 10–617(E) OF THE STATE GOVERNMENT ARTICLE OR ANY STATE OR LOCAL LAW, REGULATION, OR ORDINANCE.

(D) BALLOT.

ELECTIONS SHALL BE CONDUCTED BY SECRET BALLOT CONTAINING:

(1) THE NAME OF EACH EMPLOYEE ORGANIZATION THAT SUBMITS A VALID PETITION REQUIRING AN ELECTION;

(2) THE NAME OF ANY OTHER EMPLOYEE ORGANIZATION SUPPORTED BY A PETITION SIGNED BY AT LEAST 10% OF THE ELIGIBLE EMPLOYEES IN THE BARGAINING UNIT; AND

(3) AN OPTION FOR NO REPRESENTATION.

(E) RUNOFF ELECTION.

(1) IF NONE OF THE CHOICES ON THE BALLOT RECEIVES A MAJORITY OF THE VOTES CAST, THE LABOR RELATIONS ADMINISTRATOR SHALL HOLD A RUNOFF ELECTION.

(2) IN THE RUNOFF ELECTION, THE BALLOT SHALL CONTAIN THE TWO CHOICES THAT RECEIVED THE HIGHEST NUMBER OF VOTES IN THE INITIAL ELECTION.

(F) CERTIFICATION AS EXCLUSIVE REPRESENTATIVE.

AFTER THE ELECTION, THE LABOR RELATIONS ADMINISTRATOR SHALL CERTIFY AN EMPLOYEE ORGANIZATION THAT RECEIVED A MAJORITY OF THE VOTES CAST AS THE EXCLUSIVE REPRESENTATIVE.

(G) COSTS.

THE COMMISSION AND THE EMPLOYEE ORGANIZATION OR ORGANIZATIONS SHALL SHARE EQUALLY THE COSTS OF THE ELECTION.

(H) WHEN ELECTIONS MAY NOT BE CONDUCTED.

(1) ELECTIONS MAY NOT BE CONDUCTED:

(I) WITHIN 1 YEAR AFTER THE DATE OF A VALID INITIAL ELECTION UNDER THIS SECTION; OR

(II) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, DURING THE TERM OF A COLLECTIVE BARGAINING AGREEMENT.

(2) DURING THE TERM OF A COLLECTIVE BARGAINING AGREEMENT, A PETITION FOR AN ELECTION MAY BE FILED ONLY DURING NOVEMBER OF THE FISCAL YEAR IN WHICH THE AGREEMENT EXPIRES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 11.5–106.

In subsection (b)(2)(iii) of this section, the reference to "home" address is added for consistency with subsection (c)(1) of this section.

In subsection (b)(2)(v) of this section, the former reference to "pertinent" information is deleted as unnecessary in light of the reference to the information being "appropriate".

In subsection (c)(2) of this section, the word "removed" is substituted for the former reference to the word "redacted" for accuracy.

In subsection (g) of this section, the reference to "the employee organization or organizations" is added to clarify that the election may include more than one organization.

The Washington Suburban Sanitary Commission Law Review Committee notes, for consideration by the General Assembly, that in this section and throughout this subtitle the term "eligible employee" is used without being defined. From the context, it appears that the term refers to an employee who is not excluded from the rights granted to Commission merit system employees under § 18–201(a) of this subtitle, but there is no language that explicitly states that this is the case. The General Assembly may wish to clarify the meaning of the term.

Defined terms: "Commission" § 16–101
"State" § 16–101

18–206. DISPUTE OVER ELIGIBILITY OF EMPLOYEE IN BARGAINING UNIT.

(A) IN GENERAL.

IF THE COMMISSION AND AN EMPLOYEE ORGANIZATION DISPUTE THE ELIGIBILITY OF AN EMPLOYEE IN A BARGAINING UNIT, THE DISPUTE SHALL BE SUBMITTED TO THE LABOR RELATIONS ADMINISTRATOR.

(B) EVIDENTIARY HEARINGS.

THE LABOR RELATIONS ADMINISTRATOR SHALL HOLD ONE OR MORE EVIDENTIARY HEARINGS AT WHICH THE COMMISSION AND INTERESTED EMPLOYEE ORGANIZATIONS SHALL HAVE THE OPPORTUNITY TO PRESENT TESTIMONY, DOCUMENTARY AND OTHER EVIDENCE, AND ARGUMENTS.

(C) FINALITY OF DECISION.

THE DECISION OF THE LABOR RELATIONS ADMINISTRATOR IS FINAL.

(D) COSTS.

THE COMMISSION AND THE EMPLOYEE ORGANIZATION OR ORGANIZATIONS SHALL SHARE EQUALLY THE COSTS OF THE HEARINGS.

REVISOR'S NOTE: This section formerly was Art. 29, § 11.5–107.

In subsection (d) of this section, the reference to "the employee organization or organizations" is added for clarity.

No other changes are made.

Defined term: "Commission" § 16–101

18–207. COLLECTIVE BARGAINING — REQUIREMENTS.

(A) IN GENERAL.

THE COMMISSION AND AN EMPLOYEE ORGANIZATION CERTIFIED AS THE EXCLUSIVE REPRESENTATIVE SHALL MEET AND ENGAGE IN COLLECTIVE BARGAINING IN GOOD FAITH REGARDING:

(1) SALARY AND WAGES, INCLUDING THE PERCENTAGE OF THE INCREASE IN THE SALARY AND WAGES BUDGET THAT WILL BE DEVOTED TO MERIT INCREMENTS AND CASH AWARDS;

(2) PENSION AND OTHER RETIREMENT BENEFITS FOR ACTIVE EMPLOYEES;

(3) EMPLOYEE BENEFITS SUCH AS INSURANCE, LEAVE, HOLIDAYS, AND VACATIONS;

(4) HOURS AND WORKING CONDITIONS;

(5) PROVISIONS FOR THE ORDERLY PROCESSING AND SETTLEMENT OF GRIEVANCES CONCERNING THE INTERPRETATION AND IMPLEMENTATION OF A COLLECTIVE BARGAINING AGREEMENT THAT MAY INCLUDE:

(I) BINDING THIRD PARTY ARBITRATION; AND

(II) PROVISIONS FOR THE EXCLUSIVITY OF FORUM;

(6) MATTERS AFFECTING THE HEALTH AND SAFETY OF EMPLOYEES; AND

(7) THE EFFECT ON EMPLOYEES OF THE EXERCISE OF THE COMMISSION'S RIGHTS AND RESPONSIBILITIES UNDER § 18–211 OF THIS SUBTITLE.

(B) AGREEMENT NOT REQUIRED.

THIS SECTION DOES NOT REQUIRE THE COMMISSION OR THE EMPLOYEE ORGANIZATION TO AGREE TO ANY PROPOSAL OR TO MAKE ANY CONCESSION.

(C) TIME FOR COLLECTIVE BARGAINING.

(1) (I) COLLECTIVE BARGAINING MAY NOT BEGIN LATER THAN SEPTEMBER 1 BEFORE THE BEGINNING OF A FISCAL YEAR FOR WHICH AN AGREEMENT HAS NOT BEEN REACHED BETWEEN THE COMMISSION AND THE CERTIFIED REPRESENTATIVE.

(II) COLLECTIVE BARGAINING SHALL FINISH ON OR BEFORE THE FOLLOWING FEBRUARY 1.

(2) DURING THE PERIOD SET IN PARAGRAPH (1)(I) OF THIS SUBSECTION, THE PARTIES SHALL NEGOTIATE IN GOOD FAITH.

(D) UNIFORM SALARY AND WAGES.

SALARIES AND WAGES SHALL BE UNIFORM FOR ALL EMPLOYEES IN THE SAME CLASSIFICATION.

(E) COSTS.

THE COMMISSION AND THE EMPLOYEE ORGANIZATION SHALL SHARE EQUALLY THE COSTS OF BINDING ARBITRATION.

(F) PENSION AND OTHER RETIREMENT BENEFITS FOR ACTIVE EMPLOYEES.

(1) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBTITLE, PENSION AND OTHER RETIREMENT BENEFITS FOR ACTIVE EMPLOYEES MAY NOT BE SUBJECT TO BINDING ARBITRATION.

(2) COLLECTIVE BARGAINING REGARDING PENSION AND OTHER RETIREMENT BENEFITS FOR ACTIVE EMPLOYEES MAY NOT REQUIRE THE COMMISSION TO OFFER MORE THAN ONE PENSION PLAN TO ITS EMPLOYEES.

(3) IF MORE THAN ONE EMPLOYEE ORGANIZATION IS CERTIFIED AS AN EXCLUSIVE REPRESENTATIVE OF A BARGAINING UNIT, THE COMMISSION SHALL ENGAGE IN COLLECTIVE BARGAINING WITH ALL EXCLUSIVE REPRESENTATIVES AT THE SAME TIME ABOUT THE TERMS OF PENSION AND OTHER RETIREMENT BENEFITS FOR ACTIVE EMPLOYEES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 11.5–108(a).

In the introductory language of subsection (a) of this section, the former reference to "the following subjects of bargaining" is deleted as surplusage.

In subsection (f)(2) of this section, the former reference to collective bargaining for active employees "under this section" is deleted as unnecessary.

Defined term: "Commission" § 16–101

18–208. MEDIATION–ARBITRATION.

(A) APPOINTMENT.

(1) IF THE PARTIES HAVE NOT REACHED AN AGREEMENT ON OR BEFORE DECEMBER 1 ON A COLLECTIVE BARGAINING AGREEMENT THAT WOULD BECOME EFFECTIVE THE FOLLOWING JULY 1, THE PARTIES SHALL JOINTLY APPOINT A MEDIATOR–ARBITRATOR.

(2) IF THE PARTIES ARE UNABLE TO AGREE ON A MEDIATOR–ARBITRATOR, THE LABOR RELATIONS ADMINISTRATOR SHALL NAME THE MEDIATOR–ARBITRATOR ON OR BEFORE DECEMBER 7.

(3) NOTWITHSTANDING APPOINTMENT OF THE MEDIATOR–ARBITRATOR, THIS SECTION DOES NOT REQUIRE COMMENCEMENT OF MEDIATION–ARBITRATION BEFORE THE DATE STATED IN SUBSECTION (C) OF THIS SECTION.

(B) WHEN SERVICES MAY BE REQUESTED.

DURING THE COURSE OF THE COLLECTIVE BARGAINING, EITHER PARTY MAY DECLARE AN IMPASSE AND REQUEST THE SERVICES OF THE MEDIATOR–ARBITRATOR, OR THE PARTIES MAY JOINTLY REQUEST THE SERVICES OF A MEDIATOR–ARBITRATOR BEFORE AN IMPASSE IS DECLARED.

(C) IMPASSE.

IF THE MEDIATOR–ARBITRATOR FINDS IN THE MEDIATOR–ARBITRATOR'S SOLE DISCRETION THAT THE PARTIES ARE AT A BONA FIDE IMPASSE OR ON FEBRUARY 1, WHICHEVER OCCURS EARLIER, THE MEDIATOR–ARBITRATOR SHALL DIRECT THE PARTIES TO SUBMIT:

(1) A JOINT MEMORANDUM LISTING ALL ITEMS TO WHICH THE PARTIES PREVIOUSLY AGREED; AND

(2) A SEPARATE MEMORANDUM OF EACH PARTY'S LAST FINAL OFFER PRESENTED IN NEGOTIATIONS ON ALL ITEMS TO WHICH THE PARTIES DID NOT PREVIOUSLY AGREE.

(D) CLOSED HEARING.

(1) ON OR BEFORE FEBRUARY 10, THE MEDIATOR–ARBITRATOR SHALL HOLD A CLOSED HEARING ON THE PARTIES' PROPOSALS AT A TIME, DATE, AND PLACE SELECTED BY THE MEDIATOR–ARBITRATOR.

(2) EACH PARTY SHALL SUBMIT EVIDENCE OR MAKE ORAL AND WRITTEN ARGUMENT IN SUPPORT OF THE PARTY'S LAST FINAL OFFER.

(3) THE MEDIATOR–ARBITRATOR MAY NOT OPEN THE HEARING TO A PERSON WHO IS NOT A PARTY TO THE MEDIATION–ARBITRATION.

(E) REPORT.

(1) ON OR BEFORE FEBRUARY 15, THE MEDIATOR–ARBITRATOR SHALL ISSUE A REPORT THAT RESOLVES ALL ITEMS THAT THE PARTIES HAVE NOT AGREED ON PREVIOUSLY.

(2) IN RESOLVING THE ITEMS NOT PREVIOUSLY AGREED ON, THE MEDIATOR–ARBITRATOR MAY CONSIDER THE FOLLOWING FACTORS:

(I) PAST COLLECTIVE BARGAINING CONTRACTS BETWEEN THE PARTIES, INCLUDING THE PAST BARGAINING HISTORY THAT LED TO THE

AGREEMENT OR THE PRE–COLLECTIVE BARGAINING HISTORY OF EMPLOYEE WAGES, HOURS, BENEFITS, AND OTHER WORKING CONDITIONS;

(II) A COMPARISON OF WAGES, HOURS, BENEFITS, AND CONDITIONS OF EMPLOYMENT OF SIMILAR EMPLOYEES OF OTHER PUBLIC EMPLOYERS IN THE STATE AND THE WASHINGTON, D.C. METROPOLITAN AREA;

(III) A COMPARISON OF WAGES, HOURS, BENEFITS, AND CONDITIONS OF EMPLOYMENT OF SIMILAR EMPLOYEES OF PRIVATE EMPLOYERS IN MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY;

(IV) THE PUBLIC INTEREST AND WELFARE;

(V) THE ABILITY OF THE EMPLOYER TO FINANCE ANY ECONOMIC ADJUSTMENTS REQUIRED UNDER THE PROPOSED AGREEMENT;

(VI) THE EFFECT OF ANY ECONOMIC ADJUSTMENTS ON THE STANDARD OF PUBLIC SERVICES NORMALLY PROVIDED BY THE EMPLOYER; AND

(VII) THE ANNUAL INCREASE OR DECREASE IN CONSUMER PRICES FOR ALL ITEMS AS REFLECTED IN THE MOST RECENT CONSUMER PRICE INDEX – URBAN WAGE EARNERS AND CLERICAL WORKERS ("CPI–W") FOR THE WASHINGTON–BALTIMORE METROPOLITAN AREA.

(3) IN RESOLVING THE ITEMS NOT PREVIOUSLY AGREED ON, THE MEDIATOR–ARBITRATOR SHALL CONSIDER ALL ITEMS ON WHICH THE PARTIES AGREED BEFORE THE MEDIATION–ARBITRATION BEGAN TO BE INTEGRATED WITH EACH OFFER.

(F) FINAL AGREEMENT.

(1) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, WITHOUT RATIFICATION BY THE PARTIES, THE OFFER SELECTED BY THE MEDIATOR–ARBITRATOR, AS INTEGRATED WITH THE ITEMS ON WHICH THE PARTIES PREVIOUSLY AGREED, SHALL BE THE FINAL AGREEMENT BETWEEN THE COMMISSION AND THE EXCLUSIVE REPRESENTATIVE.

(II) THE COMMISSION SHALL REQUEST FUNDS IN THE COMMISSION'S FINAL BUDGET FROM THE COUNTY COUNCILS OF MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY FOR ALL ECONOMIC PROVISIONS OF THE FINAL AGREEMENT.

(2) THE PARTIES SHALL EXECUTE AN AGREEMENT INCORPORATING THE FINAL AGREEMENT, INCLUDING MEDIATION–ARBITRATION AWARDS AND ALL ISSUES AGREED TO UNDER THIS SUBTITLE.

(G) COSTS.

THE COMMISSION AND THE EMPLOYEE ORGANIZATION SHALL SHARE EQUALLY THE COSTS OF THE MEDIATOR–ARBITRATOR'S SERVICES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 11.5–108(b).

In subsection (c)(2) of this section, the reference to "each" party's final offer is substituted for the former reference to "the" party's final offer for clarity.

In subsection (d)(1) of this section, the reference to a "closed" hearing is substituted for the former reference to a "nonpublic" hearing for clarity and to conform to the term used throughout the Code.

In subsection (e)(2)(vii) of this section, the reference to Consumer Price Index – "Urban" Wage Earners and Clerical Workers is added for accuracy.

In subsection (f)(1)(ii) of this section, the reference to the county councils "of Montgomery County and Prince George's County" is added for clarity.

In subsection (g) of this section, the former reference to the Commission and the employee organization sharing equally "in paying" the costs is deleted to conform to other similar provisions throughout this subtitle.

Defined terms: "Commission" § 16–101
"Person" § 16–101
"State" § 16–101

18–209. PROVISIONS OF COLLECTIVE BARGAINING AGREEMENT.

(A) IN GENERAL.

THE COMMISSION AND AN EMPLOYEE ORGANIZATION CERTIFIED AS THE EXCLUSIVE REPRESENTATIVE OF A BARGAINING UNIT SHALL EXECUTE A COLLECTIVE BARGAINING AGREEMENT INCORPORATING ALL MATTERS OF AGREEMENT ON WAGES, HOURS, AND OTHER TERMS AND CONDITIONS OF EMPLOYMENT.

(B) GRIEVANCE PROCEDURE.

IF A COLLECTIVE BARGAINING AGREEMENT PROVIDES FOR A GRIEVANCE PROCEDURE, THAT GRIEVANCE PROCEDURE SHALL BE THE SOLE PROCEDURE FOR EMPLOYEES IN THE BARGAINING UNIT.

(C) UNION SECURITY PROVISION ALLOWED.

THE COLLECTIVE BARGAINING AGREEMENT MAY INCLUDE AN AGENCY SHOP OR OTHER UNION SECURITY PROVISION.

(D) CONFLICTS BETWEEN AGREEMENT AND REGULATION OR ADMINISTRATIVE PROCEDURE.

THE COLLECTIVE BARGAINING AGREEMENT SUPERSEDES ANY CONFLICTING REGULATION OR ADMINISTRATIVE POLICY OF THE COMMISSION.

(E) EXPIRATION OF AGREEMENT.

A SINGLE–YEAR OR MULTIYEAR COLLECTIVE BARGAINING AGREEMENT SHALL EXPIRE AT THE CLOSE OF THE APPROPRIATE FISCAL YEAR.

(F) WHEN AGREEMENT TAKES EFFECT.

A COLLECTIVE BARGAINING AGREEMENT TAKES EFFECT ON THE APPROVAL BY THE COMMISSION AND THE MEMBERSHIP OF THE UNION REPRESENTING THE BARGAINING UNIT.

(G) RIGHT TO APPEAL.

THIS SECTION DOES NOT LIMIT AN EMPLOYEE'S RIGHT TO AN APPEAL TO THE OFFICE OF ADMINISTRATIVE HEARINGS UNDER § 18–123(B) OF THIS TITLE.

REVISOR'S NOTE: This section formerly was Art. 29, § 11.5–108(c).

In subsection (g) of this section, the reference to the "Office of Administrative Hearings" is substituted for the former reference to the "Secretary of Budget and Management" to correct an error in former Art. 29, § 11.5–108 due to a substantive change in former Art. 29, § 11–109(b).

The only other changes are in style.

Defined term: "Commission" § 16–101

18–210. FUNDING OF COLLECTIVE BARGAINING AGREEMENTS.

(A) IN GENERAL; REOPENING OF AGREEMENT.

(1) THE COMMISSION SHALL INCLUDE IN ITS ANNUAL PROPOSED OPERATING BUDGET, WHICH IT SUBMITS TO THE COUNTY EXECUTIVES OF MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY, PROVISIONS FOR THE FUNDING OF ALL TERMS INCLUDED IN ALL COLLECTIVE BARGAINING AGREEMENTS.

(2) UNLESS THE COUNTY COUNCILS OF MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY BOTH APPROVE THE COMMISSION'S BUDGET SO AS TO APPROVE THE TERMS OF THE COLLECTIVE BARGAINING AGREEMENT, THE COMMISSION AND THE EMPLOYEE ORGANIZATION, WITHIN 5 DAYS AFTER THE ANNUAL JOINT COUNTY COUNCIL MEETING, SHALL REOPEN THE NEGOTIATED AGREEMENT AND BARGAIN WITH RESPECT TO THE PROVISIONS OF THE AGREEMENT NOT APPROVED BY THE COUNTY COUNCILS.

(B) WHEN PROVISION OF AGREEMENT IS INVALIDATED OR NOT FUNDED.

IF A PROVISION IN A COLLECTIVE BARGAINING AGREEMENT IS NOT FUNDED BY MONTGOMERY COUNTY OR PRINCE GEORGE'S COUNTY OR IS RULED INVALID, THE REMAINDER OF THE AGREEMENT REMAINS IN EFFECT UNLESS REOPENED UNDER SUBSECTION (A)(2) OF THIS SECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 11.5–109.

In subsection (a)(2) of this section, the reference to "both" county councils approving the budget is added for clarity.

Also in subsection (a)(2) of this section, the reference to the "annual" joint county council meeting is added for clarity.

Defined term: "Commission" § 16–101

18–211. IMPAIRMENT OF RIGHTS AND RESPONSIBILITIES OF COMMISSION PROHIBITED.

THIS SUBTITLE AND ANY AGREEMENT MADE UNDER IT MAY NOT IMPAIR THE RIGHT AND RESPONSIBILITY OF THE COMMISSION TO:

(1) DETERMINE THE OVERALL BUDGET AND MISSION OF THE COMMISSION;

(2) MAINTAIN AND IMPROVE THE EFFICIENCY AND EFFECTIVENESS OF OPERATIONS;

(3) DETERMINE THE SERVICES TO BE RENDERED AND THE OPERATIONS TO BE PERFORMED;

(4) DETERMINE THE LOCATION OF FACILITIES AND THE OVERALL ORGANIZATIONAL STRUCTURE, METHODS, PROCESSES, MEANS, JOB CLASSIFICATIONS, AND PERSONNEL BY WHICH OPERATIONS ARE TO BE CONDUCTED;

(5) DIRECT AND SUPERVISE EMPLOYEES;

(6) HIRE, SELECT, AND ESTABLISH THE STANDARDS GOVERNING PROMOTION OF EMPLOYEES AND CLASSIFY POSITIONS;

(7) RELIEVE EMPLOYEES FROM DUTIES BECAUSE OF LACK OF WORK OR FUNDS OR WHEN THE COMMISSION DETERMINES CONTINUED WORK WOULD BE INEFFICIENT OR NONPRODUCTIVE;

(8) TAKE ACTIONS TO CARRY OUT THE MISSIONS OF GOVERNMENT IN SITUATIONS OF EMERGENCY;

(9) TRANSFER AND SCHEDULE EMPLOYEES;

(10) DETERMINE THE SIZE, GRADES, AND COMPOSITION OF THE WORKFORCE;

(11) SET THE STANDARDS OF PRODUCTIVITY AND TECHNOLOGY;

(12) ESTABLISH EMPLOYEE PERFORMANCE STANDARDS AND EVALUATE AND ASSIGN EMPLOYEES, EXCEPT THAT EVALUATION AND ASSIGNMENT PROCEDURES MAY BE A SUBJECT FOR COLLECTIVE BARGAINING;

(13) MAKE AND IMPLEMENT SYSTEMS FOR AWARDING OUTSTANDING SERVICE INCREMENTS, EXTRAORDINARY PERFORMANCE AWARDS, AND OTHER MERIT AWARDS;

(14) INTRODUCE NEW OR IMPROVED TECHNOLOGY, RESEARCH, DEVELOPMENT, AND SERVICES;

(15) CONTROL AND REGULATE THE USE OF MACHINERY, EQUIPMENT, AND OTHER PROPERTY AND FACILITIES OF THE COMMISSION, SUBJECT TO § 18–207(A)(6) OF THIS SUBTITLE;

(16) MAINTAIN INTERNAL SECURITY STANDARDS;

(17) CREATE, ALTER, COMBINE, CONTRACT OUT, OR ABOLISH ANY JOB CLASSIFICATION, DEPARTMENT, OPERATION, UNIT, OR OTHER DIVISION OR SERVICE;

(18) SUSPEND, DISCHARGE, OR OTHERWISE DISCIPLINE EMPLOYEES FOR CAUSE, SUBJECT TO THE GRIEVANCE PROCEDURE STATED IN THE COLLECTIVE BARGAINING AGREEMENT OR AS PROVIDED BY LAW; AND

(19) ISSUE AND ENFORCE RULES, POLICIES, AND REGULATIONS NECESSARY TO CARRY OUT THIS SECTION AND ALL OTHER MANAGERIAL FUNCTIONS THAT ARE NOT INCONSISTENT WITH FEDERAL OR STATE LAW OR THE TERMS OF A COLLECTIVE BARGAINING AGREEMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 11.5–110(a).

In item (15) of this section, the reference to "§ 18–207(a)(6) of this subtitle" is substituted for the former erroneous reference to "subsection (j)(1)(vi) of this section".

In item (17) of this section, the former phrase "[s]ubject to paragraph (4) of this subsection" is deleted as unnecessary.

In item (18) of this section, the phrase "or as provided by law" is added for clarity and accuracy.

In item (19) of this section, the former reference to "this article" is deleted as included in the reference to "State law".

Defined terms: "Commission" § 16–101
"State" § 16–101

18–212. PROHIBITED ACTIVITIES BY COMMISSION.

(A) IN GENERAL.

(1) THE COMMISSION MAY NOT:

(I) INTERFERE WITH, COERCE, OR RESTRAIN AN EMPLOYEE IN THE EXERCISE OF RIGHTS UNDER THIS SUBTITLE;

(II) DOMINATE, INTERFERE WITH, OR ASSIST IN THE FORMATION, ADMINISTRATION, OR EXISTENCE OF ANY EMPLOYEE ORGANIZATION OR CONTRIBUTE FINANCIAL ASSISTANCE OR OTHER SUPPORT TO AN EMPLOYEE ORGANIZATION;

(III) ENCOURAGE OR DISCOURAGE MEMBERSHIP IN ANY EMPLOYEE ORGANIZATION BY DISCRIMINATING AGAINST AN EMPLOYEE THROUGH HIRING, TENURE, PROMOTION, OR OTHER CONDITIONS OF EMPLOYMENT;

(IV) DISCHARGE OR DISCRIMINATE AGAINST AN EMPLOYEE BECAUSE THE EMPLOYEE HAS SIGNED OR FILED AN AFFIDAVIT, PETITION, OR COMPLAINT OR GIVEN ANY INFORMATION OR TESTIMONY UNDER THIS SUBTITLE; OR

(V) REFUSE TO BARGAIN IN GOOD FAITH WITH AN EMPLOYEE ORGANIZATION THAT IS CERTIFIED AS THE EXCLUSIVE REPRESENTATIVE OF A BARGAINING UNIT OVER ANY SUBJECT OF BARGAINING OR REFUSE TO PARTICIPATE IN GOOD FAITH IN BINDING ARBITRATION OR GRIEVANCE PROCEDURES UNDER THIS SUBTITLE.

(2) PARAGRAPH (1)(II) OF THIS SUBSECTION DOES NOT PROHIBIT THE COMMISSION FROM ALLOWING EMPLOYEES TO NEGOTIATE OR TO CONFER WITH THE COMMISSION OVER LABOR MATTERS DURING WORK HOURS WITHOUT THE LOSS OF PAY OR TIME.

(B) OUTSOURCING OF WORK.

THE COMMISSION MAY NOT CONTRACT OUT WORK THAT WILL DISPLACE EMPLOYEES IN A BARGAINING UNIT UNLESS THE COMMISSION GIVES WRITTEN NOTICE TO THE CERTIFIED REPRESENTATIVE OF THE BARGAINING UNIT AT LEAST 90 DAYS BEFORE SIGNING THE CONTRACT OR WITHIN A DIFFERENT PERIOD OF TIME AS AGREED BY THE PARTIES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 11.5–110(b) through (d).

In subsection (b) of this section, the references to a "bargaining unit" are added for clarity.

Also in subsection (b) of this section, the reference to the "Commission" is substituted for the former reference to the "commissioner" for accuracy.

Defined term: "Commission" § 16–101

18–213. PROHIBITED ACTIVITIES OF EMPLOYEE ORGANIZATION.

(A) IN GENERAL.

AN EMPLOYEE ORGANIZATION MAY NOT:

(1) INTERFERE WITH, COERCE, OR RESTRAIN AN EMPLOYEE IN THE EXERCISE BY THE EMPLOYEE OF ANY RIGHT UNDER THIS SUBTITLE;

(2) CAUSE OR ATTEMPT TO CAUSE THE COMMISSION TO DISCRIMINATE AGAINST AN EMPLOYEE IN THE EXERCISE BY THE EMPLOYEE OF ANY RIGHT UNDER THIS SUBTITLE;

(3) COERCE, DISCIPLINE, FINE, OR ATTEMPT TO COERCE A MEMBER OF AN EMPLOYEE ORGANIZATION AS PUNISHMENT OR REPRISAL;

(4) COERCE, DISCIPLINE, FINE, OR ATTEMPT TO COERCE A MEMBER OF AN EMPLOYEE ORGANIZATION FOR THE PURPOSE OF IMPEDING THE MEMBER'S WORK PERFORMANCE;

(5) REFUSE TO NEGOTIATE IN GOOD FAITH WITH THE COMMISSION AS REQUIRED UNDER § 18–207 OF THIS SUBTITLE; OR

(6) FAIL OR REFUSE TO COOPERATE IN IMPASSE PROCEDURES AND IMPASSE DECISIONS AS REQUIRED UNDER § 18–208 OF THIS SUBTITLE.

(B) UNFAIR LABOR CHARGE.

ONLY AN ELIGIBLE EMPLOYEE MAY FILE AN UNFAIR LABOR CHARGE AGAINST AN EMPLOYEE ORGANIZATION FOR A VIOLATION OF SUBSECTION (A)(3) OR (4) OF THIS SECTION.

REVISOR'S NOTE: This section formerly was Art. 29, § 11.5–111(a) and (b).

In subsection (a)(5) of this section, the reference to "§ 18–207" is added for clarity. Similarly, in subsection (a)(6) of this section, the reference to "§ 18–208" is added.

The only other changes are in style.

Defined term: "Commission" § 16–101

18–214. RIGHTS OF COMMISSION EMPLOYEES.

(A) IN GENERAL.

COMMISSION EMPLOYEES SHALL RETAIN THE RIGHT TO:

(1) FORM, JOIN, OR ASSIST ANY EMPLOYEE ORGANIZATION;

(2) BARGAIN COLLECTIVELY THROUGH THE REPRESENTATIVE THAT THEY HAVE CHOSEN;

(3) ENGAGE IN OTHER LAWFUL CONCERTED ACTIVITIES FOR THE PURPOSE OF COLLECTIVE BARGAINING; AND

(4) REFRAIN FROM ANY ACTIVITY COVERED UNDER THIS PARAGRAPH.

(B) GRIEVANCES ONLY THROUGH EXCLUSIVE REPRESENTATIVE.

AN EMPLOYEE MAY ONLY PRESENT A GRIEVANCE ARISING UNDER A COLLECTIVE BARGAINING AGREEMENT TO THE COMMISSION THROUGH THE EMPLOYEE ORGANIZATION CERTIFIED AS THE EXCLUSIVE REPRESENTATIVE FOR THE BARGAINING UNIT.

(C) COMMUNICATION WITH GENERAL MANAGER; LIMITATION ON ALTERATION OF TERMS AND CONDITIONS OF EMPLOYMENT.

(1) AN EMPLOYEE WHO IS A MEMBER OF A BARGAINING UNIT WITH AN EXCLUSIVE REPRESENTATIVE MAY DISCUSS ANY MATTER WITH THE GENERAL MANAGER OF THE COMMISSION OR THE GENERAL MANAGER'S DESIGNEE.

(2) THE COMMISSION MAY NOT ALTER ANY TERMS OR CONDITIONS OF EMPLOYMENT THAT ARE SUBJECT TO COLLECTIVE BARGAINING UNDER § 18–207 OF THIS SUBTITLE WITHOUT FOLLOWING THE PROCESS FOR COLLECTIVE BARGAINING UNDER THIS SUBTITLE.

REVISOR'S NOTE: This section formerly was Art. 29, § 11.5–111(c).

In subsection (a)(3) of this section, the word "and" is substituted for the former word "or" for clarity.

The only other changes are in style.

Defined term: "Commission" § 16–101

18–215. STRIKE.

(A) "STRIKE" DEFINED.

IN THIS SECTION, "STRIKE" MEANS THE ACTION OF AN EMPLOYEE, IN CONCERT WITH OTHERS, TO:

(1) REFUSE TO REPORT TO WORK;

(2) STOP OR SLOW DOWN WORK; OR

(3) ABSTAIN WHOLLY OR PARTLY FROM THE FULL, FAITHFUL, AND PROPER PERFORMANCE OF DUTIES FOR THE PURPOSE OF INDUCING, INFLUENCING, OR COERCING A CHANGE IN THE TERMS, CONDITIONS, RIGHTS, OR PRIVILEGES OF EMPLOYMENT.

(B) ENGAGING, INDUCING, OR RATIFYING OF STRIKE BY EMPLOYEE OR EMPLOYEE ORGANIZATION PROHIBITED.

A COMMISSION EMPLOYEE, GROUP OF COMMISSION EMPLOYEES, OR EMPLOYEE ORGANIZATION MAY NOT ENGAGE IN, INDUCE, INITIATE, OR RATIFY A STRIKE BY COMMISSION EMPLOYEES.

(C) ENJOINING OF STRIKE.

IF A STRIKE OCCURS, A COURT OF COMPETENT JURISDICTION MAY ENJOIN THE STRIKE ON REQUEST OF THE COMMISSION.

(D) COMPENSATION DURING STRIKE.

AN EMPLOYEE MAY NOT RECEIVE COMPENSATION FROM THE COMMISSION WHILE THE EMPLOYEE IS ENGAGED IN A STRIKE.

(E) DISCIPLINARY ACTION.

(1) IF AN EMPLOYEE ENGAGES IN, INDUCES, INITIATES, OR RATIFIES A STRIKE, THE COMMISSION MAY TAKE APPROPRIATE DISCIPLINARY ACTION AGAINST THE EMPLOYEE, INCLUDING SUSPENSION OR DISCHARGE.

(2) IF DISCIPLINARY ACTION IS TAKEN AND APPEALED, THE LABOR RELATIONS ADMINISTRATOR SHALL HOLD A HEARING ON THE DISCIPLINARY ACTION AT WHICH THE COMMISSION, THE EMPLOYEE, AND ANY INTERESTED EMPLOYEE ORGANIZATION MAY PRESENT EVIDENCE AND ARGUMENT.

(F) DECERTIFICATION.

(1) IF AFTER A HEARING AN EMPLOYEE ORGANIZATION CERTIFIED AS AN EXCLUSIVE REPRESENTATIVE IS FOUND BY THE LABOR RELATIONS ADMINISTRATOR TO HAVE ASSISTED, AUTHORIZED, OR INITIATED A STRIKE INVOLVING THE REFUSAL OF COMMISSION EMPLOYEES TO REPORT FOR WORK, THE LABOR RELATIONS ADMINISTRATOR SHALL REVOKE THE CERTIFICATION OF THE EMPLOYEE ORGANIZATION.

(2) AN EMPLOYEE ORGANIZATION DECERTIFIED UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY NOT BE RECERTIFIED FOR 2 YEARS AFTER THE END OF THE STRIKE.

(3) IF AFTER A HEARING AN EMPLOYEE ORGANIZATION CERTIFIED AS AN EXCLUSIVE REPRESENTATIVE IS FOUND BY THE LABOR RELATIONS ADMINISTRATOR TO HAVE ASSISTED, AUTHORIZED, OR INITIATED ANY OTHER TYPE OF STRIKE, THE LABOR RELATIONS ADMINISTRATOR MAY REVOKE THE CERTIFICATION OF THE EMPLOYEE ORGANIZATION FOR UP TO 1 YEAR AFTER THE END OF THE STRIKE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 11.5–112.

In subsection (e)(2) of this section, the phrase "[i]f disciplinary action is taken and appealed" is added for clarity.

Defined term: "Commission" § 16–101

18–216. UNFAIR LABOR PRACTICE.

(A) IN GENERAL.

IT IS AN UNFAIR LABOR PRACTICE FOR THE COMMISSION OR AN EMPLOYEE ORGANIZATION CERTIFIED AS AN EXCLUSIVE REPRESENTATIVE OF A

BARGAINING UNIT TO VIOLATE THE RIGHTS OF A COMMISSION EMPLOYEE UNDER THIS SUBTITLE.

(B) WRITTEN CHARGE.

WITHIN 30 BUSINESS DAYS AFTER THE ALLEGED VIOLATION, THE PARTY CHARGING AN UNFAIR LABOR PRACTICE SHALL SUBMIT THE CHARGE IN WRITING TO THE LABOR RELATIONS ADMINISTRATOR AND THE PARTY ALLEGED TO HAVE COMMITTED THE UNFAIR LABOR PRACTICE.

(C) HEARING.

WITHIN 15 BUSINESS DAYS AFTER AN UNFAIR LABOR PRACTICE CHARGE IS SUBMITTED, THE COMMISSION AND THE EMPLOYEE ORGANIZATION SHALL REQUEST THE LABOR RELATIONS ADMINISTRATOR TO HOLD A HEARING AND DECIDE WHETHER AN UNFAIR LABOR PRACTICE HAS OCCURRED.

(D) ROLE OF LABOR RELATIONS ADMINISTRATOR.

THE LABOR RELATIONS ADMINISTRATOR SHALL:

(1) CONDUCT THE HEARING;

(2) ISSUE A FINDING OF FACTS AND CONCLUSION OF LAW;

(3) ORDER THE PARTY FOUND TO HAVE COMMITTED THE UNFAIR LABOR PRACTICE TO CEASE AND DESIST FROM THE PROHIBITED PRACTICE; AND

(4) ORDER ALL RELIEF NECESSARY TO REMEDY THE VIOLATION OF THIS SUBTITLE AND OTHERWISE TO MAKE WHOLE ANY INJURED EMPLOYEE OR EMPLOYEE ORGANIZATION OR THE COMMISSION, IF INJURED, INCLUDING REINSTATEMENT, RESTITUTION, BACK PAY, OR OTHER REMEDY NEEDED TO RESTORE THE EMPLOYEE, THE EMPLOYEE ORGANIZATION, OR THE COMMISSION TO THE POSITION OR CONDITION IT WOULD HAVE BEEN IN BUT FOR THE VIOLATION.

(E) DAMAGES.

THE LABOR RELATIONS ADMINISTRATOR MAY NOT ORDER PUNITIVE DAMAGES, CONSEQUENTIAL DAMAGES, DAMAGES FOR EMOTIONAL DISTRESS, PAIN, AND SUFFERING, OR ATTORNEY'S FEES FOR PURPOSES OF SATISFYING THE REQUIREMENTS OF SUBSECTION (D)(4) OF THIS SECTION.

(F) DISMISSAL OF CHARGES.

IF THE LABOR RELATIONS ADMINISTRATOR FINDS THAT THE PARTY CHARGED HAS NOT COMMITTED AN UNFAIR LABOR PRACTICE, THE LABOR RELATIONS ADMINISTRATOR SHALL ISSUE AN ORDER DISMISSING THE CHARGES.

(G) JUDICIAL REVIEW OF ADMINISTRATOR'S DECISION.

(1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE LABOR RELATIONS ADMINISTRATOR'S DECISION IS FINAL.

(2) A PARTY MAY SEEK JUDICIAL REVIEW OF THE DECISION ON THE BASIS THAT THE DECISION IS ARBITRARY, CAPRICIOUS, OR EXCEEDS THE AUTHORITY OF THE LABOR RELATIONS ADMINISTRATOR.

(H) COSTS.

THE COMMISSION AND THE EMPLOYEE ORGANIZATION SHALL SHARE EQUALLY THE COSTS OF ANY UNFAIR LABOR PRACTICE PROCEEDING.

(I) COURT ORDER.

IF THE PARTY FOUND TO HAVE COMMITTED THE UNFAIR LABOR PRACTICE FAILS OR REFUSES TO COMPLY WITH THE LABOR RELATIONS ADMINISTRATOR'S DECISION IN WHOLE OR IN PART, THE CHARGING PARTY MAY FILE AN ACTION TO ENFORCE THE ORDER WITH THE CIRCUIT COURT FOR THE COUNTY IN WHICH ANY OF THE INVOLVED EMPLOYEES WORK.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 11.5–113.

In subsection (d)(3) of this section, the reference to the party "found to have committed" the unfair labor practice is substituted for the former reference to the party "charged with" the unfair labor practice for accuracy.

In subsection (d)(4) of this section, the reference to "other remedy" is substituted for the former reference to "injunctions" for clarity and because a labor relations administrator may not issue an injunction, only a judge may issue an injunction.

In subsection (f) of this section, the former reference to a "prohibited practice" is deleted as unnecessary.

In subsection (g)(2) of this section, the reference to "seek[ing] judicial review" is substituted for the former reference to "appeal[ing]" for accuracy.

Also in subsection (g)(2) of this section, the reference to "exceeds the authority of the labor relations administrator" is substituted for the former reference to "exceeding authority" for clarity.

Defined terms: "Commission" § 16–101
"County" § 16–101

18–217. EXPRESSION OF PERSONAL VIEW, ARGUMENT, OPINION, OR STATEMENT.

(A) APPLICABILITY OF SECTION.

THIS SECTION APPLIES TO THE EXPRESSION OF ANY PERSONAL VIEW, ARGUMENT, OR OPINION OR THE MAKING OF ANY PERSONAL STATEMENT THAT:

(1) (I) PUBLICIZES THE FACT OF A REPRESENTATIONAL ELECTION AND ENCOURAGES EMPLOYEES TO EXERCISE THEIR RIGHT TO VOTE IN THE ELECTION;

(II) CORRECTS THE RECORD WITH RESPECT TO ANY FALSE OR MISLEADING STATEMENT MADE BY ANY PERSON; OR

(III) INFORMS EMPLOYEES OF THE COMMISSION'S POLICY RELATING TO LABOR–MANAGEMENT RELATIONS AND REPRESENTATION;

(2) DOES NOT CONTAIN A THREAT OF REPRISAL, FORCE, OR PROMISE OF BENEFIT; AND

(3) IS NOT MADE UNDER COERCIVE CONDITIONS.

(B) EFFECT.

THE EXPRESSION OF ANY PERSONAL VIEW, ARGUMENT, OPINION, OR STATEMENT DESCRIBED IN SUBSECTION (A) OF THIS SECTION DOES NOT CONSTITUTE:

(1) AN UNFAIR LABOR PRACTICE UNDER THE PROVISIONS OF THIS SUBTITLE; OR

(2) GROUNDS FOR SETTING ASIDE ANY ELECTION CONDUCTED UNDER THIS SUBTITLE.

REVISOR'S NOTE: This section formerly was Art. 29, § 11.5–114.

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

The only other changes are in style.

Defined terms: "Commission" § 16–101
"Person" § 16–101

GENERAL REVISOR'S NOTE TO SUBTITLE:

Throughout this subtitle, the references to this "subtitle" are substituted for the former erroneous references to this "section" enacted by Chapter 424, Acts of 2003. Chapter 424 enacted Article 29, Title 11.5 of the Code. This legislation appears to be, at least in part, a reintroduction of House Bill 772 of the 2002 legislative session. However, the structure of the statutory text contained in Chapter 424 differs from that of House Bill 772. House Bill 772 established collective bargaining in one section but when the legislation was introduced again in 2003, it was redrafted in such a way as to break up the provisions into 14 sections in former Article 29, Title 11.5. In the redrafting of the legislation, however, certain internal cross–references were not updated to reflect the change from one section encompassing the whole of the collective bargaining provisions to those provisions covering 14 separate sections throughout a title.

TITLE 19. ETHICS.

19–101. "BOARD" DEFINED.

IN THIS TITLE, "BOARD" MEANS THE BOARD OF ETHICS ESTABLISHED BY THE COMMISSION UNDER REGULATIONS ADOPTED IN ACCORDANCE WITH TITLE 15, SUBTITLE 8, PART III OF THE STATE GOVERNMENT ARTICLE.

REVISOR'S NOTE: This section formerly was Art. 29, § 12–105.1(a).

The word "title" is substituted for the former word "section" to reflect the reorganization of former Art. 29, § 12–105.1(a) as part of this title in this revision.

The only other change is in style.

Defined term: "Commission" § 16–101

19–102. APPLICATION OF MARYLAND PUBLIC ETHICS LAW.

(A) IN GENERAL.

EXCEPT WHERE PROVISIONS OF THIS TITLE EXCEED THE MINIMUM STANDARDS OF THE MARYLAND PUBLIC ETHICS LAW, COMMISSIONERS AND EMPLOYEES OF THE COMMISSION ARE SUBJECT TO THE CONFLICT OF INTEREST AND LOBBYING PROVISIONS OF THE MARYLAND PUBLIC ETHICS LAW.

(B) VIOLATION OF ETHICS LAWS AND REGULATIONS PROHIBITED.

NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A COMMISSIONER, EMPLOYEE, CONTRACTOR, OR SUBCONTRACTOR OF THE COMMISSION MAY NOT WILLFULLY AND KNOWINGLY VIOLATE:

(1) ANY PROVISION OF THIS TITLE;

(2) THE MARYLAND PUBLIC ETHICS LAW; OR

(3) ANY COMMISSION REGULATION GOVERNING:

(I) CONFLICTS OF INTEREST;

(II) FINANCIAL DISCLOSURE;

(III) LOBBYING; OR

(IV) ETHICS IN PUBLIC CONTRACTING.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, §§ 12–101 and 12–106(a).

In subsection (b)(3)(iii) of this section, the word "or" is substituted for the former word "and" for clarity.

Defined terms: "Commission" § 16–101
"Commissioner" § 16–101

19–103. CONFLICTS OF INTEREST.

(A) DISCLOSURE.

A COMMISSIONER SHALL DISCLOSE ANY CONFLICTS OF INTEREST UNDER THE MARYLAND PUBLIC ETHICS LAW AT A COMMISSION MEETING.

(B) PROHIBITION ON CERTAIN PARTICIPATION.

THE COMMISSIONER MAY NOT PARTICIPATE IN ANY DECISION OR ACT AFFECTED BY THE CONFLICT OF INTEREST.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 12–103.

In subsection (a) of this section, the former phrase "[i]f a commissioner of the WSSC has a conflict of interest" is deleted as unnecessary.

Defined terms: "Commission" § 16–101
"Commissioner" § 16–101

19–104. ATTEMPT TO INFLUENCE PROHIBITED.

A COMMISSIONER MAY NOT ATTEMPT TO INFLUENCE A COUNTY OR STATE OFFICIAL IN THE CONDUCT OF THE OFFICIAL'S DUTIES FOR A PURPOSE CONTRARY TO:

(1) THIS TITLE; OR

(2) THE MARYLAND PUBLIC ETHICS LAW.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 12–104.

Defined terms: "Commissioner" § 16–101
"County" § 16–101
"State" § 16–101

19–105. EX PARTE COMMUNICATIONS.

(A) COMMUNICATIONS TO BE PUBLIC.

A COMMISSIONER OR EMPLOYEE OF THE COMMISSION WHO RECEIVES AN EX PARTE COMMUNICATION THAT CONCERNS A CASE WHERE A DETERMINATION OR DECISION IS REQUIRED BY LAW TO BE MADE ONLY AFTER A PUBLIC HEARING FOR INTERESTED PARTIES SHALL MAKE THE EX PARTE COMMUNICATION PUBLIC AND PART OF THE RECORD OF THE PROCEEDING.

(B) COMMUNICATIONS TO BE PART OF RECORD.

A COMMISSIONER OR EMPLOYEE OF THE COMMISSION WHO RECEIVES AN EX PARTE COMMUNICATION THAT CONCERNS THE MERITS OF A CASE WHERE THE COMMISSIONER'S OR EMPLOYEE'S DETERMINATION OR DECISION IS REQUIRED BY LAW TO BE MADE ONLY AFTER A PUBLIC HEARING FOR INTERESTED PARTIES SHALL:

(1) NOTE THE SUBSTANCE OF AN ORAL EX PARTE COMMUNICATION FOR THE RECORD; AND

(2) PLACE THE SUBSTANCE OF A WRITTEN EX PARTE COMMUNICATION ON THE RECORD.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 12–105.

Defined terms: "Commission" § 16–101
"Commissioner" § 16–101

19–106. ADMINISTRATION OF OATHS.

THE BOARD MAY ADMINISTER OATHS.

REVISOR'S NOTE: This section formerly was Art. 29, § 12–105.1(b).

No changes are made.

Defined term: "Board" § 19–101

19–107. JUDICIAL REVIEW AND ENFORCEMENT OF ORDERS.

(A) SCOPE.

NOTWITHSTANDING ANY OTHER PROVISION OF THE COMMISSION CODE OF ETHICS, JUDICIAL ENFORCEMENT UNDER THIS SECTION IN THE INVESTIGATION OF A COMPLAINT ALLEGING IMPROPER DISCLOSURE OF CONFIDENTIAL INFORMATION SHALL APPLY ONLY TO INFORMATION THAT IS SUBJECT TO DENIAL OF A REQUEST FOR INFORMATION UNDER THE MARYLAND PUBLIC INFORMATION ACT.

(B) JUDICIAL REVIEW AND ENFORCEMENT.

(1) A RESPONDENT AGGRIEVED BY A FINAL ORDER OF THE BOARD MAY SEEK JUDICIAL REVIEW AS PROVIDED UNDER TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

(2) (I) UNLESS THE BOARD AND THE RESPONDENT MUTUALLY AGREE OTHERWISE, AN ORDER OF THE BOARD IS STAYED UNTIL THE TIME FOR SEEKING JUDICIAL REVIEW EXPIRES.

(II) IF A TIMELY APPEAL IS FILED, THE ORDER IS STAYED UNTIL FINAL DISPOSITION BY THE COURT.

(3) THE COMMISSION MAY SEEK JUDICIAL ENFORCEMENT:

(I) OF AN ORDER OF THE BOARD; OR

(II) IN ACCORDANCE WITH § 19–108 OF THIS TITLE, TO ENSURE COMPLIANCE WITH ITS REGULATIONS GOVERNING:

1. CONFLICTS OF INTEREST;

2. FINANCIAL DISCLOSURE;

3. LOBBYING; OR

4. ETHICS IN PUBLIC CONTRACTING.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 12–105.1(c) and (d).

Defined terms: "Board" § 19–101
"Commission" § 16–101

19–108. INJUNCTIVE RELIEF AND FINES.

A COURT MAY:

(1) COMPEL COMPLIANCE WITH AN ORDER OF THE BOARD OR COMMISSION REGULATIONS GOVERNING CONFLICTS OF INTEREST, FINANCIAL DISCLOSURE, LOBBYING, OR ETHICS IN PUBLIC CONTRACTING BY:

(I) ISSUING AN ORDER TO CEASE AND DESIST FROM THE VIOLATION; OR

(II) GRANTING OTHER INJUNCTIVE RELIEF; AND

(2) IMPOSE A FINE NOT EXCEEDING $5,000 FOR A VIOLATION OF THIS TITLE OR COMMISSION REGULATIONS GOVERNING CONFLICTS OF INTEREST, FINANCIAL DISCLOSURE, LOBBYING, OR ETHICS IN PUBLIC CONTRACTING.

REVISOR'S NOTE: This section formerly was Art. 29, § 12–106(b).

The only changes are in style.

Defined terms: "Board" § 19–101
"Commission" § 16–101

TITLE 20. PROCUREMENT.

SUBTITLE 1. WATER AND SEWER PROCUREMENT CONTRACTS.

20–101. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection formerly was Art. 29, § 3–102(a)(1).

The only change is in style.

(B) DESIGN/BUILD CONTRACT.

"DESIGN/BUILD CONTRACT" MEANS A CONTRACT THAT PROVIDES FOR BOTH ARCHITECTURAL AND ENGINEERING DESIGN SERVICES AND CONSTRUCTION SERVICES AS A PART OF A SINGLE CONTRACT.

REVISOR'S NOTE: This subsection formerly was Art. 29, § 3–102(a)(2).

No changes are made.

(C) EVALUATED BID PRICE.

"EVALUATED BID PRICE" MEANS THE PRICE OF A BID AFTER ADJUSTMENT IN ACCORDANCE WITH OBJECTIVE MEASURABLE CRITERIA.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 29, § 3–102(d)(1)(i) and (ii).

The former reference to the defined term applying to "this subsection" is deleted in light of the reorganization of former Art. 29, § 3–102(d) in this subtitle.

Defined term: "Objective measurable criteria" § 20–101

(D) FACILITIES CONSTRUCTION CONTRACT.

"FACILITIES CONSTRUCTION CONTRACT" MEANS A CONTRACT THAT PROVIDES SERVICES FOR THE CONSTRUCTION OF:

(1) A WATER OR WASTEWATER TREATMENT PLANT;

(2) A WATER OR WASTEWATER PUMPING STATION AND RELATED FORCE MAINS IN THE PUMPING STATION SITE LIMITS;

(3) A WATER STORAGE FACILITY;

(4) A WASTEWATER STORAGE FACILITY; OR

(5) A BUILDING FOR COMMISSION PURPOSES.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 29, § 3–102(a)(3).

In item (4) of this subsection, the word "or" is substituted for the former word "and" for clarity.

In item (5) of this subsection, the reference to "a building for Commission purposes" is substituted for the former reference to "building[s]" for clarity.

The Washington Suburban Sanitary Commission Law Review Committee notes, for consideration by the General Assembly, that the reference to "buildings" in former Art. 29, § 3–102(a)(3)(iv) is unclear. The Committee has interpreted the reference to mean any building for Commission purposes. This substitution is called to the attention of the General Assembly.

Defined term: "Commission" § 16–101

(E) OBJECTIVE MEASURABLE CRITERIA.

"OBJECTIVE MEASURABLE CRITERIA" MEANS STANDARDS THAT ENABLE THE COMMISSION TO COMPARE THE ECONOMY, EFFECTIVENESS, OR VALUE OF THE SUBJECT OF THE BIDS.

REVISOR'S NOTE: This subsection formerly was Art. 29, § 3–102(d)(1)(iii).

The only change is in style.

Defined term: "Commission" § 16–101

REVISOR'S NOTE TO SECTION:

Former Art. 29, § 3–102(a)(4), which defined "pipeline contract", is deleted because the term is not used in this revised article.

The definitions under former Art. 29, § 3–102, which are defined in this section, applied to former Art. 29, § 3–102(f), which is revised under Subtitle 2 of this revision. As such, these defined terms no longer apply to the revised provisions of former Art. 29, § 3–102(f). However, because these defined terms are not used in the source law for or revised provisions of former Art. 29, § 3–102(f), the change in application of the defined terms does not result in a substantive change.

20–102. SCOPE OF SUBTITLE.

THIS SUBTITLE APPLIES ONLY TO:

(1) DESIGN/BUILD CONTRACTS; AND

(2) CONSTRUCTION CONTRACTS.

REVISOR'S NOTE: This section formerly was Art. 29, § 3–102(b).

The only changes are in style.

Defined term: "Design/build contract" § 20–101

20–103. COMPLIANCE REQUIRED.

IF THE COMMISSION DECIDES TO PROCEED WITH THE DESIGN OR CONSTRUCTION OF A WATER SUPPLY OR SANITARY SEWER SYSTEM, THE COMMISSION SHALL COMPLY WITH THE REQUIREMENTS OF THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 3–102(c)(1), except as it related to the requirement to provide an opportunity for a hearing.

Defined term: "Commission" § 16–101

20–104. DESIGN AND CONSTRUCTION OF SYSTEM — IN GENERAL.

(A) HEARING.

THE COMMISSION SHALL PROVIDE AN OPPORTUNITY FOR A HEARING BEFORE PROCEEDING WITH THE DESIGN OR CONSTRUCTION OF A WATER SUPPLY OR SANITARY SEWER SYSTEM.

(B) ADVERTISEMENT.

SUBJECT TO SUBSECTION (C) OF THIS SECTION, THE COMMISSION:

(1) SHALL ADVERTISE IN NEWSPAPERS AND TECHNICAL MEDIA THAT THE COMMISSION CONSIDERS APPROPRIATE FOR BIDS OR PROPOSALS FOR DESIGN OR CONSTRUCTION SERVICES FOR ANY PART OF A WATER SUPPLY OR SANITARY SEWER SYSTEM; AND

(2) MAY READVERTISE ANY PART OF THE SERVICES NEEDED IF THE COMMISSION CONSIDERS THE PRICES QUOTED IN RESPONSE TO A PRIOR ADVERTISEMENT TO BE UNREASONABLE.

(C) DAY LABOR.

(1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE COMMISSION MAY USE DAY LABOR TO COMPLETE ANY PART OF THE DESIGN OR CONSTRUCTION OF A WATER SUPPLY OR SANITARY SEWER SYSTEM.

(2) NOTWITHSTANDING § 20–105(A) OF THIS SUBTITLE, THE COMMISSION MAY SPEND UP TO $15,000 FOR DAY LABOR FOR ANY PART OF CONSTRUCTION SERVICES WITHOUT ADVERTISING FOR OR RECEIVING BIDS OR PROPOSALS.

(D) AUTHORIZED CONTRACTS.

(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE COMMISSION MAY ENTER INTO ANY TYPE OF CONTRACT UNDER THIS SUBTITLE THAT PROMOTES THE BEST INTEREST OF THE COMMISSION.

(2) THE COMMISSION:

(I) MAY NOT ENTER A COST–PLUS–PERCENTAGE–OF–COST CONTRACT; AND

(II) SHALL PROHIBIT A COST–PLUS–PERCENTAGE–OF–COST SUBCONTRACT UNDER A CONTRACT WITH THE COMMISSION.

(E) AUTHORIZED CONTRACTS — DESIGN/BUILD CONTRACTS.

THE COMMISSION:

(1) MAY ONLY ENTER INTO A DESIGN/BUILD CONTRACT FOR A FACILITIES CONSTRUCTION CONTRACT WITH COSTS EXCEEDING $2,000,000; AND

(2) MAY NOT ENTER INTO A DESIGN/BUILD CONTRACT FOR A PIPELINE.

(F) AUTHORITY TO REJECT A BID OR PROPOSAL.

THE COMMISSION MAY REJECT ANY BID OR PROPOSAL.

(G) CONTRACT SECURITY.

(1) THE COMMISSION MAY REQUIRE A CONTRACT TO BE SECURED BY BONDS, PENALTIES, AND CONDITIONS.

(2) SECURITY AUTHORIZED UNDER THIS SUBSECTION IS ENFORCEABLE IN ANY COURT OF COMPETENT JURISDICTION.

(H) REGULATIONS.

THE COMMISSION:

(1) MAY ADOPT REGULATIONS TO ESTABLISH A PREQUALIFICATION PROCESS FOR BIDDERS OR OFFERORS; AND

(2) SHALL ADOPT REGULATIONS TO GOVERN DISCUSSIONS HELD WITH OFFERORS UNDER § 20–105(C)(3) OF THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 3–102(g) and (c)(2) through (5), (7) through (9), and, as it related to the requirement to provide an opportunity for a hearing, (1).

In the introductory language of subsection (b) of this section, the phrase "[s]ubject to subsection (c) of this section" is added for clarity.

In subsection (b)(1) of this section, the reference to design or construction "services" is added for clarity and consistency within this subtitle.

Also in subsection (b)(1) of this section, the reference to a "water supply or sanitary sewer" system is added for clarity.

Also in subsection (b)(1) of this section, the reference to technical "media" is substituted for the former reference to technical "press" to reflect current terminology.

Also in subsection (b)(1) of this section, the reference to proposals or bids "for any part" of a system is substituted for the former reference to proposals or bids for a system "in parts or as a whole" for clarity and brevity. Similarly, in subsection (b)(2) of this section, the first former reference to "the work" or any part of it is deleted.

Also in subsection (b)(1) of this section, the former reference to "as the WSSC considers advisable" is deleted as surplusage.

In subsection (b)(2) of this section, the reference to prices quoted "in response to a prior advertisement" is added for clarity.

Also in subsection (b)(2) of this section, the reference to "services needed" is substituted for the former reference to "the work" for clarity.

In subsection (c)(1) of this section, the reference to "us[ing] day labor to complete any part of the design or construction of a water supply or sanitary sewer system" is substituted for the former reference to "do[ing] any part or all of the work by day labor" for clarity.

In subsection (c)(2) of this section, the former phrase "at any time" is deleted as unnecessary.

In subsection (e) of this section, the references to "enter[ing] into" specified contracts is substituted for the former references to the contracts "be[ing] used" for clarity and consistency within this subtitle.

In subsection (g)(1) of this section, the reference to a contract that is "secured" is substituted for the former reference to a contract that is

"protected" for clarity and consistency with Title 17, Subtitle 1 of the State Finance and Procurement Article.

In subsection (h)(2) of this section, the reference to discussions held "with offerors" is added for clarity.

The Washington Suburban Sanitary Commission Law Review Committee notes, for consideration by the General Assembly, that subsection (c)(2) of this section is vague. The General Assembly may wish to clarify the intent of the subsection.

Defined terms: "Commission" § 16–101
"Design/build contract" § 20–101
"Facilities construction contract" § 20–101

20–105. METHODS OF SOURCE SELECTION.

(A) IN GENERAL.

THE COMMISSION SHALL AWARD CONTRACTS BY:

(1) COMPETITIVE SEALED BIDS IN ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION; OR

(2) COMPETITIVE SEALED PROPOSALS IN ACCORDANCE WITH SUBSECTION (C) OF THIS SECTION.

(B) COMPETITIVE SEALED BIDS.

(1) IF A CONTRACT IS AWARDED BASED ON COMPETITIVE SEALED BIDS, THE COMMISSION SHALL SEEK BIDS BY ISSUING AN INVITATION FOR BIDS.

(2) SUBJECT TO PARAGRAPHS (3) THROUGH (5) OF THIS SUBSECTION, AN INVITATION FOR BIDS SHALL:

(I) INCLUDE THE CONTRACT SPECIFICATIONS, INCLUDING THE EXPECTED DEGREE OF MINORITY BUSINESS ENTERPRISE PARTICIPATION PROVIDED UNDER SUBTITLE 2 OF THIS TITLE; AND

(II) STATE WHETHER THE CONTRACT WILL BE AWARDED BASED ON THE LOWEST BID PRICE OR THE LOWEST EVALUATED BID PRICE.

(3) IF A CONTRACT WILL BE AWARDED BASED ON AN EVALUATED BID PRICE, THE INVITATION FOR BIDS SHALL INCLUDE THE OBJECTIVE

MEASURABLE CRITERIA BY WHICH THE LOWEST EVALUATED BID PRICE WILL BE DETERMINED.

(4) THE COMMISSION SHALL AWARD CONTRACTS BASED ON COMPETITIVE SEALED BIDS TO THE RESPONSIBLE BIDDER WHO SUBMITS THE LOWEST BID PRICE OR LOWEST EVALUATED BID PRICE, AS APPROPRIATE.

(5) IF THE COMMISSION DETERMINES THAT AN INITIAL PREPARATION OF SPECIFICATIONS FOR PRICE BIDS IS IMPRACTICAL, THE INVITATION FOR BIDS MAY:

(I) INCLUDE A REQUEST FOR AN UNPRICED TECHNICAL OFFER OR SAMPLE; AND

(II) DIRECT A BIDDER TO SUBMIT:

1. A SEALED PRICE BID WITH THE UNPRICED TECHNICAL OFFER OR SAMPLE; OR

2. A PRICE BID AFTER THE COMMISSION:

A. EVALUATES THE TECHNICAL OFFER OR SAMPLE; AND

B. FINDS THAT THE OFFER OR SAMPLE IS ACCEPTABLE UNDER THE CRITERIA SET FORTH IN THE INVITATION FOR BIDS.

(6) IF AN INVITATION FOR BIDS INCLUDES A REQUEST FOR AN UNPRICED TECHNICAL OFFER OR SAMPLE, THE COMMISSION SHALL:

(I) CONSIDER THE PRICE BID OF A BIDDER WHOSE TECHNICAL OFFER OR SAMPLE IS ACCEPTABLE;

(II) RETURN UNOPENED THE PRICE BID OF A BIDDER WHOSE TECHNICAL OFFER OR SAMPLE IS UNACCEPTABLE; AND

(III) AWARD THE CONTRACT TO THE RESPONSIBLE BIDDER WHOSE TECHNICAL OFFER OR SAMPLE IS ACCEPTABLE AND WHO SUBMITS THE LOWEST BID PRICE OR LOWEST EVALUATED BID PRICE, AS SPECIFIED IN THE INVITATION FOR BIDS.

(C) COMPETITIVE SEALED PROPOSALS.

(1) IF A CONTRACT IS AWARDED BASED ON COMPETITIVE SEALED PROPOSALS, THE COMMISSION SHALL SEEK PROPOSALS BY ISSUING A REQUEST FOR PROPOSALS.

(2) A REQUEST FOR PROPOSALS SHALL INCLUDE:

(I) A STATEMENT DESCRIBING THE SCOPE OF THE CONTRACT, INCLUDING THE EXPECTED DEGREE OF MINORITY BUSINESS ENTERPRISE PARTICIPATION PROVIDED UNDER SUBTITLE 2 OF THIS TITLE;

(II) THE FACTORS, INCLUDING PRICE, THAT WILL BE USED IN EVALUATING PROPOSALS; AND

(III) THE RELATIVE IMPORTANCE OF EACH FACTOR.

(3) AFTER RECEIPT OF PROPOSALS, BUT BEFORE THE CONTRACT IS AWARDED, THE COMMISSION MAY CONDUCT DISCUSSIONS WITH AN OFFEROR TO:

(I) OBTAIN THE BEST PRICE FOR THE COMMISSION; AND

(II) ENSURE FULL UNDERSTANDING OF THE REQUIREMENTS OF THE COMMISSION, AS SET FORTH IN THE REQUEST FOR PROPOSALS AND IN THE PROPOSAL.

(4) THE COMMISSION:

(I) SHALL TREAT ALL RESPONSIBLE OFFERORS FAIRLY AND EQUALLY; AND

(II) MAY ALLOW EACH RESPONSIBLE OFFEROR TO REVISE THE OFFEROR'S INITIAL PROPOSAL AND SUBMIT A BEST AND FINAL OFFER.

(5) THE COMMISSION SHALL AWARD A CONTRACT BASED ON COMPETITIVE SEALED PROPOSALS TO THE RESPONSIBLE OFFEROR WHO SUBMITS THE PROPOSAL OR BEST AND FINAL OFFER THAT THE COMMISSION DETERMINES IS THE MOST ADVANTAGEOUS TO THE COMMISSION, CONSIDERING THE EVALUATION FACTORS SET FORTH IN THE REQUEST FOR PROPOSALS.

REVISOR'S NOTE: This section formerly was Art. 29, § 3–102(e), (c)(6), and (d)(2) through (7).

Throughout subsection (b) of this section, the references to "invitation for bids" are substituted for the former references to "invitation to bid" for

consistency with the defined term found in § 11–101(j) of the State Finance and Procurement Article.

In subsection (b)(6)(iii) of this section, the references to the lowest bid or lowest evaluated bid "price" are added for clarity and consistency within this section.

The only other changes are in style.

The Washington Suburban Sanitary Commission Law Review Committee notes, for consideration by the General Assembly, that subsection (b)(4) and (6) of this section requires the Commission to award contracts based on competitive sealed bids to the responsible bidder who submits the lowest bid price or lowest evaluated bid price. Commission staff have indicated that in practice, the Commission awards contracts based on competitive sealed bids to the responsible bidder who submits the lowest responsive bid. The Washington Suburban Sanitary Commission Law Review Committee calls this discrepancy to the attention of the General Assembly.

Defined terms: "Commission" § 16–101
"Evaluated bid price" § 20–101
"Objective measurable criteria" § 20–101

20–106. NONDISCRIMINATION POLICY.

(A) NONDISCRIMINATION CLAUSE.

(1) THE COMMISSION MAY NOT AWARD A CONTRACT UNLESS THE CONTRACT CONTAINS PROVISIONS OBLIGATING THE CONTRACTOR:

(I) NOT TO DISCRIMINATE IN ANY MANNER AGAINST AN EMPLOYEE OR AN APPLICANT FOR EMPLOYMENT ON THE BASIS OF SEX, RACE, CREED, COLOR, AGE, MENTAL OR PHYSICAL DISABILITY, SEXUAL ORIENTATION, OR NATIONAL ORIGIN; AND

(II) TO INCLUDE A SIMILAR NONDISCRIMINATION CLAUSE IN ALL SUBCONTRACTS.

(2) (I) IF THE NONDISCRIMINATION CLAUSE IS OMITTED FROM A CONTRACT OR SUBCONTRACT, THE COMMISSION SHALL PROVIDE THE CONTRACTOR A REASONABLE OPPORTUNITY TO CURE THE DEFECT, SUBJECT TO THIS SECTION.

(II) IF THE CONTRACTOR FAILS TO CURE THE DEFECT:

1. THE COMMISSION MAY DECLARE THE CONTRACT TO BE VOID; AND

2. THE CONTRACTOR IS ENTITLED TO THE REASONABLE VALUE OF WORK PERFORMED AND MATERIALS PROVIDED BY THE CONTRACTOR.

(III) IF THE CONTRACTOR CURES THE DEFECT, THE CONTRACT REMAINS IN FORCE ACCORDING TO ITS REVISED TERMS.

(B) VIOLATION — CONTRACTOR.

(1) IN ACCORDANCE WITH THIS SECTION, THE COMMISSION MAY COMPEL A CONTRACTOR TO CONTINUE TO PERFORM UNDER A CONTRACT IF:

(I) THE CONTRACTOR WILLFULLY FAILS TO COMPLY WITH THE REQUIREMENTS OF A NONDISCRIMINATION CLAUSE; AND

(II) THE CONTRACT IS PARTIALLY EXECUTORY.

(2) IF THE COMMISSION COMPELS PERFORMANCE UNDER THIS SUBSECTION, THE COMMISSION:

(I) IS LIABLE FOR NO MORE THAN THE REASONABLE VALUE OF WORK PERFORMED AND MATERIALS PROVIDED BY THE CONTRACTOR AFTER THE DATE ON WHICH THE BREACH OF CONTRACT WAS OR SHOULD HAVE BEEN DISCOVERED; AND

(II) SHALL DEDUCT ANY MONEY THAT HAS BEEN PAID UNDER THE CONTRACT FROM THE MONEY THAT COMES DUE UNDER ITEM (I) OF THIS PARAGRAPH.

(C) VIOLATION — SUBCONTRACTOR.

(1) IF A SUBCONTRACTOR WILLFULLY FAILS TO COMPLY WITH THE REQUIREMENTS OF A NONDISCRIMINATION CLAUSE, THE CONTRACTOR MAY DECLARE THE SUBCONTRACT TO BE VOID.

(2) IF A CONTRACTOR DECLARES A SUBCONTRACT TO BE VOID UNDER THIS SUBSECTION, THE CONTRACTOR IS LIABLE FOR NO MORE THAN THE REASONABLE VALUE OF WORK PERFORMED OR MATERIALS PROVIDED BY THE SUBCONTRACTOR.

REVISOR'S NOTE: This section is new language derived without substantive change from Art. 29, § 3–102(h).

Throughout this section, the references to work performed and materials provided "by the [sub]contractor" are added for clarity.

In the introductory language of subsection (a)(1) of this section, the former reference to awarding a contract "to a contractor" is deleted as implicit in a contract award.

In subsection (a)(1)(i) of this section, the reference to mental or physical "disability" is substituted for the former, archaic reference to mental or physical "handicap" and to conform terminology used in other revised articles of the Code. *See*, *e.g.*, Title 20 of the State Government Article.

In subsection (a)(2)(i) of this section, the reference to providing "the contractor" a reasonable opportunity to cure the defect is added for clarity.

In subsection (b)(1) of this section, the phrase "[i]n accordance with this section" is added for clarity. No substantive change is intended.

In subsection (b)(2) of this section, the phrase "[i]f the Commission compels performance under this subsection" is added for clarity.

In subsection (c)(2) of this section, the phrase "[i]f a contractor declares a subcontract to be void under this subsection" is substituted for the former phrase "[i]n that event" for clarity.

Defined term: "Commission" § 16–101

SUBTITLE 2. MINORITY BUSINESS ENTERPRISE PREFERENCES.

20–201. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection formerly was Art. 29, § 3–109(a)(1).

The only change is in style.

(B) MINORITY BUSINESS ENTERPRISE.

EXCEPT AS PROVIDED IN § 20–203 OF THIS SUBTITLE, "MINORITY BUSINESS ENTERPRISE" MEANS A LEGAL ENTITY THAT IS:

(1) ORGANIZED TO ENGAGE IN COMMERCIAL TRANSACTIONS; AND

(2) AT LEAST 51% OWNED AND CONTROLLED BY ONE OR MORE INDIVIDUALS WHO ARE MEMBERS OF A GROUP THAT IS:

(I) DISADVANTAGED SOCIALLY OR ECONOMICALLY BY THE EFFECTS OF PAST DISCRIMINATION, INCLUDING DISCRIMINATION AS TO CERTIFICATION; AND

(II) IDENTIFIED BY A STUDY CONDUCTED IN ACCORDANCE WITH THIS SUBTITLE OR A SIMILAR, PREVIOUSLY CONDUCTED STUDY.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 29, § 3–109(a)(3).

In the introductory language of this subsection, the phrase "[e]xcept as provided in § 20–203 of this subtitle" is added for accuracy due to the reorganization of the former provisions in this revised subtitle.

(C) OFFICE.

"OFFICE" MEANS THE OFFICE OF SMALL, LOCAL, AND MINORITY BUSINESS ENTERPRISE ESTABLISHED UNDER § 20–202 OF THIS SUBTITLE.

REVISOR'S NOTE: This subsection formerly was Art. 29, § 3–109(a)(4).

The only change is in style.

REVISOR'S NOTE TO SECTION:

The definitions in this section are applied to provisions to which those definitions formerly did not apply. The definition of "office" generally is nonsubstantive and is intended solely to allow a concise and standardized reference. The definition of "minority business enterprise" is drafted to be expressly inapplicable to the revised provisions to which the definition did not apply under the source law. Therefore, no substantive change is made.

20–202. OFFICE OF SMALL, LOCAL, AND MINORITY BUSINESS ENTERPRISE.

(A) ESTABLISHED.

THERE IS AN OFFICE OF SMALL, LOCAL, AND MINORITY BUSINESS ENTERPRISE IN THE COMMISSION.

(B) DIRECTOR.

THE HEAD OF THE OFFICE IS THE DIRECTOR OF THE OFFICE OF SMALL, LOCAL, AND MINORITY BUSINESS ENTERPRISE.

(C) DUTIES.

THE OFFICE SHALL:

(1) ADMINISTER EACH COMMISSION PROGRAM THAT IS CREATED TO PROMOTE THE GROWTH OF OR PARTICIPATION BY MINORITY OR LOCAL SMALL BUSINESS ENTERPRISES, INCLUDING:

(I) THE MINORITY BUSINESS ENTERPRISE UTILIZATION PROGRAM FOR DESIGN/BUILD AND CONSTRUCTION CONTRACTS UNDER § 20–203 OF THIS SUBTITLE;

(II) THE MINORITY BUSINESS ENTERPRISE UTILIZATION PROGRAM FOR THE PROCUREMENT OF OTHER GOODS AND SERVICES UNDER § 20–204 OF THIS SUBTITLE; AND

(III) THE LOCAL SMALL BUSINESS ENTERPRISE PROGRAM UNDER SUBTITLE 3 OF THIS TITLE;

(2) PROMOTE AND COORDINATE THE PLANS, PROGRAMS, AND OPERATIONS OF THE COMMISSION THAT PROMOTE OR AFFECT THE ESTABLISHMENT, PRESERVATION, AND STRENGTHENING OF MINORITY BUSINESS ENTERPRISES;

(3) PROMOTE ACTIVITIES AND THE USE OF THE RESOURCES OF THE COMMISSION, LOCAL GOVERNMENTS, AND PRIVATE ENTITIES FOR THE GROWTH OF MINORITY BUSINESS ENTERPRISES;

(4) PROVIDE TECHNICAL AND MANAGERIAL ASSISTANCE TO MINORITY BUSINESS ENTERPRISES;

(5) SCHEDULE SEMINARS AND WORKSHOPS TO EDUCATE MINORITY BUSINESSES ON HOW THE COMMISSION CONDUCTS BUSINESS; AND

(6) ENSURE COMPLIANCE WITH CERTIFIED MINORITY BUSINESS ENTERPRISE SUBCONTRACT PARTICIPATION GOALS UNDER § 20–206 OF THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 3–109(a)(2), (b)(2), (f)(1), and, as it related generally to ensuring compliance with minority subcontractor participation goals, (f)(2).

Subsection (b) of this section is rewritten in standard language for clarity and consistency with other revised articles of the Code. *See*, *e.g.*, § 2–1212(b) of the State Government Article.

In the introductory language of subsection (c)(1) of this section, the reference to the requirement that the Office administer "local small" business programs is added for accuracy.

Also in the introductory language of subsection (c)(1) of this section, the former reference to the requirement that the Office "[c]arry out" certain programs is deleted as included in the reference to the requirement that the Office "administer" these programs.

The Washington Suburban Sanitary Commission Law Review Committee notes, for consideration by the General Assembly, that the General Assembly may wish to change the name of the Office of Small, Local, and Minority Business Enterprise to be the Office of Minority and Local Small Business Enterprises to better reflect the duties of the Office.

Defined terms: "Commission" § 16–101
"Design/build contract" § 20–101
"Minority business enterprise" §§ 20–201, 20–203
"Office" § 20–201

20–203. MINORITY BUSINESS ENTERPRISE UTILIZATION PROGRAM — DESIGN/BUILD AND CONSTRUCTION CONTRACTS.

(A) "MINORITY BUSINESS ENTERPRISE" DEFINED.

IN THIS SECTION, "MINORITY BUSINESS ENTERPRISE" HAS THE MEANING STATED IN § 14–301 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(B) ESTABLISHED.

(1) BY RESOLUTION AND ADOPTING REGULATIONS, THE COMMISSION SHALL ESTABLISH A MANDATORY MINORITY BUSINESS

ENTERPRISE UTILIZATION PROGRAM TO FACILITATE THE PARTICIPATION OF RESPONSIBLE CERTIFIED MINORITY BUSINESS ENTERPRISES IN CONTRACTS AWARDED BY THE COMMISSION IN ACCORDANCE WITH ITS COMPETITIVE BIDDING OR PROPOSAL PROCEDURES UNDER SUBTITLE 1 OF THIS TITLE.

(2) THE OFFICE SHALL ADMINISTER THE PROGRAM ESTABLISHED UNDER THIS SUBSECTION.

(C) REQUIRED PROVISIONS.

REGULATIONS THAT ESTABLISH THE PROGRAM UNDER SUBSECTION (B) OF THIS SECTION SHALL INCLUDE PROVISIONS THAT:

(1) RECOGNIZE THE CERTIFICATION OF MINORITY BUSINESS ENTERPRISES BY THE STATE CERTIFICATION AGENCY DESIGNATED UNDER § 14–303(B) OF THE STATE FINANCE AND PROCUREMENT ARTICLE;

(2) RECOGNIZE ANY OTHER CERTIFICATION PROGRAM THAT THE COMMISSION DETERMINES SUBSTANTIALLY DUPLICATES THE REQUIREMENTS OF THE STATE CERTIFICATION AGENCY;

(3) PROVIDE FOR THE GRADUATION OF A MINORITY BUSINESS ENTERPRISE FROM THE PROGRAM IF THE COMMISSION DETERMINES THAT THE MINORITY BUSINESS ENTERPRISE NO LONGER REQUIRES THE ASSISTANCE OR BENEFITS OFFERED BY THE PROGRAM;

(4) AT THE TIME OF SUBMISSION, REQUIRE A BID OR PROPOSAL BASED ON A SOLICITATION WITH AN EXPECTED DEGREE OF MINORITY BUSINESS ENTERPRISE PARTICIPATION TO INCLUDE PROOF OF A CERTIFIED MINORITY BUSINESS ENTERPRISE COMMITMENT BY STATING:

(I) THE POTENTIAL SUBCONTRACT OPPORTUNITIES AVAILABLE IN THE PRIME PROCUREMENT CONTRACT; AND

(II) THE NUMBER OF MINORITY BUSINESS ENTERPRISES THAT HAVE CERTIFIED, UNDER THE PENALTIES FOR PERJURY, THAT THE MINORITY BUSINESS ENTERPRISE HAS ENTERED INTO AN AGREEMENT WITH THE BIDDER OR OFFEROR TO PROVIDE GOODS OR SERVICES UNDER SPECIFIC TERMS OUTLINED IN THE CERTIFICATION;

(5) REQUIRE EACH GENERAL CONTRACTOR TO SUBMIT TO THE COMMISSION MONTHLY REPORTS OF THE NUMBER OF MINORITY BUSINESS ENTERPRISES EMPLOYED BY THE GENERAL CONTRACTOR;

(6) REQUIRE EACH GENERAL CONTRACTOR TO PROVIDE PROMPT NOTIFICATION TO THE COMMISSION IF A CONTRACT WITH A MINORITY BUSINESS ENTERPRISE IS TERMINATED;

(7) REQUIRE EACH GENERAL CONTRACTOR TO:

(I) MAINTAIN A PARTICIPATION LEVEL FROM MINORITY BUSINESS ENTERPRISES THAT IS CONSISTENT WITH THE PARTICIPATION LEVEL REFERENCED UNDER ITEM (4)(II) OF THIS SUBSECTION; OR

(II) PROVIDE JUSTIFICATION FOR THE INABILITY OF THE GENERAL CONTRACTOR TO MAINTAIN THE PARTICIPATION LEVEL;

(8) PROVIDE FOR AN INCREASE IN MINORITY BUSINESS ENTERPRISE PARTICIPATION AS GENERAL CONTRACTORS AND SUBCONTRACTORS; AND

(9) AUTHORIZE THE WAIVER OF ALL OR PART OF THE PROGRAM FOR A SPECIFIC CONTRACT IF THE COMMISSION DETERMINES THAT APPLYING THE PROGRAM TO THE CONTRACT WOULD CONFLICT WITH THE OVERALL OBJECTIVES AND RESPONSIBILITIES OF THE COMMISSION.

(D) ALTERNATIVE CERTIFICATION PROGRAMS.

BEFORE ACCEPTING AN ALTERNATIVE CERTIFICATION PROGRAM UNDER SUBSECTION (C)(2) OF THIS SECTION, THE COMMISSION SHALL EXAMINE THE ALTERNATIVE PROGRAM TO ENSURE THAT THE ALTERNATIVE PROGRAM COMPLIES WITH THE GUIDELINES ESTABLISHED UNDER § 20–205 OF THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 3–102(f)(1) through (3) and (4)(i).

In subsection (b)(1) of this section, the cross–reference to "Subtitle 1 of this title" is added for clarity.

In subsection (b)(2) of this section, the former reference to the Office being "established under § 3–109 of this subtitle" is deleted as unnecessary.

In subsection (c)(4)(ii) of this section, the reference to a bidder "or offeror" is added for consistency and accuracy.

Also in subsection (c)(4)(ii) of this section, the former reference requiring a statement of the number of minority business enterprises included in the bid "before the bid is accepted" is deleted as included in the reference that the statement is required "at the time of submission".

In subsection (c)(8) of this section, the reference to minority business "enterprise" is added for clarity and consistency.

Also in subsection (c)(8) of this section, the reference to "general" contractors is substituted for the former reference to "prime" contractors for consistency within this revised title.

In subsection (d) of this section, the references to an "alternative" program are added for clarity.

Also in subsection (d) of this section, the reference requiring that an alternative certification program "complies with" specific guidelines is substituted for the former reference requiring that an alternative certification program "adheres to" specific guidelines for clarity.

Defined terms: "Commission" § 16–101
"Office" § 20–201
"State" § 16–101

20–204. MINORITY BUSINESS ENTERPRISE UTILIZATION PROGRAM — GOODS AND SERVICES.

(A) ESTABLISHED.

(1) BY RESOLUTION AND ADOPTING REGULATIONS, THE COMMISSION SHALL ESTABLISH A MINORITY BUSINESS ENTERPRISE UTILIZATION PROGRAM TO FACILITATE THE PARTICIPATION OF RESPONSIBLE CERTIFIED MINORITY BUSINESS ENTERPRISES IN CONTRACTS AWARDED BY THE COMMISSION FOR GOODS AND SERVICES THAT ARE NOT COVERED UNDER § 20–203 OF THIS SUBTITLE, IF THE COMMISSION DETERMINES THAT:

(I) MINORITY BUSINESS ENTERPRISES ARE UNDERREPRESENTED IN THE AWARD OF THESE CONTRACTS DUE TO THE EFFECTS OF PAST DISCRIMINATION; AND

(II) A PROGRAM IS NECESSARY TO REMEDY THE EFFECTS OF THIS PAST DISCRIMINATION.

(2) THE OFFICE SHALL ADMINISTER THE PROGRAM ESTABLISHED UNDER THIS SUBSECTION.

(B) REQUIRED PROVISIONS.

REGULATIONS THAT ESTABLISH THE PROGRAM UNDER SUBSECTION (A) OF THIS SECTION SHALL INCLUDE PROVISIONS THAT:

(1) RECOGNIZE THE CERTIFICATION OF MINORITY BUSINESS ENTERPRISES BY THE STATE CERTIFICATION AGENCY DESIGNATED UNDER § 14–303(B) OF THE STATE FINANCE AND PROCUREMENT ARTICLE;

(2) RECOGNIZE ANY OTHER CERTIFICATION PROGRAM THAT THE COMMISSION DETERMINES SUBSTANTIALLY DUPLICATES THE REQUIREMENTS OF THE STATE CERTIFICATION AGENCY;

(3) PROVIDE FOR THE GRADUATION OF A MINORITY BUSINESS ENTERPRISE FROM THE PROGRAM IF THE COMMISSION DETERMINES THAT THE MINORITY BUSINESS ENTERPRISE NO LONGER REQUIRES THE ASSISTANCE OR BENEFITS OFFERED BY THE PROGRAM;

(4) AT THE TIME OF SUBMISSION, REQUIRE A BID OR PROPOSAL BASED ON A SOLICITATION WITH AN EXPECTED DEGREE OF MINORITY BUSINESS ENTERPRISE PARTICIPATION TO INCLUDE PROOF OF A CERTIFIED MINORITY BUSINESS ENTERPRISE COMMITMENT BY STATING:

(I) THE POTENTIAL SUBCONTRACT OPPORTUNITIES AVAILABLE IN THE PRIME PROCUREMENT CONTRACT; AND

(II) THE NUMBER OF MINORITY BUSINESS ENTERPRISES THAT HAVE CERTIFIED, UNDER THE PENALTIES FOR PERJURY, THAT THE MINORITY BUSINESS ENTERPRISE HAS ENTERED INTO AN AGREEMENT WITH THE BIDDER OR OFFEROR TO PROVIDE GOODS OR SERVICES UNDER SPECIFIC TERMS OUTLINED IN THE CERTIFICATION;

(5) REQUIRE EACH GENERAL CONTRACTOR TO SUBMIT TO THE COMMISSION MONTHLY REPORTS OF THE NUMBER OF MINORITY BUSINESS ENTERPRISES EMPLOYED BY THE GENERAL CONTRACTOR;

(6) REQUIRE EACH GENERAL CONTRACTOR TO PROVIDE PROMPT NOTIFICATION TO THE COMMISSION IF A CONTRACT WITH A MINORITY BUSINESS ENTERPRISE IS TERMINATED;

(7) REQUIRE EACH GENERAL CONTRACTOR TO:

(I) MAINTAIN A PARTICIPATION LEVEL FROM MINORITY BUSINESS ENTERPRISES THAT IS CONSISTENT WITH THE PARTICIPATION LEVEL REFERENCED UNDER ITEM (4)(II) OF THIS SUBSECTION; OR

(II) PROVIDE JUSTIFICATION FOR THE INABILITY OF THE GENERAL CONTRACTOR TO MAINTAIN THE PARTICIPATION LEVEL;

(8) PROVIDE FOR MINORITY BUSINESS ENTERPRISE PARTICIPATION THROUGH SUBCONTRACTING;

(9) (I) AUTHORIZE THE WAIVER OF ALL OR PART OF THE PROGRAM FOR A SPECIFIC CONTRACT IF THE COMMISSION DETERMINES THAT APPLYING THE PROGRAM TO THE CONTRACT WOULD CONFLICT WITH THE OVERALL OBJECTIVES AND RESPONSIBILITIES OF THE COMMISSION; AND

(II) REQUIRE THE COMMISSION TO REPORT ANNUALLY TO THE MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY SENATE AND HOUSE DELEGATIONS TO THE MARYLAND GENERAL ASSEMBLY ON ANY WAIVERS GRANTED UNDER THIS SUBSECTION;

(10) EXCEPT AS PROVIDED IN ITEM (11) OF THIS SUBSECTION, PROVIDE FOR A SYSTEM OF GRANTING A PREFERENCE OF UP TO THE LESSER OF 5% OR $50,000 TO MINORITY BUSINESS ENTERPRISES IN EVALUATING BIDS OR PROPOSALS;

(11) SUBJECT TO SUBSECTION (D) OF THIS SECTION, ESTABLISH A SHELTERED MARKET PROGRAM IN WHICH BIDDING ON PROCUREMENT CONTRACTS DESIGNATED BY THE COMMISSION AS APPROPRIATE IS RESTRICTED TO CERTIFIED MINORITY BUSINESS ENTERPRISES;

(12) REQUIRE THE SOLICITATION DOCUMENT ACCOMPANYING EACH SOLICITATION TO SET FORTH THE REGULATIONS THAT ESTABLISH THE PROGRAM;

(13) REQUIRE THE GEOGRAPHIC LOCATION AND THE PRINCIPAL PLACE OF BUSINESS OF THE MINORITY BUSINESS ENTERPRISE TO BE A CONSIDERATION FOR PARTICIPATION IN THE PROGRAM, INCLUDING REQUIRING MONTGOMERY COUNTY BUSINESSES AND PRINCE GEORGE'S COUNTY BUSINESSES TO EACH HAVE A TARGETED PERCENTAGE OF AT LEAST 40% OF ANY CONTRACTS; AND

(14) AUTHORIZE THE COMMISSION TO:

(I) REFUSE TO RECOGNIZE THE CERTIFICATION OF A BUSINESS FOUND TO BE IN VIOLATION OF THE PURPOSES OF THE PROGRAM; AND

(II) PERMANENTLY BAR AN ACTIVE PRINCIPAL OF A VIOLATING BUSINESS FROM FUTURE PARTICIPATION IN THE PROGRAM.

(C) ALTERNATIVE CERTIFICATION PROGRAMS.

BEFORE ACCEPTING AN ALTERNATIVE CERTIFICATION PROGRAM UNDER SUBSECTION (B)(2) OF THIS SECTION, THE COMMISSION SHALL EXAMINE THE ALTERNATIVE PROGRAM TO ENSURE THAT:

(1) THE ALTERNATIVE PROGRAM COMPLIES WITH THE GUIDELINES ESTABLISHED UNDER § 20–205 OF THIS SUBTITLE; AND

(2) THE PRINCIPAL OWNER OF AN ELIGIBLE MINORITY BUSINESS ENTERPRISE IS IN NOT MORE THAN ONE CERTIFIED BUSINESS THAT IS PARTICIPATING IN THE COMMISSION MINORITY BUSINESS ENTERPRISE UTILIZATION PROGRAM UNDER THIS SECTION.

(D) SHELTERED MARKET PROGRAM.

(1) THE SHELTERED MARKET PROGRAM ESTABLISHED IN SUBSECTION (B)(11) OF THIS SECTION MAY NOT BE USED UNTIL ALL LESS RESTRICTIVE REMEDIES UNDER SUBSECTION (B) OF THIS SECTION AND RACE–NEUTRAL REMEDIES, INCLUDING ASSISTANCE WITH BONDING REQUIREMENTS, FINANCING, OR BIDDING PROCEDURES FOR SMALL FIRMS, HAVE BEEN USED AND DETERMINED TO BE INEFFECTIVE.

(2) IF AT LEAST THREE CERTIFIED MINORITY BUSINESS ENTERPRISES BID ON A CONTRACT UNDER THE SHELTERED MARKET PROGRAM, THE COMMISSION SHALL AWARD THE CONTRACT TO THE LOWEST BIDDER.

(3) IF FEWER THAN THREE CERTIFIED MINORITY BUSINESS ENTERPRISES BID ON A CONTRACT UNDER THE SHELTERED MARKET PROGRAM, THE CONTRACT SHALL BE AWARDED UNDER SUBSECTION (B)(10) OF THIS SECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 3–109(c) through (e) and (b)(1) and, as it related to the administration of the minority business enterprise utilization program for other goods and services, (2)(ii).

In subsection (a)(1)(ii) of this section, the reference to "this" past discrimination is substituted for the former reference to past discrimination "against minority business enterprises in contracting with the WSSC" for brevity.

In subsection (b)(4)(ii) of this section, the reference to a bidder "or offeror" is added for consistency and clarity.

Also in subsection (b)(4)(ii) of this section, the former reference requiring a statement of the number of minority business enterprises included in the bid "before the bid is accepted" is deleted as included in the reference that the statement is required "at the time of submission".

In subsection (b)(8) of this section, the reference to the minority business "enterprise" is added for clarity and consistency.

In subsection (b)(9)(ii) of this section, the reference to the Senate and House Delegations "to the Maryland General Assembly" is added for accuracy.

In subsection (b)(12) of this section, the reference to regulations "that establish the program" is substituted for the former reference to regulations "of the minority business utilization program" for brevity.

In subsection (c) of this section, the references to an "alternative" program are added for clarity.

In subsection (c)(1) of this section, the reference requiring that an alternative certification program "complies with" specific guidelines is substituted for the former reference requiring that an alternative certification program "adheres to" specific guidelines for clarity.

In subsection (d)(2) of this section, the reference to certified minority business "enterprises" is substituted for the former reference to certified minority business "contractors" for consistency within this subtitle.

The Washington Suburban Sanitary Commission Law Review Committee notes, for consideration by the General Assembly, that subsection (d)(2) of this section requires the Commission to award contracts based under the sheltered market program to the lowest bidder. Commission staff have indicated that in practice, the Commission awards these contracts to the responsible bidder who submits the lowest responsive bid. The Washington Suburban Sanitary Commission Law Review Committee calls this discrepancy to the attention of the General Assembly.

Also the Washington Suburban Sanitary Commission Law Review Committee notes, for consideration by the General Assembly, that the

requirement under subsection (d)(3) of this section that the Commission award a contract under the sheltered market program in accordance with subsection (b)(10) of this section if the contract was bid on by fewer than three certified minority business enterprises does not conform to current Commission practice. The General Assembly may wish to address this discrepancy.

Defined terms: "Commission" § 16–101
"Minority business enterprise" § 20–201
"Office" § 20–201
"State" § 16–101

20–205. CERTIFICATION PROGRAMS.

(A) DETERMINATION OF MINORITY STATUS.

(1) A CERTIFYING AGENCY SHALL DETERMINE BONA FIDE MINORITY GROUP MEMBERSHIP BASED ON AN INDIVIDUAL'S CLAIM THAT THE INDIVIDUAL IS:

(I) A MEMBER OF A MINORITY GROUP; AND

(II) REGARDED AS A MEMBER BY THAT MINORITY COMMUNITY.

(2) A CERTIFYING AGENCY MAY DETERMINE THAT AN INDIVIDUAL'S CLAIM UNDER THIS SUBSECTION IS INVALID.

(B) DETERMINATION OF MINORITY OWNERSHIP.

(1) TO BE ELIGIBLE FOR CERTIFICATION AS A MINORITY BUSINESS ENTERPRISE AND PARTICIPATION IN A MINORITY BUSINESS ENTERPRISE UTILIZATION PROGRAM UNDER § 20–203 OR § 20–204 OF THIS SUBTITLE, A BUSINESS SHALL MEET THE STANDARDS UNDER THIS SUBSECTION.

(2) (I) A MINORITY BUSINESS ENTERPRISE SHALL BE AN INDEPENDENT BUSINESS.

(II) A CERTIFYING AGENCY SHALL DETERMINE WHETHER A BUSINESS IS INDEPENDENT BY CONSIDERING:

1. THE DATE THE BUSINESS WAS ESTABLISHED;

2. THE ADEQUACY OF THE RESOURCES OF THE BUSINESS FOR THE WORK REQUIRED UNDER THE CONTRACT;

3. THE DEGREE TO WHICH FINANCIAL, EQUIPMENT LEASING, AND OTHER RELATIONSHIPS WITH NONMINORITY BUSINESSES VARY FROM INDUSTRY PRACTICE; AND

4. ANY OTHER RELEVANT FACTOR.

(3) A MINORITY OWNER SHALL HAVE REAL, SUBSTANTIAL, AND CONTINUING OWNERSHIP AND CONTROL OF THE BUSINESS THAT GOES BEYOND THE PRO FORMA OWNERSHIP OF THE BUSINESS AS REFLECTED IN THE OWNERSHIP DOCUMENTS.

(4) A MINORITY OWNER SHALL HAVE THE CUSTOMARY INCIDENTS OF OWNERSHIP AND SHARE IN THE RISKS AND PROFITS COMMENSURATE WITH THE OWNERSHIP INTERESTS IN THE BUSINESS AS DEMONSTRATED BY AN EXAMINATION OF THE SUBSTANCE RATHER THAN THE FORM OF THE ARRANGEMENTS.

(5) RECOGNITION OF THE BUSINESS AS A SEPARATE ENTITY FOR TAX OR CORPORATE PURPOSES IS NOT NECESSARILY SUFFICIENT FOR CERTIFICATION AS A MINORITY BUSINESS ENTERPRISE.

(6) (I) A MINORITY OWNER SHALL HAVE THE POWER TO:

1. DIRECT OR CAUSE THE DIRECTION OF THE MANAGEMENT AND POLICIES OF THE BUSINESS; AND

2. MAKE THE DAY–TO–DAY AND MAJOR DECISIONS ON MATTERS OF MANAGEMENT, POLICY, AND OPERATIONS FOR THE BUSINESS.

(II) THE BUSINESS MAY NOT BE SUBJECT TO A FORMAL OR INFORMAL RESTRICTION, INCLUDING A BYLAW, PARTNERSHIP AGREEMENT, OR CHARTER REQUIREMENT FOR CUMULATIVE VOTING RIGHTS, THAT PREVENTS A MINORITY OWNER FROM MAKING A BUSINESS DECISION WITHOUT THE COOPERATION OR VOTE OF AN OWNER WHO IS NOT A MINORITY.

(7) (I) THE BUSINESS MAY NOT BE OPERATED DISPROPORTIONATELY BY THE OWNERS OF THE BUSINESS WHO ARE NOT MINORITIES.

(II) IF THE MANAGEMENT OF THE BUSINESS IS CONTRACTED OUT TO AN INDIVIDUAL OTHER THAN THE OWNER, THE INDIVIDUAL WHO HAS THE ULTIMATE POWER TO HIRE AND FIRE THE MANAGERS MAY BE CONSIDERED AS CONTROLLING THE BUSINESS.

(8) (I) MINORITIES SHALL DIRECTLY HOLD ALL SECURITIES THAT CONSTITUTE OWNERSHIP OR CONTROL OF A CORPORATION FOR THE PURPOSE OF ESTABLISHING THE CORPORATION AS A MINORITY BUSINESS ENTERPRISE.

(II) SECURITIES HELD IN TRUST OR BY A GUARDIAN FOR A MINOR MAY NOT BE CONSIDERED HELD BY MINORITIES IN DETERMINING THE OWNERSHIP OR CONTROL OF A CORPORATION.

(9) A CONTRIBUTION OF CAPITAL OR EXPERTISE BY A MINORITY OWNER TO ACQUIRE AN INTEREST IN A BUSINESS SHALL BE REAL AND SUBSTANTIAL AND MAY NOT INCLUDE:

(I) A PROMISE TO CONTRIBUTE CAPITAL;

(II) A NOTE PAYABLE TO THE BUSINESS OR OWNERS OF THE BUSINESS WHO ARE NOT SOCIALLY AND ECONOMICALLY DISADVANTAGED; OR

(III) PARTICIPATION AS AN EMPLOYEE AND NOT AS A MANAGER.

(C) DETERMINATION OF MINORITY OWNERSHIP — SPECIAL CONSIDERATIONS.

IN DETERMINING ELIGIBILITY AS A MINORITY BUSINESS ENTERPRISE, A CERTIFYING AGENCY SHALL:

(1) CLOSELY SCRUTINIZE A NEWLY FORMED BUSINESS, OR A BUSINESS FOR WHICH THE OWNERSHIP OR CONTROL HAS CHANGED SINCE THE DATE OF THE ADVERTISEMENT OF THE CONTRACT, TO DETERMINE THE REASON FOR THE TIMING OF THE FORMATION OR CHANGE;

(2) CAREFULLY REVIEW A PREVIOUS OR CONTINUING EMPLOYER–EMPLOYEE RELATIONSHIP AMONG PRESENT OWNERS TO ENSURE THAT AN EMPLOYEE–OWNER HAS THE MANAGEMENT RESPONSIBILITIES AND CAPABILITIES REQUIRED UNDER THIS SECTION; AND

(3) CAREFULLY REVIEW A RELATIONSHIP BETWEEN A MINORITY BUSINESS ENTERPRISE AND A BUSINESS THAT IS NOT A MINORITY BUSINESS ENTERPRISE THAT HAS AN INTEREST IN THE MINORITY BUSINESS ENTERPRISE TO DETERMINE IF THE INTEREST OF THE NONMINORITY BUSINESS CONFLICTS WITH THE OWNERSHIP AND CONTROL REQUIREMENTS OF THIS SECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 3–102(f)(4)(ii) through (viii).

In subsection (a) of this section, the reference to a certifying agency "determin[ing]" membership in a minority group is substituted for the former reference to membership being "established" for accuracy and consistency within this subtitle.

Subsection (b)(1) of this section is new language added, in part, and substituted, in part, for clarity. This paragraph is derived, in part, from former references to an "eligible" minority business enterprise. As to the remainder, this paragraph states expressly what was only implied in the former law.

In the introductory language of subsection (b)(2)(ii) of this section, the former reference to a "potential" minority business enterprise is deleted as unnecessary because the entire subsection applies to potential minority enterprises.

In subsection (b)(2)(ii)2 of this section, the reference to work "required under" the contract is substituted for the former reference to work "of" the contract for clarity.

In subsection (b)(4) of this section, the requirement that a minority owner "have" ownership rights and responsibilities is substituted for the former requirement that a minority owner "enjoy" ownership rights and responsibilities for clarity.

In subsection (b)(5) of this section, the reference to "certification" as a minority business enterprise is substituted for the former reference to "recognition" as a minority business enterprise for clarity and consistency.

In subsection (b)(6)(ii) of this section, the former reference to making a business decision "of the business" is deleted as unnecessary.

In subsection (b)(7)(i) of this section, the former references to the business "not [being] controlled by minorities" and "not [being] considered a minority business enterprise within the meaning of this section" are deleted as unnecessary and for brevity.

In subsection (b)(7)(ii) of this section, the reference to "the individual" is substituted for the former reference to "persons" for consistency within this subsection.

Also in subsection (b)(7)(ii) of this section, the former reference to the "actual" management of a business is deleted as unnecessary.

Also in subsection (b)(7)(ii) of this section, the former reference to being considered as controlling the business "for the purposes of this subsection" is deleted as unnecessary.

In subsection (b)(8)(i) of this section, the former reference to establishing a corporation as a minority business enterprise "under this section" is deleted as unnecessary.

In subsection (b)(9)(iii) of this section, the former reference to "[t]he mere" participation is deleted as surplusage.

In the introductory language of subsection (c) of this section, the reference to determining eligibility "as a minority business enterprise" is added for clarity.

Also in the introductory language of subsection (c) of this section, the former requirement to "give special consideration" to specific relationships in specific circumstances is deleted as included in the requirements to "closely scrutinize" or "carefully review" these relationships.

In subsection (c)(2) of this section, the reference to management responsibilities and capabilities "required" under this section is substituted for the former reference to management responsibilities and capabilities "discussed" under this section for accuracy.

Also in subsection (c)(2) of this section, the former reference to the relationship "between" specified people is deleted as included in the reference to the relationship "among" these people.

Defined term: "Minority business enterprise" §§ 20–201, 20–203

20–206. SUBCONTRACTOR PARTICIPATION GOALS.

(A) OFFICE DUTIES.

THE OFFICE SHALL VERIFY THAT A CERTIFIED MINORITY BUSINESS ENTERPRISE LISTED IN A SCHEDULE OF PARTICIPATION IS ACTUALLY

PERFORMING WORK AND RECEIVING COMPENSATION AS ESTABLISHED IN THE SCHEDULE.

(B) CONTRACTOR DUTIES.

TO FACILITATE THE OFFICE COMPLETING ITS DUTIES UNDER SUBSECTION (A) OF THIS SECTION, A CONTRACTOR SHALL:

(1) ALLOW THE OFFICE TO INSPECT ANY RELEVANT MATTER, INCLUDING RECORDS AND THE JOB SITE;

(2) ALLOW THE OFFICE TO INTERVIEW SUBCONTRACTORS AND EMPLOYEES OF THE CONTRACTOR;

(3) IF PERFORMING A CONSTRUCTION CONTRACT, ENSURE THAT SUBCONTRACTORS:

(I) ARE PAID ANY UNDISPUTED AMOUNT TO WHICH THE SUBCONTRACTOR IS ENTITLED AS PROVIDED UNDER § 15–226 OF THE STATE FINANCE AND PROCUREMENT ARTICLE; AND

(II) COMPLY WITH COMMISSION REGULATIONS;

(4) INCLUDE IN THE AGREEMENT WITH THE CERTIFIED MINORITY BUSINESS ENTERPRISE SUBCONTRACTOR A REQUIREMENT THAT THE SUBCONTRACTOR SUBMIT A MONTHLY REPORT TO THE COMMISSION THAT:

(I) IDENTIFIES THE PRIME CONTRACT; AND

(II) LISTS PAYMENTS RECEIVED FROM THE CONTRACTOR IN THE PREVIOUS MONTH AND INVOICES SENT TO THE CONTRACTOR THAT HAVE NOT BEEN PAID; AND

(5) SUBMIT A MONTHLY REPORT TO THE COMMISSION THAT LISTS:

(I) UNPAID INVOICES THAT ARE MORE THAN 30 DAYS OLD RECEIVED FROM CERTIFIED MINORITY BUSINESS ENTERPRISE SUBCONTRACTORS; AND

(II) THE REASON PAYMENTS HAVE NOT BEEN MADE.

(C) CONTRACTOR'S FINAL REPORT.

(1) (I) ON COMPLETION OF A CONTRACT OR BEFORE FINAL PAYMENT OR RELEASE OF RETAINAGE, THE COMMISSION MAY REQUIRE A GENERAL CONTRACTOR ON A CONTRACT HAVING A MINORITY BUSINESS ENTERPRISE SUBCONTRACTING GOAL TO SUBMIT TO THE COMMISSION A FINAL REPORT OF ALL PAYMENTS MADE TO OR WITHHELD FROM MINORITY BUSINESS ENTERPRISE SUBCONTRACTORS.

(II) THE FINAL REPORT SHALL BE IN AFFIDAVIT FORM AND UNDER THE PENALTIES FOR PERJURY.

(2) EACH SOLICITATION SHALL CONTAIN NOTICE OF THE REQUIREMENTS OF THIS SUBSECTION.

(D) NONCOMPLIANCE.

(1) ON A FINDING THAT A CONTRACTOR IS NONCOMPLIANT, THE COMMISSION SHALL NOTIFY THE CONTRACTOR IN WRITING OF THE FINDINGS AND STATE THE REQUIRED CORRECTIVE ACTION.

(2) A NONCOMPLIANT CONTRACTOR SHALL:

(I) INITIATE THE CORRECTIVE ACTION WITHIN 10 DAYS AFTER RECEIVING THE WRITTEN NOTICE; AND

(II) COMPLETE THE CORRECTIVE ACTION WITHIN THE TIME SPECIFIED BY THE COMMISSION.

(E) SANCTIONS.

IF THE COMMISSION FINDS THAT A GENERAL CONTRACTOR IS IN MATERIAL NONCOMPLIANCE WITH MINORITY BUSINESS ENTERPRISE CONTRACT PROVISIONS AND THE GENERAL CONTRACTOR FAILS TO TAKE THE CORRECTIVE ACTION REQUIRED BY THE COMMISSION, THE COMMISSION MAY:

(1) TERMINATE THE CONTRACT;

(2) REFER THE GENERAL CONTRACTOR TO THE GENERAL MANAGER OF THE COMMISSION OR THE FULL COMMISSION FOR APPROPRIATE ACTION; OR

(3) INITIATE ANY OTHER SPECIFIC REMEDY IDENTIFIED IN THE CONTRACT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 3–109(f)(3) through (6) and, as it related to the specifics of ensuring compliance with minority subcontractor participation goals, (2).

In subsection (b)(4)(ii) of this section, the reference to invoices "sent to the contractor" is added for clarity.

Also in subsection (b)(4)(ii) of this section, the reference to a "month" is substituted for the former reference to "30 days" to conform to the requirement in the introductory language of subsection (b)(4) of this section that the subcontractor submit a "monthly report". No substantive change is intended.

Also in subsection (b)(4)(ii) of this section, the former reference to invoices "for which the subcontractor" has not been paid is deleted as unnecessary.

In subsection (c)(1)(i) and the introductory language of subsection (e) of this section, the reference to a "general" contractor is substituted for the former reference to a "prime" contractor for consistency within this revised title.

In the introductory language of subsection (e) of this section, the reference to a "general contractor" being in material noncompliance is added for clarity.

Also in the introductory language of subsection (e) of this section, the former reference to a contractor that "refuses" to take corrective action is deleted as included in the reference to a contractor that "fails" to take corrective action.

In subsection (e)(2) of this section, the reference to referring "the general contractor" to the Commission is added for clarity.

Also in subsection (e)(2) of this section, the reference to the "full" Commission is substituted for the former reference to the "commissioners of the" Commission for clarity.

Defined terms: "Commission" § 16–101
"Minority business enterprise" §§ 20–201, 20–203
"Office" § 20–201

20–207. REPORTS.

(A) ANNUAL REPORT REQUIRED.

BY SEPTEMBER 15 OF EACH YEAR, THE COMMISSION SHALL ISSUE A REPORT TO THE MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY SENATE AND HOUSE DELEGATIONS TO THE MARYLAND GENERAL ASSEMBLY CONCERNING:

(1) THE IMPLEMENTATION AND ADMINISTRATION OF THE MINORITY BUSINESS ENTERPRISE PROGRAMS UNDER THIS SUBTITLE FOR THE FISCAL YEAR ENDING ON THE PRECEDING JUNE 30; AND

(2) APPROPRIATE RECOMMENDATIONS CONCERNING THE PROGRAMS.

(B) FACT–FINDING STUDY AUTHORIZED.

(1) THE COMMISSION MAY CONDUCT AN IMPARTIAL FACT–FINDING STUDY IN CONNECTION WITH A MINORITY BUSINESS ENTERPRISE PROGRAM FOR CONSISTENCY WITH APPLICABLE LAW.

(2) THE COMMISSION SHALL REPORT THE FINDINGS OF A STUDY COMPLETED UNDER THIS SUBSECTION TO THE MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY SENATE AND HOUSE DELEGATIONS TO THE MARYLAND GENERAL ASSEMBLY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, §§ 3–102(f)(5) and (6) and 3–109(g) and (h).

In subsection (b)(1) of this section, with respect to former Art. 29, § 3–109(g)(1), the reference to an "impartial" study is added for consistency and to state expressly what was only implied in the former law.

In subsection (b)(2) of this section, the reference to the "Senate and House" Delegations is added for accuracy.

Also in subsection (b)(2) of this section, the reference to the findings of a "study" is substituted for the former reference to the findings of a "review" for consistency within this section.

Defined terms: "Commission" § 16–101
"Minority business enterprise" §§ 20–201, 20–203

20–208. TERMINATION OF SUBTITLE.

THIS SUBTITLE SHALL BE OF NO EFFECT AND MAY NOT BE ENFORCED AFTER JULY 1, 2012.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, §§ 3–102(f)(7) and 3–109(i).

The reference to the subtitle being "of no effect" is substituted for the former references to it being "null" and "void" to conform to terminology used in § 14–309 of the State Finance and Procurement Article.

SUBTITLE 3. LOCAL SMALL BUSINESS ENTERPRISE PROGRAM.

20–301. "PROGRAM" DEFINED.

IN THIS SUBTITLE, "PROGRAM" MEANS A LOCAL SMALL BUSINESS ENTERPRISE PROGRAM.

REVISOR'S NOTE: This section is new language added to avoid repetition of the full reference to a "local small business enterprise program".

20–302. AUTHORIZED.

(A) ESTABLISHED.

BY RESOLUTION OR ADOPTING REGULATIONS, THE COMMISSION MAY ESTABLISH A LOCAL SMALL BUSINESS ENTERPRISE PROGRAM.

(B) ADMINISTRATION.

THE OFFICE OF SMALL, LOCAL, AND MINORITY BUSINESS ENTERPRISE, ESTABLISHED UNDER § 20–202 OF THIS TITLE, SHALL ADMINISTER THE PROGRAM.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 3–110(a).

In subsection (b) of this section, the former reference to the program "established under paragraph (1) of this subsection" is deleted as unnecessary.

The Washington Suburban Sanitary Commission Law Review Committee notes, for consideration by the General Assembly, that in subsection (a) of this section, the Commission shall establish a minority business enterprise program "[b]y resolution or adopting regulations". In § 20–203(b)(1) and § 20–204(a)(1) of this title, the Commission may

establish a minority business enterprise utilization program "[b]y resolution and adopting regulations". These provisions are inconsistent and the General Assembly may wish to address this discrepancy.

Defined terms: "Commission" § 16–101
"Program" § 20–301

20–303. PURPOSE.

THE PURPOSE OF THE PROGRAM IS TO ASSIST SMALL BUSINESSES IN MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY BY:

(1) ESTABLISHING A SHELTERED MARKET OR OTHER APPROPRIATE PREFERENCE; OR

(2) FACILITATING THE AWARD OF COMMISSION CONSTRUCTION CONTRACTS OR PROCUREMENT CONTRACTS FOR GOODS AND SERVICES TO SMALL BUSINESSES IN MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 3–110(b).

In item (2) of this section, the reference to awarding contracts "to small businesses in Montgomery County and Prince George's County" is added for clarity.

Also in item (2) of this section, the reference to "procurement contracts for" goods and services is substituted for the former reference to "the procurement of" goods and services for clarity.

Defined terms: "Commission" § 16–101
"Program" § 20–301

20–304. ELIGIBILITY.

(A) ELIGIBILITY CRITERIA.

THE COMMISSION SHALL ADOPT:

(1) ELIGIBILITY CRITERIA FOR BUSINESSES TO QUALIFY FOR THE PROGRAM, INCLUDING:

(I) THE CRITERIA FOR A SMALL BUSINESS QUALIFYING UNDER THE SMALL BUSINESS PREFERENCE PROGRAM AS ESTABLISHED IN

REGULATIONS ADOPTED BY THE DEPARTMENT OF GENERAL SERVICES UNDER § 14–203 OF THE STATE FINANCE AND PROCUREMENT ARTICLE;

(II) A REQUIREMENT THAT:

1. THE BUSINESS'S PRINCIPAL PLACE OF BUSINESS BE IN MONTGOMERY COUNTY OR PRINCE GEORGE'S COUNTY; OR

2. AT LEAST 25% OF THE TOTAL NUMBER OF EMPLOYEES OF THE BUSINESS BE DOMICILED IN MONTGOMERY COUNTY OR PRINCE GEORGE'S COUNTY; AND

(III) ANY OTHER ELIGIBILITY CRITERIA THAT THE COMMISSION DETERMINES TO BE NECESSARY OR APPROPRIATE FOR THE PROMOTION OF SMALL BUSINESSES IN THE COMMISSION'S SERVICE AREA; AND

(2) ADMINISTRATIVE PROCEDURES FOR CONDUCTING THE PROGRAM.

(B) RACE, ETHNICITY, OR GENDER NOT CONSIDERED.

A BUSINESS MAY QUALIFY AS A LOCAL SMALL BUSINESS ENTERPRISE UNDER THE PROGRAM WITHOUT REGARD TO THE RACE, ETHNICITY, OR GENDER OF THE PARTICIPANTS IN THE BUSINESS.

(C) GRADUATION CRITERIA.

THE COMMISSION SHALL ESTABLISH CRITERIA FOR GRADUATION FROM THE PROGRAM FOR A LOCAL SMALL BUSINESS THAT THE COMMISSION DETERMINES NO LONGER REQUIRES THE ASSISTANCE OR BENEFITS OFFERED BY THE PROGRAM.

(D) REVIEW OF CRITERIA AND PROCEDURES.

THE COMMISSION SHALL REVIEW THE ELIGIBILITY CRITERIA AND ADMINISTRATIVE PROCEDURES OF THE PROGRAM EACH YEAR TO ASSESS THEIR EFFECTIVENESS IN FURTHERING THE PURPOSES OF THE PROGRAM.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 3–110(c) through (f).

In the introductory language of subsection (a)(1)(ii) of this section, the reference to "a requirement" is added for clarity.

In subsection (a)(1)(ii)2 of this section, the former reference to requiring "a significant employee presence in Montgomery County or Prince George's County" is deleted as unnecessary in light of the 25% minimum threshold of employees who must be domiciled in these counties for a business to qualify for the program.

In subsection (a)(1)(iii) of this section, the former reference to criteria that is "otherwise" appropriate is deleted as unnecessary.

Also in subsection (a)(1)(iii) of this section, the former reference to the promotion of "local" small businesses is deleted as included in the reference to the promotion of small businesses "in the Commission's service area".

Defined terms: "Commission" § 16–101
"Program" § 20–301

TITLE 21. PROPERTY AND LAND USE MATTERS.

SUBTITLE 1. ACQUISITION AND DISPOSITION OF PROPERTY.

21–101. ACQUISITION OF PROPERTY.

(A) "PROPERTY" DEFINED.

IN THIS SECTION, "PROPERTY" INCLUDES:

(1) LAND;

(2) STRUCTURES;

(3) BUILDINGS;

(4) STREAMBEDS;

(5) WATERWAYS;

(6) WATER RIGHTS;

(7) WATERSHEDS;

(8) WATER SYSTEMS AND PARTS OF WATER SYSTEMS; AND

(9) WASTEWATER SYSTEMS AND PARTS OF WASTEWATER SYSTEMS.

(B) ELIGIBLE PROPERTY.

THE COMMISSION MAY ACQUIRE PROPERTY FOR THE CONSTRUCTION, EXTENSION, MAINTENANCE, OR OPERATION OF A PROJECT THE COMMISSION CONSIDERS:

(1) NECESSARY TO CARRY OUT THIS DIVISION; OR

(2) IN FURTHERANCE OF THIS DIVISION.

(C) TYPES OF INTEREST.

IF THE COMMISSION DECIDES TO ACQUIRE PROPERTY WITHIN OR OUTSIDE THE SANITARY DISTRICT IN ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION, THE COMMISSION MAY ACQUIRE THE PROPERTY:

(1) IN FEE; OR

(2) AS AN EASEMENT.

(D) CONDEMNATION — IN GENERAL.

IF THE COMMISSION FAILS TO AGREE ON THE TERMS OF ACQUISITION WITH THE OWNER OF ANY PROPERTY, THE COMMISSION MAY CONDEMN THE PROPERTY BY FILING A PETITION FOR CONDEMNATION IN THE CIRCUIT COURT FOR THE COUNTY IN WHICH THE PROPERTY IS SITUATED, AS PROVIDED FOR CONDEMNATION OF LAND UNDER THE REAL PROPERTY ARTICLE.

(E) CONDEMNATION — OTHER INTERESTS.

THE COMMISSION MAY CONDEMN THE INTEREST OF ANY TENANT, LESSEE, OR OTHER PERSON HAVING AN INTEREST IN PROPERTY THAT THE COMMISSION DECIDES TO ACQUIRE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 1–202(a) through (c) and (e).

In subsection (c) of this section, the reference to the Commission "acquir[ing]" property is substituted for the former reference to "purchas[ing]" property for consistency within the subsection.

In subsection (d) of this section, the reference to agreeing "on the terms of acquisition" is added for clarity.

Also in subsection (d) of this section, the reference to "filing a petition for condemnation" is substituted for the former reference to "proceedings" for clarity.

In subsection (e) of this section, the reference to property "that the Commission decides to acquire" is added for clarity.

Defined terms: "Commission" § 16–101
"County" § 16–101
"Person" § 16–101
"Sanitary district" § 16–101

21–102. CONDEMNATION — LAND USED FOR CEMETERY PURPOSES.

(A) RESOLUTION REQUIRED.

(1) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, LAND USED FOR CEMETERY PURPOSES MAY NOT BE CONDEMNED UNLESS THE COMMISSION ADOPTS A RESOLUTION DECLARING THAT IT IS NECESSARY FOR THE PUBLIC HEALTH AND SAFETY TO ACQUIRE THE CEMETERY LAND, OR AN EASEMENT IN THE LAND, IMMEDIATELY BY CONDEMNATION.

(2) A RESOLUTION UNDER THIS SUBSECTION MAY ONLY BE ADOPTED ON THE AFFIRMATIVE VOTE OF A MAJORITY OF THE COMMISSIONERS FROM THE COUNTY WHERE THE CEMETERY LAND IS LOCATED.

(B) EXCEPTION FOR SEWER OR WATER LINES.

(1) THE COMMISSION MAY CONDEMN PUBLIC OR PRIVATE LAND USED FOR CEMETERY PURPOSES, OR AN EASEMENT IN THE LAND, WITHOUT ADOPTING A RESOLUTION IN ACCORDANCE WITH SUBSECTION (A) OF THIS SECTION IF THE LAND OR EASEMENT IS FOR THE PURPOSE OF INSTALLING SEWER LINES OR WATER LINES.

(2) SEWER LINES OR WATER LINES INSTALLED ON PROPERTY CONDEMNED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE CONSTRUCTED UNDERGROUND AND ENCLOSED.

(C) PROHIBITION AGAINST DISTURBING GRAVE.

THE LAND OR EASEMENT TO BE ACQUIRED MAY NOT DISTURB:

(1) ANY EXISTING GRAVE, GRAVE MARKER, OR MONUMENT; OR

(2) ANY GRAVE SITE:

(I) THE TITLE TO WHICH HAS BEEN TRANSFERRED AS A RESULT OF A BONA FIDE SALE OR EXCHANGE; OR

(II) IN WHICH BURIAL RIGHTS HAVE VESTED OR BEEN TRANSFERRED AS A RESULT OF A BONA FIDE SALE OR EXCHANGE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 1–202(d).

In subsection (b)(1) of this section, the reference to condemning land "without adopting a resolution in accordance with subsection (a) of this section" is added for clarity.

Also in subsection (b)(1) of this section, the former reference to the land or easement "sought to be acquired by the WSSC" is deleted as unnecessary.

In subsection (b)(2) of this section, the reference to "underground" is substituted for the former reference to "below the surface of the earth" for brevity and consistency with terminology used throughout this article.

Defined terms: "Commission" § 16–101
"Commissioner" § 16–101
"County" § 16–101

21–103. DISPOSITION OF PROPERTY.

IF THE COMMISSION DOES NOT CONSIDER THE PROPERTY NECESSARY FOR THE OPERATION OF ITS WATER, SEWER, OR STORMWATER MANAGEMENT SYSTEMS, THE COMMISSION MAY SELL, LEASE, TRANSFER, CONVEY, OR DISPOSE OF ANY OF ITS REAL OR PERSONAL PROPERTY ON TERMS AND CONDITIONS THAT THE COMMISSION CONSIDERS ADVANTAGEOUS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 1–203.

The reference to "stormwater management" is substituted for the former reference to "storm drainage" for clarity and consistency throughout this division.

The reference to selling, leasing, transferring, conveying, "or" disposing of property is substituted for the former reference to selling, leasing, transferring, conveying, "and" disposing of property for accuracy.

The Washington Suburban Sanitary Commission Law Review Committee notes, for consideration by the General Assembly, that because the Commission does not currently operate any stormwater management systems and because the counties currently have authority over stormwater management, the reference to stormwater management systems in this section may be obsolete.

Defined term: "Commission" § 16–101

SUBTITLE 2. PRINCE GEORGE'S COUNTY QUICK TAKE.

21–201. WATER SUPPLY, SANITARY SEWER, OR STORMWATER MANAGEMENT PROJECT.

IN THIS SUBTITLE, "WATER SUPPLY, SANITARY SEWER, OR STORMWATER MANAGEMENT PROJECT" INCLUDES A:

(1) WATER MAIN, SEWER, OR DRAIN OR APPURTENANCE OF A WATER MAIN, SEWER, OR DRAIN;

(2) FIRE HYDRANT;

(3) RESERVOIR;

(4) WATER PURIFICATION PLANT;

(5) TANK;

(6) PUMPING STATION; AND

(7) SEWAGE DISPOSAL PLANT.

REVISOR'S NOTE: This section formerly was Art. 29, § 2–101.

In the introductory language of this section and throughout this subtitle, the references to "stormwater management" are substituted for the former references to "drainage" for clarity and consistency with terminology used throughout this division.

The only other changes are in style.

The Washington Suburban Sanitary Commission Law Review Committee notes, for consideration by the General Assembly, that there were references throughout former Art. 29, Title 2, to "drainage project",

"drain", and "drainage system". These refer to stormwater management drainage projects, drains, and drainage systems. Currently, the Commission does not exercise stormwater management and those functions have been transferred to Montgomery County and Prince George's County. Therefore, the references to "stormwater management project", "drain", and "stormwater management system" may be obsolete.

21–202. PURPOSE OF SUBTITLE.

THE PURPOSE OF THIS SUBTITLE IS TO PROVIDE THAT IN EMERGENCIES THE COMMISSION, IN ITS DISCRETION, MAY CONDEMN LAND OR INTEREST IN LAND UNDER THE OPTIONAL PROCEDURE PROVIDED BY THIS SUBTITLE BEFORE OR AFTER CONSTRUCTION OF A WATER SUPPLY, SANITARY SEWER, OR STORMWATER MANAGEMENT SYSTEM, OR PART OF A SYSTEM, HAS BEGUN.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 2–103(c)(5).

The references to "this subtitle" are substituted for the former references to "this section" to correct a drafting error in the 1982 revision of former Article 67, the predecessor to Article 29. Prior to the 1982 revision of Article 67, former § 2–1 of that article contained the Prince George's County quick take procedures. The last sentence of former § 2–1(a) provided that "[i]t is the intention of this section to provide that land or interests therein", under specified circumstances, may be condemned "under the optional procedure provided by this section". When former Article 67 was revised by Chapter 767 of the Acts of the General Assembly of 1982, former § 2–1 was divided among revised §§ 2–101 through 2–104, which collectively comprised the whole of the newly created Title 2 of former Article 67, entitled Prince George's County Quick Take. In dividing former § 2–1 into multiple sections, however, the above–quoted language from the last sentence of former § 2–1(a), which became former Art. 29, § 2–103(c)(5), was not altered to reflect the fact that the quick take procedures comprised multiple sections, rather than a single section. The references to "this section" in former § 2–103(c)(5) should have been altered to refer to "this title", in reference to Title 2 of former Article 67.

The former phrase "subject to the prohibition against the taking of any building" is deleted as unnecessary in light of the limitation in § 21–204(b) of this subtitle that "[a] building may not be taken under this subtitle".

Defined term: "Commission" § 16–101

21–203. SCOPE OF SUBTITLE.

THIS SUBTITLE APPLIES ONLY TO LAND IN PRINCE GEORGE'S COUNTY.

REVISOR'S NOTE: This section formerly was Art. 29, § 2–102.

The only change is in style.

21–204. AUTHORITY TO ACQUIRE LAND.

(A) IN GENERAL.

SUBJECT TO SUBSECTION (B) OF THIS SECTION AND §§ 21–205 AND 21–206(A) OF THIS SUBTITLE, THE COMMISSION MAY ENTER ON AND TAKE POSSESSION OF REMAINING LAND OR INTEREST IN LAND DESCRIBED IN ITEM (2) OF THIS SUBSECTION AND PROCEED WITH THE EXTENSION OR CONSTRUCTION OF A WATER SUPPLY, SANITARY SEWER, OR STORMWATER MANAGEMENT PROJECT IF THE COMMISSION:

(1) HAS ACQUIRED OR IS ACQUIRING BY PURCHASE OR OTHER PROCEDURE, INCLUDING THE CONDEMNATION PROCEDURES PROVIDED FOR IN THE REAL PROPERTY ARTICLE AND SUBTITLE 1 OF THIS TITLE, AT LEAST ONE–HALF OF THE TAKINGS OF LAND OR INTEREST IN LAND REQUIRED FOR THE EXTENSION OR CONSTRUCTION OF THE PROJECT; AND

(2) DETERMINES THAT THE REMAINING TAKINGS OF LAND OR INTEREST IN LAND ARE NEEDED FOR THE EXTENSION OR CONSTRUCTION OF THE PROJECT.

(B) BUILDING MAY NOT BE TAKEN.

A BUILDING MAY NOT BE TAKEN UNDER THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 2–103(a)(1) and (b).

In the introductory language of subsection (a) of this section, the phrase "[s]ubject to subsection (b) of this section and §§ 21–205 and 21–206(a) of this subtitle" is added for clarity.

Also in the introductory language of subsection (a) of this section, the reference to remaining land or interest in land "described in item (2) of this subsection" is added for clarity.

In subsection (a)(2) of this section, the former reference to the Commission "find[ing]" that the remaining takings are needed is deleted

as implicit in the reference to the Commission "determin[ing]" that they are needed.

Also in subsection (a)(2) of this section, the former reference to the remaining "number of" takings is deleted as unnecessary.

Defined terms: "Commission" § 16–101
"Water supply, sanitary sewer, or stormwater management project" § 21–201

21–205. WRITTEN DECLARATION OF TAKING.

(A) REQUIRED.

(1) THE COMMISSION'S RIGHT TO ENTER AND TAKE POSSESSION OF LAND OR AN INTEREST IN LAND UNDER THIS SUBTITLE TAKES EFFECT IMMEDIATELY AFTER THE FILING OF A WRITTEN DECLARATION OF TAKING IN THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY, ACCOMPANIED BY PAYMENT OF THE ESTIMATED FAIR MARKET VALUE OF THE LAND OR INTEREST IN LAND, AS REQUIRED UNDER § 21–206(A) OF THIS SUBTITLE.

(2) A DECLARATION OF TAKING MAY BE:

(I) COMBINED WITH A PETITION FOR CONDEMNATION, FILED SIMULTANEOUSLY WITH OR AS PART OF THE SAME PLEADING; OR

(II) FILED AFTER A PETITION FOR CONDEMNATION.

(B) CONTENTS.

A DECLARATION OF TAKING SHALL:

(1) INCLUDE A STATEMENT AS TO THE NUMBER OF TAKINGS IN LAND OR INTEREST IN LAND NECESSARY FOR THE EXTENSION OR CONSTRUCTION OF THE WATER SUPPLY, SANITARY SEWER, OR STORMWATER MANAGEMENT PROJECT;

(2) INCLUDE A STATEMENT THAT THE COMMISSION HAS ACQUIRED OR IS ACQUIRING BY PURCHASE OR PROCEDURES OTHER THAN THE DECLARATION OF TAKING METHOD AT LEAST ONE–HALF OF THE TAKINGS NEEDED FOR THE EXTENSION OR CONSTRUCTION OF THE PROJECT;

(3) CONTAIN A DESCRIPTION OF THE LAND OR INTEREST IN LAND BEING TAKEN;

(4) NAME THE COMMISSION AS PLAINTIFF AND THE OWNER OF THE LAND OR INTEREST IN LAND AS DEFENDANT;

(5) BE DOCKETED BY THE CLERK OF THE CIRCUIT COURT, UNLESS THE PETITION FOR CONDEMNATION IS ON FILE OR FILED SIMULTANEOUSLY WITH THE DECLARATION OF TAKING; AND

(6) IDENTIFY THE QUALIFIED APPRAISER AND SPECIFY THE ESTIMATED FAIR MARKET VALUE OF THE LAND OR INTEREST IN LAND BEING TAKEN, AS REQUIRED BY § 21–206(A) OF THIS SUBTITLE.

(C) NOTICE AND SERVICE.

NOTICE OF AND SERVICE ON THE PROPERTY OWNER OF A DECLARATION OF TAKING SHALL BE ACCOMPLISHED IN THE SAME MANNER AS IS REQUIRED FOR PETITIONS FOR CONDEMNATION.

(D) DATE OF TAKING.

IF THE COMMISSION FILES THE DECLARATION OF TAKING ACCOMPANIED BY THE PAYMENT OF THE ESTIMATED FAIR MARKET VALUE REQUIRED UNDER § 21–206(A) OF THIS SUBTITLE, THE DATE OF FILING SHALL BE THE OPERATIVE DATE OF THE TAKING TO DETERMINE:

(1) THE FAIR MARKET VALUE OF THE LAND OR INTEREST IN LAND TAKEN; AND

(2) DAMAGES, IF ANY, CAUSED BY THE TAKING.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 2–104.

In subsection (a)(1) of this section, the phrase "under this subtitle" is substituted for the former phrase "in the circumstances and on the conditions stated in this section" for brevity. The new language also corrects a drafting error in the 1982 revision of former Article 67, the predecessor to Article 29. Prior to the 1982 revision of Article 67, former § 2–1 of that article contained the Prince George's County quick take procedures. Former § 2–1(b) provided that "[t]he commission's right to enter and take possession of the land or rights therein which is authorized by this section, in the circumstances and upon the conditions herein stated, shall commence immediately upon the filing of a written declaration of taking". When former Article 67 was revised by Chapter

767 of the Acts of the General Assembly of 1982, former § 2–1 was divided among revised §§ 2–101 through 2–104, which collectively comprised the whole of the newly created Title 2 of former Article 67, entitled Prince George's County Quick Take. The above–quoted language from former § 2–1(b), which became former Art. 29, § 2–104(a)(1), was altered to provide that "[t]he WSSC's right to enter and take possession of the land or interest in the land in the circumstances and on the conditions stated in this section begins immediately on the filing of a written declaration of taking". Because former Art. 67, § 2–1 was divided into multiple sections as a result of the revision, such that the quick take procedures comprised the whole of Title 2 of that article, the reference to "this section" in former Art. 29, § 2–104(a)(1) should have been altered to refer to "this title".

Also in subsection (a)(1) of this section, the phrase "payment of the estimated fair market value of the land or interest in land, as required under § 21–206(a) of this subtitle" is substituted for the former phrases "the estimated payment" and "the estimated payment provided for in § 2–103 of this title" for clarity.

In subsection (b)(1) and (2) of this section, the references to an "extension" of the project are added for consistency with § 21–204(a) of this subtitle.

In subsection (b)(1) of this section, the former reference to a "WSSC" statement is deleted as unnecessary.

In subsection (b)(2) of this section, the former reference to one–half "or more" is deleted as unnecessary in light of the reference to "at least" one–half and for consistency with § 21–204(a) of this subtitle.

In subsection (b)(5) of this section, the former reference to the declaration of taking being docketed "as a law case" is deleted as obsolete to reflect the merger of law and equity effected by Md. Rule 2–301, which mandates "one form of action known as the 'civil action'".

In subsection (b)(6) of this section, the reference to the estimated "fair market value of the land or interest in land being taken" is substituted for the former reference to the estimated "valuation" for clarity.

In subsection (c) of this section, the reference to "property" owner is added for clarity.

In the introductory language of subsection (d) of this section, the reference to payment "of the estimated fair market value" is added for clarity.

Also in the introductory language of subsection (d) of this section, the former reference to "in any subsequent proceeding" is deleted as unnecessary.

In subsection (d)(1) of this section, the reference to fair "market" value is added for clarity and consistency with terminology used in the condemnation provisions of the Real Property Article. *See* RP Title 12.

Defined terms: "Commission" § 16–101
"Water supply, sanitary sewer, or stormwater management project" § 21–201

21–206. PAYMENT OF ESTIMATED FAIR MARKET VALUE.

(A) PAYMENT TO COURT OR OWNER.

(1) WITH THE DECLARATION OF TAKING, THE COMMISSION SHALL PAY TO THE OWNER OF THE LAND OR INTEREST IN LAND, OR TO THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY FOR THE OWNER'S BENEFIT, A SUM THAT THE COMMISSION ESTIMATES TO BE THE FAIR MARKET VALUE OF THE LAND OR INTEREST IN LAND BEING TAKEN.

(2) THE COMMISSION'S ESTIMATE OF THE FAIR MARKET VALUE OF THE LAND OR INTEREST IN LAND BEING TAKEN MAY NOT BE LESS THAN ITS APPRAISED VALUE AS EVALUATED BY AT LEAST ONE EXPERIENCED AND QUALIFIED APPRAISER, WHOSE QUALIFICATIONS AS AN APPRAISER HAVE BEEN ACCEPTED BY A COURT OF RECORD OF THE STATE.

(B) EFFECT OF ESTIMATED PAYMENT.

PAYMENT OF THE ESTIMATED FAIR MARKET VALUE OF LAND OR INTEREST IN LAND UNDER THIS SECTION DOES NOT LIMIT THE AMOUNT THAT MAY BE AWARDED WITH RESPECT TO THE LAND OR INTEREST IN LAND.

(C) RECEIPT OF MONEY PAID INTO COURT.

IF THE ESTIMATED FAIR MARKET VALUE OF THE LAND OR INTEREST IN LAND IS PAID INTO THE COURT UNDER SUBSECTION (A) OF THIS SECTION, THE PROPERTY OWNER, ON WRITTEN REQUEST TO THE CLERK OF THE COURT, MAY RECEIVE THE SUM PAID WITHOUT PREJUDICE TO ANY OF THE OWNER'S RIGHTS IF THE PROPERTY OWNER AGREES TO PAY BACK TO THE COMMISSION THE AMOUNT BY WHICH THE SUM PAID EXCEEDS THE FINAL AWARD.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 2–103(a)(2) through (4) and (c)(1).

In subsection (a)(1) of this section, the reference to fair "market" value is added for clarity and consistency with terminology used in the condemnation provisions of the Real Property Article. *See* RP Title 12.

Also in subsection (a)(1) of this section, the phrase "[w]ith the declaration of taking" is substituted for the former reference to the Commission "first" paying the owner for clarity.

Also in subsection (a)(1) of this section, the reference to the "land or interest in land being taken" is substituted for the former reference to the "property being acquired by the WSSC" for clarity and consistency with terminology used throughout this subtitle.

In subsection (a)(2) of this section, the reference to the "Commission's estimate of the fair market value of the land or interest in land being taken" is substituted for the former reference to the "estimate" for clarity.

In subsection (b) of this section, the reference to payment "of the estimated fair market value of land or interest in land under this section" is substituted for the former reference to the payment "to the property owner or to the court for the owner's benefit" for clarity.

Also in subsection (b) of this section, the former reference to the amount that may be "finally" awarded is deleted as unnecessary.

Also in subsection (b) of this section, the former reference to "subsequent condemnation proceedings" is deleted as unnecessary.

Also in subsection (b) of this section, the former reference to land or interest in land "so taken" is deleted as unnecessary.

In subsection (c) of this section, the reference to the "estimated fair market value of the land or interest in land" is substituted for the former reference to the "money" for clarity and consistency with subsection (a) of this section.

Also in subsection (c) of this section, the reference to a payment made "under subsection (a) of this section" is substituted for the former reference to a payment made "for the benefit of the owner of the land or interests in land involved" for brevity and clarity.

Also in subsection (c) of this section, the reference to the "amount by which the sum paid exceeds the final award" is substituted for the former reference to the "difference, if any, between the sum and the final award"

to clarify that the property owner is required to agree to pay to the Commission the difference between the sum paid and the final award only if the sum paid into the court is greater than the final award.

Defined terms: "Commission" § 16–101
"State" § 16–101

21–207. INSTITUTION OF CONDEMNATION PROCEEDINGS.

(A) IN GENERAL.

(1) IF THE COMMISSION AND THE OWNER OF THE LAND OR INTEREST IN LAND BEING TAKEN ARE UNABLE TO AGREE AS TO THE COMPENSATION AND DAMAGES, IF ANY, CAUSED BY THE TAKING, THE COMMISSION SHALL INSTITUTE CONDEMNATION PROCEEDINGS IN THE MANNER REQUIRED BY THE REAL PROPERTY ARTICLE AND THE MARYLAND RULES.

(2) THE COURT SHALL HEAR AND DETERMINE THE CONDEMNATION PROCEEDINGS AS SOON AS PRACTICABLE AFTER THE APPLICATION TO THE COURT.

(B) TIME FOR FILING.

IF THE CONDEMNATION PETITION IS NOT FILED AT THE SAME TIME AS THE COMMISSION PAYS THE ESTIMATED FAIR MARKET VALUE TO THE OWNER OR TO THE COURT FOR THE OWNER'S BENEFIT, THE COMMISSION SHALL FILE THE CONDEMNATION PETITION NOT LATER THAN 30 DAYS AFTER RECEIPT OF NOTICE FROM THE PROPERTY OWNER THAT A DISAGREEMENT EXISTS AS TO THE COMPENSATION AND DAMAGES, IF ANY, CAUSED BY THE TAKING.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 2–103(c)(2) through (4).

In subsection (a)(1) of this section, the reference to "the Maryland Rules" is added for accuracy.

In subsections (a)(2) and (b) of this section, the word "condemnation" is added for clarity.

In subsection (b) of this section, the reference to a disagreement existing "as to the compensation and damages, if any, caused by the taking" is added for clarity.

Also in subsection (b) of this section, the reference to the "estimated fair market value" is substituted for the former reference to the "money" for clarity and consistency.

Also in subsection (b) of this section, the references to a "petition" being "file[d]" are substituted for the former references to "proceedings" being "institute[d]" for clarity.

The Washington Suburban Sanitary Commission Law Review Committee notes, for consideration by the General Assembly, that the General Assembly may wish to repeal the references in subsections (b) and (c) of this section to compensation "and damages" as obsolete, since the term "compensation" includes damages.

Defined term: "Commission" § 16–101

SUBTITLE 3. ZONING AND LAND USE MATTERS.

21–301. ZONING MAP APPLICATIONS.

(A) DEFINITIONS.

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

(2) (I) "DISTRICT COUNCIL" HAS THE MEANING AS PROVIDED IN ARTICLE 28, TITLE 8 OF THE CODE.

(II) "DISTRICT COUNCIL" INCLUDES A DESIGNEE OR HEARING OFFICER APPOINTED BY THE DISTRICT COUNCIL.

(3) "REGIONAL DISTRICT" MEANS THE MARYLAND–WASHINGTON REGIONAL DISTRICT, AS SET FORTH IN ARTICLE 28, TITLE 7 OF THE CODE.

(B) REFERRAL FOR REVIEW AND COMMENT.

AN APPLICATION FOR AMENDMENT TO THE ZONING MAP OF THE REGIONAL DISTRICT MAY BE REFERRED BY THE RESPECTIVE DISTRICT COUNCIL TO THE COMMISSION FOR THE COMMISSION'S REVIEW AND COMMENT.

(C) WRITTEN REPORT.

(1) THE COMMISSION SHALL REVIEW EACH APPLICATION REFERRED TO IT AND SHALL REPORT IN WRITING ON EACH APPLICATION TO

THE APPROPRIATE DISTRICT COUNCIL NOT LESS THAN 15 DAYS BEFORE THE REGULARLY SCHEDULED PUBLIC HEARING ON THE APPLICATION.

(2) THE REPORT SHALL INCLUDE AN ANALYSIS OF THE PROBABLE IMPACT ON EXISTING AND PROPOSED SEWER, WATER, OR OTHER COMMISSION FACILITIES IN TERMS OF:

(I) TREATMENT FACILITIES;

(II) SEWER LINES OF BOTH PROGRAM AND LESS–THAN–PROGRAM SIZE;

(III) THEIR RESPECTIVE DESIGN CAPACITY AND PRESENT VOLUME FLOW TO CAPACITY RELATIONSHIP;

(IV) CONSTRUCTION SCHEDULES; AND

(V) PROPOSED PROJECTS UNDER THE 6–YEAR CAPITAL IMPROVEMENTS PROGRAM OR 10–YEAR WATER AND SEWER PLAN.

(D) SUPPLEMENTAL INFORMATION.

WITH RESPECT TO AN APPLICATION REFERRED TO THE COMMISSION UNDER SUBSECTION (B) OF THIS SECTION, THE COMMISSION SHALL PROVIDE SUPPLEMENTAL INFORMATION REQUESTED BY THE DISTRICT COUNCIL AT LEAST 15 DAYS BEFORE THE REGULARLY SCHEDULED PUBLIC HEARING ON THE APPLICATION OR WITHIN 15 DAYS AFTER THE COMMISSION RECEIVES THE REQUEST, WHICHEVER IS LATER.

(E) AVAILABILITY OF STAFF.

ON REQUEST OF THE DISTRICT COUNCIL, COMMISSION STAFF SHALL APPEAR BEFORE THE DISTRICT COUNCIL TO DISCUSS INFORMATION PROVIDED BY THE COMMISSION UNDER THIS SECTION.

REVISOR'S NOTE: Subsection (a)(1) of this section is new language added as the standard introductory language for a definition section.

Subsection (a)(2)(i) and (3) of this section is new language added to clarify the meaning of "district council" and "regional district", respectively.

Subsections (a)(2)(ii) and (b) through (e) of this section are new language derived without substantive change from former Art. 29, § 1–207.

In subsection (b) of this section, the reference to "the Commission's" review and comment is substituted for the former reference to "its" review and comment for clarity.

Also in subsection (b) of this section, the former reference to the regional district "located within Prince George's and Montgomery counties" is deleted as unnecessary in light of the fact that the regional district is located entirely within the boundaries of Montgomery County and Prince George's County.

In subsection (c)(2) of this section, the reference to "Commission" facilities is substituted for the former reference to facilities "under the jurisdiction of the WSSC" for brevity.

In subsection (d) of this section, the reference to "an application referred to the Commission under subsection (b) of this section" is substituted for the former reference to "any referred application" for clarity.

In subsection (e) of this section, the reference to "Commission staff" is substituted for the former reference to "the WSSC shall make staff available" for brevity and clarity.

Also in subsection (e) of this section, the reference to staff appearing "to discuss" information is substituted for the former reference to staff appearing "with respect to" information for clarity.

Also in subsection (e) of this section, the reference to staff information "provided by the Commission" is substituted for the former reference to information "which the WSSC is required to provide" for brevity.

Defined term: "Commission" § 16–101

SUBTITLE 4. URBAN RENEWAL PROJECTS.

21–401. "URBAN RENEWAL AUTHORITY" DEFINED.

IN THIS SUBTITLE, "URBAN RENEWAL AUTHORITY":

(1) MEANS A UNIT OF GOVERNMENT THAT IS ENGAGED IN URBAN RENEWAL ACTIVITY; AND

(2) INCLUDES:

(I) THE STATE;

(II) MONTGOMERY COUNTY;

(III) PRINCE GEORGE'S COUNTY; AND

(IV) ANY UNIT OF GOVERNMENT IN MONTGOMERY COUNTY OR PRINCE GEORGE'S COUNTY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 16–101.

Defined term: "State" § 16–101

21–402. COOPERATION BETWEEN COMMISSION AND URBAN RENEWAL AUTHORITY.

IF THE COMMISSION IS PAID OR ASSURED PAYMENT BY AN URBAN RENEWAL AUTHORITY FOR THE COMMISSION'S COSTS AND EXPENDITURES IN ACCORDANCE WITH THIS SUBTITLE, THE COMMISSION MAY COOPERATE WITH AND ASSIST THE URBAN RENEWAL AUTHORITY IN AN URBAN RENEWAL PROJECT UNDERTAKEN BY THE URBAN RENEWAL AUTHORITY BY ABANDONING, RELOCATING, INSTALLING, CONSTRUCTING, OR RECONSTRUCTING WATER OR SANITARY SEWER FACILITIES IN THE URBAN RENEWAL AREA.

REVISOR'S NOTE: This section formerly was Art. 29, § 16–102.

The only changes are in style.

Defined terms: "Commission" § 16–101
"Urban renewal authority" § 21–401

21–403. PAYMENT FOR URBAN RENEWAL PROJECTS.

(A) EXISTING COMMISSION FACILITY — PAYMENT OF ENTIRE COST LESS SALVAGE VALUE.

IF AN URBAN RENEWAL PROJECT OR AN ACT OF THE GENERAL ASSEMBLY THAT PROVIDES FOR AN URBAN RENEWAL PROGRAM REQUIRES OR RESULTS IN THE ABANDONMENT, RELOCATION, REALIGNMENT, RAISING, LOWERING, REBUILDING, OR REMOVAL OF ANY WATER OR SANITARY SEWER FACILITY OF THE COMMISSION, THE URBAN RENEWAL AUTHORITY SHALL PAY TO THE COMMISSION THE ENTIRE COST LESS ANY SALVAGE VALUE FROM THE OLD FACILITY.

(B) EXISTING COMMISSION FACILITY — NO CHANGE TO STRUCTURES UNTIL PAYMENT IS ASSURED.

AN URBAN RENEWAL AUTHORITY MAY NOT ALLOW ANY COMMISSION STRUCTURE TO BE REMOVED, ABANDONED, OR DAMAGED IN CONNECTION WITH AN URBAN RENEWAL PROJECT UNTIL:

(1) THE URBAN RENEWAL AUTHORITY HAS PAID THE COMMISSION; OR

(2) PAYMENT TO THE COMMISSION HAS BEEN ASSURED TO THE COMMISSION'S SATISFACTION, IN ACCORDANCE WITH THIS SUBTITLE.

(C) COSTS OF NEW CONSTRUCTION.

IF AN URBAN RENEWAL PROJECT REQUIRES THE CONSTRUCTION OF A NEW WATER OR SANITARY SEWER FACILITY BY THE COMMISSION, THE COMMISSION MAY:

(1) CONSTRUCT THE FACILITY IF:

(I) THE COSTS OF THE CONSTRUCTION WILL BE REPAID THROUGH EXISTING PROVISIONS FOR SPECIAL ASSESSMENTS, INCLUDING FRONT FOOT BENEFIT CHARGES; OR

(II) THE PAYMENT IS MADE OR ASSURED BY THE URBAN RENEWAL AUTHORITY; AND

(2) ENTER INTO AGREEMENTS WITH AN URBAN RENEWAL AUTHORITY PROVIDING FOR PAYMENT TO THE COMMISSION OVER A PERIOD OF TIME, WITH THE TERMS OF THE CONTRACT AND RATE OF INTEREST DETERMINED BY THE COMMISSION.

REVISOR'S NOTE: This section formerly was Art. 29, § 16–103.

In subsection (a) and the introductory language of subsection (c) of this section, the references to a "sanitary" sewer facility are added for clarity throughout this division.

The only changes are in style.

Defined terms: "Commission" § 16–101
"Urban renewal authority" § 21–401

TITLE 22. BONDS AND NOTES.

SUBTITLE 1. GENERAL OBLIGATION BONDS AND NOTES.

22–101. "BOND" DEFINED.

IN THIS SUBTITLE, "BOND" MEANS A BOND, NOTE, CERTIFICATE OF INDEBTEDNESS, SECURITY, OR OTHER INSTRUMENT EVIDENCING DEBT ISSUED AND SOLD OR OFFERED FOR SALE IN ACCORDANCE WITH LAW.

REVISOR'S NOTE: This section is new language added to clarify the applicability of this subtitle.

22–102. SANITARY DISTRICT BONDS.

(A) IN GENERAL — AUTHORIZED.

THE COMMISSION MAY ISSUE BONDS OF THE SANITARY DISTRICT IN AMOUNTS NECESSARY TO CARRY ON ITS WORK, INCLUDING FOR:

(1) ACQUISITION, DESIGN, CONSTRUCTION, RECONSTRUCTION, ESTABLISHMENT, EXTENSION, ENLARGEMENT, OR CONDEMNATION OF THE WATER AND SEWER SYSTEMS IN THE SANITARY DISTRICT OR IN AN AREA WHERE EXTENSION OF THE SYSTEMS MAY BE AUTHORIZED BY LAW;

(2) ACQUISITION OF LAND OR EQUIPMENT FOR, OR CONSTRUCTION, REMODELING, ENLARGEMENT, OR REPLACEMENT OF ANY OFFICE OR OPERATING BUILDING NECESSARY TO ADMINISTER OR OPERATE THE SYSTEMS; OR

(3) DESIGN AND CONSTRUCTION OF TRUNK SEWERS AND SEWERS OR PORTIONS OF SEWER LINES REQUIRED TO RELIEVE SEPTIC TANK FAILURES AND FOR WHICH NO FRONT FOOT BENEFIT CHARGES CAN BE COLLECTED AS DETERMINED BY THE COMMISSION, AND SEWAGE PUMPING STATIONS AND SEWAGE DISPOSAL FACILITIES, INCLUDING REIMBURSEMENT TO THE DISTRICT OF COLUMBIA OR OTHER FEDERAL AUTHORITIES FOR ANY CONSTRUCTION WITHIN THE DISTRICT OF COLUMBIA.

(B) BONDS FOR CAPITAL EQUIPMENT — AUTHORIZED.

(1) THE COMMISSION MAY ISSUE BONDS OF THE SANITARY DISTRICT FOR THE ACQUISITION OF CAPITAL EQUIPMENT IN AMOUNTS NECESSARY TO CARRY ON ITS WORK, INCLUDING:

(I) COMPUTER EQUIPMENT;

(II) LABORATORY EQUIPMENT;

(III) MAINTENANCE FIELD AND YARD EQUIPMENT;

(IV) OFFICE EQUIPMENT;

(V) TELECOMMUNICATION EQUIPMENT; AND

(VI) TRUCKS AND FLEET VEHICLES.

(2) THE BONDS MAY BE ISSUED ONLY TO FINANCE THE ACQUISITION OF EQUIPMENT:

(I) WITH A USEFUL LIFE OF 4 TO 7 YEARS;

(II) THAT THE COMMISSION EXPECTS TO FINANCE OVER A PERIOD OF 4 YEARS OR LESS; AND

(III) FOR WHICH THE COMMISSION BUDGETS ACCORDINGLY.

(3) THE PRINCIPAL OF THE BONDS ISSUED UNDER THIS SUBSECTION SHALL BE PAYABLE ANNUALLY BEGINNING NOT MORE THAN 1 YEAR AFTER THE DATE OF ISSUE.

(4) THE BONDS ISSUED UNDER THIS SUBSECTION SHALL MATURE NOT MORE THAN 4 YEARS AFTER THE DATE OF ISSUE.

(5) THE AGGREGATE AMOUNT OF BONDS ISSUED UNDER THIS SUBSECTION OUTSTANDING AT ANY TIME MAY NOT EXCEED $15,000,000, SUBJECT TO ANNUAL UPWARD ADJUSTMENT IN ACCORDANCE WITH THE CONSUMER PRICE INDEX – ALL URBAN CONSUMERS (CPI–U), FOR THE WASHINGTON, DC–MD–VA METROPOLITAN AREA, OVER THE BASE YEAR 1997.

(C) SERIAL BONDS.

EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, BONDS ISSUED UNDER THIS SECTION SHALL BE ISSUED AS SERIAL BONDS WITH THE PRINCIPAL PAYABLE ANNUALLY, BEGINNING NO LATER THAN 3 YEARS FROM THE DATE OF ISSUE.

(D) TERMS AND CONDITIONS.

(1) THE BONDS SHALL:

(I) BE ISSUED IN DENOMINATIONS DETERMINED BY THE COMMISSION;

(II) BEAR INTEREST ANNUALLY AT RATES THE COMMISSION DETERMINES TO BE ADVANTAGEOUS TO THE SANITARY DISTRICT AND IN THE PUBLIC INTEREST; AND

(III) MATURE NO LATER THAN 40 YEARS FROM THE DATE OF ISSUE.

(2) THE BONDS MAY BE:

(I) REGISTERED OR COUPON BONDS; OR

(II) REGISTRABLE AS TO PRINCIPAL WITH INTEREST REPRESENTED BY COUPONS.

(3) THE INTEREST ON THE BONDS SHALL BE PAYABLE SEMIANNUALLY.

(E) MATURITY.

(1) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE COMMISSION MAY ISSUE BONDS THAT HAVE A MATURITY OF MORE THAN 1 YEAR AS FULLY REGISTERED BONDS WITHOUT COUPONS.

(2) THE COMMISSION MAY DETERMINE THE FORM OF THE BONDS ISSUED UNDER PARAGRAPH (1) OF THIS SUBSECTION FOR THE PURPOSES OF:

(I) QUALIFYING THE INTEREST ON THE BONDS FOR EXEMPTION FROM FEDERAL INCOME TAX; AND

(II) CONFORMING TO STANDARDS AND PRACTICES FOR THE REGISTRATION AND TRANSFER OF BONDS GENERALLY FOLLOWED BY BANKS AND TRUST COMPANIES ACTING AS REGISTRARS AND TRANSFER AGENTS OF BONDS, INCLUDING:

1. SIGNING OF BONDS BY FACSIMILE SIGNATURES OF COMMISSION OFFICERS;

2. AUTHENTICATION OF BONDS BY THE MANUAL SIGNATURE OF AN OFFICER OF A BANK OR TRUST COMPANY SIGNING AS THE REGISTRAR OR TRANSFER AGENT;

3. MAINTENANCE BY REGISTRARS OR TRANSFER AGENTS OF RECORDS OF OWNERS OF BONDS;

4. COMPLYING WITH THE STANDARD RECORD DATE SYSTEM FOR PAYMENT OF INTEREST;

5. ISSUING BONDS ON THE BASIS OF BOOK ENTRIES AND CERTIFICATES; AND

6. COMPLYING WITH REQUIREMENTS FOR THE FORM OF BOND THAT IS ACCEPTABLE TO CENTRAL DEPOSITORIES USED IN THE MARKETING AND TRADING OF MUNICIPAL BOND ISSUES.

(F) TAX EXEMPT.

THE BONDS OF THE SANITARY DISTRICT OR OF THE COMMISSION ARE FOREVER EXEMPT FROM TAXATION BY THE STATE AND COUNTIES AND MUNICIPALITIES IN THE STATE.

(G) EARLY REDEMPTION.

THE BONDS MAY BE MADE REDEEMABLE BEFORE MATURITY AT THE OPTION OF THE COMMISSION AT THE PRICES AND UNDER TERMS AND CONDITIONS THAT THE COMMISSION SETS BEFORE THE BONDS ARE ISSUED.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, §§ 4–104, 4–101(a) and (f), and, except for the last clause of the first sentence, 4–110(a).

In subsections (a) and (b) of this section, the former phrase "from time to time" is deleted as unnecessary.

Also in subsections (a) and (b) of this section, the former references to issuing bonds in amounts "as it may deem" necessary and amounts "it considers" necessary are deleted as implicit in the authority to issue the bonds.

Also in subsections (a) and (b) of this section, the former references to issuing bonds "[f]or the purpose of providing funds" are deleted as unnecessary.

In subsection (a) of this section, the former reference to the Commission being "created by Chapter 122 of the Acts of the General Assembly of Maryland of 1918" is deleted as unnecessary in light of the defined term "Commission".

In subsection (a)(1) of this section, the reference to "acquisition" is substituted for the former reference to "purchase" for clarity and consistency within this section.

In subsection (a)(2) of this section, the former reference to "buildings" is deleted in light of the reference to a "building" and Art. 1, § 8, which provides that the singular generally includes the plural.

In subsection (a)(3) of this section, the former reference to "after January 1, 1951" is deleted as unnecessary.

In subsection (b) of this section, the former references to "purchase" are deleted as implicit in the references to "acquisition".

In subsection (b)(2) of this section, the former phrase "in addition to the conditions and limitations otherwise provided in this section" is deleted as unnecessary.

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

Also in subsection (c) of this section, the reference to "beginning" is substituted for the former reference to "commencing" for clarity.

Also in subsection (c) of this section, the former references to bonds "hereafter" issued under this section and under "the authority of" this section are deleted as unnecessary.

Also in subsection (c) of this section, the former reference to the principal "of any given issue" is deleted as unnecessary.

In subsection (d)(1)(ii) of this section, the former reference to "notes, certificates of indebtedness or other instruments evidencing debt of the sanitary district, issued under the provisions of this subtitle or of any other law" is deleted as unnecessary in light of the defined term "bond" in § 22–101 of this subtitle.

Also in subsection (d)(1)(ii) of this section, the former reference to a bond issued "after July 1, 1968" is deleted as unnecessary.

Also in subsection (d)(1)(ii) of this section, the former phrase "notwithstanding any other provisions of this subtitle to the contrary" is deleted as unnecessary.

In subsection (e)(1) of this section, the former reference to bonds "mean[ing] bonds, notes, and other obligations" is deleted as unnecessary in light of the defined term "bond" in § 22–101 of this subtitle. Similarly, the former reference to issuing "notes, and other obligations" is deleted.

Also in subsection (e)(1) of this section, the former reference to any provision of law "to the contrary, including, without limitation, this article, Article 31 of the Code, and the State Finance and Procurement Article" is deleted as unnecessary.

Also in subsection (e)(1) of this section, the former reference to maturity "at the date of issue" is deleted as unnecessary.

In the introductory language of subsection (e)(2) of this section, the reference to the Commission "may determine" the form of the bonds is substituted for the former reference to the form that the Commission "deems necessary or desirable" for brevity.

In subsection (f) of this section, the former references to bonds "including those heretofore issued" and "issued pursuant to the authority of this section" are deleted as unnecessary.

In subsection (g) of this section, the former reference to bonds "hereafter issued by the WSSC in its name or in the name of the sanitary district" is deleted as unnecessary.

Defined terms: "Bond" § 22–101
"Commission" § 16–101
"County" § 16–101
"Municipality" § 16–101
"Sanitary district" § 16–101
"State" § 16–101

22–103. BONDS — MAXIMUM AMOUNT ISSUED.

(A) MAXIMUM AMOUNT.

EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THE AGGREGATE PRINCIPAL AMOUNT OF BONDS OUTSTANDING AT ANY TIME THAT WILL NOT REACH FULL MATURITY WITHIN 5 YEARS FROM THE DATE OF ISSUE MAY NOT EXCEED THE GREATER OF:

(1) THE SUM OF:

(I) 3.8% OF THE TOTAL ASSESSABLE BASE OF ALL REAL PROPERTY ASSESSED FOR COUNTY TAX PURPOSES WITHIN THE SANITARY DISTRICT; AND

(II) 7% OF THE TOTAL ASSESSABLE PERSONAL PROPERTY AND OPERATING REAL PROPERTY DESCRIBED UNDER § 8–109(C) OF THE TAX – PROPERTY ARTICLE ASSESSED FOR COUNTY TAX PURPOSES WITHIN THE SANITARY DISTRICT; OR

(2) THE SUM OF:

(I) 3.8% OF THE TOTAL ASSESSABLE BASE OF ALL REAL PROPERTY ASSESSED FOR COUNTY TAX PURPOSES WITHIN THE SANITARY DISTRICT AS OF JULY 1, 1997; AND

(II) 7% OF THE TOTAL ASSESSABLE PERSONAL PROPERTY AND OPERATING REAL PROPERTY DESCRIBED UNDER § 8–109(C) OF THE TAX – PROPERTY ARTICLE ASSESSED FOR COUNTY TAX PURPOSES WITHIN THE SANITARY DISTRICT AS OF JULY 1, 1997.

(B) AGGREGATE AMOUNT REDUCED.

(1) IN THIS SUBSECTION, "GOVERNMENT OBLIGATION" MEANS:

(I) A DIRECT OBLIGATION OF THE UNITED STATES; OR

(II) AN OBLIGATION UNCONDITIONALLY GUARANTEED AS TO PRINCIPAL AND INTEREST BY THE UNITED STATES.

(2) TO CALCULATE THE MAXIMUM DEBT AUTHORIZED UNDER THIS SECTION, THE AGGREGATE AMOUNT OF BONDS OUTSTANDING IS REDUCED BY:

(I) THE AMOUNT HELD IN THE JOINT SINKING FUND ACCOUNT FOR THE PAYMENT OF PRINCIPAL OF THE BONDS; AND

(II) THE AMOUNT OF ANY BOND FOR WHICH THERE IS IRREVOCABLY DEPOSITED:

1. CASH; OR

2. GOVERNMENT OBLIGATIONS MATURING AS TO PRINCIPAL AND INTEREST AT TIMES AND IN AMOUNTS SUFFICIENT TO PROVIDE ADEQUATE AND COMPLETE PAYMENT OF THE PRINCIPAL OR REDEMPTION PRICE AND INTEREST AS REQUIRED ON THE BOND.

(C) MAXIMUM DEBT LEVEL — APPLICABILITY.

EXCEPT AS OTHERWISE PROVIDED BY AN ACT OF THE GENERAL ASSEMBLY OF MARYLAND, THE MAXIMUM DEBT LEVEL AUTHORIZED UNDER THIS SECTION APPLIES TO ANY BOND ISSUED UNDER AN ACT OF THE GENERAL ASSEMBLY OF MARYLAND ENACTED ON OR AFTER JULY 1, 1997.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, §§ 4–101(e) and the last clause of the first sentence of 4–110(a).

In subsection (a) of this section, the former reference to bond "mean[ing] any debt instrument issued by the WSSC as part of a bond issue" is deleted as unnecessary.

Also in subsection (a) of this section, the former reference to bonds "whether issued under this section or under any other provision of law" is deleted as unnecessary.

Also in subsection (a) of this section, the requirement in former Art. 29, § 4–110(a) that "the aggregate amount of bonds issued under this section shall be included in and subject to the 7.0 percent limitation under § 4–101(e) of this subtitle" is deleted as unnecessary.

In subsection (b)(1)(ii) of this section, the former reference to "the timely payment of" principal and interest is deleted as unnecessary.

In subsection (c) of this section, the phrase "[e]xcept as otherwise provided by an act of the General Assembly of Maryland" is substituted for the former phrase "unless the enabling act specifically exempts the bond by reference to or modification of this subsection" for brevity and clarity.

Also in subsection (c) of this section, the former reference to an "enabling" act of the General Assembly of Maryland is deleted as unnecessary.

Defined terms: "Bond" § 22–101
"County" § 16–101
"Sanitary district" § 16–101

22–104. GUARANTY.

(A) REQUIRED STATEMENT.

(1) THE BONDS SHALL BE:

(I) ISSUED UNDER THE HAND AND SEAL OF THE COMMISSION; AND

(II) GUARANTEED AS TO PAYMENT OF PRINCIPAL AND INTEREST BY MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY.

(2) EACH BOND SHALL CONTAIN THE FOLLOWING STATEMENT:

"THE PAYMENT OF INTEREST WHEN DUE AND THE PRINCIPAL AT MATURITY IS GUARANTEED BY MONTGOMERY AND PRINCE GEORGE'S COUNTIES, MARYLAND".

(B) COMMISSION SIGNATURES AND SEAL.

(1) THE BONDS OF THE SANITARY DISTRICT SHALL BE SIGNED:

(I) BY THE CHAIR, SECRETARY, AND TREASURER OF THE COMMISSION; OR

(II) IF AUTHORIZED BY THE COMMISSION, BY ANY TWO COMMISSIONERS.

(2) THE OFFICIAL SEAL OF THE COMMISSION SHALL BE IMPRESSED ON A BOND OF THE SANITARY DISTRICT.

(3) FOR BONDS ISSUED FOR THE PURPOSES DESCRIBED UNDER § 22–102(A)(1) AND (2) OF THIS SUBTITLE, THE COMMISSION MAY AUTHORIZE:

(I) ANY OF ITS OFFICIALS TO SIGN A BOND BY FACSIMILE SIGNATURE; AND

(II) A FACSIMILE OF THE OFFICIAL SEAL TO BE PRINTED ON THE BOND.

(4) FOR BONDS ISSUED FOR THE PURPOSES DESCRIBED UNDER § 22–102(A)(3) OF THIS SUBTITLE, THE COMMISSION MAY AUTHORIZE:

(I) ANY OF ITS OFFICIALS TO SIGN A BOND BY FACSIMILE SIGNATURE, PROVIDED THAT THE BOND IS MANUALLY SIGNED BY AT LEAST ONE OFFICIAL; AND

(II) A FACSIMILE OF THE OFFICIAL SEAL TO BE PRINTED ON THE BOND.

(C) COUNTY SIGNATURES.

WITHIN 20 DAYS AFTER THE BONDS ARE PRESENTED BY THE COMMISSION FOR SIGNING, THE GUARANTY OR ENDORSEMENT BY MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY SHALL BE SIGNED ON EACH OF THE BONDS ON BEHALF OF EACH COUNTY BY THE COUNTY EXECUTIVES OF MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY, OR BY THE COUNTY EXECUTIVE'S DESIGNEE, BY FACSIMILE OR MANUAL SIGNATURE AS THE COUNTY EXECUTIVE DETERMINES.

(D) LIABILITY.

THE LIABILITY UNDER THE GUARANTEE FOR EACH COUNTY IS IN THE SAME PROPORTION THAT THE ASSESSABLE BASE OF THAT PART OF THAT COUNTY WITHIN THE SANITARY DISTRICT BEARS TO THE ASSESSABLE BASE OF THE SANITARY DISTRICT.

(E) LIABILITY; WAIVER.

(1) THE COMMISSION MAY WAIVE THE GUARANTEE REQUIRED UNDER SUBSECTION (D) OF THIS SECTION, IF THE COMMISSION DETERMINES THAT:

(I) THE WAIVER WOULD NOT SERIOUSLY AFFECT THE SALE OF THE BONDS OF THE SANITARY DISTRICT; AND

(II) MONEY MARKET CONDITIONS JUSTIFY THE SALE OF THE BONDS OF THE SANITARY DISTRICT WITHOUT THE GUARANTEE.

(2) THE WAIVER OF THE GUARANTEE UNDER PARAGRAPH (1) OF THIS SUBSECTION ON ONE ISSUE OF BONDS MAY NOT BE CONSTRUED TO BE A WAIVER OF THE GUARANTEE OF FUTURE BOND ISSUES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, §§ 4–103, 4–101(b), and 4–110(b).

In subsection (a)(1) of this section, the reference to "[t]he bonds" is substituted for the former reference to "[t]hey" for clarity.

In subsection (a)(1)(ii) of this section, the former reference to "the County Councils" is deleted as unnecessary.

In subsection (a)(2) of this section, the phrase "[e]ach bond shall contain the following statement" is substituted for the former phrase "which guarant[y] shall be endorsed on each of [the] bonds in the following language" for brevity and clarity.

In subsection (b)(1)(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.

In subsection (b)(1)(ii) of this section, the phrase "if authorized by the Commission" is substituted for the former phrase "if the WSSC shall so provide" for clarity.

In the introductory language of subsection (b)(3) of this section, the reference to "bonds issued for the purposes described under § 22–102(a)(1) and (2) of this subtitle" is added to clarify to which bonds subsection (b)(3) of this section refers.

In subsection (b)(3)(ii) and (4)(ii) of this section, the former phrase "in which case it shall not be necessary that [the] official seal be impressed physically upon the bonds" is deleted as unnecessary in light of the reference to "a facsimile of the official seal".

In the introductory language of subsection (b)(4) of this section, the reference to "bonds issued for the purposes described under § 22–102(a)(3) of this subtitle" is added to clarify to which bonds subsection (b)(4) of this section refers.

In subsection (c) of this section, the reference to the county executive's "designee" is substituted for the former reference to "any officer designated for that purpose" for brevity.

Also in subsection (c) of this section, the former reference to signing "of [the] endorsement" is deleted as unnecessary.

Also in subsection (c) of this section, the former reference to guaranty or endorsement "by the County Council" is deleted as unnecessary.

In subsection (d) of this section, the references to the "assessable base" are substituted for the former references to the "assessable basis" for clarity.

Also in subsection (d) of this section, the former phrase "[i]n the event of any liability" is deleted as unnecessary.

Also in subsection (d) of this section, the former reference to "the whole of" the sanitary district is deleted as unnecessary.

In subsection (e) of this section, the former reference to the Commission being "a public corporation" is deleted as unnecessary in light of the definition of "Commission".

Also in subsection (e) of this section, the former reference to "[i]t is the purpose of this section to permit the WSSC to waive the present requirement of law as to the guarantee of its bonds and securities by Montgomery and Prince George's counties" is deleted as implicit in the authority to waive the guarantee.

Also in subsection (e) of this section, the former phrase "but to require such guarantee where monetary conditions seem to require the guarantee to secure a favorable sale of its securities" is deleted as unnecessary.

Also in subsection (e) of this section, the former phrases "[n]otwithstanding the foregoing provisions of this subsection" the Commission may "at its option and pursuant to the provisions of § 4–103 of this subtitle" are deleted as unnecessary in light of the organization of this revised subtitle.

Also in subsection (e) of this section, the former reference to the guarantee "of [the] counties" is deleted as implicit in the reference to the guarantee.

In the introductory language of subsection (e)(1) of this section, the reference to the "guarantee required under subsection (d) of this section" is substituted for the former reference to "the required guarantee of Montgomery and Prince George's counties of its bonds and certain other securities, as now required by law" for clarity and brevity.

Also in the introductory language of subsection (e)(1) of this section, the phrase "if the Commission determines that" is substituted for the former reference to "at its option, and if in its opinion the application of this section" for brevity.

In subsection (e)(1) of this section, the references to "bonds" are substituted for the former references to "securities" for consistency within this subtitle.

In subsection (e)(2) of this section, the phrase "may not" is substituted for the former phrase "but this section shall not be taken to mean that" for clarity and brevity.

Also in subsection (e)(2) of this section, the former references to "securities" are deleted as included in the references to "bonds".

The Washington Suburban Sanitary Commission Law Review Committee notes, for consideration by the General Assembly, that subsection (b)(3) and (4) of this section are inconsistent. Subsection (b)(3) of this section authorizes the Commission to authorize officials to sign a bond authorized by § 22–102(a)(1) and (2) of this subtitle by facsimile signature. Subsection (b)(4) of this section also authorizes the Commission to authorize officials to sign a bond authorized by § 22–102(a)(3) by facsimile signature but the bond must be manually signed by at least one official. The General Assembly may wish to amend these provisions to be consistent.

Defined terms: "Bond" § 22–101
"Commission" § 16–101
"Commissioner" § 16–101
"Sanitary district" § 16–101

22–105. DESTROYED, LOST, OR MUTILATED BONDS.

(A) REPLACEMENT BONDS — IN GENERAL.

(1) IF A BOND ISSUED BY THE COMMISSION IS DESTROYED, LOST, OR MUTILATED, THE COMMISSION MAY EXECUTE AND DELIVER TO THE HOLDER OR REGISTERED OWNER OF THE BOND A NEW BOND WITH THE SAME DATE, NUMBER, MATURITY, AND TENOR:

(I) ON CONDITIONS TO EVIDENCE OWNERSHIP AND THE DESTRUCTION OR LOSS OF THE BOND THAT THE COMMISSION DETERMINES; OR

(II) IN EXCHANGE AND SUBSTITUTION FOR AND CANCELLATION OF THE MUTILATED BOND AND ANY INTEREST COUPONS.

(2) THE COMMISSION MAY REQUIRE INDEMNITY AND PAYMENT OF CHARGES IN CONNECTION WITH THE EXCHANGE OR SUBSTITUTION OF A BOND.

(B) REPLACEMENT BONDS — GUARANTY.

(1) IF THE DESTROYED, LOST, OR MUTILATED BOND WAS GUARANTEED BY MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY, THE NEW BOND ISSUED IN SUBSTITUTION SHALL BE ENDORSED WITH A GUARANTY IDENTICAL TO THE GUARANTY ON THE DESTROYED, LOST, OR MUTILATED BOND.

(2) THE ENDORSEMENT SHALL BE SIGNED AS PROVIDED IN § 22–104 OF THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 4–102.

In subsection (a)(1) of this section, the phrase "[i]f a bond" is substituted for the former phrase "[i]n case any bond heretofore or hereafter" for brevity and clarity.

Also in subsection (a)(1) of this section, the former reference to any bond issued "by the sanitary district" is deleted for accuracy because the sanitary district refers to a geographic area only and, as such, cannot issue debt.

Also in subsection (a)(1) of this section, the former reference to the Commission being "the governing body of the sanitary district" is deleted as unnecessary.

In subsection (a)(1)(i) of this section, the former phrase "in lieu of and in substitution for the bond and its coupons, if any, destroyed or lost" is deleted as unnecessary.

In subsection (a)(2) of this section, the reference to "[t]he Commission may require" indemnity and payment is added for clarity.

In subsection (b)(1) of this section, the former reference to a bond being guaranteed "as to payment of principal and interest" is deleted as unnecessary.

Also in subsection (b)(1) of this section, the former reference to the new bond issued in substitution "for such mutilated or destroyed or lost bond" is deleted as unnecessary.

In subsection (b)(2) of this section, the former reference to § 22–104 of this subtitle "as amended" is deleted as unnecessary.

Defined terms: "Bond" § 22–101
"Commission" § 16–101

22–106. REPAYMENT OF BONDS.

(A) TAX IMPOSED.

(1) TO RETIRE AND PAY THE INTEREST ON BONDS ISSUED UNDER THIS SUBTITLE, EACH YEAR THE COUNTY COUNCILS OF MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY SHALL IMPOSE AGAINST THE ASSESSABLE PROPERTY THAT IS IN THE SANITARY DISTRICT A TAX SUFFICIENT TO PAY THE PRINCIPAL OF AND INTEREST ON THE BONDS, AS AND WHEN DUE AND UNTIL PAID IN FULL.

(2) THE TAX IS TO BE DETERMINED, IMPOSED, COLLECTED, AND PAID OVER TO THE COMMISSION AS PROVIDED IN THIS SECTION.

(3) EACH YEAR THE COMMISSION SHALL DETERMINE THE AMOUNT NECESSARY TO PAY THE PRINCIPAL AND INTEREST ON BONDS ISSUED TO PROVIDE FUNDS FOR THE CONSTRUCTION, REMODELING, ENLARGEMENT, OR REPLACEMENT OF ANY OFFICE OR OPERATING BUILDING.

(4) (I) THE COMMISSION SHALL SET ASIDE THE AMOUNT DETERMINED UNDER PARAGRAPH (3) OF THIS SUBSECTION FROM WATER SERVICE CHARGES, SEWER USAGE CHARGES, HOUSE CONNECTION CHARGES, AND ANY OTHER CHARGES IMPOSED BY THE COMMISSION AS THE COMMISSION DETERMINES TO BE FAIR AND EQUITABLE.

(II) THE AMOUNT SET ASIDE SHALL BE DEDUCTED FROM THE AMOUNT THAT THE COMMISSION DETERMINES TO BE NECESSARY TO BE RAISED BY DIRECT TAXATION UNDER THIS SECTION ON CERTIFICATION TO THE COUNTY COUNCILS OF MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY.

(B) CERTIFICATION OF TAX BASE.

AT LEAST 30 DAYS BEFORE THE TAXABLE YEAR FOR PROPERTY TAXES, THE COUNTY EXECUTIVES OF MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY SHALL CERTIFY TO THE COMMISSION THE TOTAL VALUATION OF ASSESSABLE PROPERTY WITHIN THE SANITARY DISTRICT IN EACH COUNTY.

(C) CERTIFICATION OF NECESSARY TAX RATE.

(1) THE COMMISSION SHALL DETERMINE THE AMOUNT NECESSARY, FOR THE NEXT TAXABLE YEAR, TO PAY:

(I) INTEREST ON ALL OUTSTANDING BONDS;

(II) PRINCIPAL OF ALL SERIAL BONDS MATURING DURING THE YEAR; AND

(III) THE PROPORTIONATE PART OF PRINCIPAL OF ALL OUTSTANDING SINKING FUND BONDS AS DETERMINED BY THE USUAL TABLE OF REDEMPTION OF BONDS BY ANNUAL DEPOSIT IN A SINKING FUND ON INTEREST.

(2) AFTER DEDUCTING ALL AMOUNTS IN HAND APPLICABLE TO PAYMENT OF INTEREST AND PRINCIPAL ON THE BONDS, THE COMMISSION SHALL CERTIFY TO THE COUNTY COUNCILS OF MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY THE NUMBER OF CENTS PER $100 NECESSARY TO RAISE THE AMOUNT DETERMINED UNDER PARAGRAPH (1) OF THIS SUBSECTION.

(D) TAX IMPOSED BY COUNTIES.

(1) EACH YEAR THE COUNTY COUNCILS OF MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY SHALL IMPOSE A TAX IN THE AMOUNT DETERMINED UNDER SUBSECTION (C)(1) OF THIS SECTION ON ALL ASSESSABLE PROPERTY WITHIN THE SANITARY DISTRICT.

(2) THE TAXES IMPOSED UNDER THIS SECTION SHALL:

(I) HAVE THE SAME STATUS AS COUNTY TAXES; AND

(II) BE IMPOSED AND COLLECTED BY THE TAX COLLECTING AUTHORITY FOR EACH COUNTY AS COUNTY TAXES.

(E) PAYMENT OF COLLECTED TAXES TO COMMISSION.

EVERY 60 DAYS, EACH COUNTY SHALL PAY TO THE COMMISSION THE TAXES COLLECTED UNDER THIS SECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, §§ 4–101(c), 4–110(c), the first through fourth sentences of 4–105(a), and the last clause of the second sentence of 4–107.

In subsections (a) and (d) of this section, the references to "impose" and "imposed" are substituted for the former references to "levy" and "levied" for clarity and consistency within this division.

In subsections (a)(1) and (c) of this section, the former references to "notes" are deleted as included in the references to "bonds".

In subsection (a)(1) of this section, the reference to "pay[ing]" the interest on bonds is substituted for the former reference to "meet[ing]" the interest for clarity.

Also in subsection (a)(1) of this section, the phrase "as and when due and until paid in full" is substituted for the former references to "so long as [any of such] bonds [or notes] are outstanding and not paid" and "as they mature" for brevity and clarity.

Also in subsection (a)(1) of this section, the former reference to bonds "authorized to be" issued is deleted as unnecessary.

In subsection (a)(2) of this section, the reference to the tax being paid over to the Commission "as provided in this section" is substituted for the former reference to the tax being paid over to the Commission "in the manner provided by § 4–105 of this subtitle, and all of the provisions of § 4–105 of this subtitle shall apply to the bonds issued hereunder" in light of the organization of this revised subtitle.

In subsection (a)(3) of this section, the reference to the amount necessary to "pay the principal and interest" is substituted for the former reference to the amount necessary to "meet the principal and interest requirements" for clarity.

Also in subsection (a)(3) of this section, the former reference to bonds "issued under the provisions of this section" is deleted as unnecessary.

Also in subsection (a)(3) of this section, the former reference to "buildings" is deleted in light of the reference to a "building" and Art. 1, § 8, which provides that the singular generally includes the plural.

In subsection (a)(4)(i) of this section, the reference to "the amount" is substituted for the former reference to "so much of the receipts" for clarity and brevity.

In subsection (b) of this section, the reference to the valuation of property within the sanitary district "in each county" is added for clarity.

Also in subsection (b) of this section, the reference to the "taxable year for property taxes" is substituted for the former reference to the "tax levying period of each year" for clarity.

Also in subsection (b) of this section, the reference to the "county executives of Montgomery County and Prince George's County" is substituted for the former reference to the "respective county executives" for accuracy.

Also in subsection (b) of this section, the reference to "total" valuation is substituted for the former reference to "whole" valuation for clarity.

In the introductory language of subsection (c)(1) of this section, the reference to the amount necessary "for the next taxable year" is substituted for the former reference to the amount "to be raised for the ensuing year" for clarity.

In subsection (c)(1)(iii) of this section, the former reference to "the amount to be paid on the principal of such sinking fund bonds in any 1 year" is deleted as surplusage.

In subsection (c)(2) of this section, the reference to "the amount determined under paragraph (1) of this subsection" is substituted for the former reference to "such amount" for clarity.

Also in subsection (c)(2) of this section, the former reference to the Commission "determin[ing]" the number of cents is deleted as included in the requirement that the Commission "certify" the number.

Also in subsection (c)(2) of this section, the former reference to "the balance remaining to be raised" is deleted as unnecessary.

Also in subsection (c)(2) of this section, the former reference to the amount "for collection by taxation" is deleted as unnecessary.

In subsection (d)(1) of this section, the reference to "[e]ach year the county councils of Montgomery County and Prince George's County shall impose" a tax is substituted for the former reference to "[t]he County Councils of Montgomery and Prince George's counties in their next annual levy shall levy" a tax for clarity.

Also in subsection (d)(1) of this section, the reference to "a tax in the amount determined under subsection (c)(1) of this section" is substituted for "such tax" for clarity and accuracy.

Also in subsection (d)(1) of this section, the reference to all "assessable property" is substituted for the former reference to all "land and improvements and any other property assessed for county tax purposes" for brevity.

In subsection (d)(2)(i) of this section, the reference to taxes having the same "status" as county taxes is substituted for the former reference to taxes having the same "priority rights, bear the same interest and penalties and in every respect be treated the same" as county taxes for brevity.

In subsection (d)(2)(ii) of this section, the former reference to taxes that "now are or may be hereafter by law levied and collected" is deleted as unnecessary.

Also in subsection (d)(2)(ii) of this section, the former reference to taxes imposed "for the ensuing year" is deleted as unnecessary.

In subsection (e) of this section, the reference to "each county" is substituted for the former reference to "they" for clarity.

Defined terms: "Bond" § 22–101
"Commission" § 16–101
"County" § 16–101
"Sanitary district" § 16–101

22–107. CURRENT BOND FUND.

(A) IN GENERAL.

(1) THE AMOUNT COLLECTED BY THE COMMISSION FOR BENEFITS IMPOSED AGAINST PROPERTY FOR WATER SUPPLY AND SEWER CONSTRUCTION UNDER TITLE 25, SUBTITLE 2 OF THIS ARTICLE SHALL BE SET ASIDE IN A SEPARATE FUND KNOWN AS THE CURRENT BOND FUND.

(2) (I) THE CURRENT BOND FUND SHALL BE USED TO PAY INTEREST ON ALL OUTSTANDING BONDS.

(II) THE BALANCE OF THE CURRENT BOND FUND SHALL BE PRORATED MONTHLY AND APPLIED TO:

1. THE PAYMENT OF THE PRINCIPAL OF MATURING SERIAL BONDS; AND

2. THE PAYMENT INTO THE JOINT SINKING FUND ACCOUNT, AS PROVIDED UNDER § 22–108 OF THIS SUBTITLE, OF THE PROPORTIONATE PART OF THE PRINCIPAL OF OUTSTANDING SINKING FUND BONDS AS THE OUTSTANDING PAR VALUE OF BOTH TYPES OF BONDS BEAR TO EACH OTHER.

(B) CREDIT DEDUCTION.

TO DETERMINE THE AMOUNT NECESSARY TO BE IMPOSED UNDER § 22–106 OF THIS SUBTITLE, THE COMMISSION SHALL DEDUCT THE AMOUNT TO ITS CREDIT IN THE CURRENT BOND FUND ACCOUNT FROM THE AMOUNT NECESSARY TO BE RAISED IN ANY 1 YEAR FOR INTEREST ON ALL OUTSTANDING BONDS.

REVISOR'S NOTE: This section is new language derived without substantive change from the first sentence and the first clause of the second sentence of former Art. 29, § 4–107.

In subsections (a)(1) and (b) of this section, the references to "imposed" are substituted for the former references to "levied" for clarity and consistency within this division.

In subsection (a)(1) of this section, the reference to "[t]he amount" is substituted for the former reference to "[a]ll sums" for clarity.

Also in subsection (a)(1) of this section, the former reference to "designated" is deleted as included in the reference to "known as".

In subsection (a)(2)(i) of this section, the reference to the "Current Bond Fund" is substituted for the former reference to "which fund" for clarity.

In subsection (b) of this section, the former reference to the "whole" amount is deleted as unnecessary.

Defined terms: "Bond" § 22–101
"Commission" § 16–101

22–108. DISTRIBUTION OF FUNDS.

(A) PAYMENT OF BONDS; DEPOSIT OF MONEY.

(1) FROM THE MONEY RECEIVED FROM THE TAXES IMPOSED UNDER § 22–106 OF THIS SUBTITLE TOGETHER WITH THE AMOUNT IN HAND TO THE CREDIT OF THE CURRENT BOND FUND OR THE AMOUNT APPLICABLE TO THE PAYMENT OF INTEREST AND PRINCIPAL ON THE BONDS, THE COMMISSION SHALL:

(I) PAY ALL INTEREST ON THE BONDS AS AND WHEN DUE; AND

(II) PAY OR RESERVE A SUFFICIENT AMOUNT OF MONEY TO PAY THE SERIAL BONDS BECOMING DUE DURING THE TAXABLE YEAR.

(2) AFTER MAKING THE DISTRIBUTIONS REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE COMMISSION SHALL DEPOSIT IN ONE OR MORE BANKS IN MONTGOMERY COUNTY OR PRINCE GEORGE'S COUNTY, TO THE CREDIT OF BOTH COUNTIES AND THE COMMISSION, AS A JOINT FUND TO BE KNOWN AS THE SINKING FUND ACCOUNT, THE AMOUNT RAISED FOR THE PAYMENT OF THE PROPORTIONATE PART OF THE PRINCIPAL OF THE SINKING FUND BONDS.

(B) DEPOSIT OF MONEY.

THE COMMISSION AND MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY SHALL INVEST MONEY IN THE SINKING FUND ACCOUNT IN ANY BONDS IN WHICH THE U.S. TREASURY DEPARTMENT AUTHORIZES NATIONAL BANKS TO INVEST SAVINGS OR TRUST FUNDS.

(C) INADEQUATE RECEIPTS.

IF RECEIPTS FROM THE TAX OR OTHER SOURCES ARE INADEQUATE TO PAY THE PRINCIPAL OF THE SERIAL BONDS BECOMING DUE DURING THE TAXABLE YEAR AND TO DEPOSIT THE PRINCIPAL PAYMENT ON THE SINKING FUND BONDS, THE DEFICIENCY SHALL BE ADDED TO AND COLLECTED IN THE FOLLOWING YEAR'S TAX LEVY.

(D) PAYMENT OF INTEREST.

BEFORE THE FIRST TAXABLE YEAR FOR PROPERTY TAXES, THE COMMISSION MAY PAY THE INTEREST ON ANY BONDS IT ISSUES OUT OF THE PROCEEDS OF THE SALE OF THE BONDS.

REVISOR'S NOTE: This section is new language derived without substantive change from the fifth sentence of former Art. 29, § 4–105(a) and the first through third sentences of (b).

In subsection (a) of this section, the former references to "notes" are deleted as included in the defined term "bond".

In the introductory language of subsection (a)(1) of this section, the reference to the money received "from the taxes imposed under § 22–106 of this subtitle" is substituted for the former reference to the money "so" received for clarity.

In subsection (a)(1)(i) of this section, the reference to paying interest on bonds "as and when due" is substituted for the former reference to paying interest on bonds "as it matures" for consistency with the terminology used throughout this subtitle. Similarly, in subsections (a)(1)(ii) and (c) of this section, the references to "becoming due" are substituted for the former references to "maturing".

In subsection (a)(2) of this section, the phrase "[a]fter making the distributions required under paragraph (1) of this subsection" is substituted for the former phrase "and shall then" for clarity.

Also in subsection (a)(2) of this section, the reference to "Montgomery County or Prince George's County" is substituted for the former reference to "1 or both of the counties" for clarity.

In subsection (b) of this section, the reference to investing "money in" the Sinking Fund Account is added for clarity.

Also in subsection (b) of this section, the reference to "Montgomery County and Prince George's County" is substituted for the former reference to "the respective counties" for clarity.

Also in subsection (b) of this section, the former phrase "from time to time" is deleted as unnecessary.

In subsection (c) of this section, the former phrase "by reason of defaults or otherwise" is deleted as surplusage.

In subsection (d) of this section, the reference to the "taxable year for property taxes" is substituted for the former reference to the "tax levying period" for clarity.

Defined terms: "Bond" § 22–101
"Commission" § 16–101

22–109. PERFORMANCE OF ACTS REQUIRED.

TO ENSURE THE PROMPT PAYMENT OF INTEREST AND PROVISION FOR THE PAYMENT OF THE PRINCIPAL ON BONDS ISSUED UNDER THIS SUBTITLE:

(1) THE PROMPT AND PROPER PERFORMANCE OF THE ACTS REQUIRED UNDER §§ 22–106 AND 22–108 OF THIS SUBTITLE IS SPECIALLY ENJOINED; AND

(2) A PERSON WHO IS REQUIRED TO ACT UNDER §§ 22–106 AND 22–108 OF THIS SUBTITLE:

(I) SHALL PERFORM THE ACTS REQUIRED UNDER THOSE SECTIONS;

(II) SHALL PAY OVER ANY FUNDS AS REQUIRED UNDER THOSE SECTIONS; AND

(III) MAY NOT USE ANY PART OF THE FUNDS FOR ANY OTHER PURPOSE THAN FOR THE PAYMENT OF PRINCIPAL AND INTEREST ON THE BONDS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 4–105(c).

The former references to "notes" are deleted as included in the defined term "bond".

In the introductory language of this section, the phrase "[t]o ensure the prompt payment of interest and provision for the payment of the principal on bonds issued under this subtitle" is substituted for the former phrase "[i]n order that the prompt payment of interest and the proper provision for the payment of the principal of the bonds and notes shall be assured" for clarity.

In item (1) of this section, the reference to "the acts required under §§ 22–106 and 22–108 of this subtitle" is substituted for the former reference to "the respective acts and duties heretofore defined" for accuracy and clarity.

In item (2) of this section, the reference to a person who is required to "act under §§ 22–106 and 22–108 of this subtitle" is substituted for the former reference to the "necessary acts and duties hereafter set forth" for accuracy and clarity.

Defined terms: "Bond" § 22–101
"Person" § 16–101

22–110. ANTICIPATION LOANS.

(A) ANTICIPATION LOANS AUTHORIZED.

(1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE COMMISSION MAY BORROW MONEY IN ANTICIPATION OF TAXES, SALE OF BONDS, OR OTHER REVENUE OF THE FISCAL YEAR IN WHICH THE LOAN IS MADE OR THE NEXT SUCCEEDING FISCAL YEAR TO:

(I) PAY THE PRINCIPAL AND INTEREST OF BONDS DUE OR TO BECOME DUE WITHIN 4 MONTHS;

(II) PAY THE INTEREST BECOMING DUE ON ANY BONDS WITHIN 4 MONTHS AND NOT OTHERWISE ADEQUATELY PROVIDED FOR; OR

(III) MEET PAYMENTS REQUIRED TO BE MADE TO EMPLOYEES AND LABORERS AND NOT OTHERWISE PROVIDED FOR.

(2) THE LOAN SHALL BE PAYABLE NOT LATER THAN THE END OF THE FISCAL YEAR AFTER THE YEAR IN WHICH THE LOAN IS MADE.

(B) NOTES.

(1) THE COMMISSION SHALL ISSUE NEGOTIABLE NOTES FOR ALL MONEY BORROWED UNDER SUBSECTION (A) OF THIS SECTION.

(2) THE NOTES MAY BE RENEWED AND MONEY MAY BE BORROWED ON NEW NOTES TO PAY ANY INDEBTEDNESS.

(3) THE NOTES AND LOANS SHALL MATURE WITHIN THE TIME LIMIT FOR THE PAYMENT OF THE ORIGINAL LOAN.

(4) THE COMMISSION SHALL AUTHORIZE, BY RESOLUTION, THE NOTES AND SET:

(I) THE ACTUAL OR MAXIMUM FACE AMOUNT OF THE NOTES;

(II) THE ACTUAL OR MAXIMUM RATE OF INTEREST TO BE PAID ON THE AMOUNT BORROWED; AND

(III) THE ACTUAL OR APPROXIMATE MATURITY OF THE NOTES.

(5) THE COMMISSION SHALL DETERMINE THE FORM AND MANNER OF EXECUTION OF THE NOTES.

(C) OUTSTANDING NOTES.

(1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE COMMISSION MAY DETERMINE THE MANNER IN WHICH THE NOTES MAY BE DISPOSED OF.

(2) THE AGGREGATE AMOUNT OF NOTES OUTSTANDING AT ANY ONE TIME MAY NOT EXCEED AN AMOUNT EQUAL TO THE TOTAL PRINCIPAL OF AND INTEREST ON BONDS OF THE SANITARY DISTRICT DUE AND PAYABLE IN THE FISCAL YEAR IN WHICH THE NOTES ARE ISSUED.

REVISOR'S NOTE: This section is new language derived without substantive change from the fourth through eighth sentences of former Art. 29, § 4–105(b).

In the introductory language of subsection (a)(1) of this section, the phrase "[s]ubject to paragraph (2) of this subsection" is added for clarity.

In subsection (a)(1)(i) of this section, the reference to interest "becom[ing] due" is substituted for the former reference to interest "maturing" for consistency with the terminology used throughout the subtitle.

In subsection (b)(1) of this section, the reference to "[t]he Commission" issuing the notes is added for clarity.

Also in subsection (b)(1) of this section, the reference to money borrowed "under subsection (a) of this section" is substituted for the former reference to money "so" borrowed for clarity.

In subsection (b)(2) of this section, the former phrase "from time to time" is deleted as unnecessary.

Also in subsection (b)(2) of this section, the former reference to indebtedness "evidenced thereby" is deleted as unnecessary.

The Washington Suburban Sanitary Commission Law Review Committee notes, for consideration by the General Assembly, that the reference to "laborers" in subsection (a)(1)(iii) of this section may be obsolete.

Defined terms: "Bond" § 22–101
"Commission" § 16–101
"Sanitary district" § 16–101

22–111. WATER SERVICE CHARGE.

EACH YEAR THE COMMISSION SHALL:

(1) DETERMINE THE AMOUNT NECESSARY TO PAY THE PRINCIPAL AND INTEREST REQUIREMENTS OF THE BONDS; AND

(2) SET THE WATER SERVICE CHARGE OF THE SANITARY DISTRICT AT A RATE SUFFICIENT TO PAY:

(I) THE COST OF THE SERVICE; AND

(II) THE REQUIREMENTS OF BONDS, ISSUED AND OUTSTANDING, THAT ARE TO BE PAID OUT OF THE WATER SERVICE.

REVISOR'S NOTE: This section is new language derived without substantive change from the first sentence of former Art. 29, § 4–106.

In item (2) of this section, the reference to "a rate sufficient to pay" is substituted for the former reference to "such a sum as to produce" for clarity.

Also in item (2) of this section, the former reference to "in addition to" the cost of the service is deleted as unnecessary.

Also in item (2) of this section, the former reference to "the amount determined as necessary to pay the annual requirements of the bonds hereby authorized" is deleted as surplusage.

In item (2)(ii) of this section, the former reference to "any other" bonds is deleted as surplusage.

Also in item (2)(ii) of this section, the former reference to the "annual" requirements is deleted as unnecessary.

Defined terms: "Bond" § 22–101
"Commission" § 16–101
"Sanitary district" § 16–101

22–112. BOND PAYMENT.

THE AMOUNT OF WATER SERVICE CHARGES AND SEWER USAGE CHARGES COLLECTED EACH YEAR FOR THE PAYMENT OF PRINCIPAL AND INTEREST DUE ON OUTSTANDING BONDS SHALL BE DEDUCTED FROM THE AMOUNT THAT THE COMMISSION HAS DETERMINED IS NECESSARY TO BE RAISED BY AN AD VALOREM TAX ON CERTIFICATION TO THE COUNTY COUNCILS OF MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, §§ 4–110(d)(5) and the second sentence of 4–106.

The reference to the "amount" is substituted for the former references to the "sum" for clarity.

The reference to "Montgomery County and Prince George's County" is substituted for the former references to "the counties" and "said counties" for clarity and accuracy.

The reference to "an ad valorem tax" is substituted for the former references to "direct taxation" for clarity.

Defined terms: "Bond" § 22–101
"Commission" § 16–101

22–113. NEGOTIABLE BOND ANTICIPATION NOTES.

(A) AUTHORITY.

(1) SUBJECT TO WRITTEN APPROVAL OF THE COUNTY EXECUTIVES AND COUNTY COUNCILS OF MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY, THE COMMISSION, ON BEHALF OF THE SANITARY DISTRICT, MAY:

(I) BORROW MONEY FOR ANY PURPOSE FOR WHICH BONDS OF THE COMMISSION ARE TO BE ISSUED; AND

(II) ISSUE NEGOTIABLE BOND ANTICIPATION NOTES OF THE COMMISSION FOR ANY MONEY BORROWED IN ANTICIPATION OF THE ISSUANCE OF THE BONDS OR OF OTHER REVENUES FOR CAPITAL EXPENDITURES.

(2) THE AGGREGATE AMOUNT OF ALL BOND ANTICIPATION NOTES OUTSTANDING UNDER THIS SECTION AT ANY ONE TIME MAY NOT EXCEED $85,000,000.

(3) THE AGGREGATE AMOUNT OF BOND ANTICIPATION NOTES ISSUED UNDER THIS SECTION IN ANTICIPATION OF THE ISSUANCE OF BONDS THAT ARE SUBJECT TO THE 7% LIMITATION UNDER § 22–103(A) OF THIS SUBTITLE, TOGETHER WITH THE AGGREGATE AMOUNT OF BONDS THEN OUTSTANDING THAT ARE SUBJECT TO THE LIMITATION, MAY NOT EXCEED THE 7% LIMITATION.

(B) MATURITY.

(1) EXCEPT AS OTHERWISE PROVIDED FOR EMERGENT PURPOSES UNDER SUBSECTION (D) OF THIS SECTION, BOND ANTICIPATION NOTES, INCLUDING ANY RENEWALS UNDER ITEM (II) OF THIS PARAGRAPH:

(I) SHALL MATURE WITHIN 5 YEARS FROM THE DATE THE NOTES ARE FIRST ISSUED; OR

(II) IF ISSUED FOR A PERIOD OF LESS THAN 5 YEARS, MAY BE RENEWED FOR SUCCESSIVE PERIODS NOT TO EXCEED 1 YEAR EACH.

(2) THE NOTES SHALL BE PAYABLE WITHIN 5 YEARS AFTER THE DATE OF THE FIRST ISSUE.

(C) TERMS.

THE NOTES SHALL:

(1) BE ISSUED IN DENOMINATIONS DETERMINED BY THE COMMISSION;

(2) BEAR INTEREST AS PROVIDED IN § 22–102(D) OF THIS SUBTITLE;

(3) BE PAYABLE AT OR BEFORE MATURITY; AND

(4) BE IN THE FORM AND EXECUTED IN THE MANNER THAT THE COMMISSION DETERMINES.

(D) SALE.

(1) (I) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, BOND ANTICIPATION NOTES SHALL BE SOLD AT PUBLIC SALE.

(II) RENEWAL NOTES MAY BE EXCHANGED FOR OUTSTANDING NOTES ON TERMS THAT THE COMMISSION DETERMINES.

(2) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, THE COMMISSION MAY SELL THE NOTES AT A NEGOTIATED SALE IF:

(I) THE COMMISSION DETERMINES THAT, FOR ECONOMIC, ENGINEERING, OR FINANCIAL ADMINISTRATION PURPOSES, THE REQUIREMENTS FOR THE FUNDS REQUIRE THE SALE OF THE NOTES AT AN

IMMEDIATE OR EARLIER TIME THAN IS POSSIBLE THROUGH THE PROCEDURES OF A PUBLIC SALE; AND

(II) THE AMOUNT OF BOND ANTICIPATION NOTES SOLD AT NEGOTIATED SALE, ISSUED OR OUTSTANDING AT ANY ONE TIME, DOES NOT EXCEED $10,000,000.

(3) BEFORE CONCLUDING A NEGOTIATED SALE, THE COMMISSION SHALL NEGOTIATE WITH AT LEAST TWO RECOGNIZED BANKING INSTITUTIONS THAT PURCHASE BOND ANTICIPATION NOTES AND OBTAIN THE TERMS MOST FAVORABLE IN THE COMMISSION'S INTEREST.

(4) BOND ANTICIPATION NOTES SOLD AT A NEGOTIATED SALE:

(I) SHALL MATURE WITHIN A PERIOD NOT EXCEEDING 180 DAYS; AND

(II) MAY BE RENEWED NOT MORE THAN ONE TIME FOR AN ADDITIONAL PERIOD NOT TO EXCEED 180 DAYS.

(E) RETIRING BOND ANTICIPATION NOTES.

(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, BOND ANTICIPATION NOTES SHALL BE PAID FROM THE PROCEEDS OF THE BONDS IN ANTICIPATION OF WHICH THEY ARE ISSUED.

(2) (I) THE COMMISSION MAY RETIRE THE NOTES FROM FUNDS AVAILABLE FOR THE PAYMENT OF THE BONDS AUTHORIZED BY THE COMMISSION.

(II) THE AMOUNT OF THE BONDS AUTHORIZED SHALL BE REDUCED BY THE AMOUNT OF THE RETIRED NOTES.

(F) GENERAL OBLIGATION AND PLEDGE.

(1) BOND ANTICIPATION NOTES ISSUED UNDER THIS SECTION ARE GENERAL OBLIGATIONS OF THE COMMISSION.

(2) THE FULL FAITH, CREDIT, AND TAXING POWER OF THE COMMISSION SHALL BE PLEDGED FOR THE REPAYMENT OF THE NOTES.

(G) GUARANTEE.

(1) MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY SHALL GUARANTEE THE BOND ANTICIPATION NOTES AS TO PAYMENT OF PRINCIPAL AND INTEREST SUBSTANTIALLY IN THE MANNER AND FORM AND WITH THE EFFECT PROVIDED FOR THE GUARANTEE OF THE CONSTRUCTION BONDS OF THE COMMISSION ISSUED UNDER § 22–102(A)(1) OF THIS SUBTITLE.

(2) THE COMMISSION MAY WAIVE THE REQUIRED GUARANTEE.

(H) TAX EXEMPTION.

BOND ANTICIPATION NOTES ISSUED UNDER THIS SECTION, INCLUDING THE INTEREST ON THE NOTES, ARE FOREVER EXEMPT FROM TAXATION BY THE STATE AND COUNTIES AND MUNICIPALITIES IN THE STATE.

(I) CONSTRUCTION OF SECTION.

THE POWERS AND AUTHORITY GRANTED UNDER THIS SECTION ARE IN ADDITION AND SUPPLEMENTAL TO THE POWERS AND AUTHORITY GRANTED UNDER ANY OTHER LAW AND SHALL BE LIBERALLY CONSTRUED TO EFFECTUATE THE PURPOSES OF THIS SECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 4–108.

In subsection (a) of this section, the former reference to borrowing money "at any time and from time to time and in such manner as it determines" is deleted as unnecessary in light of the authority granted.

In the introductory language of subsection (a) of this section, the reference to "[s]ubject to" written approval is substituted for the former reference to "[w]ith the" written approval for clarity.

In subsection (a)(1)(i) of this section, the reference to bonds "of the Commission" is substituted for the former references to bonds "of the sanitary district" for accuracy. Similarly, in subsection (a)(1)(ii) of this section, the reference to bond anticipation notes "of the Commission" is substituted for the former reference to bond anticipation notes "of the sanitary district".

In subsection (a)(3) of this section, the reference to the limitation "under § 22–103(a) of this subtitle" is added to clarify which limitation is being referred to.

In the introductory language of subsection (b)(1) of this section, the phrase "under subsection (d) of this section" is substituted for the former

phrase "hereinafter mentioned and within the hereinafter specified limitation therefor" for clarity.

In subsection (b)(1)(i) of this section, the reference to 5 years "from the date the notes are first issued" is added for clarity.

In subsection (b)(1)(ii) of this section, the former phrase "from time to time" is deleted as unnecessary.

In subsection (c)(1) of this section, the reference to denominations "determined by the Commission" is added for clarity.

In subsection (c)(3) of this section, the former reference to notes being payable "at such time or times" is deleted as surplusage.

In subsection (d)(1)(i) of this section, the reference to "[e]xcept as provided in paragraph (2) of this subsection" is added for clarity.

In the introductory language of subsection (d)(2) of this section, the former phrase "i.e., without the requirement of a public sale" is deleted as unnecessary.

In subsection (d)(2)(i) of this section, the phrase "for economic, engineering, or financial administration purposes" is substituted for the former phrase "from an economic or engineering or orderly financial administration point of view" for clarity.

In subsection (d)(3) of this section, the former reference to banking institutions that "generally" purchase notes is deleted as surplusage.

In subsection (e)(2)(i) of this section, the former phrase "in its discretion, in lieu of retiring such notes by means of bonds" is deleted as unnecessary.

In subsection (e)(2)(ii) of this section, the former phrase "in which event" is deleted as unnecessary.

In subsection (f)(1) of this section, the reference to "this section" is substituted for the former reference to "this authority" for clarity.

Also in subsection (f)(1) of this section, the reference to bond anticipation notes being general obligations "of the Commission" is substituted for the former references to bond anticipation notes being general obligations "of the sanitary district" for accuracy. Similarly, in subsection (f)(2) of this section, the reference to the full faith, credit, and taxing power "of the Commission" is substituted for the former reference to the full faith, credit, and taxing power "of the sanitary district".

In subsection (f)(2) of this section, the reference to the full faith, credit, and taxing power of the Commission "for the repayment of the notes" is added for clarity.

In subsection (g)(1) of this section, the reference to construction bonds "of the Commission issued under § 22–102(a)(1) of this subtitle" is substituted for the former reference to construction bonds "of the sanitary district" for accuracy.

Also in subsection (g)(1) of this section, the former reference to "the County Councils of" Montgomery County and Prince George's County is deleted as unnecessary.

In subsection (g)(2) of this section, the reference to the "required" guarantee is substituted for the former reference to the guarantee "by the counties herein prescribed" for brevity.

Also in subsection (g)(2) of this section, the former reference to the Commission "at its option" waiving the guarantee is deleted as implicit in the Commission's authority to waive the guarantee.

Defined terms: "Bond" § 22–101
"Commission" § 16–101
"County" § 16–101
"Municipality" § 16–101
"Sanitary district" § 16–101
"State" § 16–101

22–114. REFUNDING BONDS — AUTHORITY TO ISSUE.

(A) AUTHORITY.

THE COMMISSION MAY BORROW MONEY AND ISSUE REFUNDING BONDS TO REFUND BONDS ISSUED AND OUTSTANDING BY THE COMMISSION IF:

(1) THE COUNTY EXECUTIVES AND COUNTY COUNCILS OF MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY APPROVE THE PLAN FOR THE ISSUANCE OF REFUNDING BONDS; AND

(2) THE COMMISSION DETERMINES THAT ISSUING REFUNDING BONDS WILL RESULT IN TOTAL SAVINGS IN DEBT SERVICE COSTS, DIRECTLY OR THROUGH ANY DEBT RESTRUCTURING.

(B) TERMS.

THE COMMISSION SHALL AUTHORIZE THE ISSUANCE OF REFUNDING BONDS BY RESOLUTION THAT MAY INCLUDE:

(1) THE DATE OF THE REFUNDING BONDS;

(2) THE MATURITY DATES OF THE REFUNDING BONDS, WHICH MAY NOT EXCEED 40 YEARS FROM THE DATE OF ISSUE;

(3) THE INTEREST RATES ON THE REFUNDING BONDS, WHICH MAY NOT EXCEED 10% ANNUALLY;

(4) THE DENOMINATIONS OF THE REFUNDING BONDS;

(5) THE FORM OF THE REFUNDING BONDS, WHICH MAY BE COUPON OR REGISTERED;

(6) REGISTRATION OR CONVERSION PRIVILEGES;

(7) THE MANNER OF EXECUTING THE REFUNDING BONDS;

(8) THE MANNER OF PAYMENT AT PLACES IN OR OUTSIDE OF THE STATE;

(9) TERMS FOR REDEMPTION BEFORE MATURITY;

(10) TERMS FOR REPLACEMENT OF MUTILATED, DESTROYED, STOLEN, OR LOST BONDS; AND

(11) ANY OTHER TERMS, CONDITIONS, OR COVENANTS.

(C) REFUNDING BONDS FOR FRONT FOOT BENEFIT CHARGES — MATURITY.

REFUNDING BONDS ISSUED TO REFUND OUTSTANDING BONDS FOR WHICH FRONT FOOT BENEFIT CHARGES HAVE BEEN IMPOSED SHALL MATURE ON OR BEFORE 1 YEAR AFTER THE DATE SET FOR THE PAYMENT OF THE FINAL INSTALLMENT OF THE FRONT FOOT BENEFIT CHARGE.

(D) PUBLIC OR NEGOTIATED SALE.

(1) REFUNDING BONDS MAY BE:

(I) EXCHANGED FOR BONDS BEING REFUNDED;

(II) SOLD AT PUBLIC SALE; OR

(III) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, SOLD AT A NEGOTIATED SALE IN AN OPEN MEETING.

(2) REFUNDING BONDS MAY BE SOLD AT A NEGOTIATED SALE IF THE COMMISSION DETERMINES:

(I) THAT A PUBLIC SALE WOULD BE IMPRACTICABLE TO EFFECTUATE THE PURPOSE OF THE REFUNDING BONDS; AND

(II) THE PRICE, TERMS, AND CONDITIONS ARE IN THE BEST INTEREST OF THE COMMISSION.

(E) APPROVAL.

(1) AT LEAST 45 DAYS BEFORE THE SALE OR EXCHANGE OF ANY REFUNDING BONDS, THE COMMISSION SHALL DELIVER ITS PLAN ON THE ISSUANCE OF THE REFUNDING BONDS TO THE COUNTY EXECUTIVES AND COUNTY COUNCILS OF MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY.

(2) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, THE COMMISSION MAY NOT SELL OR EXCHANGE THE REFUNDING BONDS UNLESS THE PLAN UNDER PARAGRAPH (1) OF THIS SUBSECTION IS APPROVED BY THE COUNTY EXECUTIVES AND COUNTY COUNCILS OF MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY.

(3) (I) ON OR BEFORE 30 DAYS AFTER THE DELIVERY OF THE PLAN, THE COUNTY EXECUTIVES AND COUNTY COUNCILS OF MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY SHALL APPROVE OR DISAPPROVE OF THE PLAN.

(II) FAILURE OF A COUNTY EXECUTIVE OR COUNTY COUNCIL OF MONTGOMERY COUNTY OR PRINCE GEORGE'S COUNTY TO ACT WITHIN 30 DAYS IS DEEMED AS APPROVAL OF THE PLAN BY THAT COUNTY.

(4) THE COUNTY EXECUTIVES AND COUNTY COUNCILS OF MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY MAY WAIVE THE TIME PERIOD REQUIREMENTS UNDER THIS SUBSECTION.

(F) VALIDITY OF SIGNATURE.

IF AN OFFICER WHOSE SIGNATURE OR FACSIMILE SIGNATURE APPEARS ON A REFUNDING BOND OR COUPON CEASES TO BE AN OFFICER BEFORE THE DELIVERY OF THE REFUNDING BOND, THE SIGNATURE OR FACSIMILE IS VALID AND SUFFICIENT AS IF THE OFFICER REMAINED IN OFFICE UNTIL DELIVERY.

(G) GUARANTEE.

REFUNDING BONDS ISSUED TO REFUND BONDS GUARANTEED AS TO PAYMENT OF PRINCIPAL AND INTEREST BY MONTGOMERY COUNTY OR PRINCE GEORGE'S COUNTY MAY BE GUARANTEED IN THE SAME MANNER AND FORM AS UNDER § 22–104 OF THIS SUBTITLE.

(H) LIMITATION.

REFUNDING BONDS AUTHORIZED UNDER THIS SECTION ARE:

(1) IN ADDITION TO ANY OTHER BONDS AUTHORIZED UNDER THIS SUBTITLE; AND

(2) INCLUDED IN COMPUTING THE AMOUNT OF BONDS THAT MAY BE ISSUED UNDER THE 7% LIMITATION UNDER § 22–103 OF THIS SUBTITLE.

(I) TAX STATUS.

REFUNDING BONDS AUTHORIZED UNDER THIS SECTION ARE FOREVER EXEMPT FROM TAXATION BY THE STATE AND COUNTIES AND MUNICIPALITIES IN THE STATE.

(J) CONSTRUCTION OF SECTION.

THE POWERS GRANTED UNDER THIS SECTION ARE NOT SUBJECT TO THE PROVISIONS OF ANY OTHER LAW IN CONFLICT WITH THE POWERS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 4–109(a) and (b).

In the introductory language of subsection (a) of this section, the reference to "bonds issued and outstanding by the Commission" is substituted for the former reference to "bonds issued by the sanitary district, at any time outstanding" for brevity and accuracy.

Also in the introductory language of subsection (a) of this section, the former phrase "from time to time" is deleted as unnecessary.

Also in the introductory language of subsection (a) of this section, the former phrase "for the purpose of effecting savings in debt service costs, directly or through any debt restructuring" is deleted as unnecessary in light of the requirement in subsection (a)(2) of this section that the Commission determine "that issuing refunding bonds will result in total savings in debt service costs, directly or through any debt restructuring".

Also in the introductory language of subsection (a) of this section, the former reference to refunding bonds "of the sanitary district" is deleted as unnecessary.

In subsection (a)(1) of this section, the former phrase "pursuant to the provisions of this section" is deleted as unnecessary.

In the introductory language of subsection (b) of this section, the former reference to "resolutions" is deleted in light of the reference to "resolution" and Art. 1, § 8, which provides that the singular generally includes the plural. Similarly, in subsection (b)(1) of this section, the former reference to "dates" is deleted in light of the reference to "date".

In subsection (b)(2) of this section, the reference to "dates" is substituted for the former reference to "time or times" for clarity.

Also in subsection (b)(2) of this section, the phrase "from the date of issue" is substituted for the former reference to "from their respective dates" for clarity.

In subsection (b)(8) of this section, the reference to the "manner" of payment is substituted for the former reference to the "medium" of payment for clarity.

In subsection (c) of this section, the reference to "imposed" is substituted for the former reference to "levied" for clarity and consistency within this division.

Also in subsection (c) of this section, the former reference to bonds "be[ing] stated to" mature is deleted as surplusage.

In subsection (d)(2)(ii) of this section, the reference to the "Commission" is substituted for the former reference to the "sanitary district" for accuracy.

In subsection (e)(3)(i) of this section, the requirement that "the county executives and county councils of Montgomery County and Prince

George's County shall approve or disapprove of the plan" within 30 days of the plan being delivered is added for clarity.

In subsection (e)(3)(ii) of this section, the reference to "that county" is substituted for the former reference to "such County Executives or County Council" for brevity.

In subsection (f) of this section, the former reference to being valid and sufficient "for all purposes" is deleted as surplusage.

In subsection (h)(1) of this section, the former reference to bonds authorized under this subtitle "or any amendments of this subtitle" is deleted as unnecessary.

Also in subsection (h)(1) of this section, the former reference to any other bonds authorized "to be issued" is deleted as unnecessary.

In subsection (i) of this section, the reference to refunding bonds "authorized under this section" is added for accuracy.

Also in subsection (i) of this section, the reference to refunding bonds being "forever exempt from taxation by the State and counties and municipalities in the State" is substituted for the former reference to "[t]he provisions of § 4–101(a) of this subtitle exempting from taxation other bonds of the sanitary district" applying to refunding bonds for brevity and clarity.

In subsection (j) of this section, the former reference to powers "expressly" granted is deleted as surplusage.

Also in subsection (j) of this section, the former reference to any "other section of this subtitle" is deleted as surplusage.

Defined terms: "Bond" § 22–101
"Commission" § 16–101
"County" § 16–101
"Municipality" § 16–101
"State" § 16–101

22–115. REFUNDING BONDS — REPAYMENT.

(A) DEPOSIT INTO TRUST FUND.

THE COMMISSION MAY DETERMINE THE AMOUNT OF PROCEEDS FROM THE REFUNDING BONDS TO DEPOSIT IN A TRUST FUND ESTABLISHED IN THE

NAME OF THE COMMISSION WITH A TRUST COMPANY OR OTHER BANKING INSTITUTION AS TRUSTEE.

(B) TRUST FUND — USE OF MONEY.

(1) MONEY IN THE TRUST FUND MAY BE INVESTED AND REINVESTED IN DIRECT OBLIGATIONS OF, OR OBLIGATIONS THE PRINCIPAL OF WHICH AND THE INTEREST ON WHICH IS GUARANTEED BY, THE UNITED STATES.

(2) THE COMMISSION MAY PROVIDE FOR THE USE OF MONEY IN THE TRUST FUND TO PAY ALL OR PART OF THE PRINCIPAL, INTEREST, AND REDEMPTION PREMIUM OF THE BONDS BEING REFUNDED AND OF THE REFUNDING BONDS.

(3) THE PROCEEDS OF THE REFUNDING BONDS SHALL BE INVESTED AND APPLIED SO THAT THE PRINCIPAL, INTEREST, AND REDEMPTION PREMIUM ON THE BONDS BEING REFUNDED IS PAID IN FULL ON MATURITY, REDEMPTION, OR INTEREST PAYMENT DATES.

(C) EARLY REDEMPTION.

ON OR AFTER THE EARLIEST REDEMPTION DATE, THE COMMISSION MAY CALL FOR REDEMPTION ANY BONDS BEING REFUNDED THAT ARE SUBJECT TO REDEMPTION BEFORE THE STATED MATURITY DATES.

(D) MULTIPLE SERIES.

(1) THE COMMISSION MAY ISSUE REFUNDING BONDS IN ONE OR MORE SERIES.

(2) (I) THE COMMISSION SHALL DETERMINE THE PRINCIPAL AMOUNT OF EACH SERIES REQUIRED TO ACHIEVE THE PURPOSE FOR THE ISSUANCE OF THE REFUNDING BONDS.

(II) THE PRINCIPAL AMOUNT OF THE REFUNDING BONDS MAY BE GREATER THAN THE PRINCIPAL AMOUNT OF BONDS BEING REFUNDED.

(E) PAYMENT AND SECURITY.

IN ADDITION TO OR IN LIEU OF ANY OTHER MONEY OR SECURITY THAT THE COMMISSION MAY PROVIDE FOR THE PAYMENT OR SECURITY OF THE REFUNDING BONDS, THE COMMISSION MAY MAKE ALL OR PART OF THE

REFUNDING BONDS PAYABLE FROM MONEY IN AND SECURED BY THE TRUST FUND.

(F) REPAYMENT AND TAX.

(1) TO RETIRE AND PAY INTEREST ON REFUNDING BONDS ISSUED UNDER § 22–114 OF THIS SUBTITLE, EACH YEAR THE COUNTY COUNCILS OF MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY SHALL IMPOSE A TAX ON THE ASSESSABLE PROPERTY WITHIN THE SANITARY DISTRICT SUFFICIENT TO PAY:

(I) THE INTEREST ON THE BONDS AS IT BECOMES DUE; AND

(II) THE PRINCIPAL AND REDEMPTION PREMIUM, IF ANY, OF THE BONDS AT THEIR MATURITY OR REDEMPTION.

(2) IF THE SERIES OF REFUNDING BONDS IS ISSUED TO REFUND STORMWATER MANAGEMENT BONDS, THE COUNTY COUNCIL OF THE RESPECTIVE COUNTY PROVIDED WITH THE PROCEEDS OF THE BONDS BEING REFUNDED SHALL IMPOSE THE TAX.

(3) THE COUNTIES SHALL DETERMINE, IMPOSE, COLLECT, AND PAY THE TAX TO THE COMMISSION AS PROVIDED UNDER § 22–106 OF THIS SUBTITLE.

(4) THE PROVISIONS OF § 22–106 OF THIS SUBTITLE APPLY TO THE REFUNDING BONDS ISSUED UNDER § 22–114 OF THIS SUBTITLE.

(5) THE COMMISSION SHALL MAKE ADEQUATE PROVISION FOR EXTENDING TO ITS RATE PAYERS THE BENEFIT OF SAVINGS IN DEBT SERVICE COSTS DERIVED THROUGH THE ISSUANCE OF ANY REFUNDING BONDS ISSUED UNDER § 22–114 OF THIS SUBTITLE.

(G) OTHER PROVISIONS OF LAW.

ANY PROVISION OF LAW REQUIRING THE SETTING AND COLLECTING OF FRONT FOOT BENEFIT CHARGES FOR THE PAYMENT OF THE PRINCIPAL OF AND THE INTEREST ON THE OUTSTANDING BONDS BEING REFUNDED SHALL APPLY TO THE PAYMENT OF THE REFUNDING BONDS ISSUED UNDER § 22–114 OF THIS SUBTITLE TO REFUND OUTSTANDING BONDS.

(H) CONSTRUCTION OF SECTION.

THE POWERS GRANTED UNDER THIS SECTION ARE NOT SUBJECT TO THE PROVISIONS OF ANY OTHER LAW IN CONFLICT WITH THE POWERS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 4–109(c), (d), (e), and the last sentence of (b).

In subsection (a) of this section, the reference to a trust fund established in the name of the "Commission" is substituted for the former reference to a trust fund established in the name of the "sanitary district" for accuracy.

Also in subsection (a) of this section, the former reference to proceeds from refunding bonds being deposited "in trust" is deleted as unnecessary.

In subsections (b)(2) and (3) and (d)(2)(ii) of this section, the former references to "notes" are deleted as included in the defined term "bond".

In subsection (b) of this section, the former phrase "as the WSSC, in its discretion, shall prescribe" is deleted as surplusage.

In subsection (b)(2) and (3) of this section, the former phrases "if any" and "or any of them" are deleted as unnecessary.

In subsection (d)(1) of this section, the reference to "[t]he Commission may issue" refunding bonds is added for clarity.

In subsection (e) of this section, the reference to "the Commission may make" the refunding bonds payable from money in the trust fund is added for clarity.

In subsection (f) of this section, the references to "impose" are substituted for the former references to "levied" for clarity and consistency within this division.

In the introductory language of subsection (f)(1) of this section, the former phrase "so long as the bonds are outstanding and unpaid" is deleted as unnecessary because there would be no need to retire or pay interest on bonds not outstanding and unpaid.

In subsection (f)(2) of this section, the reference to "stormwater management bonds" is substituted for the former reference to "storm and surface water drainage bonds" for clarity and consistency with terminology used throughout the Code.

Also in subsection (f)(2) of this section, the former reference to the county "in which the storm or surface water drainage systems … shall be located" is deleted as unnecessary.

In subsection (f)(3) of this section, the reference to "[t]he counties" determining the tax is added for clarity.

In subsection (f)(5) of this section, the reference to refunding bonds "issued under § 22–114 of this subtitle is substituted for the former reference to refunding bonds "hereunder" for clarity.

In subsection (h) of this section, the former reference to powers "expressly" granted is deleted as surplusage.

Also in subsection (h) of this section, the former reference to any "other section of this subtitle" is deleted as surplusage.

Defined terms: "Bond" § 22–101
"Commission" § 16–101
"Sanitary district" § 16–101

SUBTITLE 2. REVENUE BONDS.

22–201. CONSTRUCTION, APPLICATION, AND PURPOSE OF SUBTITLE.

(A) CONSTRUCTION.

THIS SUBTITLE SHALL BE LIBERALLY CONSTRUED TO CARRY OUT ITS PURPOSES.

(B) PURPOSE.

THE PURPOSE OF THIS SUBTITLE IS TO AUTHORIZE THE COMMISSION TO ISSUE BONDS IN A MANNER THAT PROVIDES FLEXIBILITY WITHOUT IMPOSING ADDITIONAL DEBT BURDENS ON THE ASSESSABLE TAX BASE OF THE SANITARY DISTRICT, SO AS TO YIELD OVERALL SAVINGS TO THE RESIDENTS OF THE SANITARY DISTRICT.

(C) APPLICATION.

THIS SUBTITLE DOES NOT APPLY TO DEBT ISSUED BY THE COMMISSION UNDER SUBTITLE 1 OF THIS TITLE.

REVISOR'S NOTE: This section formerly was Art. 29, §§ 4–201, 4–202, and 4–212.

The only changes are in style.

Defined terms: "Commission" § 16–101
"Sanitary district" § 16–101

22–202. ISSUANCE AND SALE OF BONDS.

(A) IN GENERAL.

THE COMMISSION MAY ISSUE AND SELL REVENUE BONDS TO FINANCE OR REFINANCE ANY OF THE COMMISSION'S COSTS OF A PROJECT AUTHORIZED UNDER THIS DIVISION.

(B) ALLOWABLE COSTS.

(1) REVENUE BONDS MAY FINANCE:

(I) NECESSARY EXPENSES OF PREPARING, PRINTING, SELLING, AND ISSUING THE BONDS;

(II) FUNDING OF RESERVES;

(III) PAYMENT OF INTEREST RELATED TO FINANCING A PROJECT IN THE AMOUNTS AND FOR THE PERIOD THAT THE COMMISSION DETERMINES; AND

(IV) INITIAL PROGRAM DEVELOPMENT COSTS.

(2) COMMISSION FUNDING SOURCES, OTHER THAN REVENUE BOND PROCEEDS, MAY FINANCE INITIAL PROGRAM DEVELOPMENT COSTS OR OTHER PROJECT COSTS ONLY IF THOSE COSTS ARE REIMBURSED FROM PROJECT REVENUES.

(C) AUTHORIZING RESOLUTION.

(1) THE COMMISSION MAY ISSUE BONDS UNDER THIS SUBTITLE ONLY IF THE COMMISSION AUTHORIZES THE ISSUANCE BY RESOLUTION.

(2) THE RESOLUTION MAY AUTHORIZE ONE OR MORE OFFICERS OF THE COMMISSION TO DETERMINE OR SPECIFY BY BOND ORDER THE MATTERS THAT THIS SUBTITLE REQUIRES TO BE DETERMINED OR SPECIFIED, OR AS MAY BE NECESSARY OR ADVISABLE TO ACCOMPLISH THE PURPOSES OF THIS SUBTITLE.

(D) NATURE OF BONDS ISSUED.

BONDS ISSUED UNDER THIS SUBTITLE, AND THEIR PRINCIPAL, INTEREST, AND ANY PREMIUM:

(1) ARE LIMITED OBLIGATIONS OF THE COMMISSION;

(2) ARE PAYABLE SOLELY FROM THE REVENUES IDENTIFIED IN THE AUTHORIZING RESOLUTION OR FROM OTHER MONEY MADE AVAILABLE FOR THE PAYMENT; AND

(3) DO NOT CONSTITUTE A PLEDGE OF THE FAITH AND CREDIT OF THE COMMISSION OR OF ANY ENTITY WITH TAXING POWER.

(E) TERMS AND CONDITIONS.

(1) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, BONDS ISSUED UNDER THIS SUBTITLE SHALL BE DATED, BEAR INTEREST, AND MATURE AT THE TIME THAT THE COMMISSION DETERMINES.

(II) THE BONDS SHALL MATURE NO LATER THAN 50 YEARS AFTER THEIR DATE OF ISSUE.

(2) THE BONDS MAY BEAR INTEREST AT VARIABLE RATES OF INTEREST, IN A MANNER AND AMOUNTS THAT THE COMMISSION DETERMINES.

(3) THE BONDS SHALL BE PAYABLE IN THE MANNER AND AT THE TIMES AND PLACES THAT THE COMMISSION DETERMINES.

(4) THE BONDS MAY BE MADE REDEEMABLE BEFORE MATURITY AT THE OPTION OF THE COMMISSION AT A PRICE AND UNDER TERMS AND CONDITIONS THAT THE COMMISSION DETERMINES.

(5) (I) THE COMMISSION SHALL DETERMINE THE FORMS AND MANNER OF EXECUTION OF THE BONDS.

(II) THE BONDS MAY BE EXECUTED BY FACSIMILE SIGNATURE.

(6) IF AN OFFICER WHOSE SIGNATURE APPEARS ON A BOND CEASES TO BE AN OFFICER BEFORE THE BOND IS DELIVERED, THE SIGNATURE

OF THE OFFICER IS VALID AND SUFFICIENT AS IF THE OFFICER HAD REMAINED IN OFFICE UNTIL DELIVERY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 4–203.

In subsection (a) of this section, the reference to a project "authorized" is substituted for the former reference to a project "relating to the exercise of any power or duty of the WSSC" for clarity and brevity.

In the introductory language of subsection (b)(1) of this section, the phrase "[r]evenue bonds may finance" is substituted for the former phrase "[c]osts that may be financed" for clarity.

In subsection (c)(1) of this section, the reference to "[t]he Commission" issuing bonds is added for clarity.

In subsection (d)(2) of this section, the reference to the "authorizing" resolution is substituted for the former reference to the resolution "referred to in subsection (b) of this section" for brevity.

Also in subsection (d)(2) of this section, the reference to money made available for "the payment" is substituted for the former reference to money made available for "that purpose" for clarity.

In subsection (d)(3) of this section, the reference to an "entity with" taxing power is added for clarity.

In subsection (e)(6) of this section, the former reference to being valid and sufficient "for all purposes" is deleted as surplusage.

Defined term: "Commission" § 16–101

22–203. NEGOTIABILITY.

BONDS ISSUED UNDER THIS SUBTITLE ARE NEGOTIABLE INSTRUMENTS UNDER THE LAWS OF THE STATE.

REVISOR'S NOTE: This section formerly was Art. 29, § 4–204.

The only changes are in style.

Defined term: "State" § 16–101

22–204. MANNER AND PRICE OF SALE.

(A) IN GENERAL.

THE COMMISSION MAY SELL BONDS ISSUED UNDER THIS SUBTITLE:

(1) AT PUBLIC OR PRIVATE SALE; AND

(2) IN A MANNER AND FOR A PRICE THAT THE COMMISSION DETERMINES TO BE IN THE BEST INTERESTS OF THE COMMISSION.

(B) ARTICLE 31 PROVISIONS NOT APPLICABLE.

ARTICLE 31, §§ 9, 10, AND 11 OF THE CODE DO NOT APPLY TO THE ISSUANCE AND SALE OF BONDS AUTHORIZED BY THIS SUBTITLE.

REVISOR'S NOTE: This section formerly was Art. 29, § 4–205.

The only changes are in style.

Defined term: "Commission" § 16–101

22–205. PROCEEDS.

(A) USE.

THE PROCEEDS OF EACH BOND ISSUANCE UNDER THIS SUBTITLE SHALL BE USED SOLELY FOR THE PROJECTS FOR WHICH THE BONDS WERE ISSUED.

(B) DISTRIBUTION.

THE PROCEEDS SHALL BE DISTRIBUTED IN THE SAME MANNER AND UNDER ANY RESTRICTIONS STATED IN:

(1) THE AUTHORIZING RESOLUTION OF THE COMMISSION; OR

(2) THE TRUST AGREEMENT SECURING THE BONDS.

(C) ADDITIONAL BONDS TO FUND DEFICIT.

(1) IF THE PROCEEDS OF THE BONDS ARE LESS THAN THE COST OF THE PROJECT FOR WHICH THE BONDS WERE ISSUED, BY RESOLUTION, THE COMMISSION MAY ISSUE AND SELL ADDITIONAL BONDS IN THE SAME MANNER AS THE EARLIER ISSUE TO FUND THE AMOUNT OF THE DEFICIT.

(2) UNLESS OTHERWISE PROVIDED IN THE AUTHORIZING RESOLUTION OR IN THE TRUST AGREEMENT SECURING THE BONDS, THE ADDITIONAL BONDS SHALL BE:

(I) CONSIDERED TO BE OF THE SAME ISSUE AS THE EARLIER ISSUE; AND

(II) ENTITLED TO PAYMENT FROM THE SAME FUNDS AS THE EARLIER ISSUE, WITHOUT PREFERENCE OR PRIORITY OF THE EARLIER ISSUE.

(D) APPLICATION OF SURPLUS.

IF THE PROCEEDS OF BONDS ISSUED UNDER THIS SUBTITLE EXCEED THE COST OF THE PROJECT FOR WHICH THE BONDS ARE ISSUED, THE SURPLUS SHALL BE USED AS THE COMMISSION DETERMINES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 4–206.

In subsection (b)(1) of this section, the reference to the "authorizing resolution of the Commission" is substituted for the former reference to the "resolution of the WSSC that authorizes the issuance of the bonds" for brevity. Similarly, in subsection (c)(2) of this section, the reference to "authorizing resolution" is substituted for the former reference to the "resolution authorizing the issuance of the bonds".

In subsection (c)(1) of this section, the reference to the project "for which the bonds were issued" is added for clarity.

Also in subsection (c)(1) of this section, the former reference to "projects" is deleted in light of the reference to "project" and Art. 1, § 8, which provides that the singular generally includes the plural.

Defined term: "Commission" § 16–101

22–206. SECURITY.

AS DETERMINED BY THE COMMISSION, BONDS ISSUED UNDER THIS SUBTITLE MAY BE SECURED BY OR MADE PAYABLE FROM:

(1) LETTERS OF CREDIT;

(2) LINES OF CREDIT;

(3) BOND PURCHASE AGREEMENTS;

(4) BOND INSURANCE POLICIES;

(5) GUARANTY AGREEMENTS; AND

(6) SIMILAR CREDIT ARRANGEMENTS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 4–207.

Defined term: "Commission" § 16–101

22–207. REVENUE REFUNDING BONDS.

(A) AUTHORIZED.

THE COMMISSION MAY PROVIDE BY RESOLUTION FOR THE ISSUANCE OF REVENUE REFUNDING BONDS TO REFUND BONDS ISSUED UNDER THIS SUBTITLE.

(B) CONFORMITY TO REQUIREMENTS.

TO THE EXTENT APPLICABLE, REVENUE REFUNDING BONDS ISSUED UNDER THIS SECTION SHALL CONFORM TO THE REQUIREMENTS OF THIS SUBTITLE.

REVISOR'S NOTE: This section formerly was Art. 29, § 4–208.

The only changes are in style.

Defined term: "Commission" § 16–101

22–208. OTHER PROVISIONS NOT APPLICABLE.

BONDS ISSUED UNDER THIS SUBTITLE ARE NOT SUBJECT TO THE LIMITATIONS OF §§ 22–102(B) AND 22–1035 OF THIS TITLE.

REVISOR'S NOTE: This section formerly was Art. 29, § 4–209.

The only changes are in style.

22–209. TRUST AGREEMENTS TO SECURE BONDS.

(A) AUTHORIZED.

THE COMMISSION MAY ENTER INTO A TRUST AGREEMENT TO SECURE BONDS ISSUED UNDER THIS SUBTITLE.

(B) TRUSTEE.

THE TRUSTEE UNDER THE TRUST AGREEMENT MAY BE A BANK OR TRUST COMPANY THAT HAS THE POWERS OF A TRUST COMPANY IN OR OUTSIDE THE STATE.

(C) REVENUES PLEDGED OR ASSIGNED.

THE TRUST AGREEMENT MAY PLEDGE OR ASSIGN ALL REVENUES FROM ONE OR MORE PROJECTS AS SPECIFIED BY THE COMMISSION.

(D) PROTECTION AND ENFORCEMENT OF RIGHTS AND REMEDIES OF BONDHOLDERS.

THE TRUST AGREEMENT MAY PROVIDE FOR THE PROTECTION AND ENFORCEMENT OF THE RIGHTS AND REMEDIES OF THE BONDHOLDERS, INCLUDING:

(1) COVENANTS SETTING FORTH THE DUTIES OF THE COMMISSION REGARDING:

(I) CONSTRUCTION, ACQUISITION, IMPROVEMENT, INSTALLATION, MAINTENANCE, OPERATION, REPAIR, AND INSURANCE OF A PROJECT; AND

(II) CUSTODY, SAFEGUARDING, AND APPLICATION OF ALL MONEY;

(2) THE ESTABLISHMENT AND FUNDING OF RESERVE FUNDS;

(3) REQUIREMENTS THAT A PROJECT BE CONSTRUCTED AND PAID FOR UNDER THE SUPERVISION AND APPROVAL OF CONSULTING ENGINEERS EMPLOYED OR DESIGNATED BY THE COMMISSION; AND

(4) STATEMENTS OF THE RIGHTS AND REMEDIES OF THE BONDHOLDERS AND OF THE TRUSTEE, WHICH MAY RESTRICT THE INDIVIDUAL RIGHT OF ACTION OF BONDHOLDERS.

REVISOR'S NOTE: This section formerly was Art. 29, § 4–210.

The only changes are in style.

Defined terms: "Commission" § 16–101
"State" § 16–101

22–210. TAX EXEMPTION; EXCLUSION OF INTEREST FROM GROSS INCOME.

(A) TAX EXEMPTION.

BONDS ISSUED UNDER THIS SUBTITLE, INCLUDING THEIR INTEREST AND ANY PROFIT FROM THEIR SALE OR EXCHANGE, ARE EXEMPT FROM TAXATION BY THE STATE AND ITS COUNTIES AND MUNICIPALITIES.

(B) EXCLUSION OF INTEREST FROM GROSS INCOME.

IF BONDS ARE ISSUED UNDER THIS SUBTITLE WITH THE EXPECTATION THAT THEIR INTEREST MAY BE EXCLUDED FROM THE GROSS INCOME OF THE BONDHOLDERS, THE COMMISSION SHALL ENTER INTO ALL AGREEMENTS AND MAKE ALL CERTIFICATIONS NECESSARY OR ADVISABLE TO SHOW COMPLIANCE WITH THE APPLICABLE PROVISIONS OF FEDERAL TAX LAW.

REVISOR'S NOTE: This section formerly was Art. 29, § 4–211.

The only changes are in style.

Defined terms: "Commission" § 16–101
"County" § 16–101
"Municipality" § 16–101
"State" § 16–101

TITLE 23. WATER, SEWERS, AND DRAINAGE.

SUBTITLE 1. WATER AND SEWER SYSTEMS.

23–101. COMMISSION WATER, SEWER, AND DRAINAGE SYSTEMS.

(A) SURVEYS, PLANS, ETC.

THE COMMISSION SHALL DEVELOP SURVEYS, PLANS, SPECIFICATIONS, AND ESTIMATES FOR WATER SUPPLY AND SANITARY SEWER SYSTEMS IN THE PORTIONS OF THE SANITARY DISTRICT THAT THE COMMISSION CONSIDERS NECESSARY.

(B) DIVISION INTO DISTRICTS.

THE COMMISSION SHALL DIVIDE THE SANITARY DISTRICT INTO WATER OR SANITARY SEWER DISTRICTS THAT IN THE COMMISSION'S JUDGMENT:

(1) BEST SERVE THE NEEDS OF THE COMMUNITIES IN THE SANITARY DISTRICT; AND

(2) PROMOTE THE CONVENIENCE AND ECONOMY OF THE INSTALLATION AND OPERATION OF WATER SUPPLY AND SANITARY SEWER SYSTEMS.

(C) CONSTRUCTION WITHIN DISTRICTS.

THE COMMISSION MAY PROCEED WITH CONSTRUCTION THAT THE COMMISSION CONSIDERS ADVISABLE IN ANY DISTRICT.

(D) NOTICE.

IF THE COMMISSION INITIATES CONSTRUCTION WITHOUT PETITION OR REQUEST FROM AN INTERESTED PARTY, THE COMMISSION MAY GIVE REASONABLE NOTICE THAT THE COMMISSION CONSIDERS ADVISABLE.

(E) EXTENSION BY COMMISSION INTO CONTIGUOUS AREAS.

(1) THE COMMISSION MAY EXTEND ITS WATER SUPPLY OR SEWER SYSTEMS INTO ANY AREA OUTSIDE OF THE SANITARY DISTRICT THAT IS CONTIGUOUS TO OR IN THE VICINITY OF THE SANITARY DISTRICT IF THE PROPERTY OWNERS OF THE AREA AGREE TO THE CONDITIONS IMPOSED BY THE COMMISSION.

(2) EXCEPT AS PROVIDED IN THIS DIVISION, THE POWERS AND AUTHORITY IN THIS SUBSECTION MAY NOT BE RESTRICTED BY ANY OTHER GENERAL, SPECIAL, OR LOCAL LAW.

(F) STORMWATER MANAGEMENT IN MONTGOMERY COUNTY.

THE COMMISSION MAY NOT INSTALL, OPERATE, OR EXERCISE ANY AUTHORITY OVER STORMWATER MANAGEMENT IN MONTGOMERY COUNTY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, §§ 3–101 and 3–103(c) and (d).

In subsection (b)(1) of this section, the reference to "communities in the sanitary district" is substituted for the former reference to "various communities" for clarity.

In subsection (b)(2) of this section, the reference to installation and operation "of water supply and sanitary sewer systems" is added for clarity.

In subsection (d) of this section, the reference to the Commission "initiat[ing]" construction is substituted for the former reference to construction being "on the motion" of the Commission for clarity.

In subsection (e)(1) of this section, the former phrase "[s]ubject to the provisions of § 3–101 of this subtitle" is deleted as unnecessary due to the reorganization of the former provisions into this section.

In subsection (e)(2) of this section, the former reference to restrictions that are "specifically" provided in this division is deleted as unnecessary.

In subsection (f) of this section, the reference to "stormwater management" is substituted for the former reference to "drainage systems" for clarity and consistency with terminology used throughout this division.

Also in subsection (f) of this section, the former phrases "[o]n and after June 30, 1968" and "[o]n and after July 1, 1990" are deleted as obsolete.

Also in subsection (f) of this section, the former reference to "the City of Takoma Park" is deleted as unnecessary because the City of Takoma Park is located entirely in Montgomery County.

The Washington Suburban Sanitary Commission Law Review Committee notes, for consideration by the General Assembly, that the provision in subsection (e)(2) of this section that states that the powers and authority in subsection (e) may not be restricted by any other general, special, or local law may violate the general rule of construction that states that any given legislature may not bind the actions of a future legislature. Also, the reference in subsection (e) to "special" laws may be unnecessary because Article III, § 33 of the Maryland Constitution prohibits the legislature from enacting certain special laws.

The Washington Suburban Sanitary Commission Law Review Committee notes, for consideration by the General Assembly, that although there does not appear to be a provision in the former Article 29 that explicitly states that the Commission may not install, operate, or exercise any authority over stormwater management or drainage systems in Prince George's County, there are provisions stating that Prince George's

County may "exercise all the rights, powers, and duties relating to stormwater management, including those formerly exercised by the WSSC" (*see* former Art. 29, § 3–202(a)) and that all property used by the Commission primarily for stormwater management is deemed transferred to the counties (*see* former Art. 29, § 3–202(d)). Therefore, the General Assembly may wish to amend subsection (f) of this section to explicitly state that the Commission may not install, operate, or exercise any authority over stormwater management in Prince George's County.

Defined terms: "Commission" § 16–101
"Sanitary district" § 16–101

23–102. PRIVATE OR MUNICIPAL WATER AND SEWER SYSTEMS IN THE SANITARY DISTRICT.

(A) SCOPE OF SYSTEM.

A PRIVATELY OWNED OR MUNICIPALLY OWNED WATER SUPPLY OR SANITARY SEWER SYSTEM OR PART OF A SYSTEM, WATER MAIN, SEWER, WATER PURIFICATION OR SEWAGE DISPOSAL PLANT, OR CONNECTION WITH THESE FACILITIES MAY NOT BE CONSTRUCTED OR INSTALLED, EXCEPT AS PROVIDED IN THIS SECTION.

(B) EXPENSES PAID BY MUNICIPALITY, PROPERTY OWNERS, OR RESIDENTS.

A MUNICIPALITY OR THE PROPERTY OWNERS OR RESIDENTS OF A LOCALITY IN THE SANITARY DISTRICT MAY CONSTRUCT AND OPERATE A WATER SUPPLY OR SANITARY SEWER SYSTEM OR PART OF A SYSTEM AT THEIR OWN EXPENSE IF THE COMMISSION DECIDES THAT IT IS INEXPEDIENT OR IMPRACTICABLE TO BUILD THE SYSTEM DUE TO REMOTENESS FROM THE COMMISSION'S GENERAL SYSTEM OR FOR OTHER REASONS.

(C) SUPERVISION AND CONTROL BY COMMISSION.

(1) A SYSTEM CONSTRUCTED IN ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION SHALL BE CONSTRUCTED UNDER PLANS AND SPECIFICATIONS SUBMITTED TO AND APPROVED BY THE COMMISSION.

(2) THE CONSTRUCTION, MAINTENANCE, AND OPERATION OF THE SYSTEM SHALL BE UNDER THE SUPERVISION AND GENERAL CONTROL OF THE COMMISSION.

(D) FILING OF RECORDS WITH COMMISSION.

ALL CONSTRUCTION AND OPERATING RECORDS FOR THE SYSTEM, INCLUDING COST RECORDS, SHALL BE FILED WITH THE COMMISSION.

(E) TAKEOVER OF SYSTEMS BY COMMISSION.

THE COMMISSION MAY TAKE OVER THE SYSTEM OR A PART OF THE SYSTEM, WATER MAIN, SEWER, WATER PURIFICATION OR SEWAGE DISPOSAL PLANT, OR CONNECTION WITH THESE FACILITIES IN THE SAME MANNER AS PROVIDED IN § 23–103 OF THIS SUBTITLE.

(F) NO RESTRICTION OF POWERS.

EXCEPT AS PROVIDED IN THIS DIVISION, THE POWERS AND AUTHORITY IN THIS SECTION MAY NOT BE RESTRICTED BY ANY OTHER GENERAL, SPECIAL, OR LOCAL LAW.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 3–103(a), (b), and (d).

In subsection (a) of this section, the reference to "privately owned or municipally owned" is added to clarify that this section only applies to water supply or sanitary sewer systems that are privately owned or municipally owned.

Also in subsection (a) of this section, the reference to "water supply or sanitary sewer" system is added for clarity.

In subsection (b) of this section, the former reference to the "desire" of a municipality or the property owners or residents of a locality for a water supply or sanitary sewer system "to be constructed in that municipality or locality" is deleted as unnecessary.

Also in subsection (b) of this section, the former phrase "at the time" is deleted as surplusage.

In subsection (c)(1) of this section, the reference to a system "constructed in accordance with subsection (b) of this section" is added for clarity.

In subsection (d) of this section, the phrase "for the system" is added for clarity.

In subsection (f) of this section, the former reference to restrictions that are "specifically" provided in this division is deleted as unnecessary.

The Washington Suburban Sanitary Commission Law Review Committee notes, for consideration by the General Assembly, that the provision in subsection (f) of this section that states that the powers and authority in this section may not be restricted by any other general, special, or local law may violate the general rule of construction that states that any given legislature may not bind the actions of a future legislature. Also, the reference in subsection (f) to "special" laws may be unnecessary because Article III, § 33 of the Maryland Constitution prohibits the legislature from enacting certain special laws.

Defined terms: "Commission" § 16–101
"Municipality" § 16–101
"Sanitary district" § 16–101

23–103. ACQUISITION OF PRIVATE OR MUNICIPAL WATER OR SEWER SYSTEM — GENERALLY.

(A) PURCHASE.

THE COMMISSION MAY PURCHASE A MUNICIPALLY OR PRIVATELY OWNED WATER SUPPLY OR SEWER SYSTEM IF THE COMMISSION:

(1) EXTENDS ITS GENERAL WATER SUPPLY OR SEWER SYSTEM TO THE MUNICIPALLY OR PRIVATELY OWNED WATER SUPPLY OR SEWER SYSTEM AND IS READY TO CONNECT WITH THE SYSTEM; OR

(2) CONSIDERS THE PURCHASE TO BE EXPEDIENT, ADVISABLE, AND PROPER FOR THE ADEQUATE OPERATION OF THE SYSTEM UNDER THE COMMISSION'S JURISDICTION.

(B) CONDEMNATION.

IF THE COMMISSION AND THE OWNER OF A MUNICIPALLY OR PRIVATELY OWNED WATER SUPPLY OR SEWER SYSTEM FAIL TO AGREE TO THE PURCHASE PRICE OR CONDITIONS OF PURCHASE OF THE WATER OR SEWER SYSTEM, THE COMMISSION MAY ACQUIRE THE SYSTEM BY CONDEMNATION, AS PROVIDED IN THIS DIVISION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 3–106.

In subsection (a)(2) of this section, the reference to "the purchase" is substituted for the former reference to "such action" for clarity.

In subsection (b) of this section, the reference to the owner "of a municipally or privately owned water supply or sewer system" is added for clarity.

Defined term: "Commission" § 16–101

23–104. ACQUISITION OF PRIVATE WATER OR SEWER SYSTEM.

(A) JURY AWARD IN CONDEMNATION PROCEEDING.

IF A PRIVATELY OWNED WATER OR SEWER SYSTEM IS THE SUBJECT OF A CONDEMNATION PROCEEDING UNDER THIS DIVISION, A JURY IN THE PROCEEDING SHALL DETERMINE THE FAIR MARKET VALUE AS PROVIDED FOR IN § 12–105(B) OF THE REAL PROPERTY ARTICLE.

(B) DEBTS AND LIENS.

(1) IF THE COMMISSION CONDEMNS A PRIVATELY OWNED SYSTEM, THE COMMISSION SHALL TAKE THE SYSTEM FREE AND CLEAR OF ALL DEBTS AND LIENS.

(2) (I) THE COMMISSION SHALL MAKE A PARTY DEFENDANT ANY PERSON THAT HAS A RECORDED LIEN OR ENCUMBRANCE AGAINST THE PRIVATELY OWNED SYSTEM.

(II) THE CIRCUIT COURT MAY DETERMINE THE RESPECTIVE AMOUNTS DUE THE DEFENDANTS.

(C) POSSESSION AND OPERATION BY COMMISSION.

AFTER THE PAYMENT INTO THE COURT OR TO THE PROPER PARTIES:

(1) THE COMMISSION MAY TAKE POSSESSION OF, MAINTAIN, AND OPERATE THE PRIVATE SYSTEM; AND

(2) ALL PROPERTIES ALONG THE LINE OF ANY WATER MAIN OR SEWER OF THE PRIVATE SYSTEM SHALL STAND IN THE SAME RELATION, BEAR THE SAME BENEFIT ASSESSMENT, AND BE SUBJECT TO THE SAME REGULATIONS AND PENALTIES AS THOUGH THE PRIVATE SYSTEM HAD BEEN CONSTRUCTED AND PUT INTO OPERATION BY THE COMMISSION UNDER THE PROVISIONS OF THIS DIVISION.

(D) CONNECTION CHARGES.

A BUILDING OR PREMISES PROPERLY CONNECTED WITH THE ACQUIRED PRIVATE SYSTEM AT THE TIME OF ITS PURCHASE IS NOT SUBJECT TO THE CONNECTION CHARGE SPECIFIED UNDER TITLE 25, SUBTITLE 3 OF THIS ARTICLE.

(E) SYSTEM UNFIT FOR ACQUISITION.

(1) IF THE COMMISSION CONSIDERS THAT A PRIVATELY OWNED WATER OR SEWER SYSTEM IS UNFIT, IN WHOLE OR IN PART, FOR INCORPORATION WITH THE COMMISSION'S SYSTEM, THE COMMISSION SHALL:

(I) DISREGARD THE EXISTENCE OF THE SYSTEM OR UNFIT PART OF THE SYSTEM; AND

(II) EXTEND THE COMMISSION'S SYSTEM TO SERVE THE AREA SERVED BY THE EXISTING SYSTEM OR UNFIT PART OF THE SYSTEM.

(2) ALL OF THE PROVISIONS OF THIS DIVISION RELATING TO SYSTEMS CONSTRUCTED BY THE COMMISSION APPLY TO AN EXTENSION UNDER PARAGRAPH (1) OF THIS SUBSECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 3–107(a)(1), (b), and (c).

In subsection (a) of this section, the reference to a jury "determin[ing] the fair market value as provided in § 12–105(b) of the Real Property Article" is substituted for the former reference to the jury "[c]onsider[ing] as part of an award any payment, contribution, or tax paid by the respective lot owners or purchasers toward the construction of the systems" in light of *Washington Suburban Sanitary Commission v. Utilities, Inc.*, 365 Md. 1, 775 A.2d 1178 (2001), in which the Court of Appeals stated that the standard for valuing property taken in condemnation in Maryland is set forth in § 12–105(b) of the Real Property Article. *See Washington Suburban Sanitary Commission v. Utilities, Inc.*, 365 Md. 1, 40, 775 A.2d 1178, 1201 (2001). This substitution is called to the attention of the General Assembly.

In subsection (d) of this section, the reference to a building or premises "properly" connected is substituted for the former reference to a building or premises connected "in an adequate manner" for brevity.

Also in subsection (d) of this section, the reference to a building or premises being "subject to" the connection charge is substituted for the former reference to a building or premises being "required to pay" the connection charge for accuracy.

Also in subsection (d) of this section, the former reference to a building or premises "actually" connected with the system is deleted as unnecessary.

In subsection (e)(1)(ii) of this section, the reference to the area "served by" the existing system is substituted for the former reference to the area "tributary to" the existing system for clarity.

Former Art. 29, § 3–107(a)(2) is deleted as unconstitutional. That subsection required that the fair market value of a privately owned water or sewer system in a condemnation proceeding brought by the Commission be reduced by an amount representing contributions indirectly made by homebuyers for construction of the system and was found to be unconstitutional as applied in *Washington Suburban Sanitary Commission v. Utilities, Inc.*, 365 Md. 1, 775 A.2d 1178 (2001). The Court of Appeals held that this deduction constituted an unconstitutional taking of property without just compensation.

Defined terms: "Commission" § 16–101
"Person" § 16–101

23–105. ACQUISITION OF MUNICIPAL WATER OR SEWER SYSTEM.

(A) POSSESSION AND OPERATION BY COMMISSION.

AFTER THE PAYMENT FOR THE ACQUISITION IS MADE TO THE COURT OR TO THE MUNICIPALITY:

(1) THE COMMISSION MAY TAKE POSSESSION OF, MAINTAIN, AND OPERATE A MUNICIPALLY OWNED WATER OR SEWER SYSTEM; AND

(2) ALL PROPERTIES ALONG THE LINE OF ANY WATER MAIN OR SEWER OF THE MUNICIPAL SYSTEM SHALL STAND IN THE SAME RELATION, BEAR THE SAME BENEFIT ASSESSMENT, AND BE SUBJECT TO THE SAME REGULATIONS AND PENALTIES AS THOUGH THE MUNICIPAL SYSTEM HAD BEEN CONSTRUCTED AND PUT INTO OPERATION BY THE COMMISSION UNDER THE PROVISIONS OF THIS DIVISION.

(B) CONNECTION CHARGES.

A BUILDING OR PREMISES PROPERLY CONNECTED WITH THE ACQUIRED MUNICIPAL SYSTEM AT THE TIME OF ITS PURCHASE IS NOT SUBJECT TO THE CONNECTION CHARGE SPECIFIED UNDER TITLE 26, SUBTITLE 3 OF THIS ARTICLE.

(C) OUTSTANDING BONDS.

IF OUTSTANDING BONDS EXIST FOR A MUNICIPAL SYSTEM ACQUIRED BY THE COMMISSION:

(1) THE MUNICIPALITY MAY USE THE AMOUNT PAID BY THE COMMISSION FOR THE SYSTEM FOR THE PURCHASE OR REDEMPTION OF ANY BOND OR DEBT THAT MAY BE OUTSTANDING AGAINST THE SYSTEM; OR

(2) THE COMMISSION, AS A PART OF THE COMPENSATION FOR THE SYSTEM, MAY ASSUME THE PAYMENT OF ANY OUTSTANDING BOND.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 3–108.

In the introductory language to subsection (a) of this section, the reference to payment "for the acquisition is made" is added for clarity.

In subsection (a)(1) of this section, the reference to a municipally owned "water or sewer" system is added for clarity.

In subsection (b) of this section, the reference to the acquired "municipal" system is added for clarity and consistency with terminology used throughout this section.

Also in subsection (b) of this section, the reference to a building or premises being "subject to" the connection charge is substituted for the former reference to a building or premises being "required to pay" the connection charge for accuracy.

Also in subsection (b) of this section, the reference to a building or premises "properly" connected is substituted for the former reference to a building or premises connected "in an adequate manner" for brevity.

Also in subsection (b) of this section, the former reference to a building or premises "actually" connected with the system is deleted as unnecessary.

Defined terms: "Commission" § 16–101
"Municipality" § 16–101

SUBTITLE 2. SUBDIVISION LINES AND SERVICE CONNECTIONS.

23–201. CONSTRUCTION OF SUBDIVISION LINES IN SANITARY DISTRICT.

(A) DEFINITIONS.

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

(2) "AUTHORIZATION FOR SERVICE" MEANS AN APPLICATION BY A PROPERTY OWNER OR DEVELOPER TO THE COMMISSION FOR WATER OR SEWER SERVICE THAT REQUIRES THE CONSTRUCTION OF SUBDIVISION LINES.

(3) "DEVELOPMENT" MEANS A PROJECT FOR THE CONSTRUCTION OF:

(I) TWO OR MORE RESIDENTIAL DWELLING UNITS; OR

(II) A COMMERCIAL OR INDUSTRIAL STRUCTURE.

(4) "HEALTH HAZARD" MEANS AN OWNER–OCCUPIED RESIDENTIAL PROPERTY WITH A FAILING WELL OR SEPTIC SYSTEM AS CERTIFIED BY THE STATE OR A LOCAL HEALTH DEPARTMENT.

(5) "PAYMENT SECURITY" MEANS SECURITY TO GUARANTEE PAYMENT TO THE UTILITY CONTRACTOR, SUBCONTRACTORS, AND SUPPLIERS THAT PROVIDE LABOR, MATERIALS, OR CONSTRUCTION EQUIPMENT FOR THE CONSTRUCTION OF SUBDIVISION LINES.

(6) "PERFORMANCE SECURITY" MEANS SECURITY TO GUARANTEE COMPLETION OF THE CONSTRUCTION OF SUBDIVISION LINES.

(7) (I) "SUBDIVISION LINES" MEANS THE WATER AND SEWER PIPELINES OR FACILITIES NECESSARY TO PROVIDE SERVICE TO A DEVELOPMENT, INCLUDING SERVICE CONNECTIONS TO INDIVIDUAL LOTS OR PROPERTIES IN A DEVELOPMENT.

(II) "SUBDIVISION LINES" DOES NOT INCLUDE PIPELINES OR FACILITIES THAT CONSTITUTE MAJOR PROJECTS AS DEFINED IN § 23–301 OF THIS TITLE.

(B) APPLICATION OF SECTION.

(1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THIS SECTION DOES NOT APPLY TO:

(I) AUTHORIZATIONS FOR SERVICE FOR WHICH:

1. APPLICATION WAS MADE WITH THE COMMISSION ON OR BEFORE JUNE 30, 1999; AND

2. THE COMMISSION ENTERED INTO A CONTRACT FOR CONSTRUCTION OF SUBDIVISION LINES WITH NOTICE TO PROCEED ISSUED BY THE COMMISSION TO ITS CONTRACTOR ON OR BEFORE JUNE 30, 2001; OR

(II) AUTHORIZATIONS FOR SERVICE FOR THE RELIEF OF HEALTH HAZARDS.

(2) EACH PART OF A MULTIPART AUTHORIZATION FOR SERVICE SHALL BE CONSIDERED A SEPARATE AUTHORIZATION UNDER PARAGRAPH (1) OF THIS SUBSECTION.

(C) CONSTRUCTION AT EXPENSE OF OWNER OR DEVELOPER.

NOTWITHSTANDING ANY OTHER PROVISION OF LAW AND EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THE OWNER OR DEVELOPER OF A DEVELOPMENT IN THE SANITARY DISTRICT SHALL CONSTRUCT ALL SUBDIVISION LINES FOR THE DEVELOPMENT AT THE EXPENSE OF THE OWNER OR DEVELOPER.

(D) AGREEMENT BETWEEN OWNER OR DEVELOPER AND COMMISSION.

BEFORE CONSTRUCTING SUBDIVISION LINES, THE OWNER OR DEVELOPER OF A DEVELOPMENT SHALL ENTER INTO AN AGREEMENT WITH THE COMMISSION THAT:

(1) REQUIRES THE SUBDIVISION LINES TO BE CONSTRUCTED UNDER PLANS AND SPECIFICATIONS SUBMITTED TO AND APPROVED BY THE COMMISSION;

(2) REQUIRES THE OWNER OR DEVELOPER TO COMPLY WITH ALL APPLICABLE LAWS AND REQUIREMENTS FOR THE CONSTRUCTION OF THE SUBDIVISION LINES;

(3) PROVIDES FOR THE INSPECTION OF THE SUBDIVISION LINES BY THE COMMISSION BEFORE THE LINE IS PLACED IN SERVICE;

(4) REQUIRES THE PROPERTY OWNER OR DEVELOPER TO PROVIDE:

(I) PERFORMANCE SECURITY PAYABLE TO THE COMMISSION IN AN AMOUNT ACCEPTABLE TO THE COMMISSION, TAKING INTO ACCOUNT POTENTIAL COST ESCALATION; AND

(II) PAYMENT SECURITY PAYABLE TO THE COMMISSION IN AN AMOUNT EQUAL TO THE AMOUNT OF THE PERFORMANCE SECURITY; AND

(5) PROVIDES THAT BEFORE THE SUBDIVISION LINES ARE PLACED IN SERVICE, THE PROPERTY OWNER OR DEVELOPER SHALL PROVIDE THE COMMISSION WITH A RELEASE OF LIENS, ON A FORM ACCEPTABLE TO THE COMMISSION, SIGNED BY THE UTILITY CONTRACTOR AND NOTARIZED, STATING THAT THE UTILITY CONTRACTOR, SUBCONTRACTORS, AND SUPPLIERS HAVE BEEN PAID.

(E) FORM OF PERFORMANCE SECURITY AND PAYMENT SECURITY.

ACCEPTABLE FORMS OF PERFORMANCE SECURITY AND PAYMENT SECURITY UNDER SUBSECTION (D) OF THIS SECTION ARE:

(1) A CERTIFIED CHECK;

(2) A CASH DEPOSIT;

(3) A CERTIFICATE OF DEPOSIT;

(4) AN IRREVOCABLE LETTER OF CREDIT FROM A FINANCIAL INSTITUTION ACCEPTABLE TO THE COMMISSION AND IN A FORM ACCEPTABLE TO THE COMMISSION;

(5) A BOND EXECUTED BY A SURETY COMPANY AUTHORIZED TO DO BUSINESS IN THE STATE; OR

(6) ANY OTHER FORM OF SECURITY ACCEPTABLE TO THE COMMISSION.

(F) CLAIM AGAINST PAYMENT SECURITY.

(1) (I) A UTILITY CONTRACTOR, SUBCONTRACTOR, OR SUPPLIER PROVIDING LABOR, MATERIALS, OR EQUIPMENT FOR THE CONSTRUCTION OF THE SUBDIVISION LINES THAT HAS NOT BEEN PAID MAY FILE A CLAIM AGAINST THE PAYMENT SECURITY WITHIN 180 DAYS AFTER COMPLETION OF CONSTRUCTION OF THE SUBDIVISION LINES UNDER THE PROCEDURE REQUIRED IN THE PAYMENT SECURITY.

(II) IF A PROCEDURE IS NOT SPECIFIED IN THE PAYMENT SECURITY, THE PROCEDURE SHALL BE AS ESTABLISHED BY REGULATIONS ADOPTED BY THE COMMISSION.

(2) THE COMMISSION MAY NOT RELEASE OR REDUCE THE AMOUNT OF THE PAYMENT SECURITY UNTIL:

(I) ALL CLAIMANTS HAVE BEEN PAID; OR

(II) 180 DAYS HAVE PASSED SINCE COMPLETION OF CONSTRUCTION AND NO CLAIMS HAVE BEEN MADE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 3–101.1.

In subsection (c) and the introductory language of subsection (d) of this section, the references to the owner or developer of "a development" are substituted for the former references to the owner or developer of "the property" for clarity.

In subsection (c) of this section, the reference to subdivision lines "for the development" is added for clarity.

In subsection (d)(4)(ii) of this section, the former reference to the payment security being "for the benefit of the utility contractor, subcontractors, and suppliers providing labor, materials, or construction equipment for the construction of the subdivision lines" is deleted as unnecessary in light of the defined term "payment security".

In subsection (d)(5) of this section, the former reference to "all" subcontractors and suppliers is deleted as unnecessary.

In subsection (f)(1)(ii) of this section, the former reference to "rules" is deleted as implicit in the reference to "regulations". *See* General Revisor's Note to division.

In subsection (f)(2)(ii) of this section, the reference to "180 days … since completion of construction" is substituted for the former reference to "the 'claim notice date' " for clarity. Correspondingly, in subsection (f)(1) of this section, the former reference to "the claim notice date" is deleted.

The Washington Suburban Sanitary Commission Law Review Committee notes, for consideration by the General Assembly, that subsection (b)(1)(i) of this section may be obsolete. Commission staff advised the Committee that no authorizations for service described in subsection (b)(1)(i) of this

section are pending. The General Assembly may wish to repeal this provision.

Defined terms: "Commission" § 16–101
"Sanitary district" § 16–101
"Service connection" § 16–101
"State" § 16–101

23–202. SERVICE CONNECTIONS — IN GENERAL.

(A) SERVICE CONNECTIONS TO ABUTTING PROPERTIES.

(1) IF PROPERTY ABUTS ON A STREET OR RIGHT–OF–WAY IN WHICH A WATER MAIN OR SANITARY SEWER IS INSTALLED, THE COMMISSION SHALL PROVIDE A SERVICE CONNECTION FROM THE WATER MAIN OR SANITARY SEWER TO THE PROPERTY LINE OF THE ABUTTING LOT.

(2) THE SERVICE CONNECTION SHALL BE CONSTRUCTED BY AND AT THE EXPENSE OF THE COMMISSION AND SHALL BE PAID FOR IN ACCORDANCE WITH THIS DIVISION.

(B) HOOKUPS BY ABUTTING PROPERTY OWNERS.

(1) WHEN THE COMMISSION DECLARES A WATER MAIN OR SEWER COMPLETE, AFTER NOTICE, EVERY ABUTTING PROPERTY OWNER MAY HOOK UP SPIGOTS, HYDRANTS, TOILETS, AND WASTE DRAINS WITH THE WATER MAIN OR SEWER, AS APPROPRIATE, WITHIN THE TIME SET BY THE COMMISSION.

(2) IF THE FIXTURES DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION DO NOT EXIST OR IF THE COMMISSION DETERMINES THAT THEY ARE IMPROPER OR INADEQUATE, THE PROPERTY OWNER SHALL INSTALL SATISFACTORY EQUIPMENT.

(C) POLLUTED OR UNHEALTHY FACILITIES.

(1) ANY CESSPOOL, SINK DRAIN, OUTHOUSE, OR WELL THAT IS POLLUTED OR A MENACE TO HEALTH SHALL BE ABANDONED AND LEFT IN A WAY THAT IT CANNOT BE USED OR POSE A RISK TO THE PUBLIC HEALTH.

(2) THE COMMISSION SHALL DETERMINE THE DISPOSITION OF THESE FACILITIES.

(D) COMMISSION ORDER REQUIRING PROPERTY HOOKUP.

(1) AFTER THE CONSTRUCTION OR ACQUISITION OF A WATER MAIN OR SEWER, THE COMMISSION MAY ORDER A PROPERTY OWNER OR OCCUPANT WHO REFUSES TO CONNECT TO THE WATER MAIN OR SEWER TO HOOK UP TO THE WATER MAIN OR SEWER IF:

(I) A CONDITION EXISTS THAT APPEARS TO BE A MENACE TO THE HEALTH OF THE OCCUPANTS OF THE PROPERTY OR THE OCCUPANTS OF A NEARBY OR ADJOINING PROPERTY;

(II) THE PROPERTY ON WHICH THE CONDITION EXISTS ABUTS THE WATER MAIN OR SEWER;

(III) THE COMMISSION GIVES THE OWNER OR OCCUPANT 10 DAYS' NOTICE AND AN OPPORTUNITY TO BE HEARD; AND

(IV) THE COMMISSION DETERMINES THE CONDITION TO BE A MENACE TO THE HEALTH OF THE OCCUPANTS OF THE PROPERTY OR THE OCCUPANTS OF A NEARBY OR ADJOINING PROPERTY.

(2) (I) IF THE COMMISSION DETERMINES THAT A CONDITION EXISTS AS PROVIDED IN PARAGRAPH (1) OF THIS SUBSECTION, THE COMMISSION SHALL PASS AN ORDER THAT REQUIRES THAT THE PROPERTY HOOKUP BE MADE IN NOT LESS THAN 30 DAYS OR MORE THAN 90 DAYS OF THE ISSUANCE OF THE ORDER.

(II) THE PROPERTY OWNER OR OCCUPANT MAY NOT REFUSE TO COMPLY WITH THE ORDER OR VIOLATE ANY OF THE OTHER PROVISIONS OF THIS SECTION.

(III) AS PROVIDED IN THE ADMINISTRATIVE PROCEDURE ACT, THE PROPERTY OWNER OR OCCUPANT MAY SEEK JUDICIAL REVIEW OF THE DECISION OF THE COMMISSION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 3–104.

In subsection (b)(1) of this section, the former reference to complete "and ready for the delivery of water or the reception of sewage" is deleted as implicit in the reference to "complete".

Also in subsection (b)(1) of this section, the former reference to "due" notice is deleted as unnecessary.

In subsection (c)(1) of this section, the reference to an "outhouse" is substituted for the former reference to "privies" for clarity.

Also in subsection (c)(1) of this section, the phrase "pose a risk" is substituted for the former phrase "injuriously affect" for clarity.

Also in subsection (c)(1) of this section, the former reference to "again" being used is deleted as surplusage.

In the introductory language of subsection (d)(1) of this section, the former references to a water main or sewer "or both" are deleted as unnecessary.

In subsection (d)(2)(ii) of this section, the reference to the "property owner or occupant" is substituted for the former reference to a "person" for consistency with terminology used throughout this subsection.

In subsection (d)(2)(iii) of this section, the reference to "seek judicial review" is substituted for the former reference to "appeal" for accuracy.

Also in subsection (d)(2)(iii) of this section, the former reference to the decision of the Commission "to pass an order which requires the connection to be made" is deleted as unnecessary.

Defined terms: "Commission" § 16–101
"Hookup" § 16–101
"Service connection" § 16–101

23–203. CONSTRUCTION OF SERVICE CONNECTIONS.

(A) SCOPE OF SECTION.

EXCEPT AS PROVIDED IN SUBSECTION (E) OF THIS SECTION, THIS SECTION DOES NOT APPLY TO STREETS, ROADS, ALLEYS, SIDEWALKS, OR PUBLIC PROPERTY IN THE JURISDICTION OF MONTGOMERY COUNTY.

(B) CONSTRUCTION BY COMMISSION.

(1) THE COMMISSION SHALL MAKE TAPS IN INSTALLATIONS OF THE COMMISSION AT A CHARGE THAT THE COMMISSION CONSIDERS REASONABLE.

(2) THE COMMISSION MAY CONSTRUCT AND MAKE WATER SERVICE CONNECTIONS OF 2 INCHES OR LARGER AND CHARGE FOR THE CONNECTIONS AT THE ACTUAL COST TO THE COMMISSION.

(C) CONSTRUCTION BY MASTER PLUMBER.

THE COMMISSION MAY AUTHORIZE THE CONSTRUCTION OF SERVICE CONNECTIONS BY A MASTER PLUMBER, WHO IS REGISTERED IN THE SANITARY DISTRICT, UNDER THE SUPERVISION OF THE COMMISSION.

(D) CUTTING INTO STREET BY MASTER PLUMBER — IN GENERAL.

(1) IF THE COMMISSION, BY RESOLUTION, AUTHORIZES SERVICE CONNECTIONS TO BE MADE BY A MASTER PLUMBER, UNDER REGULATIONS AND AFTER ISSUANCE OF A WRITTEN PERMIT BY THE COMMISSION, THE MASTER PLUMBER MAY ENTER ON AND CUT INTO A STREET UNDER THE JURISDICTION OF A PUBLIC AUTHORITY TO THE SAME EXTENT THAT THE COMMISSION MAY ENTER ON AND CUT INTO THE STREET.

(2) (I) THE MASTER PLUMBER SHALL FIRST POST WITH THE COMMISSION AN INDEMNITY BOND IN AN AMOUNT SET BY AND WITH SURETIES APPROVED BY THE COMMISSION.

(II) THE BOND SHALL INDEMNIFY THE COMMISSION AND ANY STATE, COUNTY, OR MUNICIPAL AUTHORITY HAVING JURISDICTION OVER THE STREET AGAINST ALL LOSS, COST, OR DAMAGE THAT MAY BE CAUSED BY THE MASTER PLUMBER'S ENTERING ON AND CUTTING INTO THE STREET.

(III) THE MASTER PLUMBER SHALL DEPOSIT WITH THE COMMISSION IN CASH A SUM SET BY THE COMMISSION TO COVER THE COST OF RESURFACING THE CUT.

(3) (I) THE ONLY PERMIT REQUIRED SHALL BE A PERMIT ISSUED BY THE COMMISSION IN ACCORDANCE WITH THIS SECTION.

(II) THE MASTER PLUMBER SHALL NOTIFY THE AUTHORITY HAVING CONTROL OF THE STREET TO BE ENTERED AND CUT OF THE TIME AND NATURE OF THE WORK TO BE DONE.

(E) CUTTING INTO STREET BY MASTER PLUMBER — MONTGOMERY COUNTY.

BEFORE CUTTING INTO A STREET, ROAD, ALLEY, SIDEWALK, OR PUBLIC PROPERTY UNDER THE JURISDICTION OF MONTGOMERY COUNTY, A MASTER PLUMBER SHALL SECURE A PERMIT FROM THE COUNTY AND PAY A FEE AND COMPLY WITH REGULATIONS ESTABLISHED BY THE COUNTY.

(F) REGULATIONS.

THE COMMISSION SHALL ADOPT REGULATIONS TO IMPLEMENT THIS SECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 3–105(a), (c), and (d).

In subsection (d)(1) of this section, the former reference to "proper" regulations is deleted as unnecessary.

The Washington Suburban Sanitary Commission Law Review Committee notes, for consideration by the General Assembly, that the provisions of subsections (c), (d), and (e) of this section, which pertain to the construction of service connections by master plumbers, may be obsolete. Commission staff advised the Committee that the Commission has never authorized the construction of service connections by master plumbers under this section. The General Assembly may wish to repeal subsections (c), (d), and (e) of this section as obsolete.

Defined terms: "Commission" § 16–101
"County" § 16–101
"Sanitary district" § 16–101
"Service connection" § 16–101
"State" § 16–101

23–204. EXTENSION OF SERVICE TO NEW DEVELOPMENTS IN PRINCE GEORGE'S COUNTY.

THE COMMISSION MAY GRANT WATER OR SEWER SERVICE CONNECTIONS, HOOKUPS, OR AUTHORIZATIONS FOR SERVICE OR OTHERWISE EXTEND WATER AND SEWER SERVICE TO A NEW DEVELOPMENT IN THE PRINCE GEORGE'S COUNTY PORTION OF THE SANITARY DISTRICT ONLY IF THE DEVELOPMENT IS IN CONFORMANCE WITH ADOPTED AND APPROVED PLANS, PROGRAMS, AND POLICIES OF THE COUNTY OR OTHER REGULATIONS THAT THE COUNTY MAY INCLUDE IN AN ADOPTED AND APPROVED COMPREHENSIVE WATER AND SEWER PLAN, AMENDMENT, OR REVISION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 3–105(b).

The former reference to "rules" is deleted as implicit in the reference to "regulations". *See* General Revisor's Note to division.

The former reference to the county "desir[ing] to" include regulations is deleted as implicit in the county including them.

The former reference to a "duly" adopted and approved water and sewer plan is deleted as unnecessary.

Defined terms: "Commission" § 16–101
"Hookup" § 16–101
"Sanitary district" § 16–101
"Service connection" § 16–101

SUBTITLE 3. CAPITAL IMPROVEMENTS PROGRAM.

23–301. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection formerly was Art. 29, § 7–101(a).

The only change is in style.

(B) MAJOR PROJECT.

(1) "MAJOR PROJECT" MEANS AN EXTENSION, PROJECT, OR PROGRAM OF WATER AND SEWER FACILITIES.

(2) "MAJOR PROJECT" INCLUDES:

(I) A SEWER MAIN AT LEAST 15 INCHES IN DIAMETER;

(II) A WATER MAIN AT LEAST 16 INCHES IN DIAMETER; AND

(III) A SEWAGE OR WATER PUMPING STATION, FORCE MAIN, AND STORAGE OR OTHER MAJOR FACILITY.

(3) "MAJOR PROJECT" DOES NOT INCLUDE A SEWER MAIN OR WATER MAIN THAT:

(I) PROVIDES ONLY LOCAL SERVICE;

(II) IS 2,000 FEET OR LESS; AND

(III) IS BUILT TO AVOID UNNECESSARY AND UNECONOMICAL DUPLICATION WHEN A MAJOR PROJECT IS CONSTRUCTED.

REVISOR'S NOTE: This subsection formerly was Art. 29, § 7–101(b).

The only changes are in style.

(C) PROGRAM.

"PROGRAM" MEANS A 6–YEAR PROJECTED PROGRAM BY THE COMMISSION OF CAPITAL IMPROVEMENTS FOR WATER AND SEWER FACILITIES.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 29, § 7–101(c).

Defined term: "Commission" § 16–101

23–302. DESIGNATION OF BRANCH OF COUNTY GOVERNMENT.

(A) RESPONSIBILITIES PERFORMED BY COUNTY GOVERNMENT BRANCHES.

IN THIS SUBTITLE, THE REQUIREMENTS AND RESPONSIBILITIES OF THE COUNTY EXECUTIVES AND COUNTY COUNCILS OR SUCCESSOR FORMS OF GOVERNMENTS SHALL BE PERFORMED SEPARATELY OR JOINTLY BY THE BRANCHES OF THE RESPECTIVE COUNTY GOVERNMENTS AS PROVIDED BY CHARTER OR OTHER LAW.

(B) INTENT OF DESIGNATION.

THE DESIGNATION OF A SPECIFIC BRANCH OF COUNTY GOVERNMENT IS NOT INTENDED TO EXPAND, LIMIT, MODIFY, OR VARY THE POWERS AND DUTIES OF THE COUNTY EXECUTIVES AND COUNTY COUNCILS OF MONTGOMERY COUNTY OR PRINCE GEORGE'S COUNTY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 7–102.

23–303. CONTENT OF PROGRAM.

A PROGRAM SHALL INCLUDE:

(1) THE MAJOR PROJECTS THAT THE COMMISSION DETERMINES MAY BE REQUIRED IN EACH OF THE NEXT 6 FISCAL YEARS:

(I) IN THE SANITARY DISTRICT; AND

(II) IN GEOGRAPHICAL AREAS OUTSIDE THE SANITARY DISTRICT THAT THE COMMISSION DETERMINES ARE APPROPRIATE TO INCLUDE IN THE PROGRAM;

(2) A STATEMENT OF THE OBJECTIVES AND THE RELATIONSHIP TO THE LONG–RANGE DEVELOPMENT PLANS DESIGNATED BY EACH COUNTY FOR EACH MAJOR PROJECT;

(3) A PROJECTED CONSTRUCTION SCHEDULE, AN ESTIMATE OF COST, AND A STATEMENT OF FUNDING SOURCES, INCLUDING CONTRIBUTIONS THAT MAY BE REQUIRED FOR THE CONSTRUCTION OF A MAJOR PROJECT;

(4) THE INFORMATION AND DOCUMENTATION FOR EACH MAJOR PROJECT THAT THE COMMISSION IS REQUIRED TO SUBMIT FOR THE 6–YEAR PERIOD COVERED BY THE PROGRAM UNDER TITLE 9, SUBTITLE 5 OF THE ENVIRONMENT ARTICLE;

(5) THE ADDITION OF A NEW MAJOR PROJECT AND THE DELETION, MODIFICATION, OR RESCHEDULING OF A PREVIOUSLY APPROVED MAJOR PROJECT FOR WHICH A CONSTRUCTION CONTRACT HAS NOT BEEN AWARDED OR WILL NOT BE AWARDED DURING THE FISCAL YEAR IN WHICH THE PROGRAM IS BEING SUBMITTED;

(6) AN INDICATION, BY MAJOR PROJECT, OF THE MAINS FOR WHICH CONSTRUCTION CONTRIBUTIONS HAVE BEEN MADE OR COMMITTED AND THE AMOUNTS OF CONTRIBUTIONS AS OF THE DATE OF THE PREPARATION OF THE PROGRAM;

(7) ADDITIONAL INFORMATION FOR MAJOR PROJECTS FOR WHICH CONTRIBUTIONS ARE MADE OR COMMITTED BEFORE APPROVAL OR AMENDMENT OF THE PROGRAM; AND

(8) FOR EACH MAJOR PROJECT, AS APPLICABLE:

(I) THE ESTIMATED MAXIMUM DIAMETER, LENGTH, AND LOCATION OF WATER AND SEWER MAINS;

(II) THE DESIGN CAPACITY AND APPROXIMATE LOCATION OF PUMPING STATIONS;

(III) THE MAXIMUM POPULATION THAT COULD BE SERVED BY EACH SEWER CONSTRUCTION ITEM AS THE ITEM IS PROPOSED TO BE DESIGNED;

(IV) THE MAXIMUM AREA LIMITS THAT COULD BE SERVED BY GRAVITY SYSTEMS FOR EACH SEWER SYSTEM CONSTRUCTION ITEM AND THE AREA THAT EACH ITEM IS DESIGNED TO SERVE, WITH THE AREA LIMITS SET FORTH IN A GENERAL NARRATIVE STATEMENT AND ON A MAP;

(V) THE DEMONSTRATED NEED FOR EACH MAJOR PROJECT, INCLUDING A PRESENTATION OF APPROPRIATE FACTS JUSTIFYING THE PROPOSED CONSTRUCTION; AND

(VI) THE ESTIMATED COST OF EACH CONSTRUCTION ITEM IN THE PROGRAM.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 7–103.

In the introductory language of this section and throughout this subtitle, the reference to "[a]" Program is substituted for the former reference to "[t]he" Program to indicate that this section lists requirements for each 6–year capital improvements Program.

In the introductory language of item (1) of this section, the reference to the "next" 6 fiscal years is substituted for the former reference to the "following" 6 fiscal years for clarity.

In item (1)(ii) of this section, the reference to "geographical areas outside the sanitary district" is substituted for the former reference to "other areas" for clarity.

Also in item (1)(ii) of this section, the reference to major projects the Commission determines are appropriate to include in the "Program" is substituted for the former reference to major projects the Commission determines are appropriate to include in the "sanitary district" for accuracy.

In item (3) of this section, the reference to a "major" project is added for consistency within this subtitle.

In item (5) of this section, the references to a contract being "awarded" are substituted for the former references to a contract being "let" for clarity.

In items (6) and (8)(i) of this section, the references to "mains" are substituted for the former references to "lines" for accuracy.

In item (6) of this section, the reference to the "Program" is substituted for the former reference to the "proposed major program" for accuracy. The deletion of the word "proposed" is not intended to be a change in procedure.

Defined terms: "Commission" § 16–101
"County" § 16–101
"Major project" § 23–301
"Program" § 23–301
"Sanitary district" § 16–101

23–304. SUBMISSION OF PROGRAM AND RECOMMENDATIONS.

(A) SUBMISSION OF PROGRAM BY COMMISSION.

BEFORE OCTOBER 1 OF EACH YEAR, THE COMMISSION SHALL PREPARE AND SUBMIT A PROGRAM TO THE COUNTY EXECUTIVE AND COUNTY COUNCIL OF MONTGOMERY COUNTY AND THE COUNTY EXECUTIVE OF PRINCE GEORGE'S COUNTY.

(B) SUBMISSION OF RECOMMENDATIONS — MONTGOMERY COUNTY.

IN MONTGOMERY COUNTY, THE COUNTY EXECUTIVE SHALL SUBMIT RECOMMENDATIONS AND SUGGESTED AMENDMENTS ABOUT THE PROGRAM TO THE COUNTY COUNCIL AS AN INTEGRAL PART OF THE COMPREHENSIVE 6–YEAR CAPITAL IMPROVEMENTS PROGRAM REQUIRED BY THE MONTGOMERY COUNTY CHARTER.

(C) SUBMISSION OF RECOMMENDATIONS — PRINCE GEORGE'S COUNTY.

IN PRINCE GEORGE'S COUNTY, THE COUNTY EXECUTIVE SHALL SUBMIT THE PROGRAM, TOGETHER WITH COMMENTS, RECOMMENDATIONS, AND SUGGESTED AMENDMENTS, TO THE COUNTY COUNCIL.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, §§ 7–104 and 7–105(a).

The Washington Suburban Sanitary Commission Law Review Committee notes, for consideration by the General Assembly, that the provision in subsection (a) of this section requiring the Commission to prepare and submit a Program to the County Executive of Prince George's County is inconsistent with current practice. The Commission submits the Program to both the County Executive and County Council of Prince George's County. The General Assembly may wish to conform this provision to current practice.

Defined terms: "Commission" § 16–101
"Program" § 23–301

23–305. PUBLIC HEARINGS.

(A) BEFORE FINAL ACTION.

BEFORE FINAL ACTION ON A PROGRAM IS TAKEN, PUBLIC HEARINGS SHALL BE HELD ON THE PROGRAM.

(B) IN CONJUNCTION WITH CAPITAL BUDGET HEARINGS.

THE PUBLIC HEARINGS MAY BE CONDUCTED IN CONJUNCTION WITH PUBLIC HEARINGS ON THE 6–YEAR PROGRAMS OR CAPITAL BUDGETS OF MONTGOMERY COUNTY, PRINCE GEORGE'S COUNTY, OR OTHER AGENCIES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 7–105(b).

Defined term: "Program" § 23–301

23–306. REVIEW; WRITTEN COMMENT BY COMMISSION.

(A) APPROVAL, DISAPPROVAL, OR MODIFICATION BY COUNTY COUNCILS.

THE COUNTY COUNCILS OF MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY SHALL APPROVE, DISAPPROVE, OR MODIFY A PROGRAM.

(B) ADVICE AND RECOMMENDATIONS OF MARYLAND–NATIONAL CAPITAL PARK AND PLANNING COMMISSION.

THE COUNTY COUNCILS OF MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY SHALL SEEK THE ADVICE AND RECOMMENDATION OF THE MARYLAND–NATIONAL CAPITAL PARK AND PLANNING COMMISSION IN REVIEWING A PROGRAM.

(C) DESIGNATION OF WATER OR SEWER MAIN.

THE COUNTY COUNCILS OF MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY MAY DESIGNATE A WATER OR SEWER MAIN FOR CONTROLLED OR LIMITED ACCESS FOR SERVICE TO DESIGNATED AREAS WITHIN THE RESPECTIVE COUNTY.

(D) WRITTEN COMMENT OF COMMISSION.

(1) A MODIFICATION TO A PROGRAM BY THE COUNTY COUNCIL OF MONTGOMERY COUNTY OR PRINCE GEORGE'S COUNTY IS NOT FINAL UNTIL THE MODIFICATION IS SUBMITTED TO THE COMMISSION FOR WRITTEN COMMENT.

(2) THE COMMISSION HAS AT LEAST 30 DAYS TO COMMENT ON THE MODIFICATION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 7–105(d).

In subsections (a), (b), and (c) of this section, the references to "[t]he county councils of Montgomery County and Prince George's County" are substituted for the former references to "[e]ach County Council" for clarity.

In subsection (d) of this section, the former references to an "amendment" or modification are deleted as included in the reference to a "modification".

In subsection (d)(1) of this section, the reference to a modification "to a Program by the county council of Montgomery County or Prince George's County" is added for clarity.

Defined terms: "Commission" § 16–101
"Program" § 23–301

23–307. APPROVAL OR DISAPPROVAL OF CERTAIN MAJOR PROJECTS.

(A) DISAPPROVAL BY COUNTY COUNCIL.

IF THE STATEMENT OF OBJECTIVES INCLUDED IN THE PROGRAM AS PROVIDED IN § 23–303 OF THIS SUBTITLE DECLARES THAT A MAJOR PROJECT TO BE CONSTRUCTED IN WHOLE OR IN PART IN ONE COUNTY IS DESIGNED TO PROVIDE SERVICES IN WHOLE OR IN SUBSTANTIAL PART TO THE OTHER

COUNTY, THE MAJOR PROJECT MAY BE DISAPPROVED WITH THE CONCURRENCE OF THE COUNTY COUNCIL OF THE COUNTY THAT IS TO RECEIVE THE SERVICES.

(B) MODIFICATIONS AND CHANGES.

(1) NOTWITHSTANDING SUBSECTION (A) OF THIS SECTION, THE COUNTY COUNCIL OF THE COUNTY IN WHICH THE MAJOR PROJECT IS LOCATED MAY DIRECT MODIFICATIONS IN LOCATION OR CHANGE THE PROPOSED YEAR OF CONSTRUCTION IF THE MODIFICATION OR CHANGE WILL NOT PREVENT THE SERVICES BEING AVAILABLE WHEN NEEDED.

(2) THE COUNTY COUNCIL'S AUTHORITY TO DIRECT MODIFICATIONS IN THE LOCATION OF A MAJOR PROJECT DESCRIBED IN SUBSECTION (A) OF THIS SECTION MAY BE EXERCISED TO EFFECT REASONABLE CHANGES IN THE LOCATION OF THE MAJOR PROJECT BY THE COUNTY COUNCIL OF THE COUNTY IN WHICH THE MAJOR PROJECT IS LOCATED WHEN THE MAJOR PROJECT IS FIRST APPROVED AS A PART OF A PROGRAM.

(C) FURTHER MODIFICATIONS.

AFTER APPROVAL OF A MAJOR PROJECT IN A PROGRAM, THE COUNTY COUNCIL OF THE COUNTY IN WHICH THE MAJOR PROJECT IS LOCATED MAY MAKE FURTHER MODIFICATIONS ONLY IF:

(1) THE MODIFICATIONS DO NOT RESULT IN SUBSTANTIAL NET ADDITIONAL COSTS OR EXPENSES TO THE COMMISSION; OR

(2) THE COUNTY DIRECTING THE MODIFICATIONS REIMBURSES THE COMMISSION FOR SUBSTANTIAL NET ADDITIONAL COSTS OR EXPENSES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 7–105(e).

In subsection (a) of this section, the reference to the "statement of objectives included in the Program as provided in § 23–303 of this subtitle" is substituted for the former reference to the "WSSC's submitted statement of objectives with respect to a major project to be constructed in whole or in part in one county" for brevity and clarity.

Also in subsection (a) of this section, the former reference to "designed" services is deleted as surplusage.

In subsection (b)(2) of this section, the reference to the location "of a major project described in subsection (a) of this section" is added for clarity.

Former Art. 29, § 7–105(e)(2)(ii), which provided that certain stormwater management programs in the Commission Capital Improvements Program are not subject to the approval by the county not served by the Program, is deleted as obsolete because the Commission no longer performs stormwater management functions.

Defined terms: "Commission" § 16–101
"County" § 16–101
"Major project" § 23–301
"Program" § 23–301

23–308. SOURCES OF FUNDING.

IN APPROVING OR MODIFYING A PROGRAM, IF MONTGOMERY COUNTY OR PRINCE GEORGE'S COUNTY APPROVES A MAJOR PROJECT FOR WHICH MONEY FROM THE ANTICIPATED SOURCES OF FUNDING SHOWN BY THE COMMISSION UNDER § 23–303 OF THIS SUBTITLE IS INSUFFICIENT, THE COMMISSION IS NOT OBLIGATED TO UNDERTAKE THE MAJOR PROJECT UNLESS THE COUNTY APPROVING THE MAJOR PROJECT PROVIDES ADDITIONAL SOURCES TO FUND THE MAJOR PROJECT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 7–105(f)(1).

The reference to the anticipated sources of funding shown by the Commission "under § 23–303 of this subtitle" is added for clarity.

The reference to "modifying" is substituted for the former reference to "amending" for consistency within this subtitle.

The reference to "Montgomery County or Prince George's County" is substituted for the former reference to "either county" for clarity.

The reference to the county "approving the major project" is substituted for the former reference to the "respective" county for clarity.

The former reference to additional sources "of capital" is deleted as surplusage.

Defined terms: "Commission" § 16–101
"Major project" § 23–301
"Program" § 23–301

23–309. LIABILITY RESULTING FROM CHANGE.

(A) RESPONSIBILITY FOR LIABILITY.

IF THE COMMISSION BECOMES LEGALLY LIABLE TO A THIRD PARTY AS A DIRECT RESULT OF A MODIFICATION OF A PREVIOUS APPROVAL OF A MAJOR PROJECT BY MONTGOMERY COUNTY OR PRINCE GEORGE'S COUNTY, THE COUNTY DIRECTING THE CHANGE IS RESPONSIBLE FOR THE LIABILITY THAT RESULTS FROM THE CHANGE.

(B) SETTLEMENT OR RELEASE OF CLAIMS.

THE COUNTY EXECUTIVE OR COUNTY COUNCIL OF MONTGOMERY COUNTY OR THE COUNTY EXECUTIVE OF PRINCE GEORGE'S COUNTY SHALL SETTLE OR RELEASE A CLAIM FOR LIABILITY UNDER SUBSECTION (A) OF THIS SECTION BY:

(1) NEGOTIATING WITH THE CLAIMANT; OR

(2) PAYING THE FINAL JUDGMENT OF A COURT AWARD.

(C) INTERVENTION IN COURT PROCEEDINGS.

IN LITIGATION RESULTING FROM A CLAIM FOR LIABILITY UNDER SUBSECTION (A) OF THIS SECTION, THE COUNTY EXECUTIVE OR COUNTY COUNCIL OF MONTGOMERY COUNTY AND THE COUNTY EXECUTIVE OF PRINCE GEORGE'S COUNTY MAY:

(1) INTERVENE IN A COURT PROCEEDING BEFORE JUDGMENT; AND

(2) INTERPOSE DEFENSES AVAILABLE TO THE COUNTY OR THE COMMISSION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 7–105(f)(2) through (4).

In the introductory language of subsection (b) of this section, the reference to a claim for liability "under subsection (a) of this section" is added for clarity.

In the introductory language of subsection (c) of this section, the phrase "[i]n litigation resulting from a claim for liability under subsection (a) of this section" is added for clarity.

In subsection (c)(2) of this section, the former reference to "any and all" defenses is deleted as surplusage.

Defined terms: "Commission" § 16–101
"Major project" § 23–301

23–310. REIMBURSEMENT; RIGHT, TITLE, AND INTEREST.

(A) REIMBURSEMENT.

IF THE COMMISSION HAS MADE EXPENDITURES TO A THIRD PARTY FOR SERVICES OR PROPERTY AS PART OF AN APPROVED MAJOR PROJECT THAT IS SUBSEQUENTLY MODIFIED OR REMOVED BY MONTGOMERY COUNTY OR PRINCE GEORGE'S COUNTY SO THAT THE SERVICES OR PROPERTY ARE NO LONGER NECESSARY, THE COUNTY DIRECTING THE MODIFICATION OR REMOVAL SHALL REIMBURSE THE COMMISSION FOR THE AMOUNT OF THE EXPENDITURES.

(B) COMMISSION TO GIVE RIGHT, TITLE, AND INTEREST.

THE COMMISSION SHALL GIVE MONTGOMERY COUNTY OR PRINCE GEORGE'S COUNTY ANY RIGHT, TITLE, AND INTEREST IN AN ITEM FOR WHICH REIMBURSEMENT HAS BEEN MADE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 7–105(f)(5) and (6).

In subsection (a) of this section, the reference to "Montgomery County and Prince George's County" is substituted for the former reference to "either county" for clarity.

Defined terms: "Commission" § 16–101
"Major project" § 23–301

23–311. NOTIFICATION OF FINAL ACTION.

WITHIN 5 DAYS AFTER FINAL ACTION ON A PROGRAM, THE COUNTY COUNCILS OF MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY SHALL SUBMIT TO THE COMMISSION NOTIFICATION OF FINAL ACTION, INCLUDING:

(1) THE DETAILS OF CHANGES OR MODIFICATIONS; AND

(2) EVIDENCE OF COMPLIANCE WITH SPECIFIED REQUIREMENTS OF THIS SUBTITLE THAT MAY BE APPLICABLE TO THE FINAL ACTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 7–105(g).

In the introductory language of this section, the reference to "the county councils of Montgomery County and Prince George's County" is substituted for the former reference to "each County Council" for clarity.

In item (2) of this section, the reference to "evidence" of compliance is substituted for the former reference to "[i]ndications" for clarity.

Also in item (2) of this section, the reference to specified "requirements" is substituted for the former reference to specified "conditions" for clarity.

Defined terms: "Commission" § 16–101
"Program" § 23–301

23–312. ADOPTION OF PROGRAM; AMENDMENTS TO PROGRAM.

(A) ADOPTION OF PROGRAM.

THE COMMISSION SHALL:

(1) REVIEW EACH PROGRAM;

(2) REVISE EACH PROGRAM AS REQUIRED BY A FINAL ACTION OF THE COUNTY COUNCILS OF MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY; AND

(3) ADOPT EACH PROGRAM BEFORE THE BEGINNING OF THE FIRST FISCAL YEAR OF THAT PROGRAM.

(B) CAPITAL BUDGET TO INCLUDE APPROVED MAJOR PROJECTS.

THE COMMISSION'S CAPITAL BUDGET FOR THE FIRST FISCAL YEAR OF EACH PROGRAM APPROVED BY THE COMMISSION SHALL PROVIDE MONEY TO BEGIN THE APPROVED MAJOR PROJECTS FOR THE FIRST YEAR OF THAT PROGRAM.

(C) AMENDMENTS TO PROGRAM.

(1) A MAJOR PROJECT MAY NOT BEGIN IF THE MAJOR PROJECT IS NOT IN CONFORMITY WITH THE PART OF THE PROGRAM APPLICABLE TO THAT FISCAL YEAR UNLESS THE MAJOR PROJECT IS INCLUDED IN THE PROGRAM BY AN AMENDMENT TO THE PROGRAM.

(2) THE AMENDMENT TO THE PROGRAM:

(I) MAY BE PROPOSED BY THE COMMISSION OR INITIATED BY THE COUNTY EXECUTIVE OR COUNTY COUNCIL OF MONTGOMERY COUNTY OR PRINCE GEORGE'S COUNTY;

(II) ON REASONABLE ADVANCE NOTICE TO THE PUBLIC, SHALL BE SUBJECT TO A PUBLIC HEARING HELD BY THE COUNTY COUNCIL OF THE COUNTY THAT INITIATES THE AMENDMENT OR BY BOTH COUNTY COUNCILS IF THE AMENDMENT AFFECTS BOTH COUNTIES; AND

(III) REQUIRES FINAL ACTION BY THE COUNTY COUNCIL OF EACH AFFECTED COUNTY.

(3) THE COUNTY COUNCIL OF THE AFFECTED COUNTY SHALL NOTIFY THE COMMISSION OF THE FINAL ACTION.

(4) THE COMMISSION SHALL ADOPT AN AMENDMENT APPROVED BY FINAL ACTION BY THE COUNTY COUNCIL OF EACH AFFECTED COUNTY.

(D) MATERIAL CHANGES.

(1) IN THIS SUBSECTION, "MATERIAL CHANGE" DOES NOT INCLUDE THE FOLLOWING ITEMS IF SERVICE FROM A MAJOR PROJECT AS CONSTRUCTED DOES NOT EXTEND BEYOND THE AREA APPROVED FOR CONSTRUCTION OF A SEWER PROJECT:

(I) A NORMAL DEVIATION FROM THE MOST RECENT ESTIMATED CONSTRUCTION COSTS;

(II) A CHANGE IN LOCATION CAUSED BY RIGHT–OF–WAY ACQUISITION PROBLEMS;

(III) A CONDITION FOUND IN THE FIELD WHEN ACTUAL CONSTRUCTION PLANS ARE PREPARED; OR

(IV) A MODIFICATION OF AN ESTIMATED SIZE OR LENGTH OF A CONSTRUCTION ITEM.

(2) A MAJOR PROJECT MAY NOT BE CONSTRUCTED UNTIL AN ADOPTED PROGRAM IS AMENDED AS TO ANY MATERIAL CHANGE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 7–106(a) through (d).

In subsection (a)(2) of this section, the reference to the county councils "of Montgomery County and Prince George's County" is added for clarity.

In subsection (b) of this section, the reference to the capital budget providing "money to begin" the approved major projects is substituted for the former reference to the capital budget providing "for beginning" the approved major projects for clarity.

In subsection (c)(1) of this section, the reference to a "major project" is substituted for the former reference to a "WSSC capital improvements project" for consistency within this subtitle.

In subsection (c)(3) of this section, the former reference to the final action "provided in paragraph (2) of this subsection" is deleted as unnecessary.

In subsection (c)(4) of this section, the reference to an amendment "approved by final action by the county council of each affected county" is substituted for the former reference to an amendment "as specified for the ... Program" for clarity.

In subsection (d) of this section, the references to a "major" project are added for consistency within this subtitle.

In subsection (d)(2) of this section, the former reference to a "finally" adopted Program is deleted as surplusage.

Defined terms: "Commission" § 16–101
"Major project" § 23–301
"Program" § 23–301

23–313. REPORTS.

(A) FINAL REPORT ON COMPLETED MAJOR PROJECTS.

THE COMMISSION SHALL SUBMIT A FINAL REPORT, INCLUDING CONSTRUCTION COST FIGURES, ON COMPLETED MAJOR PROJECTS TO THE COUNTY EXECUTIVE AND COUNTY COUNCIL OF MONTGOMERY COUNTY OR PRINCE GEORGE'S COUNTY.

(B) STATUS REPORT ON UNCOMPLETED MAJOR PROJECTS.

(1) WHEN THE COMMISSION SUBMITS A PROGRAM UNDER § 23–304 OF THIS SUBTITLE, THE COMMISSION SHALL INCLUDE A STATUS

REPORT OF ALL APPROVED MAJOR PROJECTS THAT HAVE NOT BEEN COMPLETED AS OF THE DATE THAT THE PROGRAM IS SUBMITTED.

(2) THE REPORT SHALL:

(I) IDENTIFY THE MAJOR PROJECT;

(II) SPECIFY THE DATES OF APPROVAL OF THE MAJOR PROJECT;

(III) INDICATE THE CURRENT STATUS OF THE MAJOR PROJECT, INCLUDING AN ESTIMATE OF THE DATE OF COMPLETION OF CONSTRUCTION;

(IV) INDICATE IF THE MAJOR PROJECT IS THE SUBJECT OF A MATERIAL CHANGE AND ANY AMENDMENT THAT IS REQUIRED UNDER § 23–312 OF THIS SUBTITLE; AND

(V) FOR AN APPROVED MAJOR PROJECT IN MONTGOMERY COUNTY, INDICATE A CHANGE IN THE LAST ESTIMATED CONSTRUCTION COSTS AND A MODIFICATION IN LOCATION, SIZE, AND LENGTH OF A CONSTRUCTION ITEM.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 7–106(e).

In this section, the references to a "major" project are added for consistency within this subtitle.

In subsection (b)(1) of this section, the reference to a Program submitted "under § 23–304 of this subtitle" is added for clarity.

Also in subsection (b)(1) of this section, the former reference to the Program being submitted "to the Montgomery County Executive and County Council and the Prince George's County Executive and County Council" is deleted as unnecessary.

In subsection (b)(2)(ii) of this section, the reference to the dates of approval "of the major project" is added for clarity.

Defined terms: "Commission" § 16–101
"Major project" § 23–301
"Program" § 23–301

23–314. EXTENSIONS.

(A) APPROVAL REQUIRED.

UNLESS THE COUNTY COUNCILS OF MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY HAVE APPROVED THE EXTENSION, THE COMMISSION:

(1) MAY NOT EXTEND OR APPROVE CONSTRUCTION OF A SEWER OF ANY SIZE OR CAPACITY TO SERVE PROPERTY IN EITHER COUNTY BEYOND THE AREA THAT HAS BEEN APPROVED FOR SERVICE IN A PROGRAM AND THE 10–YEAR WATER AND SEWER PLAN REQUIRED UNDER § 9–503 OF THE ENVIRONMENT ARTICLE; OR

(2) SUBJECT TO SUBSECTION (B) OF THIS SECTION, MAY NOT EXTEND A WATER LINE OF ANY SIZE OR CAPACITY BEYOND THE APPROVED TERMINAL POINT OF A MAJOR PROJECT.

(B) ALLOWABLE EXTENSIONS BEYOND TERMINAL POINT.

IF THE COUNTY COUNCILS OF MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY HAVE APPROVED THE EXTENSION, THE COMMISSION MAY EXTEND A WATER LINE BEYOND THE TERMINAL POINT IF:

(1) THE EXTENSION OF THE WATER LINE WOULD PROVIDE WATER SERVICE TO A DEVELOPMENT THAT IS WITHIN AN APPROVED SEWER PROJECT AREA; OR

(2) THE AFFECTED COUNTY, THROUGH AN APPROPRIATE COUNTY UNIT, HAS APPROVED THE INSTALLATION OF INDIVIDUAL SEWAGE DISPOSAL FACILITIES.

(C) SUBMISSION FOR APPROVAL AND NOTIFICATION BY COUNTY.

THE COMMISSION MAY CONSTRUCT AN EXTENSION THAT REQUIRES APPROVAL UNDER THIS SECTION IF:

(1) THE PROPOSED EXTENSION HAS BEEN SUBMITTED FOR APPROVAL; AND

(2) WITHIN 30 DAYS AFTER RECEIPT OF THE PROPOSED EXTENSION, THE AFFECTED COUNTY HAS NOT NOTIFIED THE COMMISSION THAT THE EXTENSION SHOULD NOT BE MADE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 7–106(f).

In the introductory language of subsection (a) of this section and the introductory language to subsection (b) of this section, the references to the county councils "of Montgomery County and Prince George's County" are added for clarity.

In subsection (a)(1) of this section, the reference to the 10–year water and sewer plan "required under § 9–503 of the Environment Article" is added for clarity.

In subsection (a)(2) of this section, the reference to a "major project" is substituted for the former reference to a "WSSC capital improvements project" for consistency within this subtitle.

In the introductory language to subsection (b) of this section, the former reference to "a storm drainage system" is deleted as obsolete because the Commission no longer performs stormwater management functions.

In subsections (b)(2) and (c)(2) of this section, the references to the "affected" county are added for clarity.

As to the substitution of the reference to a "unit" for the former reference to an "agency" in subsection (b)(2) of this section, *see* General Revisor's Note to division.

The Washington Suburban Sanitary Commission Law Review Committee notes, for consideration by the General Assembly, that the provision in subsection (c) of this section that authorizes the Commission to construct an extension if, within 30 days after receipt of the extension, the affected county has not notified the Commission that the extension should not be made may conflict with subsection (a) of this section that prohibits the Commission from constructing a certain extension without the approval of the county councils of Montgomery County and Prince George's County. The General Assembly may wish to address this apparent conflict.

Defined terms: "Commission" § 16–101
"Major project" § 23–301
"Program" § 23–301

23–315. PRINCE GEORGE'S COUNTY — SANITARY SEWER SERVICE OUTSIDE APPROVED AREAS.

(A) SCOPE OF SECTION.

THIS SECTION APPLIES ONLY IN PRINCE GEORGE'S COUNTY.

(B) SANITARY SEWER SERVICE IN CERTAIN DRAINAGE AREAS.

EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, THE COMMISSION MAY PROVIDE SANITARY SEWER SERVICE IN DRAINAGE AREAS THAT ARE TRIBUTARY TO COUNTY–APPROVED TRUNK SEWERS AND COUNTY–APPROVED PUMPING STATIONS OUTSIDE OF THE COUNTY–APPROVED SERVICE AREAS.

(C) DEVELOPMENT IN ACCORDANCE WITH CERTAIN MASTER PLAN AND APPROVAL.

PROPERTY TO WHICH SANITARY SEWER SERVICE IS PROVIDED UNDER THIS SECTION SHALL BE DEVELOPED IN ACCORDANCE WITH A MASTER PLAN ADOPTED BY THE MARYLAND–NATIONAL CAPITAL PARK AND PLANNING COMMISSION AND APPROVED BY THE COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY AFTER SUBMISSION TO THE COUNTY EXECUTIVE OF PRINCE GEORGE'S COUNTY FOR REVIEW.

(D) SERVICE TO EXISTING STRUCTURES.

NOTWITHSTANDING SUBSECTION (C) OF THIS SECTION, THE COMMISSION MAY PROVIDE SANITARY SEWER SERVICE TO EXISTING STRUCTURES LOCATED IN THE DRAINAGE AREAS DESCRIBED IN SUBSECTION (B) OF THIS SECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 7–106(g).

In subsection (d) of this section, the reference to "the drainage areas described in subsection (b) of this section" is substituted for the former reference to "those drainage areas in Prince George's County" for clarity.

Defined term: "Commission" § 16–101

23–316. COOPERATIVE EFFORT.

(A) LEGISLATIVE INTENT.

IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE COMMISSION, THE MARYLAND–NATIONAL CAPITAL PARK AND PLANNING COMMISSION, AND THE COUNTY EXECUTIVES AND COUNTY COUNCILS OF MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY COOPERATE TO THE FULLEST EXTENT IN SEEKING TO ATTAIN MAXIMUM HARMONY OF WATER AND SANITARY SEWER

CONSTRUCTION PROGRAMS WITH THE OTHER ELEMENTS OF ORDERLY GROWTH IN MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY.

(B) EXCHANGE OF INFORMATION.

THE COMMISSION, THE MARYLAND–NATIONAL CAPITAL PARK AND PLANNING COMMISSION, AND THE COUNTY EXECUTIVES AND COUNTY COUNCILS OF MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY ARE ENCOURAGED TO:

(1) MEET AND DISCUSS EACH PROGRAM; AND

(2) EXCHANGE INFORMATION AND DETAILS NECESSARY TO ACHIEVE THE COORDINATION CONTEMPLATED BY THIS SECTION FOR EACH PROGRAM.

(C) ADDITIONAL INFORMATION PROVIDED BY COMMISSION.

THE COMMISSION SHALL GIVE ADDITIONAL INFORMATION AND DETAILS THAT THE COUNTY EXECUTIVES AND COUNTY COUNCILS OF MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY REQUEST IN CONNECTION WITH THE CONSIDERATION OF A PROGRAM.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 7–107.

Defined terms: "Commission" § 16–101
"Program" § 23–301

TITLE 24. PLUMBING, WATERWORKS, AND SEWER CONSTRUCTION.

SUBTITLE 1. CONSTRUCTION PROJECTS.

24–101. CONSTRUCTION IN SANITARY DISTRICT OR AREAS OF PRINCE GEORGE'S COUNTY NOT IN SANITARY DISTRICT.

(A) PERMIT REQUIRED.

(1) A PERSON SHALL OBTAIN A PERMIT FROM THE COMMISSION BEFORE THE PERSON MAY ENGAGE IN PLUMBING, WATERWORKS, OR SEWER CONSTRUCTION IN A BUILDING OR ON PRIVATE PROPERTY IN THE SANITARY DISTRICT OR AREAS OF PRINCE GEORGE'S COUNTY THAT ARE NOT IN THE SANITARY DISTRICT.

(2) THE PERSON SHALL PAY TO THE COMMISSION A REASONABLE PERMIT FEE SET BY THE COMMISSION.

(B) CONSTRUCTION STANDARDS.

WORK PERFORMED UNDER A PERMIT AUTHORIZED BY THIS SECTION SHALL:

(1) CONFORM TO THE COMMISSION'S REGULATIONS; AND

(2) BE SUBJECT TO ANY INSPECTION THAT THE COMMISSION CONSIDERS NECESSARY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 8–101(a).

In subsection (a)(1) of this section, the reference to a person "engag[ing] in" plumbing, waterworks, or sewer construction is substituted for the former reference to a person "do[ing]" plumbing, waterworks, or sewer construction to conform to the terminology used in this and other revised articles of the Code.

Also in subsection (a)(1) of this section, the reference to property in "areas of Prince George's County that are not in the sanitary district" is substituted for the former reference to property "elsewhere in Prince George's County" for clarity.

In subsection (a)(2) of this section, the reference to paying a fee "to the Commission" is added for clarity.

In the introductory language of subsection (b) of this section, the reference to the work "performed under a permit authorized by this section" is added for clarity.

In subsection (b)(1) of this section and throughout this title, the former reference to "rules" is deleted in light of the use of the word "regulations". *See* General Revisor's Note to division.

Also in subsection (b)(1) of this section, the former reference to the "requirements adopted by the WSSC" is deleted as implicit in the reference to the "Commission's regulations".

Defined terms: "Commission" § 16–101
"Person" § 16–101
"Sanitary district" § 16–101

24–102. PRIVATE OR SEMIPUBLIC WATER SUPPLY OR SEWER SYSTEM IN SANITARY DISTRICT OR AREAS OF PRINCE GEORGE'S COUNTY NOT IN SANITARY DISTRICT.

(A) PERMIT REQUIRED.

(1) A PERSON SHALL OBTAIN A PERMIT FROM THE COMMISSION BEFORE THE PERSON MAY CONSTRUCT A PRIVATE OR SEMIPUBLIC WATER SUPPLY OR SEWER SYSTEM FOR THE USE OF AT LEAST TWO BUILDINGS OR PREMISES IN THE SANITARY DISTRICT OR AREAS OF PRINCE GEORGE'S COUNTY THAT ARE NOT IN THE SANITARY DISTRICT.

(2) THE PERSON SHALL PAY TO THE COMMISSION A REASONABLE PERMIT FEE.

(B) CONSTRUCTION STANDARDS.

(1) THE PRIVATE OR SEMIPUBLIC WATER SUPPLY OR SEWER SYSTEM SHALL BE INSTALLED, MAINTAINED, AND OPERATED UNDER REGULATIONS THAT THE COMMISSION ADOPTS.

(2) THE OWNER OR OPERATOR OF THE SYSTEM SHALL PAY TO THE COMMISSION A REASONABLE SUPERVISION AND INSPECTION FEE THAT THE COMMISSION SETS.

(C) FAILURE OR REFUSAL TO COMPLY WITH COMMISSION REQUIREMENTS.

IF AN OWNER OR OPERATOR OF A PRIVATE OR SEMIPUBLIC WATER SUPPLY OR SEWER SYSTEM FAILS OR REFUSES TO CORRECT, MAINTAIN, OR OPERATE THE SYSTEM IN COMPLIANCE WITH THE REQUIREMENTS OF THE COMMISSION, THE COMMISSION MAY:

(1) MAKE THE CORRECTION OR TAKE OVER THE OPERATION OF THE SYSTEM FOR THE PERIOD NECESSARY; AND

(2) COLLECT THE COSTS FOR THE CORRECTION OR OPERATION FROM THE OWNER OR OPERATOR.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 8–101(c) and (d).

In subsection (a)(1) of this section, the reference to a private or semipublic water supply or sewer "system" is substituted for the former reference to an "installation" for consistency within this subtitle.

Also in subsection (a)(1) of this section, the reference to property in "areas of Prince George's County that are not in the sanitary district" is substituted for the former reference to property "elsewhere in Prince George's County" for clarity.

Also in subsection (a)(1) of this section, the former reference to a system "intended" for the use of at least two buildings or premises is deleted as surplusage.

In subsection (a)(2) of this section, the reference to paying a permit fee "to the Commission" is added for clarity.

In subsection (b)(1) of this section, the reference to a "private or semipublic water supply or sewer system" is substituted for the former reference to a "plant" to conform to the terminology used throughout this section.

In subsection (b)(2) of this section, the requirement that the owner or operator of a system "pay to the Commission a reasonable supervision and inspection fee that the Commission sets" is substituted for the former reference to authority of the Commission to "fix and collect … a reasonable fee for supervision and inspection of the systems" to conform to the terminology used throughout this subtitle.

In subsection (c) of this section, the reference to a "private or semipublic water supply or sewer" system is added for clarity.

Defined terms: "Commission" § 16–101
"Person" § 16–101
"Sanitary district" § 16–101

24–103. HOOKUP TO COMMISSION WATER OR SEWER SERVICE LINE.

(A) PERMIT REQUIRED.

(1) A PERSON SHALL OBTAIN A PERMIT FROM THE COMMISSION BEFORE THE PERSON MAY MAKE A HOOKUP WITH A WATER OR SEWER SERVICE LINE THAT THE COMMISSION CONSTRUCTS OR MAINTAINS.

(2) A HOOKUP SHALL BE MADE UNDER THE CONDITIONS THAT THE COMMISSION AUTHORIZES.

(B) PREVENTION OF WASTE OF WATER.

TO PREVENT OR ELIMINATE LEAKAGE, LOSS OF WATER, THE UNNECESSARY USE OF SEWERS, OR OTHER WASTE OF WATER, THE COMMISSION MAY:

(1) AT A REASONABLE TIME, ENTER A BUILDING OR PREMISES THAT HAS A CONNECTION WITH THE WATER SUPPLY OR SEWER SYSTEM UNDER THE JURISDICTION OF THE COMMISSION; AND

(2) ISSUE AN ORDER REQUIRING A CHANGE IN THE PLUMBING, WATERWORKS, OR WATER OR SEWER CONNECTION THAT THE COMMISSION CONSIDERS NECESSARY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 8–101(b).

In subsection (a)(1) of this section, the requirement that a person "obtain a permit from the Commission before the person may make a hookup" is substituted for the former reference to a hookup that "may not be made … without a permit" to conform to the terminology used throughout this subtitle.

Defined terms: "Commission" § 16–101
"Hookup" § 16–101
"Person" § 16–101

24–104. WATER SUPPLY OR SEWAGE COLLECTION AND DISPOSAL SYSTEM.

(A) SCOPE OF SECTION.

THIS SECTION DOES NOT APPLY TO:

(1) IN MONTGOMERY COUNTY:

(I) AN APARTMENT HOUSE WITH FEWER THAN FIVE DWELLING UNITS; OR

(II) A WATER SUPPLY OR SEWAGE COLLECTION AND DISPOSAL SYSTEM CONSTRUCTED:

1. TO SERVE ONLY A SINGLE BUILDING OR GROUP OF BUILDINGS SERVING AS A SINGLE FARM UNIT OR AS A SINGLE COMMERCIAL OR INDUSTRIAL ESTABLISHMENT;

2. BY THE COUNTY, AN INSTRUMENTALITY OF THE COUNTY, OR THE CITY OF ROCKVILLE; OR

3. BY A MUNICIPALITY, IF THE MUNICIPALITY OWNED AND OPERATED THE SYSTEM ON JUNE 1, 1965; AND

(2) IN PRINCE GEORGE'S COUNTY, A WATER SUPPLY OR SEWAGE COLLECTION AND DISPOSAL SYSTEM:

(I) CONSTRUCTED TO SERVE ONLY A SINGLE FAMILY RESIDENCE OR A SINGLE BUILDING; OR

(II) OWNED AND OPERATED BY A MUNICIPALITY ON JANUARY 1, 1959.

(B) PERMIT REQUIRED.

(1) THIS SUBSECTION DOES NOT APPLY TO CALVERT MANOR.

(2) SUBJECT TO SUBSECTION (C) OF THIS SECTION, A PERSON SHALL OBTAIN A PERMIT FROM THE COMMISSION BEFORE THE PERSON MAY CONSTRUCT, ALTER, EXTEND, OR OPERATE A WATER SUPPLY OR SEWAGE COLLECTION AND DISPOSAL SYSTEM OUTSIDE THE SANITARY DISTRICT IN MONTGOMERY COUNTY OR PRINCE GEORGE'S COUNTY.

(C) REQUIREMENTS FOR ISSUANCE OF PERMIT.

(1) THE COMMISSION MAY NOT ISSUE A PERMIT UNDER SUBSECTION (B) OF THIS SECTION UNTIL THE COMMISSION APPROVES:

(I) COMPLETE PLANS AND SPECIFICATIONS FOR THE CONSTRUCTION, ALTERATION, EXTENSION, OR OPERATION OF THE WATER SUPPLY OR SEWAGE COLLECTION AND DISPOSAL SYSTEM; AND

(II) ANY OTHER INFORMATION THAT THE COMMISSION REQUIRES.

(2) THE COMMISSION SHALL:

(I) DURING CONSTRUCTION, INSPECT ALL PROJECTS FOR WHICH THE PERMIT WAS ISSUED; AND

(II) REQUIRE THE CONSTRUCTION TO CONFORM TO THE APPROVED PLANS AND SPECIFICATIONS.

(3) THE COMMISSION MAY CHARGE A REASONABLE PERMIT FEE NOT EXCEEDING 6% OF THE ESTIMATED CONSTRUCTION COST FOR A PROJECT DESCRIBED IN THIS SECTION.

(D) MATERIAL CHANGE IN PLANS AND SPECIFICATIONS.

(1) A PERSON HOLDING A PERMIT UNDER SUBSECTION (B) OF THIS SECTION SHALL SUBMIT TO THE COMMISSION:

(I) ANY MATERIAL CHANGE IN THE PLANS AND SPECIFICATIONS; AND

(II) A STATEMENT OF THE REASONS FOR THE CHANGE.

(2) THE COMMISSION SHALL APPROVE AND ISSUE A PERMIT FOR A MATERIAL CHANGE BEFORE THE PERSON MAY INCLUDE THE CHANGE IN THE ACTUAL CONSTRUCTION.

(E) COMMISSION REGULATION OF INSTALLATION, MAINTENANCE, AND OPERATION OF SYSTEM.

A WATER SUPPLY OR SEWAGE COLLECTION AND DISPOSAL SYSTEM, INCLUDING OXIDATION PONDS AND SEWAGE LAGOONS, FOR WHICH A PERMIT IS REQUIRED UNDER THIS SECTION SHALL BE INSTALLED, MAINTAINED, AND OPERATED UNDER REGULATIONS THAT THE COMMISSION ADOPTS.

(F) DUTIES OF COMMISSION.

THE COMMISSION SHALL:

(1) INSPECT THE OPERATIONS OF ANY WATER SUPPLY OR SEWAGE COLLECTION AND DISPOSAL SYSTEM AUTHORIZED UNDER THIS SECTION;

(2) REQUIRE THE OWNERS OR OPERATORS OF THE SYSTEM TO MAINTAIN AND OPERATE THE SYSTEM IN COMPLIANCE WITH THE COMMISSION'S REASONABLE REQUIREMENTS AND WITH REGARD TO PUBLIC HEALTH, SAFETY, AND COMFORT;

(3) SET AND COLLECT FROM THE OWNERS OR OPERATORS OF THE SYSTEM A REASONABLE FEE FOR THE SUPERVISION AND INSPECTION OF THE SYSTEM; AND

(4) IF THE OWNER OR OPERATOR FAILS OR REFUSES TO CORRECT, MAINTAIN, OR OPERATE THE SYSTEM IN COMPLIANCE WITH THE COMMISSION'S REQUIREMENTS:

(I) MAKE THE CORRECTION OR TAKE OVER THE OPERATION OF THE SYSTEM FOR ANY PERIOD NECESSARY; AND

(II) COLLECT THE COSTS FOR THE CORRECTION OR OPERATION FROM THE OWNER OR OPERATOR.

(G) ANALYSES PERFORMED BY MUNICIPALITY.

THE COMMISSION:

(1) SHALL ADJUST ITS INSPECTION FEES ACCORDINGLY IF A MUNICIPALITY IN MONTGOMERY COUNTY OR PRINCE GEORGE'S COUNTY:

(I) OWNS OR OPERATES A WATER SUPPLY OR SEWAGE COLLECTION AND DISPOSAL SYSTEM;

(II) PERFORMS OR HAS PERFORMED BACTERIOLOGICAL AND CHEMICAL ANALYSES ON THE SYSTEM BY QUALIFIED PERSONNEL, AS APPROVED BY THE DEPARTMENT OF THE ENVIRONMENT AND THE COMMISSION; AND

(III) FILES WITH THE COMMISSION A MONTHLY REPORT OF THE ANALYSES SHOWING THAT SATISFACTORY OPERATING CONDITIONS EXIST IN THE SYSTEM; AND

(2) IS NOT REQUIRED TO DUPLICATE AN ANALYSIS.

(H) WATER OR SEWAGE TREATMENT FACILITY — COMMISSION INSPECTION NOT REQUIRED IF SUBJECT TO DEPARTMENT OF THE ENVIRONMENT INSPECTION.

(1) IF A WATER OR SEWAGE TREATMENT FACILITY IS CONSTRUCTED UNDER A COMMISSION PERMIT AND OPERATES SUBJECT TO INSPECTION BY THE DEPARTMENT OF THE ENVIRONMENT, THE COMMISSION IS

NOT REQUIRED TO DUPLICATE THE OPERATIONAL INSPECTION FUNCTIONS THAT THE DEPARTMENT OF THE ENVIRONMENT CONDUCTS.

(2) THE COMMISSION MAY ELIMINATE OR REDUCE ITS OPERATION AND INSPECTION FEE IN PROPORTION TO THE ELIMINATED INSPECTION ACTIVITIES.

(3) ALL OTHER REQUIREMENTS OF THE COMMISSION PERMIT FOR THE FACILITY SHALL BE APPLICABLE.

(I) PLANS TO BE FILED AFTER PROJECT IS COMPLETED.

(1) WHEN A WATER SUPPLY OR SEWAGE COLLECTION AND DISPOSAL SYSTEM AUTHORIZED UNDER THIS SECTION IS COMPLETED, THE PERSON CONSTRUCTING THE SYSTEM SHALL FILE WITH THE COMMISSION AS A PERMANENT RECORD A CERTIFIED COPY OF THE PLANS IN FULL, SHOWING THE WORK AS BUILT.

(2) THE RECORD SHALL INCLUDE THE INFORMATION AND BE IN THE FORM THAT THE COMMISSION REQUIRES.

(J) COMPLIANCE NOT EXCUSED BY CONVICTION.

A PERSON FOUND TO HAVE VIOLATED THIS SECTION IS NOT RELIEVED FROM THE REQUIREMENT TO SECURE AND PAY FOR A PERMIT AND COMPLY WITH ALL OTHER APPLICABLE PROVISIONS OF THIS SECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 8–102.

In subsection (b)(2) of this section, the former reference to a "written" permit is deleted as implicit in the existence of a permit.

Also in subsection (b)(2) of this section, the former reference to "any area" outside the sanitary district is deleted as surplusage.

In subsection (c) of this section, the former reference to the Commission approving plans and issuing permits for the construction, alteration, or extension of a water supply system and a sewage collection and disposal system "in the area described in subsection (a) of this section" is deleted as erroneous due to an incorrect cross–reference that occurred in Chapter 767, Acts of 1982.

In the introductory language of subsection (c)(1) of this section, the reference to a permit "under subsection (b) of this section" is substituted for the former reference to "this" permit for clarity.

Also in the introductory language of subsection (c)(1) of this section, the former reference to information being "submitted to" the Commission is deleted as unnecessary in light of the requirement that the Commission "approves" the information.

In subsection (c)(1)(i) of this section, the reference to the "operation" of the water supply or sewage collection and disposal system is added for consistency with subsection (b)(2) of this section.

Also in subsection (c)(1)(i) of this section, the reference to "construction" is substituted for the former reference to "installation" to conform with terminology used throughout this section.

Also in subsection (c)(1)(i) of this section, the former reference to the Commission approving plans "in accordance with its requirements" is deleted as implicit in the requirement in subsection (e) of this section that a water supply or sewage collection and disposal system for which a permit is required under this section be installed, maintained, and operated under Commission regulations.

In subsection (c)(2) of this section, the former reference to "[a]ll construction shall take place in accordance with the approved plans and shall be subject to the inspection of the WSSC" is deleted as implicit in the reference to the Commission "inspect[ing] all projects for which the permit was issued" and "requir[ing] the construction to conform to the approved plans and specifications".

In subsection (c)(2)(i) of this section, the reference to projects "for which the permit was issued" is substituted for the former reference to "these" projects for clarity.

In subsection (c)(2)(ii) of this section, the reference to plans "and specifications" is added for consistency within the subsection.

In the introductory language of subsection (d)(1) of this section, the reference to a person "holding a permit under subsection (b) of this section" is added for clarity.

In subsection (e) of this section, the reference to regulations that the Commission "adopts" is substituted for the former reference to regulations that the Commission "requires" for clarity.

Also in subsection (e) of this section, the former reference to "reasonable" regulations is deleted as unnecessary in light of the requirement that regulations must be reasonable in order to be valid. *See Comptroller of Treas. v. M.E. Rockhill, Inc.*, 205 Md. 226, 233 (1954).

In subsections (f)(1) and (i)(1) of this section, the reference to a "water supply or sewage collection and disposal system authorized under this section" is substituted for the former reference to a "project" for clarity. Correspondingly, in subsections (f)(2) and (i)(1) of this section, the references to the "system" are substituted for the former references to the "project" for consistency throughout this section.

In subsection (f)(4)(ii) of this section, the reference to the costs for the "correction or operation" is substituted for the former reference to the costs for the "system" for accuracy.

In subsection (g)(1)(i) of this section, the reference to a sewage collector "and" disposal system is substituted for the former reference to a sewage collection "or" disposal system for clarity.

In subsection (g)(1)(iii) of this section, the former reference to conditions "currently" existing in the system is deleted as unnecessary.

In subsection (h)(1) of this section, the reference to the operational inspection functions "that the Department of the Environment" conducts is substituted for the former reference to "those" operational inspection functions for clarity.

In subsection (h)(3) of this section, the reference to "requirements … be[ing] applicable" is substituted for the former reference to "aspects ... continu[ing]" for clarity.

In subsection (i)(2) of this section, the reference to the record "includ[ing] the information" is substituted for the former reference to "be[ing] of a character" for clarity.

In subsection (j) of this section, the reference to "[a] person found to have violated this section" is substituted for the former reference to "[a] conviction under this section" for accuracy since a violation of this section is a Commission infraction under § 29–101 of this article and not a criminal offense.

The Washington Suburban Sanitary Commission Law Review Committee notes, for consideration by the General Assembly, that subsection (a)(1)(ii)3 and (2)(ii) of this section may be obsolete. Those provisions exempt from this section water supply or sewage collection and disposal systems constructed by a municipality in Montgomery County if the

municipality owned and operated the system on June 1, 1965, or by a municipality in Prince George's County if the municipality owned and operated the system on January 1, 1959. It is unknown whether there are any systems currently in service that fall under those exemptions.

The Washington Suburban Sanitary Commission Law Review Committee also notes, for consideration by the General Assembly, that subsection (b)(1) of this section may be obsolete since Commission staff have advised the Committee that it does not know the origin of the exemption for Calvert Manor or whether the exemption is still applicable.

The Washington Suburban Sanitary Commission Law Review Committee also notes, for consideration by the General Assembly, that it is unclear whether the provision in subsection (d)(2) of this section requiring the Commission to approve and issue a permit for a material change should be interpreted to mean that the Commission shall issue a second permit for the material change or that the Commission may modify the existing permit to allow for the material change. The General Assembly may wish to clarify this provision.

Defined terms: "Commission" § 16–101
"Municipality" § 16–101
"Person" § 16–101
"Sanitary district" § 16–101

24–105. PLUMBING INSTALLATION IN PRINCE GEORGE'S COUNTY.

(A) APPLICATION OF COMMISSION REGULATIONS.

(1) IN THOSE PARTS OF PRINCE GEORGE'S COUNTY THAT ARE NOT IN THE SANITARY DISTRICT, THE COMMISSION'S PLUMBING REGULATIONS:

(I) APPLY TO PLUMBING INSTALLATIONS THAT BEGAN ON OR AFTER JUNE 1, 1965; BUT

(II) DO NOT APPLY TO PLUMBING INSTALLATIONS THAT EXISTED ON JULY 1, 1965.

(2) (I) THE OWNER OF THE PROPERTY WHERE PLUMBING INSTALLATIONS EXISTED ON JULY 1, 1965, IS NOT REQUIRED TO CHANGE THE PLUMBING UNTIL WATER OR SEWER SERVICE IS OBTAINED FROM A COMMISSION SYSTEM.

(II) IF WATER OR SEWER SERVICE IS OBTAINED FROM A COMMISSION SYSTEM, THIS SECTION AND THE COMMISSION'S REGULATIONS

APPLY TO THE PROPERTY AND THE PLUMBING AS IF THE PROPERTY WERE IN THE SANITARY DISTRICT.

(B) PERMITS AND INSPECTIONS IN AREAS NOT IN SANITARY DISTRICT.

(1) THE COMMISSION MAY ENTER INTO AN AGREEMENT WITH PRINCE GEORGE'S COUNTY UNDER WHICH THE COUNTY WILL ISSUE THE NECESSARY PERMIT AND PERFORM THE NECESSARY INSPECTION FOR AND IN THE NAME OF THE COMMISSION IN THOSE AREAS THAT ARE NOT IN THE SANITARY DISTRICT, IF THE AGREEMENT PROVIDES THAT THE PLUMBING REGULATIONS OF THE COMMISSION WILL BE APPLIED.

(2) THIS SUBSECTION OR AN AGREEMENT ENTERED INTO UNDER THIS SUBSECTION DOES NOT AFFECT THE POWER OF THE COMMISSION:

(I) TO ADOPT REGULATIONS TO INSTALL PLUMBING IN PRINCE GEORGE'S COUNTY AS THE COMMISSION CONSIDERS NECESSARY FOR THE PUBLIC HEALTH; OR

(II) TO REGULATE PUBLIC AND SEMIPUBLIC WATER SUPPLY AND SEWER SYSTEMS UNDER THIS SECTION AND § 24–102 OF THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 8–103.

In subsection (a)(2)(ii) of this section, the phrase "[i]f water or sewer service is obtained from a Commission system" is substituted for the former phrase "[o]n the happening of any of those events" for clarity.

In the introductory language of subsection (b)(2) of this section, the reference to this section not "affect[ing]" the power of the Commission is substituted for the former reference to this section not "tak[ing] away from" the power of the Commission for brevity.

In subsection (b)(2)(ii) of this section, the reference to the Commission's power "to regulate" is substituted for the former reference to the Commission's power "with respect to" for clarity.

Also in subsection (b)(2)(ii) of this section, the former reference to a "sanitary" sewer system is deleted for consistency with § 24–102 of this subtitle.

The Washington Suburban Sanitary Commission Law Review Committee notes, for consideration by the General Assembly, that subsection (a) of this section may be obsolete since it only applies to plumbing

installations that were begun before June 1, 1965, or in existence on July 1, 1965. Also, there may be an inconsistency in the provision because according to subsection (a)(1)(i) of this section, the Commission regulations apply to certain plumbing installations begun on or after June 1, 1965, but subsection (a)(1)(ii) of this section states that Commission regulations do not apply to installations in existence on July 1, 1965. As a result these provisions apparently overlap regarding installations begun between June 1 and 30, 1965. It is unclear whether the phrase "in existence" in subsection (a)(1)(ii) of this section refers only to installations that were completed and operating on July 1, 1965. If that is the case, there would be no overlap.

Defined terms: "Commission" § 16–101
"Sanitary district" § 16–101

24–106. PLUMBER/GASFITTER'S LICENSES.

(A) POWER OF COMMISSION TO ISSUE LICENSES.

(1) SUBJECT TO § 12–305 OF THE BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE, ONLY THE COMMISSION MAY ISSUE LICENSES TO PERSONS TO WORK IN THE PLUMBING BUSINESS IN AREAS OF MONTGOMERY COUNTY OR PRINCE GEORGE'S COUNTY UNDER THE JURISDICTION OF THE COMMISSION.

(2) LICENSE FEES MAY NOT EXCEED THE FEES SET IN THE MARYLAND PLUMBING ACT.

(3) THE COMMISSION SHALL EXERCISE THE AUTHORITY OF THE STATE BOARD OF PLUMBING IN AREAS UNDER THE JURISDICTION OF THE COMMISSION.

(B) RECIPROCAL LICENSES.

(1) A PERSON HOLDING A VALID MASTER PLUMBER/GASFITTER LICENSE OR A JOURNEYMAN PLUMBER/GASFITTER LICENSE ISSUED BY THE COMMISSION IS ENTITLED TO AN EQUIVALENT LICENSE ISSUED BY THE STATE BOARD OF PLUMBING WITHOUT EXAMINATION ON PRESENTATION OF:

(I) THE LICENSE ISSUED BY THE COMMISSION; AND

(II) A NOTARIZED STATEMENT OF GOOD STANDING ISSUED BY THE COMMISSION.

(2) A PERSON HOLDING A VALID MASTER PLUMBER/GASFITTER LICENSE OR A JOURNEYMAN PLUMBER/GASFITTER LICENSE ISSUED BY THE STATE BOARD OF PLUMBING IS ENTITLED TO AN EQUIVALENT LICENSE ISSUED BY THE COMMISSION WITHOUT EXAMINATION ON PRESENTATION OF THE LICENSE ISSUED BY THE STATE BOARD OF PLUMBING.

(C) LICENSES UNDER RECIPROCITY ARRANGEMENT STILL VALID.

A LICENSE ISSUED TO A MASTER PLUMBER/GASFITTER OR A JOURNEYMAN PLUMBER/GASFITTER IN GOOD STANDING UNDER A RECIPROCITY ARRANGEMENT BY THE STATE BOARD OF PLUMBING AND THE COMMISSION BEFORE JULY 1, 1978, REMAINS IN FORCE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 8–104.

In subsection (a)(1) of this section, the former reference to a person "desiring" to work is deleted as surplusage.

In subsection (a)(3) of this section, the former reference to "power" is deleted as included in the reference to "authority".

In subsection (b) of this section, the references to "an equivalent license" are substituted for the former references to "a master plumber/gasfitter license or a journeyman plumber/gasfitter license, as applicable" for brevity.

In subsection (b)(1)(i) of this section, the reference to "the license issued by the Commission" is substituted for the former reference to "a valid master plumber/gasfitter license or a journeyman plumber/gasfitter license, as applicable" for clarity and brevity. Similarly, in subsection (b)(2) of this section, the reference to "the license" is substituted for the former reference to "a valid master plumber/gasfitter license or a journeyman plumber/gasfitter license, as applicable".

In subsection (c) of this section, the reference to a license remaining in "force" is substituted for the former reference to a license remaining in "full force and effect" for brevity.

As to the Maryland Plumbing Act, *see* BOP Title 12.

The Washington Suburban Sanitary Commission Law Review Committee notes, for consideration by the General Assembly, that subsection (c) of this section may be unnecessary in light of subsection (b) of this section. Subsection (b) of this section provides that a person with a valid master plumber/gasfitter license or a journeyman plumber/gasfitter license

issued by the Commission is entitled to an equivalent license by the State Board of Plumbing under certain circumstances and that a person with a valid master plumber/gasfitter license or a journeyman plumber/gasfitter license issued by the State Board of Plumbing is entitled to an equivalent license by the Commission under certain circumstances. Subsection (c) of this section provides that a license issued to a master plumber/gasfitter or a journeyman plumber/gasfitter under a certain reciprocity agreement before a certain date remains in force. Since subsection (b) of this section already provides for a general system of reciprocity, subsection (c) of this section may not be necessary. The General Assembly may wish to repeal subsection (c) as duplicative.

Defined terms: "Commission" § 16–101
"Person" § 1–101

SUBTITLE 2. SEWER CLEANING.

24–201. SEWER CLEANING GENERALLY.

(A) "SEWER CLEANING" DEFINED.

(1) IN THIS SECTION, "SEWER CLEANING" MEANS THE CLEANING OR CLEARING OF AND THE REMOVAL OF STOPPAGES OR OBSTRUCTIONS IN SANITARY SEWER LINES, PIPES, AND FIXTURES.

(2) "SEWER CLEANING" DOES NOT INCLUDE ANY INSTALLATION, MAINTENANCE, EXTENSION, REMOVAL, OR ALTERATION OF ANY PIPE, SANITARY FIXTURE, OR OTHER SEWER APPARATUS.

(B) CONSTRUCTION OF SECTION.

THIS SECTION MAY NOT BE CONSTRUED TO:

(1) REQUIRE A PERSON TO HAVE A SEWER CLEANER'S LICENSE TO CLEAN A SEWER ON THE PERSON'S OWN PROPERTY;

(2) PREVENT A PERSON FROM CLEANING A SEWER ON THE PERSON'S OWN PROPERTY; OR

(3) APPLY TO OR PROHIBIT THE CLEANING BY ANY PERSON OF A SEWER OR SANITARY FIXTURE OF ANY DWELLING, COMMERCIAL OR INDUSTRIAL ESTABLISHMENT, OR PREMISES OWNED OR OPERATED BY THE PERSON.

(C) REGULATIONS.

THE COMMISSION SHALL ADOPT AND ENFORCE REGULATIONS GOVERNING SEWER CLEANING IN SANITARY SEWER LINES, PIPES, AND FIXTURES CONNECTED TO THE COMMISSION'S SANITARY SEWER SYSTEM.

(D) LICENSES.

(1) (I) TO QUALIFY FOR A SEWER CLEANER'S LICENSE, A PERSON NEED NOT BE A MASTER PLUMBER.

(II) A SEWER CLEANER'S LICENSE DOES NOT AUTHORIZE THE LICENSEE TO ENGAGE IN THE PLUMBING BUSINESS OTHER THAN SEWER CLEANING.

(2) THE COMMISSION:

(I) SHALL REQUIRE THAT A PERSON OTHER THAN A LICENSED MASTER PLUMBER WHO IS ENGAGED IN OR REPRESENTS THE PERSON TO THE PUBLIC AS ENGAGED IN SEWER CLEANING BE LICENSED BY THE COMMISSION;

(II) MAY REQUIRE A BOND OF THE LICENSEE TO INSURE COMPLIANCE WITH AND ADHERENCE TO THE REGULATIONS ADOPTED BY THE COMMISSION;

(III) MAY ESTABLISH QUALIFICATIONS AND EXAMINE APPLICANTS CONCERNING THEIR COMPETENCY AND QUALIFICATIONS FOR A LICENSE UNDER THIS SECTION; AND

(IV) MAY REQUIRE A REASONABLE FEE FOR THE ISSUANCE AND RENEWAL OF A LICENSE IN AN AMOUNT NOT MORE THAN ONE–HALF OF THE FEE CHARGED FOR A MASTER PLUMBER'S LICENSE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 3–301.

In the introductory language to subsection (b) of this section, the reference to "may not be construed to" is substituted for the former reference to "does not" for clarity and consistency with other revised articles of the Code.

In subsection (d)(1)(ii) of this section, the reference to engaging in the plumbing business "other than sewer cleaning" is substituted for the former reference to engaging in the plumbing business "unless the

licensee is otherwise qualified and has the license required of plumbers" for clarity and brevity.

In subsection (d)(2)(i) of this section, the former reference to sewer cleaning "in sanitary sewer lines, pipes, and fixtures" is deleted as unnecessary in light of the definition of "sewer cleaning" in subsection (a) of this section.

Defined terms: "Commission" § 16–101
"Person" § 16–101

TITLE 25. RATES AND CHARGES.

SUBTITLE 1. IN GENERAL.

25–101. NONUNIFORM CONDITIONS FOR SERVICE.

(A) "INDUSTRIAL USER" DEFINED.

IN THIS SECTION, "INDUSTRIAL USER" MEANS:

(1) AN INDUSTRY IDENTIFIED IN THE CATEGORY "DIVISION D – MANUFACTURING" OF THE NORTH AMERICAN INDUSTRY CLASSIFICATION SYSTEM DEVELOPED BY THE UNITED STATES OFFICE OF MANAGEMENT AND BUDGET; OR

(2) ANY INDUSTRY IN ANOTHER CLASS OF SIGNIFICANT WASTE PRODUCERS THAT THE COMMISSION ESTABLISHES BY REGULATION.

(B) IN GENERAL.

NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBTITLE OR SUBTITLES 3 THROUGH 5 OF THIS TITLE THAT REQUIRES A REGULATION, RATE, OR CHARGE TO BE UNIFORM THROUGHOUT THE SANITARY DISTRICT, IF THE COMMISSION DETERMINES THAT IN ANY AREA OF THE SANITARY DISTRICT THE CONDITIONS FOR SERVICE FROM ANY OF ITS SYSTEMS, INCLUDING THE COST OF INSTITUTING AND MAINTAINING THE SERVICE, ARE SUBSTANTIALLY DIFFERENT FROM THE CONDITIONS FOR SERVICE GENERALLY IN THE SANITARY DISTRICT, THE COMMISSION MAY DEFINE THE AREA AS A SUBDISTRICT AND ADOPT A DIFFERENT REGULATION, RATE, OR CHARGE TO APPLY IN THAT SUBDISTRICT.

(C) RATES AND REGULATIONS APPLICABLE TO INDUSTRIAL USERS.

NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBTITLE OR SUBTITLES 3 THROUGH 5 OF THIS TITLE THAT REQUIRES A REGULATION, RATE, OR CHARGE TO BE UNIFORM THROUGHOUT THE SANITARY DISTRICT, IF THE COMMISSION DETERMINES THAT CONDITIONS FOR SERVICE FROM ANY OF ITS SYSTEMS, INCLUDING THE COST OF MAINTAINING AND OPERATING THE SYSTEMS, TO A PROPERTY OCCUPIED BY AN INDUSTRIAL USER ARE SUBSTANTIALLY DIFFERENT FROM THE CONDITIONS FOR SERVICE GENERALLY IN THE SANITARY DISTRICT, THE COMMISSION MAY ADOPT REGULATIONS AND SET HIGHER RATES OR CHARGES OR ADOPT MORE RESTRICTIVE USAGE REGULATIONS FOR INDUSTRIAL USERS.

(D) NOTICE AND HEARING.

BEFORE ADOPTING ANY DIFFERENT REGULATION, RATE, OR CHARGE UNDER THIS SECTION, THE COMMISSION SHALL:

(1) PUBLISH NOTICE OF THE PROPOSED MODIFICATION IN AT LEAST ONE NEWSPAPER OF GENERAL CIRCULATION IN EACH COUNTY OF THE SANITARY DISTRICT; AND

(2) HOLD A PUBLIC HEARING ON THE NECESSITY OR ADVISABILITY OF A MODIFICATION OF THE REGULATION, RATE, OR CHARGE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 6–103.

In this section and throughout this subtitle, the former references to "rule[s]" are deleted as implicit in the references to "regulation[s]". *See* General Revisor's Note to division.

In subsection (a) of this section, the former definition of "industrial use" is deleted as unnecessary since it is no longer used in this subtitle.

In subsection (a)(1) of this section, the reference to the "North American Industry Classification System developed by the United States Office of Management and Budget" is substituted for the former reference to the "Standard Industrial Classification Manual of 1967 of the Bureau of the Budget, Office of the President of the United States" to reflect the current standards. No substantive change is intended.

In subsection (a)(2) of this section, the reference to any "industry in another class of significant waste producers" is substituted for the former reference to any "other class of significant waste producers" for clarity and consistency with subsection (a)(1) of this section.

In subsection (b) of this section, the reference to "this subtitle or Subtitles 3 through 5 of this title" is substituted for the former reference to "this title" to reflect the revision of former Art. 29, Title 6 in this subtitle and Subtitles 3 through 5 of this title.

Also in subsection (b) of this section, the former reference to an area "or subdistrict" of the sanitary district is deleted because the Commission may define an area as a subdistrict under this subsection.

Also in subsection (b) of this section, the reference to defining the area "as a subdistrict" is substituted for the former reference to defining the area "or subdistrict" for accuracy.

In subsection (c) of this section, the phrase "[n]otwithstanding any other provision of this subtitle or Subtitles 3 through 5 of this title that requires a regulation, rate, or charge to be uniform throughout the sanitary district" is added for clarity and consistency with subsection (b) of this section.

Also in subsection (c) of this section, the reference to "a property occupied by an industrial user" is substituted for the former reference to "industrial use properties" for clarity and to allow the use of the defined term "industrial user".

In subsection (d)(1) of this section, the reference to each county "of the sanitary district" is added for clarity and consistency with other similar provisions in this division.

Also in subsection (d)(1) of this section, the reference to a newspaper "of general circulation" in each county is substituted for the former reference to a newspaper "published" in each county for consistency with similar provisions in other revised articles of the Code.

Also in subsection (d)(1) of this section, the former reference to "separate" notices is deleted as unnecessary.

Defined terms: "Commission" § 16–101
"County" § 16–101
"Sanitary district" § 16–101

25–102. APPLICABILITY OF OTHER LAWS OR REGULATIONS.

EXCEPT AS PROVIDED IN SUBTITLE 2 OF THIS TITLE, ANY LAW OR REGULATION THAT APPLIES IN THE SANITARY DISTRICT SHALL APPLY TO ANY PROPERTY FOR WHICH THE FRONT FOOT BENEFIT CHARGE OR AD VALOREM TAX IS SUSPENDED OR EXEMPTED.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 6–107.

The former reference to an exception "specifically" provided in Subtitle 2 of this title is deleted as unnecessary.

Defined term: "Sanitary district" § 16–101

25–103. AD VALOREM TAX — AREAS WITHOUT TAX.

(A) INTENT OF SECTION.

THE INTENT OF THIS SECTION:

(1) IS TO DECLARE THE EFFECT OF THE ACTS OF THE GENERAL ASSEMBLY THAT HAVE ADDED AREA OR PROPERTY TO THE SANITARY DISTRICT ON THE CONDITIONS PROVIDED IN THIS SECTION; AND

(2) IS NOT TO AMEND ANY OF THE CONDITIONS ESTABLISHED BY THESE ACTS.

(B) AREAS WITHOUT TAX.

UNTIL THE COMMISSION BEGINS, EXTENDS, OR ACQUIRES A WATER OR SANITARY SEWER SYSTEM IN AN AREA OR PROPERTY ADDED TO THE SANITARY DISTRICT AND MAKES WATER OR SEWER SERVICE AVAILABLE TO THE PROPERTIES IN THE AREA:

(1) THE COMMISSION MAY NOT SEEK THE IMPOSITION OF AN AD VALOREM TAX ON THAT AREA OR PROPERTY; AND

(2) THE AREA OR PROPERTY ADDED TO THE SANITARY DISTRICT IS INCLUDED IN THE SANITARY DISTRICT FOR ALL PURPOSES OF THIS DIVISION, EXCEPT AS A TAXING DISTRICT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 6–108.

In subsection (b)(1) of this section, the reference to "seek[ing] the imposition of" an ad valorem tax is substituted for the former reference to "levy[ing]" an ad valorem tax for accuracy since the Commission does not have the authority to impose an ad valorem tax but may only certify the amount needed to be raised to the counties, which then impose the tax.

The Washington Suburban Sanitary Commission Law Review Committee calls this substitution to the attention of the General Assembly.

In subsection (b)(2) of this section, the former phrase "[u]ntil all of the conditions of this subsection are fulfilled" is deleted as included in the phrase "[u]ntil the Commission begins, extends, or acquires a water or sanitary sewer system".

Defined terms: "Commission" § 16–101
"Sanitary district" § 16–101

25–104. MODIFICATION OF RATE, CHARGE, TAX, OR ASSESSMENT — NOTICE AND HEARING.

IF THE COMMISSION DETERMINES THAT IT IS NECESSARY OR ADVISABLE TO MODIFY AN EXISTING RATE, CHARGE, OR ASSESSMENT, THE COMMISSION SHALL:

(1) PUBLISH NOTICE OF THE PROPOSED MODIFICATION IN AT LEAST ONE NEWSPAPER OF GENERAL CIRCULATION IN EACH COUNTY OF THE SANITARY DISTRICT; AND

(2) HOLD A PUBLIC HEARING ON THE NECESSITY OR ADVISABILITY OF THE PROPOSED MODIFICATION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 6–109.

In the introductory language of this section, the reference to "advisable" is substituted for the former reference to "desirable" for consistency within this section.

Also in the introductory language of this section, the former reference to "levy" is deleted as implicit in the reference to "assessment".

In item (1) of this section, the reference to each county "of the sanitary district" is added for clarity and consistency with other similar provisions in this division.

Also in item (1) of this section, the reference to a newspaper "of general circulation" in each county is substituted for the former reference to a newspaper "published" in each county for consistency with similar provisions in other revised articles of the Code.

Also in item (1) of this section, the former reference to "[p]romptly" publish is deleted as unnecessary.

Also in item (1) of this section, the former reference to "separate notices" is deleted as unnecessary.

Defined terms: "Commission" § 16–101
"County" § 16–101
"Sanitary district" § 16–101

25–105. APPEALS TO PUBLIC SERVICE COMMISSION.

(A) IN GENERAL.

(1) AN APPEAL TO THE PUBLIC SERVICE COMMISSION OF THE REASONABLENESS OF ANY RATE, CHARGE, OR ASSESSMENT OF THE COMMISSION MAY BE TAKEN BY:

(I) AN INDIVIDUAL WHO HAS A FINANCIAL INTEREST IN THE APPEAL; OR

(II) THE COUNTY COUNCIL OF MONTGOMERY COUNTY OR PRINCE GEORGE'S COUNTY.

(2) UNDER REGULATIONS OF THE PUBLIC SERVICE COMMISSION, ON APPEAL UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE PUBLIC SERVICE COMMISSION SHALL DETERMINE THE REASONABLENESS OF THE RATE, CHARGE, OR ASSESSMENT OF THE COMMISSION.

(B) PROCEDURE FOR APPEAL.

AN APPEAL UNDER THIS SECTION SHALL BE TAKEN BY FILING A WRITTEN COMPLAINT WITHIN 30 DAYS AFTER THE DATE ON WHICH THE COMMISSION SET THE RATE OR FIXED THE CHARGE OR ASSESSMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 6–110.

Throughout this section, the former references to a "tax levy" are deleted for accuracy since the Commission does not have the authority to levy taxes.

In subsection (a)(1) of this section, the reference to the power of an individual or county council to "appeal the reasonableness of any rate, charge, or assessment of the Commission to the Public Service Commission" is added for clarity.

In subsection (a)(2) of this section, the references to the "rate, charge, or assessment" are substituted for the former references to the "assessment, tax levy, or service charge" for consistency within this subtitle.

In subsection (b) of this section, the reference to "set the rate or fixed the charge or assessment" is substituted for the former reference to "made the assessment, tax levy, or service charge" for clarity.

Defined term: "Commission" § 16–101

25–106. REFUNDS.

(A) SCOPE OF SECTION.

EXCEPT FOR ASSESSMENTS AND BENEFIT CHARGES AUTHORIZED BY SUBTITLE 2 OF THIS TITLE, THIS SECTION APPLIES TO ANY FEE OR CHARGE IMPOSED BY THE COMMISSION.

(B) CLAIMS.

(1) A PERSON MAY FILE A WRITTEN CLAIM WITH THE COMMISSION, IN A FORM AND CONTAINING THE INFORMATION AND SUPPORTING DOCUMENTS REQUIRED BY THE COMMISSION, FOR A REFUND OF THE AMOUNT OF A FEE OR CHARGE THE PERSON PAID TO THE COMMISSION THAT EXCEEDS THE AMOUNT THAT IS PROPERLY AND LEGALLY PAYABLE.

(2) IF THE PROPERTY FOR WHICH THE FEE OR CHARGE WAS PAID HAS BEEN TRANSFERRED TO A NEW OWNER AFTER THE PAYMENT, THE NEW OWNER MAY FILE THE CLAIM FOR THE REFUND.

(C) INVESTIGATION.

(1) ON THE RECEIPT OF A CLAIM FOR A REFUND UNDER SUBSECTION (B) OF THIS SECTION, THE COMMISSION SHALL INVESTIGATE THE MERITS OF THE CLAIM.

(2) ON THE REQUEST OF THE CLAIMANT, THE COMMISSION, OR THE COMMISSION'S DESIGNEE, SHALL HOLD A HEARING ON THE CLAIM.

(3) A CLAIM SHALL BE DISALLOWED UNLESS IT IS FILED WITHIN 3 YEARS AFTER THE DATE OF THE PAYMENT FOR WHICH THE REFUND IS REQUESTED.

(4) THE COMMISSION SHALL PAY INTEREST ON ANY AMOUNT REFUNDED UNDER THIS SECTION, CALCULATED AT THE RATE OF 6% PER YEAR, STARTING 180 DAYS FROM THE DATE THE CLAIM WAS MADE.

(D) FAILURE TO REACH FINAL DECISION.

IF THE COMMISSION FAILS TO REACH A FINAL DECISION ON A CLAIM WITHIN 180 DAYS AFTER THE DATE THE CLAIM IS FILED, THE FAILURE SHALL BE DEEMED A FINAL REJECTION OF THE CLAIM.

(E) JUDICIAL REVIEW.

WITHIN 30 DAYS AFTER THE DATE OF FINAL ACTION BY THE COMMISSION ON A CLAIM FOR A REFUND FILED UNDER SUBSECTION (B) OF THIS SECTION, A PETITION FOR JUDICIAL REVIEW MAY BE FILED WITH THE CIRCUIT COURT AS PROVIDED IN TITLE 7, CHAPTER 200 OF THE MARYLAND RULES.

(F) REFUNDS WITHOUT CLAIM AUTHORIZED.

NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, THE COMMISSION MAY REFUND A PAYMENT THAT THE COMMISSION DETERMINES WAS PAID IN EXCESS OF THE AMOUNT THAT WAS PROPERLY AND LEGALLY PAYABLE, WHETHER OR NOT THE PERSON WHO MADE THE PAYMENT FILES A CLAIM FOR A REFUND.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 6–111(a) through (f).

In subsections (b)(1) and (f) of this section, the former references to "on or after July 1, 1986" are deleted as obsolete.

Subsection (b)(1) of this section is revised to state that the claim for a refund is for the amount of the fee or charge that is in excess of the amount that is properly and legally payable for clarity.

In subsection (c)(3) of this section, the former reference to a claim being "automatically" disallowed is deleted as unnecessary.

Also in subsection (c)(3) of this section, the former reference to the claim being filed "with the WSSC" is deleted as unnecessary.

In subsection (e) of this section, the reference to "a petition for judicial review" is substituted for the former reference to "an appeal from the final action" for accuracy.

Also in subsection (e) of this section, the former reference to filing an appeal with "the appellate courts of this State" is deleted because according to the Maryland Rules, a petition for judicial review of an administrative decision shall be filed with the circuit court.

In subsection (f) of this section, the reference to "payable" is substituted for the former reference to "collectible" for clarity.

Former Art. 29, § 6–111(g), which related to partial credit for payment of charges in connection with a multiunit residential customer service account, is deleted as obsolete because the claim needed to be made by January 1, 1988.

Defined terms: "Commission" § 16–101
"Person" § 16–101

SUBTITLE 2. BENEFIT CHARGES.

25–201. "SEWER" DEFINED.

IN THIS SUBTITLE, "SEWER" MEANS A SANITARY SEWER.

REVISOR'S NOTE: This section is new language added to avoid repetition of the full reference to "sanitary sewer".

25–202. DECLARATION OF BENEFIT.

THE CONSTRUCTION, ACQUISITION, REPLACEMENT, OR ENLARGEMENT OF, OR THE INSTALLATION OF A SERVICE CONNECTION TO, A WATER MAIN OR SEWER BENEFITS EACH PROPERTY THAT ABUTS ON, IS CONNECTED TO, OR IS SERVED BY THE WATER MAIN OR SEWER.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 5–101(a), and, as they related to the benefits for property abutting on or connected to a water main or sewer, §§ 5–106(a)(1) and 5–107(a).

The reference to an "enlargement" is substituted for the former reference to an "augmented facility" for clarity.

The reference to a "service" connection is added for clarity.

The former reference to the property "or that part of the property determined by the WSSC to be served by the connection" is deleted as unnecessary.

Defined terms: "Service connection" § 16–101
"Sewer" § 25–201

25–203. CLASSIFICATION OF PROPERTY.

(A) CLASSIFICATION.

TO IMPOSE A BENEFIT CHARGE FOR THE CONSTRUCTION OF A WATER SUPPLY OR SEWER SYSTEM, THE COMMISSION SHALL CLASSIFY EACH PROPERTY THAT ABUTS ON A STREET, ROAD, LANE, ALLEY, RIGHT–OF–WAY, OR EASEMENT IN WHICH A WATER MAIN OR SEWER LINE IS TO BE LAID AS:

(1) AGRICULTURAL;

(2) INDUSTRIAL OR BUSINESS;

(3) INSTITUTIONAL;

(4) MULTIUNIT BUSINESS;

(5) MULTIUNIT RESIDENTIAL;

(6) RESIDENTIAL SUBDIVISION; OR

(7) SMALL ACREAGE.

(B) CHANGE OF CLASSIFICATION.

THE CLASSIFICATION OF A PROPERTY BY THE COMMISSION IS FINAL, SUBJECT ONLY TO REVISION:

(1) AT A HEARING UNDER § 25–204(A) OF THIS SUBTITLE; OR

(2) BY THE COMMISSION IF THE USE OF THE PROPERTY CHANGES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 5–101(b).

In the introductory language of subsection (a) of this section, the word "impose" is substituted for the former word "assess" for clarity.

Also in the introductory language of subsection (a) of this section, the reference to "benefit charge" is substituted for the former reference to "benefits" for clarity and consistency with § 25–204 of this subtitle.

In subsection (b) of this section, the reference to a hearing "under § 25–204(a) of this subtitle" is added for clarity.

Defined terms: "Commission" § 16–101
"Sewer" § 25–201

25–204. BENEFIT CHARGE.

(A) IMPOSITION AND NOTICE.

(1) WHEN CONSTRUCTION BEGINS OR WITHIN 12 MONTHS AFTER COMPLETION OF A WATER SUPPLY OR SEWER PROJECT, THE COMMISSION SHALL:

(I) IN ACCORDANCE WITH A CLASSIFICATION ESTABLISHED UNDER § 25–203 OF THIS SUBTITLE, IMPOSE A BENEFIT CHARGE ON EACH PROPERTY THAT ABUTS ON THE WATER MAIN OR SEWER; AND

(II) NOTIFY EACH PROPERTY OWNER IN WRITING OF:

1. THE CLASSIFICATION OF THE OWNER'S PROPERTY;

2. THE BENEFIT CHARGE IMPOSED ON THE PROPERTY; AND

3. THE TIME AND PLACE OF A HEARING TO CONTEST THE IMPOSITION OF THE CHARGE.

(2) THE COMMISSION MAY DELIVER THE NOTICE REQUIRED UNDER THIS SUBSECTION BY:

(I) MAILING THE NOTICE TO THE LAST KNOWN ADDRESS OF THE PROPERTY OWNER;

(II) GIVING THE NOTICE IN PERSON TO AN ADULT OCCUPYING THE PROPERTY; OR

(III) IF THE PROPERTY IS VACANT OR UNIMPROVED, POSTING THE NOTICE ON THE PROPERTY.

(B) BASIS OF CHARGE.

(1) FOR EACH CLASS OF PROPERTY, THE COMMISSION SHALL IMPOSE A BENEFIT CHARGE FOR WATER SUPPLY OR SEWER CONSTRUCTION, OR BOTH, THAT IS BASED ON:

(I) THE APPROXIMATE COST OF CONSTRUCTION AS AN INTEGRAL PART OF THE WHOLE SYSTEM; AND

(II) 1. THE NUMBER OF FRONT FEET ABUTTING ON THE STREET, ROAD, LANE, ALLEY, RIGHT–OF–WAY, OR EASEMENT IN WHICH THE WATER MAIN OR SEWER IS PLACED; OR

2. FOR MULTIUNIT CLASSES, THE NUMBER OF UNITS IN OR ON THE PROPERTY THAT ABUT ON THE WATER MAIN OR SEWER.

(2) IN ACCORDANCE WITH PARAGRAPH (1) AND SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, IN IMPOSING A FRONT FOOT BENEFIT CHARGE THE COMMISSION:

(I) FOR AN IRREGULARLY SHAPED LOT THAT ABUTS ON A STREET, ROAD, LANE, ALLEY, RIGHT–OF–WAY, OR EASEMENT IN WHICH THERE IS OR IS BEING CONSTRUCTED A WATER MAIN OR SEWER, SHALL USE A FRONT FOOTAGE THE COMMISSION CONSIDERS REASONABLE AND FAIR;

(II) FOR ALL THE LOTS IN A BLOCK OWNED BY THE SAME PROPERTY OWNER AND APPURTENANT TO A RESIDENCE, MAY USE A CONTINUOUS FRONT FOOTAGE FOR ALL THE LOTS REGARDLESS OF THE STREETS ON WHICH THE LOTS FACE;

(III) FOR A LOT WITH A FRONT AND REAR ON SEPARATE STREETS, MAY USE A FRONT FOOTAGE ON BOTH THE FRONT AND REAR; AND

(IV) FOR A CORNER LOT OF LESS THAN 2 ACRES IN THE RESIDENTIAL SUBDIVISION CLASSIFICATION:

1. MAY NOT USE A FRONT FOOTAGE ON MORE THAN ONE SIDE UNLESS THE CORNER LOT ABUTS ON TWO PARALLEL STREETS; AND

2. IF THE CORNER LOT ABUTS ON TWO PARALLEL STREETS, SHALL USE A FRONT FOOTAGE THAT IS REASONABLE AND FAIR,

TAKING INTO CONSIDERATION THE FRONT FOOTAGE TOWARD WHICH THE BUILDING ON THE LOT WOULD NATURALLY FACE.

(3) THE COMMISSION MAY IMPOSE A FRONT FOOT BENEFIT CHARGE ON THE FULL FRONT FOOTAGE FOR A LOT DESCRIBED IN PARAGRAPH (2) OF THIS SUBSECTION EVEN IF A WATER MAIN OR SEWER DOES NOT EXTEND ALONG THE FULL LENGTH OF A BOUNDARY.

(C) UNIFORMITY OF CHARGE.

THE BENEFIT CHARGE SHALL BE:

(1) UNLESS OTHERWISE PROVIDED IN THIS SUBTITLE, UNIFORM FOR EACH CLASSIFICATION OF PROPERTY IN THE SANITARY DISTRICT FOR ANY 1 YEAR;

(2) DETERMINED BY THE COMMISSION AS COSTS AND CONDITIONS REQUIRE; AND

(3) IMPOSED ONCE A YEAR TO BEGIN ON THE JANUARY 1 OR JULY 1 AFTER THE DATE OF ITS IMPOSITION AND MAY NOT BE INCREASED IN THAT YEAR.

(D) ANNUAL PAYMENT.

(1) BEGINNING WHEN THE COMMISSION IMPOSES A BENEFIT CHARGE FOR A PROPERTY, THE COMMISSION SHALL REQUIRE THE PROPERTY OWNER TO PAY THE BENEFIT CHARGE ANNUALLY FOR A PERIOD OF YEARS EQUAL TO THE PERIOD OF MATURITY OF THE BONDS THE PROCEEDS OF WHICH FINANCED THE CONSTRUCTION OF THE WATER MAIN OR SEWER.

(2) IF A PROPERTY OF THE HOUSING OPPORTUNITIES COMMISSION OF MONTGOMERY COUNTY IS SUBJECT TO A BENEFIT CHARGE UNDER THIS SUBTITLE, THE BENEFIT CHARGE SHALL BE PAID IN THE SAME MANNER AS BY A PRIVATE PROPERTY OWNER.

(E) LIEN.

EACH BENEFIT CHARGE IMPOSED UNDER THIS SUBTITLE IS A LIEN AGAINST THE PROPERTY THAT CONTINUES UNTIL THE BENEFIT CHARGE IS PAID AND THE ACCOUNT IS EXTINGUISHED IN ACCORDANCE WITH THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, §§ 5–101(c) through (f), 5–102(a), 5–103(a), 5–106(c)(2), and 5–109(c)(1) and (2) and (a)(2) and the third and fourth clauses of (a)(1).

In this section, the word "impos[e]" is substituted for the former word "lev[y]" for clarity.

In subsection (a)(1)(i) of this section, the reference to a classification "established under § 25–203 of this subtitle" is added for clarity.

Also in subsection (a)(1)(i) of this section, the former reference to "[f]ix[ing]" a benefit charge is deleted as implicit in "impos[ing]" a benefit charge.

In subsection (a)(1)(ii)1 of this section, the reference to the "classification of the owner's property" is substituted for the former reference to the "class in which the respective properties fall" for clarity.

In subsection (a)(1)(ii)3 of this section, the reference to a hearing "to contest the imposition of the charge" is added for clarity.

In the introductory language of subsection (a)(2) of this section, the reference to the "Commission [delivering] the notice required under this subsection" is added for clarity.

In subsection (a)(2)(i) of this section, the reference to the "property" owner is added for clarity and accuracy.

In subsection (a)(2)(ii) and (iii) of this section, the references to "property" are substituted for the former references to "premises" for consistency within this subtitle.

In the introductory language of subsection (b)(1)(ii)2 of this section, the former reference to a sewer "line" is deleted for consistency within this subtitle.

In subsection (b)(2) of this section, the references to "us[ing]" a "front footage" are substituted for the former references to "assess[ing]" a "frontage" for clarity.

In the introductory language of subsection (b)(2) of this section, the former reference to "classifying property" is deleted as unnecessary.

In subsection (b)(2)(iii) of this section, the former reference to a lot that "runs through" is deleted for brevity.

In the introductory language of subsection (b)(2)(iv) of this section, the former reference to a lot being 2 acres "in size" is deleted as surplusage.

In subsection (c)(1) of this section, the reference to "this subtitle" is added for clarity.

In subsection (c)(3) of this section, the former reference to the benefit charge being imposed "for a class" is deleted as unnecessary.

In subsection (d)(1) of this section, the reference to the "property owner" paying the benefit charge is substituted for the former reference to the "properties" paying the benefit charge for accuracy.

Also in subsection (d)(1) of this section, the reference to a period of years "equal to" the period of maturity of the bonds is substituted for the former reference to the periods being "co–extensive" for clarity.

In subsection (d)(2) of this section, the reference to a benefit charge "under this subtitle" is added for clarity.

Also in subsection (d)(2) of this section, the former reference to a benefit charge "levied against the property" is deleted as unnecessary.

Subsection (e) of this section is revised to consolidate and clarify that each time a benefit charge is assessed and not paid, a lien is placed against the property that continues until the benefit charge is paid and extinguished.

Defined terms: "Commission" § 16–101
"Sanitary district" § 16–101
"Sewer" § 25–201

25–205. EXEMPTION OR SUSPENSION OF BENEFIT CHARGE.

(A) EXEMPTION.

(1) THE COMMISSION MAY NOT IMPOSE A FRONT FOOT BENEFIT CHARGE ON:

(I) PROPERTY OWNED BY THE STATE, A COUNTY, OR A MUNICIPALITY;

(II) PROPERTY IN THE SANITARY DISTRICT THAT IS CONNECTED TO OR AUTHORIZED BY THE COMMISSION TO BE CONNECTED TO A WATER OR SEWER SYSTEM OPERATED BY:

1. A MUNICIPALITY; OR

2. A WATER OR SEWER COMPANY UNDER THE JURISDICTION OF THE DEPARTMENT OF THE ENVIRONMENT;

(III) PROPERTY OWNED BY A REGULARLY ORGANIZED VOLUNTEER FIRE DEPARTMENT THAT IS USED FOR PUBLIC PURPOSES; OR

(IV) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, PROPERTY CLASSIFIED AS AGRICULTURAL THAT IS ACTUALLY USED FOR FARMING PURPOSES, UNLESS A CONNECTION IS MADE TO A WATER MAIN OR SEWER RUNNING THROUGH OR ADJACENT TO THE PROPERTY.

(2) THE COMMISSION MAY IMPOSE A REASONABLE FRONT FOOT BENEFIT CHARGE ON PROPERTY CLASSIFIED AS AGRICULTURAL, WHICH MAY NOT EXCEED THE CHARGE FOR 300 FEET OF FRONT FOOTAGE.

(B) SUSPENSION.

THE COMMISSION MAY SUSPEND THE IMPOSITION AND COLLECTION OF A FRONT FOOT BENEFIT CHARGE:

(1) WITH RESPECT TO A SEWER LINE, FOR PROPERTY OTHERWISE SUBJECT TO A FRONT FOOT BENEFIT CHARGE THAT THE COMMISSION DETERMINES CANNOT OBTAIN SERVICE FROM THE SEWER PIPE ON WHICH THE BENEFIT CHARGE WOULD BE BASED;

(2) FOR CONSTRUCTION OF A WATER MAIN IF THE OWNER OF THE PROPERTY THAT IS OTHERWISE SUBJECT TO THE BENEFIT CHARGE IS NOT PERMITTED TO CONNECT TO THE WATER MAIN BECAUSE OF A FINDING:

(I) BY THE COMMISSION THAT THERE IS NO SEWER AND THE EXTENSION OF AN IMPROVED SEWER SYSTEM IS NOT REASONABLY FEASIBLE; AND

(II) BY A COUNTY HEALTH DEPARTMENT THAT A SEPTIC SYSTEM WOULD NOT BE APPROVED FOR THE DISPOSAL OF THE WATER FOR WHICH THE CONNECTION IS REQUESTED; OR

(3) IF THE PROPERTY THAT IS OTHERWISE SUBJECT TO THE FRONT FOOT BENEFIT CHARGE FOR A WATER MAIN OR SEWER HAS A PREEXISTING RESIDENTIAL DWELLING THAT IS SERVED BY A WELL OR SEPTIC

SYSTEM, UNTIL THE PROPERTY OWNER REQUESTS SERVICE FROM THE WATER MAIN OR SEWER.

(C) TERMINATION OF EXEMPTION OR SUSPENSION.

(1) IF A PROPERTY IS EXEMPT FROM FRONT FOOT BENEFIT CHARGES OR IF THE COMMISSION HAS SUSPENDED FRONT FOOT BENEFIT CHARGES FOR A PROPERTY AND THE PROPERTY IS NO LONGER ELIGIBLE FOR THE EXEMPTION OR SUSPENSION, THE COMMISSION SHALL:

(I) CLASSIFY THE PROPERTY IN ACCORDANCE WITH § 25–203 OF THIS SUBTITLE; AND

(II) IMPOSE A FRONT FOOT BENEFIT CHARGE AT A RATE AND FOR A PERIOD OF TIME EQUAL TO THAT OF PROPERTY THAT WAS ORIGINALLY CLASSIFIED OR FOR WHICH THE COMMISSION IMPOSED BENEFIT CHARGES IN THE YEAR OF THE SUSPENSION.

(2) THE COMMISSION SHALL USE MONEY FROM FRONT FOOT BENEFIT CHARGES IMPOSED ON PROPERTY UNDER PARAGRAPH (1) OF THIS SUBSECTION TO:

(I) AMORTIZE BONDS ISSUED TO CONSTRUCT WATER MAINS AND SEWERS FOR WHICH BENEFIT CHARGES WERE IMPOSED UNDER THIS SUBTITLE; OR

(II) CONSTRUCT OTHER WATER MAINS AND SEWERS FOR WHICH BENEFIT CHARGES ARE IMPOSED.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 5–102(b) through (e).

In subsection (a) of this section, the references to "property" are substituted for the former references to "[l]and" for consistency within this subtitle.

In the introductory language of subsection (a)(1) of this section and in subsection (c)(1)(ii) of this section, the former references to "collect[ing]" a front foot benefit charge are deleted as implicit in the references to "impos[ing]" the charge. No substantive change is intended.

In subsection (a)(1) of this section, the former reference to "[p]ublic parks or playgrounds owned by a municipality" is deleted as unnecessary in light of the reference to "property owned by … a municipality".

Also in subsection (a)(1) of this section, the former references to "buildings" are deleted as unnecessary in light of the references to "property".

In subsection (a)(1)(iv) of this section, the phrase "subject to paragraph (2) of this subsection" is added for clarity.

Also in subsection (a)(1)(iv) of this section, the former reference to "trucking" purposes, referring to the delivery of agricultural goods, is deleted as included in the reference to "farming" purposes.

In subsection (a)(2) of this section, the reference to the "Commission [imposing] a reasonable front foot benefit charge" is substituted for the former reference to the property being "subject to a front foot assessment for a reasonable frontage, as determined by the WSSC" for clarity.

In subsection (b) of this section, the references to a "benefit charge" are substituted for the former references to an "assessment" for clarity and consistency within this subtitle.

Also in subsection (b) of this section, the references to property being "subject to [a] front foot benefit charge" are substituted for the former references to property being "assessable" for clarity.

In subsection (b)(3) of this section, the former references to a sewer "line" are deleted for consistency within this subtitle.

In subsection (c) of this section, the word "imposed" is substituted for the former words "assessed" and "levied" for clarity.

In the introductory language of subsection (c)(2) of this section, the word "money" is substituted for the former word "receipts" for clarity.

In subsection (c)(2) of this section, the references to "water mains and sewers" are substituted for the former references to "water and [sanitary] sewer lines" for consistency within this subtitle.

The Washington Suburban Sanitary Commission Law Review Committee notes, for consideration by the General Assembly, that subsection (a)(1)(ii)2 of this section may be obsolete. Commission staff have indicated that there is no property in the sanitary district that is connected or authorized by the Commission to be connected to a water or sewer company under the jurisdiction of the Department of the Environment. The General Assembly may wish to repeal this provision as obsolete.

Defined terms: "Commission" § 16–101
"County" § 16–101

"Municipality" § 16–101
"Sanitary district" § 16–101
"Sewer" § 25–201
"State" § 16–101

25–206. CONNECTION TO NONABUTTING WATER MAIN OR SEWER.

(A) SCOPE OF SECTION.

THIS SECTION APPLIES ONLY TO A PROPERTY OWNER:

(1) WHOSE PROPERTY DOES NOT ABUT A WATER MAIN OR SEWER; AND

(2) WHO HAS NOT PREVIOUSLY PAID A BENEFIT CHARGE FOR THE CONSTRUCTION OF THE WATER MAIN OR SEWER.

(B) AUTHORITY OF COMMISSION.

THE COMMISSION:

(1) SHALL ALLOW A PROPERTY OWNER TO CONNECT TO A NONABUTTING WATER MAIN OR SEWER;

(2) SHALL CLASSIFY THE PROPERTY AND IMPOSE A FRONT FOOT BENEFIT CHARGE TO BE PAID BY THE PROPERTY OWNER AT THE RATE AND FOR THE SAME NUMBER OF YEARS AS THOUGH THE PROPERTY ABUTTED ON A WATER MAIN OR SEWER CONSTRUCTED IN THE YEAR IN WHICH THE CONNECTION IS MADE;

(3) WHEN THE CONNECTION IS MADE, SHALL PLACE THE PROPERTY OWNER IN THE SAME POSITION AS TO ALL CHARGES, RATES, AND BENEFITS AS IF THE PROPERTY ABUTTED ON A NEWLY CONSTRUCTED WATER MAIN OR SEWER;

(4) IF A WATER MAIN OR SEWER ABUTTING ON THE PROPERTY IS SUBSEQUENTLY CONSTRUCTED, MAY REQUIRE THE PROPERTY OWNER TO CONNECT TO THE ABUTTING LINE AND DISCONTINUE SERVICE FROM THE NONABUTTING LINE; OR

(5) WHILE THE PROPERTY IS IN THE SAME CLASSIFICATION AS WHEN THE NONABUTTING CONNECTION WAS MADE, SHALL ALLOW THE PRIOR IMPOSITION OF A FRONT FOOT BENEFIT CHARGE TO STAND AND MAY NOT

IMPOSE A FRONT FOOT BENEFIT CHARGE FOR THE NEW ABUTTING WATER MAIN OR SEWER.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 5–104(a).

Subsection (a) of this section is revised as a scope provision for clarity.

In subsection (b) of this section, the word "impose" is substituted for the former words "assess" and "determine" for clarity and consistency throughout this title.

In subsection (b)(1) of this section, the reference to a property owner connecting "to a nonabutting water main or sewer" is substituted for the former reference to the connection being made by a property owner "whose property does not abut on the water main or sewer" for brevity.

In subsection (b)(3) of this section, the reference to "plac[ing]" the property owner in a certain position is substituted for the former reference to the property owner's "stand[ing]" in a certain position for clarity.

Also in subsection (b)(3) of this section, the former reference to the property owner "and the property" being in a certain position is deleted as unnecessary.

In subsection (b)(4) of this section, the reference to a "water main or sewer" is substituted for the former reference to "water or sewer lines" for consistency within this subtitle.

In subsection (b)(5) of this section, the reference to imposing "a front foot benefit charge" is added for clarity.

Also in subsection (b)(5) of this section, the reference to the prior "imposition of a front foot benefit charge" is substituted for the former reference to the prior "assessment" for clarity and accuracy.

The Washington Suburban Sanitary Commission Law Review Committee notes, for consideration by the General Assembly, that, although in subsection (b)(1) of this section the Commission is required to allow a property owner to connect with a nonabutting water main or sewer, the intent may be that the Commission is authorized to allow the property owner to connect with a nonabutting water main or sewer. The General Assembly may wish to clarify this provision.

Defined terms: "Commission" § 16–101
"Sewer" § 25–201

25–207. REMOTE AREA CONNECTION.

(A) "COST OF CONSTRUCTION" DEFINED.

IN THIS SECTION, "COST OF CONSTRUCTION" INCLUDES THE COST OF CONNECTING A WATER MAIN OR SEWER TO THE COMMISSION SYSTEM.

(B) CLASSIFICATION AS REMOTE AREA.

IF A PROPERTY OWNER APPLIES FOR A WATER MAIN OR SEWER IN AN AREA IN WHICH THE COMMISSION DETERMINES SERVICE IS NOT ECONOMICALLY FEASIBLE UNLESS THE APPLICANT MAKES A SUBSTANTIAL CONTRIBUTION TO THE COST OF CONSTRUCTION OF THE WATER MAIN OR SEWER, THE COMMISSION MAY CLASSIFY THE APPLICANT'S PROPERTY TOGETHER WITH ADJACENT OR ADJOINING PROPERTIES THAT COULD BE READILY SERVED BY THE CONSTRUCTION REQUIRED BY THE APPLICANT AS A REMOTE AREA.

(C) CONSTRUCTION.

THE COMMISSION MAY CONSTRUCT THE WATER MAIN OR SEWER AFTER:

(1) APPROVING THE APPLICATION;

(2) RECEIVING PAYMENT FROM THE APPLICANT OF THE CONTRIBUTION NECESSARY FOR THE COST OF CONSTRUCTION; AND

(3) IMPOSING THE REQUIRED FRONT FOOT BENEFIT CHARGE.

(D) REFUND OF CONTRIBUTION.

(1) THE COMMISSION MAY CONTRACT WITH THE APPLICANT AT THE TIME OF THE CONTRIBUTION TO REFUND PART OR ALL OF THE CONTRIBUTION FROM ANY FRONT FOOT BENEFIT CHARGES IMPOSED ON THE PROPERTY FOR THE WATER MAIN OR SEWER SUBSEQUENTLY CONSTRUCTED BY THE COMMISSION AND SERVED THROUGH THE LINES OF THE APPLICANT IN THE REMOTE AREA.

(2) THE COMMISSION SHALL DETERMINE THE PROPORTION OF THE CONTRIBUTION TO BE REFUNDED AND THE MAXIMUM TIME OF REPAYMENT, NOT TO EXCEED 10 YEARS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 5–104(b).

In this section, the word "impos[e]" is substituted for the former word "lev[y]" for clarity.

Also in this section, the references to "water main or sewer" are substituted for the former references to "water [or] sewer line[s]" for consistency within this subtitle.

In subsection (b) of this section, the reference to a "property owner" applying for a water main or sewer is substituted for the former reference to an "applicant" applying for a water main or sewer for clarity.

In the introductory language of subsection (c) of this section, the former phrase "as are desired by the applicant" is deleted as unnecessary.

In subsection (c)(2) of this section, the reference to "receiving" payment "from the applicant" is added for clarity.

Also in subsection (c)(2) of this section, the reference to the contribution "necessary for the cost of construction" is added for clarity.

In subsection (d)(1) of this section, the reference to a front foot benefit charge imposed "on the property for the water or sewer" is substituted for the former reference to the charge being imposed "against property on lines" for clarity.

In subsection (d)(2) of this section, the reference to the proportion of "the contribution" to be refunded is added for clarity.

Defined terms: "Commission" § 16–101
"Sewer" § 25–201

25–208. ACQUISITION OF SYSTEM.

WHEN THE COMMISSION ACQUIRES AN EXISTING WATER OR SEWER SYSTEM OTHER THAN A MUNICIPAL SYSTEM, THE COMMISSION MAY IMPOSE A FRONT FOOT BENEFIT CHARGE LESS THAN THE UNIFORM FRONT FOOT BENEFIT CHARGE REQUIRED IN § 25–204 OF THIS SUBTITLE IF:

(1) THE CONSTRUCTION COST OF THE SYSTEM HAS BEEN ADDED, WHOLLY OR PARTLY, TO THE PURCHASE PRICE OF THE PROPERTY THAT ABUTS ON THE SYSTEM; AND

(2) THE ADDITION OF THE CONSTRUCTION COST IS A FACTOR IN THE COST OF THE SYSTEM TO THE COMMISSION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 5–104(c).

In the introductory language of this section, the reference to an existing "water or sewer" system is added for clarity.

Also in the introductory language of this section, the phrase "required in § 25–204 of this subtitle" is added for clarity.

Also in the introductory language of this section, the word "impose" is substituted for the former word "levy" for clarity.

Also in the introductory language of this section, the references to a front foot "benefit charge" are substituted for the former references to a front foot "assessment" for consistency within this subtitle.

Also in the introductory language of this section, the former reference to the front foot benefit charge "levied in the sanitary district" is deleted as unnecessary.

In item (1) of this section, the reference to the purchase "price" is added for clarity.

Also in item (1) of this section, the reference to "property" is substituted for the former reference to "land" for consistency within this subtitle.

Defined terms: "Commission" § 16–101
"Sewer" § 25–201

25–209. CONNECTION BENEFIT CHARGE.

(A) CONNECTION BENEFIT CHARGE.

A WATER OR SEWER CONNECTION BENEFIT CHARGE IMPOSED BY THE COMMISSION UNDER THIS SECTION IS IN ADDITION TO A BENEFIT CHARGE IMPOSED UNDER ANY OTHER SECTION OF THIS SUBTITLE.

(B) PAYMENT.

(1) (I) WHEN A BENEFIT CHARGE OR PORTION OF A BENEFIT CHARGE FOR A WATER MAIN OR SEWER CONNECTION IS MADE PAYABLE ON AN INSTALLMENT BASIS AS PROVIDED IN § 25–304(B) OF THIS TITLE, THE DEFERRED AMOUNT AND INTEREST SHALL BE PAID BY AN ANNUAL BENEFIT

CHARGE IN AN AMOUNT AND FOR THE PERIOD OF YEARS NECESSARY TO AMORTIZE THE ACCOUNT.

(II) PROPERTY SUBJECT TO A BENEFIT CHARGE IMPOSED UNDER THIS SECTION IS SUBJECT TO THE BENEFIT CHARGE UNTIL PAYMENTS HAVE AMORTIZED THE CHARGE, INCLUDING ACCRUED INTEREST.

(2) THE COMMISSION SHALL ALLOW A PROPERTY OWNER SUBJECT TO A BENEFIT CHARGE FOR THE DEFERRED PORTION OF A CONNECTION BENEFIT CHARGE TO EXTINGUISH THE ACCOUNT BY PAYING THE PRINCIPAL AND INTEREST DUE UP TO THE TIME OF PAYMENT.

(C) PAYMENT BY PUBLIC ENTITIES.

IF A FEDERAL, STATE, COUNTY, OR OTHER GOVERNMENTAL UNIT OR MUNICIPALITY ACQUIRES PROPERTY FOR PUBLIC USE THAT IS SUBJECT TO A BENEFIT CHARGE UNDER THIS SECTION, THE BENEFIT CHARGE SHALL BE PAID AND EXTINGUISHED AS PROVIDED IN § 25–212 OF THIS SUBTITLE.

(D) COLLECTION.

A BENEFIT CHARGE IMPOSED UNDER THIS SECTION SHALL BE COLLECTED AS PROVIDED IN § 25–214 OF THIS SUBTITLE.

(E) BONDS.

TO IMPLEMENT THIS SECTION, THE COMMISSION MAY:

(1) INCLUDE IN THE SALE OF BONDS THE COST OF MAKING SERVICE CONNECTIONS THAT ARE PAID ON AN INSTALLMENT BASIS; AND

(2) USE ANY FUNDS OBTAINED FROM THE SALE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 5–106(a)(2), (b), (c)(1) and (3), (d), (e), and, except as it related to the connection being a benefit to the property, (a)(1).

In subsections (a) and (d) of this section, the word "imposed" is substituted for the former word "levied" for clarity.

Also in subsections (a) and (d) of this section, the former references to a benefit charge being "established" are deleted as included in the references to a benefit charge being "imposed".

In subsections (b)(1)(i) and (e)(1) of this section, the former references to "a deferred or" installment basis are deleted for consistency with § 25–304(b) of this title.

In subsection (b)(1)(i) of this section, the reference to a water "main" is added for clarity and consistency within this subtitle.

Also in subsection (b)(1)(i) of this section, the references to a "benefit" charge are added for clarity.

Also in subsection (b)(1)(i) of this section, the former reference to the deferred amount "of the connection charge" is deleted as unnecessary.

In subsection (b)(1)(ii) of this section, the reference to "accrued interest" is substituted for the former reference to "interest increment" for clarity.

Also in subsection (b)(1)(ii) of this section, the references to a benefit "charge" are substituted for the former references to a benefit "assessment" for consistency within this subtitle.

Also in subsection (b)(1)(ii) of this section, the former reference to "annual or other" payments is deleted as unnecessary.

In subsection (b)(2) of this section, the former reference to extinguishing the account "and lien" is deleted as unnecessary.

In subsection (c) of this section, the reference to "unit" is substituted for the former reference to "agency, commission, board" for brevity and consistency with other revised articles of the Code. *See* General Revisor's Note to division.

In subsection (e)(1) of this section, the reference to "service" connections is added for clarity and accuracy.

In subsection (e)(2) of this section, the reference to funds obtained "from the sale" is added for clarity.

Defined terms: "Commission" § 16–101
"County" § 16–101
"Municipality" § 16–101
"Service connection" § 16–101
"Sewer" § 25–201
"State" § 16–101

25–210. REPLACEMENT OR ENLARGEMENT OF WATER MAIN OR SEWER.

(A) BENEFIT CHARGE FOR CONSTRUCTION.

(1) WHEN THE COMMISSION REPLACES OR ENLARGES A WATER MAIN OR SEWER TO PROVIDE INCREASED WATER OR SEWER SERVICE CAPABILITY FOR ABUTTING OR CONNECTED PROPERTY BECAUSE OF A CHANGE IN THE USE OR ZONING CLASSIFICATION OF THE PROPERTY, A BENEFIT CHARGE FOR THE CONSTRUCTION OF THE REPLACEMENT OR ENLARGED SYSTEM SHALL BE:

(I) IMPOSED AS PROVIDED IN § 25–204 OF THIS SUBTITLE;

(II) COLLECTED AS PROVIDED IN § 25–214 OF THIS SUBTITLE; AND

(III) REDEEMED AS PROVIDED IN § 25–211 OF THIS SUBTITLE.

(2) ANY UNPAID PORTION OF THE INITIAL BENEFIT CHARGE IMPOSED FOR THE ORIGINAL CONSTRUCTION OF THE WATER MAIN OR SEWER SHALL BE INCLUDED IN THE NEW BENEFIT CHARGE AS AN INCREMENTAL CHARGE TO THE SINGLE RESULTING BENEFIT CHARGE FOR THE ENLARGED SYSTEM ONLY FOR THE REMAINING YEARS OF THE INITIAL BENEFIT CHARGE.

(B) EXCEPTION FOR RESIDENTIAL SUBDIVISION CLASS.

THE COMMISSION MAY NOT IMPOSE AN ADDITIONAL BENEFIT CHARGE UNDER SUBSECTION (A) OF THIS SECTION FOR A PROPERTY IN THE RESIDENTIAL SUBDIVISION CLASS THAT ABUTS ON AN ENLARGED WATER MAIN OR SEWER AND THAT IS SUBJECT TO, OR WAS SUBJECT TO AND PAID, A BENEFIT CHARGE FOR WATER MAIN OR SEWER CONSTRUCTION UNTIL THE CLASSIFICATION OF THE PROPERTY IS CHANGED BECAUSE OF A CHANGE IN USE OR ZONING CLASSIFICATION REQUESTED BY THE PROPERTY OWNER.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 5–107(b) through (d) and, except as it related to the enlargement being a benefit to the property, (a).

In subsection (a)(1) of this section, the former reference to the benefit charge being imposed, collected, and redeemed as provided "for the initial construction of the enlarged or augmented facility" is deleted in light of the reference to specific cross–referenced provisions.

In the introductory language of subsection (a)(1) of this section, the reference to a system being "enlarge[d]" is substituted for the former reference to a system being "augmented" for clarity.

Also in the introductory language of subsection (a)(1) of this section, the reference to a zoning "classification" is substituted for the former reference to a zoning "category" for consistency within this subtitle.

Also in the introductory language of subsection (a)(1) of this section, the reference to construction of the "replacement or enlarged system" is substituted for the former reference to the "water or sewer system service" for clarity and accuracy.

Also in the introductory language of subsection (a)(1) of this section, the former reference to the property "to be abutting or connected" is deleted as unnecessary.

In subsection (a)(1)(i) of this section, the word "imposed" is substituted for the former word "assessed" for clarity.

In subsections (a)(2) and (b) of this section, the former references to an "augmented" system are deleted as redundant of the reference to an "enlarged" system.

In subsection (a)(2) of this section, the reference to the initial benefit charge "imposed for the original construction of the water main or sewer" is added for clarity.

Also in subsection (a)(2) of this section, the reference to being "included" is substituted for the former reference to being "merged" for clarity.

Also in subsection (a)(2) of this section, the reference to the enlarged "system" is substituted for the former reference to the enlarged "facility" for clarity. Similarly, in subsection (b) of this section, the reference to the enlarged "water main or sewer" is substituted for the former reference to the enlarged "facility".

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

Also in subsection (b) of this section, the reference to "water main or sewer" construction is substituted for the former reference to "water or sewer line" construction for consistency within this subtitle.

Also in subsection (b) of this section, the reference to the "residential subdivision" class is substituted for the former reference to the "single family residential" class for consistency with § 25–203(a) of this subtitle.

Defined terms: "Commission" § 16–101
"Sewer" § 25–201

25–211. EXTINGUISHMENT OR REDEMPTION.

(A) CALCULATION OF AMOUNT.

(1) FOR PURPOSES OF THIS SECTION, THE ANNUAL BENEFIT CHARGE FOR A PROPERTY SHALL BE CALCULATED AT A SUM:

(I) EQUAL TO THE BASE RATE APPLIED TO THE CLASSIFICATION FOR THE PROPERTY AS IT IS USED, DISREGARDING ANY ALLOWANCE FOR EXCESS; BUT

(II) NOT LESS THAN THE BASE RATE APPLIED TO PROPERTY IN THE RESIDENTIAL SUBDIVISION CLASSIFICATION.

(2) AT ANY TIME, A BENEFIT CHARGE MAY BE EXTINGUISHED OR REDEEMED BY PAYMENT TO THE COMMISSION OF A SUM EQUAL TO:

(I) THE ANNUAL BENEFIT CHARGE MULTIPLIED BY THE NUMBER OF YEARS YET TO RUN ON THE BONDS THAT FINANCED THE CONSTRUCTION OF THE WATER MAIN OR SEWER ON WHICH THE BENEFIT CHARGE WAS BASED; AND

(II) LESS THE INTEREST CALCULATED AT THE RATE OF INTEREST ON THE BONDS THAT FINANCED THE CONSTRUCTION OF THE WATER MAIN OR SEWER ON WHICH THE BENEFIT CHARGE IS BASED.

(B) REDEMPTION BECAUSE OF ACQUISITION BY PUBLIC ENTITY.

NOTWITHSTANDING SUBSECTION (A) OF THIS SECTION, IF A BENEFIT CHARGE IS PAID AND REDEEMED BECAUSE THE PROPERTY IS ACQUIRED BY THE STATE, A COUNTY, OR OTHER GOVERNMENTAL UNIT UNDER ANY LAW THAT REQUIRES REDEMPTION, THE PAYMENT TO THE COMMISSION:

(1) SHALL BE THE CAPITALIZED AMOUNT OF THE ACTUAL BENEFIT CHARGE; BUT

(2) MAY NOT BE LESS THAN AN AMOUNT CALCULATED AS IF THE PROPERTY WERE IN THE SMALL ACREAGE CLASSIFICATION, WITH THE REDEMPTION AMOUNT CALCULATED AS PROVIDED IN THIS SECTION.

(C) PURCHASE OF BONDS.

(1) ON RECEIVING A SUM FROM THE EXTINGUISHMENT OR REDEMPTION OF ONE OR MORE FRONT FOOT BENEFIT CHARGES, THE COMMISSION:

(I) SHALL PURCHASE AND CANCEL ONE OR MORE BONDS FROM THE SERIES OF BONDS ISSUED FOR THE CONSTRUCTION THAT WAS THE BASIS OF THE FRONT FOOT BENEFIT CHARGE; OR

(II) MAY INVEST OR USE THE SUM TO:

1. CONSTRUCT OTHER WATER MAINS AND SEWERS FOR WHICH BENEFIT CHARGES ARE IMPOSED; OR

2. AMORTIZE BONDS ISSUED FOR THE CONSTRUCTION OF WATER MAINS AND SEWERS FOR WHICH FRONT FOOT BENEFIT CHARGES ARE IMPOSED UNDER THIS SUBTITLE.

(2) THE COMMISSION MAY MAKE UP A DEFICIENCY IN THE PURCHASE OF A BOND OR PAY A PREMIUM FROM ANY AVAILABLE SURPLUS FUNDS.

(3) THE EXTINGUISHMENT OR REDEMPTION OF A BENEFIT CHARGE IS CONDITIONAL UNTIL THE LAST YEAR OF MATURITY OF THE BONDS FROM WHICH PROCEEDS THE WATER MAINS OR SEWERS WERE CONSTRUCTED.

(4) IF, AFTER EXTINGUISHMENT OR REDEMPTION, THE USE OF THE PROPERTY CHANGES TO ANOTHER CLASSIFICATION THAT WOULD YIELD A GREATER BENEFIT CHARGE THAN THAT USED TO CALCULATE THE SUM TO EXTINGUISH OR REDEEM THE BENEFIT CHARGE, THE COMMISSION MAY:

(I) RECLASSIFY THE PROPERTY;

(II) CALCULATE A BENEFIT CHARGE TO GIVE CREDIT FOR THE SUM PAID FOR THE EXTINGUISHMENT OR REDEMPTION; AND

(III) REIMPOSE THE BENEFIT CHARGE FOR THE REMAINING NUMBER OF YEARS UNTIL THE BONDS MATURE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 5–103(b) through (d).

In the introductory language of subsection (a)(1) of this section, the reference to the annual benefit charge "for a property" is added for clarity.

In subsection (a)(1)(i) of this section, the reference to the "classification for the property as it is used" is substituted for the former reference to the "class in which the property may then be by reason of its use" for brevity and clarity.

In subsection (a)(2)(i) of this section, the reference to the years "yet to run on the bonds" is substituted for the former reference to the years "that it has yet to run" for clarity.

Also in subsection (a)(2)(i) of this section, the former reference to the bond "proceeds" is deleted as unnecessary.

In the introductory language of subsection (b)(1) of this section, the reference to a "unit" is substituted for the former reference to an "authority or agency" for brevity and consistency with other revised articles of the Code. *See* General Revisor's Note to division.

In subsection (b)(2) of this section, the reference to an "amount calculated" is substituted for the former reference to a "charge which would develop" for clarity.

In subsection (c)(1)(ii) of this section, the references to "water mains and sewers" are substituted for the former references to "water and sanitary sewer lines" for consistency within this subtitle.

Also in subsection (c)(1)(ii) of this section, the word "imposed" is substituted for the former word "levied" for clarity.

In subsection (c)(3) of this section, the reference to bond proceeds from which "the water mains or sewers were constructed" is substituted for the former reference to proceeds from which "the construction was done" for clarity.

In the introductory language of subsection (c)(4) of this section, the reference to the "sum to extinguish or redeem the benefit charge" is substituted for the former reference to the "redemption amount" for clarity.

Also in the introductory language of subsection (c)(4) of this section, the former reference to property changing to another class "so that the property would be placed in a different class" is deleted as unnecessary.

In subsection (c)(4)(iii) of this section, the reference to the remaining number of years "until the bonds mature" is added for clarity.

Defined terms: "Commission" § 16–101
"County" § 16–101
"Sewer" § 25–201
"State" § 16–101

25–212. PROPERTY ACQUIRED FOR PUBLIC USE.

(A) PAYMENT OF BENEFIT CHARGE.

EXCEPT AS PROVIDED FOR THE HOUSING OPPORTUNITIES COMMISSION OF MONTGOMERY COUNTY UNDER § 25–204(D)(2) OF THIS SUBTITLE, WHEN THE STATE OR A COUNTY OR MUNICIPALITY, OR A UNIT OF THE STATE OR A COUNTY, ACQUIRES PROPERTY FOR PUBLIC USE THAT IS SUBJECT TO A BENEFIT CHARGE IMPOSED UNDER THIS SUBTITLE, THE BENEFIT CHARGE SHALL BE PAID AND EXTINGUISHED BY PAYMENT TO THE COMMISSION OF A SUM CALCULATED IN ACCORDANCE WITH § 25–211 OF THIS SUBTITLE.

(B) ACQUISITION WITHOUT EMINENT DOMAIN.

WHEN PROPERTY IS ACQUIRED WITHOUT EMINENT DOMAIN, THE COMMISSION SHALL BE PAID THE AMOUNT NECESSARY TO EXTINGUISH THE BENEFIT CHARGE BEFORE THE DEED EVIDENCING THE TRANSFER MAY BE RECORDED IN THE LAND RECORDS OF THE COUNTY IN WHICH THE PROPERTY IS LOCATED.

(C) ACQUISITION BY EMINENT DOMAIN.

WHEN PROPERTY IS ACQUIRED BY EMINENT DOMAIN:

(1) THE COMMISSION SHALL BE NAMED A PARTY TO THE EMINENT DOMAIN PROCEEDINGS AND THE JURY SHALL MAKE A SEPARATE AWARD TO THE COMMISSION OF THE AMOUNT NECESSARY TO EXTINGUISH THE BENEFIT CHARGE; OR

(2) THE CONDEMNING AUTHORITY SHALL PAY THE COMMISSION THE AMOUNT NECESSARY TO EXTINGUISH THE BENEFIT CHARGE AT THE SAME TIME THE CONDEMNING AUTHORITY PAYS THE AMOUNT AWARDED TO THE PROPERTY OWNER IF:

(I) BY OVERSIGHT OR MISTAKE, THE COMMISSION IS NOT NAMED A PARTY TO THE PROCEEDINGS; OR

(II) THE JURY'S INQUISITION DOES NOT SPECIFY A SEPARATE AWARD FOR THE AMOUNT NECESSARY TO PAY THE BENEFIT CHARGE.

(D) HOUSING OPPORTUNITIES COMMISSION OF MONTGOMERY COUNTY.

IF THE HOUSING OPPORTUNITIES COMMISSION OF MONTGOMERY COUNTY ALLOWS A BENEFIT CHARGE TO BECOME DELINQUENT:

(1) BY THE FIRST MONTH OF THE NEXT FISCAL YEAR, THE MONTGOMERY COUNTY COUNCIL SHALL AUTHORIZE AND APPROPRIATE SUFFICIENT FUNDS TO PAY THE DELINQUENT BENEFIT CHARGE AND ALL PENALTIES AND INTEREST ON THE CHARGE; AND

(2) THE MONTGOMERY COUNTY EXECUTIVE SHALL PAY THE APPROPRIATED FUNDS TO THE COMMISSION PROMPTLY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 5–109(a)(1), (b), and (c)(3).

In subsection (a) of this section, the reference to "§ 25–204(d)(2) of this subtitle" is added for clarity.

Also in subsection (a) of this section, the word "imposed" is substituted for the former word "levied" for clarity.

Also in subsection (a) of this section, the reference to a "unit" is substituted for the former reference to a "commission, board, or agency" for brevity and consistency with other revised articles of the Code. *See* General Revisor's Note to division.

Also in subsection (a) of this section, the reference to a benefit charge imposed "under this subtitle" is substituted for the former reference to a benefit charge imposed "by the WSSC" for accuracy.

Also in subsection (a) of this section, the former reference to paying a sum "necessary to pay off the benefit charge" is deleted as surplusage.

In subsections (b) and (c)(1) of this section, the former references to "pay and" extinguish are deleted as unnecessary.

In subsection (b) of this section, the former phrase "as provided in this section" is deleted as surplusage.

Also in subsection (b) of this section, the former reference to eminent domain "proceedings" is deleted as surplusage.

In subsection (c)(1) of this section, the reference to making an award "to" the Commission is substituted for the former reference to making an award "in favor of" the Commission for clarity.

In subsection (c)(2) of this section, the references to the benefit "charge" are substituted for the former references to the benefit "assessment" for consistency within this subtitle.

In the introductory language of subsection (c)(2) of this section, the former reference to the amount awarded "in the proceedings" is deleted as unnecessary.

In subsection (d)(2) of this section, the former reference to appropriated funds "for delinquent benefit charges" is deleted as unnecessary.

Defined terms: "Commission" § 16–101
"County" § 16–101
"Municipality" § 16–101
"State" § 16–101

25–213. OMISSIONS AND MISTAKES.

(A) SCOPE OF SECTION.

THIS SECTION APPLIES TO:

(1) AN OMISSION OR MISTAKE PREVIOUSLY MADE BY THE COMMISSION; OR

(2) A JUDGMENT OR DECREE PREVIOUSLY RENDERED ON A PROPERTY IF FRONT FOOT BENEFIT CHARGE PAYMENTS HAVE NOT BEEN MADE ON THE PROPERTY.

(B) PROCEDURE.

(1) WHEN THE COMMISSION DISCOVERS AN OMISSION OR MISTAKE OR WITHIN A REASONABLE TIME AFTER A COURT RENDERS A JUDGMENT OR DECREE, THE COMMISSION MAY IMPOSE A FRONT FOOT BENEFIT CHARGE AT A RATE AND IN A CLASSIFICATION THAT IT COULD HAVE IMPOSED ORIGINALLY OR THAT A COURT ORDERS, INCLUDING ANY INCREASES APPLIED TO THE PROJECT OF WHICH THE PROPERTY IS A PART, IF:

(I) THE COMMISSION DISCOVERS THAT PROPERTY SUBJECT TO A FRONT FOOT BENEFIT CHARGE:

1. MISTAKENLY HAS NOT HAD A FRONT FOOT BENEFIT CHARGE IMPOSED;

2. HAS HAD THE CHARGE IMPOSED BUT WAS LISTED IN THE WRONG NAME; OR

3. HAS HAD THE CHARGE IMPOSED UNDER AN INCORRECT DESCRIPTION; OR

(II) A PROPERTY OWNER DID NOT RECEIVE NOTICE AS REQUIRED BY § 25–204 OF THIS SUBTITLE; OR

(III) THE COURT SET ASIDE THE SERVICE OF NOTICE BY JUDGMENT OR DECREE.

(2) THE FRONT FOOT BENEFIT CHARGE IMPOSED UNDER THIS SECTION SHALL RUN FOR THE PERIOD OF YEARS THE BENEFIT CHARGE WOULD HAVE RUN IF IT HAD BEEN IMPOSED AT THE PROPER TIME OR IN THE PROPER MANNER.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 5–105.

In this section, the former references to "error" are deleted as implicit in the references to "mistake".

In subsection (a) of this section, the reference to a judgment or decree rendered "on a property" is added for clarity.

In subsection (b) of this section, the word "impose[d]" is substituted for the former words "lev[ied]" and "established" for clarity.

In the introductory language of subsection (b)(1) and in subsection (b)(1)(iii) of this section, the references to a "court" rendering or setting aside a judgment or decree are added for clarity.

In the introductory language of subsection (b)(1) of this section, the reference to "the Commission" discovering an omission or mistake is added for clarity.

Also in the introductory language of subsection (b)(1) of this section, the word "omission" is substituted for the former word "inadvertence" and the

word "mistake" is substituted for the former word "oversight" for consistency with subsection (a) of this section.

In subsection (b)(1)(i) of this section, the former reference to property that has not had a front foot benefit charge imposed "against it" is deleted as unnecessary.

In subsection (b)(1)(i)1 of this section, the word "mistakenly" is substituted for the former word "erroneously" for consistency within this section.

In subsection (b)(1)(i)2 of this section, the reference to the benefit charge being "listed" in the wrong name is added for clarity.

In subsection (b)(1)(ii) of this section, the reference to notice "required by § 25–204 of this subtitle" is added for clarity.

Also in subsection (b)(1)(ii) of this section, the reference to a "property" owner is added for consistency within this subtitle.

Defined term: "Commission" § 16–101

25–214. COLLECTION OF BENEFIT CHARGE.

(A) APPLICATION OF SECTION.

THIS SECTION APPLIES TO THE COLLECTION OF BENEFIT CHARGES FOR THE COMMISSION BY THE DIRECTORS OF FINANCE OF PRINCE GEORGE'S COUNTY AND MONTGOMERY COUNTY OR BY OTHER TAX COLLECTING AUTHORITIES IN THOSE COUNTIES.

(B) DUTIES OF COMMISSION.

EACH YEAR, FOR 30 DAYS BEFORE THE COLLECTION OF TAXES BEGINS IN MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY, THE COMMISSION SHALL HAVE ACCESS TO THE RECORDS OF THE TREASURY DIVISION IN EACH COUNTY'S DEPARTMENT OR OFFICE OF FINANCE TO INFORM EACH COUNTY:

(1) REGARDING WHICH PROPERTIES OR PROPERTY OWNERS ARE SUBJECT TO A BENEFIT CHARGE AND THE ANNUAL BENEFIT CHARGE IMPOSED ON THE PROPERTY;

(2) REGARDING EACH PROPERTY ON WHICH THE COMMISSION HAS IMPOSED A BENEFIT CHARGE THAT WAS NOT SUBJECT TO STATE OR COUNTY TAXES; AND

(3) OF THE TOTAL BENEFIT CHARGE IMPOSED FOR ALL PROPERTIES IN THE COUNTY.

(C) DUTIES OF COUNTY DIRECTOR OF FINANCE.

(1) (I) ALL LAWS RELATING TO THE COLLECTION OF COUNTY TAXES APPLY TO THE COLLECTION OF A BENEFIT CHARGE.

(II) A BENEFIT CHARGE:

1. FOR PURPOSES OF COLLECTION, SHALL BE TREATED AS A COUNTY TAX;

2. SHALL BEAR THE SAME INTEREST AND PENALTIES AS A COUNTY TAX; AND

3. SHALL BE ADVERTISED WITH, AND IN THE SAME MANNER AS, A COUNTY TAX.

(2) THE DIRECTOR OF FINANCE SHALL COLLECT A BENEFIT CHARGE IN ACCORDANCE WITH THIS SECTION.

(3) THE DIRECTOR OF FINANCE:

(I) SHALL REFER A PROTEST, OBJECTION, OR COMPLAINT CONCERNING A BENEFIT CHARGE TO THE COMMISSION; AND

(II) MAY NOT REFUND, CHANGE, OR AMEND A BENEFIT CHARGE.

(4) A PROPERTY REDEEMED FROM A COUNTY TAX SALE OR A PROPERTY SOLD BY THE COUNTY COUNCIL OF MONTGOMERY COUNTY OR PRINCE GEORGE'S COUNTY AFTER A FINAL TAX SALE MAY NOT BE REDEEMED OR SOLD EXCEPT ON PAYMENT OF THE BENEFIT CHARGE DUE ON THE PROPERTY.

(5) A PROPERTY SUBJECT TO A DELINQUENT BENEFIT CHARGE SHALL BE SOLD FOR THE DELINQUENT BENEFIT CHARGE AT THE SAME TIME AND IN THE SAME MANNER AS PROPERTY SOLD FOR DELINQUENT COUNTY TAXES.

(D) TAX BILL.

(1) THE DIRECTOR OF FINANCE SHALL:

(I) PRINT ON THE TAX BILL:

"TO SANITARY COMMISSION BENEFIT CHARGE $....";

(II) PROVIDE A SPACE ON THE TAX BILL FOR THE INTEREST OR PENALTY;

(III) MAKE THE PROPER ENTRIES ON EACH TAX BILL MAILED; AND

(IV) COLLECT THE AMOUNT SPECIFIED ON THE BILL FOR THE BENEFIT CHARGE WITH THE STATE AND COUNTY TAXES.

(2) IN MONTGOMERY COUNTY, EACH PROPERTY TAX BILL SHALL LIST SEPARATELY ANY DEFERRED WATER MAIN OR SEWER CONNECTION BENEFIT CHARGES APPLICABLE TO AN ASSESSED PROPERTY.

(E) PAYMENT TO COMMISSION; PENALTY.

(1) ON OR BEFORE THE 10TH DAY OF EACH MONTH, THE DIRECTOR OF FINANCE SHALL PAY THE COMMISSION THE AMOUNT OF THE BENEFIT CHARGES COLLECTED BY THE DIRECTOR OF FINANCE THROUGH THE LAST DAY OF THE PRECEDING MONTH.

(2) IF THE DIRECTOR OF FINANCE DOES NOT PAY THE AMOUNT DUE THE COMMISSION AS PROVIDED IN PARAGRAPH (1) OF THIS SUBSECTION, THE AMOUNT DUE SHALL BEAR A PENALTY OF 1% PER MONTH.

(3) THE DIRECTOR OF FINANCE IS PERSONALLY LIABLE FOR FAILURE TO PAY THE AMOUNT DUE TO THE COMMISSION.

(4) THE COUNTY COUNCILS OF MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY SHALL REQUIRE THE BONDS OF ITS RESPECTIVE DIRECTOR OF FINANCE TO BE CONDITIONED ON PAYMENT TO THE COMMISSION OF THE AMOUNT COLLECTED UNDER THIS SECTION.

(F) PAYMENT TO COUNTIES.

(1) BY DECEMBER 1 OF EACH YEAR, THE COMMISSION SHALL PAY MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY A REASONABLE AMOUNT FOR THE SERVICES OF ITS RESPECTIVE DIRECTOR OF FINANCE.

(2) THE PAYMENT PROVIDED FOR IN PARAGRAPH (1) OF THIS SUBSECTION SHALL BE INCLUDED AS AN ITEM IN THE COMMISSION'S OPERATING BUDGET.

REVISOR'S NOTE: Subsection (a) of this section is new language added as an application provision for clarity.

Subsections (b) through (f) of this section are new language derived without substantive change from former Art. 29, § 5–108.

Throughout this section, the references to the "directors of finance" and "director of finance" are substituted for the former references to "treasurers" and "treasurer" for clarity and accuracy.

In subsection (b) of this section, the word "imposed" is substituted for the former word "levied" for clarity.

In the introductory language to subsection (b) of this section, the reference to the "records of the treasury division in each county's department or office of finance" is substituted for the former reference to the "book" for accuracy and to conform to current practice.

Also in the introductory language of subsection (b) of this section, the reference to "inform[ing] each county" is substituted for the former references to "mak[ing] the entries", "stamp[ing] on the treasurer's books, of the respective counties, opposite the properties or owners listed in the books", and "add[ing] any properties … to the treasurer's books" for accuracy and to conform to current practice.

Also in the introductory language of subsection (b) of this section, the former reference to "free" access is deleted as unnecessary.

Also in the introductory language of subsection (b) of this section, the former reference to the "time when the actual" collection begins is deleted as unnecessary.

In subsection (b)(3) of this section, the phrase "for all properties in the county" is added for clarity.

In subsection (c)(1)(ii)2 of this section, the phrase "as a county tax" is added for clarity.

In the introductory language of subsection (c)(3) and in subsection (e)(1) of this section, the former references to the "respective" director of finance are deleted as unnecessary.

In subsection (c)(5) of this section, the reference to "delinquent" county taxes is added for clarity.

In the introductory language of subsection (d) of this section, the former reference to the directors of finance "of Prince George's and Montgomery Counties, or other tax collecting authorities" is deleted in light of subsection (a) of this section.

In subsection (d)(1)(iii) of this section, the reference to each tax bill "mailed" is substituted for the former reference to each bill "sent out" for clarity.

Also in subsection (d)(1)(iii) of this section, the former reference to "necessary" entries is deleted as included in the reference to "proper" entries.

In subsection (d)(2) of this section, the former reference to every tax bill "rendered for fiscal year 1986 and thereafter" is deleted as obsolete.

In subsection (e)(1) of this section, the phrase "[o]n or before" the 10th day is substituted for the former phrase "[o]n" the 10th day for consistency with the terminology used in other revised articles of the Code. No substantive change is intended.

In subsection (e)(3) of this section, the former reference to "withholding the payment" is deleted as redundant of the reference to the "failure to pay the amount due".

In subsection (e)(4) of this section, the reference to the amount collected "under this section" is substituted for the former reference to the amount collected "for the WSSC" for clarity and accuracy.

Defined terms: "Commission" § 16–101
"State" § 16–101

SUBTITLE 3. CONNECTION CHARGES.

25–301. CONNECTION CHARGES GENERALLY.

(A) IN GENERAL.

FOR EACH SERVICE CONNECTION UNDER § 23–202 OF THIS ARTICLE, THE COMMISSION SHALL SET A CONNECTION CHARGE THAT THE COMMISSION DETERMINES TO BE REASONABLE.

(B) UNIFORMITY.

SUBJECT TO A YEARLY REVISION BY THE COMMISSION:

(1) FOR CONNECTIONS OF THE SIZES AND CLASSES FOR WHICH THE AVERAGE COST REASONABLY MAY BE ASCERTAINED, THE CONNECTION CHARGE SHALL BE UNIFORM THROUGHOUT THE SANITARY DISTRICT; AND

(2) FOR ALL OTHER CONNECTIONS, THE CONNECTION CHARGE SHALL BE THE ACTUAL COST.

(C) PAYMENT.

ALL PROPERTY OWNERS SHALL PAY THE CONNECTION CHARGE TO THE COMMISSION BEFORE THE ACTUAL CONNECTION OF ANY LINE ON PRIVATE PROPERTY IS MADE.

(D) USE OF REVENUE OVER COST.

OF THE TOTAL REVENUE OVER ACTUAL COST THAT IS DERIVED FROM THE CONNECTION CHARGES, THE COMMISSION SHALL:

(1) RETAIN ONE–HALF OF THE REVENUE IN A CONTINGENCY FUND FOR REPAIR, REPLACEMENT, OR ANY EXTRAORDINARY EXPENSE IN THE MAINTENANCE AND OPERATION OF WATER SUPPLY OR SEWER SYSTEMS UNDER THE CONTROL OF THE COMMISSION; AND

(2) APPLY ONE–HALF OF THE REVENUE TO PAY THE COMMISSION'S DEBT SERVICE FOR OUTSTANDING DEBTS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 6–101.

In this section and throughout this subtitle, the references to a "connection" charge are added for clarity.

In the introductory language of subsection (b) of this section, the former reference to a revision "of the charges" is deleted as unnecessary.

In subsection (c) of this section, the reference to paying the connection charge "to the Commission" is substituted for the former reference to paying the charge "at the office of the WSSC" for brevity.

In subsection (d)(2) of this section, the reference to "debt service for outstanding bonds" is substituted for the former reference to "bonded debt" for clarity.

Defined terms: "Commission" § 16–101
"Sanitary district" § 16–101

25–302. SEPARATE CLASSES — UNIMPROVED AREA.

(A) IN GENERAL.

IF THE COMMISSION DETERMINES THAT IT IS FEASIBLE, REASONABLE, AND ECONOMICAL, THE COMMISSION MAY PLACE IN A SEPARATE CLASS A WATER OR SANITARY SEWER CONNECTION THAT IS MADE TO A WATER OR SEWER LINE INSTALLED IN A STREET, ROAD, ALLEY, OR RIGHT–OF–WAY THAT HAS NOT BEEN PAVED OR OTHERWISE IMPROVED TO AVOID THE NECESSITY OF REPLACING PAVEMENT OR STREET IMPROVEMENTS ON INSTALLATION OF THE CONNECTION.

(B) COST OF CONNECTION.

(1) THE COMMISSION MAY:

(I) IMPOSE A CONNECTION CHARGE BASED ON THE ACTUAL COST OF THE CONNECTIONS, INCLUDING THE COMMISSION INSPECTION CHARGE; OR

(II) PROVIDE FOR THE INSTALLATION OF THE CONNECTIONS, INCLUDING TAPS INTO A MAIN OR LINE, BY THE APPLICANT OR AT THE APPLICANT'S COST, UNDER SUPERVISION AND INSPECTION OF THE COMMISSION.

(2) THE COMMISSION MAY AUTHORIZE ANY CLASS OF CONNECTION FROM ITS WATER LINE OR SANITARY SEWER LINE TO BE CONSTRUCTED BEYOND THE PROPERTY LINE OF THE PROPERTY TO BE SERVED IF THE CONNECTING LINE IS CONSTRUCTED AT THE SAME TIME FROM THE MAIN TO THE STRUCTURE ON THE PROPERTY TO BE SERVED.

(C) PAYMENT OF CONSTRUCTION EXPENSES AND MAINTENANCE.

THE PROPERTY OWNER SHALL PAY THE ENTIRE EXPENSE OF THE CONSTRUCTION AND MAINTENANCE OF THE PART OF THE CONNECTING LINE FROM THE PROPERTY LINE INTO THE PROPERTY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 6–102(a).

In subsection (a) of this section, the phrase "to avoid the necessity of" is substituted for the former phrase "so as not to require" for clarity.

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

In subsection (b)(1)(i) of this section, the reference to "impos[ing]" a charge is substituted for the former reference to "specify[ing]" a charge for consistency within this title.

In subsections (b)(2) and (c) of this section, the references to a "line" are substituted for the former references to a "pipe" for consistency within this title.

In subsection (b)(2) of this section, the phrase "at the same time" is substituted for the former phrase "at 1 time" for clarity.

In subsection (c) of this section, the reference to the property owner paying the "entire" expense is substituted for the former reference to the property owner "alone" paying the expense for clarity.

Also in subsection (c) of this section, the reference to the "property line into the property" is substituted for the former reference to the "property line in or on the property" for clarity and brevity.

Also in subsection (c) of this section, the former reference to "subsequent" maintenance is deleted as unnecessary.

Defined term: "Commission" § 16–101

25–303. SEPARATE CLASSES — OTHER AREAS.

(A) IN GENERAL.

IF THE COMMISSION PROVIDES FOR A CLASS OF CONNECTIONS FOR UNIMPROVED AREAS AS PROVIDED IN § 25–302 OF THIS SUBTITLE:

(1) THE CHARGES FOR WATER AND SANITARY SEWER CONNECTIONS TO SIMILAR PROPERTIES IN DEVELOPED AREAS MAY BE BASED

ON THE COMMISSION'S CALCULATION, BASED ON ITS EXPERIENCE, OF AN AVERAGE COST FOR CONNECTIONS IN BOTH UNIMPROVED AND DEVELOPED AREAS; AND

(2) THE COMMISSION MAY SPECIFY THIS CONNECTION CHARGE AS THE UNIFORM CONNECTION CHARGE PROVIDED IN § 25–301 OF THIS SUBTITLE FOR CONNECTIONS INSTALLED BY THE COMMISSION IN DEVELOPED AREAS.

(B) DIFFERENCE IN COST.

ANY DIFFERENCE BETWEEN THE ACTUAL COST OF THE CONNECTIONS AND THE UNIFORM CONNECTION CHARGE SHALL BE PAID FROM THE WATER SERVICE CHARGE OR A SEWER USAGE CHARGE, AS APPLICABLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 6–102(b).

In the introductory language of subsection (a) of this section, the phrase "as provided in § 25–302 of this subtitle" is added for clarity.

In subsection (a)(1) of this section, the reference to "based on" its experience is substituted for the former reference to "utilizing" its experience for clarity.

Also in subsection (a)(1) of this section, the former references to "already" developed areas are deleted as unnecessary.

In subsection (b) of this section, the reference to "paid from the water service charge or a sewer usage charge, as applicable" is substituted for the former reference to "a part of the cost of providing water and sewer service, as applicable, for which other provisions of this article provide a water service charge or a sewer usage charge" for brevity and clarity.

Defined term: "Commission" § 16–101

25–304. CONNECTION AS PART OF A LATERAL LINE.

(A) IN GENERAL.

(1) THE COMMISSION MAY PROVIDE FOR THE INSTALLATION OF THE WATER OR SEWER CONNECTION AS PART OF THE CONSTRUCTION OF A WATER OR SEWER LATERAL LINE WHERE THE PROPERTY TO WHICH THE CONNECTION IS MADE HAS NOT BEEN ASSESSED A FRONT FOOT BENEFIT CHARGE UNDER § 25–203 OF THIS TITLE.

(2) IF AN INSTALLATION IS MADE UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE COMMISSION SHALL COLLECT THE DEFERRED PART OF THE CONNECTION CHARGE BY THE BENEFIT CHARGE ASSESSMENT PROCEDURE UNDER §§ 25–204(E) AND 25–209 OF THIS TITLE.

(B) INSTALLMENT PAYMENT.

(1) IF THE WATER OR SEWER LATERAL LINE HAS BEEN CONSTRUCTED OR WHERE THE PROPERTY FOR WHICH AN APPLICATION FOR CONNECTION IS MADE HAS BEEN ASSESSED A BENEFIT CHARGE UNDER § 25–204 OF THIS TITLE AND THE PROPERTY IS IN AN AGRICULTURAL, SMALL ACREAGE, OR RESIDENTIAL CLASS, THE COMMISSION MAY PROVIDE FOR AN INSTALLMENT PAYMENT METHOD FOR ALL OR A PART OF THE WATER AND SEWER CONNECTION CHARGES FOR SINGLE FAMILY RESIDENTIAL UNITS WITH INDIVIDUAL WATER OR SEWER CONNECTIONS.

(2) IF AN INSTALLMENT PAYMENT METHOD IS ESTABLISHED AND CHOSEN BY AN APPLICANT FOR CONNECTION:

(I) THE INSTALLATION OF THE CONNECTION IS AN ADDITIONAL BENEFIT TO THE PROPERTY; AND

(II) THE APPLICANT IS LIABLE FOR PAYMENT FOR THE ADDITIONAL BENEFIT UNTIL THE DEFERRED CHARGE HAS BEEN AMORTIZED UNDER THE SCHEDULE THAT THE COMMISSION REQUIRES.

(3) THE CONNECTION CHARGE BENEFIT ASSESSMENT IS PAYABLE AS PROVIDED IN §§ 25–204(E) AND 25–209 OF THIS TITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 6–102(c) and (d).

In subsection (a)(2) of this section, the phrase "[i]f an installation is made under paragraph (1) of this subsection" is substituted for the former phrase "[i]n this event" for clarity.

In subsection (b)(1) of this section, the former reference to a "deferred" payment method is deleted as surplusage since subsection (b)(2)(ii) of this section requires payment "until the deferred charge has been amortized" under the Commission's schedule, effectively requiring installment payments.

Also in subsection (b)(1) of this section, the reference to an installment "payment method" is substituted for the former reference to an installment "basis of payment" for clarity.

Also in subsection (b)(1) of this section, the former reference to "house" connections is deleted as implicit in the reference to "single family residential units with individual" connections.

In the introductory language of subsection (b)(2) of this section, the reference to "an installment payment method" is substituted for the former reference to "these procedures" for clarity.

Also in the introductory language of subsection (b)(2) of this section, the former reference to an applicant "who requests the deferred payment method" is deleted as unnecessary.

In subsection (b)(2)(i) of this section, the former reference to property "so connected" is deleted as surplusage.

In subsection (b)(2)(ii) of this section, the reference to the payment "for the additional benefit" is substituted for the former reference to the payment "for which" for clarity.

Defined term: "Commission" § 16–101

25–305. COMPLIANCE WITH REQUIREMENTS FOR REGULATIONS.

IN ADOPTING OR AMENDING ANY REGULATION UNDER THIS SUBTITLE, AND IN ESTABLISHING OR MODIFYING WATER OR SEWER CONNECTION CHARGES UNDER §§ 25–302 AND 25–303 OF THIS SUBTITLE, THE COMMISSION SHALL COMPLY WITH THE REQUIREMENTS OF § 17–403 OF THIS ARTICLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 6–102(e).

The reference to correction charges "under §§ 25–302 and 25–303 of this subtitle" is added for clarity.

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

Defined term: "Commission" § 16–101

GENERAL REVISOR'S NOTE TO SUBTITLE:

Former Art. 29, § 6–102(f), which specified that an agreement that the Commission entered into between July 1, 1969 and April 22, 1970 with the owner of property for the installation of a water or sewer residential connection of a certain deferred basis was valid and the Commission was authorized to collect the deferred part by establishing a benefit charge against the property, is deleted as obsolete.

SUBTITLE 4. SYSTEM DEVELOPMENT CHARGE.

25–401. DEFINITIONS.

(A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection formerly was Art. 29, § 6–113(a)(1).

The only change is in style.

(B) FIXTURE UNIT.

"FIXTURE UNIT" MEANS THE ASSIGNED VALUE FOR A PLUMBING FIXTURE OR GROUP OF PLUMBING FIXTURES, AS SET FORTH IN THE COMMISSION'S PLUMBING AND GAS FITTING REGULATIONS, THAT IS STANDARDIZED WITH A COMMON LAVATORY HAVING AN ASSIGNED VALUE OF ONE BASED ON ITS PROBABLE DISCHARGE INTO THE DRAINAGE SYSTEM OR HYDRAULIC DEMAND ON THE WATER SUPPLY.

REVISOR'S NOTE: This subsection formerly was Art. 29, § 6–113(a)(2).

The former reference to a "particular" plumbing fixture is deleted as unnecessary.

The only other changes are in style.

Defined term: "Commission" § 16–101

(C) NEW SERVICE.

"NEW SERVICE" MEANS:

(1) A FIRST TIME CONNECTION OF A PROPERTY TO THE COMMISSION WATER OR SEWER SYSTEM; OR

(2) A NEW CONNECTION OR INCREASED WATER METER SIZE FOR A PROPERTY PREVIOUSLY OR CURRENTLY SERVED BY THE COMMISSION IF THE NEW CONNECTION OR INCREASED METER SIZE IS NEEDED BECAUSE OF A CHANGE IN THE USE OF THE PROPERTY OR AN INCREASE IN DEMAND FOR SERVICE AT THE PROPERTY.

REVISOR'S NOTE: This subsection formerly was Art. 29, § 6–113(a)(3).

The only changes are in style.

Defined term: "Commission" § 16–101

(D) TOILET.

"TOILET" MEANS A WATER CLOSET, AS SET FORTH IN THE COMMISSION'S PLUMBING AND GAS FITTING REGULATIONS.

REVISOR'S NOTE: This subsection formerly was Art. 29, § 6–113(a)(4).

The only changes are in style.

Defined term: "Commission" § 16–101

25–402. IMPOSITION OF SYSTEM DEVELOPMENT CHARGE.

(A) IN GENERAL.

IN ADDITION TO ANY OTHER CHARGES AUTHORIZED UNDER THIS DIVISION, THE COMMISSION MAY IMPOSE A SYSTEM DEVELOPMENT CHARGE THAT SHALL BE PAID BY AN APPLICANT FOR NEW SERVICE.

(B) METHOD OF PAYMENT.

THE SYSTEM DEVELOPMENT CHARGE SHALL BE PAID AS FOLLOWS:

(1) FOR RESIDENTIAL PROPERTIES:

(I) 50% AT THE TIME THE PLUMBING PERMIT APPLICATION IS FILED; AND

(II) 50% WITHIN 12 MONTHS AFTER THE EARLIER OF THE DATE ON WHICH A PLUMBING PERMIT APPLICATION IS FILED OR ON TRANSFER OF TITLE TO THE PROPERTY; AND

(2) FOR OTHER PROPERTIES, 100% AT THE TIME THE PLUMBING PERMIT APPLICATION IS FILED.

(C) SECURITY.

WHEN THE APPLICANT FILES THE PLUMBING PERMIT APPLICATION, THE APPLICANT SHALL DEPOSIT WITH THE COMMISSION SECURITY:

(1) IN THE FORM OF AN IRREVOCABLE LETTER OF CREDIT;

(2) IN THE FORM OF A FINANCIAL GUARANTY BOND; OR

(3) IN A FORM THE COMMISSION ESTABLISHES AND APPROVES UNDER ITS REGULATIONS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 6–113(b).

In subsection (a) of this section, the former phrase "[s]ubject to the provisions of this section" is deleted as unnecessary.

In subsection (b)(1)(i) of this section, the reference to the "plumbing permit" application is added for clarity.

In subsection (b)(1)(ii) of this section, the reference to the "earlier" of the dates is substituted for the former reference to "whichever [of the dates] occurs first" for clarity and brevity.

Also in subsection (b)(1)(ii) of this section, the former reference to an application filed "with the Commission" is deleted as unnecessary.

In subsection (c)(3) of this section, the former reference to "rules" is deleted as implicit in the reference to "regulations". *See* General Revisor's Note to division.

Defined terms: "Commission" § 16–101
"New service" § 25–401

25–403. AMOUNT OF SYSTEM DEVELOPMENT CHARGE.

(A) PROCEDURES FOR SETTING SYSTEM DEVELOPMENT CHARGE.

(1) EACH YEAR THE MONTGOMERY COUNTY COUNCIL AND THE PRINCE GEORGE'S COUNTY COUNCIL SHALL MEET TO DETERMINE THE AMOUNT OF THE SYSTEM DEVELOPMENT CHARGE.

(2) THE AMOUNT OF THE SYSTEM DEVELOPMENT CHARGE FOR A PARTICULAR PROPERTY:

(I) SHALL BE BASED ON THE NUMBER OF PLUMBING FIXTURES AND THE ASSIGNED VALUES FOR THOSE FIXTURES AS SET FORTH IN THE COMMISSION'S PLUMBING AND GAS FITTING REGULATIONS;

(II) EXCEPT AS PROVIDED IN ITEM (III) OF THIS PARAGRAPH AND SUBSECTION (C) OF THIS SECTION, MAY NOT EXCEED $200 PER FIXTURE UNIT;

(III) FOR RESIDENTIAL PROPERTIES WITH FIVE OR FEWER TOILETS, SHALL BE BASED ON THE NUMBER OF TOILETS PER DWELLING UNIT AND:

1. FOR EACH APARTMENT UNIT, MAY NOT EXCEED $2,000;

2. FOR DWELLINGS WITH ONE OR TWO TOILETS, MAY NOT EXCEED $3,000;

3. FOR DWELLINGS WITH THREE OR FOUR TOILETS, MAY NOT EXCEED $5,000;

4. FOR DWELLINGS WITH FIVE TOILETS, MAY NOT EXCEED $7,000; AND

5. FOR DWELLINGS WITH MORE THAN FIVE TOILETS, SHALL BE CALCULATED ON A FIXTURE UNIT BASIS.

(3) WHEN DETERMINING THE SYSTEM DEVELOPMENT CHARGE, THE COUNTY COUNCILS SHALL CONSIDER THE ACTUAL COST OF CONSTRUCTION OF COMMISSION FACILITIES.

(B) EXEMPTIONS.

WHEN DETERMINING THE SYSTEM DEVELOPMENT CHARGE, UNDER CRITERIA ESTABLISHED JOINTLY AND AGREED ON BY THE COUNTY COUNCILS, THE COUNTY COUNCILS:

(1) SHALL GRANT A FULL OR PARTIAL EXEMPTION FROM THE CHARGE FOR PUBLIC SPONSORED OR AFFORDABLE HOUSING AS JOINTLY DEFINED AND AGREED ON BY THE COUNTY COUNCILS;

(2) MAY GRANT A FULL OR PARTIAL EXEMPTION FROM THE CHARGE FOR:

(I) REVITALIZATION PROJECTS; OR

(II) IF THE PROPERTY IS USED PRIMARILY FOR RECREATIONAL AND EDUCATIONAL PROGRAMS AND SERVICES TO YOUTH, PROPERTY OWNED BY A COMMUNITY–BASED ORGANIZATION THAT IS EXEMPT FROM TAXATION UNDER § 501(C)(3) OF THE INTERNAL REVENUE CODE AND THAT HAS THE PRIMARY MISSION AND PURPOSE OF PROVIDING RECREATIONAL AND EDUCATIONAL PROGRAMS AND SERVICES TO YOUTH, IF THE EXEMPTION AMOUNT DOES NOT EXCEED $80,000; AND

(3) MAY GRANT A FULL OR PARTIAL EXEMPTION FROM THE SYSTEM DEVELOPMENT CHARGE, UNDER CONDITIONS SET FORTH BY THE COUNTY COUNCILS, FOR:

(I) RESIDENTIAL PROPERTY LOCATED IN A MIXED RETIREMENT DEVELOPMENT AS DEFINED IN THE ZONING ORDINANCE OF PRINCE GEORGE'S COUNTY;

(II) RESIDENTIAL PROPERTY LOCATED IN A PLANNED RETIREMENT COMMUNITY AS DEFINED IN THE ZONING ORDINANCE OF MONTGOMERY COUNTY;

(III) ELDERLY HOUSING OTHER THAN THAT INCLUDED IN ITEM (I) OR (II) OF THIS ITEM; OR

(IV) PROPERTIES USED FOR MANUFACTURING OR BIOTECHNOLOGY RESEARCH AND DEVELOPMENT.

(C) MAXIMUM CHARGE.

ON JULY 1, 1999, AND JULY 1 OF EACH SUCCEEDING YEAR, THE MAXIMUM CHARGE, AS ESTABLISHED IN SUBSECTION (A)(2) OF THIS SECTION, MAY BE CHANGED BY AN AMOUNT EQUAL TO THE PRIOR CALENDAR YEAR'S CHANGE IN THE CONSUMER PRICE INDEX PUBLISHED BY THE BUREAU OF LABOR STATISTICS OF THE UNITED STATES DEPARTMENT OF LABOR FOR

URBAN WAGE EARNERS AND CLERICAL WORKERS FOR ALL ITEMS FOR THE WASHINGTON, D.C. METROPOLITAN AREA, OR THE SUCCESSOR INDEX.

(D) FAILURE TO AGREE.

IF THE COUNTY COUNCILS DO NOT AGREE ON THE AMOUNT OF THE SYSTEM DEVELOPMENT CHARGE, THE SYSTEM DEVELOPMENT CHARGE IMPOSED DURING THE PREVIOUS YEAR SHALL CONTINUE IN EFFECT FOR THE FOLLOWING FISCAL YEAR.

(E) IF AMOUNT OF CHARGE IS LESS THAN NECESSARY.

IF THE SYSTEM DEVELOPMENT CHARGE ESTABLISHED BY THE COUNTY COUNCILS IS LESS THAN THE AMOUNT NECESSARY TO RECOVER THE FULL COST OF CONSTRUCTING GROWTH RELATED FACILITIES, THE COMMISSION SHALL IDENTIFY THE PART OF THE COST OF THAT GROWTH THAT WILL BE PAID BY CURRENT RATEPAYERS AS:

(1) A PERCENTAGE OF ANY RATE INCREASE; AND

(2) THE ANNUAL MONETARY AMOUNT ON A TYPICAL RESIDENTIAL CUSTOMER'S ANNUAL WATER AND SEWER BILL.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 6–113(c)(1) through (3).

In subsection (a)(1) of this section, the word "determine" is substituted for the former phrase "discuss and approve" for brevity.

In subsection (a)(2)(ii) of this section, the reference to "subsection (c) of this section" is added for clarity.

Also in subsection (a)(2)(ii) of this section, the former phrase "on or after July 1, 1998" is deleted as unnecessary.

In subsection (a)(3) and the introductory language of subsection (b) of this section, the references to the "system development charge" are substituted for the former references to the "charge under this section" for clarity.

In subsection (a)(3) of this section, the former reference to "identify and" consider is deleted as unnecessary.

In subsection (b)(2)(ii) of this section, the reference to the exemption amount "not exceed[ing]" $80,000 is substituted for the former reference to the exemption being "limited to" $80,000 for clarity.

In subsection (b)(3)(iii) of this section, the reference to elderly housing "other than that included in item (i) or (ii) of this item" is substituted for the former reference to "[o]ther" elderly housing because items (i) and (ii) do not specifically describe any type of elderly housing.

Former Art. 29, § 6–113(c)(4), which prohibited the county councils from imposing a system development charge in a fiscal year if the county councils had not previously agreed on a system development charge, is deleted as unnecessary since the county councils have agreed on a system development charge.

Former Art. 29, § 6–113(c)(5), which applied to imposing system development charges before July 1, 1994 and July 1, 1995, is deleted as obsolete.

The Washington Suburban Sanitary Commission Law Review Committee notes, for consideration by the General Assembly, that former Art. 29, § 6–113(c)(1)(iv)2 was amended by Chapter 423 of the Acts of 2007 and Chapter 441 of the Acts of 2009. These amendments will terminate on December 31, 2010. *See* § 1 of Ch. 441, Acts of 2009. No effect on the termination provision is intended.

Defined terms: "Commission" § 16–101
"Fixture unit" § 25–401
"Toilet" § 25–401

25–404. SYSTEM DEVELOPMENT CHARGE FUND.

(A) IN GENERAL.

(1) THE COMMISSION SHALL DEPOSIT ALL FUNDS COLLECTED UNDER THE SYSTEM DEVELOPMENT CHARGE INTO A SYSTEM DEVELOPMENT CHARGE FUND.

(2) THE SYSTEM DEVELOPMENT CHARGE FUND IS A SPECIAL FUND THAT MAY NOT REVERT TO GENERAL FUNDS OF THE COMMISSION.

(B) USE OF FUNDS.

THE COMMISSION MAY USE THE FUNDS COLLECTED FROM THE SYSTEM DEVELOPMENT CHARGE ONLY TO:

(1) PAY FOR NEW TREATMENT, TRANSMISSION, AND COLLECTION FACILITIES, THE NEED FOR WHICH IS DIRECTLY ATTRIBUTABLE TO THE ADDITION OF NEW SERVICE AND THE CONSTRUCTION OF WHICH BEGAN AFTER JULY 1, 1993; OR

(2) AMORTIZE ANY BOND THAT IS ISSUED IN CONNECTION WITH THE CONSTRUCTION OF THOSE NEW FACILITIES.

(C) OTHER COSTS.

OTHER COSTS OF ENHANCEMENT, MAINTENANCE, OR ENVIRONMENTAL REGULATION ON EXISTING OR NEW SYSTEMS SHALL BE BORNE EQUALLY BY ALL RATEPAYERS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 6–113(d).

Defined terms: "Commission" § 16–101
"New service" § 25–401

25–405. CONSTRUCTION OF FACILITIES.

(A) AUTHORIZED.

THE COMMISSION MAY ALLOW A DEVELOPER TO DESIGN AND CONSTRUCT ANY ON–SITE OR OFF–SITE FACILITY NECESSARY FOR THE DEVELOPER'S PROJECT IF THE FACILITY IS:

(1) IN THE COMMISSION CAPITAL IMPROVEMENT PROGRAM AND THE 10–YEAR COMPREHENSIVE WATER SUPPLY AND SEWERAGE SYSTEM PLAN ADOPTED BY ONE OF THE COUNTY COUNCILS;

(2) A MAJOR PROJECT INCLUDED IN THE COMMISSION CAPITAL IMPROVEMENT PROGRAM; OR

(3) A PROJECT THAT INCLUDES A SEWER MAIN OR WATER MAIN THAT:

(I) PROVIDES ONLY LOCAL SERVICE;

(II) IS 2,000 FEET OR LESS;

(III) HAS A DIAMETER OF:

1. 15 INCHES OR MORE IF IT IS A SEWER MAIN; OR

2. 16 INCHES OR MORE IF IT IS A WATER MAIN; AND

(IV) IS BUILT TO AVOID UNNECESSARY AND UNECONOMICAL DUPLICATION WHEN A MAJOR PROJECT IS CONSTRUCTED.

(B) STANDARDS FOR FACILITIES.

A FACILITY CONSTRUCTED UNDER THIS SECTION SHALL BE DESIGNED, CONSTRUCTED, AND INSPECTED IN ACCORDANCE WITH:

(1) THE STANDARDS USED BY THE COMMISSION; AND

(2) ALL APPLICABLE LAWS, REGULATIONS, AND WRITTEN POLICIES OF THE COMMISSION.

(C) ACCEPTANCE OF FACILITY; CREDIT AGAINST CHARGE.

AFTER THE COMMISSION APPROVES A FACILITY CONSTRUCTED BY A DEVELOPER UNDER THIS SECTION, THE COMMISSION SHALL:

(1) ACCEPT THE FACILITY AS PART OF THE COMMISSION SYSTEM; AND

(2) SUBJECT TO SUBSECTION (D) OF THIS SECTION, GRANT THE DEVELOPER A CREDIT AGAINST ANY CHARGE IMPOSED UNDER THIS SUBTITLE IN AN AMOUNT EQUAL TO THE COST OF CONSTRUCTING THE FACILITY.

(D) AUDIT REVIEW AND APPROVAL.

THE COMMISSION'S INTERNAL AUDITOR SHALL REVIEW AND APPROVE THE COSTS INCURRED BY THE DEVELOPER.

(E) AGREEMENT.

THE COMMISSION AND THE DEVELOPER SHALL ENTER INTO AN AGREEMENT THAT INCORPORATES THE PROVISIONS OF THIS SECTION.

(F) REJECTION.

IF THE COMMISSION REJECTS A DEVELOPER'S REQUEST TO DESIGN AND CONSTRUCT FACILITIES UNDER THIS SECTION, THE COMMISSION SHALL EXPLAIN IN WRITING TO THE DEVELOPER THE REASONS FOR THE REJECTION.

(G) REPORT.

(1) THE COMMISSION SHALL SUBMIT A REPORT AT THE END OF EACH FISCAL YEAR TO THE MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY DELEGATIONS TO THE GENERAL ASSEMBLY AND TO THE COUNTY COUNCILS OF MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY.

(2) THE REPORT SHALL STATE THE NUMBER OF REQUESTS MADE BY DEVELOPERS UNDER THIS SECTION, INCLUDING:

(I) THE NUMBER OF ACCEPTANCES AND REJECTIONS BY THE COMMISSION; AND

(II) THE JUSTIFICATION FOR ANY REJECTIONS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 6–113(e).

In subsection (f) of this section, the phrase "explain in writing to the developer" is substituted for the former phrase "submit to the developer a written explanation" for brevity.

In subsection (g) of this section, the reference to the "Montgomery County and Prince George's County Delegations to the General Assembly" is substituted for the former reference to the "House and Senate Delegations of both counties" for clarity.

Also in subsection (g) of this section, the reference to the "county councils of Montgomery County and Prince George's County" is substituted for the former phrase reference to the "County Councils" for clarity.

Defined term: "Commission" § 16–101

SUBTITLE 5. SERVICE RATES.

25–501. SERVICE RATES GENERALLY.

(A) IN GENERAL.

THE COMMISSION SHALL SET A SERVICE RATE THAT THE COMMISSION CONSIDERS NECESSARY TO PROVIDE FUNDS FOR:

(1) MAINTAINING, REPAIRING, AND OPERATING ITS WATER SUPPLY AND SEWER SYSTEMS, INCLUDING THE OVERHEAD EXPENSE AND DEPRECIATION ALLOWANCE; AND

(2) MAKING ANY PAYMENTS TO THE DISTRICT OF COLUMBIA, AS SPECIFIED IN THIS TITLE.

(B) RATE.

THE SERVICE RATE:

(1) SHALL BE CHARGEABLE AGAINST ALL PROPERTIES FOR A CONNECTION WITH ANY LINE OWNED BY THE COMMISSION;

(2) SHALL BE UNIFORM THROUGHOUT THE SANITARY DISTRICT; AND

(3) MAY BE CHANGED AS NECESSARY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 6–104(a)(1) and (2).

In subsection (a)(1) of this section, the former reference to a "proper" depreciation allowance is deleted as surplusage.

In subsection (b)(1) of this section, the reference to a "line" is substituted for the former reference to a "pipe" for consistency with terminology used in this division.

Defined terms: "Commission" § 16–101
"Sanitary district" § 16–101

25–502. SERVICE RATES FOR WATER.

(A) IN GENERAL.

(1) EXCEPT AS PROVIDED IN THIS SUBTITLE, THE SERVICE RATE FOR WATER SHALL CONSIST OF:

(I) A MINIMUM OR A READY TO SERVE CHARGE; AND

(II) A CHARGE FOR WATER USED.

(2) THE MINIMUM OR READY TO SERVE CHARGE SHALL BE BASED ON THE SIZE OF THE METER ON THE WATER CONNECTION LEADING TO THE PROPERTY.

(3) THE CHARGE FOR WATER USED SHALL BE BASED ON THE AMOUNT OF WATER PASSING THE METER DURING THE PERIOD BETWEEN THE LAST TWO READINGS.

(4) THE METER SHALL BE PLACED ON EACH WATER CONNECTION BY AND AT THE EXPENSE OF THE COMMISSION.

(B) MINIMUM NUMBER OF GALLONS WITHOUT ADDITIONAL CHARGE.

THE COMMISSION MAY PROVIDE THAT A SPECIFIED MINIMUM NUMBER OF GALLONS OF WATER:

(1) BE INCLUDED IN THE MINIMUM OR READY TO SERVE CHARGE WITHOUT ADDITIONAL SERVICE CHARGES FOR THE WATER; AND

(2) MAY VARY WITH THE SIZE OF THE METER INVOLVED.

(C) RATE FOR FEDERAL, STATE, OR OTHER UNITS OF GOVERNMENT.

(1) IF THE COMMISSION FURNISHES WATER TO A FEDERAL, STATE, OR OTHER UNIT OF GOVERNMENT THAT IS EXEMPT FROM BENEFIT CHARGES OR AD VALOREM TAXES IMPOSED UNDER THIS DIVISION, THE COMMISSION SHALL SET THE WATER SERVICE CHARGE AT AN AMOUNT THE COMMISSION CONSIDERS NECESSARY AND REASONABLE.

(2) IN SETTING THE CHARGE, THE COMMISSION SHALL TAKE INTO CONSIDERATION THE GENERAL TAX, THE BENEFIT CHARGE IMPOSED IN THE SANITARY DISTRICT, AND THE REGULAR SERVICE RATE AS PROVIDED IN SUBSECTIONS (A) AND (B) OF THIS SECTION.

(D) WATER SYSTEM OUTSIDE SANITARY DISTRICT.

(1) IF, BECAUSE OF PUBLIC NECESSITY, THE COMMISSION HAS EXTENDED THE COMMISSION'S WATER SYSTEM OUTSIDE THE BOUNDARIES OF THE SANITARY DISTRICT TO RENDER A NEEDED SERVICE, THE COMMISSION MAY PAY FOR THE EXTENSION OUT OF ITS FUNDS.

(2) THE COMMISSION MAY SET ANY CHARGE THAT IT CONSIDERS REASONABLE FOR ALL CONNECTIONS TO ITS WATER SYSTEM MADE OUTSIDE OF THE SANITARY DISTRICT.

(3) IN SETTING THE CHARGE THE COMMISSION SHALL TAKE INTO CONSIDERATION THE GENERAL TAX AND FRONT FOOT BENEFIT CHARGE IMPOSED IN THE SANITARY DISTRICT.

(4) THE COMMISSION HAS THE SAME AUTHORITY OVER CONNECTIONS MADE TO THE COMMISSION'S WATER SYSTEM OUTSIDE THE SANITARY DISTRICT AS IT HAS IN THE SANITARY DISTRICT.

(E) WATER SUPPLY TO CITY OF LAUREL.

(1) ON REQUEST BY THE MAYOR AND CITY COUNCIL OF THE CITY OF LAUREL, THE COMMISSION SHALL FURNISH WATER FROM THE PATUXENT RIVER SUPPLY TO THE CITY.

(2) THE SERVICE RATE FOR THE WATER SUPPLIED BY THE COMMISSION TO THE CITY OF LAUREL SHALL BE AT THE ACTUAL COST OF SUPPLYING THE WATER TO THE CITY'S WATER SYSTEM.

(3) THE MAYOR AND CITY COUNCIL OF THE CITY OF LAUREL MAY CONSTRUCT A SYSTEM TO RECEIVE WATER FROM THE COMMISSION TO THE NEAREST CONVENIENT POINT TO THE COMMISSION'S PATUXENT RIVER SUPPLY.

(4) THE CONNECTION POINT BETWEEN THE COMMISSION'S SYSTEM AND THE CITY'S WATER SYSTEM MUST BE AT OR NEAR THE COMMISSION'S DAM.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 6–104(a)(3) and (4) and (b)(1) and (2).

In the introductory language of subsection (a)(1) of this section, the reference to a service rate "for water" is added for clarity.

In subsection (a)(2) of this section, the reference to a "minimum or" ready to serve charge is added for consistency throughout this section.

In subsection (c)(1) of this section, the reference to setting the water service rate "at an amount" the Commission considers necessary and reasonable is added for clarity.

Also in subsection (c)(1) of this section, the reference to a "unit of government" is substituted for the former reference to an "agency" for consistency with other revised articles of the Code. *See* General Revisor's Note to division.

In subsections (c)(2) and (d)(3) of this section, the references to a charge "imposed" are substituted for the former references to a charge "levied" for consistency throughout this title.

In subsections (d) and (e) of this section, the references to water "system[s]" are substituted for the former references to water "mains" for consistency throughout this division.

In subsection (d)(1) of this section, the reference to "pay for the extension out of its funds" is substituted for the former reference to "make these extensions out of the general proceeds of its funds" for brevity and clarity.

Also in subsection (d)(1) of this section, the former phrase "as may, in its judgment" is deleted as unnecessary.

In subsection (d)(4) of this section, the former reference to "power" is deleted as implicit in the reference to "authority".

In subsection (e)(1) of this section, the reference to furnishing water "[o]n request by the Mayor and City Council of the City of Laurel" is substituted for the former reference to furnishing water "that the Mayor and City Council of Laurel may want" for clarity.

Also in subsection (e)(1) of this section, the former reference to water supplied "for the use of the water supply of the City of Laurel" is deleted as unnecessary.

In subsection (e)(2) of this section, the reference to the "service rate for the water supplied by the Commission to the City of Laurel" is added for clarity.

In subsection (e)(3) of this section, the reference to "receive water from the Commission" is substituted for the former reference to "for this purpose" for clarity.

Also in subsection (e)(3) of this section, the reference to the "Patuxent River supply" is substituted for the former reference to the "Patuxent water supply" for consistency within this subsection.

The Washington Suburban Sanitary Commission Law Review Committee notes, for consideration by the General Assembly, that former Art. 29, § 6–104(a)(3)(ii) and (iii), revised here as subsection (d) of this section,

appears to apply to service rates. The source law is unclear as to whether this may also apply to connection charges. The Committee believes that this applies only to service rates, but the General Assembly may wish to clarify this subsection.

Defined terms: "Commission" § 16–101
"Sanitary district" § 16–101
"State" § 16–101

25–503. SERVICE RATES FOR SEWER USAGE.

(A) IN GENERAL.

EXCEPT AS OTHERWISE PROVIDED IN SUBSECTIONS (C), (D), AND (E) OF THIS SECTION, THE COMMISSION SHALL IMPOSE A SEWER USAGE CHARGE, BASED ON THE WATER CONSUMPTION OF EACH PROPERTY, AGAINST ALL PROPERTIES CONNECTED TO THE COMMISSION'S SEWER SYSTEM TO PROVIDE FUNDS FOR:

(1) PAYMENT OF PRINCIPAL AND INTEREST FOR BONDS AUTHORIZED UNDER § 22–102(A) AND (B) OF THIS ARTICLE;

(2) MAINTENANCE OF THE SEWER SYSTEM AND DISPOSAL FACILITIES, INCLUDING THE OVERHEAD EXPENSE AND DEPRECIATION ALLOWANCE; AND

(3) PAYMENTS TO THE DISTRICT OF COLUMBIA FOR DISPOSAL OF SANITARY DISTRICT SEWAGE.

(B) RATE FOR FEDERAL, STATE, OR OTHER UNITS OF GOVERNMENT.

(1) THE COMMISSION SHALL IMPOSE A SEWER USAGE CHARGE AGAINST THE PROPERTY OF A FEDERAL, STATE, OR OTHER UNIT OF GOVERNMENT THAT IS:

(I) EXEMPT FROM FRONT FOOT BENEFIT CHARGES AND AD VALOREM TAXES IMPOSED UNDER THIS DIVISION; AND

(II) CONNECTED TO THE COMMISSION'S SEWER SYSTEM.

(2) IN SETTING THE CHARGE, THE COMMISSION SHALL TAKE INTO CONSIDERATION THE GENERAL TAX, THE FRONT FOOT BENEFIT CHARGE IMPOSED IN THE SANITARY DISTRICT, AND THE REGULAR SEWER USAGE CHARGE AS PROVIDED IN THIS SECTION.

(C) PROPERTIES NOT CONNECTED TO COMMISSION WATER SYSTEM.

(1) IF THE COMMISSION FURNISHES SEWER SERVICE TO A PROPERTY THAT IS NOT CONNECTED TO THE COMMISSION'S WATER SYSTEM, THE COMMISSION SHALL IMPOSE A SEWER USAGE CHARGE THAT:

(I) FAIRLY AND RATABLY COMPENSATES THE COMMISSION FOR THE USE OF THE SEWER SYSTEM; AND

(II) TAKES INTO CONSIDERATION THE SEWER USAGE ON THE PROPERTY AND THE SEWER USAGE CHARGE APPLICABLE TO SIMILAR PROPERTIES CONNECTED TO THE WATER SYSTEM.

(2) THE COMMISSION SHALL BILL FOR THE AMOUNT OF THE SEWER USAGE CHARGE UNDER THIS SUBSECTION MONTHLY, TWICE A YEAR, OR ONCE A YEAR.

(D) WATER NOT ENTERING THE SEWER SYSTEM.

(1) SUBJECT TO PARAGRAPHS (2) AND (5) OF THIS SUBSECTION, IF WATER FURNISHED BY THE COMMISSION TO A LOT OR PARCEL OF LAND IS USED EXCLUSIVELY FOR ANY PURPOSE THAT RESULTS IN THE WATER NOT ENTERING THE COMMISSION'S SEWER SYSTEM, THE COMMISSION MAY NOT IMPOSE A SEWER USAGE CHARGE TO THE OWNER, TENANT, OR OCCUPANT OF A LOT OR PARCEL OF LAND FOR THE AMOUNT OF THE WATER FURNISHED BY THE COMMISSION THAT DOES NOT ENTER THE COMMISSION'S SEWER SYSTEM.

(2) THE OWNER, TENANT, OR OCCUPANT OF A LOT OR PARCEL OF LAND EXEMPT UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL PAY THE COMMISSION:

(I) THE COST OF INSTALLING A SEPARATE METERED CONNECTION; AND

(II) AN ANNUAL AMOUNT EQUAL TO THE COMMISSION'S ANNUAL WATER SERVICE CHARGE FOR THE SIZE OF THE METER INSTALLED.

(3) THE COMMISSION SHALL DETERMINE THE LOCATION FOR THE INSTALLATION OF THE REQUIRED METER.

(4) THE COMMISSION MAY ADOPT REGULATIONS REGARDING THE MAINTENANCE AND CONTROL OF THE METER.

(5) THE SEWER USAGE CHARGE FOR PROPERTIES UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE BASED ON THE TOTAL AMOUNT OF WATER USED AS DETERMINED UNDER § 25–502(A) AND (B) OF THIS SUBTITLE, LESS THE AMOUNT OF SEPARATELY METERED WATER.

(E) COMMERCIAL, INDUSTRIAL, OR MULTIRESIDENTIAL PROPERTY.

(1) A COMMERCIAL, INDUSTRIAL, OR MULTIRESIDENTIAL PROPERTY MAY USE A SEPARATE METERED CONNECTION AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, EVEN THOUGH A PORTION OF THE SEPARATELY METERED WATER ENTERS THE SEWER SYSTEM OF THE COMMISSION, PROVIDED THAT THE OWNER, TENANT, OR OCCUPANT OF THE PROPERTY REQUESTS TO BE BILLED ACCORDING TO A FORMULA DETERMINED BY THE COMMISSION.

(2) THE FORMULA DETERMINED BY THE COMMISSION UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL:

(I) CREDIT THE OWNER, TENANT, OR OCCUPANT FOR SEPARATELY METERED WATER NOT ENTERING THE SEWER SYSTEM OF THE COMMISSION; AND

(II) BE CONSISTENT WITH:

1. MANUFACTURERS' ENGINEERING STANDARDS FOR THE CLASS OF EQUIPMENT USING THE SEPARATELY METERED WATER SUPPLIED BY THE COMMISSION; OR

2. INDUSTRY STANDARDS FOR THE CLASS OF OPERATIONS USING THE SEPARATELY METERED WATER SUPPLIED BY THE COMMISSION.

(3) THE SEWER USAGE CHARGE FOR PROPERTIES UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE BASED ON THE SUM OF:

(I) THE TOTAL AMOUNT OF WATER USED AS DETERMINED UNDER § 25–502(A) AND (B) OF THIS SUBTITLE, LESS THE AMOUNT OF SEPARATELY METERED WATER; AND

(II) THE AMOUNT OF SEPARATELY METERED WATER AS ADJUSTED BY THE FORMULA DESCRIBED IN PARAGRAPH (2) OF THIS SUBSECTION.

(F) MUNICIPAL CONTRACTS NOT AFFECTED.

THIS SECTION MAY NOT BE CONSTRUED TO INVALIDATE AN EXISTING CONTRACT BETWEEN THE COMMISSION AND A MUNICIPALITY LOCATED IN THE SANITARY DISTRICT WITHOUT THE CONSENT OF THE MUNICIPALITY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 4–110(d)(1) through (4) and (7).

In the introductory language of subsection (a) of this section, the phrase "shall impose" is substituted for the former phrase "shall be empowered and directed to make" for brevity.

Also in the introductory language of subsection (a) of this section, the phrase "to provide funds for" is substituted for the former phrase "[f]or the purpose of" for clarity.

In subsection (a)(1) of this section, the reference to the "payment of principal and interest for bonds" is substituted for the former reference to "retiring the bonds … and the payment of interest thereon" for brevity and consistency with other similar provisions in this division.

In subsection (a)(2) of this section, the former reference to "paying for the cost of the" maintenance of the sewer system is deleted as surplusage.

Also in subsection (a)(2) of this section, the former reference to a "proper" depreciation allowance is deleted as surplusage.

In the introductory language of subsections (b) and (c)(1) of this section, the word "impose" is substituted for the former word "make" for clarity and consistency. Similarly, in subsection (b)(2) of this section, the word "imposed" is substituted for the former word "levied".

In subsection (b)(1) of this section, the reference to a "unit of government" is substituted for the former reference to an "agency" for consistency with other revised articles of the Code. *See* General Revisor's Note to division.

In subsection (b)(1)(i) of this section, the phrase "imposed under this division" is substituted for the former phrase "imposed under the provisions of Chapter 122 of the Acts of the General Assembly of Maryland of 1918, and amendments thereto" for brevity.

In subsection (b)(2) of this section, the former phrase "with full authority to change the same [the charge] from time to time" is deleted as implicit in the references to "impose" and "[i]n setting the charge".

In subsection (c)(1)(i) of this section, the former reference to use of the sewer system "by such property" is deleted as unnecessary.

In subsection (c)(1)(ii) of this section, the reference to "sewer usage on the property" is substituted for the former reference to "usage made of the sewerage system by such property" for brevity.

Also in subsection (c)(1)(ii) of this section, the former reference to "fixing the charge for properties not connected to the water system" is deleted as unnecessary.

Also in subsection (c)(1)(ii) of this section, the former reference to "like" properties is deleted as included in the reference to "similar" properties.

In subsection (c)(2) of this section, the phrase "[t]he Commission shall bill for the amount of the sewer usage charge under this subsection" is added for clarity.

In subsection (d)(1) of this section, the reference to "the amount of the water furnished by the Commission that does not enter the Commission's sewer system" is substituted for the former reference to "the water so used" for clarity.

Also in subsection (d)(1) of this section, the former phrase "[e]xcept as provided in subparagraph (ii) of this paragraph" is deleted as unnecessary.

In subsection (d)(2)(ii) of this section, the former reference to a meter "for measuring the water so used" is deleted as unnecessary.

In subsection (d)(3) of this section, the reference to "the required meter" is substituted for the former reference to "which metered connection" for clarity.

Also in subsection (d)(3) of this section, the former reference to installation of the metered connection "upon such payment" is deleted as unnecessary.

In subsection (d)(4) of this section, the reference to the Commission "adopt[ing] regulations regarding the maintenance and control of the meter" is substituted for the former reference to the "meter connection … shall thereafter be maintained and exclusively controlled by the WSSC under such rules and regulations as the WSSC may adopt" for brevity.

In subsection (f) of this section, the reference to "invalidat[ing]" an existing contract is substituted for the former reference to "authority to

repudiate" an existing contract for clarity and consistency with § 25–507(a) of this subtitle.

Defined terms: "Commission" § 16–101
"Municipality" § 16–101
"Sanitary district" § 16–101
"State" § 16–101

25–504. BILLING.

(A) ESTIMATED BILLS.

THE COMMISSION:

(1) MAY PROVIDE FOR THE BILLING AND COLLECTION OF THE WATER AND SEWER USAGE CHARGES ON AN ESTIMATED BASIS FOR PERIODS OF 6 MONTHS OR LESS, BASED ON THE HISTORICAL DAILY AVERAGE CONSUMPTION CALCULATED FROM ACTUAL PREVIOUS USAGE;

(2) SHALL READ THE METER AT LEAST ONCE EVERY 6 MONTHS; AND

(3) (I) SHALL BASE THE FINAL BILL FOR THE 6–MONTH PERIOD ON THE ACTUAL CONSUMPTION ADJUSTED BY PREVIOUS ESTIMATES, IF THE METER HAD NOT BEEN READ BECAUSE IT WAS INACCESSIBLE;

(II) SHALL BASE THE FINAL BILL FOR THE 6–MONTH PERIOD ON THE HISTORICAL DAILY AVERAGE CONSUMPTION, CALCULATED FROM ACTUAL PREVIOUS USAGE, IF A FINAL READING CANNOT BE MADE BECAUSE:

1. THE METER MALFUNCTIONED;

2. THE METER HAD BEEN TAKEN OUT OF SERVICE FOR REPAIRS, MAINTENANCE, OR WATER SYSTEM RELINING PURPOSES; OR

3. THERE WAS THEFT OF SERVICE;

(III) MAY MODIFY THE HISTORICAL DAILY AVERAGE CONSUMPTION CALCULATION BASED ON APPROPRIATE EVIDENCE SUBMITTED BY THE OWNER; AND

(IV) MAY NOT BASE A FINAL BILL ON ESTIMATED USAGE FOR TWO CONSECUTIVE 6–MONTH PERIODS.

(B) PAYMENT DUE DATE.

(1) THE COMMISSION SHALL BILL FOR THE AMOUNT OF WATER AND SEWER USAGE CHARGES TO EACH PROPERTY SERVED MONTHLY, FOUR TIMES A YEAR, OR TWICE A YEAR, AS THE COMMISSION DETERMINES.

(2) ON RECEIPT EACH BILL IS PAYABLE TO THE COMMISSION.

(C) LATE PAYMENT.

(1) A LATE PAYMENT CHARGE OF 5% OF THE UNPAID CHARGES SHALL BE ADDED AND COLLECTED AS PART OF THE BILL IF:

(I) THE COMMISSION SENDS OUT A BILL FOR WATER AND SEWER USAGE CHARGES IN THE REGULAR COURSE OF BUSINESS;

(II) FOR A SERVICE PERIOD OF LESS THAN 3 MONTHS, THE BILL IS NOT PAID 20 DAYS FROM THE DATE OF SENDING; OR

(III) FOR A SERVICE PERIOD OF 3 MONTHS OR MORE, THE BILL IS NOT PAID 30 DAYS FROM THE DATE OF SENDING.

(2) THE LATE PAYMENT CHARGE IS IN ADDITION TO AND NOT IN SUBSTITUTION FOR OR DEROGATION OF ANY OTHER RIGHT OR REMEDY GRANTED TO THE COMMISSION BY ANY OTHER LAW.

(D) TERMINATION OF SERVICE.

(1) IF A BILL IS NOT PAID WITHIN 30 DAYS AFTER THE DATE OF SENDING, AFTER LEAVING WRITTEN NOTICE ON THE PREMISES OR MAILING NOTICE TO THE OWNER'S LAST KNOWN ADDRESS, THE COMMISSION SHALL TURN OFF THE WATER TO THE PROPERTY.

(2) THE WATER MAY NOT BE TURNED ON AGAIN UNTIL THE BILL, ANY LATE PAYMENT PENALTY CHARGES AS AUTHORIZED BY LAW, AND THE COST INCURRED IN SHUTTING OFF AND RESTORING THE WATER SUPPLY ARE PAID.

(E) COLLECTION.

IF A BILL IS NOT PAID WITHIN 60 DAYS AFTER THE DATE OF SENDING, THE BILL SHALL BE COLLECTED AGAINST THE OWNER OF THE PROPERTY SERVED IN

THE SAME MANNER AS OTHER DEBTS ARE COLLECTED IN MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY.

(F) MUNICIPAL CONTRACTS NOT AFFECTED.

THE PROVISIONS OF SUBSECTIONS (B), (D), AND (E) OF THIS SECTION THAT RELATE SOLELY TO SEWER USAGE CHARGES MAY NOT BE CONSTRUED TO INVALIDATE AN EXISTING CONTRACT BETWEEN THE COMMISSION AND A MUNICIPALITY LOCATED IN THE SANITARY DISTRICT WITHOUT THE CONSENT OF THE MUNICIPALITY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, §§ 4–110(d)(6) and (7) and 6–104(b)(3) and (4).

In subsection (a)(2) of this section, the reference to at least "once" is added for clarity.

In subsection (b)(1) of this section, the reference to "water and sewer usage charges" is substituted for the former reference to "these charges" for clarity.

Also in subsection (b)(1) of this section, the phrase "[t]he Commission shall bill" is substituted for the former phrase "[b]ills for the amount … shall be sent" for brevity and clarity.

Also in subsection (b)(1) of this section, the former reference to property "connected to the sewerage system" is deleted as unnecessary.

In subsection (b)(2) of this section, the reference to each bill being payable "to the Commission" is substituted for the former reference to each bill being payable "at the office of the WSSC" for clarity.

In subsection (c)(1) and (2) of this section, the references to a "late payment charge" are substituted for the former references to an "additional late payment charge" and "additional charge" for clarity.

In subsection (d)(1) of this section, the reference to turning off the water "to the property" is substituted for the former reference to turning off the water "from the property in question" for clarity and brevity.

In subsection (e) of this section, the reference to "Montgomery County and Prince George's County" is substituted for the former reference to the "respective counties" for clarity.

Also in subsection (e) of this section, the former reference to the bill being sent "by the WSSC" is deleted as unnecessary.

In subsection (f) of this section, the reference to "invalidat[ing]" an existing contract is substituted for the former reference to "authority to repudiate" an existing contract for clarity and consistency with § 25–507(a) of this subtitle.

Defined terms: "Commission" § 16–101
"Municipality" § 16–101
"Sanitary district" § 16–101

25–505. ACQUISITION OF PROPERTY.

(A) DEFINITIONS.

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

(2) "ACQUIRING AUTHORITY" MEANS THE STATE, MONTGOMERY COUNTY, PRINCE GEORGE'S COUNTY, OR ANY MUNICIPALITY OR UNIT OF THE STATE, MONTGOMERY COUNTY, OR PRINCE GEORGE'S COUNTY.

(3) "BILL FOR WATER AND SEWER USAGE CHARGES" INCLUDES, IF APPLICABLE, THE LATE PAYMENT PENALTY PROVIDED UNDER § 25–504(C) OF THIS SUBTITLE.

(B) DUTIES OF ACQUIRING AUTHORITY.

(1) BEFORE ACQUIRING PROPERTY IN THE SANITARY DISTRICT, AN ACQUIRING AUTHORITY SHALL:

(I) DETERMINE IF ANY BILL FOR WATER AND SEWER USAGE CHARGES IS OUTSTANDING AGAINST THE PROPERTY; AND

(II) REQUIRE THE PAYMENT OF ANY OUTSTANDING BILL FOR WATER OR SEWER CHARGES ON THE PROPERTY BEFORE ACQUIRING THE PROPERTY.

(2) IF A BILL FOR WATER AND SEWER USAGE CHARGES IS NOT PAID BEFORE AN ACQUIRING AUTHORITY ACQUIRES THE PROPERTY, THE ACQUIRING AUTHORITY SHALL:

(I) DEDUCT THE AMOUNT OF THE BILL FROM THE PURCHASE PRICE OF THE PROPERTY; AND

(II) PAY THE AMOUNT OF THE BILL OVER TO THE COMMISSION.

(3) IF THE BILL FOR WATER OR SEWER USAGE CHARGES IS NOT PAID WHEN THE ACQUISITION OF THE PROPERTY IS COMPLETED, THE ACQUIRING AUTHORITY:

(I) IS RESPONSIBLE FOR THE BILL; AND

(II) SHALL PAY THE BILL TO THE COMMISSION ON DEMAND.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 6–104(c).

In subsection (a)(2) of this section, the reference to a "unit" is substituted for the former reference to a "commission, board, or agency" for consistency with other revised articles of the Code. *See* General Revisor's Note to division.

In the introductory language of subsection (b)(2) of this section, the reference to a bill for water and sewer usage charges "not [being] paid" is substituted for the former reference to the "previous property owner … not pay[ing]" the bill for consistency within this subsection.

In subsection (b)(3) of this section, the former reference to a bill not being paid "by oversight, mistake, or any other reason" is deleted as unnecessary because it is all inclusive.

Defined terms: "Commission" § 16–101
"Municipality" § 16–101
"Sanitary district" § 16–101
"State" § 16–101

25–506. SERVICE TO CHARITABLE INSTITUTIONS.

(A) "CHARITABLE INSTITUTION" DEFINED.

IN THIS SECTION, "CHARITABLE INSTITUTION" MEANS AN INSTITUTION:

(1) THAT IS LOCATED IN MONTGOMERY COUNTY OR PRINCE GEORGE'S COUNTY; AND

(2) WHOSE PURPOSE IS PRIMARILY CHARITABLE.

(B) WATER AND SEWER USAGE.

EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, IF A CHARITABLE INSTITUTION DOES NOT DISCRIMINATE AGAINST THE ENTRANCE OR CARE OF RESIDENTS OF MONTGOMERY COUNTY OR PRINCE GEORGE'S COUNTY, THE COMMISSION:

(1) SHALL SUPPLY WITHOUT COST UP TO 100 GALLONS OF WATER PER DAY FOR EACH RESIDENT OF THE CHARITABLE INSTITUTION; AND

(2) MAY NOT CHARGE THE CHARITABLE INSTITUTION A FEE FOR SEWER USAGE FOR THE WATER SUPPLIED UNDER ITEM (1) OF THIS PARAGRAPH.

(C) CHARGES AUTHORIZED.

(1) THE CHARITABLE INSTITUTION SHALL INSTALL AND MAINTAIN A WATER METER AT ITS OWN COST.

(2) THE COMMISSION MAY CHARGE THE CHARITABLE INSTITUTION FOR:

(I) THE COST OF READING THE WATER METER; AND

(II) SEWER USAGE AND WATER USED IN EXCESS OF 100 GALLONS PER DAY FOR EACH RESIDENT OF THE CHARITABLE INSTITUTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 6–105(a).

In subsections (b)(1) and (c)(2)(ii) of this section, the term "resident" is substituted for the former term "inmate" for clarity.

In subsection (b)(2) of this section, the reference to the Commission "not charg[ing] the charitable institution a fee for sewer usage for the water supplied under item (1) of this paragraph" is substituted for the former reference to the Commission "[n]ot mak[ing] a sewer usage charge for or on the account of item (1) of this paragraph" for clarity.

In subsection (c)(2)(ii) of this section, the former reference to charging "the current rate" for water is deleted as implicit in the reference to charging for "water used".

Defined term: "Commission" § 16–101

25–507. CHARGES TO STATE AND LOCAL GOVERNMENTS.

(A) CONSTRUCTION OF SECTION.

THIS SECTION MAY NOT BE CONSTRUED TO INVALIDATE A CONTRACT BETWEEN THE COMMISSION AND A MUNICIPALITY LOCATED IN THE SANITARY DISTRICT WITHOUT THE CONSENT OF THE MUNICIPALITY.

(B) RATE IN GENERAL.

EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, THE COMMISSION SHALL CHARGE AND COLLECT ITS SERVICE RATE FOR WATER, INCLUDING A READY TO SERVE CHARGE, FOR ALL WATER USED BY:

(1) THE STATE;

(2) MONTGOMERY COUNTY;

(3) PRINCE GEORGE'S COUNTY; AND

(4) A MUNICIPALITY IN MONTGOMERY COUNTY OR PRINCE GEORGE'S COUNTY.

(C) EXCEPTION FOR FIRE DEPARTMENT OR RESCUE SQUAD.

NOTWITHSTANDING ANY OTHER LAW, A FIRE DEPARTMENT OR RESCUE SQUAD THAT IS RECOGNIZED BY MONTGOMERY COUNTY OR PRINCE GEORGE'S COUNTY OR THAT IS MAINTAINED AND OPERATED BY A MUNICIPALITY IN MONTGOMERY COUNTY OR PRINCE GEORGE'S COUNTY IS EXEMPT FROM ALL COMMISSION WATER AND SEWER USAGE CHARGES AND METER SERVICE CHARGES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 6–105(b).

In subsection (a) of this section, the phrase "[t]his section may not be construed to invalidate" is substituted for the former phrase "[t]his subsection does not invalidate" for clarity and consistency with §§ 25–503(f) and 25–504(f) of this subtitle.

In the introductory language of subsection (b) of this section, the reference to "service rate for water" is substituted for the former

reference to "usual water rate" for clarity and consistency within this subtitle.

In subsections (b)(4) and (c) of this section, the term "municipality" is substituted for the former reference to "municipal authority" for clarity and consistency within this division.

In subsection (c) of this section, the reference to "Commission" rates and charges is added for accuracy.

Also in subsection (c) of this section, the reference to any "other law" is substituted for the former reference to any "law or ordinance to the contrary" for brevity.

Defined terms: "Commission" § 16–101
"Municipality" § 16–101
"Sanitary district" § 16–101
"State" § 16–101

25–508. PRINCE GEORGE'S COUNTY OMBUDSMAN; INTERRUPTION OF SERVICES.

(A) SCOPE OF SECTION.

THIS SECTION APPLIES ONLY IN PRINCE GEORGE'S COUNTY.

(B) OFFICE ESTABLISHED.

THERE IS AN OFFICE OF PRINCE GEORGE'S COUNTY OMBUDSMAN IN THE COMMISSION.

(C) APPOINTMENT.

THE PRINCE GEORGE'S COUNTY EXECUTIVE, WITH THE APPROVAL OF THE PRINCE GEORGE'S COUNTY COUNCIL, SHALL APPOINT AN OMBUDSMAN.

(D) SALARY; BENEFITS.

(1) (I) PRINCE GEORGE'S COUNTY SHALL:

1. PAY THE OMBUDSMAN'S SALARY;

2. PROVIDE TO THE OMBUDSMAN ANY BENEFITS AVAILABLE TO OTHER EMPLOYEES OF PRINCE GEORGE'S COUNTY; AND

3. PROVIDE FUNDING FOR THE OFFICE OF THE OMBUDSMAN.

(II) THE COUNTY MAY PAY FOR ANY LEGAL EXPENSES INCURRED BY THE OMBUDSMAN, AS PROVIDED IN THE COUNTY BUDGET.

(2) THE PRINCE GEORGE'S COUNTY COUNCIL SHALL DETERMINE THE SALARY OF THE OMBUDSMAN.

(3) WHILE HOLDING OFFICE, THE OMBUDSMAN MAY PARTICIPATE IN ANY COMMISSION PROGRAM OF GROUP HEALTH, LIFE, OR DISABILITY INSURANCE TO THE SAME EXTENT AND UNDER THE SAME TERMS AS OTHER COMMISSION OFFICERS AND EMPLOYEES.

(E) REPRESENTATION.

THE OMBUDSMAN MAY REPRESENT THE INTERESTS OF A PRINCE GEORGE'S COUNTY RESIDENTIAL OR COMMERCIAL CUSTOMER WHO FILES A WRITTEN CLAIM WITH THE COMMISSION FOR:

(1) A REFUND OF A PAYMENT ON A BILL FOR WATER AND SEWER USAGE CHARGES THAT EXCEEDS THE AMOUNT THAT IS PROPERLY AND LEGALLY PAYABLE; OR

(2) A REDUCTION IN A BILL FOR WATER AND SEWER USAGE CHARGES THAT EXCEEDS THE AMOUNT THAT IS PROPERLY AND LEGALLY PAYABLE THAT HAS NOT YET BEEN PAID.

(F) DUTIES.

THE OMBUDSMAN:

(1) SHALL:

(I) RECEIVE A COPY OF, AND REVIEW, ANY WRITTEN CLAIM FILED WITH THE COMMISSION UNDER § 25–106(B) OF THIS TITLE;

(II) INVESTIGATE THE MERITS OF THE CLAIM;

(III) ATTEND ANY HEARING HELD IN ACCORDANCE WITH § 25–106(C)(2) OF THIS TITLE AND PRESENT ANY FINDINGS AND RECOMMENDATIONS ON THE MERITS OF THE CLAIM DURING THE HEARING; AND

(IV) PREPARE A WRITTEN STATEMENT OF FINDINGS AND RECOMMENDATIONS ON THE CLAIM AND PROVIDE COPIES OF THE STATEMENT TO THE COMMISSION AND THE CLAIMANT; AND

(2) MAY REPRESENT THE CUSTOMER IN ANY APPEAL PROCESS.

(G) INTERRUPTION OF SERVICE.

NOTWITHSTANDING ANY OTHER PROVISION OF THIS DIVISION, AS TO PRINCE GEORGE'S COUNTY RESIDENTIAL CUSTOMERS, IF ALL UNDISPUTED BILLS FOR WATER AND SEWER USAGE CHARGES ARE PAID WHEN DUE, THE COMMISSION MAY NOT INTERRUPT SERVICE DURING THE PENDENCY OF A WRITTEN CLAIM FILED FOR A REDUCTION IN A BILL FOR WATER AND SEWER USAGE CHARGES THAT EXCEEDS THE AMOUNT THAT IS PROPERLY AND LEGALLY PAYABLE.

REVISOR'S NOTE: Subsection (a) of this section is new language added to clarify the scope of this section.

Subsections (b) through (g) of this section are new language derived without substantive change from former Art. 29, § 6–112.

In subsection (d)(1)(i)2 of this section, the reference to "provid[ing] to the Ombudsman" benefits is added for clarity.

Also in subsection (d)(1)(i)2 of this section, the former reference to "fringe" benefits is deleted as unnecessary.

In subsection (d)(2) of this section, the former reference to the requirements that the "initial salary of the Ombudsman shall be equal to the People's Zoning Counsel of Prince George's County" is deleted as obsolete.

In subsections (e) and (g) of this section, the references to "a bill for water and sewer usage charges that exceeds the amount that is properly and legally payable" are substituted for the former reference to an "excessive" bill for accuracy and consistency with terminology used in § 25–106 of this title.

In subsection (f)(2) of this section, the reference to the "customer" is substituted for the former reference to the "resident" for consistency within this section.

Defined term: "Commission" § 16–101

TITLE 26. WATER SYSTEMS IN ANNE ARUNDEL COUNTY AND HOWARD COUNTY.

SUBTITLE 1. ANNE ARUNDEL COUNTY.

26–101. AUTHORITY TO FURNISH WATER FOR CORRECTIVE INSTITUTION OF DISTRICT OF COLUMBIA AND ANNE ARUNDEL COUNTY.

THE COMMISSION AND ANNE ARUNDEL COUNTY MAY ENTER INTO A CONTRACT FOR THE COMMISSION TO CONSTRUCT, OPERATE, AND MAINTAIN A WATER SYSTEM IN ANNE ARUNDEL COUNTY FOR THE PURPOSE OF SUPPLYING WATER TO:

(1) THE CORRECTIVE INSTITUTION OF THE DISTRICT OF COLUMBIA, AS AUTHORIZED BY CHAPTER 434 OF THE ACTS OF 1953, OR ITS SUCCESSOR, IF ANY; AND

(2) RESIDENTS OF ANNE ARUNDEL COUNTY WHO MAY BE REASONABLY SERVED FROM THE WATER SYSTEM.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 14–101.

In the introductory language of this section, the reference to "Anne Arundel County" is substituted for the former reference to "the Anne Arundel County Sanitary Commission" because the Anne Arundel County Sanitary Commission no longer exists. It became part of the county government structure in the Anne Arundel County Department of Public Works.

In item (1) of this section, the reference to the corrective institution "as authorized by Chapter 434 of the Acts of 1953, or its successor, if any" is substituted for the former reference to "known as the District Children's Center" for clarity.

The Washington Suburban Sanitary Commission Law Review Committee notes, for consideration by the General Assembly, that item (1) of this section may be duplicative of authority in § 17–204 of this division, which authorizes the Commission to enter into certain contracts with the District of Columbia and other federal, state, county, or municipal authorities.

Defined term: "Commission" § 16–101

26–102. ADDITIONAL POWERS OF THE COMMISSION.

TO CARRY OUT THIS SUBTITLE, THE COMMISSION MAY:

(1) ENTER ON A PUBLIC ROADWAY AS PROVIDED IN § 27–101 OF THIS ARTICLE WITHOUT RECEIVING A PERMIT FROM OR PAYING A FEE TO ANNE ARUNDEL COUNTY;

(2) ACQUIRE PROPERTY IN ANNE ARUNDEL COUNTY IN THE SAME WAY AS PROVIDED FOR ACQUIRING PROPERTY IN PRINCE GEORGE'S COUNTY IN TITLE 21, SUBTITLE 2 OF THIS ARTICLE; AND

(3) ADOPT REGULATIONS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 14–102.

In item (3) of this section and throughout this title, the former reference to "rules" is deleted as unnecessary in light of the use of the word "regulations". *See* General Revisor's Note to division.

The Washington Suburban Sanitary Commission Law Review Committee notes, for consideration by the General Assembly, that item (2) of this section authorizes the Commission to acquire property in Anne Arundel County in the same way as provided for acquiring property in Prince George's County in Title 21, Subtitle 2 of this article. Title 21, Subtitle 2 of this article sets forth the quick take condemnation procedures for acquisition of property by the Commission in Prince George's County. Those provisions are authorized by Art. III, § 40C of the Maryland Constitution. Absent constitutional authority, the General Assembly may not enact legislation granting quick take authority. Currently there is no constitutional authority for the General Assembly to authorize quick take condemnation in Anne Arundel County. Therefore, the General Assembly may wish to clarify this provision.

Defined terms: "Commission" § 16–101
"Public roadway" § 16–101

26–103. TAMPERING WITH SYSTEM.

EXCEPT AS PROVIDED IN COMMISSION REGULATIONS, A PERSON MAY NOT USE, HANDLE, TAMPER WITH, OBSTRUCT, INTERFERE WITH, DEFACE, OR DESTROY ANY PART OF THE WATER SYSTEM CONSTRUCTED BY THE COMMISSION UNDER THIS SUBTITLE, INCLUDING PIPES, FITTINGS, FIREPLUGS, PUMPS, ENGINES, APPLIANCES, WIRES, OR OTHER FIXTURES OR EQUIPMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 14–103.

The reference to the "water" system is added for accuracy and consistency within this title.

Defined terms: "Commission" § 16–101
"Person" § 16–101

SUBTITLE 2. HOWARD COUNTY.

26–201. AUTHORITY TO FURNISH WATER FOR HOWARD COUNTY.

THE COMMISSION MAY CONSTRUCT, OPERATE, AND MAINTAIN A WATER SYSTEM TO THE HOWARD COUNTY BOUNDARY LINE TO SUPPLY WATER TO THE RESIDENTS OF HOWARD COUNTY.

REVISOR'S NOTE: This section formerly was Art. 29, § 15–101.

The only change is in style.

Defined term: "Commission" § 16–101

26–202. CONTRACTS.

(A) IN GENERAL.

THE COMMISSION MAY CONTRACT WITH HOWARD COUNTY AND ANY PERSON TO FURNISH WATER.

(B) AGREEMENT TO FEES.

THE PARTIES TO A CONTRACT UNDER THIS SECTION MAY DETERMINE BY AGREEMENT THE COSTS, RENTALS, SERVICE CHARGES, OR OTHER FEES ENTERED INTO UNDER THE CONTRACT.

(C) DETERMINATION OF CHARGES BY PUBLIC SERVICE COMMISSION.

(1) IF THE COMMISSION AND ANY PERSON WHO WANTS WATER SERVICE CANNOT AGREE ON THE REASONABLENESS OF THE CHARGE FOR THE SERVICE, THE PUBLIC SERVICE COMMISSION MAY DETERMINE THE AMOUNT OF THE CHARGE.

(2) THE PUBLIC SERVICE COMMISSION'S DETERMINATION IS FINAL AND BINDING ON ALL PARTIES CONCERNED.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 15–102.

In subsection (a) of this section, the reference to "contract[ing]" is substituted for the former reference to "enter[ing] into any contract or agreement" for brevity.

Also in subsection (a) of this section, the former reference to the "Department of Public Works" is deleted as unnecessary.

In subsection (b) of this section, the reference to the "parties to a contract under this section" is substituted for the former reference to the "WSSC, the Howard County Department of Public Works, and any person" for clarity and brevity.

Also in subsection (b) of this section, the reference to the "contract" is substituted for the former reference to the "agreement" for consistency within this subtitle.

Defined terms: "Commission" § 16–101
"Person" § 16–101

26–203. MAINTENANCE AND OPERATION OF SYSTEM.

(A) IN GENERAL.

THE COMMISSION MAY CONTRACT WITH THE HOWARD COUNTY DEPARTMENT OF PUBLIC WORKS FOR THE MAINTENANCE AND OPERATION OF PARTS OF THE HOWARD COUNTY DEPARTMENT OF PUBLIC WORKS' WATER SYSTEM THAT ARE SUPPLIED FROM THE COMMISSION'S WATER SYSTEM.

(B) CONTROL OF WATER SYSTEMS; COLLECTION OF FEES AND CHARGES.

IF THE CONTRACT UNDER SUBSECTION (A) OF THIS SECTION REQUIRES THE COMMISSION TO MAINTAIN AND OPERATE PARTS OF THE HOWARD COUNTY DEPARTMENT OF PUBLIC WORKS' WATER SYSTEM:

(1) THE OPERATING CONTROL OF THOSE PARTS OF THE HOWARD COUNTY DEPARTMENT OF PUBLIC WORKS' WATER SYSTEM BELONGS EXCLUSIVELY TO THE COMMISSION; AND

(2) THE COMMISSION SHALL COLLECT FEES AND CHARGES INCIDENT TO THE MAINTENANCE AND OPERATION OF THE WATER SYSTEM OR

THE USE OF WATER IN ACCORDANCE WITH § 25–504(B), (C), AND (D) OF THIS ARTICLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 15–103.

In subsection (a) of this section, the reference to "contract[ing]" is substituted for the former reference to "enter[ing] into any contract or agreement" for brevity.

In the introductory language of subsection (b) of this section, the reference to "the contract under subsection (a) of this section" is substituted for the former reference to "this contract or agreement" for clarity.

In subsection (b)(1) of this section, the reference to the operating control "of those parts of the Howard County Department of Public Works' water system" is substituted for the former reference to the operating control "of the water systems or portions of the water systems of the Howard County Department of Public Works" for brevity.

In subsection (b)(2) of this section, the former reference to collecting "all" fees and charges is deleted as unnecessary.

Defined term: "Commission" § 16–101

26–204. REGULATIONS.

(A) IN GENERAL.

IF HOWARD COUNTY IS SUPPLIED WITH WATER FROM THE COMMISSION'S SYSTEM, THE COMMISSION MAY ADOPT REGULATIONS REQUIRING:

(1) THE USE OF WATER SAVING DEVICES;

(2) CURTAILING OF WATER USE DURING WATER RESTRICTION PERIODS; AND

(3) COMPLIANCE WITH HEALTH REQUIREMENTS OF THE COMMISSION'S PLUMBING REGULATIONS.

(B) COMPLIANCE WITH REGULATIONS BY HOWARD COUNTY.

HOWARD COUNTY SHALL COMPLY WITH THE REGULATIONS ADOPTED BY THE COMMISSION FOR THOSE PARTS OF THE HOWARD COUNTY DEPARTMENT

OF PUBLIC WORKS' WATER SYSTEM SUPPLIED WITH WATER BY THE COMMISSION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 15–104.

In subsection (a)(1) of this section, the reference to "the use of" water saving devices is added for clarity.

In subsection (b) of this section, the reference to regulations "adopted by the Commission" is substituted for the former reference to "these" regulations for clarity.

Also in subsection (b) of this section, the reference to the Howard County "Department of Public Works" water system is added for consistency within this subtitle.

Defined term: "Commission" § 16–101

26–205. TAMPERING WITH SYSTEM.

EXCEPT AS PROVIDED IN COMMISSION REGULATIONS, A PERSON MAY NOT USE, HANDLE, TAMPER WITH, OBSTRUCT, OR INTERFERE WITH ANY PART OF THE HOWARD COUNTY DEPARTMENT OF PUBLIC WORKS' WATER SYSTEM THAT IS SUPPLIED WITH WATER FROM THE COMMISSION'S WATER SYSTEM, INCLUDING PIPES, FITTINGS, FIREPLUGS, PUMPS, ENGINES, APPLIANCES, WIRES, OR OTHER FIXTURES OR EQUIPMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 15–105.

Defined terms: "Commission" § 16–101
"Person" § 16–101

26–206. DISPOSAL OF SEWAGE IN PATUXENT RIVER DRAINAGE AREA.

(A) IN GENERAL.

THE COMMISSION MAY PROVIDE A SEWAGE COLLECTION AND DISPOSAL SYSTEM FOR THE PATUXENT RIVER DRAINAGE AREA IN HOWARD COUNTY.

(B) CONTRACT FOR DISPOSAL.

(1) THE COMMISSION MAY CONTRACT WITH HOWARD COUNTY REGARDING:

(I) SEWAGE DISPOSAL; AND

(II) THE TERMS AND CONDITIONS ON WHICH SEWAGE DISPOSAL SERVICE MAY BE PERFORMED.

(2) THE COST OF SEWAGE DISPOSAL UNDER THIS SECTION MAY NOT BE APPORTIONED OR LEVIED ON ANY PROPERTY IN MONTGOMERY COUNTY OR PRINCE GEORGE'S COUNTY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 15–106.

In subsection (b)(1) of this section, the reference to "contract[ing]" is substituted for the former reference to "enter[ing] into any contract or agreement" for brevity.

In subsection (b)(1)(ii) of this section, the reference to "sewage disposal" service is added for clarity.

Defined term: "Commission" § 16–101

TITLE 27. HIGHWAYS AND STREETS.

27–101. POWERS AND DUTIES OF COMMISSION.

(A) IN GENERAL.

THE COMMISSION MAY:

(1) ENTER ON A PUBLIC ROADWAY TO INSTALL, MAINTAIN, AND OPERATE THE COMMISSION SYSTEM; AND

(2) CONSTRUCT A WATER MAIN, SEWER, OR AN APPURTENANCE OF A WATER MAIN OR SEWER IN A PUBLIC ROADWAY IN MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY, SUBJECT TO THE REGULATION AND PERMIT PROVISIONS OF §§ 27–102 AND 27–108 OF THIS TITLE.

(B) DISTURBED PUBLIC ROADWAY.

WHEN THE COMMISSION DISTURBS A PUBLIC ROADWAY, THE COMMISSION SHALL:

(1) NOTIFY THE STATE, COUNTY, OR MUNICIPALITY THAT HAS AUTHORITY OVER THE PUBLIC ROADWAY OF THE COMMISSION'S PLANS;

(2) REPAIR AND LEAVE THE PUBLIC ROADWAY IN THE SAME OR A SUPERIOR CONDITION TO THAT EXISTING BEFORE THE PUBLIC ROADWAY WAS DISTURBED; AND

(3) PAY ALL COSTS FOR RETURNING THE PUBLIC ROADWAY TO THE SAME OR SUPERIOR CONDITION.

(C) REGULATORY AUTHORITY — OVERHEAD UTILITIES.

IN ADDITION TO THE AUTHORITY OVER THE CONSTRUCTION AND LOCATION OF UNDERGROUND CONSTRUCTION IN THE SANITARY DISTRICT, THE COMMISSION MAY REGULATE THE CONSTRUCTION OF AN OVERHEAD LINE, POLE, OR OTHER PUBLIC UTILITY ALONG A PUBLIC ROADWAY IN THE SANITARY DISTRICT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, §§ 10–101 and 10–104(a).

In subsection (a)(2) of this section, the reference to § "27–108 of this title" is substituted for the former erroneous cross–reference to former § "10–103 of this title".

In subsection (b)(3) of this section, the reference to the "same or superior" condition is substituted for the former reference to the condition "required by paragraph (2) of this subsection" for brevity.

Defined terms: "Commission" § 16–101
"County" § 16–101
"Municipality" § 16–101
"Public roadway" § 16–101
"Sanitary district" § 16–101
"State" § 16–101

27–102. SPECIAL RIGHT OF ENTRY PROCEDURES.

(A) REGULATIONS — ADOPTION.

IN MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY, THE COUNTY EXECUTIVE AND COUNTY COUNCIL MAY ADOPT REGULATIONS CONCERNING THE COMMISSION'S ENTRY INTO OR USE OF A PUBLIC ROADWAY FOR WHICH A PERMIT IS REQUIRED.

(B) REGULATIONS — PROVISIONS; ADMINISTRATION.

THE REGULATIONS ADOPTED UNDER THIS SECTION:

(1) SHALL BE ADOPTED AFTER CONSULTATION WITH THE COMMISSION;

(2) MAY INCLUDE PROVISIONS FOR THE REVIEW AND APPROVAL OF THE REQUIRED PERMITS TO BE ISSUED BY THE COMMISSION UNDER § 27–108 OF THIS TITLE FOR THE CONSTRUCTION OR LOCATION OF PIPES, CONDUITS, TRACKS, LINES, POLES, OR FACILITIES OF A PUBLIC UTILITY IN THE PUBLIC ROADWAYS OF THE COUNTY;

(3) SUBJECT TO REASONABLE PROVISIONS FOR CONTROL BY THE COUNTY OF THE CONSTRUCTION, DISTURBING, OR REPAIR OF THE PUBLIC ROADWAY, MAY NOT:

(I) BE ADMINISTERED SO AS TO CONSTITUTE A TAKING OF A FRANCHISE RIGHT THAT A PUBLIC SERVICE COMPANY OR A UTILITY COMPANY HAS IN A PUBLIC ROADWAY; AND

(II) DIVEST THE COMMISSION OF ITS RIGHT TO USE A PUBLIC ROADWAY FOR THE INSTALLATION OF A COMMISSION FACILITY;

(4) SUBJECT TO THIS TITLE, MAY NOT PROHIBIT THE INSTALLATION IN A PUBLIC ROADWAY OF A FACILITY BEING CONSTRUCTED BY THE COMMISSION TO PROVIDE SERVICE TO THE SANITARY DISTRICT IN THE OTHER COUNTY; AND

(5) MAY NOT BE INCONSISTENT WITH THIS TITLE.

(C) REVIEW AND APPROVAL PROCEDURES.

(1) THE REVIEW AND APPROVAL PROCEDURES AUTHORIZED BY SUBSECTION (B)(2) OF THIS SECTION:

(I) MAY REQUIRE REVIEW AND APPROVAL BY THE COUNTY BEFORE THE COMMISSION ISSUES THE PERMIT; AND

(II) MAY NOT RESULT IN ANY COST TO THE COMMISSION OR TO THE PUBLIC UTILITY.

(2) A PERMIT ISSUED BY THE COMMISSION UNDER § 27–108 OF THIS TITLE IS NOT EFFECTIVE UNLESS THE APPROPRIATE COUNTY APPROVES THE PERMIT.

(D) NOTIFICATION OF CONSTRUCTION.

(1) THE COMMISSION:

(I) SHALL GIVE A COUNTY ADVANCE NOTICE OF THE DATE, TIME, AND EXTENT TO WHICH THE COMMISSION PLANS TO CUT INTO A PUBLIC ROADWAY, SIDEWALK, OR OTHER PUBLIC PROPERTY OF THE COUNTY; AND

(II) IF REQUIRED BY A REGULATION ADOPTED UNDER THIS SECTION, SHALL:

1. SUBMIT A COPY OF PROPOSED CONSTRUCTION PLANS TO THE COUNTY BEFORE CONSTRUCTION BEGINS; AND

2. APPLY FOR AND OBTAIN A PERMIT FROM THE COUNTY AT NO COST TO THE COMMISSION.

(2) THE COUNTY SHALL PROMPTLY PROCESS THE COMMISSION'S PERMIT APPLICATION.

(3) THE ISSUANCE OF A PERMIT UNDER THIS SECTION CONSTITUTES APPROVAL OF THE COMMISSION'S PROPOSED CONSTRUCTION AS SPECIFIED IN THE PERMIT.

(4) IF THE CONSTRUCTION UNDER THIS SECTION IS AN EMERGENCY, THE COMMISSION SHALL NOTIFY THE APPROPRIATE COUNTY AS SOON AS PRACTICAL AFTER THE CUT.

(E) FINAL REPAIR COSTS.

ON PRIOR NOTICE, THE COUNTY MAY:

(1) MAKE ALL NECESSARY FINAL REPAIRS TO RESTORE PROPERTY TO A CONDITION SATISFACTORY TO THE COUNTY; AND

(2) CHARGE ALL COSTS FOR THE FINAL REPAIRS TO THE COMMISSION OR TO THE PUBLIC UTILITY THAT MADE THE ENTRY ON THE PROPERTY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 10–102.

In subsection (a) of this section, the former reference to "reasonable" regulations is deleted as unnecessary in light of the requirement that regulations must be reasonable in order to be valid. *See Comptroller of Treas. v. M. E. Rockhill, Inc.* 205 MD. 226, 233 (1954).

Also in subsection (a) of this section, the former phrase "for their respective county" is deleted as unnecessary since regulations adopted by a county can be enforced only in that county.

In the introductory language of subsections (b) and (d)(1)(ii) of this section, the former references to "rule[s]" are deleted as unnecessary in light of the use of the word "regulations". *See* General Revisor's Note to division.

In the introductory language of subsection (b) of this section, the former reference to regulations adopted under this section "by the County Executive and County Council of either county" is deleted as unnecessary.

In subsections (b)(2) and (c)(2) of this section, the former erroneous cross–references to former § "10–103" of this title are deleted.

In subsection (d)(4) of this section, the reference to notifying the "appropriate" county is added for clarity.

The Washington Suburban Sanitary Commission Law Review Committee notes, for consideration by the General Assembly, that there may be an anomaly in the requirements regarding the county review and approval procedures under former Art. 29, § 10–102(c)(1)(i) and (2), revised as subsection (c)(1)(i) and (2) of this section. Subsection (c)(1)(i) of this section states that the review and approval procedures adopted by either Montgomery or Prince George's counties may include provisions for the review and approval of the construction or location permits required to be issued by the Commission as referenced in former Art. 29, § 10–102(b)(5), revised as subsection (b)(2) of this section. However, subsection (c)(2) of this section states that a permit issued by the Commission for these functions is not effective unless the appropriate county approves the permit. While the statute establishes that county review and approval of the permits is optional, it also prohibits the Commission from proceeding unless it obtains county approval, effectively making county review and approval mandatory, not discretionary. The General Assembly may wish to amend these provisions to establish mandatory review and approval by the counties, since review and approval appear to be required in practice.

Defined terms: "Commission" § 16–101
"Public roadway" § 16–101
"Sanitary district" § 16–101

27–103. EFFECT OF §§ 27–101 AND 27–102.

(A) CONTRACTING AUTHORITY.

SECTIONS 27–101 AND 27–102 OF THIS TITLE DO NOT LIMIT THE COMMISSION'S AUTHORITY TO ENTER INTO CONTRACTS OR AGREEMENTS WITH A UNIT OF FEDERAL, STATE, COUNTY, OR MUNICIPAL GOVERNMENT OR WITH THE DISTRICT OF COLUMBIA CONCERNING THE MATTERS DESCRIBED IN §§ 27–101 AND 27–102 OF THIS TITLE, IF THE AGREEMENT OR CONTRACT IS NECESSARY, ADVISABLE, OR EXPEDIENT IN CONNECTION WITH THE CONSTRUCTION, MAINTENANCE, AND OPERATION OF THE COMMISSION'S WATER AND SEWER SYSTEMS.

(B) STATE HIGHWAY ADMINISTRATION.

SECTIONS 27–101 AND 27–102 OF THIS TITLE DO NOT IMPAIR THE RIGHTS OF THE STATE HIGHWAY ADMINISTRATION CONCERNING COMMISSION OR UTILITY USE OF A STATE HIGHWAY, INCLUDING A ROAD THAT IS CONSTRUCTED IN WHOLE OR IN PART WITH FEDERAL FUNDS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 10–103.

In subsection (b) of this section, the reference to a "State highway" is substituted for the former reference to a "highway of the State system" for brevity.

Defined terms: "Commission" § 16–101
"County" § 16–101
"Municipality" § 16–101
"State" § 16–101

27–104. SUBMISSION OF SYSTEM REPAIR PLANS.

(A) DEFINITIONS.

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

(2) "HOMEOWNER CORPORATION" MEANS A HOMEOWNER ASSOCIATION WITH 5,000 OR MORE MEMBERS THAT HAS:

(I) FILED A WRITTEN REQUEST WITH THE COMMISSION TO RECEIVE THE INFORMATION REQUIRED BY THIS SECTION; AND

(II) PROVIDED THE COMMISSION WITH A MAP OF THE HOMEOWNER CORPORATION'S GEOGRAPHIC BOUNDARIES.

(3) "SYSTEM REPAIR" MEANS WORK TO INSTALL, MAINTAIN, OR OPERATE THE COMMISSION SYSTEM THAT INVOLVES CUTTING INTO A PUBLIC ROADWAY, SIDEWALK, OR OTHER IMPROVEMENT ON PUBLIC PROPERTY OF A COUNTY OR MUNICIPALITY LOCATED IN THE SANITARY DISTRICT.

(B) SYSTEM REPAIR PLANS — PREPARATION.

(1) ON OR BEFORE SEPTEMBER 1 OF EACH YEAR, THE COMMISSION SHALL SUBMIT TO EACH COUNTY, MUNICIPALITY, AND HOMEOWNER CORPORATION LOCATED IN THE SANITARY DISTRICT A PLAN OF SYSTEM REPAIRS SCHEDULED FOR THE NEXT 3 YEARS.

(2) THE COMMISSION SHALL SUBMIT THE PLAN OF SCHEDULED SYSTEM REPAIRS TO THE PERSON DESIGNATED BY THE COUNTY, MUNICIPALITY, OR HOMEOWNER CORPORATION.

(C) SYSTEM REPAIR PLANS — REQUIRED ITEMS.

FOR EACH SCHEDULED SYSTEM REPAIR, THE PLAN SHALL INCLUDE:

(1) THE ANTICIPATED SYSTEM REPAIR DATE AND TIME;

(2) THE SYSTEM REPAIR LOCATION; AND

(3) AN ANALYSIS OF THE IMPACT THAT THE SYSTEM REPAIR WILL HAVE ON THE AFFECTED COUNTIES, MUNICIPALITIES, AND HOMEOWNER CORPORATIONS.

(D) CONSULTATION REQUIRED.

BEFORE SUBMITTING THE PLAN OF SYSTEM REPAIRS, THE COMMISSION SHALL CONSULT WITH THE AFFECTED COUNTIES, MUNICIPALITIES, AND HOMEOWNER CORPORATIONS LOCATED IN THE SANITARY DISTRICT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 10–107.

Defined terms: "Commission" § 16–101
"County" § 16–101
"Municipality" § 16–101
"Person" § 16–101
"Public roadway" § 16–101
"Sanitary district" § 16–101

27–105. REIMBURSEMENT — RELOCATION OR REMOVAL OF COMMISSION FACILITIES.

(A) NOTIFICATION BY COUNTY.

(1) IF A COUNTY REQUIRES THE RELOCATION OR REMOVAL OF A COMMISSION FACILITY, THE COUNTY SHALL GIVE NOTICE TO THE COMMISSION OF THE REQUIREMENT WITHIN A REASONABLE TIME.

(2) ON RECEIVING NOTICE, THE COMMISSION SHALL PROVIDE THE COUNTY WITH AN ESTIMATE OF THE COST OF REMOVING OR RELOCATING THE FACILITY.

(3) ON COMPLETION OF THE REMOVAL OR RELOCATION OF THE FACILITY, THE COMMISSION SHALL PROVIDE THE COUNTY WITH AN ITEMIZED STATEMENT OF THE ACTUAL COST OF REMOVAL OR RELOCATION.

(B) PAYMENT REQUIRED.

(1) FOR THE RELOCATION OR REMOVAL OF A FACILITY FOR WHICH THE COMMISSION IS REQUIRED TO PAY BECAUSE OF ANY ROAD CONSTRUCTION OR IMPROVEMENT REQUIRED BY EITHER MONTGOMERY COUNTY OR PRINCE GEORGE'S COUNTY, THE GOVERNING BODY OF THE COUNTY IN WHICH THE CONSTRUCTION OR IMPROVEMENT IS MADE SHALL PAY ONE–HALF OF THE ACTUAL COST OF THE CONSTRUCTION OR IMPROVEMENT IN THAT COUNTY.

(2) (I) UNLESS THE COUNTY DISPUTES A CHARGE IN THE ITEMIZED STATEMENT OF ACTUAL COSTS, THE COUNTY SHALL PAY THE COSTS WITHIN 6 MONTHS AFTER RECEIPT OF THE STATEMENT.

(II) IF THE ITEMIZED STATEMENT AS SUBMITTED OR FINALLY AGREED ON IS NOT PAID WITHIN 6 MONTHS AFTER SUBMISSION OR

AGREEMENT, THE ITEMIZED STATEMENT SHALL BEAR 6% INTEREST UNTIL PAID.

(C) COST DISPUTES.

(1) IF THERE IS A DISPUTE OVER A CHARGE IN THE ITEMIZED STATEMENT OF ACTUAL COSTS, WITHIN 3 MONTHS AFTER RECEIPT OF THE STATEMENT, THE DISPUTE SHALL BE REFERRED TO AN ARBITRATOR SELECTED BY THE COMMISSION AND THE COUNTY.

(2) IF THE COMMISSION AND THE COUNTY DO NOT AGREE ON AN ARBITRATOR, THE COMMISSION AND THE COUNTY SHALL EACH APPOINT AN ARBITRATOR, WHO JOINTLY SHALL APPOINT A THIRD ARBITRATOR.

(3) IF A DISPUTE GOES TO ARBITRATION, THE ITEMIZED STATEMENT AS FINALLY DETERMINED SHALL BEAR 6% INTEREST AFTER 6 MONTHS FROM THE DATE OF THE FINDING BY THE ARBITRATOR OR ARBITRATORS UNTIL THE STATEMENT IS PAID.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 10–106.

In subsection (a)(1) and (2) of this section, the former references to the "appropriate" county are deleted as unnecessary.

In subsection (b)(1) of this section, the reference to "the governing body of the county in which the construction or improvement is made" being required to pay the cost is substituted for the former reference to "Montgomery County or Prince George's County" being required to pay the cost for clarity.

Also in subsection (b)(1) of this section, the reference to the actual cost "of the construction or improvement" is added for clarity.

In subsection (c)(1) of this section, the reference to a charge "in the itemized statement of actual costs" is substituted for the former reference to a charge "made by the WSSC" for clarity.

Also in subsection (c)(1) of this section, the reference to an arbitrator "selected by the Commission and the county" is substituted for the former reference to an arbitrator "who is satisfactory to both the WSSC and the county" for clarity.

In subsection (c)(3) of this section, the reference to the "itemized statement as finally determined" is substituted for the former reference to the "statement" for clarity.

Also in subsection (c)(3) of this section, the phrase "until the statement is paid" is added for clarity and consistency with subsection (b)(2)(ii) of this section.

The Washington Suburban Sanitary Commission Law Review Committee notes, for consideration by the General Assembly, that there may be an inconsistency regarding when interest attaches to the costs assessed for road construction or improvements required by either Montgomery or Prince George's counties that involve removal or relocation of Commission facilities. Under former Art. 29, § 10–106(b)(4), revised as subsection (b)(2)(i) of this section, the county must pay the charges assessed by the Commission within 6 months after "receipt of the statement", unless the charges are disputed. However, former Art. 29, § 10–106(b)(7), revised as subsection (b)(2)(ii) of this section, goes on to state that if the itemized statement is not paid within 6 months after "submission or agreement" then the statement will bear 6% interest until paid. The General Assembly may wish to address this inconsistency.

Defined terms: "Commission" § 16–101
"County" § 16–101

27–106. CONTRACTORS — NOTICE REQUIRED.

(A) DEFINITIONS.

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

(2) "CONSTRUCTION CONTRACTOR" MEANS A PERSON THAT PERFORMS OR IS HIRED TO PERFORM ROAD CONSTRUCTION WORK.

(3) "ROAD CONSTRUCTION WORK" MEANS THE CONSTRUCTION, REPAIR, PAVING, REPAVING, OR GRADING OF A PUBLIC ROADWAY.

(B) CONSTRUCTION NOTIFICATION — REQUIRED.

BEFORE BEGINNING ROAD CONSTRUCTION WORK ON A PUBLIC ROADWAY IN THE SANITARY DISTRICT IN WHICH A WATER, SEWER, OR STORMWATER MANAGEMENT STRUCTURE IS INSTALLED, A CONSTRUCTION CONTRACTOR SHALL GIVE NOTICE TO THE COMMISSION AND THE COUNTY OF THE PROPOSED CONSTRUCTION WORK.

(C) CONSTRUCTION NOTIFICATION — CONTENTS.

THE NOTICE:

(1) SHALL INCLUDE THE PROPOSED CONSTRUCTION SCHEDULE AND INFORMATION ABOUT THE LOCATION OF CONSTRUCTION TO ACCOMPLISH THE PURPOSES OF THIS SECTION;

(2) EXCEPT IN EMERGENCY ROAD REPAIR SITUATIONS, SHALL BE GIVEN TO THE COMMISSION AND THE COUNTY AT LEAST 7 DAYS BEFORE ROAD CONSTRUCTION WORK BEGINS; AND

(3) IN AN EMERGENCY ROAD REPAIR SITUATION, SHALL BE GIVEN TO THE COMMISSION AND THE COUNTY AS PROMPTLY AS FEASIBLE UNDER THE EMERGENCY SITUATION.

(D) COMMISSION STRUCTURES — DISTURBANCE PROHIBITED.

UNLESS ALLOWED BY THE COMMISSION OR THE COUNTY, AS APPROPRIATE, A PERSON MAY NOT DISTURB, REMOVE, PAVE OVER, OR REPAVE OVER A MANHOLE, VALVE, FITTING, OR OTHER COMMISSION WATER OR SEWER STRUCTURE OR COUNTY STORMWATER MANAGEMENT STRUCTURE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 10–108.

In subsection (a)(2) of this section, the former reference to "engaged" is deleted as included in the reference to "hired".

Defined terms: "Commission" § 16–101
"County" § 16–101
"Person" § 16–101
"Public roadway" § 16–101
"Sanitary district" § 16–101

27–107. REMOVAL OF OBSTRUCTIONS.

(A) UNDERGROUND CONSTRUCTION — PLAN REQUIRED.

(1) BEFORE A PERSON BEGINS UNDERGROUND CONSTRUCTION IN A PUBLIC ROADWAY IN THE SANITARY DISTRICT, THE PERSON SHALL FILE WITH THE COMMISSION A CONSTRUCTION PLAN THAT SHOWS THE LOCATION

AND DEPTH OF THE PROPOSED MAIN, CONDUIT, OR PIPE IN THE PUBLIC ROADWAY.

(2) CONSTRUCTION MAY NOT BEGIN BEFORE THE COMMISSION APPROVES THE PLAN.

(3) UNLESS THE COMMISSION APPROVES THE CHANGE, A CHANGE MAY NOT BE MADE IN THE PHYSICAL LOCATION OF THE MAIN, CONDUIT, OR PIPE SHOWN ON THE PLAN.

(B) INTERFERING CONDUIT, MAIN, OR PIPE.

(1) THE COMMISSION MAY REMOVE OR CHANGE THE LOCATION OF A CONDUIT, MAIN, OR PIPE THAT INTERFERES WITH THE OPERATION OF THE COMMISSION'S WATER AND SEWER SYSTEMS IF:

(I) THE CONDUIT, MAIN, OR PIPE IS CONSTRUCTED WITHOUT THE COMMISSION'S APPROVAL; OR

(II) THE PHYSICAL LOCATION OF THE CONDUIT, MAIN, OR PIPE IS CHANGED FROM THAT SHOWN ON THE PLAN APPROVED BY THE COMMISSION.

(2) THE PERSON THAT CONSTRUCTED THE INTERFERING CONDUIT, MAIN, OR PIPE, OR THE PERSON'S SUCCESSOR, SHALL PAY THE EXPENSES OF THE REMOVAL OR CHANGE IN LOCATION.

(3) THE COMMISSION IS NOT LIABLE FOR DAMAGE TO THE INTERFERING CONDUIT, MAIN, OR PIPE BECAUSE OF CONSTRUCTION OR MAINTENANCE OF THE COMMISSION'S WATER AND SEWER SYSTEMS.

(C) ADJUSTMENT, ACCOMMODATION, OR REMOVAL OF OBSTRUCTION.

(1) IF A PERSON HAS A BUILDING, CONDUIT, PIPE, TRACK, OR OTHER PHYSICAL OBSTRUCTION ON A PUBLIC ROADWAY IN MONTGOMERY COUNTY OR PRINCE GEORGE'S COUNTY THAT BLOCKS OR IMPEDES THE COMMISSION'S WATER OR SEWER SYSTEM, ON REASONABLE NOTICE FROM THE COMMISSION, THE PERSON SHALL PROMPTLY ADJUST, ACCOMMODATE, OR REMOVE THE OBSTRUCTION AT THE PERSON'S EXPENSE AND IN A MANNER THAT FULLY MEETS THE COMMISSION'S NEEDS.

(2) THE COMMISSION MAY CONDEMN AN EASEMENT IN A FRANCHISE OR RIGHT IN ACCORDANCE WITH TITLE 21, SUBTITLE 1 OF THIS ARTICLE.

(D) FEES.

THE COMMISSION MAY CHARGE A REASONABLE FEE FOR ANY PERMIT THAT THE COMMISSION IS REQUIRED TO OBTAIN AND FOR ENGINEERING SERVICES THAT THE COMMISSION IS REQUIRED TO PERFORM UNDER THIS SECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 10–105.

In subsection (a)(1) of this section, the former references to a "public service corporation" are deleted as included in the defined term "person".

In subsection (a)(3) of this section, the reference to the Commission approving "the change" is added for clarity.

Also in subsection (a)(3) of this section, the reference to "the main, conduit, or pipe" is substituted for the former reference to "anything" for clarity.

In subsection (b)(2) and (3) of this section, the references to the "interfering" conduit, main, or pipe are added for clarity.

In subsection (d) of this section, the reference to a permit "that the Commission is required to obtain" is added for clarity.

Defined terms: "Commission" § 16–101
"Person" § 16–101
"Public roadway" § 16–101
"Sanitary district" § 16–101

27–108. OTHER PUBLIC UTILITIES CONSTRUCTION.

(A) PERMIT REQUIRED.

A PERSON MAY NOT ERECT A POLE OR OTHER STRUCTURE IN THE SANITARY DISTRICT FOR THE PURPOSE OF CARRYING WIRES OVERHEAD WITHOUT FIRST OBTAINING A PERMIT FROM THE COMMISSION.

(B) FILING OF CONSTRUCTION PLANS; FEES.

THE COMMISSION MAY:

(1) REQUIRE THAT PLANS FOR THE LOCATION OR CONSTRUCTION OF THE POLE OR STRUCTURE BE FILED WITH THE COMMISSION; AND

(2) CHARGE A REASONABLE FEE FOR THE PERMIT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 10–104(b) and (c).

In subsection (a) of this section, the reference to a pole or other structure "in the sanitary district" is added for clarity.

Defined terms: "Commission" § 16–101
"Person" § 16–101
"Sanitary district" § 16–101

TITLE 28. MISCELLANEOUS PROVISIONS.

SUBTITLE 1. IN GENERAL.

28–101. EXEMPTION FROM ROADSIDE TREE PLANTING OR CARE FEES.

THE COMMISSION IS EXEMPT FROM THE PAYMENT OF ANY FEE OR CHARGE UNDER § 5–403(B) AND (C) OF THE NATURAL RESOURCES ARTICLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 18–103.

The former reference to "the State Forestry Act" is deleted as unnecessary.

Defined term: "Commission" § 16–101

SUBTITLE 2. POLICE FORCE.

28–201. COMMISSION POLICE FORCE.

(A) ESTABLISHED.

THERE IS A COMMISSION POLICE FORCE.

(B) POWERS.

(1) A COMMISSION POLICE OFFICER MAY EXERCISE THE POWERS OF A LAW ENFORCEMENT OFFICER IN THE STATE ON PROPERTY THAT IS OWNED, LEASED, OR OPERATED BY OR UNDER THE CONTROL OF THE COMMISSION.

(2) A COMMISSION POLICE OFFICER MAY NOT EXERCISE LAW ENFORCEMENT POWERS ON ANY OTHER PROPERTY UNLESS THE OFFICER IS:

(I) ENGAGED IN FRESH PURSUIT OF A SUSPECTED OFFENDER;

(II) REQUESTED OR AUTHORIZED TO DO SO IN A POLITICAL SUBDIVISION BY THE CHIEF EXECUTIVE OFFICER OR CHIEF POLICE OFFICER OF THE POLITICAL SUBDIVISION;

(III) NEEDED FOR THE ORDERLY FLOW OF TRAFFIC TO AND FROM PROPERTY OWNED, LEASED, OR OPERATED BY OR UNDER THE CONTROL OF THE COMMISSION; OR

(IV) ORDERED TO DO SO BY THE GOVERNOR.

(C) REGULATIONS.

(1) AFTER CONSULTING WITH THE SECRETARY OF STATE POLICE AND THE POLICE TRAINING COMMISSION, THE COMMISSION SHALL ADOPT REGULATIONS TO CARRY OUT THIS SECTION, INCLUDING STANDARDS FOR CHARACTER, TRAINING, EDUCATION, HUMAN RELATIONS, EXPERIENCE, AND JOB PERFORMANCE FOR COMMISSION POLICE OFFICERS.

(2) TO THE EXTENT PRACTICABLE, THE COMMISSION SHALL ADOPT STANDARDS THAT ARE SIMILAR TO THE STANDARDS OF THE DEPARTMENT OF STATE POLICE.

(3) STANDARDS ADOPTED ON OR AFTER OCTOBER 1, 2002, ON MINIMUM HIRING QUALIFICATIONS OF COMMISSION POLICE OFFICERS DO NOT AFFECT THE STATUS OF AN INDIVIDUAL WHO WAS A QUALIFIED COMMISSION SPECIAL POLICE OFFICER ON OCTOBER 1, 2002.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 18–108.

In subsection (b)(2)(ii) of this section, the reference to an officer of the "political" subdivision is added for consistency and clarity.

In subsection (c)(1) of this section, the reference to the "Secretary of State Police" is substituted for the former obsolete reference to the "Superintendent of the Department of State Police" for accuracy and to reflect statutory changes to the Department of State Police.

Also in subsection (c)(1) of this section, the former reference to "Maryland" Police Training Commission is deleted to use the proper title of the Police Training Commission as established under PS § 3–202.

Defined terms: "Commission" § 16–101
"State" § 16–101

TITLE 29. PROHIBITED ACTS; PENALTIES.

29–101. COMMISSION INFRACTIONS — GENERALLY.

(A) DEFINITIONS.

IN THIS SECTION, "ENFORCEMENT OFFICIAL" MEANS AN EMPLOYEE OF THE COMMISSION AUTHORIZED BY THE COMMISSION TO ISSUE A CITATION FOR A COMMISSION INFRACTION UNDER THIS SECTION.

(B) SCOPE OF SECTION.

THIS SECTION APPLIES TO THE VIOLATIONS OF THE FOLLOWING:

(1) REGULATIONS GOVERNING SEWER CLEANING ADOPTED UNDER § 24–201 OF THIS ARTICLE;

(2) REGULATIONS GOVERNING PLUMBING ADOPTED UNDER § 17–403, TITLE 24, SUBTITLE 1, § 26–102, OR § 26–204 OF THIS ARTICLE;

(3) REGULATIONS GOVERNING EROSION AND SEDIMENT CONTROL FOR UTILITY CONSTRUCTION ADOPTED UNDER § 17–403 OF THIS ARTICLE AND § 4–105 OF THE ENVIRONMENT ARTICLE;

(4) REGULATIONS GOVERNING GAS FITTING ADOPTED UNDER § 17–404 OF THIS ARTICLE;

(5) REGULATIONS GOVERNING REQUIRED PERMITS FOR PUBLIC UTILITY CONSTRUCTION ADOPTED UNDER §§ 27–101, 27–107, AND 27–108 OF THIS ARTICLE;

(6) REGULATIONS GOVERNING THE COMMISSION PRETREATMENT PROGRAM ADOPTED UNDER § 17–403 OF THIS ARTICLE AND § 9–332 OF THE ENVIRONMENT ARTICLE; OR

(7) ANY OTHER REGULATION ADOPTED IN ACCORDANCE WITH § 17–406 OF THIS ARTICLE.

(C) VIOLATION OF REGULATIONS; FINES.

(1) (I) A PERSON WHO VIOLATES ANY PROVISION OF A REGULATION LISTED IN SUBSECTION (B) OF THIS SECTION HAS COMMITTED A COMMISSION INFRACTION AND ON DELIVERY OF A CITATION BY THE COMMISSION UNDER SUBSECTION (D)(1) OF THIS SECTION SHALL PAY TO THE COMMISSION A CIVIL FINE IN THE AMOUNT OF:

1. FOR A FIRST VIOLATION OF THE REGULATION, $250;

2. FOR A SECOND VIOLATION OF THE REGULATION, $500;

3. FOR A THIRD VIOLATION OF THE REGULATION, $750; AND

4. FOR A FOURTH OR SUBSEQUENT VIOLATION, $1,000.

(II) EACH DAY THAT A VIOLATION OF THE REGULATION REMAINS UNCORRECTED IS A SEPARATE COMMISSION INFRACTION SUBJECT TO AN ADDITIONAL CITATION AND FINE IN THE AMOUNT OF $250.

(2) (I) THE PAYMENT DUE DATE FOR THE FINE MAY NOT BE LESS THAN 10 OR MORE THAN 20 CALENDAR DAYS AFTER THE DATE OF DELIVERY OF THE CITATION.

(II) THE RECIPIENT OF THE CITATION MAY PAY THE FINE BEFORE THE PAYMENT DUE DATE SPECIFIED IN THE CITATION.

(D) CITATIONS.

(1) AFTER VERIFYING A COMMISSION INFRACTION THE ENFORCEMENT OFFICIAL SHALL DELIVER THE CITATION TO ANY PERSON

CHARGED WITH COMMITTING THE COMMISSION INFRACTION IN ACCORDANCE WITH THE ENFORCEMENT PROCEDURES OF THE REGULATIONS.

(2) THE CITATION SHALL BE ON A FORM ADOPTED BY THE COMMISSION AND SHALL INCLUDE:

(I) THE DATE OF DELIVERY OF THE CITATION;

(II) THE NAME AND ADDRESS OF THE PERSON CHARGED;

(III) THE SPECIFIC PROVISION OF THE REGULATIONS THAT HAS BEEN VIOLATED;

(IV) THE NATURE OF THE COMMISSION INFRACTION;

(V) THE LOCATION AND TIME THAT THE COMMISSION INFRACTION OCCURRED;

(VI) THE AMOUNT OF THE CIVIL FINE ASSESSED FOR THE COMMISSION INFRACTION;

(VII) THE MANNER, LOCATION, AND TIME IN WHICH THE FINE MAY BE PAID TO THE COMMISSION;

(VIII) A STATEMENT THAT EACH DAY THAT A VIOLATION CONTINUES IS A SEPARATE COMMISSION INFRACTION SUBJECT TO ADDITIONAL CITATION;

(IX) THE NAME, BUSINESS ADDRESS, TITLE, AND TELEPHONE NUMBER OF THE ENFORCEMENT OFFICIAL WHO ISSUED THE CITATION; AND

(X) NOTICE OF THE PERSON'S RIGHT TO A TRIAL FOR THE COMMISSION INFRACTION AND INSTRUCTIONS AND TIME LIMITS FOR THAT ELECTION.

(E) TRIAL.

(1) A PERSON WHO RECEIVES A CITATION FOR A COMMISSION INFRACTION UNDER THIS SECTION MAY ELECT TO STAND TRIAL BY FILING WITH THE COMMISSION A NOTICE OF THE PERSON'S INTENT TO STAND TRIAL.

(2) THE NOTICE OF INTENT TO STAND TRIAL SHALL BE GIVEN AT LEAST 5 DAYS BEFORE THE PAYMENT DUE DATE SPECIFIED IN THE CITATION.

(3) ON RECEIPT OF THE NOTICE OF INTENT TO STAND TRIAL, THE COMMISSION SHALL FORWARD TO THE DISTRICT COURT HAVING VENUE A COPY OF THE CITATION AND A COPY OF THE NOTICE OF INTENT TO STAND TRIAL THAT WAS FILED BY THE PERSON WHO RECEIVED THE CITATION.

(4) ON RECEIPT OF THE CITATION AND THE NOTICE OF INTENT TO STAND TRIAL, THE DISTRICT COURT SHALL SCHEDULE THE CASE FOR TRIAL AND NOTIFY THE DEFENDANT AND COMMISSION OF THE TRIAL DATE.

(5) THE DISTRICT COURT SHALL REMIT TO THE COMMISSION ALL FINES, PENALTIES, OR FORFEITURES THE COURT COLLECTS FOR COMMISSION INFRACTIONS.

(F) FAILURE TO PAY FINE.

(1) IF A PERSON WHO RECEIVES A CITATION FOR A COMMISSION INFRACTION FAILS TO PAY THE FINE BY THE PAYMENT DUE DATE SPECIFIED IN THE CITATION AND FAILS TO FILE A NOTICE OF THE PERSON'S INTENT TO STAND TRIAL FOR THE OFFENSE:

(I) THE PERSON IS LIABLE FOR THE ASSESSED FINE; AND

(II) THE COMMISSION SHALL SEND A NOTICE OF THE COMMISSION INFRACTION TO THE PERSON'S LAST KNOWN ADDRESS.

(2) (I) IF THE FINE IS NOT PAID WITHIN 35 DAYS AFTER THE DATE OF THE NOTICE, THE COMMISSION MAY REQUEST ADJUDICATION OF THE CASE THROUGH THE DISTRICT COURT, WHICH MAY INCLUDE THE FILING OF A DEMAND FOR JUDGMENT ON AFFIDAVIT.

(II) ON RECEIPT OF THE REQUEST FOR ADJUDICATION, THE DISTRICT COURT SHALL SCHEDULE THE CASE FOR TRIAL AND SUMMON THE DEFENDANT TO APPEAR.

(3) IF THE DEFENDANT FAILS TO RESPOND TO THE SUMMONS AND THE COMMISSION HAS MADE A PROPER DEMAND FOR JUDGMENT ON AFFIDAVIT, THE DISTRICT COURT SHALL ENTER JUDGMENT AGAINST THE DEFENDANT IN FAVOR OF THE COMMISSION IN THE AMOUNT THEN DUE.

(G) INFRACTION CIVIL OFFENSE; NOT CRIMINAL CONVICTION.

(1) FOR THE PURPOSE OF THIS SECTION, A COMMISSION INFRACTION IS A CIVIL OFFENSE.

(2) THE ADJUDICATION OF A COMMISSION INFRACTION:

(I) IS NOT A CRIMINAL CONVICTION; AND

(II) DOES NOT IMPOSE ANY OF THE CIVIL DISABILITIES ORDINARILY IMPOSED BY A CRIMINAL CONVICTION.

(H) PROCEDURE FOR INFRACTIONS IN DISTRICT COURT.

IN A PROCEEDING FOR A COMMISSION INFRACTION BEFORE THE DISTRICT COURT, THE VIOLATION SHALL BE PROSECUTED IN THE SAME MANNER AND TO THE SAME EXTENT PROVIDED FOR MUNICIPAL INFRACTIONS UNDER ARTICLE 23A, § 3(B)(7), (10), AND (12) THROUGH (15) OF THE CODE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, §§ 18–104(g), 18–104.2(a)(1) and (c) through (h), the second sentence of § 18–104.1(b)(1), and, as it related to Commission infractions, § 18–104.2(b)(1).

Subsection (b) of this section is revised as a scope provision for clarity.

In subsection (b)(7) of this section, the reference to "any other regulation adopted in accordance with § 17–406 of this article" is added to clarify the intent of former Art. 29, § 18–104.2(c)(1) which provided that "[a]ny person who violates any provision of the regulations [authorized under § 18–104.2(b)] is guilty of a WSSC infraction". This catchall provision is added so that if there is another regulation adopted under that same authority, a violation of the regulation could be included as a Commission infraction even if not specifically listed in subsection (b) of this section.

In subsection (c) of this section, the references to a violation "of the regulation" are added for clarity.

In the introductory language of subsection (c)(1)(i) of this section, the reference to a person having "committed" a Commission infraction is substituted for the former reference to a person being "guilty" of a Commission infraction for clarity.

In subsection (c)(1)(i) of this section, the former references to a civil "monetary" fine are deleted as redundant.

In subsections (c)(2)(i) and (f)(1) of this section, the references to the "payment due date" are substituted for the former references to the "date

for payment" for clarity. Similarly, in subsection (e)(2) of this section, the reference to the "payment due date" is substituted for the former reference to the "day of payment".

In subsection (d)(1) of this section, the reference to any person "charged with" committing the Commission infraction is substituted for the former reference to any person "whom the enforcement official adjudges to be responsible for" committing the Commission infraction for brevity and to clarify that the enforcement official cannot adjudge anyone responsible.

In subsections (d)(2)(iv), (v), and (x) and (f)(1)(ii) of this section, the references to the "Commission infraction" are substituted for the former references to the "violation" to conform to terminology used throughout this section.

In subsection (d)(2)(vi) of this section, the reference to the fine assessed "for the Commission infraction" is added for clarity.

In subsection (d)(2)(x) of this section, the reference to a person's "right to a trial" is substituted for the former reference to a person's "right to elect to stand trial" for brevity.

In subsection (e)(2) of this section, the former reference to the notice being given "by the person" is deleted as unnecessary.

In subsection (e)(3) of this section, the reference to a "copy of the" notice of intent to stand trial is added to clarify that the original notice need not be sent.

In subsection (f)(1)(ii) of this section, the former reference to a "formal" notice is deleted as surplusage.

In subsection (f)(2)(i) of this section, the phrase "[i]f a fine is not paid" is substituted for the former phrase "[i]f the citation has not been satisfied" to use more modern terminology.

In subsection (f)(2)(ii) of this section, the requirement that the District Court schedule the trial and summons the defendant "[o]n receipt of the request for adjudication" is added for clarity.

In subsection (f)(3) of this section, the reference to "the District Court" entering the judgment is added for clarity.

In subsection (g)(1) of this section, the former phrase "for any purpose" is deleted as surplusage.

Former Art. 29, § 18–104.2(a)(2), (3), and (4) which defined "[r]egulations", "[r]epeated infraction", and "WSSC infraction", respectively, are deleted as unnecessary.

The balance of former Art. 29, § 18–104.2 that is not revised in this section is revised in § 17–406 of this article.

The Washington Suburban Sanitary Commission Law Review Committee notes, for consideration by the General Assembly, that the reference to "penalties, or forfeitures" in subsection (e)(5) of this section may be unnecessary. There is no authorization elsewhere relating to any penalties or forfeitures that may be imposed for a Commission infraction. The General Assembly may wish to amend this provision.

Defined terms: "Commission" § 16–101
"Person" § 16–101

29–102. COMMISSION INFRACTIONS — WATERSHED REGULATIONS.

(A) VIOLATION OF REGULATIONS; FINES.

(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A PERSON WHO VIOLATES A WATERSHED REGULATION ADOPTED UNDER § 17–403 OF THIS ARTICLE HAS COMMITTED A COMMISSION INFRACTION.

(2) A COMMISSION INFRACTION DOES NOT INCLUDE A VIOLATION OF A WATERSHED REGULATION DECLARED BY LAW TO BE A CRIMINAL OFFENSE.

(3) THE COMMISSION MAY:

(I) ESTABLISH A SCHEDULE OF PRESET FINES FOR EACH CONVICTION OF A COMMISSION INFRACTION UNDER THIS SECTION;

(II) IMPOSE A PRESET FINE NOT TO EXCEED $50 FOR EACH CONVICTION OF A COMMISSION INFRACTION UNDER THIS SECTION; AND

(III) IMPOSE A PRESET FINE NOT TO EXCEED $100 FOR A REPEAT OFFENSE.

(4) THE RECIPIENT OF A CITATION FOR A COMMISSION INFRACTION SHALL PAY THE FINE TO THE COMMISSION WITHIN 20 CALENDAR DAYS AFTER THE RECEIPT OF THE CITATION.

(B) CITATIONS.

(1) (I) A COMMISSION POLICE OFFICER MAY ISSUE A CITATION TO ANY PERSON CHARGED WITH COMMITTING A COMMISSION INFRACTION.

(II) THE COMMISSION SHALL:

1. RETAIN A COPY OF THE CITATION; AND

2. INCLUDE ON THE CITATION A CERTIFICATION ATTESTING TO THE TRUTH OF THE MATTER SPECIFIED IN THE CITATION.

(2) THE CITATION ALSO SHALL CONTAIN:

(I) THE NAME AND ADDRESS OF THE PERSON CHARGED;

(II) THE NATURE OF THE COMMISSION INFRACTION;

(III) THE LOCATION AND TIME THAT THE COMMISSION INFRACTION OCCURRED;

(IV) THE AMOUNT OF THE CIVIL FINE ASSESSED FOR THE COMMISSION INFRACTION;

(V) THE MANNER, LOCATION, AND TIME IN WHICH THE FINE MAY BE PAID TO THE COMMISSION; AND

(VI) NOTICE OF THE PERSON'S RIGHT TO A TRIAL FOR THE COMMISSION INFRACTION.

(C) TRIAL.

(1) A PERSON WHO RECEIVES A CITATION FOR A COMMISSION INFRACTION UNDER THIS SECTION MAY ELECT TO STAND TRIAL BY FILING WITH THE COMMISSION A NOTICE OF THE PERSON'S INTENT TO STAND TRIAL.

(2) THE NOTICE OF INTENT TO STAND TRIAL SHALL BE GIVEN AT LEAST 5 DAYS BEFORE THE PAYMENT DUE DATE SPECIFIED IN THE CITATION.

(3) ON RECEIPT OF THE NOTICE OF INTENT TO STAND TRIAL, THE COMMISSION SHALL FORWARD TO THE DISTRICT COURT HAVING VENUE A COPY OF THE CITATION AND A COPY OF THE NOTICE OF INTENT TO STAND TRIAL THAT WAS FILED BY THE PERSON WHO RECEIVED THE CITATION.

(4) ON RECEIPT OF THE CITATION AND THE NOTICE OF INTENT TO STAND TRIAL, THE DISTRICT COURT SHALL SCHEDULE THE CASE FOR TRIAL AND NOTIFY THE DEFENDANT OF THE TRIAL DATE.

(5) THE DISTRICT COURT SHALL REMIT TO THE COMMISSION ALL FINES, PENALTIES, OR FORFEITURES THE COURT COLLECTS FOR COMMISSION INFRACTIONS.

(D) FAILURE TO PAY FINE.

(1) IF A PERSON WHO RECEIVES A CITATION FOR A COMMISSION INFRACTION FAILS TO PAY THE FINE BY THE PAYMENT DUE DATE SPECIFIED IN THE CITATION AND FAILS TO FILE A NOTICE OF THE PERSON'S INTENT TO STAND TRIAL FOR THE OFFENSE, THE COMMISSION SHALL SEND A NOTICE OF THE COMMISSION INFRACTION TO THE PERSON'S LAST KNOWN ADDRESS.

(2) A PERSON WHO FAILS TO PAY THE FINE WITHIN 15 DAYS AFTER THE DATE OF THE NOTICE IS LIABLE FOR AN ADDITIONAL FINE NOT TO EXCEED TWICE THE ORIGINAL FINE.

(3) (I) IF THE FINE IS NOT PAID WITHIN 35 DAYS AFTER THE DATE OF THE NOTICE, THE COMMISSION MAY REQUEST ADJUDICATION OF THE CASE THROUGH THE DISTRICT COURT, WHICH MAY INCLUDE THE FILING OF A DEMAND FOR JUDGMENT ON AFFIDAVIT.

(II) ON RECEIPT OF THE REQUEST FOR ADJUDICATION, THE DISTRICT COURT PROMPTLY SHALL SCHEDULE THE CASE FOR TRIAL AND SUMMON THE DEFENDANT TO APPEAR.

(4) IF THE DEFENDANT FAILS TO RESPOND TO THE SUMMONS AND THE COMMISSION HAS MADE A PROPER DEMAND FOR JUDGMENT ON AFFIDAVIT, THE DISTRICT COURT SHALL ENTER JUDGMENT AGAINST THE DEFENDANT IN FAVOR OF THE COMMISSION IN THE AMOUNT THEN DUE.

(E) AMOUNT OF FINE.

A PERSON FOUND BY THE DISTRICT COURT TO HAVE COMMITTED A COMMISSION INFRACTION SHALL PAY A FINE NOT TO EXCEED:

(1) $50 FOR A FIRST OFFENSE; OR

(2) $100 FOR A REPEAT OFFENSE.

(F) INFRACTION CIVIL OFFENSE; NOT CRIMINAL CONVICTION.

(1) FOR THE PURPOSE OF THIS SECTION, A COMMISSION INFRACTION IS A CIVIL OFFENSE.

(2) THE ADJUDICATION OF A COMMISSION INFRACTION:

(I) IS NOT A CRIMINAL CONVICTION; AND

(II) DOES NOT IMPOSE ANY OF THE CIVIL DISABILITIES ORDINARILY IMPOSED BY A CRIMINAL CONVICTION.

(G) PROCEDURE FOR INFRACTIONS IN DISTRICT COURT.

IN A PROCEEDING FOR A COMMISSION INFRACTION BEFORE THE DISTRICT COURT, THE VIOLATION SHALL BE PROSECUTED IN THE SAME MANNER AND TO THE SAME EXTENT PROVIDED FOR MUNICIPAL INFRACTIONS UNDER ARTICLE 23A, § 3(B)(7), (10), AND (12) THROUGH (15) OF THE CODE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, §§ 18–104(f) and 18–104.1(b).

In subsection (a)(1) of this section, the former reference to "rule" is deleted as unnecessary in light of the use of the word "regulation[s]". *See* General Revisor's Note to division.

In subsections (a)(3)(i) and (ii) and (c)(1) of this section, the references to a Commission infraction "under this section" are added for clarity.

In subsection (a)(3)(iii) of this section, the former reference to imposing a fine on "[r]epeat offenders" is deleted as unnecessary in light of the reference to imposing a fine for a "repeat offense".

In subsection (b)(1)(i) of this section, the reference to any person "charged with" committing a Commission infraction is substituted for the former reference to any person "whom they adjudge to be" committing a Commission infraction for brevity and to clarify that the police officer cannot adjudge anyone to be committing an infraction.

Also in subsection (b)(1)(i) of this section, the former reference to a "special" police officer is deleted for consistency with § 28–201 of this article.

In the introductory language to subsection (b)(1)(ii) of this section, the reference to the "Commission" is substituted for the former reference to the "issuing authority" for clarity.

In subsection (b)(1)(ii)2 of this section, the reference to the matter "specified in the citation" is substituted for the former reference to the matter "therein set forth" for clarity.

Also in subsection (b)(1)(ii)2 of this section, the former reference to the certification "of the issuing authority" is deleted as surplusage.

In subsection (b)(2)(iv) of this section, the reference to a "civil" fine is added for clarity and consistency with § 29–101 of this title.

In subsection (b)(2)(vi) of this section, the reference to the citation containing "notice of" a person's right to stand trial is added for clarity and consistency with § 29–101 of this title.

Also in subsection (b)(2)(vi) of this section, the reference to a person's "right to a trial" is substituted for the former reference to a person's "right to elect to stand trial" for brevity.

In subsection (c)(1) of this section, the reference to a citation for a Commission infraction "under this section" is added for clarity and consistency with § 29–101 of this title. Similarly, the reference to a person "filing" notice is added.

Also in subsection (c)(1) of this section, the former reference to standing trial "for the offense" is deleted as unnecessary.

In subsections (c)(2) and (d)(1) of this section, the references to the "payment due date" are substituted for the former references to the "date of payment" for clarity.

In subsection (c)(3) of this section, the reference to a "copy of the" notice of intent to stand trial is added to clarify that the original notice need not be sent.

In subsection (c)(4) of this section, the reference to the receipt of the "notice of intent to stand trial" is added for accuracy and consistency with § 29–101 of this title.

In subsection (c)(5) of this section, the former reference to "violations of" Commission infractions is deleted as surplusage.

In subsection (d)(1) of this section, the requirement that the "Commission" send a notice is added for clarity.

Also in subsection (d)(1) of this section, the former reference to a "formal" notice is deleted as surplusage.

Also in subsection (d)(1) of this section, the former reference to the fine "for the infraction" is deleted as unnecessary.

Also in subsection (d)(1) of this section, the reference to the "person's" last known address is substituted for the former reference to the "owner's" last known address for clarity.

In subsection (d)(2) of this section, the reference to a person "fail[ing] to pay the fine" is substituted for the former reference to a "citation … not be[ing] satisfied" to use more modern terminology. Similarly, in subsection (d)(3)(i) of this section, the reference to a "fine" that "is not paid" is substituted for the former reference to a "citation" that "has not been satisfied".

In subsection (d)(3)(i) of this section, the reference to 35 days after "the date of the notice" is added for clarity.

In subsection (d)(3)(ii) of this section, the requirement that the District Court schedule the trial and summons the defendant "[o]n receipt of the request for adjudication" is added for clarity.

In subsection (d)(4) of this section, the reference to "the District Court" entering the judgment is added for clarity.

In subsection (e)(1) of this section, the reference to a $50 fine "for a first offense" is added for clarity.

In subsection (f)(2) of this section, the former reference to a Commission infraction "as defined in this section" is deleted as surplusage. Similarly, in subsection (f)(2)(i) of this section, the former reference to a criminal conviction "for any purpose" is deleted.

In subsection (g) of this section, the phrase "the violation shall be prosecuted" is substituted for the former phrase "the District Court shall prosecute the violation" for clarity and consistency with § 29–101 of this title.

The balance of former Art. 29, § 18–104.1 that is not revised in this section is revised in § 17–405 of this article.

The Washington Suburban Sanitary Commission Law Review Committee notes, for consideration by the General Assembly, that in subsection (c)(5) of this section the District Court is required to notify the defendant of the

trial date, but the District Court is not required to notify the Commission of the trial date. The Committee wishes to draw the attention of the General Assembly to this discrepancy and notes that the failure of the District Court to notify both parties to the action may result in a dismissal of the action. The General Assembly may wish to address this discrepancy.

The Washington Suburban Sanitary Commission Law Review Committee also notes, for consideration by the General Assembly, that the reference to "penalties, or forfeitures" in subsection (c)(5) of this section may be unnecessary. There is no authorization elsewhere relating to any penalties or forfeitures that may be imposed for a Commission infraction. The General Assembly may wish to amend this provision.

Defined terms: "Commission" § 16–101
"Person" § 16–101

29–103. VIOLATION OF COMMISSION PRETREATMENT PROGRAM.

(A) "COMMISSION PRETREATMENT PROGRAM" DEFINED.

IN THIS SECTION, "COMMISSION PRETREATMENT PROGRAM" MEANS ANY PROGRAM ADOPTED UNDER THE AUTHORITY OF § 9–332 OF THE ENVIRONMENT ARTICLE AND § 17–403 OF THIS ARTICLE TO:

(1) MEET NATIONAL AND LOCAL PRETREATMENT REQUIREMENTS; AND

(2) ELIMINATE THE CONTRIBUTION OF EACH POLLUTANT DISCHARGED FROM AN INDUSTRIAL USER INTO A PUBLICLY OWNED TREATMENT WORKS THAT:

(I) CAUSES PASS THROUGH OR INTERFERENCE WITH THE PUBLICLY OWNED TREATMENT WORKS; OR

(II) CONTAMINATES SEWAGE SLUDGE.

(B) COMPLAINT.

(1) THE COMMISSION MAY ISSUE A WRITTEN COMPLAINT IF THE COMMISSION HAS REASONABLE GROUNDS TO BELIEVE THAT A PERSON HAS VIOLATED A PROVISION OF THE COMMISSION PRETREATMENT PROGRAM.

(2) A COMPLAINT ISSUED UNDER THIS SUBSECTION SHALL:

(I) SPECIFY THE PROVISION OF THE COMMISSION PRETREATMENT PROGRAM THAT ALLEGEDLY HAS BEEN VIOLATED; AND

(II) STATE THE ALLEGED FACTS THAT CONSTITUTE THE VIOLATION.

(C) ADMINISTRATIVE ORDER.

(1) AFTER OR CONCURRENTLY WITH SERVICE OF A COMPLAINT UNDER THIS SECTION, THE COMMISSION MAY ISSUE AN ADMINISTRATIVE ORDER THAT REQUIRES THE PERSON TO WHOM THE ORDER IS DIRECTED TO:

(I) TAKE CORRECTIVE ACTION WITHIN A TIME SET IN THE ORDER;

(II) FILE WITH THE COMMISSION A WRITTEN REPORT ABOUT THE ALLEGED VIOLATION;

(III) APPEAR AT A HEARING BEFORE THE COMMISSION AT A TIME AND PLACE THE COMMISSION SETS TO ANSWER THE CHARGES IN THE ORDER; OR

(IV) FILE A WRITTEN REPORT AND APPEAR AT A HEARING BEFORE THE COMMISSION AT A TIME AND PLACE THE COMMISSION SETS TO ANSWER THE CHARGES IN THE ORDER.

(2) ANY ORDER ISSUED UNDER THIS SUBSECTION IS EFFECTIVE IMMEDIATELY WHEN IT IS SERVED.

(D) SERVICE OF COMPLAINT OR ORDER.

(1) A COMPLAINT OR ORDER ISSUED BY THE COMMISSION UNDER THIS SECTION SHALL BE SERVED ON THE PERSON TO WHOM THE COMPLAINT OR ORDER IS DIRECTED:

(I) PERSONALLY; OR

(II) BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED TO THE PERSON'S LAST KNOWN ADDRESS AS SHOWN ON THE COMMISSION'S RECORDS.

(2) IF SERVICE IS MADE BY CERTIFIED MAIL, THE PERSON WHO MAILS THE DOCUMENT SHALL FILE WITH THE COMMISSION VERIFIED PROOF OF MAILING.

(3) IF THE COMMISSION IS UNABLE WITH DUE DILIGENCE TO SERVE PROCESS UNDER PARAGRAPH (1) OF THIS SUBSECTION, A COMPLAINT OR ORDER SHALL BE SERVED BY PUBLICATION REASONABLY TAILORED TO PROVIDE ACTUAL NOTICE TO THE PERSON TO WHOM THE COMPLAINT OR ORDER IS DIRECTED.

(4) AN ORDER ISSUED UNDER THIS SECTION THAT REQUIRES FILING OF A REPORT, ATTENDANCE AT A HEARING, OR BOTH SHALL BE SERVED AT LEAST 10 DAYS BEFORE THE EARLIER OF:

(I) THE TIME SET FOR THE HEARING, IF ANY; OR

(II) THE TIME SET FOR THE FILING OF THE REPORT, IF ANY.

(E) HEARING.

(1) WITHIN 10 DAYS AFTER BEING SERVED WITH AN ORDER UNDER SUBSECTION (C)(1)(I) OR (II) OF THIS SECTION, THE PERSON SERVED MAY REQUEST IN WRITING A HEARING BEFORE THE COMMISSION.

(2) THE COMMISSION SHALL GIVE NOTICE AND HOLD A HEARING UNDER THIS SECTION IN ACCORDANCE WITH THE ADMINISTRATIVE PROCEDURE ACT.

(3) IN CONNECTION WITH A HEARING CONDUCTED UNDER THIS SECTION, THE COMMISSION, ON ITS OWN INITIATIVE OR AT THE REQUEST OF THE PERSON TO WHOM THE COMPLAINT OR ORDER IS DIRECTED, MAY:

(I) SUBPOENA ANY PERSON OR EVIDENCE THAT IS ESSENTIAL FOR PROPER CONSIDERATION AT THE HEARING; AND

(II) ORDER A WITNESS TO GIVE EVIDENCE.

(4) IF A PERSON FAILS TO COMPLY WITH A SUBPOENA OR ORDER ISSUED UNDER THIS SUBSECTION, ON PETITION OF THE COMMISSION OR THE PERSON TO WHOM THE COMPLAINT OR ORDER IS DIRECTED, A CIRCUIT COURT MAY COMPEL:

(I) OBEDIENCE TO THE ORDER OR SUBPOENA; OR

(II) TESTIMONY OR THE PRODUCTION OF EVIDENCE.

(F) HEARING OFFICER.

THE COMMISSION MAY DESIGNATE A HEARING OFFICER TO CONDUCT A HEARING REQUIRED UNDER THIS SECTION AND ISSUE THE FINAL ORDER AND DECISION OF THE COMMISSION.

(G) FINAL ORDER.

(1) UNLESS THE PERSON SERVED WITH A CORRECTIVE ACTION ORDER UNDER SUBSECTION (C)(1)(I) OF THIS SECTION MAKES A REQUEST FOR A HEARING IN ACCORDANCE WITH SUBSECTION (E)(1) OF THIS SECTION, THE ORDER IS A FINAL ORDER.

(2) IF THE PERSON SERVED WITH A CORRECTIVE ACTION ORDER UNDER SUBSECTION (C)(1)(I) OF THIS SECTION MAKES A REQUEST FOR A HEARING IN ACCORDANCE WITH SUBSECTION (E)(1) OF THIS SECTION, THE ORDER BECOMES A FINAL CORRECTIVE ORDER IN ACCORDANCE WITH THE DECISION OF THE COMMISSION FOLLOWING THE HEARING.

(3) IF THE COMMISSION ISSUES AN ORDER UNDER SUBSECTION (C)(1)(II), (III), OR (IV) OF THIS SECTION, THE COMMISSION MAY NOT ISSUE AN ORDER THAT REQUIRES CORRECTIVE ACTION UNTIL AFTER THE LATER OF:

(I) THE CONCLUSION OF THE HEARING, IF ANY; OR

(II) THE REVIEW OF THE REPORT, IF ANY.

(4) AFTER THE TIME PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, IF THE COMMISSION FINDS THAT A VIOLATION OF THE COMMISSION PRETREATMENT PROGRAM HAS OCCURRED, THE COMMISSION SHALL ISSUE AN ORDER THAT REQUIRES CORRECTION OF THE VIOLATION WITHIN THE TIME SET IN THE ORDER.

(5) AN ORDER ISSUED UNDER PARAGRAPH (4) OF THIS SUBSECTION IS A FINAL CORRECTIVE ORDER AND THE PERSON TO WHOM THE ORDER IS DIRECTED IS NOT ENTITLED TO A HEARING BEFORE THE COMMISSION AS A RESULT OF THE ORDER.

(6) IF THE TERMS OF THE FINAL CORRECTIVE ORDER ARE VIOLATED OR IF A VIOLATION IS NOT CORRECTED WITHIN THE TIME SET IN THE

ORDER, THE COMMISSION SHALL TAKE ACTION TO SECURE COMPLIANCE WITH A FINAL CORRECTIVE ORDER, INCLUDING FILING SUIT TO REQUIRE CORRECTION OF THE VIOLATION.

(H) INJUNCTION.

IN AN ACTION FOR AN INJUNCTION UNDER § 29–104 OF THIS TITLE TO ENFORCE THE COMPLIANCE WITH OR RESTRAIN THE VIOLATION OF A PROVISION OF THE COMMISSION PRETREATMENT PROGRAM OR AN ADMINISTRATIVE ORDER ISSUED UNDER THIS SECTION:

(1) A FINDING OF THE COMMISSION AFTER A HEARING IS PRIMA FACIE EVIDENCE OF EACH FACT THE COMMISSION DETERMINES; AND

(2) ON A SHOWING THAT A PERSON IS VIOLATING OR IS ABOUT TO VIOLATE A PROVISION OF THE COMMISSION PRETREATMENT PROGRAM OR AN ADMINISTRATIVE ORDER ISSUED UNDER THIS SUBSECTION, THE COURT SHALL GRANT THE INJUNCTION WITHOUT REQUIRING A SHOWING OF A LACK OF AN ADEQUATE REMEDY AT LAW.

(I) PENALTIES.

(1) IN ADDITION TO ANY OTHER JUDICIAL REMEDY AND AFTER AN OPPORTUNITY FOR A HEARING, THE COMMISSION MAY IMPOSE A PENALTY FOR A VIOLATION OF A PROVISION OF THE COMMISSION PRETREATMENT PROGRAM STATED IN THE COMPLAINT OR AN ADMINISTRATIVE ORDER ISSUED UNDER THIS SECTION.

(2) THE COMMISSION SHALL PROVIDE THE PERSON SUBJECT TO A PENALTY UNDER PARAGRAPH (1) OF THIS SUBSECTION A WRITTEN NOTICE STATING THAT:

(I) THE COMMISSION INTENDS TO ASSESS A PENALTY AGAINST THE PERSON;

(II) THE PERSON MAY REQUEST IN WRITING A HEARING BEFORE THE COMMISSION NO LATER THAN 10 DAYS AFTER RECEIPT OF THE NOTICE; AND

(III) THE FAILURE TO FILE A WRITTEN REQUEST FOR A HEARING NO LATER THAN 10 DAYS AFTER RECEIPT OF THE NOTICE SHALL BE CONSIDERED A WAIVER OF THE RIGHT TO A HEARING.

(3) THE PENALTY IMPOSED ON A PERSON UNDER THIS SUBSECTION:

(I) MAY NOT EXCEED $1,000 FOR EACH VIOLATION OR $50,000 TOTAL; AND

(II) SHALL BE ASSESSED WITH CONSIDERATION GIVEN TO:

1. THE EXTENT TO WHICH THE EXISTENCE OF THE VIOLATION WAS KNOWN TO BUT UNCORRECTED BY THE VIOLATOR AND THE EXTENT TO WHICH THE VIOLATOR EXERCISED REASONABLE CARE;

2. ANY ACTUAL OR POTENTIAL HARM TO HUMAN HEALTH OR TO THE ENVIRONMENT, INCLUDING INJURY TO OR IMPAIRMENT OF THE COMMISSION SEWAGE COLLECTION AND TREATMENT SYSTEMS OR THE NATURAL RESOURCES OF THE STATE;

3. THE DEGREE OF INTERFERENCE WITH OR INJURY TO THE GENERAL WELFARE, HEALTH, OR PROPERTY RIGHTS OF THE PUBLIC;

4. THE EXTENT TO WHICH THE GEOGRAPHIC LOCATION OF THE SYSTEM CREATES THE POTENTIAL FOR HARM TO THE ENVIRONMENT OR TO HUMAN HEALTH OR SAFETY;

5. THE COST OF CLEANUP AND RESTORATION OF NATURAL RESOURCES;

6. THE AVAILABLE TECHNOLOGY FOR CONTROLLING, REDUCING, OR ELIMINATING THE CONDITIONS THAT CAUSED THE VIOLATION; AND

7. THE EXTENT TO WHICH THE CURRENT VIOLATION IS PART OF A RECURRENT PATTERN OF THE SAME OR SIMILAR TYPE OF VIOLATION COMMITTED BY THE VIOLATOR.

(4) EACH DAY A VIOLATION CONTINUES IS A SEPARATE VIOLATION UNDER THIS SUBSECTION.

(5) A PENALTY IMPOSED UNDER THIS SUBSECTION IS:

(I) PAYABLE TO THE COMMISSION; AND

(II) COLLECTIBLE IN ANY MANNER PROVIDED AT LAW FOR THE COLLECTION OF DEBTS.

(6) IF A PERSON WHO IS LIABLE TO PAY A PENALTY IMPOSED UNDER THIS SUBSECTION FAILS TO PAY IT AFTER DEMAND, THE AMOUNT, TOGETHER WITH INTEREST AND ANY COSTS THAT MAY ACCRUE, SHALL BE:

(I) A LIEN IN FAVOR OF THE COMMISSION ON ANY PROPERTY, REAL OR PERSONAL, OF THE PERSON; AND

(II) RECORDED IN THE OFFICE OF THE CLERK OF COURT FOR THE COUNTY IN WHICH THE PROPERTY IS LOCATED.

(J) JUDICIAL REVIEW.

A PERSON AGGRIEVED BY A FINAL DECISION OF THE COMMISSION IN CONNECTION WITH AN ORDER ISSUED UNDER THIS SECTION MAY SEEK JUDICIAL REVIEW AS PROVIDED FOR IN THE ADMINISTRATIVE PROCEDURE ACT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 18–104.3(a) through (e)(3) and (e)(5) through (i).

In subsection (b)(1) of this section, the former reference to the person "to whom the complaint is directed" is deleted as surplusage.

In subsection (d)(1)(ii) of this section, the former reference to the complaint or order being served "bearing a postmark from the United States Postal Service" is deleted as implicit in the requirement that it be served "by certified mail".

In subsection (d)(3) of this section, the reference to "serv[ing] process" is substituted for the former reference to "effect[ing] service of process" for brevity.

In subsection (f) of this section, the reference to the "Commission" is substituted for the former reference to the "Agency" for clarity and accuracy.

In subsection (g)(3) of this section, the former reference to corrective action by "the person to whom the order is directed" is deleted as surplusage.

In subsection (g)(4) of this section, the former reference to the time "within which the WSSC may not issue a corrective order has passed" is deleted as surplusage.

In subsection (i)(1) of this section, the reference to a "judicial remedy" is substituted for the former reference to "remedies available at law or in equity" for clarity and brevity.

Also in subsection (i)(1) of this section, the former reference to a hearing "which may be waived by the person accused of a violation" is deleted as unnecessary in light of subsection (i)(2) of this section.

In subsection (j) of this section, the reference to "seek[ing] judicial review" is substituted for the former reference to "tak[ing] a direct judicial appeal" for accuracy.

Former Art. 29, § 18–104.3(e)(4), which provided for fees and mileage reimbursement for a subpoenaed witness, is deleted as obsolete because fees and mileage reimbursement for witnesses in a civil action were repealed as part of Chapter 192, Acts of 2005.

Defined terms: "Commission" § 16–101
"County" § 16–101
"Person" § 16–101
"State" § 16–101

29–104. PENALTIES — ENFORCEMENT BY INJUNCTION.

(A) IN GENERAL.

ON APPLICATION OF THE COMMISSION THAT IS VERIFIED BY OATH OF A MEMBER OR EMPLOYEE OF THE COMMISSION, THE CIRCUIT COURT OF A COUNTY, BY INJUNCTION, MAY:

(1) REQUIRE THE COMPLIANCE WITH OR RESTRAIN THE VIOLATION OF ANY ORDER, NOTICE, OR REGULATION OF THE COMMISSION UNDER THIS DIVISION;

(2) REQUIRE COMPLIANCE WITH OR RESTRAIN THE VIOLATION OR ATTEMPTED VIOLATION OF A PROVISION OF THIS DIVISION; OR

(3) REQUIRE THE ENTRY OF AN EMPLOYEE OR AGENT OF THE COMMISSION WITHIN A DESIGNATED AREA ON THE PRIVATE PREMISES AND INTO ANY BUILDING IN THE SANITARY DISTRICT WHERE THE COMMISSION SHOWS A VIOLATION OF THIS DIVISION.

(B) BOND BY COMMISSION NOT REQUIRED.

THE COURT MAY NOT REQUIRE THE COMMISSION TO POST A BOND.

(C) NONRESIDENT RESPONDENT.

IF THE RESPONDENT IN A PETITION FOR INJUNCTION UNDER THIS SECTION IS A NONRESIDENT OF THE STATE, SERVICE OF PROCESS SHALL BE MADE IN ACCORDANCE WITH THE MARYLAND RULES.

(D) PROVISIONS CONCERNING MONTGOMERY COUNTY.

AS TO §§ 27–101(A) AND (B), 27–102, AND 27–103 OF THIS ARTICLE:

(1) MONTGOMERY COUNTY MAY APPLY THE PROVISIONS OF THIS SECTION IF AN APPLICATION IS VERIFIED BY OATH OF AN EMPLOYEE OF MONTGOMERY COUNTY; AND

(2) THE COURT MAY NOT REQUIRE MONTGOMERY COUNTY TO POST A BOND.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 18–105.

In the introductory language of subsection (a) of this section, the former reference to the circuit court "sitting in equity" is deleted as unnecessary.

In subsection (a)(1) of this section, the former reference to "rule" is deleted as unnecessary in light of the use of the word "regulation". *See* the General Revisor's Note to division.

In subsection (a)(2) of this section, the former reference to requiring compliance "by any person" is deleted as unnecessary.

In subsection (c) of this section, the reference to "service of" process is added for clarity.

Also in subsection (c) of this section, the reference to "this section" is substituted for the former reference to "this subsection" for accuracy.

Also in subsection (c) of this section, the former reference to service of process "by publication" is deleted as unconstitutional. This deletion is called to the attention of the General Assembly.

The Washington Suburban Sanitary Commission Law Review Committee notes, for consideration by the General Assembly, that the Committee believes that subsection (a)(3) of this section is not intended to interfere with the Commission's authority under § 24–103(b) and Title 27 of this article to enter into certain premises and buildings in the sanitary district and to inspect certain construction projects.

The Washington Suburban Sanitary Commission Law Review Committee also notes, for consideration by the General Assembly, that subsection (d) of this section does not appear to make any sense. The sections that it refers to authorize the Commission to enter on a public roadway to install the Commission's system and construct a water main or sewer, notify the State and local governments of the construction, and authorize the Commission to enter into contracts with other governmental entities regarding the construction and maintenance of the water and sewer systems. This does not appear to relate back to injunctive relief for violations of Commission regulations and orders. A search through the legislative history revealed that former Art. 29, § 18–105 has existed in substantially the same posture since at least 1982. The General Assembly may wish to clarify this subsection.

Defined terms: "Commission" § 16–101
"County" § 16–101
"Sanitary district" § 16–101
"State" § 16–101

29–105. UNLAWFUL USE OF COMMISSION PROPERTY.

EXCEPT AS PROVIDED IN REGULATIONS ADOPTED BY THE COMMISSION, A PERSON MAY NOT USE, HANDLE, TAMPER WITH, OBSTRUCT, INTERFERE WITH, DEFACE, OR DESTROY ANY PROPERTY OWNED OR USED BY THE COMMISSION IN THE CONSTRUCTION OR OPERATION OF THE COMMISSION'S SYSTEMS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 18–101.

The former reference to "rules" is deleted as unnecessary in light of the use of the word "regulations". *See* General Revisor's Note to division.

The former reference to property "including pipes, fittings, fireplugs, pumps, engines, appliances, wires, or other fixtures or equipment" is deleted as unnecessary in light of the comprehensive reference to "property".

Defined terms: "Commission" § 16–101
"Person" § 16–101

29–106. LEAVING DEAD ANIMALS OR FECAL MATTER UNBURIED.

(A) PROHIBITED.

A PERSON MAY NOT LEAVE UNBURIED FOR A PERIOD LONGER THAN 24 HOURS A DEAD ANIMAL OR FECAL MATTER IN THE SANITARY DISTRICT OR ON A WATERSHED FROM WHICH THE COMMISSION GETS ITS WATER SUPPLY.

(B) BURIAL BY COMMISSION; COSTS.

THE COMMISSION MAY BURY A DEAD ANIMAL OR FECAL MATTER LEFT UNBURIED MORE THAN 24 HOURS AND CHARGE THE COST OF THE BURIAL TO THE OWNER OR THE PERSON ON WHOSE PROPERTY THE DEAD ANIMAL OR FECAL MATTER WAS FOUND.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 18–102.

In subsection (b) of this section, the references to a "dead" animal are added for clarity.

Also in subsection (b) of this section, the reference to an animal or fecal matter "left unburied more than 24 hours" is substituted for the former ambiguous phrase "[a]fter 24 hours" for clarity.

Defined terms: "Commission" § 16–101
"Person" § 16–101
"Sanitary district" § 16–101

29–107. CRIMINAL PENALTIES.

(A) IN GENERAL.

A PERSON WHO VIOLATES ANY OF THE FOLLOWING PROVISIONS IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 30 DAYS OR A FINE NOT EXCEEDING $1,000 OR BOTH:

(1) § 17–403 OF THIS ARTICLE (COMMISSION REGULATIONS, EXCEPT FOR THOSE SPECIFIED IN SUBSECTION (C) OF THIS SECTION AND §§ 29–101(B) AND 29–102(A) OF THIS TITLE);

(2) TITLE 22, SUBTITLE 1 OF THIS ARTICLE (GENERAL OBLIGATION BONDS AND NOTES);

(3) § 23–102(A) OF THIS ARTICLE (CONSTRUCTION OF PRIVATE OR MUNICIPAL SYSTEMS);

(4) § 23–202 OF THIS ARTICLE (SERVICE CONNECTIONS);

(5) § 26–103 OF THIS ARTICLE (TAMPERING WITH COMMISSION SYSTEM IN ANNE ARUNDEL COUNTY);

(6) § 26–205 OF THIS ARTICLE (TAMPERING WITH COMMISSION SYSTEM IN HOWARD COUNTY);

(7) §§ 27–101(C) AND 27–108 OF THIS ARTICLE (PUBLIC UTILITIES CONSTRUCTION);

(8) § 29–105 OF THIS TITLE (UNLAWFUL USE OF COMMISSION PROPERTY, EXCEPT FOR THE REGULATIONS GOVERNING PUBLICLY OWNED WATERSHED PROPERTY); OR

(9) § 29-106 OF THIS TITLE (LEAVING DEAD ANIMALS OR FECAL MATTER UNBURIED).

(B) VIOLATION OF MINORITY BUSINESS ENTERPRISE PROGRAMS.

A PERSON WHO VIOLATES THE PROVISIONS OF TITLE 20, SUBTITLE 2 OF THIS ARTICLE AS THEY RELATE TO THE MINORITY BUSINESS ENTERPRISE UTILIZATION PROGRAM BY COMMITTING A PROHIBITED ACT LISTED UNDER § 14–308 OF THE STATE FINANCE AND PROCUREMENT ARTICLE, ON CONVICTION, IS SUBJECT TO THE PENALTIES PROVIDED UNDER THAT SECTION.

(C) VIOLATION OF EMERGENCY WATER USE RESTRICTIONS.

A PERSON WHO VIOLATES EMERGENCY WATER USE RESTRICTIONS ADOPTED IN ACCORDANCE WITH § 17–403 OF THIS ARTICLE IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING $500.

(D) VIOLATION OF PERSONNEL MANAGEMENT SYSTEM LAW.

A PERSON WHO VIOLATES TITLE 18, SUBTITLE 1 OF THIS ARTICLE (PERSONNEL MANAGEMENT) IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING $500.

(E) VIOLATION OF ETHICS LAW.

A PERSON WHO VIOLATES § 19–102(B) OF THIS ARTICLE (ETHICS) 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.

(F) SECOND OR SUBSEQUENT VIOLATIONS.

A PERSON MAY BE CONVICTED OF A SECOND OR SUBSEQUENT VIOLATION OF A PROVISION OF THIS DIVISION II OR A REGULATION ADOPTED UNDER THIS DIVISION II.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 18–104(a)(1) and (2), (4) through (6), and (8) through (11), (b), (d), (d–1), (e), and (h).

In subsection (a)(1) and (8) of this section, the former references to "rule[s]" are deleted as unnecessary in light of the use of the word "regulation[s]". *See* General Revisor's Note to division.

In subsection (b) of this section, the reference to the provisions of Title 20, Subtitle 2 "as they relate to the minority business enterprise utilization program" is added for accuracy.

Defined terms: "Commission" § 16–101
"Person" § 16–101

GENERAL REVISOR'S NOTE TO DIVISION

The Department of Legislative Services is charged with revising the law in a clear, concise, and organized manner, without changing the effect of the law. One precept of revision has been that, once something is said, it should be said in the same way every time. To that end, the Washington Suburban Sanitary Commission Law Review Committee conformed the language and organization of this division to that of previously enacted revised articles to the extent possible.

It is the manifest intent both of the General Assembly and the Washington Suburban Sanitary Commission Law Review Committee that this bulk revision of the substantive Washington Suburban Sanitary Commission law of the State render no substantive change. The guiding principle of the preparation of this division is that stated in *Welch v. Humphrey*, 200 Md. 410, 417 (1952):

> The 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 division in no way is intended to make any change to the substantive law of Maryland. This intent is further stated in uncodified language included in the enactment of this division. *See* § 8 of Ch. 37, Acts of 2010.

Throughout this division, as in other revised articles, the word "regulations" generally is substituted for former references to "rules and regulations" to distinguish, to the extent possible, between regulations of executive units and rules of judicial or legislative units and to establish consistency in the use of the words. This substitution conforms to the practice of the Division of State Documents.

Also throughout this division, for consistency and to avoid unnecessary confusion, the singular verb "adopt" is used in relation to rules or regulations, and verbs such as "prescribe" and "promulgate" are deleted.

In some provisions of this division, as in other revised articles, the term "unit" is substituted for former references to State and county entities such as an "agency", "authority", "board", and "commission". In revised articles of the Code, the term "unit" is used as the general term for an organization in the State and county government because it is broad enough to include all such entities.

The Washington Suburban Sanitary Commission Law Review Committee considered certain provisions contained in former Article 29 to be more suitable for revision in other articles.

The provisions relating to stormwater management in Montgomery County and Prince George's County are revised in Article 24 of the Code as a new title, Title 24. The provisions revised there include former Article 29, Title 3, Subtitle 2 and §§ 4–111A, 4–112, 6–106, and 18–104(a)(3) and (c).

Also former Art. 29, §§ 13–101 and 13–102, which provide for flood control and navigation in the valleys of the Anacostia River and its tributaries in Prince George's County and the use of certain lands acquired for flood control and navigation projects by the Maryland–National Capital Park and Planning Commission are transferred to Art. 28, §§ 9–101 and 9–102, respectively.

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 2010 Session on some provisions of this division.

Article 24 – Political Subdivisions – Miscellaneous Provisions

TITLE 24. STORMWATER MANAGEMENT.

SUBTITLE 1. DEFINITIONS; GENERAL PROVISIONS.

24–101. DEFINITIONS.

(A) IN GENERAL.

IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR'S NOTE: This subsection formerly was Art. 29, § 3–201(a)(1).

The only change is in style.

(B) BOND.

"BOND" MEANS A BOND, NOTE, OR OTHER EVIDENCE OF OBLIGATION.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 29, § 3–201(a)(2).

The reference to an "evidence of" obligation is added for clarity and consistency with similar provisions in other revised articles of the Code. *See, e.g.*, EC §§ 5–401 and 10–101, ED § 16–302.1, and PUC § 7–501.

(C) COMMISSION.

"COMMISSION" MEANS THE WASHINGTON SUBURBAN SANITARY COMMISSION.

REVISOR'S NOTE: This subsection is new language added to avoid repetition of the full reference to the "Washington Suburban Sanitary Commission".

(D) SANITARY DISTRICT.

"SANITARY DISTRICT" HAS THE SAME MEANING AS PROVIDED IN § 16–101 OF THE PUBLIC UTILITIES ARTICLE.

REVISOR'S NOTE: This subsection is new language added for clarity.

(E) STORMWATER MANAGEMENT.

(1) "STORMWATER MANAGEMENT" MEANS THE PLANNING, DESIGNING, ACQUISITION, CONSTRUCTION, DEMOLITION, MAINTENANCE, AND

OPERATION OF FACILITIES, PRACTICES, AND PROGRAMS FOR THE CONTROL AND DISPOSITION OF STORM AND SURFACE WATER.

(2) "STORMWATER MANAGEMENT" INCLUDES FLOODPROOFING, FLOOD CONTROL, AND NAVIGATION PROGRAMS.

(3) IN PRINCE GEORGE'S COUNTY, "STORMWATER MANAGEMENT" ALSO MEANS THE PROTECTION, CONSERVATION, REGULATION, CREATION, AND ACQUISITION OF PROPERTY DESCRIBED IN §§ 5–901(G) AND 16–101(J) OF THE ENVIRONMENT ARTICLE, CONSISTENT WITH FEDERAL AND STATE LAWS AND REGULATIONS ON THE SUBJECT OF NONTIDAL AND PRIVATE WETLANDS.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 29, § 3–201(a)(3).

In paragraphs (1) and (3) of this subsection, the former references to the defined term "includ[ing]" various types of activities are deleted as included in the references to the defined term "mean[ing]" those activities.

(F) STORMWATER MANAGEMENT DISTRICT.

"STORMWATER MANAGEMENT DISTRICT" MEANS A STORMWATER MANAGEMENT DISTRICT AUTHORIZED TO BE ESTABLISHED UNDER THIS TITLE.

REVISOR'S NOTE: This subsection formerly was Art. 29, § 3–201(a)(4).

The former reference to an alternate defined term "district" is deleted as unnecessary because the complete term "stormwater management district" is used throughout this title.

The only other changes are in style.

24–102. SCOPE OF TITLE.

THIS TITLE APPLIES ONLY IN MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY.

REVISOR'S NOTE: This section is new language added to clarify the scope of this title.

24–103. CONSTRUCTION OF TITLE.

(A) IN GENERAL.

THIS TITLE SHALL BE LIBERALLY CONSTRUED TO CARRY OUT ITS PURPOSES.

(B) IMPAIRMENT OF RIGHTS PROHIBITED.

THIS TITLE MAY NOT IMPAIR OR BE CONSTRUED TO IMPAIR THE RIGHTS AND PRIVILEGES VESTED IN THE HOLDERS OF BONDS ISSUED BY THE COMMISSION OR PRINCE GEORGE'S COUNTY FOR STORMWATER MANAGEMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 3–205(i) and the second sentence of § 3–201(b).

Defined terms: "Bond" § 24–101
"Commission" § 24–101
"Stormwater management" § 24–101

SUBTITLE 2. GENERAL POWERS AND DUTIES OF LOCAL JURISDICTION.

24–201. STORMWATER MANAGEMENT IN MONTGOMERY COUNTY.

(A) IN GENERAL.

(1) MONTGOMERY COUNTY MAY ESTABLISH A STORMWATER MANAGEMENT DISTRICT THAT INCLUDES THE LAND WITHIN ITS BOUNDARIES, EXCEPT FOR THE LAND WITHIN THE CITY OF TAKOMA PARK.

(2) WITHIN ITS STORMWATER MANAGEMENT DISTRICT, MONTGOMERY COUNTY SHALL PROVIDE EFFICIENT STORMWATER MANAGEMENT SERVICES TO THE RESIDENTS AND PROPERTY OWNERS OF THE STORMWATER MANAGEMENT DISTRICT WITH ADEQUATE FACILITIES FOR DEVELOPMENT AND PROMOTION OF SAFETY FOR LIFE AND PROPERTY.

(3) THE STORMWATER MANAGEMENT SERVICES SHALL INCLUDE THOSE FORMERLY PERFORMED BY THE COMMISSION.

(4) MONTGOMERY COUNTY MAY NOT EXERCISE STORMWATER MANAGEMENT AUTHORITY IN THE CITY OF TAKOMA PARK UNLESS THE CITY AND COUNTY OTHERWISE AGREE.

(B) SPECIAL TAXING DISTRICT AND AREAS.

(1) THE STORMWATER MANAGEMENT DISTRICT IS A SPECIAL TAXING DISTRICT FOR THE PURPOSE OF STORMWATER MANAGEMENT.

(2) MONTGOMERY COUNTY MAY ESTABLISH ONE OR MORE SPECIAL TAXING AREAS WITHIN ITS STORMWATER MANAGEMENT DISTRICT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 3–202(a)(1) and (3) and (b)(2), (3), and (4).

In subsection (a)(2) of this section, the reference to the requirement that the county "provide efficient stormwater management services to the residents and property owners of the stormwater management district" is substituted for the former references to the requirement that the county "exercise within its boundaries all the rights, powers, and duties relating to stormwater management" and "exercise all the rights, powers, and responsibilities for stormwater management … in order to make available to the residents and property owners of the district an efficient, operating service" for brevity.

Also in subsection (a)(2) of this section, the former reference to the exception "provided in paragraphs (2) and (3)" is deleted as unnecessary in light of the exception "for land within the City of Takoma Park" stated in subsection (a)(1) of this section.

Also in subsection (a)(2) of this section, the former reference to the period "on and after July 1, 1987" is deleted as obsolete.

Also in subsection (a)(2) of this section, the former reference to stormwater management "as defined in this subtitle" is deleted as unnecessary.

In subsection (a)(3) of this section, the reference to services "performed" by the Commission is substituted for the former reference to services "exercised" by the Commission for clarity.

In subsection (a)(4) of this section, the reference to "stormwater management" authority is substituted for the former reference to "this" authority for clarity.

Defined terms: "Commission" § 24–101
"Stormwater management" § 24–101
"Stormwater management district" § 24–101

24–202. STORMWATER MANAGEMENT IN PRINCE GEORGE'S COUNTY.

(A) IN GENERAL.

(1) PRINCE GEORGE'S COUNTY MAY ESTABLISH A STORMWATER MANAGEMENT DISTRICT THAT INCLUDES THE LAND WITHIN ITS BOUNDARIES, EXCEPT FOR THE LAND WITHIN THE CITY OF BOWIE.

(2) WITHIN ITS STORMWATER MANAGEMENT DISTRICT, PRINCE GEORGE'S COUNTY SHALL PROVIDE EFFICIENT STORMWATER MANAGEMENT SERVICES TO THE RESIDENTS AND PROPERTY OWNERS OF THE STORMWATER MANAGEMENT DISTRICT WITH ADEQUATE FACILITIES FOR DEVELOPMENT AND PROMOTION OF SAFETY FOR LIFE AND PROPERTY.

(3) THE STORMWATER MANAGEMENT SERVICES SHALL INCLUDE THOSE FORMERLY PERFORMED BY THE COMMISSION.

(4) PRINCE GEORGE'S COUNTY MAY NOT EXERCISE STORMWATER MANAGEMENT AUTHORITY IN THE CITY OF BOWIE UNLESS THE CITY AND COUNTY OTHERWISE AGREE.

(B) SPECIAL TAXING DISTRICT AND AREAS.

(1) THE STORMWATER MANAGEMENT DISTRICT IS A SPECIAL TAXING DISTRICT FOR THE PURPOSE OF STORMWATER MANAGEMENT.

(2) PRINCE GEORGE'S COUNTY MAY ESTABLISH ONE OR MORE SPECIAL TAXING AREAS WITHIN ITS STORMWATER MANAGEMENT DISTRICT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 3–202(a)(1) and (2) and (b)(1), (3), and (4).

In subsection (a)(2) of this section, the reference to the requirement that the county "provide efficient stormwater management services to the residents and property owners of the stormwater management district" is substituted for the former reference to the requirement that the county "exercise within its boundaries all the rights, powers, and duties relating to stormwater management" and "exercise all the rights, powers, and responsibilities for stormwater management … in order to make available to the residents and property owners of the district an efficient, operating service" for brevity.

Also in subsection (a)(2) of this section, the former reference to the exception "provided in paragraphs (2) and (3)" is deleted as unnecessary in light of the exception "for land within the City of Bowie" stated in subsection (a)(1) of this section.

Also in subsection (a)(2) of this section, the former reference to the period "on and after July 1, 1987" is deleted as obsolete.

Also in subsection (a)(2) of this section, the former reference to stormwater management "as defined in this subtitle" is deleted as unnecessary.

In subsection (a)(3) of this section, the reference to services "performed" by the Commission is substituted for the former reference to services "exercised" by the Commission for clarity.

In subsection (a)(4) of this section, the reference to "stormwater management" authority is substituted for the former reference to "this" authority for clarity.

Defined terms: "Commission" § 24–101
"Stormwater management" § 24–101
"Stormwater management district" § 24–101

24–203. AGREEMENTS WITH COMMISSION.

THE COMMISSION MAY ENTER INTO AGREEMENTS WITH MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY TO PERFORM STORMWATER MANAGEMENT ACTIVITIES ON BEHALF OF EACH COUNTY AS THE COUNTY CONSIDERS NECESSARY AND APPROPRIATE TO MAINTAIN EFFECTIVE STORMWATER MANAGEMENT PROGRAMS IN THE STORMWATER MANAGEMENT DISTRICT.

REVISOR'S NOTE: This section formerly was Art. 29, § 3–202(c).

The only changes are in style.

Defined terms: "Commission" § 24–101
"Stormwater management" § 24–101
"Stormwater management district" § 24–101

24–204. POWERS SUPPLEMENTAL.

THE POWERS GRANTED UNDER THIS TITLE ARE IN ADDITION TO THOSE CONFERRED BY ANY OTHER LAW.

REVISOR'S NOTE: This section formerly was the first sentence of Art. 29, § 3–201(b).

The only changes are in style.

SUBTITLE 3. BONDING AUTHORITY.

24–301. CONSTRUCTION OF SUBTITLE.

THIS SUBTITLE IS AND SHALL BE CONSTRUED AS INDEPENDENT, ADDITIONAL, AND SUPPLEMENTAL AUTHORITY FOR MONTGOMERY COUNTY, PRINCE GEORGE'S COUNTY, AND THE CITY OF TAKOMA PARK TO ISSUE BONDS FOR THE PURPOSES PROVIDED ON ENACTMENT OF AN ORDINANCE OR OTHER LEGISLATIVE ACT BY THE ISSUING AUTHORITY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 3–203(f).

The reference to the issuing "authority" is substituted for the former reference to the issuing "county or the City of Takoma Park" for brevity.

Defined term: "Bond" § 24–101

24–302. AUTHORITY TO ISSUE BONDS.

(A) IN GENERAL.

(1) MONTGOMERY COUNTY, PRINCE GEORGE'S COUNTY, AND THE CITY OF TAKOMA PARK MAY ISSUE BONDS IN ANY AMOUNT THAT THEY CONSIDER NECESSARY TO PROVIDE FUNDS FOR THEIR RESPECTIVE PORTIONS OF THE STORMWATER MANAGEMENT PROGRAMS AND SYSTEMS AUTHORIZED UNDER THIS TITLE.

(2) THE PROCEEDS OF BONDS ISSUED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE USED FOR THE PLANNING, ACQUISITION, CONSTRUCTION, RECONSTRUCTION, ESTABLISHMENT, EXTENSION, ENLARGEMENT, DEMOLITION, OR PURCHASE OF FACILITIES, INCLUDING LAND, INTERESTS IN LAND, OR EQUIPMENT, FOR STORMWATER MANAGEMENT PROGRAMS AND SYSTEMS.

(B) EXCEPTIONS FOR BONDS OF TAKOMA PARK.

(1) (I) BONDS OF THE CITY OF TAKOMA PARK AUTHORIZED BY THIS TITLE MAY BE ISSUED IN CONJUNCTION WITH BONDS OF PRINCE GEORGE'S COUNTY AUTHORIZED BY THIS TITLE IN THE MANNER PROVIDED BY RESOLUTIONS OF THE CITY COUNCIL OF THE CITY OF TAKOMA PARK AND THE COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, SUBJECT IN EACH CASE TO APPROVAL OF BOND COUNSEL FOR THE RESPECTIVE JURISDICTION.

(II) THE RESOLUTIONS MAY INCLUDE PROCEDURES FOR A JOINT OR COORDINATED OFFERING OR SALE OF THE BONDS.

(2) (I) PRINCE GEORGE'S COUNTY MAY ISSUE BONDS AUTHORIZED BY THIS TITLE PAYABLE FROM THE AD VALOREM TAXES AUTHORIZED BY § 24–403(A) OF THIS TITLE FOR THE BENEFIT OF THE CITY OF TAKOMA PARK FOR THE SAME PURPOSES FOR WHICH THE CITY OF TAKOMA PARK MAY ISSUE BONDS UNDER THIS TITLE IN CONNECTION WITH SYSTEMS LOCATED IN THE CITY OF TAKOMA PARK, SUBJECT TO THE APPROVAL OF BOND COUNSEL OF PRINCE GEORGE'S COUNTY.

(II) THE BONDS AUTHORIZED BY THIS PARAGRAPH SHALL BE APPROVED BY APPROPRIATE RESOLUTIONS OF THE CITY COUNCIL OF THE CITY OF TAKOMA PARK AND THE COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY.

(III) THE RESOLUTIONS SHALL PROVIDE FOR THE LENDING OF THE APPROPRIATE PORTION OF THE PROCEEDS OF THE BONDS BY PRINCE GEORGE'S COUNTY TO THE CITY OF TAKOMA PARK AND THE REPAYMENT OF THE LOAN BY THE CITY OF TAKOMA PARK TO PRINCE GEORGE'S COUNTY IN THE AMOUNTS AND AT THE TIMES NECESSARY TO ENABLE PRINCE GEORGE'S COUNTY TO MAKE ALL PAYMENTS OF PRINCIPAL OF AND INTEREST ON THE BONDS WHEN DUE, INCLUDING THE PROPORTIONATE PART OF ANY PRINCIPAL OF ANY OUTSTANDING SINKING FUND BONDS, AS DETERMINED BY THE TABLE OF REDEMPTION OF BONDS FOR BONDS ISSUED BY PRINCE GEORGE'S COUNTY FOR THE BENEFIT OF THE CITY OF TAKOMA PARK FOR STORMWATER MANAGEMENT UNDER THIS TITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 3–203(a)(1).

In subsections (a)(2) and (b)(1)(ii) and (iii) of this section, the former references to including "without limitation" are deleted in light of Art. 1, § 30, which states that "[t]he words 'includes' or 'including' mean, unless the context requires otherwise, includes or including by way of illustration and not by way of limitation".

In subsection (a)(1) of this section, the reference to stormwater "management" programs is added for consistency within this title.

Also in subsection (a)(1) of this section, the former reference to issuing bonds "from time to time" is deleted as unnecessary.

In subsection (a)(2) of this section, the reference to "stormwater management programs and systems" is substituted for the former reference to "the control and disposition of storm and surface waters, including floodproofing, flood control, or navigation programs or other stormwater programs and systems" for brevity.

In subsection (b)(2)(i) of this section, the former reference to systems "including systems located within that portion of the City of Takoma Park located in Montgomery County" is deleted as obsolete because all of the City of Takoma Park is now located in Montgomery County.

The Washington Suburban Sanitary Commission Law Review Committee notes, for consideration by the General Assembly, that the reason that former Art. 29, § 3–203(a)(1), revised in this section, is retained in this revision even though the City of Takoma Park is now wholly located within Montgomery County is that there are still outstanding bonds issued under this section. The General Assembly may wish to repeal this section once there are no further outstanding bonds.

Defined terms: "Bond" § 24–101
"Stormwater management" § 24–101

24–303. REQUIREMENTS FOR BONDS.

BONDS ISSUED UNDER THIS SUBTITLE:

(1) ARE GENERAL OBLIGATION BONDS OF THE ISSUING AUTHORITY THAT ARE FULLY REGISTERED AS TO BOTH PRINCIPAL AND INTEREST WHEN APPROVED BY ORDINANCE OR OTHER LEGISLATIVE ACT OF THE COUNTY OR CITY;

(2) SHALL BEAR INTEREST PAYABLE AT ANY TIME AND AT ANY ANNUAL RATE AS PROVIDED OR AUTHORIZED BY LEGISLATIVE ACT;

(3) MAY NOT MATURE LATER THAN 40 YEARS FROM THE DATE OF THEIR ISSUE;

(4) MAY BE MADE REDEEMABLE BEFORE MATURITY AT THE OPTION OF THE ISSUING AUTHORITY, AT ANY PRICE AND UNDER ANY TERMS AND CONDITIONS THAT ARE SET BEFORE THEIR ISSUANCE;

(5) SHALL HAVE ANY OTHER TERMS AND PROVISIONS AND BE OTHERWISE ISSUED AS PROVIDED OR AUTHORIZED BY LEGISLATIVE ACT; AND

(6) SHALL BE SOLD IN ANY MANNER, EITHER AT A PUBLIC OR PRIVATE NEGOTIATED SALE, AND ON ANY TERMS, AT, ABOVE, OR BELOW PAR, AS PROVIDED OR AUTHORIZED BY LEGISLATIVE ACT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 3–203(a)(2).

In items (1) and (4) of this section, the references to the issuing "authority" are substituted for the former references to the issuing "county or the City of Takoma Park" for brevity.

Defined term: "Bond" § 24–101

24–304. EXEMPTION FROM TAX.

BONDS ISSUED UNDER THIS SUBTITLE, A TRANSFER OF THE BONDS, THE INTEREST PAYABLE ON THE BONDS, AND ANY INCOME DERIVED FROM THE BONDS, INCLUDING ANY PROFIT REALIZED IN THE SALE OR EXCHANGE OF THE BONDS, SHALL BE EXEMPT FROM TAXATION BY THE STATE OR BY ANY OF ITS COUNTIES, MUNICIPALITIES, OR PUBLIC UNITS OF ANY KIND.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 3–203(b).

The reference to bonds "issued under this subtitle" is added for clarity.

The reference to "counties" is substituted for the former reference to "political subdivisions" of the State for clarity in light of the reference to the only other type of political subdivision, "municipalities".

The former reference to the bonds being exempt from taxation "at all times" is deleted as unnecessary. Similarly, the former reference to the exemption from taxation "of every kind and nature whatsoever" is deleted.

Defined terms: "Bond" § 24–101
"County" § 1–101

24–305. EXEMPTION FROM OTHER PUBLIC DEBT REQUIREMENTS.

BONDS AUTHORIZED BY THIS SUBTITLE AND THE ISSUANCE AND SALE OF THE BONDS ARE EXEMPT FROM ARTICLE 31, §§ 9, 10, AND 11 OF THE CODE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 3–203(c).

The reference to bonds "authorized by this subtitle" is added for clarity.

Defined term: "Bond" § 24–101

24–306. PLEDGE OF FULL FAITH AND CREDIT; PAYMENT FOR BONDS.

(A) IN GENERAL.

BONDS AUTHORIZED BY THIS SUBTITLE ARE, AND SHALL RECITE, AN IRREVOCABLE PLEDGE OF THE FULL FAITH AND CREDIT AND UNLIMITED TAXING POWER OF THE ISSUING AUTHORITY TO THE PAYMENT OF THE MATURING PRINCIPAL OF AND INTEREST ON THE BONDS AS AND WHEN THE BONDS BECOME PAYABLE.

(B) BONDS PAYABLE FIRST FROM STORMWATER MANAGEMENT FUND.

THE BONDS SHALL BE PAYABLE FIRST FROM THE STORMWATER MANAGEMENT FUND OF THE ISSUING AUTHORITY.

(C) IMPOSITION OF TAXES IF FUND IS INSUFFICIENT.

TO THE EXTENT A STORMWATER MANAGEMENT FUND IS INSUFFICIENT TO PAY THE PRINCIPAL, INTEREST, AND REDEMPTION PREMIUM, IF ANY, ON THE BONDS, THE ISSUING AUTHORITY SHALL IMPOSE AD VALOREM TAXES, UNLIMITED AS TO RATE OR AMOUNT, ON ALL ASSESSABLE PROPERTY WITHIN THE STORMWATER MANAGEMENT DISTRICT IN AN AMOUNT SUFFICIENT TO PROVIDE FOR THE PAYMENT OF THE PRINCIPAL, INTEREST, AND REDEMPTION PREMIUM, IF ANY, WHEN DUE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 3–203(d).

Throughout this section, the references to the issuing "authority" are substituted for the former references to the issuing "county or the City of Takoma Park" for brevity.

In subsection (c) of this section, the reference to the "stormwater management" district is added for clarity.

Also in subsection (c) of this section, the reference to a "stormwater management" fund is substituted for the former reference to "this" fund for clarity.

Also in subsection (c) of this section, the reference to "impos[ing]" a tax is substituted for the former reference to "levy[ing]" a tax for consistency with terminology used in the Tax – General Article and Tax – Property Article.

Defined terms: "Bond" § 24–101
"Stormwater management" § 24–101
"Stormwater management district" § 24–101

24–307. EXEMPTION FROM OTHER PROVISIONS OF LAW.

NOTWITHSTANDING ANY LIMITATION OR OTHER PROVISION OF ANY CHARTER OR LOCAL LAW REGULATING THE CREATION OF PUBLIC DEBTS OR THE FINANCING OF CAPITAL PROJECTS, BONDS ISSUED UNDER THIS SUBTITLE, THE BORROWING THAT THE BONDS REPRESENT, THE PLEDGE OF THE FULL FAITH AND CREDIT OF THE ISSUING AUTHORITY OR ANY OTHER GUARANTEE OF THE ISSUING AUTHORITY, AND THE PROGRAMS OR PROJECTS BEING FINANCED ARE NOT SUBJECT TO:

(1) ANY REFERENDUM REQUIREMENT OF THE CHARTER OR OTHER LOCAL LAW OF THE AUTHORITY ISSUING THE BONDS OR IN WHICH THE PROGRAMS OR PROJECTS ARE LOCATED;

(2) ANY LIMITATION OF THE CHARTER OR LOCAL LAW ON THE RATE OF TAXATION OR THE AGGREGATE AMOUNT OF TAXES THAT MAY BE IMPOSED IN THE ISSUING AUTHORITY; OR

(3) ANY REQUIREMENT OF CHARTER OR LOCAL LAW AS TO THE FORM OR PUBLIC SALE OF THE BONDS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 3–203(e).

Throughout this section, the references to the issuing "authority" are substituted for the former references to the issuing "county or the City of Takoma Park" for brevity.

In item (2) of this section, the reference to taxes that may be "imposed" is substituted for the former reference to taxes that may be "levied" for consistency with terminology used in the Tax – General Article and Tax – Property Article.

Defined term: "Bond" § 24–101

24–308. STORMWATER MANAGEMENT BONDS — VALIDITY.

(A) IN GENERAL.

BONDS ISSUED BY MONTGOMERY COUNTY OR PRINCE GEORGE'S COUNTY TO PROVIDE FUNDS FOR STORMWATER MANAGEMENT REMAIN VALID, BINDING, AND ENFORCEABLE IN ACCORDANCE WITH THEIR TERMS, INCLUDING ANY PROVISION FOR A MATURITY DATE BEYOND JUNE 30, 1990.

(B) RIGHTS AND OBLIGATIONS.

NOTWITHSTANDING THE REPEAL, EXPIRATION, OR TERMINATION SUBSEQUENT TO THE DATE OF ISSUANCE OF THE BONDS OF THE AUTHORITY UNDER WHICH THE BONDS WERE ISSUED, THE RIGHTS OF THE BONDHOLDERS AND THE RESPONSIBILITIES AND OBLIGATIONS OF MONTGOMERY COUNTY OR PRINCE GEORGE'S COUNTY WITH RESPECT TO THE BONDS MAY NOT BE IMPAIRED AND SHALL REMAIN IN FULL FORCE AND EFFECT.

(C) REPAYMENT AND TAX.

THE RESPONSIBILITY OF MONTGOMERY COUNTY OR PRINCE GEORGE'S COUNTY INCLUDES THE RESPONSIBILITY TO REPAY THE BONDS AND TO IMPOSE TAXES FOR OR OTHERWISE GUARANTEE THE PAYMENT OF THE BONDS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 4–111A.

In subsection (c) of this section, the reference to "impos[ing]" a tax is substituted for the former reference to "levy" a tax for consistency with terminology used in the Tax – General Article and the Tax – Property Article.

Also in subsection (c) of this section, the former reference to responsibility "with respect to the bonds" is deleted as unnecessary.

Defined terms: "Bond" § 24–101
"Stormwater management" § 24–101

SUBTITLE 4. FUNDING.

24–401. CONSTRUCTION OF SUBTITLE.

(A) RIGHTS OF PRINCE GEORGE'S COUNTY AND CITY OF BOWIE.

THIS SUBTITLE DOES NOT IMPAIR THE RIGHTS OF PRINCE GEORGE'S COUNTY OR THE CITY OF BOWIE TO CONTRACT WITH EACH OTHER FOR THE PROVISION OF STORMWATER MANAGEMENT.

(B) RIGHTS OF PRINCE GEORGE'S COUNTY AND CITY OF TAKOMA PARK.

THIS SUBTITLE DOES NOT IMPAIR THE RIGHTS OF PRINCE GEORGE'S COUNTY OR THE CITY OF TAKOMA PARK TO CONTRACT WITH EACH OTHER, OR WITH OTHER PARTIES, FOR THE PROVISION OF STORMWATER MANAGEMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 3–205(j) and (q).

Defined term: "Stormwater management" § 24–101

24–402. DEVELOPER OR OWNER CONTRIBUTIONS TO COST OF PROJECT.

(A) IN GENERAL.

(1) IN THE STORMWATER MANAGEMENT DISTRICT, PRINCE GEORGE'S COUNTY MAY REQUIRE AN OWNER OR DEVELOPER OF A SUBDIVISION OR TRACT OF LAND ON WHICH BUILDINGS ARE TO BE ERECTED TO CONTRIBUTE WHAT THE COUNTY DETERMINES TO BE A FAIR SHARE OF THE COST OF A STORMWATER MANAGEMENT PROJECT BEFORE THE COUNTY APPROVES OR CONSTRUCTS THE PROJECT.

(2) IN THE CITY OF BOWIE, THE CITY MAY REQUIRE AN OWNER OR DEVELOPER OF A SUBDIVISION OR TRACT OF LAND ON WHICH BUILDINGS ARE TO BE ERECTED TO CONTRIBUTE WHAT THE CITY DETERMINES TO BE A FAIR SHARE OF THE COST OF A STORMWATER MANAGEMENT PROJECT BEFORE THE CITY APPROVES OR CONSTRUCTS THE PROJECT.

(3) IN THE CITY OF TAKOMA PARK, THE CITY MAY REQUIRE AN OWNER OR DEVELOPER OF A SUBDIVISION OR TRACT OF LAND ON WHICH BUILDINGS ARE TO BE ERECTED TO CONTRIBUTE WHAT THE CITY COUNCIL DETERMINES TO BE A FAIR SHARE OF THE COST OF A STORMWATER MANAGEMENT PROJECT IN THE CITY'S JURISDICTION BEFORE THE CITY COUNCIL APPROVES THE PROJECT FOR CONSTRUCTION.

(4) IN MONTGOMERY COUNTY, EXCEPT FOR PROPERTY WITHIN THE CITY OF TAKOMA PARK, THE MONTGOMERY COUNTY COUNCIL MAY REQUIRE AN OWNER OR DEVELOPER OF A SUBDIVISION OR TRACT OF LAND ON WHICH BUILDINGS ARE TO BE ERECTED TO CONTRIBUTE WHAT THE COUNTY

COUNCIL DETERMINES TO BE A FAIR SHARE OF THE COST OF A STORMWATER MANAGEMENT PROJECT IN THE COUNTY'S JURISDICTION BEFORE THE COUNTY COUNCIL APPROVES THE PROJECT FOR CONSTRUCTION.

(5) BEFORE CONSTRUCTION BEGINS, THE CONTRIBUTION SHALL BE PAID IN CASH OR SECURED TO THE SATISFACTION OF THE APPROVING AUTHORITY.

(B) AUTHORITY TO CONSTRUCT.

MONTGOMERY COUNTY, PRINCE GEORGE'S COUNTY, THE CITY OF BOWIE, AND THE CITY OF TAKOMA PARK EACH MAY CONSTRUCT WITHIN ITS BOUNDARIES ANY PART OF AN APPROVED STORMWATER MANAGEMENT PROJECT IF THE OWNER OR DEVELOPER CONTRIBUTES A SHARE OF THE COST OF THE PROJECT CONSIDERED APPROPRIATE BY THE APPROVING AUTHORITY.

(C) INCLUSION OF ANTICIPATED CONTRIBUTIONS IN BUDGET.

MONTGOMERY COUNTY, PRINCE GEORGE'S COUNTY, THE CITY OF BOWIE, AND THE CITY OF TAKOMA PARK EACH SHALL INCLUDE IN ITS ANNUAL CAPITAL BUDGET FOR STORMWATER MANAGEMENT CAPITAL PROJECTS AN AMOUNT REPRESENTING ANTICIPATED CONTRIBUTIONS TO STORMWATER MANAGEMENT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 3–204.

In subsection (a) of this section, the former references to "dwellings, apartments, stores, or other" buildings are deleted as surplusage.

In subsection (a)(3) and (4) of this section, the references to a "stormwater management" project are substituted for the former reference to a "drainage" project for accuracy and consistency throughout this title.

In subsection (b) of this section, the reference to "boundaries" is substituted for the former reference to "jurisdictions" for clarity and consistency within this title.

Also in subsection (b) of this section, the reference to the "owner or developer" is substituted for the former reference to the "interested person" for clarity.

In subsection (c) of this section, the reference to an annual "capital" budget is added for clarity.

Also in subsection (c) of this section, the reference to capital "projects" is substituted for the former reference to capital "improvements" for clarity.

Defined terms: "Stormwater management" § 24–101
"Stormwater management district" § 24–101

24–403. COUNTY TAX AUTHORIZED.

(A) IN GENERAL.

EXCEPT AS OTHERWISE PROVIDED IN THIS TITLE, MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY EACH MAY IMPOSE AN AD VALOREM TAX ON ALL PROPERTY ASSESSED FOR TAX PURPOSES WITHIN THE STORMWATER MANAGEMENT DISTRICT AT A RATE REQUIRED TO PRODUCE THE AMOUNT NEEDED TO PAY FOR:

(1) MAINTENANCE OF STORMWATER MANAGEMENT SYSTEMS IN THE STORMWATER MANAGEMENT DISTRICT THAT WERE MAINTAINED BY THE COMMISSION BEFORE JULY 1, 1987, AND SYSTEMS ESTABLISHED BY EACH COUNTY ON OR AFTER JULY 1, 1987;

(2) THE PRINCIPAL AND INTEREST THAT BECOMES DUE AND OWING TO THE BONDHOLDERS DURING THE FOLLOWING YEAR AND THE PROPORTIONATE PART OF THE PRINCIPAL OF ALL OUTSTANDING SINKING FUND BONDS, AS DETERMINED BY THE TABLE OF REDEMPTION OF BONDS FOR BONDS ISSUED BY:

(I) THE COMMISSION FOR STORMWATER MANAGEMENT; AND

(II) THE COUNTY FOR STORMWATER MANAGEMENT UNDER THIS TITLE; AND

(3) THE COST OF STORMWATER MANAGEMENT ACTIVITIES AND PRACTICES IN THE STORMWATER MANAGEMENT DISTRICT, AS APPROVED IN THE COUNTY'S ANNUAL STORMWATER MANAGEMENT BUDGET AND APPROPRIATIONS RESOLUTION FOR THE FOLLOWING FISCAL YEAR.

(B) CERTIFICATION OF AMOUNTS TO PAY FOR BONDS.

(1) THE COMMISSION SHALL CERTIFY ANNUALLY TO EACH COUNTY THE AMOUNT NECESSARY TO PRODUCE THE SUM REQUIRED TO PAY THE PRINCIPAL, INTEREST, AND OTHER OBLIGATIONS FOR THE CURRENT YEAR ON THE OUTSTANDING BONDS ISSUED BY THE COMMISSION TO PAY FOR

STORMWATER MANAGEMENT PROJECTS WITHIN THE COUNTY'S STORMWATER MANAGEMENT DISTRICT.

(2) THE COUNTY SHALL PAY THE AMOUNT CERTIFIED UNDER PARAGRAPH (1) OF THIS SUBSECTION.

(C) IMPOSITION AND COLLECTION OF TAXES.

(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE TAXES AUTHORIZED BY THIS SECTION SHALL BE IMPOSED AND COLLECTED IN THE SAME MANNER, HAVE THE SAME PRIORITY, BEAR THE SAME INTEREST, AND BE TREATED IN ALL RESPECTS AS OTHER COUNTY TAXES.

(2) (I) NOTWITHSTANDING ANY PROVISION OF CHARTER OR OTHER LAW, THE TAXES MAY NOT BE SUBJECT TO A LIMITATION ON THE TAX RATE OR TAX REVENUES OF THE COUNTY.

(II) THE TAX REVENUES SHALL BE DEPOSITED AND MAINTAINED IN A SEPARATE STORMWATER MANAGEMENT FUND ESTABLISHED UNDER § 24–407 OF THIS SUBTITLE.

(III) THE TAX REVENUES DEPOSITED IN THE FUND SHALL BE IN ADDITION TO ALL OTHER COUNTY TAXES AND MAY NOT BE CONSIDERED COUNTY TAXES FOR THE PURPOSE OF APPLYING THE LIMITATIONS IN ARTICLE VIII, § 812 OF THE PRINCE GEORGE'S COUNTY CHARTER.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, §§ 3–205(a), (b), and (c) and 4–112(a) and (b).

In the introductory language of subsection (a) and in subsection (c)(1) of this section, the references to "impos[ing]" a tax are substituted for the former references to "levy[ing]" a tax for consistency with terminology used in the Tax – General Article and Tax – Property Article.

In the introductory language of subsection (a) of this section, the former reference to a "direct" ad valorem tax is deleted as unnecessary.

In subsection (c)(2)(ii) of this section, the reference to "§ 24–407 of" this subtitle is added for accuracy.

In subsection (c)(2)(iii) of this section, the reference to Article VIII, "§ 812" of the Prince George's County Charter is substituted for the former reference to Article VIII, "§ 817B" of the Prince George's County Code to reflect that the renumbering of that section in Prince George's County CB–68–2002, ratified November 5, 2002.

Defined terms: "Bond" § 24–101
"Commission" § 24–101
"Stormwater management" § 24–101
"Stormwater management district" § 24–101

24–404. MONTGOMERY COUNTY — AD VALOREM TAX.

(A) SCOPE OF SECTION.

THIS SECTION APPLIES ONLY IN MONTGOMERY COUNTY.

(B) IN GENERAL.

THE MONTGOMERY COUNTY COUNCIL SHALL IMPOSE AN AD VALOREM TAX ON ALL PROPERTY ASSESSED FOR TAX PURPOSES IN:

(1) THE COUNTY; AND

(2) MUNICIPALITIES IN THE COUNTY.

(C) RATE.

(1) EXCEPT FOR THE CITY OF TAKOMA PARK, THE AD VALOREM TAX MAY NOT EXCEED:

(I) 0.4 CENT PER $100 OF THE ASSESSED VALUE OF REAL PROPERTY; OR

(II) 1 CENT PER $100 OF THE ASSESSED VALUE OF PERSONAL PROPERTY AND OPERATING REAL PROPERTY DESCRIBED IN § 8–109(C) OF THE TAX – PROPERTY ARTICLE.

(2) THE TAX SHALL BE IN AN AMOUNT NECESSARY TO PAY FOR THE MAINTENANCE OF:

(I) STORMWATER MANAGEMENT SYSTEMS IN THE PART OF THE SANITARY DISTRICT IN MONTGOMERY COUNTY THAT WERE PREVIOUSLY MAINTAINED BY THE COMMISSION; AND

(II) ON APPLICATION OF A MUNICIPALITY, ANY STORMWATER MANAGEMENT SYSTEM PREVIOUSLY MAINTAINED BY THE MUNICIPALITY.

(D) EXEMPTION OF MUNICIPALITY.

(1) IF A MUNICIPALITY DECIDES TO MAINTAIN ALL EXISTING STORMWATER MANAGEMENT SYSTEMS IN ITS BOUNDARIES, THE MUNICIPALITY SHALL NOTIFY THE COUNTY COUNCIL OF ITS INTENT TO MAINTAIN THE STORMWATER MANAGEMENT SYSTEMS BEFORE THE DATE ON WHICH THE COUNTY COUNCIL ADOPTS ITS ANNUAL BUDGET.

(2) IF THE CONDITIONS SET FORTH IN PARAGRAPH (1) OF THIS SUBSECTION ARE MET, ALL ASSESSABLE PROPERTIES IN THE MUNICIPALITY SHALL BE EXEMPT FROM THE TAX IMPOSED UNDER THIS SECTION.

(E) TRANSFER OF FACILITIES TO MONTGOMERY COUNTY.

(1) THE COUNTY SHALL MAINTAIN EVERY INTEREST IN STORMWATER EASEMENTS, STRUCTURES, AND OTHER PROPERTIES IN THE COUNTY, WHETHER OR NOT ESTABLISHED BY PLAT, THAT WERE TRANSFERRED BY DEED TO THE COUNTY.

(2) THE COMMISSION AND ANY MUNICIPALITY IN THE COUNTY SHALL ALLOW THE COUNTY TO ENTER AND EXIT OVER ANY FEES, LEASEHOLDS, EASEMENTS, OR RIGHTS–OF–WAY OF THE COMMISSION OR MUNICIPALITY TO MAINTAIN ANY STORMWATER EASEMENT, STRUCTURE, OR OTHER PROPERTY.

REVISOR'S NOTE: Subsection (a) of this section is new language added to clarify the scope of this section.

Subsections (b) through (e) of this section are new language derived without substantive change from former Art. 29, § 6–106.

Throughout this section, the references to the defined term "stormwater management" are substituted for the former references to "storm drainage" for accuracy. Similarly, in subsection (e)(1) of this section, the reference to "stormwater" easements, structures, and other properties is substituted for the former reference to "surface drainage" easements, structures, and other properties, and in subsection (e)(2) of this section, the reference to a "stormwater" easement, structure, or other property is substituted for the former reference to a "drainage" easement, structure, or other property.

In subsection (b) of this section, the reference to "impos[ing]" a tax is substituted for the former reference to "levy[ing]" a tax for consistency with terminology used in the Tax – General Article and the Tax – Property Article.

Also in subsection (b) of this section, the former reference to a "direct" ad valorem tax is deleted as unnecessary.

In subsection (c)(1) of this section, the references to "assessed value" are substituted for the former references to "assessed valuation" for consistency with terminology used in other revised articles of the Code. *See, e.g.*, RP § 13–313(a)(2) and TP § 7–236.

In the introductory language of subsection (c)(2) of this section, the former reference to "the sums required" for maintenance is deleted as unnecessary.

In subsection (c)(2)(i) of this section, the reference to stormwater management systems in the county "that were" previously maintained by the Commission is substituted for the former reference to systems in the county "and" previously maintained by the Commission for clarity.

In subsection (d)(1) of this section, the reference to notification of a municipality's "intent to maintain the stormwater management systems" is added for clarity.

Also in subsection (d)(1) of this section, the word "shall" is substituted for the former word "may" to clarify that the municipality is required to give the notice before the specified date as a condition for receiving the exemption provided in subsection (d)(2) of this section.

Also in subsection (d)(1) of this section, the former reference to an "appropriations resolution" is deleted as implicit in the reference to the "annual budget".

In subsection (d)(2) of this section, the phrase "[i]f the conditions set forth in paragraph (1) of this subsection are met" is substituted for the former phrase "[i]n that event" for clarity.

Also in subsection (d)(2) of this section, the reference to the "tax imposed under this section" is substituted for the former reference to the "levy made by the County Council for the future maintenance of its storm drainage" for clarity and brevity.

Also in subsection (d)(2) of this section, the former reference to property in "the boundaries of" the municipality is deleted as unnecessary.

In subsection (e)(1) of this section, the reference to properties "in the county" is added for clarity.

Also in subsection (e)(1) of this section, the former reference to storm water management easements, structures, and other properties, whether

established by plat "for storm drainage use and purposes, that control and dispose of storm or surface water in Montgomery County" is deleted as unnecessary.

In subsection (e)(2) of this section, the reference to fees, leaseholds, easements, or rights–of–way "of the Commission or municipality" is added for clarity.

Defined terms: "Commission" § 24–101
"Sanitary district" § 24–101
"Stormwater management" § 24–101

24–405. TAX AUTHORIZED FOR THE CITY OF TAKOMA PARK.

(A) IN GENERAL.

EXCEPT AS OTHERWISE PROVIDED IN THIS TITLE, THE CITY OF TAKOMA PARK MAY IMPOSE AN AD VALOREM TAX ON ALL PROPERTY ASSESSED FOR TAX PURPOSES WITHIN THE CITY AT A RATE REQUIRED TO PRODUCE THE AMOUNT NEEDED TO PAY FOR:

(1) MAINTENANCE OF STORMWATER MANAGEMENT SYSTEMS IN THE CITY THAT WERE MAINTAINED BY THE COMMISSION BEFORE JULY 1, 1990, AND SYSTEMS ESTABLISHED BY THE CITY ON OR AFTER JULY 1, 1990;

(2) THE PRINCIPAL AND INTEREST THAT BECOMES DUE AND OWING TO:

(I) THE BONDHOLDERS DURING THE FOLLOWING YEAR AND THE PROPORTIONATE PART OF THE PRINCIPAL OF ALL OUTSTANDING SINKING FUND BONDS, AS DETERMINED BY THE TABLE OF REDEMPTION OF BONDS FOR BONDS ISSUED BY OR ON BEHALF OF THE CITY ON OR AFTER JULY 1, 1990, FOR STORMWATER MANAGEMENT UNDER THIS TITLE; AND

(II) PRINCE GEORGE'S COUNTY WITH RESPECT TO THE REPAYMENT OF ANY LOAN MADE BY THE COUNTY TO THE CITY OF TAKOMA PARK UNDER § 24–302(B) OF THIS TITLE; AND

(3) THE COST OF STORMWATER MANAGEMENT ACTIVITIES AND PRACTICES IN THE CITY, AS APPROVED IN THE CITY'S ANNUAL STORMWATER MANAGEMENT BUDGET AND APPROPRIATIONS RESOLUTION FOR THE FOLLOWING FISCAL YEAR.

(B) PAYMENTS IN LIEU OF TAXES.

IN LIEU OF THE AD VALOREM TAXES AUTHORIZED BY SUBSECTION (A) OF THIS SECTION, THE CITY OF TAKOMA PARK MAY ADOPT A STORMWATER MANAGEMENT UTILITY FEE SYSTEM OR USER CHARGES TO PAY THE COSTS OF STORMWATER MANAGEMENT ACTIVITIES AND PROJECTS BASED ON FACTORS SUCH AS LAND USE, AMOUNT OF RUNOFF, CONSERVATION, AND ENVIRONMENTAL AND OTHER CONSIDERATIONS.

(C) IMPOSITION AND COLLECTION OF TAXES OR FEES.

(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE TAXES AUTHORIZED BY THIS SECTION SHALL BE IMPOSED AND COLLECTED IN THE SAME MANNER, HAVE THE SAME PRIORITY, BEAR THE SAME INTEREST, AND BE TREATED IN ALL RESPECTS AS OTHER TAXES IMPOSED BY THE CITY OF TAKOMA PARK.

(2) (I) NOTWITHSTANDING ANY PROVISION OF THE CHARTER, LAWS, OR ORDINANCES OF THE CITY OF TAKOMA PARK, THE TAXES MAY NOT BE SUBJECT TO A LIMITATION ON THE TAX RATE OR TAX REVENUES OF THE CITY.

(II) THE TAX REVENUES, USER CHARGES, AND UTILITY FEES SHALL BE DEPOSITED AND MAINTAINED IN A SEPARATE STORMWATER MANAGEMENT FUND ESTABLISHED UNDER § 24–408 OF THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 3–205(k), (l), and (m).

In the introductory language of subsection (a) and in subsection (c)(1) of this section, the references to "impos[ing]" a tax are substituted for the former references to "levy[ing]" a tax for consistency with terminology used in the Tax – General Article and Tax – Property Article.

In the introductory language of subsection (a) and in subsection (b) of this section, the former references to a "direct" ad valorem tax are deleted as unnecessary.

In subsection (c)(2)(ii) of this section, the reference to "§ 24–408 of" this subtitle is added for accuracy.

Defined terms: "Bond" § 24–101
"Commission" § 24–101
"Stormwater management" § 24–101

24–406. PROPERTY EXEMPT FROM OR NOT SUBJECT TO TAX OR FEES.

(A) PROPERTY EXEMPT FROM TAX OR FEES.

PROPERTY OWNED BY THE STATE OR A UNIT OF STATE GOVERNMENT, A COUNTY, A MUNICIPALITY, OR A REGULARLY ORGANIZED VOLUNTEER FIRE DEPARTMENT THAT IS USED FOR PUBLIC PURPOSES SHALL BE EXEMPT FROM THE TAXES, USER CHARGES, AND UTILITY FEES IMPOSED UNDER THIS SUBTITLE.

(B) PROPERTY NOT SUBJECT TO TAX.

PROPERTY THAT IS NOT WITHIN A STORMWATER MANAGEMENT DISTRICT OR IS NOT OTHERWISE PROVIDED DIRECT OR INDIRECT STORMWATER MANAGEMENT SERVICES IN A STORMWATER MANAGEMENT DISTRICT MAY NOT HAVE A TAX IMPOSED BY THE COUNTY UNTIL THE COUNTY ACQUIRES, EXTENDS, OR BEGINS TO PROVIDE STORMWATER MANAGEMENT SERVICES, FACILITIES, OR PROGRAMS TO THE PROPERTY.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, §§ 3–205(d), (e), and (n) and 4–112(c) and (d).

In subsection (a) of this section, the former reference to an "agency" of the State is deleted as included in the reference to a "unit" of State government.

In subsection (b) of this section, the reference to "a tax imposed by the county" is substituted for the former reference to "the tax imposed" for clarity.

Also in subsection (b) of this section, the reference to a stormwater management "district" is substituted for the former reference to a stormwater management "area" for consistency within this title.

Defined terms: "Stormwater management" § 24–101
"Stormwater management district" § 24–101

24–407. COUNTY STORMWATER MANAGEMENT FUND.

(A) REQUIREMENT TO ESTABLISH FUND.

ON ESTABLISHING A STORMWATER MANAGEMENT DISTRICT, MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY EACH SHALL:

(1) ESTABLISH A STORMWATER MANAGEMENT FUND; AND

(2) DEPOSIT IN THE FUND:

(I) RECEIPTS AND REVENUES FROM AN AD VALOREM TAX IMPOSED UNDER § 24–403 OF THIS SUBTITLE;

(II) FEES, CONTRIBUTIONS, AND RESERVE FUNDS COLLECTED BY THE COMMISSION BEFORE JULY 1, 1987, FOR STORMWATER MANAGEMENT ACTIVITIES IN THE STORMWATER MANAGEMENT DISTRICT AND TRANSFERRED TO THE COUNTY UNDER THIS TITLE; AND

(III) CHARGES, FEES, FEES–IN–LIEU, AND OTHER CONTRIBUTIONS RECEIVED FROM ANY PERSON OR GOVERNMENTAL UNIT IN CONNECTION WITH STORMWATER MANAGEMENT ACTIVITIES OR PRACTICES.

(B) USES OF FUND.

MONEY IN A COUNTY STORMWATER MANAGEMENT FUND SHALL BE USED ONLY TO PAY FOR THE COSTS OF STORMWATER MANAGEMENT AS SET FORTH IN § 24–403(A) OF THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 3–205(f) and (g).

In the introductory language of subsection (a) of this section, the reference to "Montgomery County and Prince George's County" is substituted for the former reference to "a county" for accuracy.

In subsection (a)(2)(i) of this section, the reference to "§ 24–403 of" this subtitle is added for accuracy.

Also in subsection (a)(2)(i) of this section, the reference to "impos[ing]" a tax is substituted for the former reference to "lev[ying]" a tax for consistency with terminology used in the Tax – General Article and Tax – Property Article.

In subsection (a)(2)(iii) of this section, the reference to a governmental "unit" is substituted for the former reference to a governmental "agency" for consistency within this title.

In subsection (b) of this section, the reference to "[m]oney in a county stormwater management fund" is substituted for the former reference to "[t]he stormwater management district fund" for clarity.

Also in subsection (b) of this section, the reference to money being "used" is substituted for the former reference to money being "disbursed" for

consistency with terminology used in other revised articles of the Code. *See, e.g.*, EC §§ 2–122 and 3–411 and PUC § 10–112.

Defined terms: "Commission" § 24–101
"Person" § 1–101
"Stormwater management" § 24–101
"Stormwater management district" § 24–101

24–408. TAKOMA PARK STORMWATER MANAGEMENT FUND.

(A) REQUIREMENT TO ESTABLISH FUND.

THE CITY OF TAKOMA PARK SHALL:

(1) ESTABLISH A STORMWATER MANAGEMENT FUND; AND

(2) DEPOSIT IN THE FUND:

(I) RECEIPTS AND REVENUES FROM ANY AD VALOREM TAX, USER CHARGE, OR UTILITY FEE IMPOSED UNDER § 24–405 OF THIS SUBTITLE;

(II) FEES, CONTRIBUTIONS, AND RESERVE FUNDS COLLECTED BY THE COMMISSION BEFORE JULY 1, 1990, FOR STORMWATER MANAGEMENT ACTIVITIES IN THE CITY AND TRANSFERRED TO THE CITY UNDER THIS TITLE; AND

(III) CHARGES, FEES, FEES–IN–LIEU, AND OTHER CONTRIBUTIONS RECEIVED FROM ANY PERSON OR GOVERNMENTAL UNIT IN CONNECTION WITH STORMWATER MANAGEMENT ACTIVITIES OR PRACTICES.

(B) USES OF FUND.

MONEY IN THE TAKOMA PARK STORMWATER MANAGEMENT FUND SHALL BE USED ONLY TO PAY FOR THE COSTS OF STORMWATER MANAGEMENT AS SET FORTH IN § 24–405(A) OF THIS SUBTITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 3–205(o) and (p).

In subsection (a)(2)(i) of this section, the reference to "§ 24–405 of" this subtitle is added for accuracy.

Also in subsection (a)(2)(i) of this section, the reference to "impos[ing]" a tax is substituted for the former reference to "lev[ying]" a tax for

consistency with terminology used in the Tax – General Article and Tax – Property Article.

In subsection (a)(2)(iii) of this section, the reference to a governmental "unit" is substituted for the former reference to a governmental "entity" for consistency within this title.

In subsection (b) of this section, the reference to "[m]oney in the Takoma Park" stormwater management fund is added for clarity.

Also in subsection (b) of this section, the reference to money being "used" is substituted for the former reference to money being "disbursed" for consistency with terminology used in other revised articles of the Code. *See, e.g.*, EC §§ 2–122 and 3–411 and PUC § 10–112.

Defined terms: "Commission" § 24–101
"Person" § 24–101
"Stormwater management" § 24–101

24–409. EFFECT OF ANNEXATION ON CITY OF BOWIE AND CITY OF TAKOMA PARK.

(A) REMOVAL FROM COUNTY DISTRICT.

IF LAND IN THE PRINCE GEORGE'S COUNTY STORMWATER MANAGEMENT DISTRICT IS ANNEXED BY THE CITY OF BOWIE OR THE CITY OF TAKOMA PARK, THE LAND IS NO LONGER PART OF THE COUNTY STORMWATER MANAGEMENT DISTRICT.

(B) RESPONSIBILITY OF ANNEXING MUNICIPALITY.

(1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE ANNEXING MUNICIPALITY SHALL ASSUME THE RESPONSIBILITY FOR STORMWATER MANAGEMENT IN THE ANNEXED AREA.

(2) PRINCE GEORGE'S COUNTY SHALL IMPOSE AND COLLECT FROM THE ANNEXED PROPERTY AN AD VALOREM TAX AT A RATE SUFFICIENT TO PAY THE PRINCIPAL, INTEREST, AND OTHER OBLIGATIONS ON OUTSTANDING BONDS ISSUED BY THE COMMISSION OR PRINCE GEORGE'S COUNTY FOR STORMWATER MANAGEMENT BEFORE THE ANNEXATION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 3–205(h).

In subsection (b)(1) of this section, the reference to the annexing "municipality" is substituted for the former reference to the annexing "city" for accuracy.

In subsection (b)(2) of this section, the reference to "impos[ing]" a tax is substituted for the former reference to "levy[ing]" a tax for consistency with terminology used in the Tax – General Article and Tax – Property Article.

Defined terms: "Bond" § 24–101
"Commission" § 24–101
"Stormwater management" § 24–101
"Stormwater management district" § 24–101

SUBTITLE 5. MAINTENANCE.

24–501. RESPONSIBILITY FOR MAINTENANCE.

(A) IN GENERAL.

EACH COUNTY AND THE CITY OF TAKOMA PARK ARE RESPONSIBLE FOR THE MAINTENANCE OF STORMWATER MANAGEMENT SYSTEMS OR PARTS OF THE SYSTEMS LOCATED WITHIN ITS STORMWATER MANAGEMENT DISTRICT AND TRANSFERRED TO IT UNDER THIS TITLE.

(B) RIGHT OF COUNTY TO ENTER PROPERTY FOR MAINTENANCE.

THE COMMISSION AND ANY MUNICIPALITY IN MONTGOMERY COUNTY OR PRINCE GEORGE'S COUNTY SHALL ALLOW THE COUNTY TO ENTER AND EXIT OVER ANY OF THE FEES, LEASEHOLDS, EASEMENTS, OR RIGHTS–OF–WAY OF THE COMMISSION OR THE MUNICIPALITY TO MAINTAIN ANY STORMWATER MANAGEMENT EASEMENT, STRUCTURE, OR OTHER PROPERTY.

REVISOR'S NOTE: This section formerly was Art. 29, § 3–202(e) and (f).

The only changes are in style.

Defined terms: "Commission" § 24–101
"Stormwater management" § 24–101
"Stormwater management district" § 24–101

24–502. MAINTENANCE OF STORMWATER MANAGEMENT SYSTEM.

(A) MAINTENANCE BY COUNTY.

EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THE COUNTY WHERE THE PROJECT IS LOCATED SHALL MAINTAIN EVERY STORMWATER MANAGEMENT SYSTEM AND PART OF EVERY SYSTEM THAT:

(1) WAS CONSTRUCTED BY THE COMMISSION OR THE COUNTY OR ACCEPTED FOR MAINTENANCE BY THE COMMISSION OR THE COUNTY; AND

(2) IS LOCATED IN A STREET, ALLEY, PUBLIC WAY, OR PUBLIC SPACE.

(B) PROPERTY OWNED BY MARYLAND–NATIONAL CAPITAL PARK AND PLANNING COMMISSION OR STATE.

UNLESS THE COUNTY AGREES OTHERWISE:

(1) A STORMWATER MANAGEMENT SYSTEM THAT IS LOCATED ON REAL PROPERTY OWNED BY THE MARYLAND–NATIONAL CAPITAL PARK AND PLANNING COMMISSION SHALL BE MAINTAINED BY THE MARYLAND–NATIONAL CAPITAL PARK AND PLANNING COMMISSION; AND

(2) A STORMWATER MANAGEMENT SYSTEM OR FACILITY THAT IS LOCATED IN A ROAD MAINTAINED BY THE STATE HIGHWAY ADMINISTRATION SHALL BE MAINTAINED BY THE STATE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 3–206(a)(1) and the first sentence of (2).

In the introductory language of subsection (a) of this section, the reference to the county "where the project is located" is added for clarity.

Also in the introductory language of subsection (a) of this section, the clause "[e]xcept as provided in subsection (b) of this section" is added for clarity.

Also in the introductory language of subsection (a) of this section, the reference to every "stormwater management" system is substituted for the former reference to every "storm drainage" system for accuracy.

In subsection (a)(1) of this section, the former reference to a system that was accepted for maintenance "as of July 1, 1987" is deleted as obsolete.

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

Defined terms: "Commission" § 24–101

"Stormwater management" § 24–101

24–503. MAINTENANCE BY CITY OF TAKOMA PARK.

ON OR AFTER JULY 1, 1990, THE CITY OF TAKOMA PARK SHALL MAINTAIN EVERY STORMWATER MANAGEMENT SYSTEM AND PART OF EVERY SYSTEM THAT:

(1) WAS CONSTRUCTED BY THE COMMISSION OR ACCEPTED FOR MAINTENANCE BY THE COMMISSION WITHIN THE CITY OF TAKOMA PARK BEFORE JULY 1, 1990; AND

(2) IS LOCATED IN A STREET, ALLEY, PUBLIC WAY, OR PUBLIC SPACE.

REVISOR'S NOTE: This section is new language derived without substantive change from the second sentence of former Art. 29, § 3–206(a)(2).

In the introductory language of this section, the reference to every "stormwater management" system is substituted for the former reference to every "storm drainage" system for accuracy.

Defined terms: "Commission" § 24–101
"Stormwater management" § 24–101

SUBTITLE 6. APPROVAL OF PROJECTS.

24–601. REQUIREMENTS FOR APPROVAL OF PROJECTS.

(A) IN GENERAL.

IN THE REVIEW AND APPROVAL BY MONTGOMERY COUNTY, PRINCE GEORGE'S COUNTY, OR THE CITY OF TAKOMA PARK OF THE REQUIREMENTS FOR STORM DRAINAGE OR STORMWATER MANAGEMENT, THE COUNTY OR CITY MAY REQUIRE THE OWNER OF LAND TO BE DEVELOPED TO:

(1) PROVIDE EASEMENT AREAS OR ON–SITE STORMWATER MANAGEMENT FACILITIES; AND

(2) AGREE TO CONSTRUCT THE NECESSARY FACILITIES OR PROVIDE FOR THE CONSTRUCTION BY POSTING A BOND IN AN AMOUNT SUFFICIENT TO CONSTRUCT THE STORMWATER MANAGEMENT FACILITIES THAT THE COUNTY OR CITY CONSIDERS NECESSARY.

(B) AGREEMENT WITH OWNER OR DEVELOPER.

(1) IF THE COUNTY OR THE CITY OF TAKOMA PARK DECIDES TO CONSTRUCT STORMWATER MANAGEMENT FACILITIES TO SERVE MORE THAN ONE DEVELOPMENT OR IF THE COUNTY OR CITY AGREES TO ENTER INTO AN AGREEMENT TO ALLOW THE OWNER OR DEVELOPER TO CONSTRUCT A STORMWATER MANAGEMENT SYSTEM, THE COUNTY OR CITY MAY ENTER INTO AN AGREEMENT WITH THE DEVELOPERS OF NEW DEVELOPMENTS FOR PAYMENT BY THE DEVELOPERS OF A FEE IN LIEU OF ON–SITE STORMWATER MANAGEMENT FACILITIES.

(2) THE FEE IN LIEU OF ON–SITE STORMWATER MANAGEMENT FACILITIES SHALL BE BASED ON AN EQUITABLE PRO RATA SHARE OF THE NET COST OF THE FACILITIES AFTER DEDUCTING ANY STATE OR FEDERAL GRANTS APPLIED TO THE CONSTRUCTION OF THE FACILITIES.

(C) OWNER'S BOND OR CONTRIBUTION TO COSTS.

THE COUNTY OR THE CITY OF TAKOMA PARK MAY REQUIRE THE OWNER'S BOND OR THE CONTRIBUTION OF A PRO RATA SHARE OF THE NET COST FOR THE CONSTRUCTION OF FACILITIES IN ADJACENT OR NEARBY LAND IN THE SAME DRAINAGE AREA THAT THE COUNTY OR CITY MAY DETERMINE WILL BE REQUIRED BECAUSE OF THE DEVELOPMENT OF THE OWNER'S LAND.

(D) RESTRICTIONS ON EASEMENTS.

EASEMENTS REQUIRED BY THE COUNTY OR THE CITY OF TAKOMA PARK SHALL HAVE THE RESTRICTIONS THAT THE COUNTY OR CITY MAY REQUIRE AS TO:

(1) GRADING; AND

(2) A PROHIBITION AGAINST THE LOCATION OF STRUCTURES, FENCES, OR PLANTINGS ON THE EASEMENT AREA.

(E) LIMITATIONS ON APPROVALS FOR SUBDIVISION OF LAND.

(1) THE MARYLAND–NATIONAL CAPITAL PARK AND PLANNING COMMISSION MAY NOT APPROVE A PLAT FOR SUBDIVISION OF LAND UNTIL IT ASCERTAINS FROM THE COUNTY, THE CITY OF BOWIE, OR THE CITY OF TAKOMA PARK, WHICHEVER IS APPROPRIATE, WHETHER OR NOT EASEMENT AREAS FOR STORMWATER MANAGEMENT FACILITIES ARE REQUIRED.

(2) IF EASEMENT AREAS ARE REQUIRED, THE MARYLAND–NATIONAL CAPITAL PARK AND PLANNING COMMISSION MAY NOT APPROVE THE PLAT FOR RECORDATION UNTIL THE EASEMENTS ARE INCLUDED ON THE PLAT.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 3–206(b).

Throughout this section, the former references to "right–of–way" and "rights–of–way" are deleted as implicit in the references to "easement areas" and "easements".

Defined terms: "Bond" § 24–101
"Stormwater management" § 24–101

24–602. CONDITIONS FOR ADOPTION OF STORMWATER PLAN, SYSTEM, OR DESIGN.

(A) IN GENERAL.

MONTGOMERY COUNTY, PRINCE GEORGE'S COUNTY, THE CITY OF BOWIE, THE CITY OF TAKOMA PARK, AND ANY PERSON OR MUNICIPALITY MAY NOT ADOPT A STORMWATER MANAGEMENT PLAN, SYSTEM, OR DESIGN IN THESE JURISDICTIONS, INCLUDING A CAPITAL IMPROVEMENT PROGRAM FOR STORMWATER MANAGEMENT UNLESS:

(1) THE STORMWATER MANAGEMENT PLAN OR DESIGN IS IN ACCORDANCE WITH THE 6–YEAR CAPITAL IMPROVEMENT PROGRAM OF THE JURISDICTION RESPONSIBLE FOR STORMWATER MANAGEMENT IN THE AFFECTED AREA AND IS APPROVED BY THAT JURISDICTION; OR

(2) IT IS FOR THE PROTECTION OF AN INDIVIDUAL'S HOME AND HAS NO ADVERSE IMPACT ON OTHER PROPERTIES OR STORMWATER MANAGEMENT SYSTEMS.

(B) SUBMISSION OF STORMWATER MANAGEMENT PLAN, SYSTEM, OR DESIGN.

(1) (I) IF MONTGOMERY COUNTY, PRINCE GEORGE'S COUNTY, THE CITY OF BOWIE, OR THE CITY OF TAKOMA PARK PREPARES A STORMWATER MANAGEMENT PLAN, SYSTEM, OR DESIGN, OR IF A STORMWATER MANAGEMENT PLAN, SYSTEM, OR DESIGN HAS BEEN SUBMITTED TO MONTGOMERY COUNTY, PRINCE GEORGE'S COUNTY, THE CITY OF BOWIE, OR

THE CITY OF TAKOMA PARK, THE CITY OR COUNTY SHALL SUBMIT A COPY OF THE PLAN, SYSTEM, OR DESIGN TO THE COMMISSION.

(II) AFTER THE SUBMISSION, THE COMMISSION SHALL HAVE A SPECIFIED, REASONABLE TIME TO REVIEW AND COMMENT ON THE PLAN, SYSTEM, OR DESIGN TO THE CITY OR COUNTY TO INDICATE ANY CONFLICTS IN THE PLAN, SYSTEM, OR DESIGN WITH THE EXISTING OR PLANNED WATER SUPPLY OR SANITARY SEWER SYSTEMS OF THE COMMISSION.

(III) THE STORMWATER MANAGEMENT SYSTEM OR DESIGN APPROVED BY MONTGOMERY COUNTY, PRINCE GEORGE'S COUNTY, THE CITY OF BOWIE, OR THE CITY OF TAKOMA PARK SHALL BE CONSISTENT WITH THE COMMISSION'S COMMENTS.

(2) (I) WHEN THE COMMISSION RECEIVES A COPY OF A PLAN FROM THE CITY OF BOWIE, THE COMMISSION PROMPTLY SHALL PROVIDE A COPY TO THE COUNTY COUNCIL AND COUNTY EXECUTIVE OF PRINCE GEORGE'S COUNTY FOR REVIEW AND COMMENT.

(II) WHEN THE COMMISSION RECEIVES A COPY OF A PLAN FROM THE CITY OF TAKOMA PARK, THE COMMISSION PROMPTLY SHALL PROVIDE A COPY TO THE COUNTY COUNCIL AND COUNTY EXECUTIVE OF MONTGOMERY COUNTY FOR REVIEW AND COMMENT.

(3) WHEN PRINCE GEORGE'S COUNTY RECEIVES A PLAN THAT PROVIDES FOR DRAINAGE INTO A STORM DRAIN OR STORMWATER MANAGEMENT FACILITY OF THE CITY OF BOWIE OR ONTO ANY EASEMENT OF THE CITY OF BOWIE, THE COUNTY PROMPTLY SHALL PROVIDE A COPY OF THE PLAN TO THE CITY OF BOWIE FOR REVIEW AND COMMENT.

(C) RESTRICTION ON APPROVAL BY CITY OF BOWIE OR CITY OF TAKOMA PARK.

(1) IF THE COMMISSION OR PRINCE GEORGE'S COUNTY, AFTER REVIEWING A PLAN SUBMITTED BY THE CITY OF BOWIE, ADVISES THE CITY THAT THE COMMISSION OR COUNTY FINDS THAT CONSTRUCTION IN ACCORDANCE WITH THE PLAN WILL CAUSE STORMWATER RUNOFF PROBLEMS IN THE MAINTENANCE OF EXISTING FACILITIES OR CONSTRUCTION AND MAINTENANCE OF PLANNED FACILITIES, THE CITY MAY NOT AUTHORIZE CONSTRUCTION TO BEGIN UNTIL THE MATTER IS RESOLVED.

(2) IF THE COMMISSION OR MONTGOMERY COUNTY, AFTER REVIEWING A PLAN SUBMITTED BY THE CITY OF TAKOMA PARK, ADVISES THE

CITY THAT THE COMMISSION OR COUNTY FINDS THAT CONSTRUCTION IN ACCORDANCE WITH THE PLAN WILL CAUSE STORMWATER RUNOFF PROBLEMS IN THE MAINTENANCE OF EXISTING FACILITIES OR CONSTRUCTION AND MAINTENANCE OF PLANNED FACILITIES, THE CITY MAY NOT AUTHORIZE CONSTRUCTION TO BEGIN UNTIL THE MATTER IS RESOLVED.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 3–207.

In the introductory language of subsection (a) of this section, the reference to a plan, system, or design "in these jurisdictions" is added for clarity.

In subsection (b)(1)(iii) of this section, the reference to the "stormwater management system or design approved by" a jurisdiction is substituted for the former reference to the "approval" by a jurisdiction for clarity.

Also in subsection (b)(1)(iii) of this section, the reference to "be[ing] consistent with the Commission's comments" is substituted for the former reference to "avoid[ing] any of the conflicts identified by the WSSC" for clarity.

In subsection (c) of this section, the former reference to "authoriz[ing] the issuance of a permit" is deleted as unnecessary in light of the reference to "authoriz[ing] construction" to begin.

Also in subsection (c) of this section, the former reference to the matter being resolved "by the parties or by the court" is deleted as unnecessary.

Defined terms: "Commission" § 24–101
"Person" § 1–101
"Stormwater management" § 24–101

SUBTITLE 7. TRANSFER OF PROPERTY.

24–701. TRANSFER OF PROPERTY.

(A) TRANSFER TO COUNTY.

ALL PROPERTY OF THE COMMISSION THAT THE COMMISSION AND THE APPLICABLE COUNTY MUTUALLY DETERMINE TO BE USED PRIMARILY FOR STORMWATER MANAGEMENT IS DEEMED TRANSFERRED EFFECTIVE JULY 1, 1987, TO THAT COUNTY AS PROVIDED IN THIS SECTION.

(B) TRANSFER TO CITY OF TAKOMA PARK.

ALL PROPERTY OF THE COMMISSION THAT THE COMMISSION AND THE CITY OF TAKOMA PARK MUTUALLY DETERMINE TO BE USED PRIMARILY FOR STORMWATER MANAGEMENT IS DEEMED TRANSFERRED EFFECTIVE JULY 1, 1990, TO THE CITY OF TAKOMA PARK AS PROVIDED IN THIS SECTION.

(C) EXECUTION OF INSTRUMENTS OF TRANSFER.

(1) THE COMMISSION SHALL EXECUTE INSTRUMENTS OF TRANSFER AS NECESSARY TO EVIDENCE THE TRANSFERS.

(2) ALL REAL AND PERSONAL PROPERTY, INCLUDING ALL FEES, LEASEHOLDS, EASEMENTS, RIGHTS–OF–WAY, BUILDINGS, FIXTURES, SYSTEMS, AND EQUIPMENT, OWNED OR HELD BY THE COMMISSION FOR THE PRIMARY PURPOSE OF STORMWATER MANAGEMENT IS TRANSFERRED TO THE COUNTY IN WHICH THE PROPERTY IS LOCATED OR AFFIXED OR TO THE CITY OF TAKOMA PARK IF THE PROPERTY IS LOCATED IN OR AFFIXED TO THE CITY OF TAKOMA PARK.

(3) ALL TANGIBLE AND INTANGIBLE PERSONAL PROPERTY, INCLUDING ALL EQUIPMENT, CONSTRUCTION MATERIALS, FEES, FEES–IN–LIEU, CONTRIBUTIONS, RESERVE FUNDS, SINKING FUNDS, CONTRACTS, AGREEMENTS, CLAIMS, DEMANDS, AND ACTIONS, OWNED OR HELD BY THE COMMISSION FOR THE PRIMARY PURPOSE OF STORMWATER MANAGEMENT IS TRANSFERRED TO THE COUNTY IN WHICH IS LOCATED THE REAL PROPERTY TO WHICH THE PERSONAL PROPERTY RELATES OR TO THE CITY OF TAKOMA PARK IF THE REAL PROPERTY TO WHICH THE PERSONAL PROPERTY RELATES IS LOCATED IN THE CITY OF TAKOMA PARK OR, IF UNRELATED TO SPECIFIC PROPERTY, IS TRANSFERRED IN PROPORTION TO THE REAL PROPERTY ACREAGE TRANSFERRED TO EACH COUNTY OR TO THE CITY OF TAKOMA PARK UNDER THIS SECTION.

(D) RETENTION OF FUNDS BY COMMISSION.

NOTWITHSTANDING THIS SECTION, THE COMMISSION SHALL RETAIN SUFFICIENT FUNDS TO PAY FOR DEBT SERVICE ACCRUING BEFORE OCTOBER 1, 1987, ON OUTSTANDING BONDS ISSUED BY THE COMMISSION FOR STORMWATER MANAGEMENT AND THE UNDEPRECIATED COST OF THE MOVEABLE ASSETS TRANSFERRED.

(E) EFFECT OF TRANSFER OF PROPERTY.

(1) THE TRANSFER OF PROPERTY UNDER THIS SECTION DOES NOT IMPAIR IN ANY MANNER THE RIGHTS OF HOLDERS OF BONDS ISSUED BY THE COMMISSION FOR STORMWATER MANAGEMENT OR THE RESPONSIBILITY OF THE COMMISSION FOR THE REPAYMENT OF THE BONDS OR THE RESPONSIBILITY OF THE COUNTIES TO IMPOSE TAXES FOR OR OTHERWISE GUARANTEE THE REPAYMENT OF THE BONDS.

(2) THE CITY OF TAKOMA PARK IS NOT RESPONSIBLE FOR PAYMENT TO THE COMMISSION FOR DEBT SERVICE ON ANY BONDS ISSUED BY THE COMMISSION OUTSTANDING ON JUNE 30, 1990.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 3–202(d).

In subsection (c)(2) and (3) of this section, the former references to including "without limitation" are deleted in light of Art. 1, § 30, which states that "[t]he words 'includes' or 'including' mean, unless the context requires otherwise, includes or including by way of illustration and not by way of limitation".

In subsection (e)(1) of this section, the reference to "impos[ing]" a tax is substituted for the former reference to "levy[ing]" a tax for consistency with terminology used in the Tax – General Article and Tax – Property Article.

The Washington Suburban Sanitary Commission Law Review Committee notes, for consideration by the General Assembly, that although subsection (a) of this section specifies that certain property determined by the Commission and the applicable county to be primarily used for stormwater management is deemed transferred to be effective July 1, 1987, the transfer of certain property used for stormwater management in Montgomery County occurred in 1968.

Defined terms: "Bond" § 24–101
"Commission" § 24–101
"Stormwater management" § 24–101

SUBTITLE 8. PROHIBITED ACTS; PENALTIES.

24–801. CRIMINAL PENALTIES.

(A) IN GENERAL.

(1) THIS SUBSECTION DOES NOT APPLY TO § 24–404 OF THIS TITLE.

(2) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A PERSON WHO VIOLATES THE PROVISIONS OF THIS TITLE IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 30 DAYS OR A FINE NOT EXCEEDING $1,000 OR BOTH.

(B) VIOLATION OF STORMWATER MANAGEMENT MAINTENANCE PROVISIONS.

A PERSON WHO VIOLATES § 24–502, § 24–503, OR § 24–601 OF THIS TITLE (SPECIAL PROVISIONS APPLICABLE TO TAKOMA PARK AND PRINCE GEORGE'S COUNTY, EXCEPT THE CITY OF BOWIE) IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 30 DAYS OR A FINE NOT EXCEEDING $500 OR BOTH.

(C) SECOND OR SUBSEQUENT VIOLATIONS.

A PERSON MAY BE CONVICTED OF A SECOND OR SUBSEQUENT VIOLATION OF A PROVISION OF THIS TITLE OR A REGULATION ADOPTED UNDER THIS TITLE.

REVISOR'S NOTE: Subsections (a) and (b) of this section are new language derived without substantive change from former Art. 29, § 18–104(a)(3) and (4) and (c).

Subsection (c) of this section is new language patterned after former Art. 29, § 18–104(e).

In subsection (a)(1) of this section, the phrase "[t]his subsection does not apply to § 24–404 of this title" is added for accuracy because former Art. 29, § 18–104(a)(3) did not apply to the provisions revised in § 24–404 of this title.

In subsection (a)(2) of this section, the reference to "[e]xcept as provided in subsection (b) of this section" is added for clarity and accuracy.

Also in subsection (a)(2) of this section, the reference to "this title" is substituted for the former references to "[c]ontrol and disposition of surface waters … §§ 3–202 through 3–207" and "[b]onds and anticipation notes … §§ 4–101 through 4–112" for brevity.

In subsection (c) of this section, the former reference to "rule" is deleted as implicit in the reference to "regulation".

Defined terms: "Commission" § 24–101
"Person" § 1–101

SECTION 4. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Public Utility Companies

25–403.

(b) When determining the system development charge, under criteria established jointly and agreed on by the county councils, the county councils:

(1) shall grant a full or partial exemption from the charge for public sponsored or affordable housing as jointly defined and agreed on by the county councils;

(2) may grant a full or partial exemption from the charge for**[**:

(i)**]** revitalization projects**[**; or

(ii) if the property is used primarily for recreational and educational programs and services to youth, property owned by a community–based organization that is exempt from taxation under § 501(c)(3) of the Internal Revenue Code and that has the primary mission and purpose of providing recreational and educational programs and services to youth, if the exemption amount does not exceed $80,000**]**; and

(3) may grant a full or partial exemption from the system development charge, under conditions set forth by the county councils, for:

(i) residential property located in a mixed retirement development as defined in the zoning ordinance of Prince George's County;

(ii) residential property located in a planned retirement community as defined in the zoning ordinance of Montgomery County;

(iii) elderly housing other than that included in item (i) or (ii) of this item; or

(iv) properties used for manufacturing or biotechnology research and development.

SECTION 5. AND BE IT FURTHER ENACTED, That the new division designation "Division I. Public Services and Utilities" of Article – Public Utility Companies of the Annotated Code of Maryland be added to immediately precede Section 1–101.

SECTION 6. AND BE IT FURTHER ENACTED, That Section(s) 18–104(a)(7) of Article 29 – Washington Suburban Sanitary District of the Annotated Code of Maryland be repealed and reenacted, with amendments, and transferred to the Session Laws, to read as follows:

FLOOD CONTROL AND NAVIGATION BONDS – CRIMINAL PENALTY

[18–104.**] 1.**

[(a)**]** A person who violates **[**any of the following provisions**] ARTICLE 28, § 9–102 OF THE ANNOTATED CODE (FLOOD CONTROL AND NAVIGATION BONDS)** is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $1,000 or imprisonment not exceeding 30 days or both**[**:

(7) Flood control and navigation bonds ..... § 13–102**]**.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 29, § 18–104(a)(7), as it relates to criminal penalties for a violation of a certain provision relating to flood control and navigation bonds.

Provisions authorizing the issuance of negotiable notes in former Art. 29, § 13–102 were repealed in Chapter 685, Acts of 1987. This provision is transferred to the Session Laws to avoid any inadvertent substantive effect that its repeal might have.

SECTION 7. AND BE IT FURTHER ENACTED, That Article – Public Utility Companies of the Annotated Code of Maryland be renamed to be Article – Public Utilities.

SECTION 8. 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 9. 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 10. 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 11. 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 in the former unit.

SECTION 12. 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 13. AND BE IT FURTHER ENACTED, That, except as expressly provided to the contrary in this Act, any person licensed, registered, certified, or issued a permit or certificate by any commission, office, department, agency, or other unit established or continued by any statute amended, repealed, or transferred by this Act is considered for all purposes to be licensed, registered, certified, or issued a permit or certificate by the appropriate unit continued under this Act for the duration of the term for which the license, registration, certification, or permit was issued, and may renew that authorization in accordance with the appropriate renewal provisions of this Act.

SECTION 14. 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 15. 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 2010 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 16. AND BE IT FURTHER ENACTED, That Section 4 of this Act shall take effect on the taking effect of the termination provision specified in Chapter 423 of the Acts of the General Assembly of 2007. If that termination provision takes effect, § 25–403(b) of the Public Utility Companies Article as enacted by Section 3 of

this Act shall be abrogated and of no further force and effect. This Act may not be interpreted to have any effect on that termination provision.

SECTION 17. AND BE IT FURTHER ENACTED, That, subject to the provisions of Section 16 of this Act, this Act shall take effect October 1, 2010.

Approved by the Governor, April 14, 2010.

Chapter 38

(Senate Bill 112)

AN ACT concerning

Baltimore County – Property Tax Credit – Rosewald Beach Civic League

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 owned by the Rosewald Beach Civic League; providing for the application of this Act; and generally relating to a property tax credit in Baltimore County for the Rosewald Beach Civic League.

BY repealing and reenacting, with amendments,
Article – Tax – Property
Section 9–305(b)
Annotated Code of Maryland
(2007 Replacement Volume and 2009 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.;

(20) personal property that is owned by Leadership Through Athletics, Inc.;

(21) real property that is owned by the Loreley Beach Community Association; **[**and**]**

(22) real property that is owned by Civic League of Inverness, Inc.**; AND**

(23) REAL PROPERTY THAT IS OWNED BY THE ROSEWALD BEACH CIVIC LEAGUE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2010, and shall be applicable to all taxable years beginning after June 30, 2010.

Approved by the Governor, April 13, 2010.

Chapter 39

(House Bill 595)

AN ACT concerning

Baltimore County – Property Tax Credit – Rosewald Beach Civic League

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 owned by the Rosewald Beach Civic League; providing for the application of this Act; and generally relating to a property tax credit in Baltimore County for the Rosewald Beach Civic League.

BY repealing and reenacting, with amendments,
Article – Tax – Property
Section 9–305(b)
Annotated Code of Maryland
(2007 Replacement Volume and 2009 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.;

(20) personal property that is owned by Leadership Through Athletics, Inc.;

(21) real property that is owned by the Loreley Beach Community Association; **[**and**]**

(22) real property that is owned by Civic League of Inverness, Inc.**; AND**

(23) REAL PROPERTY THAT IS OWNED BY THE ROSEWALD BEACH CIVIC LEAGUE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2010, and shall be applicable to all taxable years beginning after June 30, 2010.

Approved by the Governor, April 13, 2010.

Chapter 40

(Senate Bill 146)

AN ACT concerning

State Board of Physical Therapy Examiners – Sunset Extension and Program Evaluation

FOR the purpose of continuing the State Board of Physical Therapy 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, in conjunction with the Department of Health and Mental Hygiene, to submit a certain report on or before a certain date; and generally relating to the State Board of Physical Therapy Examiners.

BY repealing and reenacting, with amendments,
Article – Health Occupations
Section 13–502
Annotated Code of Maryland
(2009 Replacement Volume)

BY repealing and reenacting, without amendments,
Article – State Government
Section 8–403(a)
Annotated Code of Maryland
(2009 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – State Government
Section 8–403(b)(47)
Annotated Code of Maryland
(2009 Replacement Volume)

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

Article – Health Occupations

13–502.

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, **[**2012**]** **2022**.

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:

(47) Physical Therapy Examiners, State Board of (§ 13–201 of the Health Occupations Article: July 1, **[**2011**] 2021**);

SECTION 2. AND BE IT FURTHER ENACTED, That on or before October 1, 2011, the State Board of Physical Therapy Examiners, in conjunction with the Department of Health and Mental Hygiene, shall submit a report to the Senate Education, Health, and Environmental Affairs Committee and the House Health and Government Operations Committee, in accordance with § 2–1246 of the State Government Article, on:

(1) the Board's fund balance, including financial information for fiscal years 2010 and 2011 and how the Board is balancing its finances to ensure a sufficient fund balance;

(2) the Board's findings and activities related to the practice of physical therapy by chiropractors;

(3) the status of the Board's review of its authority to penalize physical therapy practice owners or operators who are not licensed by the Board, including any actions taken by the Board or recommendations for statutory changes;

(4) the Board's analysis of delays in its complaint resolution process and steps that could be taken to accelerate the process; and

(5) options or actions taken by the Board or the Department relative to office configurations to enhance the ability of the health occupations boards to maintain confidentiality.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 41

(Senate Bill 147)

AN ACT concerning

State Board for Professional Land Surveyors – Sunset Extension and Program Evaluation

FOR the purpose of continuing the State Board for Professional Land Surveyors 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 for Professional Land Surveyors.

BY repealing and reenacting, with amendments,
Article – Business Occupations and Professions
Section 15–702
Annotated Code of Maryland
(2004 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, without amendments,
Article – State Government
Section 8–403(a)
Annotated Code of Maryland
(2009 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – State Government
Section 8–403(b)(35)
Annotated Code of Maryland
(2009 Replacement Volume)

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

Article – Business Occupations and Professions

15–702.

Subject to the evaluation and reestablishment provisions of the Maryland Program Evaluation Act, this title and all regulations adopted under this title shall terminate and be of no effect after July 1, **[**2013**] 2024**.

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:

(35) Land Surveyors, State Board for Professional (§ 15–201 of the Business Occupations and Professions Article: July 1, **[**2012**] 2023**);

SECTION 2. AND BE IT FURTHER ENACTED, That on or before October 1, 2011, the State Board for Professional Land Surveyors shall submit a report to the Senate Education, Health, and Environmental Affairs Committee and the House ~~Environmental~~ Economic Matters Committee, in accordance with § 2–1246 of the State Government Article, on its plans to implement board member training.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 42

(Senate Bill 151)

AN ACT concerning

Prince George's County – Alcoholic Beverages – Class B–AE (Arts and Entertainment) License

FOR the purpose of authorizing the Board of License Commissioners for Prince George's County to issue a Class B–AE (arts and entertainment) beer, wine and liquor license; specifying that the license may be issued only to an establishment in a certain arts and entertainment district as approved by the

City Council; specifying that the license may be issued for consumption of alcoholic beverages on the licensed premises only; prohibiting a person from holding more than a certain number of licenses; providing for an annual license fee; requiring the Board of License Commissioners to adopt certain regulations; limiting the number of licenses that the Board of License Commissioners may issue; specifying that the license is exempt from a certain restriction; and generally relating to alcoholic beverages licenses in Prince George's County.

BY repealing and reenacting, without amendments,
Article 2B – Alcoholic Beverages
Section 6–201(r)(1)(i) and 9–217(a) and (e)(1)
Annotated Code of Maryland
(2005 Replacement Volume and 2009 Supplement)

BY adding to
Article 2B – Alcoholic Beverages
Section 6–201(r)(18)
Annotated Code of Maryland
(2005 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 9–102(a) and 9–217(b) and (e)(5)
Annotated Code of Maryland
(2005 Replacement Volume and 2009 Supplement)

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

Article 2B – Alcoholic Beverages

6–201.

(r) (1) (i) This subsection applies only in Prince George's County.

(18) (I) THERE IS A CLASS B–AE (ARTS AND ENTERTAINMENT) BEER, WINE AND LIQUOR LICENSE.

(II) A CLASS B–AE LICENSE MAY BE ISSUED ONLY TO AN ESTABLISHMENT IN THE PRINCE GEORGE'S COUNTY ARTS AND ENTERTAINMENT DISTRICT AS APPROVED BY THE COUNTY COUNCIL IN COUNCIL RESOLUTION CR–83–2001.

(III) THE LICENSE AUTHORIZES THE HOLDER TO SELL BEER, WINE, AND LIQUOR FOR CONSUMPTION ON THE LICENSED PREMISES ONLY.

(IV) A PERSON MAY NOT HOLD MORE THAN 2 CLASS B–AE LICENSES.

(V) THE ANNUAL LICENSE FEE IS $2,750.

(VI) THE BOARD OF LICENSE COMMISSIONERS SHALL ADOPT REGULATIONS TO CARRY OUT THIS PARAGRAPH, INCLUDING REGULATIONS SPECIFYING HOURS AND DAYS OF SALE.

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), **AND (18),** § 7–101(b) and (c), § 8–202(g)(2)(ii) and (iii), § 8–217(e), § 8–508, or § 12–202 of this article.

9–217.

(a) This section applies only in Prince George's County.

(b) The number of licenses of each class of alcoholic beverage licenses may not exceed the following maximum amounts:

(1) Beer license, Class A 19

(2) Beer license, Class B 23

(3) Beer license, Class C 3

(4) Beer license, Class D 76

(5) Beer and light wine license, Class A..... 26

(6) Beer and light wine license, Class B..... 45

(7) Beer and light wine license, Class B–GC 4

(8) Beer and light wine license, Class B–Stadium 1

(9) Beer and light wine license, Class C..... 8

(10) Beer and light wine license, Class D 55

(11) Beer, wine and liquor license, Class A..... 142

(12) Beer, wine and liquor license, Class B..... 185

(13) BEER, WINE AND LIQUOR LICENSE, CLASS B–AE 5

[(13)**] (14)** Beer, wine and liquor license, Class BCE..... 8

[(14)**] (15)** Beer, wine and liquor license, Class B–CI..... 2

[(15)**] (16)** Reserved.

[(16)**] (17)** Beer, wine and liquor license, Class B/ECF 1

[(17)**] (18)** Beer, wine and liquor license, Class B–ECF/DS 1

[(18)**] (19)** Beer, wine and liquor license, Class B–ECR 1

[(19)**] (20)** Beer, wine and liquor license, Class B–Stadium..... 1

[(20)**] (21)** Beer, wine and liquor license, Class C

(i) Under § 6–301(r)(2)..... 30

(ii) Under § 6–301(r)(3)..... 25

(iii) Under § 6–301(r)(4)..... 4

(iv) Under § 6–301(r)(5)..... 12

(v) Under § 6–301(r)(7)..... 1

(e) (1) A license may not be granted to sell alcoholic beverages in any building located within 1,000 feet of a school building, or within 500 feet of a church. The 1,000 feet, or the 500 feet, as the case may be, is to be measured from the front door or main entrance, whichever is nearest the street abutting the premises, of the proposed licensed establishment along the nearest usual pedestrian route to the door closest to the licensed premises which is used as an entrance or exit to any school, or to the main entrance of the church building.

(5) This subsection does not apply to any license issued under § 6–201(r)(2), (4), (5), (15), **[**or**]** (16)**, OR (18)** or § 7–101 of this article.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 43

(Senate Bill 153)

AN ACT concerning

Harford County – Liquor Control Board Membership – Nomination Process

FOR the purpose of altering the process in which nominees are selected for vacancies on the Harford County Liquor Control Board resulting from expired terms; requiring the County Executive to submit the name of one nominee within a certain time to the County Delegation of State Senators and Delegates for its advice and consent; requiring the County Delegation to approve or reject the nominee within a certain time; specifying that if the County Delegation fails to act the nominee shall be considered to have been approved; requiring the County Executive to submit the name of a new nominee to the County Delegation under certain circumstances if the previous nominee is rejected; requiring the County Executive to submit the name of the nominee approved by the County Delegation to the County Council for its advice and consent; specifying certain procedures to follow to fill a vacancy on the Board other than one resulting from an expired term; and generally relating to the Harford County Liquor Control Board.

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 15–201(c)(3) and (j)
Annotated Code of Maryland
(2005 Replacement Volume and 2009 Supplement)

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

Article 2B – Alcoholic Beverages

15–201.

(c) (3) (i) Nominees shall be selected for vacancies on the Harford County Liquor Control Board with consideration given to geographical representation.

(ii) **1**. The appointment process to fill vacancies **RESULTING FROM EXPIRED TERMS** on the Harford County Liquor Control Board is as **[**follows:

1. The County Executive shall present a list of nominees to the Harford County Delegation to the Maryland General Assembly for their advice and consent. The list shall contain a minimum of 3 names for each vacancy and be presented 60 days prior to the occurrence of the vacancy;

2. Within 7 working days from the receipt of the list from the County Executive, the Harford County Delegation shall consent by approving the nominees or by deleting names from the list of nominees. If the delegation fails to act on the list within the 7 working day period, all of the nominees are, by operation of the law, automatically consented to as originally submitted by the County Executive;

3. Within 7 working days of the receipt of the list that was acted upon by the delegation, the County Executive may replace any nominee that was deleted by the delegation and may resubmit the list for delegation approval in accord with subparagraph 2 of this paragraph;

4. The County Executive shall submit 1 of the nominees for each vacancy to the County Council for its advice and consent.**]PROVIDED IN THIS SUBPARAGRAPH.**

2. AT LEAST 60 DAYS BEFORE THE EXPIRATION OF A MEMBER'S TERM, THE COUNTY EXECUTIVE SHALL SUBMIT THE NAME OF ONE NOMINEE TO THE HARFORD COUNTY DELEGATION TO THE MARYLAND GENERAL ASSEMBLY, CONSISTING OF HARFORD COUNTY SENATORS AND DELEGATES, FOR THE ADVICE AND CONSENT OF THE DELEGATION.

3. WITHIN 7 WORKING DAYS AFTER THE DELEGATION RECEIVES THE NAME OF THE NOMINEE:

A. THE DELEGATION SHALL APPROVE OR REJECT THE NOMINEE; OR

B. IF THE DELEGATION FAILS TO ACT, THE NOMINEE SHALL BE CONSIDERED TO HAVE BEEN APPROVED.

4. IF THE DELEGATION REJECTS THE NOMINEE, THE COUNTY EXECUTIVE SHALL SUBMIT THE NAME OF A NEW NOMINEE TO THE DELEGATION WITHIN 7 WORKING DAYS AFTER THE COUNTY EXECUTIVE RECEIVES NOTICE OF THE REJECTION.

5. THE COUNTY EXECUTIVE SHALL CONTINUE TO SUBMIT NAMES OF NOMINEES IN ACCORDANCE WITH SUBSUBPARAGRAPHS 3

AND 4 OF THIS SUBPARAGRAPH TO THE DELEGATION UNTIL A NOMINEE IS APPROVED.

6. THE COUNTY EXECUTIVE SHALL SUBMIT THE NAME OF THE APPROVED NOMINEE TO THE COUNTY COUNCIL FOR ITS ADVICE AND CONSENT.

(j) **(1) [**In**] EXCEPT AS PROVIDED IN PARAGRAPHS (2) AND (3) OF THIS SUBSECTION, IN** case of a vacancy on an appointive board for any reason whatsoever, it shall be filled for the unexpired term in the same manner as the original appointment**[**; except that in**].**

(2) IN Worcester County**,** the vacancy shall be filled by the Governor with the advice and consent of the Senate.

(3) IN HARFORD COUNTY, TO FILL A VACANCY OTHER THAN ONE RESULTING FROM AN EXPIRED TERM:

(I) THE COUNTY EXECUTIVE, AS SOON AS PRACTICABLE, SHALL SUBMIT THE NAME OF ONE NOMINEE TO THE HARFORD COUNTY DELEGATION TO THE MARYLAND GENERAL ASSEMBLY, CONSISTING OF HARFORD COUNTY SENATORS AND DELEGATES, FOR THE ADVICE AND CONSENT OF THE DELEGATION; AND

(II) THEREAFTER, THE PROCEDURES UNDER SUBSECTION (C)(3)(II)3 THROUGH 6 OF THIS SECTION SHALL BE FOLLOWED.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 44

(Senate Bill 165)

AN ACT concerning

Health Occupations – Therapy Management Contracts – ~~Repeal~~ ~~Extension~~ *Repeal* of Sunset

FOR the purpose of ~~repealing~~ ~~altering~~ *repealing* the termination of the provisions of law relating to certain licensed physician–pharmacist agreements and certain licensed physician–pharmacist therapy management contracts.

BY repealing and reenacting, with amendments,
Chapter 249 of the Acts of the General Assembly of 2002, as amended by Chapter 650 of the Acts of the General Assembly of 2008
Section 5

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

Chapter ~~246~~ 249 of the Acts of 2002, as amended by Chapter 650 of the Acts of 2008

SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2002. ~~[It shall remain effective for a period of 8 15 years and, at the end of September 30, 2010 2017, 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 July 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 45

(House Bill 600)

AN ACT concerning

Health Occupations – Therapy Management Contracts – Repeal of Sunset

FOR the purpose of repealing the termination of the provisions of law relating to certain licensed physician–pharmacist agreements and certain licensed physician–pharmacist therapy management contracts.

BY repealing and reenacting, with amendments,
Chapter 249 of the Acts of the General Assembly of 2002, as amended by Chapter 650 of the Acts of the General Assembly of 2008
Section 5

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

Chapter ~~246~~ 249 of the Acts of 2002, as amended by Chapter 650 of the Acts of 2008

SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2002. **[**It shall remain effective for a period of 8 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 July 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 46

(Senate Bill 213)

AN ACT concerning

Child Care Articles ~~and Toys~~ Containing Bisphenol–A – Prohibition

FOR the purpose of prohibiting the manufacture, sale, or distribution of certain ~~toys or~~ child care articles containing bisphenol–A; requiring a person to use the least toxic alternative; prohibiting a person from using certain carcinogens or certain reproductive toxicants when complying with a certain provision of this Act; requiring the Department of Health and Mental Hygiene to adopt certain regulations on or before a certain date; providing for a certain penalty; defining ~~certain terms~~ a certain term; and generally relating to certain ~~toys and~~ child care articles containing bisphenol–A.

BY adding to
Article – Health – General
Section 24–304
Annotated Code of Maryland
(2009 Replacement Volume)

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

Article – Health – General

24–304.

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

~~(2)~~ "~~CHILD~~ CHILD CARE ARTICLE" MEANS ~~A CONSUMER PRODUCT DESIGNED OR INTENDED BY THE MANUFACTURER TO FACILITATE SLEEP OR THE FEEDING OF CHILDREN UNDER THE AGE OF 4 YEARS OR TO HELP A CHILD WITH SUCKING OR TEETHING~~ AN EMPTY BOTTLE OR CUP TO BE FILLED WITH FOOD OR LIQUID THAT IS DESIGNED OR INTENDED BY A MANUFACTURER TO BE USED BY A CHILD UNDER THE AGE OF 4 YEARS.

(2) IF A FEDERAL LAW REGULATING THE USE OF BISPHENOL–A IN CHILD CARE ARTICLES IS ENACTED, "CHILD CARE ARTICLE" SHALL BE DEFINED AS SPECIFIED IN THE FEDERAL LAW.

~~(3) "CHILDREN'S TOY" MEANS A TOY OR ANY OTHER CONSUMER PRODUCT DESIGNED OR INTENDED BY THE MANUFACTURER FOR A CHILD UNDER THE AGE OF 13 YEARS FOR USE BY A CHILD WHEN THE CHILD PLAYS.~~

(B) ON OR AFTER ~~JANUARY 10, 2011~~ JANUARY 1, 2012, A PERSON MAY NOT MANUFACTURE, KNOWINGLY SELL, OR DISTRIBUTE IN COMMERCE ANY ~~CHILDREN'S TOY OR~~ CHILD CARE ARTICLE CONTAINING BISPHENOL–A.

(C) IN COMPLYING WITH SUBSECTION (B) OF THIS SECTION, A PERSON:

(1) SHALL USE THE LEAST TOXIC ALTERNATIVE WHEN REPLACING BISPHENOL–A; AND

(2) MAY NOT REPLACE BISPHENOL–A WITH:

(I) CARCINOGENS RATED BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY AS GROUP A, B, OR C CARCINOGENS; OR

(II) REPRODUCTIVE TOXICANTS THAT CAUSE BIRTH DEFECTS, REPRODUCTIVE HARM, OR DEVELOPMENTAL HARM AS IDENTIFIED BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY.

(D) A PERSON THAT VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING $10,000 FOR EACH VIOLATION.

(E) ON OR BEFORE JANUARY 1, 2011, THE DEPARTMENT SHALL ADOPT REGULATIONS TO CARRY OUT THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ July 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 47

(House Bill 33)

AN ACT concerning

Child Care Articles ~~and Toys~~ Containing Bisphenol–A – Prohibition

FOR the purpose of prohibiting the manufacture, sale, or distribution of certain ~~toys or~~ child care articles containing bisphenol–A; requiring a person to use the least toxic alternative; prohibiting a person from using certain carcinogens or certain reproductive toxicants when complying with a certain provision of this Act; requiring the Department of Health and Mental Hygiene to adopt certain regulations on or before a certain date; providing for a certain penalty; defining ~~certain terms~~ a certain term; and generally relating to certain ~~toys and~~ child care articles containing bisphenol–A.

BY adding to
Article – Health – General
Section 24–304
Annotated Code of Maryland
(2009 Replacement Volume)

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

Article – Health – General

24–304.

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

~~(2)~~ "~~CHILD~~ CHILD CARE ARTICLE" MEANS ~~A CONSUMER PRODUCT DESIGNED OR INTENDED BY THE MANUFACTURER TO FACILITATE SLEEP OR THE FEEDING OF CHILDREN UNDER THE AGE OF 4 YEARS OR TO HELP A CHILD WITH SUCKING OR TEETHING~~ AN EMPTY BOTTLE OR CUP TO BE FILLED WITH FOOD OR LIQUID THAT IS DESIGNED OR INTENDED BY A MANUFACTURER TO BE USED BY A CHILD UNDER THE AGE OF 4 YEARS.

(2) IF A FEDERAL LAW REGULATING THE USE OF BISPHENOL–A IN CHILD CARE ARTICLES IS ENACTED, "CHILD CARE ARTICLE" SHALL BE DEFINED AS SPECIFIED IN THE FEDERAL LAW.

~~**(3) "CHILDREN'S TOY" MEANS A TOY OR ANY OTHER CONSUMER PRODUCT DESIGNED OR INTENDED BY THE MANUFACTURER FOR A CHILD UNDER THE AGE OF 13 YEARS FOR USE BY A CHILD WHEN THE CHILD PLAYS.**~~

(B) ON OR AFTER ~~JANUARY 10, 2011~~ JANUARY 1, 2012, A PERSON MAY NOT MANUFACTURE, KNOWINGLY SELL, OR DISTRIBUTE IN COMMERCE ANY ~~CHILDREN'S TOY OR~~ CHILD CARE ARTICLE CONTAINING BISPHENOL–A.

(C) IN COMPLYING WITH SUBSECTION (B) OF THIS SECTION, A PERSON:

(1) SHALL USE THE LEAST TOXIC ALTERNATIVE WHEN REPLACING BISPHENOL–A; AND

(2) MAY NOT REPLACE BISPHENOL–A WITH:

(I) CARCINOGENS RATED BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY AS GROUP A, B, OR C CARCINOGENS; OR

(II) REPRODUCTIVE TOXICANTS THAT CAUSE BIRTH DEFECTS, REPRODUCTIVE HARM, OR DEVELOPMENTAL HARM AS IDENTIFIED BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY.

(D) A PERSON THAT VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING $10,000 FOR EACH VIOLATION.

(E) ON OR BEFORE JANUARY 1, 2011, THE DEPARTMENT SHALL ADOPT REGULATIONS TO CARRY OUT THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ July 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 48

(Senate Bill 241)

AN ACT concerning

State Board of Nursing – Changes to the Electrology Practice Committee and Licensing Requirements

FOR the purpose of establishing a certain quorum requirement for the Electrology Practice Committee of the State Board of Nursing; establishing certain requirements for when the Committee is to meet; providing that members of the Committee are entitled to certain compensation as determined by the Board and certain reimbursement for travel; requiring that certain applicants pass and schedule certain national and clinical examinations; extending the period of time the Board has to send certain renewal notices; providing that the Board may send certain renewal notices by electronic means; extending the date on which the Board is to begin requiring criminal history records checks for certain renewal applicants; extending the period of time between criminal history records checks for certain renewal applicants; and generally relating to the State Board of Nursing, the Electrology Practice Committee, and electrologists.

BY repealing and reenacting, with amendments,
Article – Health Occupations
Section 8–6B–05, 8–6B–08(e), 8–6B–10(b), and 8–6B–14(c) and (k)
Annotated Code of Maryland
(2009 Replacement Volume)

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

Article – Health Occupations

8–6B–05.

(a) There is an Electrology Practice Committee within the Board.

(b) (1) The Committee consists of five members appointed by the Board.

(2) Of the five Committee members:

(i) Four shall be licensed electrologists or licensed electrology instructors; and

(ii) One shall be a consumer member.

(c) Each member of the Committee shall be a citizen of the United States and a resident of the State.

(d) Each electrologist member of the Committee shall have practiced electrology actively in the State for at least 5 years immediately before appointment.

(e) The consumer member of the Committee:

(1) Shall be a member of the general public;

(2) May not be or ever have been:

(i) An electrologist;

(ii) A health care professional; or

(iii) In training to be an electrologist or a health care professional;

(3) May not have a household member who is an electrologist, a health care professional, in training to be an electrologist, or in training to be a health care professional; and

(4) May not:

(i) Participate or ever have participated in a commercial or professional field related to electrology;

(ii) Have a household member who participates in a commercial or professional field related to electrology; or

(iii) Have, or have had within 2 years before appointment, a substantial financial interest in a person regulated by the Board.

(f) (1) The term of a member is 4 years.

(2) The terms of the members are staggered as required by the provisions for members of the Committee on July 1, 2003.

(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 two consecutive full terms.

(6) To the extent practicable, the Board shall fill any vacancy on the Committee within 60 days of the date of the vacancy.

(G) A MAJORITY OF THE FULL AUTHORIZED MEMBERSHIP OF THE COMMITTEE IS A QUORUM.

(H) IN ADDITION TO ANY OTHER MEETING REQUIREMENTS OF THIS TITLE, THE COMMITTEE SHALL MEET:

(1) AT THE REQUEST OF THE EXECUTIVE DIRECTOR OF THE BOARD; OR

(2) AS NECESSARY TO CONDUCT BOARD BUSINESS.

(I) IN ACCORDANCE WITH THE STATE BUDGET, EACH MEMBER OF THE COMMITTEE IS ENTITLED TO:

(1) COMPENSATION, AT A RATE DETERMINED BY THE BOARD, FOR EACH DAY, OR PART OF A DAY, ON WHICH THE MEMBER IS ENGAGED IN THE DUTIES OF THE COMMITTEE; AND

(2) REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS.

[(g)**] (J)** (1) The Board may remove a member for incompetence or misconduct.

(2) The Board may remove a member who is absent from two successive Committee meetings without adequate reason.

8–6B–08.

(e) **(1)** Except as otherwise provided in this subtitle, **[**the**] EACH** applicant shall pass **[**an examination approved by the Board**]:**

(I) A NATIONAL CERTIFICATION EXAMINATION DEVELOPED BY THE AMERICAN ELECTROLOGY ASSOCIATION OR ITS SUCCESSOR, AS APPROVED BY THE BOARD; AND

(II) A CLINICAL EXAMINATION ADMINISTERED BY THE BOARD.

(2) APPLICANTS ARE RESPONSIBLE FOR SCHEDULING THE NATIONAL AND CLINICAL EXAMINATIONS.

8–6B–10.

(b) (1) The Board shall give examinations to applicants **[**at least once a year, at the times and places that the Board determines**]**.

(2) The Board may give reexaminations to applicants who fail all or part of **[**the**]** **AN** examination **[**at the times and places that the Board determines**]**.

8–6B–14.

(c) **(1)** At least **[**1 month**]** **3 MONTHS** before **[**the**]** **A** license expires, the Board shall send **A RENEWAL NOTICE** to the licensee, by**:**

(I) **[**first–class**]** **FIRST–CLASS** mail to the last known **MAILING** address of the licensee**[**,**]; OR**

(II) **ELECTRONIC MEANS TO THE LAST KNOWN ELECTRONIC ADDRESS OF THE LICENSEE.**

(2) **[**a**]** **A** renewal notice **[**that states**]** **SHALL STATE**:

[(1)**]****(I)** The date on which the current license expires;

[(2)**]****(II)** The date by which the renewal application must be received by the Board for the renewal to be issued and mailed before the license expires; and

[(3)**]****(III)** The amount of the renewal fee.

(k) (1) (i) Beginning January **[**2008**]** **2011**, the Board shall begin a process requiring criminal history records checks on selected annual renewal applicants as determined by regulations adopted by the Board in accordance with § 8–303 of this title.

(ii) An additional criminal history records check shall be performed every **[**10**]** **12** years thereafter.

(2) On receipt of the criminal history record information of a licensee forwarded to the Board in accordance with § 8–303 of this title, in determining whether to renew a license, the Board shall consider:

(i) The age at which the crime was committed;

(ii) The circumstances surrounding the crime;

(iii) The length of time that has passed since the crime;

(iv) Subsequent work history;

(v) Employment and character references; and

(vi) Other evidence that demonstrates that the licensee does not pose a threat to the public health or safety.

(3) The Board may not renew a license if the criminal history record information required under § 8–303 of this title has not been received.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 49

(House Bill 215)

AN ACT concerning

State Board of Nursing – Changes to the Electrology Practice Committee and Licensing Requirements

FOR the purpose of establishing a certain quorum requirement for the Electrology Practice Committee of the State Board of Nursing; establishing certain requirements for when the Committee is to meet; providing that members of the Committee are entitled to certain compensation as determined by the Board and certain reimbursement for travel; requiring that certain applicants pass and schedule certain national and clinical examinations; extending the period of time the Board has to send certain renewal notices; providing that the Board may send certain renewal notices by electronic means; extending the date on which the Board is to begin requiring criminal history records checks for certain renewal applicants; extending the period of time between criminal history records checks for certain renewal applicants; and generally relating to the State Board of Nursing, the Electrology Practice Committee, and electrologists.

BY repealing and reenacting, with amendments,
Article – Health Occupations
Section 8–6B–05, 8–6B–08(e), 8–6B–10(b), and 8–6B–14(c) and (k)
Annotated Code of Maryland
(2009 Replacement Volume)

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

Article – Health Occupations

8–6B–05.

(a) There is an Electrology Practice Committee within the Board.

(b) (1) The Committee consists of five members appointed by the Board.

(2) Of the five Committee members:

(i) Four shall be licensed electrologists or licensed electrology instructors; and

(ii) One shall be a consumer member.

(c) Each member of the Committee shall be a citizen of the United States and a resident of the State.

(d) Each electrologist member of the Committee shall have practiced electrology actively in the State for at least 5 years immediately before appointment.

(e) The consumer member of the Committee:

(1) Shall be a member of the general public;

(2) May not be or ever have been:

(i) An electrologist;

(ii) A health care professional; or

(iii) In training to be an electrologist or a health care professional;

(3) May not have a household member who is an electrologist, a health care professional, in training to be an electrologist, or in training to be a health care professional; and

(4) May not:

(i) Participate or ever have participated in a commercial or professional field related to electrology;

(ii) Have a household member who participates in a commercial or professional field related to electrology; or

(iii) Have, or have had within 2 years before appointment, a substantial financial interest in a person regulated by the Board.

(f) (1) The term of a member is 4 years.

(2) The terms of the members are staggered as required by the provisions for members of the Committee on July 1, 2003.

(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 two consecutive full terms.

(6) To the extent practicable, the Board shall fill any vacancy on the Committee within 60 days of the date of the vacancy.

(G) A MAJORITY OF THE FULL AUTHORIZED MEMBERSHIP OF THE COMMITTEE IS A QUORUM.

(H) IN ADDITION TO ANY OTHER MEETING REQUIREMENTS OF THIS TITLE, THE COMMITTEE SHALL MEET:

(1) AT THE REQUEST OF THE EXECUTIVE DIRECTOR OF THE BOARD; OR

(2) AS NECESSARY TO CONDUCT BOARD BUSINESS.

(I) IN ACCORDANCE WITH THE STATE BUDGET, EACH MEMBER OF THE COMMITTEE IS ENTITLED TO:

(1) COMPENSATION, AT A RATE DETERMINED BY THE BOARD, FOR EACH DAY, OR PART OF A DAY, ON WHICH THE MEMBER IS ENGAGED IN THE DUTIES OF THE COMMITTEE; AND

(2) REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS.

[(g)**] (J)** (1) The Board may remove a member for incompetence or misconduct.

(2) The Board may remove a member who is absent from two successive Committee meetings without adequate reason.

8–6B–08.

(e) **(1)** Except as otherwise provided in this subtitle, **[**the**]** **EACH** applicant shall pass **[**an examination approved by the Board**]:**

(I) A NATIONAL CERTIFICATION EXAMINATION DEVELOPED BY THE AMERICAN ELECTROLOGY ASSOCIATION OR ITS SUCCESSOR, AS APPROVED BY THE BOARD; AND

(II) A CLINICAL EXAMINATION ADMINISTERED BY THE BOARD.

(2) APPLICANTS ARE RESPONSIBLE FOR SCHEDULING THE NATIONAL AND CLINICAL EXAMINATIONS.

8–6B–10.

(b) (1) The Board shall give examinations to applicants **[**at least once a year, at the times and places that the Board determines**]**.

(2) The Board may give reexaminations to applicants who fail all or part of **[**the**]** **AN** examination **[**at the times and places that the Board determines**]**.

8–6B–14.

(c) **(1)** At least **[**1 month**]** **3 MONTHS** before **[**the**]** **A** license expires, the Board shall send **A RENEWAL NOTICE** to the licensee, by**:**

(I) **[**first–class**]** **FIRST–CLASS** mail to the last known **MAILING** address of the licensee**[**,**]; OR**

(II) ELECTRONIC MEANS TO THE LAST KNOWN ELECTRONIC ADDRESS OF THE LICENSEE.

(2) **[**a**]** **A** renewal notice **[**that states**]** **SHALL STATE**:

[(1)**]** **(I)** The date on which the current license expires;

[(2)**]** **(II)** The date by which the renewal application must be received by the Board for the renewal to be issued and mailed before the license expires; and

[(3)**]** **(III)** The amount of the renewal fee.

(k) (1) (i) Beginning January **[**2008**] 2011**, the Board shall begin a process requiring criminal history records checks on selected annual renewal applicants as determined by regulations adopted by the Board in accordance with § 8–303 of this title.

(ii) An additional criminal history records check shall be performed every **[**10**] 12** years thereafter.

(2) On receipt of the criminal history record information of a licensee forwarded to the Board in accordance with § 8–303 of this title, in determining whether to renew a license, the Board shall consider:

(i) The age at which the crime was committed;

(ii) The circumstances surrounding the crime;

(iii) The length of time that has passed since the crime;

(iv) Subsequent work history;

(v) Employment and character references; and

(vi) Other evidence that demonstrates that the licensee does not pose a threat to the public health or safety.

(3) The Board may not renew a license if the criminal history record information required under § 8–303 of this title has not been received.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 50

(Senate Bill 247)

AN ACT concerning

Hazardous Material Response Team Employees – Death Benefits and Funeral Expenses – Local Government Agencies

FOR the purpose of providing that certain individuals employed as hazardous material response team employees for certain local government agencies are eligible for certain death benefits and funeral expenses under certain circumstances;

providing that certain benefits may only be paid if local government agencies ~~may place~~ maintain in reserve ~~each fiscal year~~ a certain amount to pay a certain death benefit and funeral benefit ~~under certain circumstances~~; requiring a local government agency, if a certain determination is made to pay a certain benefit, to pay to the Department of Public Safety and Correctional Services funds required to pay the benefit; and generally relating to benefits for hazardous material response team employees employed by local government agencies.

BY repealing and reenacting, with amendments,
Article – Public Safety
Section 1–202(a), (b), and (d)
Annotated Code of Maryland
(2003 Volume and 2009 Supplement)

BY repealing and reenacting, without amendments,
Article – Public Safety
Section 1–202(a–1), (g), and (h)
Annotated Code of Maryland
(2003 Volume and 2009 Supplement)

BY adding to
Article – Public Safety
Section 1–202(j)
Annotated Code of Maryland
(2003 Volume and 2009 Supplement)

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

Article – Public Safety

1–202.

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

(2) (i) "Child" means a natural or adopted, legitimate or illegitimate child or stepchild of the decedent.

(ii) "Child" includes a child or stepchild born posthumously.

(3) "Correctional officer" has the meaning stated in § 8–201(e)(1) of the Correctional Services Article.

(4) "Hazardous material" means any substance regulated as a hazardous material under Title 49 of the Code of Federal Regulations.

(5) "Hazardous material response team employee" means an employee of the Department of the Environment **OR A LOCAL GOVERNMENT AGENCY** who is on call 24 hours a day to provide emergency response to a discharge of oil or a release of hazardous material or other emergency response activity.

(6) (i) "Law enforcement officer" has the meaning stated in § 3–101 of this article.

(ii) "Law enforcement officer" includes:

1. an officer who serves in a probationary status; and

2. an officer who serves at the pleasure of the appointing authority of a county or municipal corporation.

(7) "Performance of duties" includes, in the case of a volunteer or career firefighter, public safety aviation employee, rescue squad member, or hazardous material response team employee:

(i) actively participating in fighting a fire;

(ii) going to or from a fire;

(iii) performing other duties necessary to the operation or maintenance of the fire company;

(iv) actively participating in the ambulance, advanced life support, or rescue work of an advanced life support unit or a fire, ambulance, or rescue company, including going to or from an emergency or rescue;

(v) providing emergency or rescue assistance, whether acting alone or at the direction of or with a fire, ambulance, or rescue company or advanced life support unit;

(vi) actively participating in flight operations as a crew member in a rotary or fixed wing aircraft; and

(vii) providing emergency response to a discharge of oil or a release of hazardous material or other emergency response activity.

(8) "Public safety aviation employee" includes a pilot and aviation maintenance technician employed by the State.

(9) "Stepchild" means a child of the surviving spouse who was living with or dependent for support on the decedent at the time of the decedent's death.

(a–1) For purposes of this section, an individual served in the Afghanistan or Iraq conflict if the individual was a member of the uniform services of the United States who served in:

(1) Afghanistan or contiguous air space, as defined in federal regulations, on or after October 24, 2001, and before a terminal date to be prescribed by the United States Secretary of Defense; or

(2) Iraq or contiguous waters or air space, as defined in federal regulations, on or after March 19, 2003, and before a terminal date to be prescribed by the United States Secretary of Defense.

(b) (1) **[**Subject**] EXCEPT AS PROVIDED IN SUBSECTION (J) OF THIS SECTION AND SUBJECT** to subsection (c) of this section and paragraph (2) of this subsection, a death benefit of $125,000 shall be paid to the surviving spouse, child, dependent parent, or estate of each of the following individuals who is killed or dies in the performance of duties on or after January 1, 2006:

(i) a law enforcement officer;

(ii) a correctional officer;

(iii) a volunteer or career firefighter or rescue squad member;

(iv) a sworn member of the office of State Fire Marshal;

(v) a public safety aviation employee;

(vi) a Maryland resident who was a member of the uniform services of the United States serving in the Afghanistan or Iraq conflict; or

(vii) a hazardous material response team employee.

(2) For fiscal year 2009, and for each following fiscal year, the death benefit provided in the prior fiscal year shall be adjusted by any change in the calendar year preceding the fiscal year in the Consumer Price Index **[**(all urban consumers – United States city average – all items)**] (ALL URBAN CONSUMERS – UNITED STATES CITY AVERAGE – ALL ITEMS)**, as published by the United States Bureau of Labor Statistics.

(3) A death benefit under this subsection is in addition to:

(i) any workers' compensation benefits;

(ii) the proceeds of any form of life insurance, regardless of who paid the premiums on the insurance; and

(iii) the funeral benefit provided under subsection (d) of this section.

(d) (1) **[**Reasonable**]** **EXCEPT AS PROVIDED IN SUBSECTION (J) OF THIS SECTION, REASONABLE** funeral expenses, not exceeding $10,000, shall be paid to the surviving spouse, child, parent, or estate of each of the following individuals who is killed or dies in the performance of duties:

(i) a law enforcement officer;

(ii) a correctional officer;

(iii) a volunteer or career firefighter or rescue squad member;

(iv) a public safety aviation employee;

(v) a sworn member of the office of State Fire Marshal; or

(vi) a hazardous material response team employee.

(2) The funeral benefit under this subsection shall be reduced by the amount of any related workers' compensation benefits paid under § 9–689 of the Labor and Employment Article.

(g) If the Secretary of Public Safety and Correctional Services determines that the benefits under this section are to be paid, the benefits shall be paid:

(1) to the decedent's surviving spouse;

(2) if no individual is eligible under item (1) of this subsection, to each surviving child of the decedent in equal shares;

(3) (i) for a death benefit under subsection (b) of this section, if no individual is eligible under item (1) or (2) of this subsection, to the decedent's surviving parent, if the parent was a dependent as defined in § 152 of the Internal Revenue Code; or

(ii) for any other benefit under this section, if no individual is eligible under item (1) or (2) of this subsection, to the decedent's surviving parent; or

(4) if no individual is eligible under item (1), (2), or (3) of this subsection, to the decedent's estate.

(h) Payments under this section shall be made out of money that the Governor includes for that purpose in the State budget.

(J) (1) THIS SUBSECTION ONLY APPLIES TO A DEATH BENEFIT UNDER SUBSECTION (B) OF THIS SECTION OR A FUNERAL BENEFIT UNDER SUBSECTION (D) OF THIS SECTION PAYABLE ON BEHALF OF A HAZARDOUS ~~MATERIALS~~ MATERIAL RESPONSE TEAM EMPLOYEE EMPLOYED BY A LOCAL GOVERNMENT AGENCY.

(2) (I) A DEATH BENEFIT OR FUNERAL BENEFIT MAY ONLY BE PAID IF THE LOCAL GOVERNMENT AGENCY THAT EMPLOYS THE HAZARDOUS ~~MATERIALS~~ MATERIAL RESPONSE TEAM EMPLOYEE ~~PLACES~~ MAINTAINS IN RESERVE ~~EACH FISCAL YEAR~~ THE AMOUNT NEEDED TO PAY FOR ONE DEATH BENEFIT AND ONE FUNERAL EXPENSE FOR A HAZARDOUS MATERIAL RESPONSE TEAM EMPLOYEE.

(II) IF THE SECRETARY OF PUBLIC SAFETY AND CORRECTIONAL SERVICES DETERMINES THAT A DEATH BENEFIT OR FUNERAL BENEFIT IS TO BE PAID, THE LOCAL GOVERNMENT AGENCY THAT EMPLOYED THE HAZARDOUS MATERIAL RESPONSE TEAM EMPLOYEE SHALL PAY TO THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES THE FUNDS REQUIRED TO PAY THE BENEFIT.

(3) (I) A LOCAL GOVERNMENT AGENCY IS NOT REQUIRED TO PLACE FUNDS IN RESERVE UNDER PARAGRAPH (2)(I) OF THIS SUBSECTION.

(II) IF A LOCAL GOVERNMENT AGENCY DOES NOT PLACE FUNDS IN RESERVE UNDER PARAGRAPH (2)(I) OF THIS SUBSECTION, A DEATH BENEFIT OR FUNERAL BENEFIT AS PROVIDED FOR UNDER THIS ~~SECTION~~ SUBSECTION MAY NOT BE PAID.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 51

(House Bill 516)

AN ACT concerning

Hazardous Material Response Team Employees – Death Benefits and Funeral Expenses – Local Government Agencies

FOR the purpose of providing that certain individuals employed as hazardous material response team employees for certain local government agencies are eligible for certain death benefits and funeral expenses under certain circumstances; providing that certain benefits may only be paid if local government agencies ~~may place~~ maintain in reserve ~~each fiscal year~~ a certain amount to pay a certain death benefit and funeral benefit ~~under certain circumstances~~; requiring a local government agency, if a certain determination is made to pay a certain benefit, to pay to the Department of Public Safety and Correctional Services funds required to pay the benefit; and generally relating to benefits for hazardous material response team employees employed by local government agencies.

BY repealing and reenacting, with amendments,
Article – Public Safety
Section 1–202(a), (b), and (d)
Annotated Code of Maryland
(2003 Volume and 2009 Supplement)

BY repealing and reenacting, without amendments,
Article – Public Safety
Section 1–202(a–1), (g), and (h)
Annotated Code of Maryland
(2003 Volume and 2009 Supplement)

BY adding to
Article – Public Safety
Section 1–202(j)
Annotated Code of Maryland
(2003 Volume and 2009 Supplement)

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

Article – Public Safety

1–202.

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

(2) (i) "Child" means a natural or adopted, legitimate or illegitimate child or stepchild of the decedent.

(ii) "Child" includes a child or stepchild born posthumously.

(3) "Correctional officer" has the meaning stated in § 8–201(e)(1) of the Correctional Services Article.

(4) "Hazardous material" means any substance regulated as a hazardous material under Title 49 of the Code of Federal Regulations.

(5) "Hazardous material response team employee" means an employee of the Department of the Environment **OR A LOCAL GOVERNMENT AGENCY** who is on call 24 hours a day to provide emergency response to a discharge of oil or a release of hazardous material or other emergency response activity.

(6) (i) "Law enforcement officer" has the meaning stated in § 3–101 of this article.

(ii) "Law enforcement officer" includes:

1. an officer who serves in a probationary status; and

2. an officer who serves at the pleasure of the appointing authority of a county or municipal corporation.

(7) "Performance of duties" includes, in the case of a volunteer or career firefighter, public safety aviation employee, rescue squad member, or hazardous material response team employee:

(i) actively participating in fighting a fire;

(ii) going to or from a fire;

(iii) performing other duties necessary to the operation or maintenance of the fire company;

(iv) actively participating in the ambulance, advanced life support, or rescue work of an advanced life support unit or a fire, ambulance, or rescue company, including going to or from an emergency or rescue;

(v) providing emergency or rescue assistance, whether acting alone or at the direction of or with a fire, ambulance, or rescue company or advanced life support unit;

(vi) actively participating in flight operations as a crew member in a rotary or fixed wing aircraft; and

(vii) providing emergency response to a discharge of oil or a release of hazardous material or other emergency response activity.

(8) "Public safety aviation employee" includes a pilot and aviation maintenance technician employed by the State.

(9) "Stepchild" means a child of the surviving spouse who was living with or dependent for support on the decedent at the time of the decedent's death.

(a–1) For purposes of this section, an individual served in the Afghanistan or Iraq conflict if the individual was a member of the uniform services of the United States who served in:

(1) Afghanistan or contiguous air space, as defined in federal regulations, on or after October 24, 2001, and before a terminal date to be prescribed by the United States Secretary of Defense; or

(2) Iraq or contiguous waters or air space, as defined in federal regulations, on or after March 19, 2003, and before a terminal date to be prescribed by the United States Secretary of Defense.

(b) (1) **[**Subject**] EXCEPT AS PROVIDED IN SUBSECTION (J) OF THIS SECTION AND SUBJECT** to subsection (c) of this section and paragraph (2) of this subsection, a death benefit of $125,000 shall be paid to the surviving spouse, child, dependent parent, or estate of each of the following individuals who is killed or dies in the performance of duties on or after January 1, 2006:

(i) a law enforcement officer;

(ii) a correctional officer;

(iii) a volunteer or career firefighter or rescue squad member;

(iv) a sworn member of the office of State Fire Marshal;

(v) a public safety aviation employee;

(vi) a Maryland resident who was a member of the uniform services of the United States serving in the Afghanistan or Iraq conflict; or

(vii) a hazardous material response team employee.

(2) For fiscal year 2009, and for each following fiscal year, the death benefit provided in the prior fiscal year shall be adjusted by any change in the calendar year preceding the fiscal year in the Consumer Price Index **[**(all urban consumers – United States city average – all items)**] (ALL URBAN CONSUMERS – UNITED STATES CITY AVERAGE – ALL ITEMS)**, as published by the United States Bureau of Labor Statistics.

(3) A death benefit under this subsection is in addition to:

(i) any workers' compensation benefits;

(ii) the proceeds of any form of life insurance, regardless of who paid the premiums on the insurance; and

(iii) the funeral benefit provided under subsection (d) of this section.

(d) (1) **[**Reasonable**]** **EXCEPT AS PROVIDED IN SUBSECTION (J) OF THIS SECTION, REASONABLE** funeral expenses, not exceeding $10,000, shall be paid to the surviving spouse, child, parent, or estate of each of the following individuals who is killed or dies in the performance of duties:

(i) a law enforcement officer;

(ii) a correctional officer;

(iii) a volunteer or career firefighter or rescue squad member;

(iv) a public safety aviation employee;

(v) a sworn member of the office of State Fire Marshal; or

(vi) a hazardous material response team employee.

(2) The funeral benefit under this subsection shall be reduced by the amount of any related workers' compensation benefits paid under § 9–689 of the Labor and Employment Article.

(g) If the Secretary of Public Safety and Correctional Services determines that the benefits under this section are to be paid, the benefits shall be paid:

(1) to the decedent's surviving spouse;

(2) if no individual is eligible under item (1) of this subsection, to each surviving child of the decedent in equal shares;

(3) (i) for a death benefit under subsection (b) of this section, if no individual is eligible under item (1) or (2) of this subsection, to the decedent's surviving parent, if the parent was a dependent as defined in § 152 of the Internal Revenue Code; or

(ii) for any other benefit under this section, if no individual is eligible under item (1) or (2) of this subsection, to the decedent's surviving parent; or

(4) if no individual is eligible under item (1), (2), or (3) of this subsection, to the decedent's estate.

(h) Payments under this section shall be made out of money that the Governor includes for that purpose in the State budget.

(J) (1) THIS SUBSECTION APPLIES ONLY TO A DEATH BENEFIT UNDER SUBSECTION (B) OF THIS SECTION OR A FUNERAL BENEFIT UNDER SUBSECTION (D) OF THIS SECTION PAYABLE ON BEHALF OF A HAZARDOUS MATERIAL RESPONSE TEAM EMPLOYEE EMPLOYED BY A LOCAL GOVERNMENT AGENCY.

(2) (I) A DEATH BENEFIT OR FUNERAL BENEFIT MAY ONLY BE PAID IF THE LOCAL GOVERNMENT AGENCY THAT EMPLOYS THE HAZARDOUS MATERIAL RESPONSE TEAM EMPLOYEE ~~PLACES~~ MAINTAINS IN RESERVE ~~EACH FISCAL YEAR~~ THE AMOUNT NEEDED TO PAY FOR ONE DEATH BENEFIT AND ONE FUNERAL EXPENSE FOR A HAZARDOUS MATERIAL RESPONSE TEAM EMPLOYEE.

(II) IF THE SECRETARY OF PUBLIC SAFETY AND CORRECTIONAL SERVICES DETERMINES THAT A DEATH BENEFIT OR FUNERAL BENEFIT IS TO BE PAID, THE LOCAL GOVERNMENT AGENCY THAT EMPLOYED THE HAZARDOUS MATERIAL RESPONSE TEAM EMPLOYEE SHALL PAY TO THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES THE FUNDS REQUIRED TO PAY THE BENEFIT.

(3) (I) A LOCAL GOVERNMENT AGENCY IS NOT REQUIRED TO PLACE FUNDS IN RESERVE UNDER PARAGRAPH (2)(I) OF THIS SUBSECTION.

(II) IF A LOCAL GOVERNMENT AGENCY DOES NOT PLACE FUNDS IN RESERVE UNDER PARAGRAPH (2)(I) OF THIS SUBSECTION, A DEATH BENEFIT OR FUNERAL BENEFIT AS PROVIDED FOR UNDER THIS ~~SECTION~~ SUBSECTION MAY NOT BE PAID.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 52

(Senate Bill 249)

AN ACT concerning

Public Utilities and Washington Suburban Sanitary Commission – Cross–References

FOR the purpose of correcting certain cross–references to the Public Utility Companies Article in the Annotated Code of Maryland to reflect the renaming of the article to be the Public Utilities Article; correcting certain cross–references to Article 29 – Washington Suburban Sanitary District in the Annotated Code of Maryland to reflect the nonsubstantive revision of the article; correcting certain cross–references in the Public Utility Companies Article; making stylistic changes; and generally relating to the nonsubstantive revision of Article 29 of the Code and to the renaming of the Public Utility Companies Article.

BY repealing and reenacting, without amendments,
Article 1 – Rules of Interpretation
Section 25(a)
Annotated Code of Maryland
(2005 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article 1 – Rules of Interpretation
Section 25(z)
Annotated Code of Maryland
(2005 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article 23 – Miscellaneous Companies
Section 182(a)
Annotated Code of Maryland
(2005 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article 24 – Political Subdivisions – Miscellaneous Provisions
Section 5–101(a) and 9–606(c)(3)
Annotated Code of Maryland
(2005 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article 28 – Maryland–National Capital Park and Planning Commission
Section 5–118(b)
Annotated Code of Maryland
(2003 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – Business Occupations and Professions
Section 11–502(a)
Annotated Code of Maryland
(2004 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,

Article – Commercial Law
Section 11–203(a)(3), 11–701(d), and 13–301(15)
Annotated Code of Maryland
(2005 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – Courts and Judicial Proceedings
Section 4–401(10)(iii) and (iv)
Annotated Code of Maryland
(2006 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – Criminal Law
Section 3–906(a), 6–303(a), 6–304(a), 6–305(b)(2), and 6–505(a)
Annotated Code of Maryland
(2002 Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – Economic Development
Section 10–801(f)(7)
Annotated Code of Maryland
(2008 Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – Education
Section 15–109(b)
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – Environment
Section 2–402(3), 2–405(a)(1), (b), (e)(1), and (f), 2–1001(d), 5–203.1(b)(2)(i), 5–502(e), 7–506(i)(3), 7–514(d)(3), 9–726.1(d)(2), and 16–307(a)(5)(ii)
Annotated Code of Maryland
(2007 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – Housing and Community Development
Section 2–102(a)(10)
Annotated Code of Maryland
(2006 Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – Labor and Employment
Section 5.5–106(a)(2) and 8–206(e)(3)
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – Natural Resources
Section 3–128(b), 3–302(a)(2), 3–304(2), 3–305(a)(3) and (d), 3–306(a) and (c), 3–307, 3–919(b), 5–403(e)(1), 5–409(c)(1), 5–1602(b)(5), and 5–1603(f)
Annotated Code of Maryland
(2005 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – Public Safety
Section 1–310(f), 12–502(a)(5), and 12–506(b)(1)(vii)
Annotated Code of Maryland
(2003 Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – Public Utility Companies
Section 1–101(a), 2–106(d)(1), 2–110(c)(1)(ii), 2–110.1(b)(4) and (d), 2–112(b)(2), 2–113(b), 2–115(a), 2–117(a)(1), 2–204(a)(2), 2–310, 3–101(c), 3–102(a)(2), 3–103(a), 3–112(a), 4–206(c), 4–501(a)(2), 4–502, 5–301(b), 7–204(a)(1), 7–505(b)(13)(i), 7–506(d), 7–507(l)(3), 7–711(a), 8–409(b)(1), 9–204, 9–207(d), 9–208(d), 10–110(b), 10–202(b), 11–102(b)(2), 13–101(b) and (c), 13–201(b)(1) and (c)(1), 13–202(c)(1), 13–206, 13–207, and 13–208(a)(1) and (c)(3)
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – Real Property
Section 11–131(c)(2)
Annotated Code of Maryland
(2003 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – State Government
Section 9–20A–01(l), 9–20B–05(e)(5), (f)(3) and (4), (g)(2), and (i), 15–821(d), 15–829(c)(3)(iv), 15–838(b)(2)(iv), 15–848(b)(3)(iv), and 15–853(c)(3)(iv)
Annotated Code of Maryland
(2009 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – State Personnel and Pensions
Section 4–401(4)
Annotated Code of Maryland
(2009 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – Tax – General

Section 8–401(c)(2)(ii), 8–407, and 10–704.1(a)(3) and (b)(2)
Annotated Code of Maryland
(2004 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – Tax – Property
Section 9–239(a)(4) and (5) and 12–103(c)(2)
Annotated Code of Maryland
(2007 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – Transportation
Section 6–301(b)(3) and 7–208(f)
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – Transportation
Section 13–423(a)
Annotated Code of Maryland
(2009 Replacement Volume and 2009 Supplement)

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

Article 1 – Rules of Interpretation

25.

(a) Unnumbered revised articles of the Annotated Code of Maryland may be cited as stated in this section.

(z) A section of the **[**Public Utility Companies Article**]** **PUBLIC UTILITIES ARTICLE** may be cited as: "§ ___ of the **[**Public Utility Companies Article**]** **PUBLIC UTILITIES ARTICLE**".

Article 23 – Miscellaneous Companies

182.

(a) Subject to subsection (b) of this section, a municipal corporation of this State now owning or hereafter acquiring an electric plant or gas plant, as defined in § 1–101 of the **[**Public Utility Companies Article**]** **PUBLIC UTILITIES ARTICLE**, may sell, lease, exchange or otherwise dispose of the electric plant or gas plant, or any part of or interest in either, to any electric company or gas company, as defined in § 1–101

of the **[**Public Utility Companies Article**]** **PUBLIC UTILITIES ARTICLE**, on terms and conditions determined by the municipal corporation.

Article 24 – Political Subdivisions – Miscellaneous Provisions

5–101.

(a) In this section, "electric company" has the meaning stated in § 1–101 of the **[**Public Utility Companies Article**]** **PUBLIC UTILITIES ARTICLE**.

9–606.

(c) A tax imposed under this section does not apply to:

(3) Telephone lifeline service provided under § 8–201 of the **[**Public Utility Companies Article**]** **PUBLIC UTILITIES ARTICLE**.

Article 28 – Maryland–National Capital Park and Planning Commission

5–118.

(b) The Commission may use for park purposes the lands acquired for flood control and navigation projects as provided in **[**Article 29, §§ 13–101 and 13–102 of the Code**]** **TITLE 9 OF THIS ARTICLE**.

Article – Business Occupations and Professions

11–502.

(a) The Public Service Commission shall establish pilotage fees in accordance with § 4–303 of the **[**Public Utility Companies Article**]** **PUBLIC UTILITIES ARTICLE**.

Article – Commercial Law

11–203.

(a) This subtitle does not make illegal the activity of:

(3) A public service company, as defined in § 1–101 of the **[**Public Utility Companies Article**]** **PUBLIC UTILITIES ARTICLE**, or a rating organization or bureau representing the company, to the extent that the activity is subject to the jurisdiction of the Public Service Commission or authorized by federal law governing interstate commerce;

11–701.

(d) "Telephone company" has the meaning stated in § 1–101 of the **[**Public Utility Companies Article**] PUBLIC UTILITIES ARTICLE**.

13–301.

Unfair or deceptive trade practices include any:

(15) Act or omission that relates to a residential building and that is chargeable as a misdemeanor under or otherwise violates a provision of the Energy Conservation Building Standards Act, Title 7, Subtitle 4 of the **[**Public Utility Companies Article**] PUBLIC UTILITIES ARTICLE**.

Article – Courts and Judicial Proceedings

4–401.

Except as provided in § 4–402 of this subtitle, and subject to the venue provisions of Title 6 of this article, the District Court has exclusive original civil jurisdiction in:

(10) A proceeding for adjudication of:

(iii) A **[**WSSC**] WASHINGTON SUBURBAN SANITARY COMMISSION** infraction **[**as defined in Article 29, § 18–104.1 of the Code**] UNDER § 29–102 OF THE PUBLIC UTILITIES ARTICLE**, concerning rules and regulations governing publicly owned watershed property;

(iv) A **[**WSSC**] WASHINGTON SUBURBAN SANITARY COMMISSION** infraction **[**as defined in Article 29, § 18–104.2 of the Code**] UNDER § 29–101 OF THE PUBLIC UTILITIES ARTICLE**, concerning **[**WSSC**] WASHINGTON SUBURBAN SANITARY COMMISSION** regulations governing:

1. Erosion and sediment control for utility construction;

2. Plumbing, gas fitting, and sewer cleaning;

3. Required permits for utility construction; and

4. The **[**WSSC**] WASHINGTON SUBURBAN SANITARY COMMISSION** Pretreatment Program;

Article – Criminal Law

3–906.

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

(2) "Telegraph company" has the meaning stated in § 1–101 of the **[**Public Utility Companies Article**]** **PUBLIC UTILITIES ARTICLE**.

(3) "Telegraph lines" has the meaning stated in § 1–101 of the **[**Public Utility Companies Article**]** **PUBLIC UTILITIES ARTICLE**.

(4) "Telephone company" has the meaning stated in § 1–101 of the **[**Public Utility Companies Article**]** **PUBLIC UTILITIES ARTICLE**.

(5) "Telephone lines" has the meaning stated in § 1–101 of the **[**Public Utility Companies Article**]** **PUBLIC UTILITIES ARTICLE**.

6–303.

(a) In this section, "electric company" has the meaning stated in § 1–101 of the **[**Public Utility Companies Article**]** **PUBLIC UTILITIES ARTICLE**.

6–304.

(a) In this section, "gas company" has the meaning stated in § 1–101 of the **[**Public Utility Companies Article**]** **PUBLIC UTILITIES ARTICLE**.

6–305.

(b) This section does not apply to:

(2) governmental regulation of:

(i) water equipment; or

(ii) water companies, as defined in § 1–101 of the **[**Public Utility Companies Article**]** **PUBLIC UTILITIES ARTICLE**.

6–505.

(a) In this section, "railroad" has the meaning stated in § 1–101 of the **[**Public Utility Companies Article**]** **PUBLIC UTILITIES ARTICLE**.

Article – Economic Development

10–801.

(f) "Clean energy" includes:

(7) other qualifying biomass as defined in § 7–701 of the **[**Public Utility Companies Article**] PUBLIC UTILITIES ARTICLE**;

Article – Education

15–109.

(b) A person that enters into an agreement or lease with a public institution of higher education to facilitate or undertake the financing, whole or partial ownership, operation, generation, construction, distribution, or maintenance of an on–site steam or electric generation, production, or distribution system for the institution may not be considered a public service company, as defined in § 1–101 of the **[**Public Utility Companies Article**] PUBLIC UTILITIES ARTICLE**, subject to the jurisdiction of the Public Service Commission as a result of the financing, leasing, ownership, operation, control, management, construction, distribution, or maintenance of the steam or electric system.

Article – Environment

2–402.

The Department may not require a permit or registration for:

(3) The construction of a generating station constructed by a person that is required to obtain a certificate of public convenience and necessity under §§ 7–207 and 7–208 of the **[**Public Utility Companies Article**] PUBLIC UTILITIES ARTICLE** and regulations adopted by the Public Service Commission;

2–405.

(a) (1) Whenever the Public Service Commission notifies the Secretary of an application for a certificate of public convenience and necessity under § 7–207 of the **[**Public Utility Companies Article**] PUBLIC UTILITIES ARTICLE**, the Secretary shall prepare a recommendation in connection with the permit or registration required by this subtitle. The recommendation shall be presented at the hearing required by § 7–207 of the **[**Public Utility Companies Article**] PUBLIC UTILITIES ARTICLE**.

(b) Subject to judicial review as provided under Title 3, Subtitle 2 of the **[**Public Utility Companies Article**] PUBLIC UTILITIES ARTICLE**, the decision of the Public Service Commission in connection with a certificate of public convenience and necessity or a filing under § 7–206 of the **[**Public Utility Companies Article**] PUBLIC UTILITIES ARTICLE** is binding on the Secretary.

(e) (1) Before issuing an operating permit which requires the installation of pollution control equipment or a change in the method of operation of the generating station or unit to any person required to obtain a certificate of public

convenience and necessity, the Secretary shall notify the applicant and the Public Service Commission and request that the Public Service Commission institute a hearing as required by § 7–206 of the **[**Public Utility Companies Article**]** **PUBLIC UTILITIES ARTICLE**.

(f) (1) The Commission shall conduct the hearing required by subsection (e) of this section in the manner set forth in §§ 7–205 and 7–207 of the **[**Public Utility Companies Article**]** **PUBLIC UTILITIES ARTICLE**.

(2) The Department shall incorporate the Commission's order rendered in accordance with § 7–206 of the **[**Public Utility Companies Article**]** **PUBLIC UTILITIES ARTICLE**.

2–1001.

(d) "PJM Region" has the meaning stated under § 7–701 of the **[**Public Utility Companies Article**]** **PUBLIC UTILITIES ARTICLE**.

5–203.1.

(b) (2) The following are exempt from the application fees established under paragraph (1) of this subsection:

(i) Regulated activities conducted by the State, a municipal corporation, county, bicounty or multicounty agency under Article 28 **[**or Article 29**]** of the Code **OR DIVISION II OF THE PUBLIC UTILITIES ARTICLE**, or a unit of the State, a municipal corporation, or a county;

5–502.

(e) Notwithstanding any other provision of this subtitle, an application for a certificate of public convenience and necessity associated with power plant construction which involves use or diversion of waters of the State made to the Public Service Commission under the **[**Public Utility Companies Article**]** **PUBLIC UTILITIES ARTICLE** constitutes an application for the permit required by this section, and the provisions of § 3–306 of the Natural Resources Article apply. If an application is made to the Public Service Commission, the hearing provided for by this subtitle is not required. All evidence relevant to the purposes of this subtitle shall be presented at the hearing held by the Public Service Commission, as required by § 7–207 of the **[**Public Utility Companies Article**]** **PUBLIC UTILITIES ARTICLE**. The permit required by this subtitle is included in the certificate of public convenience and necessity issued by the Public Service Commission.

7–506.

(i) (3) (i) If a determination by the Department that it has no further requirements at a property is conditioned on certain uses of the property or on the maintenance of certain conditions, the participant shall send a copy of the determination to a one–call system as defined in § 12–101 of the **[**Public Utility Companies Article**] PUBLIC UTILITIES ARTICLE**.

(ii) Any obligation for the participant to send the information required under subparagraph (i) of this paragraph does not negate the obligation of an owner as defined in § 12–101(f) of the **[**Public Utility Companies Article**] PUBLIC UTILITIES ARTICLE** to become a member of the one–call system under Title 12 of the **[**Public Utility Companies Article**] PUBLIC UTILITIES ARTICLE**.

7–514.

(d) (3) (i) If a certificate of completion is conditioned on the permissible use of the property, the participant shall send a copy of the certificate of completion to a one–call system, as defined in § 12–101 of the **[**Public Utility Companies Article**] PUBLIC UTILITIES ARTICLE**.

(ii) Any obligation for the participant to send the information required under subparagraph (i) of this paragraph does not negate the obligation of an owner as defined under § 12–101(f) of the **[**Public Utility Companies Article**] PUBLIC UTILITIES ARTICLE** to become a member of the one–call system under Title 12 of the **[**Public Utility Companies Article**] PUBLIC UTILITIES ARTICLE**.

9–726.1.

(d) (2) A private water company may apply a reasonable reconnection charge, in accordance with the ratemaking requirements of Title 4 of the **[**Public Utility Companies Article**] PUBLIC UTILITIES ARTICLE**, when it reconnects water service.

16–307.

(a) (5) (ii) If an electric company, as defined in § 1–101 of the **[**Public Utility Companies Article**] PUBLIC UTILITIES ARTICLE**, applies to the Public Service Commission for a certificate of public convenience associated with power plant construction which involves private wetlands, the hearing and permit procedure shall be in accordance with § 3–306 of the Natural Resources Article.

Article – Housing and Community Development

2–102.

(a) The Department shall:

(10) develop and implement a weatherization program in accordance with Title 4 of this article and administer the low–income weatherization component of the electric universal service program in accordance with § 7–512.1 of the **[**Public Utility Companies Article**]** **PUBLIC UTILITIES ARTICLE**.

Article – Labor and Employment

5.5–106.

(a) (2) Unless the Board of Public Works exercises the option under subsection (b) of this section, the Public Service Commission shall pay the cost of administering this title from money the Public Service Commission receives under § 2–110 of the **[**Public Utility Companies Article**]** **PUBLIC UTILITIES ARTICLE**.

8–206.

(e) Work is not covered employment when performed by a taxicab driver who uses a taxicab or taxicab equipment of a taxicab business that is carried on by the holder of a taxicab permit if the Secretary is satisfied that:

(3) the driver has access to the taxicab or taxicab equipment at all hours and, subject to the **[**Public Utility Companies Article**]** **PUBLIC UTILITIES ARTICLE**, may set personal work hours and places; and

Article – Natural Resources

3–128.

(b) The Service may not be deemed to be a public service company within the meaning of the **[**Public Utility Companies Article**]** **PUBLIC UTILITIES ARTICLE**, and, except as provided in this section and in § 3–102(b) of this subtitle, the jurisdiction and powers of the Public Service Commission do not extend to the Service.

3–302.

(a) (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**]** **PUBLIC UTILITIES 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.

3–304.

In cooperation with the Public Service Commission, the Maryland Energy Administration, and the Secretary of the Environment, the Secretary shall implement a long–range environmental evaluation of power plant building sites projected for at least 10 years. To facilitate providing adequate electric power on reasonable schedules at reasonable costs with the least possible depreciation of the quality of Maryland's environment, the following responsibilities and procedures are set forth:

(2) Upon receipt of a ten–year plan from the Public Service Commission, the Secretary with the advice of the Secretary of the Environment and the Director of the Maryland Energy Administration and in accordance with paragraph (1) of this section and § 7–201 of the **[**Public Utility Companies Article**]** **PUBLIC UTILITIES ARTICLE**, shall prepare and submit, within 180 days a preliminary environmental statement on each possible and proposed site, including associated transmission routes. The statement, on the basis of the environmental research program, shall include but not be limited to the following considerations:

(i) The environmental impact at the proposed site;

(ii) Any adverse environmental effects which cannot be avoided if the proposed site is accepted;

(iii) Possible alternatives to the proposed site;

(iv) Any irreversible and irretrievable commitments of resources which would be involved at the proposed site if it is approved;

(v) Where appropriate, a discussion of problems and objections raised by other State and federal agencies and local entities;

(vi) A plan for monitoring environmental effects of the proposed action and provision for remedial actions if the monitoring reveals unanticipated environmental effects of significant adverse consequences; and

(vii) The ability to adequately provide emergency response plans to residents if a nuclear power plant is considered for location at a site.

The Secretary shall state to the Public Service Commission which possible and proposed sites, based on preliminary environmental statement, justify an unsuitable classification. Unless the electric company whose proposed site is involved offers the Secretary substantial evidence to the contrary, the site shall be deleted from the plan. The site may be included in a subsequent ten–year plan.

3–305.

(a) The expertise of the electric utilities in the basic requirements, including environmental considerations, of a site for power generation and generator lead route is a needed element in site selection. Therefore, for the purposes of insuring adequate power on reasonable schedules while also protecting the quality of the State's environment, site acquisition and generator lead route designation may occur as follows:

(3) Notwithstanding any other provision of this subtitle, the Secretary may acquire a site for an electric company if the Public Service Commission requests the Secretary to purchase a site under § 7–202 of the **[**Public Utility Companies Article**]** **PUBLIC UTILITIES ARTICLE**.

(d) An electric company as defined in § 1–101 of the **[**Public Utility Companies Article**]** **PUBLIC UTILITIES ARTICLE** may request from the Secretary an appropriate site in his possession under the provisions of this subtitle, and the Secretary shall make the site available. The electric utility may purchase the site. The purchase price shall be the fair market value of the site as determined by a committee of three independent qualified real estate appraisers, one of whom is chosen by the Secretary, one by the electric company making the application, and the third by the two appraisers first selected. Each party compensates its own appraiser and bears one–half the cost of the third appraiser. Receipts from the purchase transactions shall be deposited in the Fund.

3–306.

(a) Notwithstanding anything to the contrary in this article or the **[**Public Utility Companies Article**]** **PUBLIC UTILITIES ARTICLE**, on application to the Public Service Commission for a certificate of public convenience and necessity associated with power plant construction involving, but not limited to, use or diversion of the waters of the State, or private wetlands, the Commission shall notify immediately the Department of Natural Resources and the Department of the Environment of the application. The Commission shall supply the Department of Natural Resources and the Department of the Environment with any pertinent information available regarding the application. The Department of the Environment shall treat the application for a certificate of public convenience and necessity as an application for appropriation or use of waters of the State under Title 5 of the Environment Article and as an application for a license for dredging and filling under Title 16 of the Environment Article.

(c) The results and recommendations shall be open for public inspection and shall be presented by the Secretaries or their designees at the hearing the Commission holds as required by Title 7, Subtitle 2 of the **[**Public Utility Companies Article**]** **PUBLIC UTILITIES ARTICLE**. Within 15 days from the conclusion of the hearing, and based on the evidence there presented, the Secretaries jointly shall present their final

recommendation to the chairman of the Commission including, but not limited to, any specific conclusions as to any private wetlands involved and any specific conclusions as to any water use or restriction of water use involved.

3–307.

Judicial review shall in all instances include the right to appeal to the circuit courts as set forth in Title 3, Subtitle 2 of the **[**Public Utility Companies Article**]** **PUBLIC UTILITIES ARTICLE**.

3–919.

(b) The Authority shall not be deemed to be a public service company within the meaning of the **[**Public Utility Companies Article**]** **PUBLIC UTILITIES ARTICLE**, and the jurisdiction and powers of the Public Service Commission shall not extend to the Authority.

5–403.

(e) A county or municipality may not adopt a local law or ordinance for the planting, care, and protection of roadside trees that applies to:

(1) The cutting or clearing of public utility rights–of–way or land for electric generating stations licensed under § 7–204, § 7–205, § 7–207, or § 7–208 of the **[**Public Utility Companies Article**]** **PUBLIC UTILITIES ARTICLE**, provided that:

(i) Any required certificates of public convenience and necessity have been issued in accordance with § 5–1603(f) of this title; and

(ii) The cutting or clearing of the forest is conducted so as to minimize the loss of forest;

5–409.

(c) Notwithstanding the provisions of this section, the following shall obtain the permission of an owner before engaging in any act specified in subsection (a) of this section, but are not required to obtain the permission in writing or to display the written permission as provided in subsection (b) of this section:

(1) A public service company, as defined in § 1–101 of the **[**Public Utility Companies Article**]** **PUBLIC UTILITIES ARTICLE**; and

5–1602.

(b) The provisions of this subtitle do not apply to:

(5) The cutting or clearing of public utility rights–of–way or land for electric generating stations licensed pursuant to § 7–204, § 7–205, § 7–207, or § 7–208 of the **[**Public Utility Companies Article**]** **PUBLIC UTILITIES ARTICLE**, provided that:

(i) Any required certificates of public convenience and necessity have been issued in accordance with § 5–1603(f) of this subtitle; and

(ii) The cutting or clearing of the forest is conducted so as to minimize the loss of forest;

5–1603.

(f) After December 31, 1992, the Public Service Commission shall give due consideration to the need to minimize the loss of forest and the provisions for afforestation and reforestation set forth in this subtitle together with all applicable electrical safety codes, when reviewing applications for a certificate of public convenience and necessity issued pursuant to § 7–204, § 7–205, § 7–207, or § 7–208 of the **[**Public Utility Companies Article**]** **PUBLIC UTILITIES ARTICLE**.

Article – Public Safety

1–310.

(f) A CMRS provider that pays or collects 9–1–1 fees under this section has the same immunity from liability for transmission failures as that approved by the Public Service Commission for local exchange telephone companies that are subject to regulation by the Commission under the **[**Public Utility Companies Article**]** **PUBLIC UTILITIES ARTICLE**.

12–502.

(a) This subtitle does not alter or abrogate the authority of:

(5) the Public Service Commission to enforce the Energy Code defined under the Energy Conservation Building Standards Act, Title 7, Subtitle 4 of the **[**Public Utility Companies Article**]** **PUBLIC UTILITIES ARTICLE**.

12–506.

(b) (1) At a minimum, the Department shall include in the database:

(vii) the Energy Code defined under the Energy Conservation Building Standards Act, Title 7, Subtitle 4 of the **[**Public Utility Companies Article**]** **PUBLIC UTILITIES ARTICLE**;

Article – Public Utility Companies

1–101.

(a) In this **[**article**]** **DIVISION** the following words have the meanings indicated.

2–106.

(d) As the Commission directs, the General Counsel shall:

(1) represent the Commission in a proceeding if the Commission is a party to or desires to intervene in the proceeding, if the proceeding involves a question under this **[**article**]** **DIVISION**, or if the proceeding involves an act or order of the Commission;

2–110.

(c) (1) (ii) The estimate shall exclude the expenses associated with services performed by the Commission for which the Commission is reimbursed under this **[**article**]** **DIVISION**.

2–110.1.

(b) The Fund consists of:

(4) any other fee, examination assessment, or revenue received by the Commission under this **[**article**]** **DIVISION**.

(d) The purpose of the Fund is to pay all the costs and expenses incurred by the Commission and the Office of People's Counsel that are related to the operation of the Commission and the Office of People's Counsel, including:

(1) expenditures authorized under this **[**article**]** **DIVISION**; and

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

2–112.

(b) (2) The Commission has the implied and incidental powers needed or proper to carry out its functions under this **[**article**]** **DIVISION**.

2–113.

(b) The powers and duties listed in this title do not limit the scope of the general powers and duties of the Commission provided for by this **[**article**]** **DIVISION**.

2–115.

(a) The Commission shall initiate and conduct any investigation necessary to execute its powers or perform its duties under this **[**article**]** **DIVISION**.

2–117.

(a) (1) If the Commission believes that a public service company or gas master meter operator that is subject to the Commission's jurisdiction is violating or will violate this **[**article**]** **DIVISION**, the Commission shall bring an action in the Commission's name for injunction or other appropriate action in the circuit court of a county where the public service company or gas master meter operator does business or has its principal place of business.

2–204.

(a) (2) If the Office of People's Counsel considers the interest of residential and noncommercial users to be affected, the Office of People's Counsel shall appear before the Commission and courts on behalf of residential and noncommercial users in each matter or proceeding over which the Commission has original jurisdiction, including a proceeding on the rates, service, or practices of a public service company or on a violation of this **[**article**]** **DIVISION**.

2–310.

An individual subject to § 2–302 of this subtitle may not violate this **[**article**]** **DIVISION**.

3–101.

(c) An official act of the Commission:

(1) is valid if it substantially complies with the requirements of this **[**article**]** **DIVISION**; and

(2) may not be vitiated by any technical deficiency.

3–102.

(a) (2) The complaint shall be in writing and set forth circumstances that allege a violation of this **[**article**]** **DIVISION** by a public service company.

3–103.

(a) The service of a document or notice relating to a proceeding before the Commission under this **[**article**]** **DIVISION** shall be sufficient:

(1) if made personally through the sheriff's office in the county in which service may be made or by an adult; or

(2) except as provided in subsections (b) and (c) of this section, if mailed by first–class mail, postage prepaid, to the last known address of the person to be served.

3–112.

(a) In a proceeding before the Commission where a person applies for the approval of the Commission under § 5–104, §§ 5–201 through 5–203, or §§ 6–101 through 6–103 of this article, the person shall show by clear and satisfactory evidence that granting the application complies with the requirements of this **[**article**]** **DIVISION** and, as the case may be, is required by the public interest or is consistent with the public interest.

4–206.

(c) All final valuations are prima facie evidence of value in proceedings under this **[**article**]** **DIVISION**.

4–501.

(a) In its utility operations, a public service company may not:

(2) demand or collect:

(i) compensation that differs from compensation specified in its rate schedules that are in force at the time of the demand or collection; or

(ii) a charge that violates this **[**article**]** **DIVISION**.

4–502.

In an action by a public service company to collect a charge, the public service company may not recover any amount if, in the transaction that is the subject of the action, the public service company demanded a rate greater than that lawful under this **[**article**]** **DIVISION** when the charge was made.

5–301.

(b) A public service company:

(1) shall comply fully with the requirements of this **[**article**]** **DIVISION**; and

(2) may not violate any provision of this **[**article**]** **DIVISION**.

7–204.

(a) (1) Notwithstanding any other provision of this **[**article**]** **DIVISION**, at least 30 days before a hearing, a public service company shall provide to each owner of land, by certified mail, written notice of intent to run a line or similar transmission device over, on, or under the land.

7–505.

(b) (13) (i) An electric company shall comply with all requirements of the Commission in conducting regulated operations in compliance with this **[**article**]** **DIVISION**.

7–506.

(d) The electric company shall connect customers and deliver electricity on behalf of electricity suppliers consistent with the provisions of this **[**article**]** **DIVISION**.

7–507.

(l) (3) The Commission shall determine the amount of any civil penalty after considering:

(i) the number of previous violations of any provision of this **[**article**]** **DIVISION**;

(ii) the gravity of the current violation; and

(iii) the good faith of the electricity supplier or person charged in attempting to achieve compliance after notification of the violation.

7–711.

(a) The Commission has the same power and authority with respect to an electricity supplier under this subtitle that the Commission has with respect to any public service company under this **[**article**]** **DIVISION** for the purposes of investigating and examining the electricity supplier to determine compliance with this subtitle and with other applicable law.

8–409.

(b) For the purpose of enforcing the provisions of this subtitle, the Commission may:

(1) exercise any of the powers conferred under this **[**article**]** **DIVISION** against a telephone company or reseller; and

9–204.

The Commission may suspend, revoke, or subsequently deny a motor carrier permit if the holder violates a provision of this **[**article**]** **DIVISION**.

9–207.

(d) Except as provided in this section, the provisions of this **[**article**]** **DIVISION** do not apply to a motor carrier subject to this section.

9–208.

(d) A motor coach that is licensed under this section and only provides service for or on behalf of a not–for–profit entity is not subject to tariffs or rate making under this **[**article**]** **DIVISION**.

10–110.

(b) The license hearing officer may hold a hearing involving a violation of this **[**article**]** **DIVISION** or the Commission's regulations:

(1) by a for–hire driver licensed by the Commission; and

(2) except for a violation relating to rates, by a holder of a taxicab permit issued by the Commission.

10–202.

(b) The provisions of this **[**article**]** **DIVISION** relating to taxicabs or of any public local law relating to taxicabs do not limit the jurisdiction of the Commission over a taxicab business as a common carrier even if the taxicab business operates in a jurisdiction other than Baltimore City, Baltimore County, the City of Cumberland, or the City of Hagerstown.

11–102.

(b) (2) Except as provided in paragraph (3) of this subsection, other sections of this **[**article**]** **DIVISION** do not apply to an owner subject to this section.

13–101.

(b) A person may not fail, neglect, or refuse to comply with any provision of this **[**article**]** **DIVISION** or any effective and outstanding direction, ruling, order, rule, regulation, or decision of the Commission.

(c) An individual who knowingly violates or knowingly aids or abets a public service company in the violation of subsection (b) of this section or any provision of this **[**article**]** **DIVISION**:

(1) is guilty of a misdemeanor; and

(2) unless a different punishment is specifically provided by law, on conviction is subject to a fine not exceeding $1,000 for a first offense and not exceeding $5,000 for each additional or subsequent offense.

13–201.

(b) (1) Except as provided in paragraph (2) of this subsection, the Commission may impose a civil penalty not exceeding $10,000 against a person who violates a provision of this **[**article**]** **DIVISION**, or an effective and outstanding direction, ruling, order, rule, or regulation of the Commission.

(c) (1) A civil penalty may be imposed in addition to any other penalty authorized by this **[**article**]** **DIVISION**.

13–202.

(c) (1) Subject to paragraph (2) of this subsection, a public service company that violates a provision of this **[**article**]** **DIVISION** that relates to safety is subject to a civil penalty not exceeding $500 for each violation for each day that the violation persists.

13–206.

An individual who violates a provision of this **[**article**]** **DIVISION** concerning for–hire driving services is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $50 for a first offense and not exceeding $100 for each additional or subsequent offense.

13–207.

A contract, assignment, or transfer in violation of this **[**article**]** **DIVISION** is void.

13–208.

(a) In addition to any otherwise available remedy, the Commission may summarily order a person who is subject to the jurisdiction of the Commission to cease and desist from an act or practice if the Commission determines from specific facts shown by affidavit or other statement made under oath that:

(1) the person has engaged in an act or practice that constitutes a violation of any provision of this **[**article**]** **DIVISION** or any order or regulation adopted under this **[**article**]** **DIVISION** that directly concerns consumer protection or public safety;

(c) (3) Within 48 hours after completing the evidentiary hearing requested under paragraph (1) of this subsection, the Commission shall issue a final order in which it shall determine whether the affected person has engaged in an act or practice that is in violation of any provision of this **[**article**]** **DIVISION** or any order or regulation adopted under this **[**article**]** **DIVISION** that directly concerns consumer protection or public safety.

Article – Real Property

11–131.

(c) In addition to the implied warranties set forth in § 10–203 of this article there shall be an implied warranty on an individual unit from a developer to a unit owner. The warranty on an individual unit commences with the transfer of title to that unit and extends for a period of 1 year. The warranty shall provide:

(2) That the heating and any air conditioning systems have been installed in accordance with acceptable industry standards and:

(i) That the heating system is warranted to maintain a 70°F temperature inside with the outdoor temperature and winds at the design conditions established by the Energy Conservation Building Standards Act, Title 7, Subtitle 4 of the **[**Public Utility Companies Article**]** **PUBLIC UTILITIES ARTICLE**, or those established by the political subdivision as provided in Title 7, Subtitle 4 of the **[**Public Utility Companies Article**]** **PUBLIC UTILITIES ARTICLE**; and

(ii) That the air conditioning system is warranted to maintain a 78°F temperature inside with the outdoor temperature at the design conditions established by Title 7, Subtitle 4 of the **[**Public Utility Companies Article**]** **PUBLIC UTILITIES ARTICLE**, or those established by the political subdivision as provided in Title 7, Subtitle 4 of the **[**Public Utility Companies Article**]** **PUBLIC UTILITIES ARTICLE**.

Article – State Government

9–20A–01.

(l) "Renewable energy resource" has the meaning stated in § 1–101 of the **[**Public Utility Companies Article**]** **PUBLIC UTILITIES ARTICLE**.

9–20B–05.

(e) The Fund consists of:

(5) compliance fees paid under § 7–705 of the **[**Public Utility Companies Article**]** **PUBLIC UTILITIES ARTICLE**; and

(f) The Administration shall use the Fund:

(3) to provide supplemental funds for low–income energy assistance through the Electric Universal Service Program established under § 7–512.1 of the **[**Public Utility Companies Article**]** **PUBLIC UTILITIES ARTICLE** and other electric assistance programs in the Department of Human Resources;

(4) to provide rate relief by offsetting electricity rates of residential customers, including an offset of surcharges imposed on ratepayers under § 7–211 of the **[**Public Utility Companies Article**]** **PUBLIC UTILITIES ARTICLE**;

(g) Except as provided in subsection (g–1) of this section, proceeds received by the Fund from the sale of allowances under § 2–1002(g) of the Environment Article shall be allocated to the following accounts:

(2) 23% shall be credited to a rate relief account to provide rate relief by offsetting electricity rates of residential customers, including an offset of surcharges imposed on ratepayers under § 7–211 of the **[**Public Utility Companies Article**]** **PUBLIC UTILITIES ARTICLE**, on a per customer basis and in a manner prescribed by the Public Service Commission;

(i) (1) Except as provided in paragraph (2) of this subsection, compliance fees paid under § 7–705(b) of the **[**Public Utility Companies Article**]** **PUBLIC UTILITIES ARTICLE** may be used only to make loans and grants to support the creation of new Tier 1 renewable energy sources in the State.

(2) Compliance fees paid under § 7–705(b)(1)(ii) of the **[**Public Utility Companies Article**]** **PUBLIC UTILITIES ARTICLE** shall be accounted for separately within the Fund and may be used only to make loans and grants to support the creation of new solar energy sources in the State.

15–821.

(d) An applicant for appointment to the Washington Suburban Sanitary Commission shall file the statement not later than 5 days before the interview conducted under **[**Article 29, § 1–103 of the Code**] § 17–103 OF THE PUBLIC UTILITIES ARTICLE**. The statement shall cover the 12–month period ending 60 days before the day the statement is filed.

15–829.

(c) (3) "Applicant" does not include:

(iv) a public utility regulated by the Public Service Commission in any instance where the utility is engaged in or conducting regulated activities that have been approved by the Public Service Commission or are permitted under **[**the Public Utility Companies Article**] DIVISION I OF THE PUBLIC UTILITIES ARTICLE**.

15–838.

(b) (2) "Applicant" does not include:

(iv) a public service company acting within the scope of **[**the Public Utility Companies Article**] DIVISION I OF THE PUBLIC UTILITIES ARTICLE**; or

15–848.

(b) (3) "Applicant" does not include:

(iv) a public service company acting within the scope of **[**the Public Utility Companies Article**] DIVISION I OF THE PUBLIC UTILITIES ARTICLE**; or

15–853.

(c) (3) "Applicant" does not include:

(iv) an electric company or electric supplier applying for a certificate of public convenience and necessity under § 7–207 or § 7–208 of the **[**Public Utility Companies Article**] PUBLIC UTILITIES ARTICLE**; or

Article – State Personnel and Pensions

4–401.

The Office of Administrative Hearings shall dispose of a case or conduct a hearing and issue a final decision in:

(4) an appeal under **[**Article 29, § 11–109(b) of the Code**] § 18–123 OF THE PUBLIC UTILITIES ARTICLE** for the removal of an employee of the Washington Suburban Sanitary Commission.

Article – Tax – General

8–401.

(c) (2) "Gross receipts" includes:

(ii) for a telephone company, the full amount of approved and applicable federal and State tariff charges for telephone lifeline service without the discount provided by § 8–201(c) of the **[**Public Utility Companies Article**] PUBLIC UTILITIES ARTICLE**; and

8–407.

A telephone company may claim a credit against the public service company franchise tax equal to all approved and applicable federal and State tariff charges for telephone lifeline service not billed to eligible subscribers as provided in § 8–201 of the **[**Public Utility Companies Article**] PUBLIC UTILITIES ARTICLE**.

10–704.1.

(a) (3) "Electricity supplier" has the meaning stated in § 1–101 of the **[**Public Utility Companies Article**] PUBLIC UTILITIES ARTICLE**.

(b) This section does not apply to:

(2) an electricity supplier that, before July 1, 1999, was not an electric company as defined in § 1–101 of the **[**Public Utility Companies Article**] PUBLIC UTILITIES ARTICLE** as in effect on June 30, 1999, unless the electricity supplier is an affiliate of such an electric company.

Article – Tax – Property

9–239.

(a) (4) "New electricity generation facility" means an electricity generation facility that:

(i) locates in a county on or after June 1, 2001; and

(ii) receives a certificate of public convenience and necessity under § 7–207 of the **[**Public Utility Companies Article**] PUBLIC UTILITIES ARTICLE**.

(5) "Existing electricity generation facility" means an electricity generation facility that:

(i) exists in a county before June 1, 2001; and

(ii) receives approval for a modification under § 7–205 of the **[**Public Utility Companies Article**]** **PUBLIC UTILITIES ARTICLE**.

12–103.

(c) The recordation tax rate is 55 cents for an instrument of writing for property that:

(2) is security for a corporate bond of a public service company as defined in § 1–101 of the **[**Public Utility Companies Article**]** **PUBLIC UTILITIES ARTICLE**.

Article – Transportation

6–301.

(b) (3) The Administration may not condemn any property that belongs to a public service company subject to **[**the Public Utility Companies Article**]** **DIVISION I OF THE PUBLIC UTILITIES ARTICLE**, if the property is:

(i) Devoted to public use; or

(ii) Reasonably necessary for future public use by the public service company.

7–208.

(f) Notwithstanding any other provision of this title or the **[**Public Utility Companies Article**]** **PUBLIC UTILITIES 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.

13–423.

(a) Each motor vehicle for which a permit is required from the Public Service Commission under § 9–201 of the **[**Public Utility Companies Article**]** **PUBLIC UTILITIES ARTICLE** shall be registered under this title.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 53

(Senate Bill 266)

AN ACT concerning

State Board of Nursing and Certified Nursing Assistant Advisory Committee – Membership – Nominations for Vacancies

FOR the purpose of adding a currently practicing nurse who has practiced acute care nursing for at least a certain number of years to the State Board of Nursing; adding certain degrees that qualify an individual for the nurse administrator member of the Board; requiring the registered nurse member of the Board who is certified in advanced practice nursing to rotate with each vacancy among certain specialties; replacing a certain registered nurse clinician member of the Board with a currently practicing nurse who has practiced as a delegating nurse in a certain setting for at least a certain number of years; requiring that at least one licensed practical nurse member of the Board practice in a long–term care nursing facility; authorizing certain professional nursing organizations to submit certain lists from which the Governor can appoint certain Board members; authorizing certain licensed nurses to submit certain petitions from which the Governor can appoint certain Board members; requiring that certain petitions have a certain number of signatures; requiring the Board to notify certain licensed nurses and professional nursing organizations of certain vacancies on the Board; providing that members appointed to the Board reflect certain diversity of the State; clarifying the term limitations for a member of the Board who is appointed after a term has begun; adding an adult medical day care nursing assistant to the Certified Nursing Assistant Advisory Committee; providing for the appointment of certain members of the Board and the Committee; and generally relating to membership and nominations for the State Board of Nursing and the Certified Nursing Assistant Advisory Committee.

BY repealing and reenacting, with amendments,
Article – Health Occupations
Section 8–202(a), (b), and (i) and 8–6A–13
Annotated Code of Maryland
(2009 Replacement Volume)

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

Article – Health Occupations

8–202.

(a) (1) The Board consists of **[**12**] 13** members.

(2) Of the **[**12**] 13** Board members:

(i) **[**7**] 8** shall be registered nurses;

(ii) 3 shall be licensed practical nurses; and

(iii) 2 shall be consumers.

(3) Of the **[**7**] 8** registered nurse members:

(i) 1 shall be certified in an advanced practice nursing specialty **THAT ROTATES WITH EACH VACANCY AMONG THE FOLLOWING SPECIALTIES:**

1. NURSE ANESTHETIST;

2. NURSE PRACTITIONER;

3. NURSE MIDWIFE; AND

4. NURSE PSYCHOTHERAPIST;

(ii) 1 shall be a baccalaureate nursing educator with, at least, a master's degree in nursing or education;

(iii) 1 shall be an associate degree nursing educator with, at least, a master's degree in nursing or education;

(iv) 1 shall be a practical nursing educator with, at least, a bachelor of science degree in nursing or education;

(v) 1 shall be a nurse administrator with, at least, a master's degree in nursing administration, **BUSINESS ADMINISTRATION, BUSINESS MANAGEMENT,** education, or public health; **[**and**]**

(vi) ~~2~~ **1** shall be ~~nurse clinicians, one of whom shall have,~~ **A NURSE CLINICIAN WITH** at least~~,~~ a master's degree in nursing or public health**;** ~~AND~~

(VII) 1 SHALL BE A CURRENTLY PRACTICING NURSE, WHO HAS PRACTICED ACUTE CARE FOR AT LEAST 5 YEARS, WITH A BACHELOR OF SCIENCE DEGREE IN NURSING; AND

(VIII) 1 SHALL BE A CURRENTLY PRACTICING NURSE WHO HAS PRACTICED AS A DELEGATING NURSE IN A SUPERVISED GROUP LIVING SETTING, AS DEFINED IN COMAR 10.27.11.02(20), FOR AT LEAST 5 YEARS.

~~**(4) THE REGISTERED NURSE MEMBER CERTIFIED IN AN ADVANCED PRACTICE NURSING SPECIALTY SHALL ROTATE AMONG THE FOLLOWING SPECIALTIES WITH EACH VACANCY:**~~

~~**(I) NURSE ANESTHETIST;**~~

~~**(II) NURSE PRACTITIONER;**~~

~~**(III) NURSE MIDWIFE; AND**~~

~~**(IV) NURSE PSYCHOTHERAPIST.**~~

(4) OF THE 3 LICENSED PRACTICAL NURSE MEMBERS, AT LEAST 1 SHALL PRACTICE IN A LONG–TERM CARE NURSING FACILITY.

(b) (1) **[**(i)**]** The Governor shall appoint:

[1.**] (I)** The registered nurse **[**members**]** **MEMBER** certified in an advanced practice nursing specialty, with the advice of the Secretary, from a list of qualified individuals jointly developed in accordance with the requirements of **[**subparagraph (iii) of this paragraph**]** ~~**SUBSECTION (A)(4)**~~ **SUBSECTION (A)(3)(I) OF THIS SECTION** and submitted to the Secretary and the Governor by the:

[A.**] 1.** Maryland Association of Nurse Anesthetists, Inc.;

[B.**] 2.** Nurse Practitioners Association of Maryland, Inc.;

[C.**] 3.** Maryland Coalition of Nurse Practitioners, Inc.;

[D.**] 4.** Maryland Chapter, American College of Nurse–Midwives; and

[E.**] 5.** Psychiatric Advance Practice Nurses of Maryland; and

[2.**] (II)** The other registered nurse members, with the advice of the Secretary, from**:**

1. **[**a**] A** list of qualified individuals submitted to the Secretary and the Governor by**:**

A. **[**the**] THE** Maryland Nurses Association, Inc.**; OR**

B. ANY OTHER PROFESSIONAL NURSING ORGANIZATION THAT REPRESENTS AT LEAST 25 LICENSED REGISTERED NURSES; OR

2. A VALID PETITION SUBMITTED TO THE SECRETARY AND THE GOVERNOR BY A REGISTERED NURSE WITH AN ACTIVE LICENSE UNDER THIS TITLE.

[(ii) The number of names on the lists submitted to the Secretary and the Governor in subparagraph (i) of this paragraph shall be 5 times the number of vacancies.

(iii) The organizations developing and submitting the list of nominees for registered nurse members certified in an advanced practice nursing specialty in subparagraph (i) of this paragraph, shall only submit the names of nurses certified in one of the following specialties for each vacancy each term and shall rotate among the specialties with each nomination for a vacancy:

1. Nurse anesthetist;

2. Nurse practitioner;

3. Nurse midwife; and

4. Nurse psychotherapist.**]**

(2) The Governor shall appoint the licensed practical nurse members, with the advice of the Secretary, from**:**

(I) **[**a**] A** list of qualified individuals submitted to the Secretary and the Governor by**:**

1. **[**the**] THE** Maryland Licensed Practical Nurse Association, Inc.**; OR**

2. ANY OTHER PROFESSIONAL NURSING ORGANIZATION REPRESENTING AT LEAST 25 LICENSED PRACTICAL NURSES; OR

(II) A VALID PETITION SUBMITTED TO THE SECRETARY AND THE GOVERNOR BY A LICENSED PRACTICAL NURSE WITH AN ACTIVE LICENSE UNDER THIS TITLE.

(3) **[**The number of names on the list**]** **A LIST SUBMITTED TO THE SECRETARY AND THE GOVERNOR UNDER THIS SUBSECTION** shall be 5 times the number of vacancies.

(4) A PETITION SUBMITTED TO THE SECRETARY AND GOVERNOR UNDER THIS SUBSECTION SHALL HAVE AT LEAST 25 SIGNATURES OF SUPPORT FROM NURSES WITH ACTIVE LICENSES IN THE STATE.

(5) THE BOARD SHALL PROVIDE NOTICE OF A VACANCY ON THE BOARD TO:

(I) ALL NURSES WITH AN ACTIVE LICENSE IN THE STATE; AND

(II) ALL APPROPRIATE PROFESSIONAL NURSING ORGANIZATIONS.

[(3)**]** **(6)** The Governor may request an additional list of 5 nominees for each vacancy **FROM THE APPROPRIATE PROFESSIONAL NURSING ORGANIZATIONS**.

[(4)**]** **(7)** The Governor shall make the appointment for each vacancy from the **[**original list or the additional list**]** **LISTS OR PETITIONS SUBMITTED UNDER THIS SUBSECTION**.

[(5)**]** **(8)** The Governor shall appoint the consumer members with the advice of the Secretary and the advice and consent of the Senate.

(9) TO THE EXTENT PRACTICABLE, THE MEMBERS APPOINTED TO THE BOARD SHALL REASONABLY REFLECT THE GEOGRAPHIC, RACIAL, ETHNIC, CULTURAL, AND GENDER DIVERSITY OF THE STATE.

(i) (1) The term of a member is 4 years, except that the initial term of 1 of the consumer members is 2 years.

(2) The terms of the 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**]** **MAY SERVE AN ADDITIONAL 2 CONSECUTIVE FULL TERMS**.

(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.

8–6A–13.

(a) The Board shall appoint an advisory committee consisting of at least **[**13**]** **14** members appointed by the Board.

(b) Of the **[**13**]** **14** committee members:

(1) **[**Five**]** **SIX** shall be nursing assistants:

(i) One shall be an acute care nursing assistant;

(ii) One shall be a home care nursing assistant;

(iii) One shall be a long–term care nursing assistant;

(IV) ONE SHALL BE AN ADULT MEDICAL DAY CARE NURSING ASSISTANT;

[(iv)**]** **(V)** At least one of the nursing assistant members shall be a member of a union; and

[(v)**]** **(VI)** One shall be an independent contractor;

(2) Three shall be registered nurses:

(i) One shall be an acute care registered nurse;

(ii) One shall be a home care registered nurse; and

(iii) One shall be a long–term care registered nurse;

(3) One shall be an administrator from a licensed health care facility;

(4) One shall be a licensed practical nurse;

(5) One shall be an individual who teaches a nursing assistant course;

(6) One shall be a consumer member who has received care, or has a family member who has received care from a nursing assistant; and

(7) One shall be a representative of the Department.

(c) The Board shall appoint an alternate for each of the three nursing assistant members in the event that the nursing assistant member is unable to discharge the duties of the committee.

(d) An advisory committee member shall serve a term of 4 years.

(e) The advisory committee shall:

(1) Evaluate training programs and make recommendations for approval by the Board;

(2) Develop and recommend regulations to enforce the provisions of this subtitle;

(3) Evaluate candidates as required and recommend action to the Board;

(4) Review investigations of complaints against nursing assistants or medication technicians and make recommendations to the Board for disciplinary action;

(5) Keep a record of its proceedings; and

(6) Submit an annual report to the Board.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(1) the delegating nurse member added to the Board of Nursing under § 8–202(a)(3)(viii) of the Health Occupations Article, as enacted by Section 1 of this Act, shall be appointed to fill the first nurse clinician member vacancy on the Board that occurs on or after the effective date of this Act;

(2) the licensed practical nurse member of the Board of Nursing who is required to be practicing in a long–term care nursing facility under § 8–202(a)(4) of the Health Occupations Article, as enacted by Section 1 of this Act, shall be appointed to fill the first licensed practical nurse member vacancy on the Board that occurs on or after the effective date of this Act; and

(3) the acute care nurse member added to the Board of Nursing under § 8–202(a)(3)(vii) of the Health Occupations Article, as enacted by Section 1 of this Act, and the adult medical day care nursing assistant member added to the Certified Nursing Assistant Advisory Committee under § 8–6A–13(b)(iv) of the Health

Occupations Article, as enacted by Section 1 of this Act, shall be appointed as soon as practicable after the effective date of this Act.

SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 54

(House Bill 302)

AN ACT concerning

State Board of Nursing and Certified Nursing Assistant Advisory Committee – Membership – Nominations for Vacancies

FOR the purpose of adding a currently practicing nurse who has practiced acute care nursing for at least a certain number of years to the State Board of Nursing; adding certain degrees that qualify an individual for the nurse administrator member of the Board; requiring the registered nurse member of the Board who is certified in advanced practice nursing to rotate with each vacancy among certain specialties; replacing a certain registered nurse clinician member of the Board with a currently practicing nurse who has practiced as a delegating nurse in a certain setting for at least a certain number of years; requiring that at least one licensed practical nurse member of the Board practice in a long–term care nursing facility; authorizing certain professional nursing organizations to submit certain lists from which the Governor can appoint certain Board members; authorizing certain licensed nurses to submit certain petitions from which the Governor can appoint certain Board members; requiring that certain petitions have a certain number of signatures; requiring the Board to notify certain licensed nurses and professional nursing organizations of certain vacancies on the Board; providing that members appointed to the Board reflect certain diversity of the State; clarifying the term limitations for a member of the Board who is appointed after a term has begun; adding an adult medical day care nursing assistant to the Certified Nursing Assistant Advisory Committee; providing for the appointment of certain members of the Board and the Committee; and generally relating to membership and nominations for the State Board of Nursing and the Certified Nursing Assistant Advisory Committee.

BY repealing and reenacting, with amendments,
Article – Health Occupations
Section 8–202(a), (b), and (i) and 8–6A–13
Annotated Code of Maryland

(2009 Replacement Volume)

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

Article – Health Occupations

8–202.

(a) (1) The Board consists of **[**12**] 13** members.

(2) Of the **[**12**] 13** Board members:

(i) **[**7**] 8** shall be registered nurses;

(ii) 3 shall be licensed practical nurses; and

(iii) 2 shall be consumers.

(3) Of the **[**7**] 8** registered nurse members:

(i) 1 shall be certified in an advanced practice nursing specialty **THAT ROTATES WITH EACH VACANCY AMONG THE FOLLOWING SPECIALTIES:**

1. NURSE ANESTHETIST;

2. NURSE PRACTITIONER;

3. NURSE MIDWIFE; AND

4. NURSE PSYCHOTHERAPIST;

(ii) 1 shall be a baccalaureate nursing educator with, at least, a master's degree in nursing or education;

(iii) 1 shall be an associate degree nursing educator with, at least, a master's degree in nursing or education;

(iv) 1 shall be a practical nursing educator with, at least, a bachelor of science degree in nursing or education;

(v) 1 shall be a nurse administrator with, at least, a master's degree in nursing administration, **BUSINESS ADMINISTRATION, BUSINESS MANAGEMENT,** education, or public health; **[**and**]**

(vi) ~~2~~ **1** shall be ~~nurse clinicians, one of whom shall have,~~ **A NURSE CLINICIAN WITH** at least~~,~~ a master's degree in nursing or public health**;** ~~**AND**~~

(VII) 1 SHALL BE A CURRENTLY PRACTICING NURSE, WHO HAS PRACTICED ACUTE CARE FOR AT LEAST 5 YEARS, WITH A BACHELOR OF SCIENCE DEGREE IN NURSING; AND

(VIII) 1 SHALL BE A CURRENTLY PRACTICING NURSE WHO HAS PRACTICED AS A DELEGATING NURSE IN A SUPERVISED GROUP LIVING SETTING, AS DEFINED IN COMAR 10.27.11.02(20), FOR AT LEAST 5 YEARS.

~~**(4) THE REGISTERED NURSE MEMBER CERTIFIED IN AN ADVANCED PRACTICE NURSING SPECIALTY SHALL ROTATE AMONG THE FOLLOWING SPECIALTIES WITH EACH VACANCY:**~~

~~**(I) NURSE ANESTHETIST;**~~

~~**(II) NURSE PRACTITIONER;**~~

~~**(III) NURSE MIDWIFE; AND**~~

~~**(IV) NURSE PSYCHOTHERAPIST.**~~

(4) OF THE 3 LICENSED PRACTICAL NURSE MEMBERS, AT LEAST 1 SHALL PRACTICE IN A LONG–TERM CARE NURSING FACILITY.

(b) (1) **[**(i)**]** The Governor shall appoint:

[1.**] (I)** The registered nurse **[**members**]** **MEMBER** certified in an advanced practice nursing specialty, with the advice of the Secretary, from a list of qualified individuals jointly developed in accordance with the requirements of **[**subparagraph (iii) of this paragraph**]** ~~**SUBSECTION (A)(4)**~~ **SUBSECTION (A)(3)(I) OF THIS SECTION** and submitted to the Secretary and the Governor by the:

[A.**] 1.** Maryland Association of Nurse Anesthetists, Inc.;

[B.**] 2.** Nurse Practitioners Association of Maryland, Inc.;

[C.**] 3.** Maryland Coalition of Nurse Practitioners, Inc.;

[D.**] 4.** Maryland Chapter, American College of Nurse–Midwives; and

[E.**] 5.** Psychiatric Advance Practice Nurses of Maryland; and

[2.**] (II)** The other registered nurse members, with the advice of the Secretary, from**:**

1. [a**] A** list of qualified individuals submitted to the Secretary and the Governor by**:**

A. [the**] THE** Maryland Nurses Association, Inc.**; OR**

B. ANY OTHER PROFESSIONAL NURSING ORGANIZATION THAT REPRESENTS AT LEAST 25 LICENSED REGISTERED NURSES; OR

2. A VALID PETITION SUBMITTED TO THE SECRETARY AND THE GOVERNOR BY A REGISTERED NURSE WITH AN ACTIVE LICENSE UNDER THIS TITLE.

[(ii) The number of names on the lists submitted to the Secretary and the Governor in subparagraph (i) of this paragraph shall be 5 times the number of vacancies.

(iii) The organizations developing and submitting the list of nominees for registered nurse members certified in an advanced practice nursing specialty in subparagraph (i) of this paragraph, shall only submit the names of nurses certified in one of the following specialties for each vacancy each term and shall rotate among the specialties with each nomination for a vacancy:

1. Nurse anesthetist;

2. Nurse practitioner;

3. Nurse midwife; and

4. Nurse psychotherapist.**]**

(2) The Governor shall appoint the licensed practical nurse members, with the advice of the Secretary, from**:**

(I) [a**] A** list of qualified individuals submitted to the Secretary and the Governor by**:**

1. **[**the**]** **THE** Maryland Licensed Practical Nurse Association, Inc.**; OR**

2. ANY OTHER PROFESSIONAL NURSING ORGANIZATION REPRESENTING AT LEAST 25 LICENSED PRACTICAL NURSES; OR

(II) A VALID PETITION SUBMITTED TO THE SECRETARY AND THE GOVERNOR BY A LICENSED PRACTICAL NURSE WITH AN ACTIVE LICENSE UNDER THIS TITLE.

(3) **[**The number of names on the list**]** **A LIST SUBMITTED TO THE SECRETARY AND THE GOVERNOR UNDER THIS SUBSECTION** shall be 5 times the number of vacancies.

(4) A PETITION SUBMITTED TO THE SECRETARY AND GOVERNOR UNDER THIS SUBSECTION SHALL HAVE AT LEAST 25 SIGNATURES OF SUPPORT FROM NURSES WITH ACTIVE LICENSES IN THE STATE.

(5) THE BOARD SHALL PROVIDE NOTICE OF A VACANCY ON THE BOARD TO:

(I) ALL NURSES WITH AN ACTIVE LICENSE IN THE STATE; AND

(II) ALL APPROPRIATE PROFESSIONAL NURSING ORGANIZATIONS.

[(3)**]** **(6)** The Governor may request an additional list of 5 nominees for each vacancy **FROM THE APPROPRIATE PROFESSIONAL NURSING ORGANIZATIONS**.

[(4)**]** **(7)** The Governor shall make the appointment for each vacancy from the **[**original list or the additional list**]** **LISTS OR PETITIONS SUBMITTED UNDER THIS SUBSECTION**.

[(5)**]** **(8)** The Governor shall appoint the consumer members with the advice of the Secretary and the advice and consent of the Senate.

(9) TO THE EXTENT PRACTICABLE, THE MEMBERS APPOINTED TO THE BOARD SHALL REASONABLY REFLECT THE GEOGRAPHIC, RACIAL, ETHNIC, CULTURAL, AND GENDER DIVERSITY OF THE STATE.

(i) (1) The term of a member is 4 years, except that the initial term of 1 of the consumer members is 2 years.

(2) The terms of the 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**]** **MAY SERVE AN ADDITIONAL 2 CONSECUTIVE FULL TERMS**.

(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.

8–6A–13.

(a) The Board shall appoint an advisory committee consisting of at least **[**13**]** **14** members appointed by the Board.

(b) Of the **[**13**]** **14** committee members:

(1) **[**Five**]** **SIX** shall be nursing assistants:

(i) One shall be an acute care nursing assistant;

(ii) One shall be a home care nursing assistant;

(iii) One shall be a long–term care nursing assistant;

(IV) ONE SHALL BE AN ADULT MEDICAL DAY CARE NURSING ASSISTANT;

[(iv)**]** **(V)** At least one of the nursing assistant members shall be a member of a union; and

[(v)**]** **(VI)** One shall be an independent contractor;

(2) Three shall be registered nurses:

(i) One shall be an acute care registered nurse;

(ii) One shall be a home care registered nurse; and

(iii) One shall be a long–term care registered nurse;

(3) One shall be an administrator from a licensed health care facility;

(4) One shall be a licensed practical nurse;

(5) One shall be an individual who teaches a nursing assistant course;

(6) One shall be a consumer member who has received care, or has a family member who has received care from a nursing assistant; and

(7) One shall be a representative of the Department.

(c) The Board shall appoint an alternate for each of the three nursing assistant members in the event that the nursing assistant member is unable to discharge the duties of the committee.

(d) An advisory committee member shall serve a term of 4 years.

(e) The advisory committee shall:

(1) Evaluate training programs and make recommendations for approval by the Board;

(2) Develop and recommend regulations to enforce the provisions of this subtitle;

(3) Evaluate candidates as required and recommend action to the Board;

(4) Review investigations of complaints against nursing assistants or medication technicians and make recommendations to the Board for disciplinary action;

(5) Keep a record of its proceedings; and

(6) Submit an annual report to the Board.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(1) the delegating nurse member added to the Board of Nursing under § 8–202(a)(3)(viii) of the Health Occupations Article, as enacted by Section 1 of this Act, shall be appointed to fill the first nurse clinician member vacancy on the Board that occurs on or after the effective date of this Act;

(2) the licensed practical nurse member of the Board of Nursing who is required to be practicing in a long–term care nursing facility under § 8–202(a)(4) of the Health Occupations Article, as enacted by Section 1 of this Act, shall be appointed to

fill the first licensed practical nurse member vacancy on the Board that occurs on or after the effective date of this Act; and

(3) the acute care nurse member added to the Board of Nursing under § 8–202(a)(3)(vii) of the Health Occupations Article, as enacted by Section 1 of this Act, and the adult medical day care nursing assistant member added to the Certified Nursing Assistant Advisory Committee under § 8–6A–13(b)(iv) of the Health Occupations Article, as enacted by Section 1 of this Act, shall be appointed as soon as practicable after the effective date of this Act.

SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 55

(Senate Bill 302)

AN ACT concerning

Commercial Law – Equipment Dealer Contract Act – Outdoor Power Sports Equipment

FOR the purpose of expanding the scope of the Equipment Dealer Contract Act to include outdoor power sports equipment; defining a certain term; altering certain definitions; and generally relating to the Equipment Dealer Contract Act.

BY repealing and reenacting, with amendments,
Article – Commercial Law
Section 19–101, 19–202, and 19–203
Annotated Code of Maryland
(2005 Replacement Volume and 2009 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, **OUTDOOR POWER SPORTS 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, **OUTDOOR POWER SPORTS 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) "OUTDOOR POWER SPORTS EQUIPMENT" MEANS THE FOLLOWING VEHICLES AND ANY ATTACHMENTS OR REPAIR PARTS FOR THE FOLLOWING VEHICLES:

(1) A MOTOR–ASSISTED OR MOTOR–DRIVEN VEHICLE THAT:

(I) IS DESIGNED TO CARRY ONLY THE OPERATOR OF THE VEHICLE ON A SEAT OR SADDLE DESIGNED TO BE STRADDLED BY THE OPERATOR OR IS DESIGNED TO CARRY ONLY THE OPERATOR OF THE VEHICLE AND ONE PASSENGER; AND

(II) IS COMMONLY KNOWN AS AN ALL–TERRAIN VEHICLE;

(2) A MOTORCYCLE THAT:

(I) IS DESIGNED FOR OFF–HIGHWAY OPERATION AND IS NOT ELIGIBLE FOR REGISTRATION AS A CLASS D (MOTORCYCLE) VEHICLE UNDER THE TRANSPORTATION ARTICLE; AND

(II) IS COMMONLY KNOWN AS A DIRT BIKE; OR

(3) A SNOWMOBILE.

[(j)**] (K)** "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)**] (L)** "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)**] (M)** "Termination" means the termination, cancellation, nonrenewal, or noncontinuation of a contract.

[(m)**] (N)** "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.

19–202.

(a) Within 90 days after termination of the contract the supplier shall repurchase from the dealer all inventory, previously purchased from the supplier, that remains unsold on the date the contract terminates.

(b) (1) The supplier shall pay the dealer:

(i) 100 percent of the current net price of all new, unused, unsold, undamaged, and complete farm, construction, utility, and industrial equipment, implements, machinery, outdoor power equipment, **OUTDOOR POWER SPORTS EQUIPMENT,** and attachments;

(ii) 90 percent of the current net price of all new, unused, and undamaged repair parts and superseded parts;

(iii) 75 percent of the net cost of all specialized repair tools purchased in the previous 3 years and 50 percent of the net cost of all specialized repair tools purchased in the previous 4 through 6 years in accordance with the requirements of the supplier and held by the dealer on the date of termination, if the specialized repair tools are unique to the supplier's product line and are in complete and resalable condition;

(iv) The agreed depreciated value of farm implements, machinery, utility and industrial equipment, **[**and**]** outdoor power equipment**, AND OUTDOOR POWER SPORTS EQUIPMENT** used in demonstrations, including equipment leased primarily for demonstration or lease; and

(v) At its amortized value, the price of any specific data processing hardware and software and telecommunications equipment that the supplier required the dealer to purchase within the past 5 years.

(2) (i) The supplier shall pay:

1. The cost of shipping the inventory from the dealer's location; and

2. The dealer 10 percent of the current net price of all new, unused, and undamaged repair parts returned to cover the cost of handling, packing, and loading.

(ii) The supplier may perform the handling, packing, and loading of repair parts instead of paying the 10 percent for the services.

(iii) The dealer and the supplier may each furnish a representative to inspect all parts and certify the acceptability of any part when packed for shipment.

(c) (1) The supplier shall pay the full repurchase amount to the dealer not later than 30 days after receipt of the inventory.

(2) If the dealer has any outstanding debts to the supplier, the repurchase amount shall be credited to the dealer's account.

(d) (1) On payment of the repurchase amount to the dealer, the title and right of possession to the repurchased inventory shall transfer to the supplier.

(2) At the end of each calendar year or after termination or cancellation of the contract, a supplier or lender may not debit the dealer's reserve account for recourse, retail sale, or lease contracts for any deficiency unless the dealer or the heirs of the dealer have been given at least 7 business days' notice by certified or registered United States mail, return receipt requested, of any proposed sale of the financed equipment and an opportunity to purchase the equipment.

(3) The former dealer or the heirs of the dealer shall be given quarterly status reports on any remaining outstanding recourse contracts.

(4) As the recourse contracts are reduced, any reserve account funds shall be returned to the dealer or the heirs of the dealer in direct proportion to the outstanding liabilities.

(e) (1) In the event of the death of the dealer or the majority stockholder of a corporation operating as a dealer, the supplier shall, at the option of the heir of the dealer or majority stockholder, repurchase the inventory from the heir of the dealer or majority stockholder as if the supplier had terminated the contract.

(2) Within 1 year after the date of the death of the dealer or majority stockholder, the heir shall exercise the heir's options under this section.

(3) Nothing in this section shall require the repurchase of any inventory if the heir and the supplier enter into a new contract to operate the retail dealership.

(f) (1) Within 90 days a supplier shall consider and make a determination on a request by a family member to enter into a new contract to operate the dealership.

(2) If the supplier determines that the requesting family member is not acceptable, the supplier shall provide the family member with a written notice of its determination with the stated reasons for nonacceptance.

(3) This section does not entitle an heir, personal representative, or family member to operate a dealership without the specific written consent of the supplier.

(g) Notwithstanding the provisions of this section, if a supplier and a dealer have executed an agreement concerning succession rights prior to the dealer's death, and if the agreement has not been revoked, the agreement shall be enforced even if it designates someone other than the surviving spouse or heir of the decedent as the successor.

19–203.

This title does not require the repurchasing from a dealer of:

(1) A repair part with a limited storage life or otherwise subject to deterioration, such as a gasket or battery, except for industrial "press on" industrial pneumatic tires;

(2) A single repair part that is priced as a set of two or more items;

(3) A repair part that, because of its condition, is not resalable as a new part without repackaging or reconditioning;

(4) A repair part that is not in new, unused, and undamaged condition;

(5) An item of inventory for which a dealer does not have title free of all claims, liens, and encumbrances other than those of the supplier;

(6) Any inventory that the dealer chooses to retain;

(7) Any inventory that was ordered by the dealer after either party's receipt of notice of termination of a franchise agreement;

(8) Any farm implements or machinery, construction, utility, or industrial equipment, outdoor power equipment, **OUTDOOR POWER SPORTS EQUIPMENT,** or attachments that are not current models or that are not in new, unused, undamaged, complete condition, provided that equipment that is used in demonstrations or leased under § 19–202 of this title shall be considered new and unused;

(9) Any farm implements or machinery, construction, utility, or industrial equipment, outdoor power equipment, **OUTDOOR POWER SPORTS EQUIPMENT,** or attachments that were purchased more than 36 months before notice of termination of the contract; or

(10) Any inventory that was acquired by the dealer from a source other than the supplier.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 56

(Senate Bill 317)

AN ACT concerning

State Retirement and Pension System – Retirees and Beneficiaries of Retirees – Annual Retirement Allowance Adjustments

FOR the purpose of providing that certain annual retirement allowance adjustments shall be a certain amount under certain circumstances; *requiring that certain annual retirement allowances be reduced by a certain amount under certain circumstances;* requiring the Board of Trustees for the State Retirement and Pension System to conduct a certain study regarding the effects of a certain Consumer Price Index on other public state pension plans; requiring the Board of Trustees to submit a report to the Senate Budget and Taxation Committee, the House Appropriations Committee, and the Joint Committee on Pensions by a certain date; defining certain terms; making this Act an emergency measure; providing for the termination of *certain provisions of* this Act; and generally relating to annual retirement allowance adjustments for retirees of the several systems of the State Retirement and Pension System.

BY repealing and reenacting, with amendments,
Article – State Personnel and Pensions
Section 24–401(e), 29–406, 29–407, 29–412, 29–418, and 29–427
Annotated Code of Maryland
(2009 Replacement Volume and 2009 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That~~, notwithstanding any other provision of law~~ *the Laws of Maryland read as follows*:

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

~~(2) "Adjustment" means the dollar amount by which either the current allowance or initial allowance of an individual is adjusted on July 1 of each year under § 24–401(e) and Title 29, Subtitle 4 of the State Personnel and Pensions Article.~~

~~(3) "Current allowance" means the retirement allowance that an individual is receiving on June 30, 2010.~~

~~(4) "Individual" means a former member, retiree, or surviving beneficiary of a deceased member, former member or retiree of the several systems of the State Retirement and Pension System.~~

~~(5) "Initial allowance" means:~~

~~(i) the retirement allowance computed at the time of a retirement of a former member or retiree of the several systems of the State Retirement and Pension System, including any modifications to the retirement allowance to reflect a retiree's election to receive an optional form of allowance as provided under § 21–403 of the State Personnel and Pensions Article; or~~

~~(ii) the retirement allowance for a surviving beneficiary of a deceased member, former member, or retiree of the several systems of the State Retirement and Pension System computed at the time of death of the member, former member, or retiree.~~

~~(b) (1) This subsection applies to any individual who is subject to an annual retirement allowance adjustment under § 24–401(e) of the State Personnel and Pensions Article.~~

~~(2) If the fraction described under § 24–401(e)(2) of the State Personnel and Pensions Article that is used in the calculation to adjust an individual's current allowance on July 1, 2010, is less than one, the adjustment to the current allowance shall equal $0.00 on July 1, 2010.~~

~~(c) (1) This subsection applies to any individual who is subject to an annual retirement allowance adjustment under Title 29, Subtitle 4, Part II of the State Personnel and Pensions Article.~~

~~(2) If the fraction calculated under § 29–406 of the State Personnel and Pensions Article that is used in the calculation to adjust an individual's initial allowance on July 1, 2010, is determined to be a negative fraction, the adjustment under § 29–406 of the State Personnel and Pensions Article to the current allowance shall equal $0.00 on July 1, 2010.~~

~~(d) (1) This subsection applies to any individual who is subject to an annual retirement allowance adjustment under Title 29, Subtitle 4, Part III of the State Personnel and Pensions Article.~~

~~(2) If the fraction calculated under § 29–412 of the State Personnel and Pensions Article that is used in the calculation to adjust an individual's initial allowance on July 1, 2010, is less than 1, the adjustment under § 29–412 of the State Personnel and Pensions Article to the current allowance shall equal $0.00 on July 1, 2010.~~

~~(d)~~ (e) ~~(1) This subsection applies to any individual who is subject to an annual retirement allowance adjustment under Title 29, Subtitle 4, Part IV of the State Personnel and Pensions Article.~~

~~(2) If the fraction used to determine the rate under § 29–418 of the State Personnel and Pensions Article that is used in the calculation to adjust an individual's current allowance on July 1, 2010, is less than one, the adjustment to the current allowance shall equal $0.00 on July 1, 2010.~~

~~(e)~~ (f) ~~(1) This subsection applies to any individual who is subject to an annual retirement allowance adjustment under Title 29, Subtitle 4, Part V of the State Personnel and Pensions Article.~~

~~(2) (i) If the fraction calculated under § 29–422(b)(1) of the State Personnel and Pensions Article that is used to adjust an individual's initial allowance on July 1, 2010, is less than one, the adjustment to the current allowance for creditable service earned prior to the date that the retiree elected Selection C, as defined under § 22–221 of the State Personnel and Pensions Article, shall equal $0.00 on July 1, 2010.~~

~~(ii) If the fraction used to determine the rate under § 29–422(b)(2) of the State Personnel and Pensions Article that is used in the calculation to adjust an individual's current allowance on July 1, 2010, is less than one, the adjustment to the current allowance for creditable service earned on or after the date that the retiree elected Selection C, as defined under § 22–221 of the State Personnel and Pensions Article, shall equal $0.00 on July 1, 2010.~~

~~(3) (i) If the fraction used to determine the rate under § 29–422(c)(1) of the State Personnel and Pensions Article that is used in the calculation to adjust an individual's current allowance on July 1, 2010, is less than one, the adjustment to the current allowance for creditable service earned prior to the date that the retiree elected Selection C, as defined under § 22–221 of the State Personnel and Pensions Article, shall equal $0.00 on July 1, 2010.~~

~~(ii) If the fraction used to determine the rate under § 29–422(c)(2) of the State Personnel and Pensions Article that is used in the calculation to adjust an individual's current allowance on July 1, 2010, is less than one, the adjustment to the current allowance for creditable service earned on or after the date that the retiree elected Selection C, as defined under § 22–221 of the State Personnel and Pensions Article, shall equal $0.00 on July 1, 2010.~~

~~(f)~~ (g) ~~(1) This subsection applies to any individual who is subject to an annual retirement allowance adjustment under Title 29, Subtitle 4, Part VI of the State Personnel and Pensions Article.~~

~~(2) If the fraction used to determine the rate under § 29–427 of the State Personnel and Pensions Article that is used in the calculation to adjust an~~

~~individual's current allowance on July 1, 2010, is less than one, the adjustment to the current allowance shall equal $0.00 on July 1, 2010.~~

Article – State Personnel and Pensions

24–401.

(e) (1) Subject to paragraph (2) of this subsection, a retiree, or a beneficiary of a retiree, who retires on or before June 30, 1999 with a service retirement allowance, shall receive an annual retirement allowance adjustment as of July 1, 1999, as follows:

(i) for a retiree who has been retired not more than 5 years, $1,200;

(ii) for a retiree who has been retired more than 5 years but not more than 10 years, $1,500;

(iii) for a retiree who has been retired more than 10 years but not more than 15 years, $1,800; and

(iv) for a retiree who has been retired more than 15 years, $2,100.

*(2) [Each] **EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, EACH** fiscal year, the Board of Trustees shall increase the adjustment received by the retiree or the beneficiary as of July 1, 1999, by multiplying the adjustment by a fraction that has:*

(i) as its numerator, the Consumer Price Index for the calendar year ending December 31 of the preceding fiscal year; and

(ii) as its denominator, the Consumer Price Index for the calendar year ending December 31, 1998.

(3) (I) FOR FISCAL YEAR 2011, IF THE ANNUAL RETIREMENT ALLOWANCE ADJUSTMENT THAT IS ADJUSTED AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION IS LESS THAN THE ANNUAL RETIREMENT ALLOWANCE ADJUSTMENT PAYABLE FOR FISCAL YEAR 2010, THE ANNUAL RETIREMENT ALLOWANCE ADJUSTMENT PAYABLE FOR FISCAL YEAR 2011 SHALL EQUAL THE ANNUAL RETIREMENT ALLOWANCE ADJUSTMENT PAYABLE FOR FISCAL YEAR 2010.

(II) FOR FISCAL YEAR 2012, THE ANNUAL RETIREMENT ALLOWANCE ADJUSTMENT THAT IS ADJUSTED AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION SHALL BE REDUCED BY THE DIFFERENCE BETWEEN THE ANNUAL RETIREMENT ALLOWANCE ADJUSTMENT PAYABLE FOR FISCAL YEAR

2010 AND THE ANNUAL RETIREMENT ALLOWANCE ADJUSTMENT THAT WOULD HAVE BEEN PAYABLE FOR FISCAL YEAR 2011 IF IT HAD BEEN ADJUSTED UNDER PARAGRAPH (2) OF THIS SUBSECTION.

29–406.

(a) ***(1)*** *[Subject]* ***EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION AND SUBJECT*** *to subsection (c) of this section, the cost–of–living adjustment made under this Part II equals the initial allowance multiplied by a fraction that has:*

[*(1)****]*** ***(I)*** *as its numerator, the amount obtained by subtracting the Consumer Price Index for the calendar year ending December 31 of the preceding fiscal year from the base year Consumer Price Index described in subsection (b) of this section; and*

[*(2)****]*** ***(II)*** *as its denominator, the base year Consumer Price Index described in subsection (b) of this section.*

(2) IF THE COST–OF–LIVING ADJUSTMENT DETERMINED UNDER PARAGRAPH (1) OF THIS SUBSECTION FOR FISCAL YEAR 2011 WOULD RESULT IN AN ALLOWANCE PAYABLE FOR FISCAL YEAR 2011 THAT IS LESS THAN THE ALLOWANCE PAYABLE FOR FISCAL YEAR 2010, THE ANNUAL COST–OF–LIVING ADJUSTMENT FOR FISCAL YEAR 2011 SHALL EQUAL $0.00.

(b) The base year Consumer Price Index referred to in subsection (a) of this section equals the later of:

(1) the Consumer Price Index for the calendar year ending December 31 of the fiscal year that preceded the last adjustment; or

(2) (i) for a retiree, the Consumer Price Index for the calendar year ending December 31 of the fiscal year in which the retiree was last employed as a member; or

(ii) for a former member who elected a vested allowance in accordance with § 29–303 of this title, the Consumer Price Index for the calendar year ending December 31 of the fiscal year in which the former member became 62 years old.

(c) The cost–of–living adjustment under this section may not exceed 3% of the initial allowance.

29–407.

(A) *[The]* ***EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THE*** *total allowance payable in any fiscal year shall be the sum of:*

(1) the initial allowance;

(2) all prior cost–of–living adjustments;

(3) the cost–of–living adjustment provided for under § 29–406 of this subtitle; and

(4) any additional annuity.

(B) FOR FISCAL YEAR 2012, THE ALLOWANCE PAYABLE AS PROVIDED IN SUBSECTION (A) OF THIS SECTION SHALL BE REDUCED BY THE DIFFERENCE BETWEEN THE ALLOWANCE PAYABLE FOR FISCAL YEAR 2010 AND THE ALLOWANCE THAT WOULD HAVE BEEN PAID FOR FISCAL YEAR 2011 IF THE COST–OF–LIVING ADJUSTMENT HAD BEEN CALCULATED AS PROVIDED UNDER § 29–406(A) OF THIS SUBTITLE.

29–412.

(A) [*Subject****] EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION AND SUBJECT*** *to § 29–413 of this subtitle, each fiscal year, the Board of Trustees shall adjust an initial allowance by multiplying the initial allowance by the fraction that has:*

(1) as its numerator, the Consumer Price Index for the calendar year ending December 31 of the preceding fiscal year; and

(2) as its denominator:

(i) for a retiree, the beneficiary of a retiree, or the surviving spouse of a member, the Consumer Price Index for the calendar year ending December 31 of the fiscal year in which the retiree or member was last employed; or

(ii) for a former member or the beneficiary of a former member, the Consumer Price Index for the calendar year ending December 31 of the fiscal year in which the former member reaches normal retirement age.

(B) FOR FISCAL YEAR 2011, IF THE ALLOWANCE ADJUSTED AS PROVIDED IN SUBSECTION (A) OF THIS SECTION IS LESS THAN THE ALLOWANCE PAYABLE FOR FISCAL YEAR 2010, THE ALLOWANCE PAYABLE FOR FISCAL YEAR 2011 SHALL EQUAL THE ALLOWANCE PAYABLE FOR FISCAL YEAR 2010.

(C) FOR FISCAL YEAR 2012, THE ALLOWANCE ADJUSTED AS PROVIDED IN SUBSECTION (A) OF THIS SECTION SHALL BE REDUCED BY THE DIFFERENCE BETWEEN THE ALLOWANCE PAYABLE FOR FISCAL YEAR 2010 AND THE

ALLOWANCE THAT WOULD HAVE BEEN PAYABLE FOR FISCAL YEAR 2011 IF IT HAD BEEN ADJUSTED UNDER SUBSECTION (A) OF THIS SECTION.

29–418.

(a) ***(1)*** *[Each]* ***EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, EACH*** *fiscal year, the Board of Trustees shall adjust an allowance by multiplying the allowance for the preceding fiscal year, exclusive of any additional voluntary annuity, by a rate not exceeding 5%, that is obtained by dividing the Consumer Price Index for the calendar year ending December 31, in the preceding fiscal year by the Consumer Price Index for the calendar year ending December 31 in the second preceding fiscal year.*

(2) IF THE ADJUSTMENT DETERMINED UNDER PARAGRAPH (1) OF THIS SUBSECTION FOR FISCAL YEAR 2011 WOULD RESULT IN AN ALLOWANCE PAYABLE FOR FISCAL YEAR 2011 THAT IS LESS THAN THE ALLOWANCE FOR FISCAL YEAR 2010, THE ADJUSTMENT FOR FISCAL YEAR 2011 SHALL EQUAL $0.00.

(b) The adjustment under subsection (a) of this section shall begin the second July 1 after the day preceding the retiree's date of retirement or the former member's effective date for receipt of a vested allowance.

(c) ***(1)*** *[The]* ***EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE*** *total allowance payable in each fiscal year shall be the sum of:*

[*(1)****]*** ***(I)*** *the annual rate of allowance paid during the preceding fiscal year;*

[*(2)****]*** ***(II)*** *the adjustment in allowance provided for under this section; and*

[*(3)****]*** ***(III)*** *any additional annuity.*

(2) FOR FISCAL YEAR 2012, THE ALLOWANCE PAYABLE AS PROVIDED IN SUBSECTION (A) OF THIS SECTION SHALL BE REDUCED BY THE DIFFERENCE BETWEEN THE ALLOWANCE PAYABLE FOR FISCAL YEAR 2010 AND THE ALLOWANCE THAT WOULD HAVE BEEN PAID FOR FISCAL YEAR 2011 IF THE ADJUSTMENT HAD BEEN CALCULATED AS PROVIDED UNDER SUBSECTION (A) OF THIS SECTION.

29–427.

(a) ***(1)*** *[Each]* ***EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, EACH*** *fiscal year, the Board of Trustees shall adjust an allowance by*

multiplying the allowance for the preceding fiscal year, exclusive of any additional voluntary annuity, by a rate not exceeding 3%, that is obtained by dividing the Consumer Price Index for the calendar year ending December 31 in the preceding fiscal year by the Consumer Price Index for the calendar year ending December 31 in the second preceding fiscal year.

(2) IF THE ADJUSTMENT DETERMINED UNDER PARAGRAPH (1) OF THIS SUBSECTION FOR FISCAL YEAR 2011 WOULD RESULT IN AN ALLOWANCE PAYABLE FOR FISCAL YEAR 2011 THAT IS LESS THAN THE ALLOWANCE PAYABLE FOR FISCAL YEAR 2010, THE ADJUSTMENT FOR FISCAL YEAR 2011 SHALL EQUAL $0.00.

(b) The adjustment under subsection (a) of this section shall begin the second July 1 after the day preceding the retiree's date of retirement or the former member's effective date for receipt of a vested allowance.

(c) ***(1) [****The****] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE*** *total allowance payable in each fiscal year shall be the sum of:*

[*(1)****] (I)*** *the annual rate of allowance paid during the preceding fiscal year;*

[*(2)****] (II)*** *the adjustment in allowance provided for under this section; and*

[*(3)****] (III)*** *any additional annuity.*

(2) FOR FISCAL YEAR 2012, THE ALLOWANCE PAYABLE AS PROVIDED IN SUBSECTION (A) OF THIS SECTION SHALL BE REDUCED BY THE DIFFERENCE BETWEEN THE ALLOWANCE PAYABLE FOR FISCAL YEAR 2010 AND THE ALLOWANCE THAT WOULD HAVE BEEN PAID FOR FISCAL YEAR 2011 IF THE ADJUSTMENT HAD BEEN CALCULATED AS PROVIDED UNDER SUBSECTION (A) OF THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That:

~~(g) (h) (1)~~ *(a)* The Board of Trustees for the State Retirement and Pension System shall study:

~~(i)~~ *(1)* the effects that the Consumer Price Index (All Urban Consumers – United States City Average – All Items) as of December 31, 2009, as published by the United States Department of Labor Bureau of Labor Statistics, had on the annual retirement allowance adjustments applied to retirees of other public state pension plans; and

~~(ii)~~ *(2)* the actions other public state pension plans have taken in response to the effects that the Consumer Price Index (All Urban Consumers – United States City Average – All Items) as of December 31, 2009, as published by the United States Department of Labor Bureau of Labor Statistics, has had on the retirees and beneficiaries of deceased retirees of these plans.

~~(2)~~ *(b)* On or before October 1, 2010, the Board of Trustees shall submit a report in accordance with § 2–1246 of the State Government Article to the Senate Budget and Taxation Committee, the House Appropriations Committee, and the Joint Committee on Pensions that provides:

~~(i)~~ *(1)* a summary of its findings under paragraph (1) of this subsection; and

~~(ii)~~ *(2)* recommendations to avoid benefit reductions to retirees of the several systems when the annual Consumer Price Index results in a decrease in annual retirement allowances for retirees and beneficiaries of deceased retirees of the several systems of the State Retirement and Pension System.

SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall remain effective through December 31, 2010, and, at the end of December 31, 2010, 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 4. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall remain effective through December 31, 2014, and, at the end of December 31, 2014, with no further action required by the General Assembly, Section 1 of this Act shall be abrogated and of no further force and effect.

SECTION ~~2.~~ *5.* 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. ~~It shall remain effective through June 30, 2011, and, at the end of June 30, 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 13, 2010.

Chapter 57

(House Bill 775)

AN ACT concerning

State Retirement and Pension System – Retirees and Beneficiaries of Retirees – Annual Retirement Allowance Adjustments

FOR the purpose of providing that certain annual retirement allowance adjustments shall be a certain amount under certain circumstances; requiring that certain annual retirement allowances be reduced by a certain amount under certain circumstances; requiring the Board of Trustees for the State Retirement and Pension System to conduct a certain study regarding the effects of a certain Consumer Price Index on other public state pension plans; requiring the Board of Trustees to submit a report to the Senate Budget and Taxation Committee, the House Appropriations Committee, and the Joint Committee on Pensions by a certain date; defining certain terms; providing for the termination of certain provisions of this Act; making this Act an emergency measure; and generally relating to annual retirement allowance adjustments for retirees of the several systems of the State Retirement and Pension System.

BY repealing and reenacting, with amendments,
Article – State Personnel and Pensions
Section 24–401(e), 29–406, 29–407, 29–412, 29–418, and 29–427
Annotated Code of Maryland
(2009 Replacement Volume and 2009 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That~~, notwithstanding any other provision of law~~ the Laws of Maryland read as follows:

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

~~(2) "Adjustment" means the dollar amount by which either the current allowance or initial allowance of an individual is adjusted on July 1 of each year under § 24–401(e) and Title 29, Subtitle 4 of the State Personnel and Pensions Article.~~

~~(3) "Current allowance" means the retirement allowance that an individual is receiving on June 30, 2010.~~

~~(4) "Individual" means a former member, retiree, or surviving beneficiary of a deceased member, former member, or retiree of the several systems of the State Retirement and Pension System.~~

~~(5) "Initial allowance" means:~~

~~(i) the retirement allowance computed at the time of a retirement of a former member or retiree of the several systems of the State Retirement and Pension System, including any modifications to the retirement allowance to reflect a retiree's election to receive an optional form of allowance as provided under § 21–403 of the State Personnel and Pensions Article; or~~

~~(ii) the retirement allowance for a surviving beneficiary of a deceased member, former member, or retiree of the several systems of the State Retirement and Pension System computed at the time of death of the member, former member, or retiree.~~

~~(b) (1) This subsection applies to any individual who is subject to an annual retirement allowance adjustment under § 24–401(e) of the State Personnel and Pensions Article.~~

~~(2) If the fraction described under § 24–401(e)(2) of the State Personnel and Pensions Article that is used in the calculation to adjust an individual's current allowance on July 1, 2010, is less than one, the adjustment to the current allowance shall equal $0.00 on July 1, 2010.~~

~~(c) (1) This subsection applies to any individual who is subject to an annual retirement allowance adjustment under Title 29, Subtitle 4, Part II of the State Personnel and Pensions Article.~~

~~(2) If the fraction calculated under § 29–406 of the State Personnel and Pensions Article that is used in the calculation to adjust an individual's initial allowance on July 1, 2010, is determined to be a negative fraction, the adjustment under § 29–406 of the State Personnel and Pensions Article to the current allowance shall equal $0.00 on July 1, 2010.~~

~~(d) (1) This subsection applies to any individual who is subject to an annual retirement allowance adjustment under Title 29, Subtitle 4, Part IV of the State Personnel and Pensions Article.~~

~~(2) If the fraction used to determine the rate under § 29–418 of the State Personnel and Pensions Article that is used in the calculation to adjust an individual's current allowance on July 1, 2010, is less than one, the adjustment to the current allowance shall equal $0.00 on July 1, 2010.~~

~~(e) (1) This subsection applies to any individual who is subject to an annual retirement allowance adjustment under Title 29, Subtitle 4, Part V of the State Personnel and Pensions Article.~~

~~(2) (i) If the fraction calculated under § 29–422(b)(1) of the State Personnel and Pensions Article that is used to adjust an individual's initial allowance on July 1, 2010, is less than one, the adjustment to the current allowance for creditable service earned prior to the date that the retiree elected Selection C, as defined under § 22–221 of the State Personnel and Pensions Article, shall equal $0.00 on July 1, 2010.~~

~~(ii) If the fraction used to determine the rate under § 29–422(b)(2) of the State Personnel and Pensions Article that is used in the calculation to adjust an individual's current allowance on July 1, 2010, is less than one, the~~

~~adjustment to the current allowance for creditable service earned on or after the date that the retiree elected Selection C, as defined under § 22–221 of the State Personnel and Pensions Article, shall equal $0.00 on July 1, 2010.~~

~~(3) (i) If the fraction used to determine the rate under § 29–422(c)(1) of the State Personnel and Pensions Article that is used in the calculation to adjust an individual's current allowance on July 1, 2010, is less than one, the adjustment to the current allowance for creditable service earned prior to the date that the retiree elected Selection C, as defined under § 22–221 of the State Personnel and Pensions Article, shall equal $0.00 on July 1, 2010.~~

~~(ii) If the fraction used to determine the rate under § 29–422(c)(2) of the State Personnel and Pensions Article that is used in the calculation to adjust an individual's current allowance on July 1, 2010, is less than one, the adjustment to the current allowance for creditable service earned on or after the date that the retiree elected Selection C, as defined under § 22–221 of the State Personnel and Pensions Article, shall equal $0.00 on July 1, 2010.~~

~~(f) (1) This subsection applies to any individual who is subject to an annual retirement allowance adjustment under Title 29, Subtitle 4, Part VI of the State Personnel and Pensions Article.~~

~~(2) If the fraction used to determine the rate under § 29–427 of the State Personnel and Pensions Article that is used in the calculation to adjust an individual's current allowance on July 1, 2010, is less than one, the adjustment to the current allowance shall equal $0.00 on July 1, 2010.~~

Article – State Personnel and Pensions

24–401.

(e) (1) Subject to paragraph (2) of this subsection, a retiree, or a beneficiary of a retiree, who retires on or before June 30, 1999 with a service retirement allowance, shall receive an annual retirement allowance adjustment as of July 1, 1999, as follows:

(i) for a retiree who has been retired not more than 5 years, $1,200;

(ii) for a retiree who has been retired more than 5 years but not more than 10 years, $1,500;

(iii) for a retiree who has been retired more than 10 years but not more than 15 years, $1,800; and

(iv) for a retiree who has been retired more than 15 years, $2,100.

(2) [Each] **EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, EACH** fiscal year, the Board of Trustees shall increase the adjustment received by the retiree or the beneficiary as of July 1, 1999, by multiplying the adjustment by a fraction that has:

(i) as its numerator, the Consumer Price Index for the calendar year ending December 31 of the preceding fiscal year; and

(ii) as its denominator, the Consumer Price Index for the calendar year ending December 31, 1998.

(3) (I) FOR FISCAL YEAR 2011, IF THE ANNUAL RETIREMENT ALLOWANCE ADJUSTMENT THAT IS ADJUSTED AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION IS LESS THAN THE ANNUAL RETIREMENT ALLOWANCE ADJUSTMENT PAYABLE FOR FISCAL YEAR 2010, THE ANNUAL RETIREMENT ALLOWANCE ADJUSTMENT PAYABLE FOR FISCAL YEAR 2011 SHALL EQUAL THE ANNUAL RETIREMENT ALLOWANCE ADJUSTMENT PAYABLE FOR FISCAL YEAR 2010.

(II) FOR FISCAL YEAR 2012, THE ANNUAL RETIREMENT ALLOWANCE ADJUSTMENT THAT IS ADJUSTED AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION SHALL BE REDUCED BY THE DIFFERENCE BETWEEN THE ANNUAL RETIREMENT ALLOWANCE ADJUSTMENT PAYABLE FOR FISCAL YEAR 2010 AND THE ANNUAL RETIREMENT ALLOWANCE ADJUSTMENT THAT WOULD HAVE BEEN PAYABLE FOR FISCAL YEAR 2011 IF IT HAD BEEN ADJUSTED UNDER PARAGRAPH (2) OF THIS SUBSECTION.

29–406.

(a) **(1)** [Subject] **EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION AND SUBJECT** to subsection (c) of this section, the cost–of–living adjustment made under this Part II equals the initial allowance multiplied by a fraction that has:

[(1)] **(I)** as its numerator, the amount obtained by subtracting the Consumer Price Index for the calendar year ending December 31 of the preceding fiscal year from the base year Consumer Price Index described in subsection (b) of this section; and

[(2)] **(II)** as its denominator, the base year Consumer Price Index described in subsection (b) of this section.

(2) IF THE COST–OF–LIVING ADJUSTMENT DETERMINED UNDER PARAGRAPH (1) OF THIS SUBSECTION FOR FISCAL YEAR 2011 WOULD RESULT IN

AN ALLOWANCE PAYABLE FOR FISCAL YEAR 2011 THAT IS LESS THAN THE ALLOWANCE PAYABLE FOR FISCAL YEAR 2010, THE ANNUAL COST–OF–LIVING ADJUSTMENT FOR FISCAL YEAR 2011 SHALL EQUAL $0.00.

(b) The base year Consumer Price Index referred to in subsection (a) of this section equals the later of:

(1) the Consumer Price Index for the calendar year ending December 31 of the fiscal year that preceded the last adjustment; or

(2) (i) for a retiree, the Consumer Price Index for the calendar year ending December 31 of the fiscal year in which the retiree was last employed as a member; or

(ii) for a former member who elected a vested allowance in accordance with § 29–303 of this title, the Consumer Price Index for the calendar year ending December 31 of the fiscal year in which the former member became 62 years old.

(c) The cost–of–living adjustment under this section may not exceed 3% of the initial allowance.

29–407.

(A) [The] **EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THE** total allowance payable in any fiscal year shall be the sum of:

(1) the initial allowance;

(2) all prior cost–of–living adjustments;

(3) the cost–of–living adjustment provided for under § 29–406 of this subtitle; and

(4) any additional annuity.

(B) FOR FISCAL YEAR 2012, THE ALLOWANCE PAYABLE AS PROVIDED IN SUBSECTION (A) OF THIS SECTION SHALL BE REDUCED BY THE DIFFERENCE BETWEEN THE ALLOWANCE PAYABLE FOR FISCAL YEAR 2010 AND THE ALLOWANCE THAT WOULD HAVE BEEN PAID FOR FISCAL YEAR 2011 IF THE COST–OF–LIVING ADJUSTMENT HAD BEEN CALCULATED AS PROVIDED UNDER § 29–406(A) OF THIS SUBTITLE.

29–412.

(A) [Subject] **EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION AND SUBJECT** to § 29–413 of this subtitle, each fiscal year, the Board of Trustees shall adjust an initial allowance by multiplying the initial allowance by the fraction that has:

(1) as its numerator, the Consumer Price Index for the calendar year ending December 31 of the preceding fiscal year; and

(2) as its denominator:

(i) for a retiree, the beneficiary of a retiree, or the surviving spouse of a member, the Consumer Price Index for the calendar year ending December 31 of the fiscal year in which the retiree or member was last employed; or

(ii) for a former member or the beneficiary of a former member, the Consumer Price Index for the calendar year ending December 31 of the fiscal year in which the former member reaches normal retirement age.

(B) FOR FISCAL YEAR 2011, IF THE ALLOWANCE ADJUSTED AS PROVIDED IN SUBSECTION (A) OF THIS SECTION IS LESS THAN THE ALLOWANCE PAYABLE FOR FISCAL YEAR 2010, THE ALLOWANCE PAYABLE FOR FISCAL YEAR 2011 SHALL EQUAL THE ALLOWANCE PAYABLE FOR FISCAL YEAR 2010.

(C) FOR FISCAL YEAR 2012, THE ALLOWANCE ADJUSTED AS PROVIDED IN SUBSECTION (A) OF THIS SECTION SHALL BE REDUCED BY THE DIFFERENCE BETWEEN THE ALLOWANCE PAYABLE FOR FISCAL YEAR 2010 AND THE ALLOWANCE THAT WOULD HAVE BEEN PAYABLE FOR FISCAL YEAR 2011 IF IT HAD BEEN ADJUSTED UNDER SUBSECTION (A) OF THIS SECTION.

29–418.

(a) **(1)** [Each] **EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, EACH** fiscal year, the Board of Trustees shall adjust an allowance by multiplying the allowance for the preceding fiscal year, exclusive of any additional voluntary annuity, by a rate not exceeding 5%, that is obtained by dividing the Consumer Price Index for the calendar year ending December 31, in the preceding fiscal year by the Consumer Price Index for the calendar year ending December 31 in the second preceding fiscal year.

(2) IF THE ADJUSTMENT DETERMINED UNDER PARAGRAPH (1) OF THIS SUBSECTION FOR FISCAL YEAR 2011 WOULD RESULT IN AN ALLOWANCE PAYABLE FOR FISCAL YEAR 2011 THAT IS LESS THAN THE ALLOWANCE FOR FISCAL YEAR 2010, THE ADJUSTMENT FOR FISCAL YEAR 2011 SHALL EQUAL $0.00.

(b) The adjustment under subsection (a) of this section shall begin the second July 1 after the day preceding the retiree's date of retirement or the former member's effective date for receipt of a vested allowance.

(c) **(1)** **[**The**]** **EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE** total allowance payable in each fiscal year shall be the sum of:

[(1)**]** **(I)** the annual rate of allowance paid during the preceding fiscal year;

[(2)**]** **(II)** the adjustment in allowance provided for under this section; and

[(3)**]** **(III)** any additional annuity.

(2) FOR FISCAL YEAR 2012, THE ALLOWANCE PAYABLE AS PROVIDED IN SUBSECTION (A) OF THIS SECTION SHALL BE REDUCED BY THE DIFFERENCE BETWEEN THE ALLOWANCE PAYABLE FOR FISCAL YEAR 2010 AND THE ALLOWANCE THAT WOULD HAVE BEEN PAID FOR FISCAL YEAR 2011 IF THE ADJUSTMENT HAD BEEN CALCULATED AS PROVIDED UNDER SUBSECTION (A) OF THIS SECTION.

29–427.

(a) **(1)** **[**Each**]** **EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, EACH** fiscal year, the Board of Trustees shall adjust an allowance by multiplying the allowance for the preceding fiscal year, exclusive of any additional voluntary annuity, by a rate not exceeding 3%, that is obtained by dividing the Consumer Price Index for the calendar year ending December 31 in the preceding fiscal year by the Consumer Price Index for the calendar year ending December 31 in the second preceding fiscal year.

(2) IF THE ADJUSTMENT DETERMINED UNDER PARAGRAPH (1) OF THIS SUBSECTION FOR FISCAL YEAR 2011 WOULD RESULT IN AN ALLOWANCE PAYABLE FOR FISCAL YEAR 2011 THAT IS LESS THAN THE ALLOWANCE PAYABLE FOR FISCAL YEAR 2010, THE ADJUSTMENT FOR FISCAL YEAR 2011 SHALL EQUAL $0.00.

(b) The adjustment under subsection (a) of this section shall begin the second July 1 after the day preceding the retiree's date of retirement or the former member's effective date for receipt of a vested allowance.

(c) **(1)** **[**The**]** **EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE** total allowance payable in each fiscal year shall be the sum of:

[(1)**]** **(I)** the annual rate of allowance paid during the preceding fiscal year;

[(2)**]** **(II)** the adjustment in allowance provided for under this section; and

[(3)**]** **(III)** any additional annuity.

(2) FOR FISCAL YEAR 2012, THE ALLOWANCE PAYABLE AS PROVIDED IN SUBSECTION (A) OF THIS SECTION SHALL BE REDUCED BY THE DIFFERENCE BETWEEN THE ALLOWANCE PAYABLE FOR FISCAL YEAR 2010 AND THE ALLOWANCE THAT WOULD HAVE BEEN PAID FOR FISCAL YEAR 2011 IF THE ADJUSTMENT HAD BEEN CALCULATED AS PROVIDED UNDER SUBSECTION (A) OF THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That:

~~(g)~~ ~~(1)~~ (a) The Board of Trustees for the State Retirement and Pension System shall study:

~~(i)~~ (1) the effects that the Consumer Price Index (All Urban Consumers – United States City Average – All Items) as of December 31, 2009, as published by the United States Department of Labor Bureau of Labor Statistics, had on the annual retirement allowance adjustments applied to retirees of other public state pension plans; and

~~(ii)~~ (2) the actions other public state pension plans have taken in response to the effects that the Consumer Price Index (All Urban Consumers – United States City Average – All Items) as of December 31, 2009, as published by the United States Department of Labor Bureau of Labor Statistics, has had on the retirees and beneficiaries of deceased retirees of these plans.

~~(2)~~ (b) On or before October 1, 2010, the Board of Trustees shall submit a report in accordance with § 2–1246 of the State Government Article to the Senate Budget and Taxation Committee, the House Appropriations Committee, and the Joint Committee on Pensions that provides:

~~(i)~~ (1) a summary of its findings under paragraph (1) of this subsection; and

~~(ii)~~ (2) recommendations to avoid benefit reductions to retirees of the several systems when the annual Consumer Price Index results in a decrease in annual retirement allowances for retirees and beneficiaries of deceased retirees of the several systems of the State Retirement and Pension System.

SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall remain effective through December 31, 2010, and, at the end of December 31, 2010, 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 4. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall remain effective through December 31, 2014, and, at the end of December 31, 2014, with no further action required by the General Assembly, Section 1 of this Act shall be abrogated and of no further force and effect.

SECTION ~~2.~~ 5. 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 13, 2010.

Chapter 58

(Senate Bill 323)

AN ACT concerning

Office of Legislative Audits – Auditing Local School Systems

FOR the purpose of continuing the requirement that the Office of Legislative Audits conduct audits of certain local school systems by requiring the Office to conduct audits of each local school system within certain periods of time; and generally relating to audits of local school systems by the Office of Legislative Audits.

BY repealing and reenacting, with amendments,
Article – State Government
Section 2–1220(e)
Annotated Code of Maryland
(2009 Replacement Volume)

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

Article – State Government

2–1220.

(e) (1) **[**Between July 1, 2004 and June 30, 2010,**]** **AT LEAST ONCE EVERY 6 YEARS,** the Office of Legislative Audits shall conduct an audit of each local school system to evaluate the effectiveness and efficiency of the financial management practices of the local school system.

(2) The audits may be performed concurrently or separately.

(3) The Office of Legislative Audits shall provide information regarding the audit process to the local school system before the audit is conducted.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 59

(House Bill 189)

AN ACT concerning

Office of Legislative Audits – Auditing Local School Systems

FOR the purpose of continuing the requirement that the Office of Legislative Audits conduct audits of certain local school systems by requiring the Office to conduct audits of each local school system within certain periods of time; and generally relating to audits of local school systems by the Office of Legislative Audits.

BY repealing and reenacting, with amendments,
Article – State Government
Section 2–1220(e)
Annotated Code of Maryland
(2009 Replacement Volume)

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

Article – State Government

2–1220.

(e) (1) **[**Between July 1, 2004 and June 30, 2010,**]** **AT LEAST ONCE EVERY 6 YEARS,** the Office of Legislative Audits shall conduct an audit of each local school system to evaluate the effectiveness and efficiency of the financial management practices of the local school system.

(2) The audits may be performed concurrently or separately.

(3) The Office of Legislative Audits shall provide information regarding the audit process to the local school system before the audit is conducted.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 60

(Senate Bill 328)

AN ACT concerning

Hospitals – Financial Assistance and Debt Collection

FOR the purpose of requiring the State Health Services Cost Review Commission to require certain chronic care hospitals to develop a certain financial assistance policy for providing free and reduced–cost care to certain patients; requiring a certain hospital financial assistance policy to provide reduced–cost medically necessary care to certain patients who have a financial hardship; requiring a hospital to apply a reduction that is most favorable to a patient under certain circumstances; providing that a patient or ~~any family member~~ certain family members of the patient shall remain eligible for certain reduced–cost care under certain circumstances; requiring the patient or family member to inform a hospital of the patient's or family member's eligibility for certain reduced–cost care under certain circumstances; altering the requirements for a notice that a hospital must post regarding patient financial assistance; specifying that, for certain purposes, the rights and obligations of a patient with regard to a hospital bill include the rights and obligations with regard to certain reduced–cost care; requiring a hospital's policy on the collection of debts owed by patients to provide for a refund of certain amounts collected from a patient or the guarantor of a patient, require the hospital to seek to vacate a judgment or strike adverse information reported to a consumer reporting agency under certain circumstances, and provide a mechanism for a patient to request a reconsideration of the denial of free or reduced–cost care and file a complaint regarding the handling of the patient's bill; requiring a hospital, beginning on a certain date, to provide for a refund of certain amounts collected from a patient or the guarantor of a patient who, within a certain time period, was found to be eligible for free care; authorizing a hospital to reduce the time period under certain circumstances; requiring a hospital's refund ~~to policy~~ policy to provide for a refund that complies with a patient's means–tested government health

care plan under certain circumstances; prohibiting a hospital, for a certain period of time, from reporting adverse information about a patient to a consumer reporting agency or commencing civil action against a patient for nonpayment of a bill unless the hospital documents a certain lack of cooperation; requiring a hospital to ~~promptly~~ report to a certain consumer reporting agency the fulfillment of a patient's payment obligation within a certain period of time; prohibiting a hospital from forcing the sale or foreclosure of a patient's primary residence to collect a debt owed on a hospital bill; authorizing a hospital to maintain its position as a secured creditor under certain circumstances; requiring a hospital to fulfill certain requirements if the hospital delegates collection activity to an outside collection agency; requiring the board of directors of each hospital to review and approve the financial assistance and debt collection policies of the hospital at certain intervals; prohibiting a hospital from altering its financial assistance and debt collection policies without approval of its board of directors; requiring a hospital to provide to a patient, on request, a written estimate of certain charges; requiring the written estimate to include a certain statement; authorizing a hospital to restrict the availability of the written estimate; providing that the requirements pertaining to written estimates do not apply to emergency services; defining certain terms; making certain conforming changes; and generally relating to hospital financial assistance and debt collection requirements.

BY repealing and reenacting, with amendments,
Article – Health – General
Section 19–214.1, 19–214.2, and 19–350(b)
Annotated Code of Maryland
(2009 Replacement Volume)

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

Article – Health – General

19–214.1.

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

(2) "FINANCIAL HARDSHIP" MEANS MEDICAL DEBT, INCURRED BY A FAMILY OVER A 12–MONTH PERIOD, THAT EXCEEDS 25% OF FAMILY INCOME.

(3) "MEDICAL DEBT" MEANS OUT–OF–POCKET EXPENSES, EXCLUDING COPAYMENTS, COINSURANCE, AND DEDUCTIBLES, FOR MEDICAL COSTS BILLED BY A HOSPITAL.

[(a)**] (B)** (1) The Commission shall require each acute care hospital **AND EACH CHRONIC CARE HOSPITAL** in the State **UNDER THE JURISDICTION OF THE COMMISSION** to develop a financial assistance policy for providing free and reduced–cost care to patients who lack health care coverage or whose health care coverage does not pay the full cost of the hospital bill.

(2) The financial assistance policy shall provide, at a minimum:

(i) Free medically necessary care to patients with family income at or below 150% of the federal poverty level; ~~[~~and~~]~~

(ii) Reduced–cost medically necessary care to low–income patients with family income above 150% of the federal poverty level, in accordance with the mission and service area of the hospital~~; AND~~

~~(III) REDUCED–COST MEDICALLY NECESSARY CARE TO PATIENTS WITH FAMILY INCOME BELOW 500% OF THE FEDERAL POVERTY LEVEL WHO HAVE A FINANCIAL HARDSHIP~~.

(3) (i) The Commission by regulation may establish income thresholds higher than those under paragraph (2) of this subsection.

(ii) In establishing income thresholds that are higher than those under paragraph (2) of this subsection for a hospital, the Commission shall take into account:

1. The patient mix of the hospital;

2. The financial condition of the hospital;

3. The level of bad debt experienced by the hospital; and

4. The amount of charity care provided by the hospital.

(4) (I) SUBJECT TO SUBPARAGRAPHS (II) AND (III) OF THIS PARAGRAPH, THE FINANCIAL ASSISTANCE POLICY REQUIRED UNDER THIS SUBSECTION SHALL PROVIDE REDUCED–COST MEDICALLY NECESSARY CARE TO PATIENTS WITH FAMILY INCOME BELOW 500% OF THE FEDERAL POVERTY LEVEL WHO HAVE A FINANCIAL HARDSHIP.

(II) A HOSPITAL MAY SEEK AND THE COMMISSION MAY APPROVE A FAMILY INCOME THRESHOLD THAT IS DIFFERENT THAN THE FAMILY INCOME THRESHOLD UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH.

(III) IN ESTABLISHING A FAMILY INCOME THRESHOLD THAT IS DIFFERENT THAN THE FAMILY INCOME THRESHOLD UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE COMMISSION SHALL TAKE INTO ACCOUNT:

1. THE MEDIAN FAMILY INCOME IN THE HOSPITAL'S SERVICE AREA;

2. THE PATIENT MIX OF THE HOSPITAL;

3. THE FINANCIAL CONDITION OF THE HOSPITAL;

4. THE LEVEL OF BAD DEBT EXPERIENCED BY THE HOSPITAL;

5. THE AMOUNT OF CHARITY CARE PROVIDED BY THE HOSPITAL; AND

6. OTHER RELEVANT FACTORS.

~~(4)~~ (5) IF A PATIENT IS ELIGIBLE FOR REDUCED–COST MEDICALLY NECESSARY CARE UNDER BOTH ~~PARAGRAPH~~ PARAGRAPHS (2)(II) AND ~~(III)~~ (4) OF THIS SUBSECTION, THE HOSPITAL SHALL APPLY THE REDUCTION THAT IS MOST FAVORABLE TO THE PATIENT.

~~(5)~~ (6) IF A PATIENT HAS RECEIVED REDUCED–COST MEDICALLY NECESSARY CARE DUE TO A FINANCIAL HARDSHIP, THE PATIENT OR ANY IMMEDIATE FAMILY MEMBER OF THE PATIENT LIVING IN THE SAME HOUSEHOLD:

(I) SHALL REMAIN ELIGIBLE FOR REDUCED–COST MEDICALLY NECESSARY CARE WHEN SEEKING SUBSEQUENT CARE AT THE SAME HOSPITAL DURING THE 12–MONTH PERIOD BEGINNING ON THE DATE ON WHICH THE REDUCED–COST MEDICALLY NECESSARY CARE WAS INITIALLY RECEIVED; AND

(II) TO AVOID AN UNNECESSARY DUPLICATION OF THE HOSPITAL'S DETERMINATION OF ELIGIBILITY FOR FREE AND REDUCED–COST CARE, SHALL INFORM THE HOSPITAL OF THE PATIENT'S OR FAMILY MEMBER'S ELIGIBILITY FOR THE REDUCED–COST MEDICALLY NECESSARY CARE.

[(b)**] (C)** A hospital shall post a notice in conspicuous places throughout the hospital, including the billing office, **[**describing the financial assistance policy and how to apply for free and reduced–cost care**] INFORMING PATIENTS OF THEIR**

RIGHT TO APPLY FOR FINANCIAL ASSISTANCE AND WHO TO CONTACT AT THE HOSPITAL FOR ADDITIONAL INFORMATION.

[(c)**] (D)** The Commission shall:

(1) Develop a uniform financial assistance application; and

(2) Require each hospital to use the uniform financial assistance application to determine eligibility for free and reduced–cost care under the hospital's financial assistance policy.

[(d)**] (E)** The uniform financial assistance application:

(1) Shall be written in simplified language; and

(2) May not require documentation that presents an undue barrier to a patient's receipt of financial assistance.

[(e)**] (F)** (1) Each hospital shall develop an information sheet that:

(i) Describes the hospital's financial assistance policy;

(ii) Describes a patient's rights and obligations with regard to hospital billing and collection under the law;

(iii) Provides contact information for the individual or office at the hospital that is available to assist the patient, the patient's family, or the patient's authorized representative in order to understand:

1. The patient's hospital bill;

2. The patient's rights and obligations with regard to the hospital bill;

3. How to apply for free and reduced–cost care; and

4. How to apply for the Maryland Medical Assistance Program and any other programs that may help pay the bill;

(iv) Provides contact information for the Maryland Medical Assistance Program; and

(v) Includes a statement that physician charges are not included in the hospital bill and are billed separately.

(2) The information sheet shall be provided to the patient, the patient's family, or the patient's authorized representative:

(i) Before discharge;

(ii) With the hospital bill; and

(iii) On request.

(3) The hospital bill shall include a reference to the information sheet.

(4) The Commission shall:

(i) Establish uniform requirements for the information sheet; and

(ii) Review each hospital's implementation of and compliance with the requirements of this subsection.

[(f)**] (G)** Each hospital shall ensure the availability of staff who are trained to work with the patient, the patient's family, and the patient's authorized representative in order to understand:

(1) The patient's hospital bill;

(2) The patient's rights and obligations with regard to the hospital bill**, INCLUDING THE PATIENT'S RIGHTS AND OBLIGATIONS WITH REGARD TO REDUCED–COST MEDICALLY NECESSARY CARE DUE TO A FINANCIAL HARDSHIP**;

(3) How to apply for the Maryland Medical Assistance Program and any other programs that may help pay the hospital bill; and

(4) How to contact the hospital for additional assistance.

19–214.2.

(a) Each hospital shall submit to the Commission, at times prescribed by the Commission, the hospital's policy on the collection of debts owed by patients.

(b) The policy shall:

(1) Provide for active oversight by the hospital of any contract for collection of debts on behalf of the hospital;

(2) Prohibit the hospital from selling any debt;

(3) Prohibit the charging of interest on bills incurred by self–pay patients before a court judgment is obtained;

(4) Describe in detail the consideration by the hospital of patient income, assets, and other criteria;

(5) Describe the hospital's procedures for collecting a debt; **[**and**]**

(6) Describe the circumstances in which the hospital will seek a judgment against a patient**;**

(7) IN ACCORDANCE WITH SUBSECTION (C) OF THIS SECTION, PROVIDE FOR A REFUND OF AMOUNTS COLLECTED FROM A PATIENT OR THE GUARANTOR OF A PATIENT WHO WAS LATER FOUND TO BE ELIGIBLE FOR FREE CARE ON THE DATE OF SERVICE;

(8) IF THE HOSPITAL HAS OBTAINED A JUDGMENT AGAINST OR REPORTED ADVERSE INFORMATION TO A CONSUMER REPORTING AGENCY ABOUT A PATIENT WHO LATER WAS FOUND TO BE ELIGIBLE FOR FREE CARE ON THE DATE OF THE SERVICE FOR WHICH THE JUDGMENT WAS AWARDED OR THE ADVERSE INFORMATION WAS REPORTED, REQUIRE THE HOSPITAL TO SEEK TO VACATE THE JUDGMENT OR STRIKE THE ADVERSE INFORMATION; AND

(9) PROVIDE A MECHANISM FOR A PATIENT TO:

(I) REQUEST THE HOSPITAL TO RECONSIDER THE DENIAL OF FREE OR REDUCED–COST CARE; AND

(II) FILE WITH THE HOSPITAL A COMPLAINT AGAINST THE HOSPITAL OR AN OUTSIDE COLLECTION AGENCY USED BY THE HOSPITAL REGARDING THE HANDLING OF THE PATIENT'S BILL.

(C) (1) BEGINNING OCTOBER 1, 2010, A HOSPITAL SHALL PROVIDE FOR A REFUND OF AMOUNTS EXCEEDING $25 COLLECTED FROM A PATIENT OR THE GUARANTOR OF A PATIENT WHO, WITHIN A 2–YEAR PERIOD AFTER THE DATE OF SERVICE, WAS FOUND TO BE ELIGIBLE FOR FREE CARE ON THE DATE OF SERVICE.

(2) A HOSPITAL MAY REDUCE THE 2–YEAR PERIOD UNDER PARAGRAPH (1) OF THIS SUBSECTION TO NO LESS THAN 30 DAYS AFTER THE DATE THE HOSPITAL REQUESTS INFORMATION FROM A PATIENT, OR THE GUARANTOR OF A PATIENT, TO DETERMINE THE PATIENT'S ELIGIBILITY FOR FREE CARE AT THE TIME OF SERVICE, IF THE HOSPITAL DOCUMENTS THE LACK

OF COOPERATION OF THE PATIENT OR THE GUARANTOR OF A PATIENT IN PROVIDING THE REQUESTED INFORMATION.

(3) IF A PATIENT IS ENROLLED IN A MEANS–TESTED GOVERNMENT HEALTH CARE PLAN THAT REQUIRES THE PATIENT TO PAY OUT–OF–POCKET FOR HOSPITAL SERVICES, A HOSPITAL'S REFUND POLICY SHALL PROVIDE FOR A REFUND THAT COMPLIES WITH THE TERMS OF THE PATIENT'S PLAN.

(D) (1) FOR AT LEAST 120 DAYS AFTER ISSUING AN INITIAL PATIENT BILL, A HOSPITAL MAY NOT REPORT ADVERSE INFORMATION ABOUT A PATIENT TO A CONSUMER REPORTING AGENCY OR COMMENCE CIVIL ACTION AGAINST A PATIENT FOR NONPAYMENT UNLESS THE HOSPITAL DOCUMENTS THE LACK OF COOPERATION OF THE PATIENT OR THE GUARANTOR OF THE PATIENT IN PROVIDING INFORMATION NEEDED TO DETERMINE THE PATIENT'S OBLIGATION WITH REGARD TO THE HOSPITAL BILL.

(2) A HOSPITAL ~~PROMPTLY~~ SHALL REPORT THE FULFILLMENT OF A PATIENT'S PAYMENT OBLIGATION WITHIN 60 DAYS AFTER THE OBLIGATION IS FULFILLED TO ANY CONSUMER REPORTING AGENCY TO WHICH THE HOSPITAL HAD REPORTED ADVERSE INFORMATION ABOUT THE PATIENT.

(E) (1) A HOSPITAL MAY NOT FORCE THE SALE OR FORECLOSURE OF A PATIENT'S PRIMARY RESIDENCE TO COLLECT A DEBT OWED ON A HOSPITAL BILL.

(2) IF A HOSPITAL HOLDS A LIEN ON A PATIENT'S PRIMARY RESIDENCE, THE HOSPITAL MAY MAINTAIN ITS POSITION AS A SECURED CREDITOR WITH RESPECT TO OTHER CREDITORS TO WHOM THE PATIENT MAY OWE A DEBT.

(F) IF A HOSPITAL DELEGATES COLLECTION ACTIVITY TO AN OUTSIDE COLLECTION AGENCY, THE HOSPITAL SHALL:

(1) SPECIFY THE COLLECTION ACTIVITY TO BE PERFORMED BY THE OUTSIDE COLLECTION AGENCY THROUGH AN EXPLICIT AUTHORIZATION OR CONTRACT;

(2) REQUIRE THE OUTSIDE COLLECTION AGENCY TO ABIDE BY THE HOSPITAL'S CREDIT AND COLLECTION POLICY;

(3) SPECIFY PROCEDURES THE OUTSIDE COLLECTION AGENCY MUST FOLLOW IF A PATIENT APPEARS TO QUALIFY FOR FINANCIAL ASSISTANCE; AND

(4) REQUIRE THE OUTSIDE COLLECTION AGENCY TO:

(I) IN ACCORDANCE WITH THE HOSPITAL'S POLICY, PROVIDE A MECHANISM FOR A PATIENT TO FILE WITH THE HOSPITAL A COMPLAINT AGAINST THE HOSPITAL OR THE OUTSIDE COLLECTION AGENCY REGARDING THE HANDLING OF THE PATIENT'S BILL; AND

(II) IF A PATIENT FILES A COMPLAINT WITH THE COLLECTION AGENCY, FORWARD THE COMPLAINT TO THE HOSPITAL.

(G) (1) THE BOARD OF DIRECTORS OF EACH HOSPITAL SHALL REVIEW AND APPROVE THE FINANCIAL ASSISTANCE AND DEBT COLLECTION POLICIES OF THE HOSPITAL AT LEAST EVERY ~~3~~ 2 YEARS.

(2) A HOSPITAL MAY NOT ALTER ITS FINANCIAL ASSISTANCE OR DEBT COLLECTION POLICIES WITHOUT APPROVAL BY THE BOARD OF DIRECTORS.

[(c)**] (H)** The Commission shall review each hospital's implementation of and compliance with the hospital's **[**policy**] POLICIES** and the requirements of **[**subsection (b) of**]** this section.

19–350.

(b) **(1) (I) ON REQUEST OF A PATIENT MADE BEFORE OR DURING TREATMENT, A HOSPITAL SHALL PROVIDE TO THE PATIENT A WRITTEN ESTIMATE OF THE TOTAL CHARGES FOR THE HOSPITAL SERVICES, PROCEDURES, AND SUPPLIES THAT REASONABLY ARE EXPECTED TO BE PROVIDED AND BILLED TO THE PATIENT BY THE HOSPITAL.**

(II) THE WRITTEN ESTIMATE SHALL STATE CLEARLY THAT IT IS ONLY AN ESTIMATE AND ACTUAL CHARGES COULD VARY.

(III) A HOSPITAL MAY RESTRICT THE AVAILABILITY OF A WRITTEN ESTIMATE TO NORMAL BUSINESS OFFICE HOURS.

(IV) THIS PARAGRAPH DOES NOT APPLY TO EMERGENCY SERVICES.

[(1)**] (2)** Within 30 days after discharge of an individual from a hospital, the hospital shall give the individual a summary financial statement that clearly describes:

(i) The total charges incurred;

(ii) If readily ascertainable, a summary of the total charges under the major services categories, including:

1. Room and board;

2. Diagnostic services;

3. Therapeutic services;

4. Emergency room services;

5. Drugs and IV solutions; and

6. Miscellaneous other supplies and services;

(iii) If applicable, the name of the primary and secondary insurer to which a claim has been or will be filed on the individual's behalf;

(iv) That charges for services provided by a physician are not included in the total hospital charges and are billed separately; and

(v) The individual's right to request an itemized statement of the account within 1 year of receipt of the summary statement.

[(2)**] (3)** Within 30 days after an individual's request as provided under paragraph **[**(1)(v)**] (2)(V)** of this subsection, the hospital shall provide the individual a statement of the account that:

(i) Is itemized; and

(ii) Describes briefly but clearly each item and the amount charged for it.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 61

(House Bill 933)

AN ACT concerning

Hospitals – Financial Assistance and Debt Collection

FOR the purpose of requiring the State Health Services Cost Review Commission to require certain chronic care hospitals to develop a certain financial assistance policy for providing free and reduced–cost care to certain patients; requiring a certain hospital financial assistance policy to provide reduced–cost medically necessary care to certain patients who have a financial hardship; requiring a hospital to apply a reduction that is most favorable to a patient under certain circumstances; providing that a patient or ~~any family member~~ certain family members of the patient shall remain eligible for certain reduced–cost care under certain circumstances; requiring the patient or family member to inform a hospital of the patient's or family member's eligibility for certain reduced–cost care under certain circumstances; altering the requirements for a notice that a hospital must post regarding patient financial assistance; specifying that, for certain purposes, the rights and obligations of a patient with regard to a hospital bill include the rights and obligations with regard to certain reduced–cost care; requiring a hospital's policy on the collection of debts owed by patients to provide for a refund of certain amounts collected from a patient or the guarantor of a patient, require the hospital to seek to vacate a judgment or strike adverse information reported to a consumer reporting agency under certain circumstances, and provide a mechanism for a patient to request a reconsideration of the denial of free or reduced–cost care and file a complaint regarding the handling of the patient's bill; requiring a hospital, beginning on a certain date, to provide for a refund of certain amounts collected from a patient or the guarantor of a patient who, within a certain time period, was found to be eligible for free care; authorizing a hospital to reduce the time period under certain circumstances; requiring a hospital's refund policy to provide for a refund that complies with a patient's means–tested government health care plan under certain circumstances; prohibiting a hospital, for a certain period of time, from reporting adverse information about a patient to a consumer reporting agency or commencing civil action against a patient for nonpayment of a bill unless the hospital documents a certain lack of cooperation; requiring a hospital to ~~promptly~~ report to a certain consumer reporting agency the fulfillment of a patient's payment obligation within a certain period of time; prohibiting a hospital from forcing the sale or foreclosure of a patient's primary residence to collect a debt owed on a hospital bill; authorizing a hospital to maintain its position as a secured creditor under certain circumstances; requiring a hospital to fulfill certain requirements if the hospital delegates collection activity to an outside collection agency; requiring the board of directors of each hospital to review and approve the financial assistance and debt collection policies of the hospital at certain intervals; prohibiting a hospital from altering its financial assistance and debt collection policies without approval of its board of directors; requiring a hospital to provide to a patient, on request, a written estimate of certain charges; requiring the written estimate to include a certain statement; authorizing a hospital to restrict the availability of the written estimate; providing that the requirements pertaining to written estimates do not apply to emergency services; defining certain terms; making

certain conforming changes; and generally relating to hospital financial assistance and debt collection requirements.

BY repealing and reenacting, with amendments,
Article – Health – General
Section 19–214.1, 19–214.2, and 19–350(b)
Annotated Code of Maryland
(2009 Replacement Volume)

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

Article – Health – General

19–214.1.

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

(2) "FINANCIAL HARDSHIP" MEANS MEDICAL DEBT, INCURRED BY A FAMILY OVER A 12–MONTH PERIOD, THAT EXCEEDS 25% OF FAMILY INCOME.

(3) "MEDICAL DEBT" MEANS OUT–OF–POCKET EXPENSES, EXCLUDING CO–PAYMENTS, COINSURANCE, AND DEDUCTIBLES, FOR MEDICAL COSTS BILLED BY A HOSPITAL.

[(a)**] (B)** (1) The Commission shall require each acute care hospital **AND EACH CHRONIC CARE HOSPITAL** in the State **UNDER THE JURISDICTION OF THE COMMISSION** to develop a financial assistance policy for providing free and reduced–cost care to patients who lack health care coverage or whose health care coverage does not pay the full cost of the hospital bill.

(2) The financial assistance policy shall provide, at a minimum:

(i) Free medically necessary care to patients with family income at or below 150% of the federal poverty level; ~~[~~and~~]~~

(ii) Reduced–cost medically necessary care to low–income patients with family income above 150% of the federal poverty level, in accordance with the mission and service area of the hospital~~; AND~~

~~(III) REDUCED–COST MEDICALLY NECESSARY CARE TO PATIENTS WITH FAMILY INCOME BELOW 500% OF THE FEDERAL POVERTY LEVEL WHO HAVE A FINANCIAL HARDSHIP~~.

(3) (i) The Commission by regulation may establish income thresholds higher than those under paragraph (2) of this subsection.

(ii) In establishing income thresholds that are higher than those under paragraph (2) of this subsection for a hospital, the Commission shall take into account:

1. The patient mix of the hospital;

2. The financial condition of the hospital;

3. The level of bad debt experienced by the hospital; and

4. The amount of charity care provided by the hospital.

(4) (I) SUBJECT TO SUBPARAGRAPHS (II) AND (III) OF THIS PARAGRAPH, THE FINANCIAL ASSISTANCE POLICY REQUIRED UNDER THIS SUBSECTION SHALL PROVIDE REDUCED–COST MEDICALLY NECESSARY CARE TO PATIENTS WITH FAMILY INCOME BELOW 500% OF THE FEDERAL POVERTY LEVEL WHO HAVE A FINANCIAL HARDSHIP.

(II) A HOSPITAL MAY SEEK AND THE COMMISSION MAY APPROVE A FAMILY INCOME THRESHOLD THAT IS DIFFERENT THAN THE FAMILY INCOME THRESHOLD UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH.

(III) IN ESTABLISHING A FAMILY INCOME THRESHOLD THAT IS DIFFERENT THAN THE FAMILY INCOME THRESHOLD UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE COMMISSION SHALL TAKE INTO ACCOUNT:

1. THE MEDIAN FAMILY INCOME IN THE HOSPITAL'S SERVICE AREA;

2. THE PATIENT MIX OF THE HOSPITAL;

3. THE FINANCIAL CONDITION OF THE HOSPITAL;

4. THE LEVEL OF BAD DEBT EXPERIENCED BY THE HOSPITAL;

5. THE AMOUNT OF CHARITY CARE PROVIDED BY THE HOSPITAL; AND

6. OTHER RELEVANT FACTORS.

~~(4)~~ (5) **IF A PATIENT IS ELIGIBLE FOR REDUCED–COST MEDICALLY NECESSARY CARE UNDER ~~PARAGRAPH~~ PARAGRAPHS (2)(II) AND ~~(III)~~ (4) OF THIS SUBSECTION, THE HOSPITAL SHALL APPLY THE REDUCTION THAT IS MOST FAVORABLE TO THE PATIENT.**

~~(5)~~ (6) **IF A PATIENT HAS RECEIVED REDUCED–COST MEDICALLY NECESSARY CARE DUE TO A FINANCIAL HARDSHIP, THE PATIENT OR ANY IMMEDIATE FAMILY MEMBER OF THE PATIENT LIVING IN THE SAME HOUSEHOLD:**

(I) SHALL REMAIN ELIGIBLE FOR REDUCED–COST MEDICALLY NECESSARY CARE WHEN SEEKING SUBSEQUENT CARE AT THE SAME HOSPITAL DURING THE 12–MONTH PERIOD BEGINNING ON THE DATE ON WHICH THE REDUCED–COST MEDICALLY NECESSARY CARE WAS INITIALLY RECEIVED; AND

(II) TO AVOID AN UNNECESSARY DUPLICATION OF THE HOSPITAL'S DETERMINATION OF ELIGIBILITY FOR FREE AND REDUCED–COST CARE, SHALL INFORM THE HOSPITAL OF THE PATIENT'S OR FAMILY MEMBER'S ELIGIBILITY FOR THE REDUCED–COST MEDICALLY NECESSARY CARE.

[(b)**] (C)** A hospital shall post a notice in conspicuous places throughout the hospital, including the billing office, **[**describing the financial assistance policy and how to apply for free and reduced–cost care**] INFORMING PATIENTS OF THEIR RIGHT TO APPLY FOR FINANCIAL ASSISTANCE AND WHO TO CONTACT AT THE HOSPITAL FOR ADDITIONAL INFORMATION**.

[(c)**] (D)** The Commission shall:

(1) Develop a uniform financial assistance application; and

(2) Require each hospital to use the uniform financial assistance application to determine eligibility for free and reduced–cost care under the hospital's financial assistance policy.

[(d)**] (E)** The uniform financial assistance application:

(1) Shall be written in simplified language; and

(2) May not require documentation that presents an undue barrier to a patient's receipt of financial assistance.

[(e)**] (F)** (1) Each hospital shall develop an information sheet that:

(i) Describes the hospital's financial assistance policy;

(ii) Describes a patient's rights and obligations with regard to hospital billing and collection under the law;

(iii) Provides contact information for the individual or office at the hospital that is available to assist the patient, the patient's family, or the patient's authorized representative in order to understand:

1. The patient's hospital bill;

2. The patient's rights and obligations with regard to the hospital bill;

3. How to apply for free and reduced–cost care; and

4. How to apply for the Maryland Medical Assistance Program and any other programs that may help pay the bill;

(iv) Provides contact information for the Maryland Medical Assistance Program; and

(v) Includes a statement that physician charges are not included in the hospital bill and are billed separately.

(2) The information sheet shall be provided to the patient, the patient's family, or the patient's authorized representative:

(i) Before discharge;

(ii) With the hospital bill; and

(iii) On request.

(3) The hospital bill shall include a reference to the information sheet.

(4) The Commission shall:

(i) Establish uniform requirements for the information sheet; and

(ii) Review each hospital's implementation of and compliance with the requirements of this subsection.

[(f)**] (G)** Each hospital shall ensure the availability of staff who are trained to work with the patient, the patient's family, and the patient's authorized representative in order to understand:

(1) The patient's hospital bill;

(2) The patient's rights and obligations with regard to the hospital bill**, INCLUDING THE PATIENT'S RIGHTS AND OBLIGATIONS WITH REGARD TO REDUCED–COST MEDICALLY NECESSARY CARE DUE TO A FINANCIAL HARDSHIP**;

(3) How to apply for the Maryland Medical Assistance Program and any other programs that may help pay the hospital bill; and

(4) How to contact the hospital for additional assistance.

19–214.2.

(a) Each hospital shall submit to the Commission, at times prescribed by the Commission, the hospital's policy on the collection of debts owed by patients.

(b) The policy shall:

(1) Provide for active oversight by the hospital of any contract for collection of debts on behalf of the hospital;

(2) Prohibit the hospital from selling any debt;

(3) Prohibit the charging of interest on bills incurred by self–pay patients before a court judgment is obtained;

(4) Describe in detail the consideration by the hospital of patient income, assets, and other criteria;

(5) Describe the hospital's procedures for collecting a debt; **[**and**]**

(6) Describe the circumstances in which the hospital will seek a judgment against a patient**;**

(7) IN ACCORDANCE WITH SUBSECTION (C) OF THIS SECTION, PROVIDE FOR A REFUND OF AMOUNTS COLLECTED FROM A PATIENT OR THE GUARANTOR OF A PATIENT WHO WAS LATER FOUND TO BE ELIGIBLE FOR FREE CARE ON THE DATE OF SERVICE;

(8) IF THE HOSPITAL HAS OBTAINED A JUDGMENT AGAINST OR REPORTED ADVERSE INFORMATION TO A CONSUMER REPORTING AGENCY ABOUT A PATIENT WHO LATER WAS FOUND TO BE ELIGIBLE FOR FREE CARE ON THE DATE OF THE SERVICE FOR WHICH THE JUDGMENT WAS AWARDED OR THE ADVERSE INFORMATION WAS REPORTED, REQUIRE THE HOSPITAL TO SEEK TO VACATE THE JUDGMENT OR STRIKE THE ADVERSE INFORMATION; AND

(9) PROVIDE A MECHANISM FOR A PATIENT TO:

(I) REQUEST THE HOSPITAL TO RECONSIDER THE DENIAL OF FREE OR REDUCED–COST CARE; AND

(II) FILE WITH THE HOSPITAL A COMPLAINT AGAINST THE HOSPITAL OR AN OUTSIDE COLLECTION AGENCY USED BY THE HOSPITAL REGARDING THE HANDLING OF THE PATIENT'S BILL.

(C) (1) BEGINNING OCTOBER 1, 2010, A HOSPITAL SHALL PROVIDE FOR A REFUND OF AMOUNTS EXCEEDING $25 COLLECTED FROM A PATIENT OR THE GUARANTOR OF A PATIENT WHO, WITHIN A 2–YEAR PERIOD AFTER THE DATE OF SERVICE, WAS FOUND TO BE ELIGIBLE FOR FREE CARE ON THE DATE OF SERVICE.

(2) A HOSPITAL MAY REDUCE THE 2–YEAR PERIOD UNDER PARAGRAPH (1) OF THIS SUBSECTION TO NO LESS THAN 30 DAYS AFTER THE DATE THE HOSPITAL REQUESTS INFORMATION FROM A PATIENT, OR THE GUARANTOR OF A PATIENT, TO DETERMINE THE PATIENT'S ELIGIBILITY FOR FREE CARE AT THE TIME OF SERVICE, IF THE HOSPITAL DOCUMENTS THE LACK OF COOPERATION OF THE PATIENT OR THE GUARANTOR OF A PATIENT IN PROVIDING THE REQUESTED INFORMATION.

(3) IF A PATIENT IS ENROLLED IN A MEANS–TESTED GOVERNMENT HEALTH CARE PLAN THAT REQUIRES THE PATIENT TO PAY OUT–OF–POCKET FOR HOSPITAL SERVICES, A HOSPITAL'S REFUND POLICY SHALL PROVIDE FOR A REFUND THAT COMPLIES WITH THE TERMS OF THE PATIENT'S PLAN.

(D) (1) FOR AT LEAST 120 DAYS AFTER ISSUING AN INITIAL PATIENT BILL, A HOSPITAL MAY NOT REPORT ADVERSE INFORMATION ABOUT A PATIENT TO A CONSUMER REPORTING AGENCY OR COMMENCE CIVIL ACTION AGAINST A PATIENT FOR NONPAYMENT UNLESS THE HOSPITAL DOCUMENTS THE LACK OF COOPERATION OF THE PATIENT OR THE GUARANTOR OF THE PATIENT IN PROVIDING INFORMATION NEEDED TO DETERMINE THE PATIENT'S OBLIGATION WITH REGARD TO THE HOSPITAL BILL.

(2) A HOSPITAL ~~PROMPTLY~~ SHALL REPORT THE FULFILLMENT OF A PATIENT'S PAYMENT OBLIGATION WITHIN 60 DAYS AFTER THE OBLIGATION IS FULFILLED TO ANY CONSUMER REPORTING AGENCY TO WHICH THE HOSPITAL HAD REPORTED ADVERSE INFORMATION ABOUT THE PATIENT.

(E) (1) A HOSPITAL MAY NOT FORCE THE SALE OR FORECLOSURE OF A PATIENT'S PRIMARY RESIDENCE TO COLLECT A DEBT OWED ON A HOSPITAL BILL.

(2) IF A HOSPITAL HOLDS A LIEN ON A PATIENT'S PRIMARY RESIDENCE, THE HOSPITAL MAY MAINTAIN ITS POSITION AS A SECURED CREDITOR WITH RESPECT TO OTHER CREDITORS TO WHOM THE PATIENT MAY OWE A DEBT.

(F) IF A HOSPITAL DELEGATES COLLECTION ACTIVITY TO AN OUTSIDE COLLECTION AGENCY, THE HOSPITAL SHALL:

(1) SPECIFY THE COLLECTION ACTIVITY TO BE PERFORMED BY THE OUTSIDE COLLECTION AGENCY THROUGH AN EXPLICIT AUTHORIZATION OR CONTRACT;

(2) REQUIRE THE OUTSIDE COLLECTION AGENCY TO ABIDE BY THE HOSPITAL'S CREDIT AND COLLECTION POLICY;

(3) SPECIFY PROCEDURES THE OUTSIDE COLLECTION AGENCY MUST FOLLOW IF A PATIENT APPEARS TO QUALIFY FOR FINANCIAL ASSISTANCE; AND

(4) REQUIRE THE OUTSIDE COLLECTION AGENCY TO:

(I) IN ACCORDANCE WITH THE HOSPITAL'S POLICY, PROVIDE A MECHANISM FOR A PATIENT TO FILE WITH THE HOSPITAL A COMPLAINT AGAINST THE HOSPITAL OR THE OUTSIDE COLLECTION AGENCY REGARDING THE HANDLING OF THE PATIENT'S BILL; AND

(II) FORWARD THE COMPLAINT TO THE HOSPITAL IF A PATIENT FILES A COMPLAINT WITH THE COLLECTION AGENCY.

(G) (1) THE BOARD OF DIRECTORS OF EACH HOSPITAL SHALL REVIEW AND APPROVE THE FINANCIAL ASSISTANCE AND DEBT COLLECTION POLICIES OF THE HOSPITAL AT LEAST EVERY ~~3~~ 2 YEARS.

(2) A HOSPITAL MAY NOT ALTER ITS FINANCIAL ASSISTANCE OR DEBT COLLECTION POLICIES WITHOUT APPROVAL BY THE BOARD OF DIRECTORS.

[(c)**] (H)** The Commission shall review each hospital's implementation of and compliance with the hospital's **[**policy**] POLICIES** and the requirements of **[**subsection (b) of**]** this section.

19–350.

(b) **(1) (I) ON REQUEST OF A PATIENT MADE BEFORE OR DURING TREATMENT, A HOSPITAL SHALL PROVIDE TO THE PATIENT A WRITTEN ESTIMATE OF THE TOTAL CHARGES FOR THE HOSPITAL SERVICES, PROCEDURES, AND SUPPLIES THAT REASONABLY ARE EXPECTED TO BE PROVIDED AND BILLED TO THE PATIENT BY THE HOSPITAL.**

(II) THE WRITTEN ESTIMATE SHALL STATE CLEARLY THAT IT IS ONLY AN ESTIMATE AND ACTUAL CHARGES COULD VARY.

(III) A HOSPITAL MAY RESTRICT THE AVAILABILITY OF A WRITTEN ESTIMATE TO NORMAL BUSINESS OFFICE HOURS.

(IV) THIS PARAGRAPH DOES NOT APPLY TO EMERGENCY SERVICES.

[(1)**] (2)** Within 30 days after discharge of an individual from a hospital, the hospital shall give the individual a summary financial statement that clearly describes:

(i) The total charges incurred;

(ii) If readily ascertainable, a summary of the total charges under the major services categories, including:

1. Room and board;

2. Diagnostic services;

3. Therapeutic services;

4. Emergency room services;

5. Drugs and IV solutions; and

6. Miscellaneous other supplies and services;

(iii) If applicable, the name of the primary and secondary insurer to which a claim has been or will be filed on the individual's behalf;

(iv) That charges for services provided by a physician are not included in the total hospital charges and are billed separately; and

(v) The individual's right to request an itemized statement of the account within 1 year of receipt of the summary statement.

[(2)**] (3)** Within 30 days after an individual's request as provided under paragraph **[**(1)(v)**] (2)(V)** of this subsection, the hospital shall provide the individual a statement of the account that:

(i) Is itemized; and

(ii) Describes briefly but clearly each item and the amount charged for it.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 62

(Senate Bill 337)

AN ACT concerning

Estates and Trusts – Construction of References in Will or Trust to Federal Estate Tax or Generation–Skipping Transfer Tax

FOR the purpose of establishing that certain provisions in a will or trust of a decedent who dies between certain dates shall be deemed to refer to the federal estate tax or generation–skipping transfer tax laws on a certain date; providing for the application and construction of certain provisions of this Act; authorizing a personal representative or any interested person to bring a certain proceeding to construe certain provisions in a will or other instrument; requiring that a certain proceeding be commenced within a certain time; making this Act an emergency measure; and generally relating to the construction of certain provisions in wills and trusts.

BY adding to
Article – Estates and Trusts
Section 11–110
Annotated Code of Maryland
(2001 Replacement Volume and 2009 Supplement)

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

Article – Estates and Trusts

11–110.

(A) (1) A WILL OR TRUST OF A DECEDENT WHO DIES AFTER DECEMBER 31, 2009, AND BEFORE JANUARY 1, 2011, THAT CONTAINS A FORMULA REFERRING TO THE "UNIFIED CREDIT", "ESTATE TAX EXEMPTION", "APPLICABLE EXEMPTION AMOUNT", "APPLICABLE CREDIT AMOUNT", "APPLICABLE EXCLUSION AMOUNT", "GENERATION–SKIPPING TRANSFER TAX EXEMPTION", "GST EXEMPTION", "MARITAL DEDUCTION", "MAXIMUM MARITAL DEDUCTION", OR "UNLIMITED MARITAL DEDUCTION", OR SIMILAR WORDS OR PHRASES RELATING TO THE FEDERAL ESTATE TAX OR GENERATION–SKIPPING TRANSFER TAX OR THAT MEASURES A SHARE OF AN ESTATE OR A TRUST BASED ON THE AMOUNT THAT CAN PASS FREE OF FEDERAL ESTATE TAXES OR THE AMOUNT THAT CAN PASS FREE OF FEDERAL GENERATION–SKIPPING TRANSFER TAXES, OR THAT IS OTHERWISE BASED ON A SIMILAR PROVISION OF FEDERAL ESTATE TAX OR GENERATION–SKIPPING TRANSFER TAX LAW, SHALL BE DEEMED TO REFER TO THE FEDERAL ESTATE TAX OR GENERATION–SKIPPING TRANSFER TAX LAWS AS THEY APPLIED WITH RESPECT TO ESTATES OF DECEDENTS DYING OR GENERATION–SKIPPING TRANSFERS MADE ON DECEMBER 31, 2009.

(2) THIS SUBSECTION DOES NOT APPLY TO A WILL OR TRUST THAT:

(I) IS EXECUTED OR AMENDED AFTER DECEMBER 31, 2009; OR

(II) MANIFESTS AN INTENT THAT A CONTRARY RULE SHALL APPLY IF THE DECEDENT DIES ON A DATE ON WHICH THERE IS NO THEN APPLICABLE FEDERAL ESTATE TAX OR GENERATION–SKIPPING TRANSFER TAX.

(3) THE REFERENCE TO JANUARY 1, 2011, IN THIS SUBSECTION SHALL, IF A FEDERAL ESTATE TAX OR GENERATION–SKIPPING TRANSFER TAX BECOMES APPLICABLE BEFORE THAT DATE, BE CONSTRUED TO REFER INSTEAD TO THE FIRST DATE ON WHICH THE TAX BECOMES APPLICABLE.

(B) (1) THE PERSONAL REPRESENTATIVE OR ANY INTERESTED PERSON UNDER A WILL OR OTHER INSTRUMENT MAY BRING A PROCEEDING TO DETERMINE WHETHER THE DECEDENT INTENDED THAT THE REFERENCES DESCRIBED IN SUBSECTION (A) OF THIS SECTION BE CONSTRUED WITH RESPECT TO THE LAW AS IT EXISTED AFTER DECEMBER 31, 2009.

(2) A PROCEEDING UNDER THIS SUBSECTION SHALL BE COMMENCED WITHIN 1 YEAR AFTER THE DEATH OF THE TESTATOR OR GRANTOR.

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 13, 2010.

Chapter 63

(Senate Bill 340)

AN ACT concerning

Estates and Trusts – Maryland International Wills Act

FOR the purpose of providing for the execution of an international will; establishing certain requirements for an international will; authorizing certain persons to supervise the execution of international wills; providing for a certain certificate; providing for the revocation of an international will; providing for the construction of this Act; defining certain terms; and generally relating to international wills.

BY adding to
Article – Estates and Trusts
Section 4–601 through 4–609 to be under the new subtitle "Subtitle 6. Maryland International Wills Act"
Annotated Code of Maryland
(2001 Replacement Volume and 2009 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 6. MARYLAND INTERNATIONAL WILLS ACT.

4–601.

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

(B) "AUTHORIZED PERSON" OR "PERSON AUTHORIZED TO ACT IN CONNECTION WITH INTERNATIONAL WILLS" MEANS A PERSON, INCLUDING A MEMBER OF THE DIPLOMATIC AND CONSULAR SERVICE OF THE UNITED STATES DESIGNATED BY FOREIGN SERVICE REGULATIONS, WHO, UNDER § 4–609 OF THIS SUBTITLE OR BY THE LAWS OF THE UNITED STATES, IS EMPOWERED TO SUPERVISE THE EXECUTION OF INTERNATIONAL WILLS.

(C) "INTERNATIONAL WILL" MEANS A WILL EXECUTED IN CONFORMITY WITH §§ 4–602 THROUGH 4–605 OF THIS SUBTITLE.

4–602.

(A) A WILL IS VALID AS REGARDS FORM, IRRESPECTIVE PARTICULARLY OF THE PLACE WHERE THE WILL HAS BEEN MADE, THE LOCATION OF THE ASSETS, AND THE NATIONALITY, DOMICILE, OR RESIDENCE OF THE TESTATOR, IF THE WILL IS MADE IN THE FORM OF AN INTERNATIONAL WILL COMPLYING WITH THE REQUIREMENTS OF THIS SUBTITLE.

(B) THE INVALIDITY OF A WILL AS AN INTERNATIONAL WILL DOES NOT AFFECT ITS FORMAL VALIDITY AS A WILL OF ANOTHER KIND.

(C) THIS SUBTITLE DOES NOT APPLY TO ANY FORM OF TESTAMENTARY DISPOSITION MADE BY TWO OR MORE PERSONS IN ONE INSTRUMENT.

4–603.

(A) AN INTERNATIONAL WILL:

(1) SHALL BE MADE IN WRITING;

(2) DOES NOT NEED TO BE WRITTEN BY THE TESTATOR;

(3) MAY BE WRITTEN IN ANY LANGUAGE; AND

(4) MAY BE WRITTEN BY HAND OR BY ANY OTHER MEANS.

(B) (1) THE TESTATOR SHALL DECLARE IN THE PRESENCE OF AT LEAST TWO WITNESSES AND A PERSON AUTHORIZED TO ACT IN CONNECTION WITH INTERNATIONAL WILLS THAT THE DOCUMENT IS THE TESTATOR'S WILL AND THAT THE TESTATOR KNOWS THE CONTENTS OF THE DOCUMENT.

(2) THE TESTATOR NEED NOT INFORM THE WITNESSES OR THE AUTHORIZED PERSON OF THE CONTENTS OF THE WILL.

(C) IN THE PRESENCE OF THE WITNESSES AND OF THE AUTHORIZED PERSON, A TESTATOR SHALL:

(1) SIGN THE WILL; OR

(2) IF THE TESTATOR HAS PREVIOUSLY SIGNED THE WILL, ACKNOWLEDGE THE TESTATOR'S SIGNATURE.

(D) (1) IF A TESTATOR IS UNABLE TO SIGN, THE ABSENCE OF THE TESTATOR'S SIGNATURE DOES NOT AFFECT THE VALIDITY OF THE WILL IF:

(I) THE TESTATOR INDICATES THE REASON FOR THE TESTATOR'S INABILITY TO SIGN; AND

(II) THE AUTHORIZED PERSON MAKES NOTE ON THE WILL OF THE REASON FOR THE TESTATOR'S INABILITY TO SIGN.

(2) IF A TESTATOR IS UNABLE TO SIGN, ANOTHER PERSON PRESENT, INCLUDING THE AUTHORIZED PERSON OR ONE OF THE WITNESSES, MAY SIGN THE TESTATOR'S NAME FOR THE TESTATOR IF:

(I) THE OTHER PERSON SIGNS AT THE DIRECTION OF THE TESTATOR; AND

(II) THE AUTHORIZED PERSON MAKES NOTE ON THE WILL OF THE OTHER PERSON SIGNING THE TESTATOR'S NAME AT THE DIRECTION OF THE TESTATOR.

(3) NOTWITHSTANDING PARAGRAPH (2) OF THIS SUBSECTION, A PERSON IS NOT REQUIRED TO SIGN THE TESTATOR'S NAME AT THE TESTATOR'S DIRECTION.

(E) THE WITNESSES AND THE AUTHORIZED PERSON SHALL THERE AND THEN ATTEST THE WILL BY SIGNING THEIR NAMES IN THE PRESENCE OF THE TESTATOR.

4–604.

(A) (1) THE SIGNATURES REQUIRED UNDER § 4–603 OF THIS SUBTITLE SHALL BE PLACED AT THE END OF THE WILL.

(2) IF THE WILL CONSISTS OF MORE THAN ONE SHEET, EACH SHEET SHALL BE NUMBERED.

(3) IF A WILL CONSISTS OF MORE THAN ONE SHEET, EACH SHEET SHALL BE SIGNED BY:

(I) THE TESTATOR; OR

(II) 1. IF THE TESTATOR IS UNABLE TO SIGN THE TESTATOR'S NAME, A PERSON SIGNING AT THE DIRECTION OF THE TESTATOR; OR

2. IF THERE IS NO PERSON SIGNING AT THE DIRECTION OF THE TESTATOR, THE AUTHORIZED PERSON.

(B) THE DATE OF THE WILL SHALL BE:

(1) THE DATE OF THE AUTHORIZED PERSON'S SIGNATURE ON THE WILL; AND

(2) NOTED AT THE END OF THE WILL BY THE AUTHORIZED PERSON.

(C) (1) THE AUTHORIZED PERSON SHALL ASK THE TESTATOR WHETHER THE TESTATOR WISHES TO MAKE A DECLARATION CONCERNING THE SAFEKEEPING OF THE TESTATOR'S WILL.

(2) IF THE TESTATOR RESPONDS BY AN EXPRESS REQUEST FOR THE SAFEKEEPING OF THE WILL, THE PLACE WHERE THE TESTATOR INTENDS TO HAVE THE WILL KEPT SHALL BE INCLUDED IN THE CERTIFICATE DESCRIBED UNDER § 4–605 OF THIS SUBTITLE.

(D) A WILL EXECUTED IN COMPLIANCE WITH § 4–603 OF THIS SUBTITLE IS NOT INVALID SOLELY BECAUSE THE WILL DOES NOT COMPLY WITH THIS SECTION.

4–605.

(A) AN AUTHORIZED PERSON SHALL ATTACH TO THE WILL A CERTIFICATE TO BE SIGNED BY THE AUTHORIZED PERSON ESTABLISHING THAT THE REQUIREMENTS FOR VALID EXECUTION OF AN INTERNATIONAL WILL HAVE BEEN MET.

(B) THE AUTHORIZED PERSON SHALL KEEP A COPY OF THE CERTIFICATE AND DELIVER A COPY TO THE TESTATOR.

(C) A CERTIFICATE UNDER THIS SECTION SHALL BE SUBSTANTIALLY IN THE FOLLOWING FORM:

"CERTIFICATE
(CONVENTION OF OCTOBER 26, 1973)

I, _____ (NAME, ADDRESS, AND CAPACITY), A PERSON AUTHORIZED TO ACT IN CONNECTION WITH INTERNATIONAL WILLS, CERTIFY THAT ON _____ (DATE) AT_____ _____(PLACE)_____(TESTATOR)_____(NAME, ADDRESS, AND DATE AND PLACE OF BIRTH) IN MY PRESENCE AND THAT OF THE WITNESSES: _____ (NAME, ADDRESS, AND DATE AND PLACE OF BIRTH); AND _____ (NAME, ADDRESS, AND DATE AND PLACE OF BIRTH) HAS DECLARED THAT THE ATTACHED DOCUMENT IS THE TESTATOR'S WILL AND THAT THE TESTATOR KNOWS THE CONTENTS OF THE WILL.

I FURTHER CERTIFY THAT IN MY PRESENCE AND IN THE PRESENCE OF THE WITNESSES:

(1) THE TESTATOR HAS SIGNED THE WILL OR HAS ACKNOWLEDGED THE TESTATOR'S SIGNATURE PREVIOUSLY AFFIXED;

(2) FOLLOWING A DECLARATION OF THE TESTATOR STATING THAT THE TESTATOR WAS UNABLE TO SIGN THE TESTATOR'S WILL FOR THE FOLLOWING REASON _____, I HAVE NOTED THIS DECLARATION ON THE WILL AND THE SIGNATURE HAS BEEN AFFIXED BY _____ (NAME AND ADDRESS);

(3) THE WITNESSES AND I HAVE SIGNED THE WILL;

(4) EACH PAGE OF THE WILL HAS BEEN SIGNED BY _____ (NAME AND ADDRESS) AND NUMBERED;

(5) I HAVE SATISFIED MYSELF AS TO THE IDENTITY OF THE TESTATOR AND OF THE WITNESSES AS DESIGNATED ABOVE;

(6) THE WITNESSES MET THE CONDITIONS REQUISITE TO ACT AS SUCH ACCORDING TO THE LAW UNDER WHICH I AM ACTING; AND

(7) THE TESTATOR HAS REQUESTED ME TO INCLUDE THE FOLLOWING STATEMENT CONCERNING THE SAFEKEEPING OF THE TESTATOR'S WILL: _____.

PLACE OF EXECUTION _____

DATE _____

SIGNATURE _____ AND, IF NECESSARY, SEAL".

4–606.

(A) IN THE ABSENCE OF EVIDENCE TO THE CONTRARY, THE CERTIFICATE OF AN AUTHORIZED PERSON UNDER § 4–605 OF THIS SUBTITLE IS CONCLUSIVE OF THE FORMAL VALIDITY OF THE INSTRUMENT AS A WILL UNDER THIS SUBTITLE.

(B) THE ABSENCE OR IRREGULARITY OF A CERTIFICATE DOES NOT AFFECT THE FORMAL VALIDITY OF A WILL UNDER THIS SUBTITLE.

4–607.

AN INTERNATIONAL WILL IS SUBJECT TO THE ORDINARY RULES OF REVOCATION OF WILLS.

4–608.

(A) SECTIONS 4–601 THROUGH 4–607 OF THIS SUBTITLE DERIVE FROM ANNEX TO CONVENTION OF OCTOBER 26, 1973, PROVIDING A UNIFORM LAW ON THE FORM OF AN INTERNATIONAL WILL.

(B) IN INTERPRETING AND APPLYING THIS SUBTITLE, REGARD SHALL BE GIVEN TO ITS INTERNATIONAL ORIGIN AND THE NEED FOR UNIFORMITY IN ITS INTERPRETATION.

4–609.

AN INDIVIDUAL WHO HAS BEEN ADMITTED TO PRACTICE LAW BEFORE THE COURTS OF THIS STATE AND WHO IS CURRENTLY LICENSED TO DO SO IS AN AUTHORIZED PERSON UNDER THIS SUBTITLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 64

(House Bill 448)

AN ACT concerning

Estates and Trusts – Maryland International Wills Act

FOR the purpose of providing for the execution of an international will; establishing certain requirements for an international will; authorizing certain persons to supervise the execution of international wills; providing for a certain certificate; providing for the revocation of an international will; providing for the construction of this Act; defining certain terms; and generally relating to international wills.

BY adding to
Article – Estates and Trusts
Section 4–601 through 4–609 to be under the new subtitle "Subtitle 6. Maryland International Wills Act"
Annotated Code of Maryland
(2001 Replacement Volume and 2009 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 6. MARYLAND INTERNATIONAL WILLS ACT.

4–601.

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

(B) "AUTHORIZED PERSON" OR "PERSON AUTHORIZED TO ACT IN CONNECTION WITH INTERNATIONAL WILLS" MEANS A PERSON, INCLUDING A MEMBER OF THE DIPLOMATIC AND CONSULAR SERVICE OF THE UNITED STATES DESIGNATED BY FOREIGN SERVICE REGULATIONS, WHO, UNDER § 4–609 OF THIS SUBTITLE OR BY THE LAWS OF THE UNITED STATES, IS EMPOWERED TO SUPERVISE THE EXECUTION OF INTERNATIONAL WILLS.

(C) "INTERNATIONAL WILL" MEANS A WILL EXECUTED IN CONFORMITY WITH §§ 4–602 THROUGH 4–605 OF THIS SUBTITLE.

4–602.

(A) A WILL IS VALID AS REGARDS FORM, IRRESPECTIVE PARTICULARLY OF THE PLACE WHERE THE WILL HAS BEEN MADE, THE LOCATION OF THE ASSETS, AND THE NATIONALITY, DOMICILE, OR RESIDENCE OF THE TESTATOR, IF THE WILL IS MADE IN THE FORM OF AN INTERNATIONAL WILL COMPLYING WITH THE REQUIREMENTS OF THIS SUBTITLE.

(B) THE INVALIDITY OF A WILL AS AN INTERNATIONAL WILL DOES NOT AFFECT ITS FORMAL VALIDITY AS A WILL OF ANOTHER KIND.

(C) THIS SUBTITLE DOES NOT APPLY TO ANY FORM OF TESTAMENTARY DISPOSITION MADE BY TWO OR MORE PERSONS IN ONE INSTRUMENT.

4–603.

(A) AN INTERNATIONAL WILL:

(1) SHALL BE MADE IN WRITING;

(2) DOES NOT NEED TO BE WRITTEN BY THE TESTATOR;

(3) MAY BE WRITTEN IN ANY LANGUAGE; AND

(4) MAY BE WRITTEN BY HAND OR BY ANY OTHER MEANS.

(B) (1) THE TESTATOR SHALL DECLARE IN THE PRESENCE OF AT LEAST TWO WITNESSES AND A PERSON AUTHORIZED TO ACT IN CONNECTION WITH INTERNATIONAL WILLS THAT THE DOCUMENT IS THE TESTATOR'S WILL AND THAT THE TESTATOR KNOWS THE CONTENTS OF THE DOCUMENT.

(2) THE TESTATOR NEED NOT INFORM THE WITNESSES OR THE AUTHORIZED PERSON OF THE CONTENTS OF THE WILL.

(C) IN THE PRESENCE OF THE WITNESSES AND OF THE AUTHORIZED PERSON, A TESTATOR SHALL:

(1) SIGN THE WILL; OR

(2) IF THE TESTATOR HAS PREVIOUSLY SIGNED THE WILL, ACKNOWLEDGE THE TESTATOR'S SIGNATURE.

(D) (1) IF A TESTATOR IS UNABLE TO SIGN, THE ABSENCE OF THE TESTATOR'S SIGNATURE DOES NOT AFFECT THE VALIDITY OF THE WILL IF:

(I) THE TESTATOR INDICATES THE REASON FOR THE TESTATOR'S INABILITY TO SIGN; AND

(II) THE AUTHORIZED PERSON MAKES NOTE ON THE WILL OF THE REASON FOR THE TESTATOR'S INABILITY TO SIGN.

(2) IF A TESTATOR IS UNABLE TO SIGN, ANOTHER PERSON PRESENT, INCLUDING THE AUTHORIZED PERSON OR ONE OF THE WITNESSES, MAY SIGN THE TESTATOR'S NAME FOR THE TESTATOR IF:

(I) THE OTHER PERSON SIGNS AT THE DIRECTION OF THE TESTATOR; AND

(II) THE AUTHORIZED PERSON MAKES NOTE ON THE WILL OF THE OTHER PERSON SIGNING THE TESTATOR'S NAME AT THE DIRECTION OF THE TESTATOR.

(3) NOTWITHSTANDING PARAGRAPH (2) OF THIS SUBSECTION, A PERSON IS NOT REQUIRED TO SIGN THE TESTATOR'S NAME AT THE TESTATOR'S DIRECTION.

(E) THE WITNESSES AND THE AUTHORIZED PERSON SHALL THERE AND THEN ATTEST THE WILL BY SIGNING THEIR NAMES IN THE PRESENCE OF THE TESTATOR.

4–604.

(A) (1) THE SIGNATURES REQUIRED UNDER § 4–603 OF THIS SUBTITLE SHALL BE PLACED AT THE END OF THE WILL.

(2) IF THE WILL CONSISTS OF MORE THAN ONE SHEET, EACH SHEET SHALL BE NUMBERED.

(3) IF A WILL CONSISTS OF MORE THAN ONE SHEET, EACH SHEET SHALL BE SIGNED BY:

(I) THE TESTATOR; OR

(II) 1. IF THE TESTATOR IS UNABLE TO SIGN THE TESTATOR'S NAME, A PERSON SIGNING AT THE DIRECTION OF THE TESTATOR; OR

2. IF THERE IS NO PERSON SIGNING AT THE DIRECTION OF THE TESTATOR, THE AUTHORIZED PERSON.

(B) THE DATE OF THE WILL SHALL BE:

(1) THE DATE OF THE AUTHORIZED PERSON'S SIGNATURE ON THE WILL; AND

(2) NOTED AT THE END OF THE WILL BY THE AUTHORIZED PERSON.

(C) (1) THE AUTHORIZED PERSON SHALL ASK THE TESTATOR WHETHER THE TESTATOR WISHES TO MAKE A DECLARATION CONCERNING THE SAFEKEEPING OF THE TESTATOR'S WILL.

(2) IF THE TESTATOR RESPONDS BY AN EXPRESS REQUEST FOR THE SAFEKEEPING OF THE WILL, THE PLACE WHERE THE TESTATOR INTENDS TO HAVE THE WILL KEPT SHALL BE INCLUDED IN THE CERTIFICATE DESCRIBED UNDER § 4–605 OF THIS SUBTITLE.

(D) A WILL EXECUTED IN COMPLIANCE WITH § 4–603 OF THIS SUBTITLE IS NOT INVALID SOLELY BECAUSE THE WILL DOES NOT COMPLY WITH THIS SECTION.

4–605.

(A) AN AUTHORIZED PERSON SHALL ATTACH TO THE WILL A CERTIFICATE TO BE SIGNED BY THE AUTHORIZED PERSON ESTABLISHING THAT THE REQUIREMENTS FOR VALID EXECUTION OF AN INTERNATIONAL WILL HAVE BEEN MET.

(B) THE AUTHORIZED PERSON SHALL KEEP A COPY OF THE CERTIFICATE AND DELIVER A COPY TO THE TESTATOR.

(C) A CERTIFICATE UNDER THIS SECTION SHALL BE SUBSTANTIALLY IN THE FOLLOWING FORM:

"CERTIFICATE
(CONVENTION OF OCTOBER 26, 1973)

I, _____ (NAME, ADDRESS, AND CAPACITY), A PERSON AUTHORIZED TO ACT IN CONNECTION WITH INTERNATIONAL WILLS, CERTIFY THAT ON _____ (DATE) AT_____ _____(PLACE)_____(TESTATOR)_____(NAME, ADDRESS, AND DATE AND PLACE OF BIRTH) IN MY PRESENCE AND THAT OF THE WITNESSES: _____ (NAME, ADDRESS, AND DATE AND PLACE OF BIRTH); AND _____ (NAME, ADDRESS, AND DATE AND PLACE OF BIRTH) HAS DECLARED THAT THE ATTACHED DOCUMENT IS THE TESTATOR'S WILL AND THAT THE TESTATOR KNOWS THE CONTENTS OF THE WILL.

I FURTHER CERTIFY THAT IN MY PRESENCE AND IN THE PRESENCE OF THE WITNESSES:

(1) THE TESTATOR HAS SIGNED THE WILL OR HAS ACKNOWLEDGED THE TESTATOR'S SIGNATURE PREVIOUSLY AFFIXED;

(2) FOLLOWING A DECLARATION OF THE TESTATOR STATING THAT THE TESTATOR WAS UNABLE TO SIGN THE TESTATOR'S WILL FOR THE FOLLOWING REASON _____, I HAVE NOTED THIS DECLARATION ON THE WILL AND THE SIGNATURE HAS BEEN AFFIXED BY _____ (NAME AND ADDRESS);

(3) THE WITNESSES AND I HAVE SIGNED THE WILL;

(4) EACH PAGE OF THE WILL HAS BEEN SIGNED BY _____ (NAME AND ADDRESS) AND NUMBERED;

(5) I HAVE SATISFIED MYSELF AS TO THE IDENTITY OF THE TESTATOR AND OF THE WITNESSES AS DESIGNATED ABOVE;

(6) THE WITNESSES MET THE CONDITIONS REQUISITE TO ACT AS SUCH ACCORDING TO THE LAW UNDER WHICH I AM ACTING; AND

(7) THE TESTATOR HAS REQUESTED ME TO INCLUDE THE FOLLOWING STATEMENT CONCERNING THE SAFEKEEPING OF THE TESTATOR'S WILL: _____.

PLACE OF EXECUTION _____

DATE _____

SIGNATURE _____ AND, IF NECESSARY, SEAL".

4–606.

(A) IN THE ABSENCE OF EVIDENCE TO THE CONTRARY, THE CERTIFICATE OF AN AUTHORIZED PERSON UNDER § 4–605 OF THIS SUBTITLE IS CONCLUSIVE OF THE FORMAL VALIDITY OF THE INSTRUMENT AS A WILL UNDER THIS SUBTITLE.

(B) THE ABSENCE OR IRREGULARITY OF A CERTIFICATE DOES NOT AFFECT THE FORMAL VALIDITY OF A WILL UNDER THIS SUBTITLE.

4–607.

AN INTERNATIONAL WILL IS SUBJECT TO THE ORDINARY RULES OF REVOCATION OF WILLS.

4–608.

(A) SECTIONS 4–601 THROUGH 4–607 OF THIS SUBTITLE DERIVE FROM ANNEX TO CONVENTION OF OCTOBER 26, 1973, PROVIDING A UNIFORM LAW ON THE FORM OF AN INTERNATIONAL WILL.

(B) IN INTERPRETING AND APPLYING THIS SUBTITLE, REGARD SHALL BE GIVEN TO ITS INTERNATIONAL ORIGIN AND THE NEED FOR UNIFORMITY IN ITS INTERPRETATION.

4–609.

AN INDIVIDUAL WHO HAS BEEN ADMITTED TO PRACTICE LAW BEFORE THE COURTS OF THIS STATE AND WHO IS CURRENTLY LICENSED TO DO SO IS AN AUTHORIZED PERSON UNDER THIS SUBTITLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 65

(Senate Bill 373)

AN ACT concerning

Property Tax – Tax Sales – Complaint to Foreclose Right of Redemption

FOR the purpose of authorizing the holder of certain certificates of sale in Baltimore City for which there is no private purchaser to file a complaint at any time after the date of sale to foreclose all rights of redemption in certain abandoned property; altering a certain notice requirement to conform to certain provisions of law establishing the types of expenses for which a holder of a certificate of sale may be reimbursed under certain circumstances; making this Act an emergency measure; and generally relating to tax sales.

BY repealing and reenacting, with amendments,
Article – Tax – Property
Section 14–833(a) and (a–1)(2) and (3)(v)
Annotated Code of Maryland
(2007 Replacement Volume and 2009 Supplement)

BY adding to
Article – Tax – Property
Section 14–833(g)
Annotated Code of Maryland
(2007 Replacement Volume and 2009 Supplement)

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

Article – Tax – Property

14–833.

(a) Except as provided in subsections (a–1), (e), **[**and**]** (f)**, AND (G)** of this section, at any time after 6 months from the date of sale a holder of any certificate of sale may file a complaint to foreclose all rights of redemption of the property to which the certificate relates.

(a–1) (2) The holder of a certificate of sale is not required to provide the notices under this subsection if subsection (e) **[**or**],** (f)**, OR (G)** of this section applies to the property.

(3) The notices required under this subsection shall include at least the following:

(v) a statement that if the property is redeemed before an action to foreclose the right of redemption is filed, the amount that shall be paid to redeem the property is:

1. the total lien amount on the property at the time of sale, with interest;

2. any taxes, interest, and penalties paid by the holder of the certificate of sale;

3. any taxes, interest, and penalties accruing after the date of the tax sale; and

4. the following expenses incurred by the holder of the certificate of sale:

A. **[**attorney's fees**]** **COSTS** for recording the certificate of sale;

B. a title search fee, not to exceed $250; and

C. reasonable attorney's fees, not to exceed $500;

(G) ~~**IN**~~ **WHEN THE MAYOR AND CITY COUNCIL OF BALTIMORE CITY BECOMES THE HOLDER OF A CERTIFICATE OF SALE PURCHASED** ~~**UNDER § 14–824(A)**~~ **IN ACCORDANCE WITH § 14–824 OF THIS SUBTITLE** ~~**FOR WHICH THERE IS NO PRIVATE PURCHASER**~~**, THE MAYOR AND CITY COUNCIL OF BALTIMORE CITY MAY FILE A COMPLAINT, AT ANY TIME AFTER THE DATE OF SALE, TO FORECLOSE ALL RIGHTS OF REDEMPTION IN ABANDONED PROPERTY CONSISTING OF:**

(1) A VACANT LOT; OR

(2) IMPROVED PROPERTY CITED AS VACANT AND UNFIT FOR HABITATION ON A HOUSING OR BUILDING VIOLATION NOTICE.

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 13, 2010.

Chapter 66

(Senate Bill 400)

AN ACT concerning

No Representation Without Population Act

FOR the purpose of requiring certain incarcerated individuals to be counted in certain population counts in a certain manner; prohibiting certain incarcerated individuals from being included in certain population counts used for the purpose of creating a certain congressional districting plan and the legislative districting plan for the General Assembly and certain county and municipal corporation legislative districts; and generally relating to population counts of incarcerated individuals and the creation of legislative and congressional districts.

BY repealing and reenacting, with amendments,
Article – Election Law
Section 8–701
Annotated Code of Maryland
(2003 Volume and 2009 Supplement)

BY adding to
Article – State Government
Section 2–2A–01 to be under the new subtitle "Subtitle 2A. Creation of the Legislative Districting Plan"
Annotated Code of Maryland
(2009 Replacement Volume)

BY adding to
Article 24 – Political Subdivisions – Miscellaneous Provisions
Section 1–111
Annotated Code of Maryland
(2005 Replacement Volume and 2009 Supplement)

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

Article – Election Law

8–701.

(a) **THE POPULATION COUNT USED AFTER EACH DECENNIAL CENSUS FOR THE PURPOSE OF CREATING THE CONGRESSIONAL DISTRICTING PLAN USED TO ELECT THE STATE'S REPRESENTATIVES IN CONGRESS:**

(1) MAY NOT INCLUDE INDIVIDUALS WHO:

(I) WERE INCARCERATED IN STATE OR FEDERAL CORRECTIONAL FACILITIES, AS DETERMINED BY THE DECENNIAL CENSUS; AND

(II) WERE NOT RESIDENTS OF THE STATE BEFORE THEIR INCARCERATION; AND

(2) SHALL COUNT INDIVIDUALS INCARCERATED IN THE STATE OR FEDERAL CORRECTIONAL FACILITIES, AS DETERMINED BY THE DECENNIAL CENSUS, AT THEIR LAST KNOWN RESIDENCE BEFORE INCARCERATION IF THE INDIVIDUALS WERE RESIDENTS OF THE STATE.

(B) The State is divided into eight districts for the election of the State's Representatives in Congress.

[(b)**] (C)** (1) The descriptions of congressional districts in this subtitle include the references indicated.

(2) The references to:

(i) election districts and wards are to the geographical boundaries of the election districts and wards as they existed on April 1, 2000; and

(ii) precincts are to the geographical boundaries of the precincts as reviewed and certified by the local boards or their designees, before they were reported to the U.S. Bureau of the Census as part of the 2000 census redistricting data program and as those precinct lines are specifically indicated in the P.L. 94–171 data or shown on the P.L. 94–171 census block maps provided by the U.S. Bureau of the Census and as reviewed and corrected by the Maryland Department of Planning.

Article – State Government

SUBTITLE 2A. CREATION OF THE LEGISLATIVE DISTRICTING PLAN.

2–2A–01.

THE POPULATION COUNT USED AFTER EACH DECENNIAL CENSUS FOR THE PURPOSE OF CREATING THE LEGISLATIVE DISTRICTING PLAN FOR THE GENERAL ASSEMBLY:

(1) MAY NOT INCLUDE INDIVIDUALS WHO:

(I) WERE INCARCERATED IN STATE OR FEDERAL CORRECTIONAL FACILITIES, AS DETERMINED BY THE DECENNIAL CENSUS; AND

(II) WERE NOT RESIDENTS OF THE STATE BEFORE THEIR INCARCERATION; AND

(2) SHALL COUNT INDIVIDUALS INCARCERATED IN THE STATE OR FEDERAL CORRECTIONAL FACILITIES, AS DETERMINED BY THE DECENNIAL CENSUS, AT THEIR LAST KNOWN RESIDENCE BEFORE INCARCERATION IF THE INDIVIDUALS WERE RESIDENTS OF THE STATE.

Article 24 – Political Subdivisions – Miscellaneous Provisions

1–111.

THE POPULATION COUNT USED AFTER EACH DECENNIAL CENSUS FOR THE PURPOSE OF CREATING THE LEGISLATIVE DISTRICTS THAT ARE USED TO ELECT ~~A COUNTY'S~~ THE GOVERNING BODY OF A COUNTY OR A MUNICIPAL CORPORATION:

(1) MAY NOT INCLUDE INDIVIDUALS WHO:

(I) WERE INCARCERATED IN STATE OR FEDERAL CORRECTIONAL FACILITIES, AS DETERMINED BY THE DECENNIAL CENSUS; AND

(II) WERE NOT RESIDENTS OF THE STATE BEFORE THEIR INCARCERATION; AND

(2) SHALL COUNT INDIVIDUALS INCARCERATED IN THE STATE OR FEDERAL CORRECTIONAL FACILITIES, AS DETERMINED BY THE DECENNIAL CENSUS, AT THEIR LAST KNOWN RESIDENCE BEFORE INCARCERATION IF THE INDIVIDUALS WERE RESIDENTS OF THE STATE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 67

(House Bill 496)

AN ACT concerning

No Representation Without Population Act

FOR the purpose of requiring certain incarcerated individuals to be counted in certain population counts in a certain manner; prohibiting certain incarcerated individuals from being included in certain population counts used for the purpose of creating a certain congressional districting plan and the legislative districting plan for the General Assembly and certain county and municipal corporation legislative districts; and generally relating to population counts of incarcerated individuals and the creation of legislative and congressional districts.

BY repealing and reenacting, with amendments,
Article – Election Law
Section 8–701
Annotated Code of Maryland
(2003 Volume and 2009 Supplement)

BY adding to
Article – State Government
Section 2–2A–01 to be under the new subtitle "Subtitle 2A. Creation of the Legislative Districting Plan"
Annotated Code of Maryland
(2009 Replacement Volume)

BY adding to
Article 24 – Political Subdivisions – Miscellaneous Provisions
Section 1–111
Annotated Code of Maryland
(2005 Replacement Volume and 2009 Supplement)

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

Article – Election Law

8–701.

(a) **THE POPULATION COUNT USED AFTER EACH DECENNIAL CENSUS FOR THE PURPOSE OF CREATING THE CONGRESSIONAL DISTRICTING PLAN USED TO ELECT THE STATE'S REPRESENTATIVES IN CONGRESS:**

(1) MAY NOT INCLUDE INDIVIDUALS WHO:

(I) WERE INCARCERATED IN STATE OR FEDERAL CORRECTIONAL FACILITIES, AS DETERMINED BY THE DECENNIAL CENSUS; AND

(II) WERE NOT RESIDENTS OF THE STATE BEFORE THEIR INCARCERATION; AND

(2) SHALL COUNT INDIVIDUALS INCARCERATED IN THE STATE OR FEDERAL CORRECTIONAL FACILITIES, AS DETERMINED BY THE DECENNIAL CENSUS, AT THEIR LAST KNOWN RESIDENCE BEFORE INCARCERATION IF THE INDIVIDUALS WERE RESIDENTS OF THE STATE.

(B) The State is divided into eight districts for the election of the State's Representatives in Congress.

[(b)**]** **(C)** (1) The descriptions of congressional districts in this subtitle include the references indicated.

(2) The references to:

(i) election districts and wards are to the geographical boundaries of the election districts and wards as they existed on April 1, 2000; and

(ii) precincts are to the geographical boundaries of the precincts as reviewed and certified by the local boards or their designees, before they were reported to the U.S. Bureau of the Census as part of the 2000 census redistricting data program and as those precinct lines are specifically indicated in the P.L. 94–171 data or shown on the P.L. 94–171 census block maps provided by the U.S. Bureau of the Census and as reviewed and corrected by the Maryland Department of Planning.

Article – State Government

SUBTITLE 2A. CREATION OF THE LEGISLATIVE DISTRICTING PLAN.

2–2A–01.

THE POPULATION COUNT USED AFTER EACH DECENNIAL CENSUS FOR THE PURPOSE OF CREATING THE LEGISLATIVE DISTRICTING PLAN FOR THE GENERAL ASSEMBLY:

(1) MAY NOT INCLUDE INDIVIDUALS WHO:

(I) WERE INCARCERATED IN STATE OR FEDERAL CORRECTIONAL FACILITIES, AS DETERMINED BY THE DECENNIAL CENSUS; AND

(II) WERE NOT RESIDENTS OF THE STATE BEFORE THEIR INCARCERATION; AND

(2) SHALL COUNT INDIVIDUALS INCARCERATED IN THE STATE OR FEDERAL CORRECTIONAL FACILITIES, AS DETERMINED BY THE DECENNIAL

CENSUS, AT THEIR LAST KNOWN RESIDENCE BEFORE INCARCERATION IF THE INDIVIDUALS WERE RESIDENTS OF THE STATE.

Article 24 – Political Subdivisions – Miscellaneous Provisions

1–111.

THE POPULATION COUNT USED AFTER EACH DECENNIAL CENSUS FOR THE PURPOSE OF CREATING THE LEGISLATIVE DISTRICTS THAT ARE USED TO ELECT ~~A COUNTY'S~~ THE GOVERNING BODY OF A COUNTY OR A MUNICIPAL CORPORATION:

(1) MAY NOT INCLUDE INDIVIDUALS WHO:

(I) WERE INCARCERATED IN STATE OR FEDERAL CORRECTIONAL FACILITIES, AS DETERMINED BY THE DECENNIAL CENSUS; AND

(II) WERE NOT RESIDENTS OF THE STATE BEFORE THEIR INCARCERATION; AND

(2) SHALL COUNT INDIVIDUALS INCARCERATED IN THE STATE OR FEDERAL CORRECTIONAL FACILITIES, AS DETERMINED BY THE DECENNIAL CENSUS, AT THEIR LAST KNOWN RESIDENCE BEFORE INCARCERATION IF THE INDIVIDUALS WERE RESIDENTS OF THE STATE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 68

(Senate Bill 408)

AN ACT concerning

Public Health – Disposition of Remains – Armed Forces Members

FOR the purpose of authorizing a certain person designated on a certain form to arrange for the final disposition of the body of a member of the United States armed forces under certain circumstances; *making this Act an emergency measure;* and generally relating to the disposition of the remains of United States armed forces members.

BY repealing and reenacting, with amendments,
Article – Health – General
Section 5–509(a)
Annotated Code of Maryland
(2009 Replacement Volume)

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

Article – Health – General

5–509.

(a) **(1)** Any individual who is 18 years of age or older may decide the disposition of the individual's own body after that individual's death without the predeath or post–death consent of another person by executing a document that expresses the individual's wishes regarding disposition of the body or by entering into a pre–need contract.

(2) THE PERSON DESIGNATED ON A UNITED STATES DEPARTMENT OF DEFENSE RECORD OF EMERGENCY DATA (DD FORM 93), OR ITS SUCCESSOR FORM, AS THE PERSON AUTHORIZED TO DIRECT DISPOSITION MAY ARRANGE FOR THE FINAL DISPOSITION OF THE BODY OF A DECEDENT, INCLUDING BY CREMATION UNDER § 5–502 OF THIS SUBTITLE, IF THE DECEDENT:

(I) DIED WHILE SERVING IN THE UNITED STATES ARMED FORCES; AND

(II) EXECUTED THE UNITED STATES DEPARTMENT OF DEFENSE RECORD OF EMERGENCY DATA (DD FORM 93), OR ITS SUCCESSOR FORM.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act ~~shall take effect October 1, 2010~~ *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 13, 2010.

Chapter 69

(Senate Bill 442)

AN ACT concerning

Criminal Injuries Compensation Board – Right to Hearing

FOR the purpose of providing that a claim filed with the Criminal Injuries Compensation Board is subject to certain provisions of the Administrative Procedure Act; providing that if a claimant requests a hearing after the Board has issued proposed findings of fact, conclusions of law, or orders, the Board shall hold a hearing before the Board issues final findings of fact, conclusions of law, or orders; and generally relating to the Criminal Injuries Compensation Board.

BY repealing and reenacting, with amendments,
Article – Criminal Procedure
Section 11–815
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)

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

Article – Criminal Procedure

11–815.

(A) A CLAIM UNDER THIS SUBTITLE IS SUBJECT TO THE APPLICABLE PROVISIONS OF THE ADMINISTRATIVE PROCEDURE ACT.

(B) IF A CLAIMANT REQUESTS A HEARING AFTER THE BOARD HAS ISSUED PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW, OR ORDERS, THE BOARD SHALL HOLD A HEARING IN ACCORDANCE WITH THE APPLICABLE PROVISIONS OF THE ADMINISTRATIVE PROCEDURE ACT BEFORE THE BOARD ISSUES FINAL FINDINGS OF FACT, CONCLUSIONS OF LAW, OR ORDERS.

(C) Within 30 days after the final decision of the Secretary, a claimant aggrieved by that decision may appeal the decision under §§ 10–222 and 10–223 of the State Government Article.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 70

(House Bill 138)

AN ACT concerning

Criminal Injuries Compensation Board – Right to Hearing

FOR the purpose of providing that a claim filed with the Criminal Injuries Compensation Board is subject to certain provisions of the Administrative Procedure Act; providing that if a claimant requests a hearing after the Board has issued proposed findings of fact, conclusions of law, or orders, the Board shall hold a hearing before the Board issues final findings of fact, conclusions of law, or orders; and generally relating to the Criminal Injuries Compensation Board.

BY repealing and reenacting, with amendments,
Article – Criminal Procedure
Section 11–815
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)

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

Article – Criminal Procedure

11–815.

(A) A CLAIM UNDER THIS SUBTITLE IS SUBJECT TO THE APPLICABLE PROVISIONS OF THE ADMINISTRATIVE PROCEDURE ACT.

(B) IF A CLAIMANT REQUESTS A HEARING AFTER THE BOARD HAS ISSUED PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW, OR ORDERS, THE BOARD SHALL HOLD A HEARING IN ACCORDANCE WITH THE APPLICABLE PROVISIONS OF THE ADMINISTRATIVE PROCEDURE ACT BEFORE THE BOARD ISSUES FINAL FINDINGS OF FACT, CONCLUSIONS OF LAW, OR ORDERS.

(C) Within 30 days after the final decision of the Secretary, a claimant aggrieved by that decision may appeal the decision under §§ 10–222 and 10–223 of the State Government Article.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 71

(Senate Bill 469)

AN ACT concerning

Annual Curative Bill

FOR the purpose of generally curing previous Acts of the General Assembly with possible title defects; altering the conditions under which the county councils of Montgomery County and Prince George's County may grant a full or partial exemption for certain properties owned by certain entities from the system development charge imposed by the Washington Suburban Sanitary Commission (WSSC); authorizing each board of community college trustees to waive certain out–of–state and out–of–county or out–of–region fees for certain students who have moved to the State as an employee or a family member of an employee as part of the Base Realignment and Closure (BRAC) process; altering the techniques that may be used to restrain certain individuals in certain facilities; requiring that certain trustees on the Board of Trustees of the State Retirement and Pension System be given reasonable time during work to attend certain Board of Trustees or committee meetings; extending the termination date of certain provisions of law relating to the name, powers and duties, and certain reports of the Mortality and Quality Review Committee, requiring the Office of Health Care Quality to provide certain data to the Committee, and requiring the Developmental Disabilities Administration to provide a certain report to certain facilities or programs; providing for the effect and construction of certain provisions of this Act; providing for the effective date of a certain provision 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 29 – Washington Suburban Sanitary District
Section 6–113
Annotated Code of Maryland
(2003 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, without amendments,
Article – Corporations and Associations
Section 5–108
Annotated Code of Maryland
(2007 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, without amendments,
Article – Courts and Judicial Proceedings
Section 3–8C–12
Annotated Code of Maryland
(2006 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, without amendments,
Article – Education
Section 16–310(a)(1) and (6) and (b)(1) and (4) and 18–2806
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, without amendments,
Article – Environment
Section 9–1707(f)
Annotated Code of Maryland
(2007 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, without amendments,
Article – Health – General
Section 10–701 and 21–305(a)
Annotated Code of Maryland
(2009 Replacement Volume)

BY repealing and reenacting, without amendments,
Article – State Personnel and Pensions
Section 21–104(e)
Annotated Code of Maryland
(2009 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, without amendments,
Article – Tax – General
Section 5–301(e)
Annotated Code of Maryland
(2004 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, without amendments,
Chapter 445 of the Acts of the General Assembly of 2005, as amended by
Chapter 485 of the Acts of the General Assembly of 2009
Section 1(3) Item RC00(A), Item RM00(D), and Item ZA00(AF)

BY repealing and reenacting, without amendments,
Chapter 268 of the Acts of the General Assembly of 2006, as amended by
Chapters 48 and 49 of the Acts of the General Assembly of 2009
Section 3

BY repealing and reenacting, without amendments,

Article – Transportation
Section 12–118(e)
Annotated Code of Maryland
(2009 Replacement Volume and 2009 Supplement)
(As enacted by Chapter 500, Section 2 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 29 – Washington Suburban Sanitary District

6–113.

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

(2) "Fixture unit" means the assigned value for a particular plumbing fixture, or group of plumbing fixtures, as set forth in the WSSC plumbing and gas fitting regulations, standardized with a common lavatory having an assigned value of 1 based on its probable discharge into the drainage system or hydraulic demand on the water supply.

(3) "New service" means:

(i) A first time connection of a property to the WSSC water or sewer system; or

(ii) A new connection or increased water meter size for a property previously or currently served by the WSSC if the new connection or increased meter size is needed because of a change in the use of the property or an increase in demand for service at the property.

(4) "Toilet" means a water closet, as set forth in the WSSC plumbing and gas fitting regulations.

(b) (1) Subject to the provisions of this section, in addition to any other charges authorized under this article, the WSSC may impose a system development charge that shall be paid by an applicant for new service.

(2) The system development charge shall be paid as follows:

(i) For residential properties:

1. 50% at the time the application is filed; and

2. 50% within 12 months after the date on which a plumbing permit application is filed with the Commission or on transfer of title to the property, whichever occurs first; and

(ii) For other properties, 100% at the time the plumbing permit application is filed.

(3) At the time of the filing of the plumbing permit application, the applicant shall deposit with the WSSC security in the form of an irrevocable letter of credit or a financial guaranty bond or in a form established and approved by the WSSC under its rules and regulations.

(c) (1) (i) The Montgomery County Council and the Prince George's County Council shall meet annually to discuss and approve the amount of the system development charge.

(ii) The amount of the charge for a particular property:

1. Shall be based on the number of plumbing fixtures and the assigned values for those fixtures as set forth in the WSSC plumbing and gas fitting regulations;

2. Except as provided in item 3 of this subparagraph, on or after July 1, 1998, may not exceed $200 per fixture unit;

3. For residential properties with five or fewer toilets, shall be based on the number of toilets per dwelling unit and:

A. For each apartment unit, may not exceed $2,000;

B. For dwellings with one or two toilets, may not exceed $3,000;

C. For dwellings with three to four toilets, may not exceed $5,000; or

D. For dwellings with five toilets, may not exceed $7,000; and

4. For dwellings with more than five toilets, shall be calculated on a fixture unit basis.

(iii) When establishing the charge under this section, the County Councils shall identify and consider the actual cost of construction of WSSC facilities.

(iv) When establishing the charge under this section, under criteria established jointly and agreed to by the County Councils, the County Councils:

1. Shall grant a full or partial exemption from the charge for public sponsored or affordable housing as jointly defined and agreed upon by the County Councils;

2. May grant a full or partial exemption from the charge for:

A. Revitalization projects; or

B. If the property is used primarily for recreational and educational programs and services to youth, property owned by a community–based organization that is exempt from taxation under § 501(c)(3) of the Internal Revenue Code and that has the primary mission and purpose of providing recreational and educational programs and services to youth, provided the exemption amount is limited to $80,000; and

3. May grant a full or partial exemption from the charge, under conditions prescribed by the County Councils, for:

A. Residential property located in a mixed retirement development as defined in the zoning ordinance of Prince George's County;

B. Residential property located in a planned retirement community as defined in the zoning ordinance of Montgomery County;

C. Other elderly housing; or

D. Properties used for biotechnology research and development, or manufacturing.

(v) On July 1, 1999, and July 1 of each succeeding year, the maximum charge, as established in subparagraph (ii) of this paragraph, may be changed by an amount equal to the prior calendar year's change in the Consumer Price Index published by the Bureau of Labor Statistics of the United States Department of Labor for urban wage earners and clerical workers for all items for the Washington, D.C. metropolitan area, or the successor index.

(2) If the charge established by the County Councils is less than the amount necessary to recover the full cost of constructing growth related facilities, the WSSC shall identify the portion of the cost of that growth that will be paid by current ratepayers as:

(i) A percentage of any rate increase; and

(ii) The annual monetary amount on a typical residential customer's annual water and sewer bill.

(3) If the County Councils do not agree on the amount of the charge, the charge imposed during the previous year shall continue in effect for the following fiscal year.

(4) If the County Councils have not previously agreed on any system development charge, a system development charge may not be imposed during that fiscal year.

(5) (i) Before July 1, 1994, the WSSC may not impose a system development charge in an amount greater than 50% of the charge established by the County Councils under this subsection.

(ii) Before July 1, 1995, the WSSC may not impose a system development charge greater than 75% of the charge established by the County Councils under this subsection.

(d) (1) (i) The WSSC shall deposit all funds collected under the system development charge into the system development charge fund.

(ii) The system development charge fund is a special fund which may not revert to general funds of the WSSC.

(2) The WSSC may only use the funds collected under the system development charge to:

(i) Pay for new treatment, transmission, and collection facilities, the need for which is directly attributable to the addition of new service, and the construction of which began after July 1, 1993; or

(ii) Amortize any bond that is issued in connection with the construction of those new facilities.

(3) Other costs of enhancement, maintenance, or environmental regulation on existing or new systems shall be borne equally by all ratepayers.

(e) (1) The WSSC may allow a developer to design and construct any on–site or off–site facilities necessary for a project of the developer, as long as those facilities are:

(i) In the WSSC Capital Improvement Program and the 10–year Comprehensive Water Supply and Sewerage System Plan adopted by one of the County Councils;

(ii) Major projects included in the WSSC Capital Improvement Program; or

(iii) Projects that include a sewer main or a water main that:

1. Provides only local service;

2. Is 2,000 feet or less;

3. Has a diameter of:

A. 15 inches or more if it is a sewer main; or

B. 16 inches or more if it is a water main; and

4. Is built to avoid unnecessary and uneconomical duplication when a major project is constructed.

(2) A facility constructed under this subsection shall be designed, constructed, and inspected in accordance with:

(i) The standards utilized by the WSSC; and

(ii) All applicable laws, regulations, and written policies of the WSSC.

(3) After the WSSC approves facilities constructed by a developer under this subsection, the WSSC shall:

(i) Accept the facilities as part of the WSSC system; and

(ii) Subject to the provisions of paragraph (4) of this subsection, grant the developer a credit against any charge imposed under this section in an amount equal to the cost of constructing those facilities.

(4) The internal auditor of the WSSC shall review and approve the costs incurred by the developer.

(5) The WSSC and the developer shall enter into an agreement incorporating the provisions of this subsection.

(6) If the WSSC rejects a developer's request to design and construct facilities under this subsection, the WSSC shall submit to the developer a written explanation of the reasons for the rejection.

(7) The WSSC shall submit a report at the end of each fiscal year to the House and Senate Delegations of both counties and to the County Councils. The report shall state the number of requests made by developers under this subsection including the number of acceptances and rejections by the WSSC and the justification for any rejections.

DRAFTER'S NOTE:

Error: Purpose paragraph of bill being cured failed to accurately describe the changes made by the bill.

Occurred: Chapter 441 (House Bill 1139) of the Acts of 2009.

Article – Corporations and Associations

5–108.

(a) If required under § 5–107 of this subtitle to obtain a certificate of authorization for use of a corporate name, the professional corporation or its incorporator shall file an application with the appropriate licensing unit, using a form provided by the licensing unit that contains:

(1) The name to be adopted by the corporation;

(2) The reasons for adopting the name; and

(3) Any other information required by the licensing unit.

(b) The application shall be accompanied by the fee, if any, set by the licensing unit.

(c) (1) Upon receipt of the application and fee under subsections (a) and (b) of this section, the licensing unit shall consult with and obtain the approval of the professional organization, if one exists, to which a majority of individuals in the State rendering the professional service belong.

(2) In determining the appropriateness of the proposed corporate name, the professional organization shall consider the established ethical standards, rules, and regulations of the profession.

(d) If the licensing unit and, if required, the professional organization approve of the proposed corporate name, the licensing unit shall issue a certificate of authorization for use of a corporate name to the corporation or its incorporator.

(e) Any licensing unit with jurisdiction over the professional service mentioned in the corporation's articles of incorporation may approve the adoption and use of a corporate name under the provisions of §§ 5–106 through 5–108 of this subtitle.

DRAFTER'S NOTE:

Error: Function paragraph of bill being cured incorrectly indicated that § 5–108 of the Corporations and Associations Article was unamended.

Occurred: Chapter 339 (House Bill 498) of the Acts of 2009.

Article – Courts and Judicial Proceedings

3–8C–12.

On or before November 1 of each year, the Chief Judge of the Court of Appeals shall report to the General Assembly, in accordance with § 2–1246 of the State Government Article, on each Truancy Reduction Pilot Program established under this subtitle.

DRAFTER'S NOTE:

Error: Function paragraph of bill being cured incorrectly indicated that § 3–8C–11, rather than § 3–8C–12, of the Courts Article was being added.

Occurred: Chapter 718 (House Bill 1321) of the Acts of 2009.

Article – Education

16–310.

(a) (1) Subject to paragraphs (2), (3), (4), (5), and (6) of this subsection and subsection (f) of this section, any student who attends a community college in this State and is not a resident of this State shall pay, in addition to the student tuition and fees payable by a county resident, an out–of–state fee, at least equal to:

(i) 60% of the county share per full–time equivalent student as determined under § 16–305 of this subtitle; and

(ii) The marginal cost component of the State share per full–time equivalent student as determined under § 16–305(c)(5) of this subtitle.

(6) (i) In this paragraph, "BRAC" means the Base Realignment and Closure process as announced by the United States Department of Defense.

(ii) Each board of community college trustees may waive the out–of–state fee as determined in paragraph (1) of this subsection for a student who resides in the State but does not meet the in–State residency requirement for tuition purposes and has moved to the State as an employee or a family member of an employee as part of BRAC.

(iii) Any BRAC employee or family member of a BRAC employee attending a community college in the State who satisfies the requirements established

in this paragraph shall be included as an in–State resident for computation of the State aid to community colleges in accordance with § 16–305 of this subtitle.

(b) (1) Subject to the provisions of paragraphs (2), (3), and (4) of this subsection and subsection (g) of this section, any student who attends a community college not supported by the county in which the student resides shall pay, in addition to the student tuition and fees payable by a resident of a county that supports the community college, an out–of–county or out–of–region fee at least equal to 60% of the county share per full–time equivalent student as determined under § 16–305 of this subtitle.

(4) (i) In this paragraph, "BRAC" means the Base Realignment and Closure process as announced by the United States Department of Defense.

(ii) Each board of community college trustees may waive the out–of–county fee or out–of–region fee as determined in paragraph (1) of this subsection for a student who resides in the county but does not meet the in–county residency requirement for tuition purposes and has moved to the State as an employee or a family member of an employee as part of BRAC.

DRAFTER'S NOTE:

Error: Purpose paragraph of bill being cured failed to accurately describe the changes made by the bill.

Occurred: Chapter 697 (House Bill 923) of the Acts of 2009.

18–2806.

The Office, in collaboration with the Department, shall adopt regulations to implement the provisions of this subtitle, including:

(1) Establishing the maximum number of participants in the Program each year in each priority area described under § 18–2805 of this subtitle; and

(2) Establishing the minimum and maximum amount of a loan awarded under this subtitle in each priority area described under § 18–2805 of this subtitle.

DRAFTER'S NOTE:

Error: Function paragraphs of bills being cured incorrectly indicated that §§ 18–2801 through 18–2805, rather than §§ 18–2801 through 18–2806, of the Education Article were being added.

Occurred: Chapters 575 and 576 (Senate Bill 627/House Bill 714) of the Acts of 2009.

Article – Environment

9–1707.

(f) (1) There is a State Recycling Trust Fund.

(2) The Fund shall consist of:

(i) The newsprint recycling incentive fee;

(ii) The telephone directory recycling incentive fee collected under § 9–1709 of this subtitle;

(iii) The covered electronic device manufacturer registration fee collected under § 9–1728 of this subtitle;

(iv) The mercury switch or mercury switch assembly removal fees collected under § 6–905.4(c)(6)(iii)3 of this article;

(v) All fines and penalties collected under this subtitle and under §§ 6–905.4 and 6–905.6 of this article;

(vi) Money appropriated in the State budget to the Fund; and

(vii) Any other money from any other source accepted for the benefit of the Fund.

(3) The Secretary shall administer the Fund.

(4) The Treasurer shall hold the Fund separately and the Comptroller shall account for the Fund.

(5) At the end of each fiscal year, any unspent or unencumbered balance in the Fund that exceeds $2,000,000 shall revert to the General Fund of the State in accordance with § 7–302 of the State Finance and Procurement Article.

(6) In accordance with the State budget, the Fund shall be used only:

(i) To provide grants to the counties to be used by the counties to develop and implement local recycling plans;

(ii) To provide grants to counties that have addressed methods for the separate collection and recycling of covered electronic devices in accordance with § 9–1703(c)(1) of this subtitle;

(iii) To provide grants to municipalities to be used by the municipalities to implement local covered electronic device recycling programs; and

(iv) To carry out the purposes of the Office of Recycling under this subtitle and under Title 6, Subtitle 9 of this article.

(7) (i) The Treasurer shall invest the money in the Fund in the same manner as other State money may be invested.

(ii) Any investment earnings of the Fund shall be credited to the General Fund of the State.

DRAFTER'S NOTE:

Error: Function paragraph of bill being cured incorrectly indicated that § 19–1707(f), rather than § 9–1707(f), of the Environment Article was being amended.

Occurred: Chapter 713 (House Bill 1263) of the Acts of 2009.

Article – Health – General

10–701.

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

(2) (i) "Advocate" means a person who provides support and guidance to an individual in a facility.

(ii) "Advocate" includes a family member or friend.

(iii) "Advocate" does not include an attorney acting in the capacity of legal counsel to an individual in a facility during the treatment planning and discharge planning process.

(3) "Facility" does not include an acute general care hospital that does not have a separately identified inpatient psychiatric service.

(4) (i) "Mental abuse" means any persistent course of conduct resulting in or maliciously intended to produce emotional harm.

(ii) "Mental abuse" does not include the performance of an accepted clinical procedure.

(5) (i) "Prone restraint" means restricting the free movement of all or a portion of an individual's body through the use of physical force or mechanical devices while the individual is in a prone position.

(ii) "Prone restraint" does not include a technique for transitioning an individual to a restraint position that involves momentarily placing the individual face down.

(b) It is the policy of this State that each individual with a mental disorder who receives any service in a facility has, in addition to any other rights, the rights provided in this subtitle.

(c) Each individual in a facility shall:

(1) Receive appropriate humane treatment and services in a manner that restricts the individual's personal liberty within a facility only to the extent necessary and consistent with the individual's treatment needs and applicable legal requirements;

(2) Receive treatment in accordance with the applicable individualized plan of rehabilitation or the individualized treatment plan provided for in § 10–706 of this subtitle;

(3) Be free from restraints or seclusions except for restraints or seclusions that are:

(i) Used only during an emergency in which the behavior of the individual places the individual or others at serious threat of violence or injury; and

(ii) 1. Ordered by a physician in writing; or

2. Directed by a registered nurse if a physician's order is obtained within 2 hours of the action;

(4) Be free from prone restraint;

(5) Be free from restraint that:

(i) Applies pressure to the individual's back;

(ii) Obstructs the airway of the individual or impairs the individual's ability to breathe;

(iii) Obstructs a staff member's view of the individual's face; or

(iv) Restricts the individual's ability to communicate distress;

(6) Be free from mental abuse;

(7) Be protected from harm or abuse as provided in this subtitle;

(8) Except as provided in subsection (d) of this section, and subject to subsection (j) of this section, have the right to an advocate of the individual's choice participate in the treatment planning and discharge planning process; and

(9) Subject to the provisions of § 10–708 of this subtitle, if the individual has an advance directive for mental health services provided for in § 5–602.1 of this article, receive treatment in accordance with the preferences in the advance directive.

(d) Notwithstanding the provisions of subsection (c)(8) of this section, a facility may prohibit an advocate from participating in the treatment planning or discharge planning process for an individual if:

(1) (i) The individual is a minor or an adult under guardianship in accordance with § 13–705 of the Estates and Trusts Article; and

(ii) The parent of the minor or the legal guardian of the individual has requested that the advocate not participate; or

(2) The advocate has engaged in behavior that:

(i) Is disruptive to the individual, other patients, or staff at the facility; or

(ii) Poses a threat to the safety of the individual, other patients, or staff at the facility.

(e) A facility shall:

(1) Have a written policy specifying the method used to ensure that an individual whose primary language or method of communication is nonverbal is able to effectively communicate distress during a physical restraint or hold; and

(2) Ensure that all staff at the facility who are authorized to participate in a physical restraint or hold of individuals are trained in the method specified in the written policy required under item (1) of this subsection.

(f) Subject to the provisions of §§ 4–301 through 4–309 of this article, the records of each individual in a facility are confidential.

(g) (1) Notwithstanding any other provision of law, when the State designated protection and advocacy agency for persons with developmental disabilities has received and documented a request for an investigation of a possible violation of the rights of an individual in a facility that is owned and operated by the Department or under contract to the Department to provide mental health services in the community under this subtitle, the executive director of the protection and advocacy agency or the executive director's designee:

(i) Before pursuing any investigation:

1. Shall interview the individual whose rights have been allegedly violated; and

2. Shall attempt to obtain written consent from the individual; and

(ii) If the individual is unable to give written consent but does not object to the investigation:

1. Shall document this fact; and

2. Shall request, in writing, access to the individual's records from the Director of the Mental Hygiene Administration.

(2) On receipt of the request for access to the individual's records, the Director of the Mental Hygiene Administration shall authorize access to the individual's records.

(3) After satisfying the provisions of paragraphs (1) and (2) of this subsection, the executive director of the protection and advocacy agency, or the executive director's designee, may pursue an investigation and as part of that investigation, shall continue to have access to the records of the individual whose rights have been allegedly violated.

(h) (1) On admission to a facility, an individual shall be informed of the rights provided in this subtitle in language and terms that are appropriate to the individual's condition and ability to understand.

(2) A facility shall post notices in locations accessible to the individual and to visitors describing the rights provided in this subtitle in language and terms that may be readily understood.

(i) A facility shall implement an impartial, timely complaint procedure that affords an individual the ability to exercise the rights provided in this subtitle.

(j) This section may not be construed to:

(1) Grant the advocate of an individual legal authority that the advocate does not otherwise have under law to make decisions on behalf of the individual regarding treatment or discharge;

(2) Grant the advocate access to the medical records of the individual or other confidential information that the advocate does not otherwise have access to under law; or

(3) Limit the legal authority that an attorney or other person otherwise has under law to participate in the treatment planning and discharge planning process or to otherwise act on behalf of an individual in a facility.

DRAFTER'S NOTE:

Error: Purpose paragraphs of bills being cured failed to accurately describe the changes made by the bills.

Occurred: Chapters 620 and 621 (Senate Bill 874/House Bill 415) of the Acts of 2009.

21–305.

(a) Except as otherwise provided in this subtitle, a person may not operate a food establishment unless the person is licensed by the Department.

DRAFTER'S NOTE:

Error: Function paragraph of bill being cured incorrectly indicated that § 21–305(a) of the Health – General Article was amended.

Occurred: Chapter 478 (House Bill 1542) of the Acts of 2009.

Article – State Personnel and Pensions

21–104.

(e) (1) Except as provided in paragraph (2) of this subsection, each trustee shall attend at least 80% of the monthly Board of Trustees meetings held during a 1–year period beginning January 1.

(2) (i) A trustee may be granted an excused absence by the chairman of the Board or another officer of the Board due to:

1. illness;

2. family emergencies;

3. jury duty; or

4. attendance at investment or fiduciary training.

(ii) An excused absence under this paragraph may not be considered an absence for the purposes of paragraph (1) of this subsection.

(3) (i) Any elected or Governor–appointed trustee that fails to attend at least 80% of the meetings, not including excused absences under paragraph (2) of this subsection, shall be removed from the Board of Trustees by the Governor.

(ii) The Governor shall fill the vacancy for the office of the trustee for the unexpired term in the same manner as the office was previously filled.

(iii) The State Retirement Agency shall submit a trustee attendance report to the Department of Legislative Services by June 30 and December 31 of each year.

(4) An elected trustee representing employees of any of the several systems shall be given reasonable time during work to attend monthly meetings of the Board of Trustees or committee meetings of the Board of Trustees.

DRAFTER'S NOTE:

Error: Purpose paragraph of bill being cured failed to accurately describe the changes made by the bill.

Occurred: Chapter 674 (House Bill 446) of the Acts of 2009.

Article – Tax – General

5–301.

(e) Before a resident dealer delivers or ships beer to a wholesaler in the State, the resident dealer shall pay the alcoholic beverage tax on that beer, in the manner that the Comptroller requires.

DRAFTER'S NOTE:

Error: Function paragraph of bill being cured failed to indicate that § 5–301(e) of the Tax – General Article was being added.

Occurred: Chapter 205 (Senate Bill 162) of the Acts of 2009.

Chapter 445 of the Acts of 2005, as amended by Chapter 485 of the Acts of 2009

Section 1(3)

RC00 BALTIMORE CITY COMMUNITY COLLEGE
(Baltimore City)

(A) Main Building Renovation – Liberty Campus. Provide funds to equip the Student Services Wing 458,184

RM00 MORGAN STATE UNIVERSITY
(Baltimore City)

(D) Montebello E–Wing/Old Power Plant/Morgue/Northwood Shopping Center Demolition. Provide funds for the design and demolition of the E–Wing, Old Power Plant, and Morgue at the Montebello Complex on the Morgan State University campus and for the demolition of the Northwood Shopping Center 920,000

ZA00 MISCELLANEOUS GRANT PROGRAMS

(AF) Strathmore Hall Performing Arts Center. Provide a grant to the County Executive and County Council of Montgomery County to assist in the construction and capital equipping of a multi–use performing arts center and educational facility on the grounds of the Strathmore Hall in Bethesda, subject to the requirement that the grantee provide an equal and matching fund for this purpose. Notwithstanding Section 1(5) of this Act, the matching fund may include funds expended prior to the effective date of this Act (Montgomery County).... 0

DRAFTER'S NOTE:

Error: Misplaced conjunction in function paragraph of bill being cured.

Occurred: Chapter 485 (House Bill 102) of the Acts of 2009.

Chapter 268 of the Acts of 2006, as amended by Chapters 48 and 49 of the Acts of 2009

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2006. It shall remain effective for a period of 6 years and 6 months and, at the end of December 31, 2012, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

DRAFTER'S NOTE:

Error: Purpose paragraphs of bills being cured failed to accurately describe the changes made by the bills.

Occurred: Chapters 48 and 49 (Senate Bill 305/House Bill 93) of the Acts of 2009.

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

Article – Transportation

12–118.

(e) (1) Subject to paragraph (2) of this subsection, money in the special fund established under subsection (c)(2) of this section shall be distributed to the Department of State Police and the State Highway Administration to cover the costs of implementing and administering work zone speed control systems.

(2) The balance of the money in the special fund shall be distributed to the Transportation Trust Fund established under § 3–216 of this article.

DRAFTER'S NOTE:

Error: Function paragraph of bill being cured incorrectly indicated that § 12–118(e) of the Transportation Article, as enacted by Section 1 of Chapter 500 of the Acts of 2009, rather than by Section 2, was being amended.

Occurred: Chapter 500 (Senate Bill 277) of the Acts of 2009.

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 Section 2 of this Act shall take effect October 1, 2012, the effective date of Chapter 500, Section 3 of the Acts of the General Assembly of 2009. If the effective date of Chapter 500, Section 3 is amended, this Act shall take effect on the taking effect of Chapter 500, Section 3.

SECTION 5. 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, except as provided in Section 4 of this Act, shall take effect from the date it is enacted.

Approved by the Governor, April 13, 2010.

Chapter 72

(Senate Bill 470)

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; 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 8–216(a)(2)(iv)4., 9–204.1(d)(3), 10–103(b)(13)(x)3.C., and 10–301(i)(1)(i)
Annotated Code of Maryland
(2005 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article 24 – Political Subdivisions – Miscellaneous Provisions
Section 2–101(b)(1) and 9–1301(h)(3)(ii)
Annotated Code of Maryland
(2005 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article 28 – Maryland–National Capital Park and Planning Commission
Section 2–111(b) and (d) and 5–114.1(d)(6)
Annotated Code of Maryland
(2003 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article 66B – Land Use
Section 1.03(b)(4) and 14.05(f)(3)(ii)
Annotated Code of Maryland
(2003 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, without amendments,
Article 66B – Land Use
Section 14.05(f)(3)(i)
Annotated Code of Maryland
(2003 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – Agriculture
Section 2–513(b)(1)(i) and 10–1601(c)(3)
Annotated Code of Maryland

(2007 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – Business Occupations and Professions
Section 2–401(a)(3) and 2–4A–01(a)
Annotated Code of Maryland
(2004 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – Business Regulation
Section 2–106.1(c)(2), (d), (e), and (f), 8–707(b)(1), and 16–501(f)
Annotated Code of Maryland
(2004 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – Corporations and Associations
Section 4A–1002(b)(5)
Annotated Code of Maryland
(2007 Replacement Volume and 2009 Supplement)

BY adding to
Article – Correctional Services
New subtitle designation "Subtitle 5. Task Force on Prisoner Reentry" to immediately precede Section 2–501
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – Correctional Services
Section 2–501(b)(9)(vii)
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – Courts and Judicial Proceedings
Section 1–708(b)(4), 3–8A–27(b)(4)(i), and 4–301(a)
Annotated Code of Maryland
(2006 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – Criminal Law
Section 8–301(k) and 8–801(a)
Annotated Code of Maryland
(2002 Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – Criminal Procedure

Section 5–202(e)(2)
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – Economic Development
Section 10–445(b), 10–449(b)(2)(ii), 10–801(a), and 12–209(b)(2)
Annotated Code of Maryland
(2008 Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – Education
Section 3–1001(c)(6), (d)(4), and (e)
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)
(As enacted by Chapters 348 and 349 of the Acts of the General Assembly of 2008)

BY repealing and reenacting, with amendments,
Article – Education
Section 5–206(f)(2)(iii) and (3), 5–401(b)(2)(ii), 7–426.1(e), 8–401(a)(4) and (5), 11–206.1(a), 11–305(4), 18–601(d)(3)(ii), and 18–705(a)(5)(i)
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – Election Law
Section 2–205(b)(2)(ii), 2–206, 3–101(c)(3) and (4), 3–501(2) and (4), 4–203(f)(2), 9–406(b), 13–209(c)(1), 13–304(a)(1), 13–321, 13–322(2), and 13–328(a) and (c)
Annotated Code of Maryland
(2003 Volume and 2009 Supplement)

BY repealing
Article – Election Law
Section 13–317
Annotated Code of Maryland
(2003 Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – Environment
Section 1–701(g)(3)(i), 3–105(a)(3)(ii), 9–658(c)(1), 9–1703(d), and 15–823(c)
Annotated Code of Maryland
(2007 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – Estates and Trusts

Section 13–207(a)(9)
Annotated Code of Maryland
(2001 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – Family Law
Section 5–580.3(a)(2), 10–301(v)(2)(ii)2., and 10–304(b)
Annotated Code of Maryland
(2006 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – Financial Institutions
Section 2–113(d)(4), 4–803(e)(2)(ii), 5–203(b)(2), 11–601(c), and 11–603(c)(5)(i)
Annotated Code of Maryland
(2003 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – Health – General
Section 2–302(b)(2), 4–224, 4–301(k)(5) and (6), 5–310(d)(2)(v), 5–609(d), 5–704(a)(2), 7–403(b)(2), 7–602(c), 7–604(a), 7–606(a) and (b)(2), 7–1006(c)(1)(vi), 8–502(a)(1), 10–208(a)(1), 10–622(b)(1)(i), 10–623(a), 10–624(a)(1)(ii), 10–701(g)(3), 10–708(j), 10–812(c), 10–905, 13–1101(l), 13–1604, 13–2702(a)(2)(ii), 14–401(k), 15–103(e), 15–133(a), 15–201(c)(2), 15–205(a), 15–501(a), 18–213(j)(2) and (k), 18–213.1(h)(2) and (i), 18–308(e), 18–331(c), 18–338.1(h)(1) and (l), 18–338.3(a)(8) and (b)(1), 18–404(e), 18–906(b)(6), 19–109(a)(3) and (b)(4), 19–214(d)(3)(i)3., 19–303(a)(3)(ii), 19–307.1(9), 19–345(a)(4), 19–345.1(c) and (e)(2), 19–346(d)(3) and (n)(1), 19–3A–02(b)(4), 19–705.3(b)(1), 19–1407(a)(2), (5), and (6), 19–1411(b), 21–2A–01(c)(8), 21–301(h)(2), 21–302, 21–304(a)(2)(ii), 21–316(a), 21–318(a), 21–323.1(c), 21–1111(b), 21–1204(a), 21–1214(b), 24–803(6), 24–806(b)(6), 24–903(6), 24–1203(b)(2)(iii), and 24–1406(g)(2)(ii)1.
Annotated Code of Maryland
(2009 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – Health Occupations
Section 1–207, 3–5A–11(a)(16), 4–205(a)(6), 4–315(a)(28) and (b)(16), 4–403(d), 4–501(b)(7) and (8), 7–205(a)(9), 7–316(a)(28), 8–205(a)(14), 8–316(a)(15), 8–6A–10(a)(23), 8–6B–06(10), 8–6B–18(a)(24), 9–302(d)(1)(i), 10–101(l), 12–6B–11(a), 14–205(a)(1)(iv), 14–404(a)(31), 14–504(g)(2), 15–202(a)(4), 15–205(b)(3)(iii), 15–314(7), 16–205(b)(4), and 16–311(a)(25)
Annotated Code of Maryland
(2009 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – Health Occupations

Section 12–101(i)(2)
Annotated Code of Maryland
(2009 Replacement Volume)
(As enacted by Chapters 352 and 353 of the Acts of the General Assembly of 2007)

BY repealing and reenacting, with amendments,
Article – Human Services
Section 1–202(c)(2)
Annotated Code of Maryland
(2007 Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – Insurance
Section 8–605.1(c) and 9–229.1(a)(7)(i)
Annotated Code of Maryland
(2003 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – Insurance
Section 10–705(a)(4) and 10–708
Annotated Code of Maryland
(2003 Replacement Volume and 2009 Supplement)
(As enacted by Chapters 316 and 317 of the Acts of the General Assembly of 2009)

BY repealing and reenacting, with amendments,
Article – Insurance
Section 15–112.2(a)(4) and (5), 15–403.2(c)(2) and (d), 15–409(d)(3), 15–817(c)(2)(i), 19–807(c)(3)(iii), 27–401(b)(2)(i), 27–402(8), and 27–605(b)(6)
Annotated Code of Maryland
(2006 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – Labor and Employment
Section 5–205(n) and (o)(1) and (2)
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – Natural Resources
Section 3–104(m)(1), 4–204(a)(3), 4–710(e), 5–102(a)(1), 5–304(2)(iii), and 5–307(g)(3)
Annotated Code of Maryland
(2005 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – Natural Resources
Section 8–1808(d)(4)(ii)1.
Annotated Code of Maryland
(2007 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – Public Safety
Section 1–202(b)(2)
Annotated Code of Maryland
(2003 Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – Real Property
Section 7–401(d)(4) and (5), 8–110.1(a)(8), 11–102.2(c), 11–108.1, 11–111.1(i), 11–114(g)(2)(iv), 11–126(a)(2)(ii), 11–127(d)(1)(ii), and 14–120(i)
Annotated Code of Maryland
(2003 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 11–203(b)(1)(ii)
Annotated Code of Maryland
(2009 Replacement Volume)
(As enacted by Chapter 3 of the Acts of the General Assembly of 1994)

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 13–108(a)(1) and (b)(1), 14–401(d)(2)(ii), and 14–305(a)(1)
Annotated Code of Maryland
(2009 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – State Government
Section 6–301(e), (f), and (g), 6–304(a) and (b), 6–306(a)(1) and (b)(1), 6–307(c)(1), 9–1A–01(m), 9–1A–03(b), 9–1A–07(c)(7)(v)2., 9–1A–24(b)(2), 9–603(a), 9–604, 9–1008(b), 9–2701(h)(3), 9.5–308(b), 10–222.1(c), 10–1102(f)(1), 10–1103(c), 20–401, and 20–1013(d)
Annotated Code of Maryland
(2009 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – State Government
Section 9.5–101(a)
Annotated Code of Maryland
(2009 Replacement Volume)
(As enacted by Chapter 521 of the Acts of the General Assembly of 2008)

BY repealing and reenacting, with amendments,
Article – State Personnel and Pensions
Section 2–707(a)(1), 3–202(f)(1), 3–2A–02(f)(1), 21–306(e)(3)(iii), 22–406(n)(7), 23–204(d)(2), 23–407(n)(7), and 38–103(d)(2)(ii)2.
Annotated Code of Maryland
(2009 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – Tax – General
Section 10–727(a)
Annotated Code of Maryland
(2004 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – Tax – Property
Section 8–401(f) and 9–105(a)
Annotated Code of Maryland
(2007 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – Transportation
Section 2–103.1(f)
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
Article – Transportation
Section 13–209(a), 13–402(c)(10), (11), and (12), 15–311.2(a)(1), 16–208(a)(1), 16–301(c) through (g), 16–402.1(a)(2), 16–812(a)(2)(iii), 18–105, 21–902(c)(3), 21–1207.1(c), 21–1207.2(a), and 24–301(b)(2)
Annotated Code of Maryland
(2009 Replacement Volume and 2009 Supplement)

BY repealing
Chapter 3 of the Acts of the General Assembly of the 2007 Special Session
Section 9

BY repealing and reenacting, with amendments,
Chapter 171 of the Acts of the General Assembly of 2009
Section 6

BY repealing and reenacting, with amendments,
Chapter 172 of the Acts of the General Assembly of 2009
Section 6

BY repealing and reenacting, with amendments,

Chapter 180 of the Acts of the General Assembly of 2009
Section 5

BY repealing and reenacting, with amendments,
Chapter 181 of the Acts of the General Assembly of 2009
Section 5

BY repealing and reenacting, with amendments,
Chapter 186 of the Acts of the General Assembly of 2009
Section 5

BY repealing and reenacting, with amendments,
Chapter 487 of the Acts of the General Assembly of 2009
Section 47

BY repealing and reenacting, with amendments,
Chapter 500 of the Acts of the General Assembly of 2009
Section 3 through 9

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) 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, K, and L of this subsubparagraph**]** **SUBSUBPARAGRAPH 1I, J, K, AND L OF THIS SUBPARAGRAPH** may not serve alcoholic beverages after 11 p.m.

DRAFTER'S NOTE:

Error: Stylistic error in Art. 2B, § 8–216(a)(2)(iv)4.

Occurred: Ch. 432, Acts of 2007.

9–204.1.

(d) (3) Notwithstanding paragraph (2) of this subsection, new Class B beer, wine and liquor restaurant licenses may not be issued:

(i) In the 46th alcoholic beverages district, the area covered by the Key Highway East Industrial Area Urban Renewal Plan, as adopted by the Mayor and City Council of Baltimore City in Ordinance 986 on June 29, 1987;

(ii) In the 46th alcoholic beverages district, the area covered by the Key Highway Urban Renewal Plan, as adopted by the Mayor and City Council of Baltimore City in Ordinance 622 on March 12, 1986; **[**and**]**

(iii) In the 46th alcoholic beverages district, ward 23, precinct 1, ward 1, precinct 4 or 5, and ward 24, precinct 5; and

(iv) In the area known as Pen Lucy, ward 9, precincts 1 and 2.

DRAFTER'S NOTE:

Error: Extraneous conjunction in Art. 2B, § 9–204.1(d)(3)(ii).

Occurred: Ch. 425, Acts of 2008.

10–103.

(b) (13) (x) 3. The Board of License Commissioners may:

C. Forward the fingerprints through the Central Repository for transmittal to the Federal Bureau of Investigation for a national criminal **HISTORY** records check; and

DRAFTER'S NOTE:

Error: Omitted word in Art. 2B, § 10–103(b)(13)(x)3C.

Occurred: Ch. 198, Acts of 1998.

10–301.

(i) (1) In Charles County, the Board of License Commissioners may not renew any license as authorized in subsection (a) of this section unless there is presented to the Board a certification from the:

(i) Office of the County Supervisor of Assessments showing **[**that**]** the value of the merchandise, fixtures, and stock–in–trade for the business for which the application is made for the calendar year next preceding the year the license is to be issued;

DRAFTER'S NOTE:

Error: Extraneous word in Art. 2B, § 10–301(i)(1)(i).

Occurred: Ch. 248, Acts of 1996.

Article 24 – Political Subdivisions – Miscellaneous Provisions

2–101.

(b) (1) Except as provided in paragraph (2) of this subsection, if a political subdivision is authorized to incur debt to be redeemed from a fee, charge, or the proceeds of a levy, then within 120 days after the end of the fiscal year of the political subdivision, its financial officer shall submit to the **[**Department and**]** State Treasurer **AND**, subject to § 2–1246 of the State Government Article, **TO THE DEPARTMENT** a comprehensive report on the financial condition of the political subdivision as of the end of that fiscal year.

DRAFTER'S NOTE:

Error: Misplaced language in light of the fact that reports to the Department [of Legislative Services] are subject to § 2–1246 of the State Government Article, while reports to the State Treasurer are not.

Occurred: Ch. 693, Acts of 2009.

9–1301.

(h) (3) (ii) The ordinance or resolution authorizing the bonds required under this subsection, any ordinance, resolution, or executive order passed or adopted in furtherance of the required ordinance or resolution, the bonds, the designation of a special taxing district, or the levy of a special ad valorem tax or special tax shall be subject to the request of the landowners as specified under subsection **[**(c)(1)**](D)(1)** of this section.

DRAFTER'S NOTE:

Error: Erroneous cross–reference in Article 24, § 9–1301(h)(3)(ii).

Occurred: Ch. 548, Acts of 1995.

Article 28 – Maryland–National Capital Park and Planning Commission

2–111.

(b) The Commission may establish a program of group health, life, **[**hospitalization**] HOSPITALIZATION,** and disability insurance by the purchase of insurance coverage from insurance companies authorized to do business in the State of Maryland.

(d) The Commission may cooperate with and enter into agreements with Montgomery County or Prince George's County, or both, or, subject to the approval of the county government of any county affected by the agreement, with other units of government, for the purpose of obtaining and providing insurance coverage in the most

economical manner for any type of insurance protection including, but not limited to, public liability, group health, life, **[**hospitalization**]** **HOSPITALIZATION,** and disability, real and personal property, and workers' compensation. Provided, however, that nothing herein shall authorize the Commission to establish a self–insurance program for group health, **[**life**]** **LIFE,** and hospitalization insurance.

DRAFTER'S NOTE:

Error: Omitted commas in Art. 28, § 2–111(b) and (d).

Occurred: Ch. 778, Acts of 1978.

5–114.1.

(d) (6) An employee organization that has not filed an annual report or whose constitution and bylaws do not conform to the requirements of **[**subsection (d)(5)**]** **PARAGRAPH (5)** of this **[**section**]** **SUBSECTION** may not be or remain certified for the purpose of negotiating with the MNCPPC.

DRAFTER'S NOTE:

Error: Stylistic error in Art. 28, § 5–114.1(d)(6).

Occurred: Ch. 776, Acts of 1986.

Article 66B – Land Use

1.03.

(b) The following sections of this article apply to a charter county:

(4) § **[**1.03**]** **1.04** (Charter county – Comprehensive plans);

DRAFTER'S NOTE:

Error: Erroneous cross–reference in Article 66B, § 1.03(b)(4).

Occurred: As a result of Chs. 180 and 181, Acts of 2009.

14.05.

(f) (3) (i) The County Commissioners, by ordinance, may fix and impose a fair share school construction excise tax levied against the owner of real property located in the county that is improved by new residential development.

(ii) 1. For fiscal year 2003, the fair share school construction excise tax may not exceed the following amounts:

A. For a single–family detached home, $9,700;

B. For a town house, $9,200; and

C. For a multifamily housing unit, $7,000.

2. For fiscal year 2004 and succeeding fiscal years, the limits set forth in **[**subparagraph (i) of this paragraph**]** **SUBSUBPARAGRAPH 1 OF THIS SUBPARAGRAPH** shall be altered by the same percentage as the change in the producer price index for the materials and components for construction, as reported by the United States Department of Labor, for the fiscal year preceding the year for which the amount is being calculated.

DRAFTER'S NOTE:

Error: Erroneous internal reference in Art. 66B, § 14.05(f)(3)(ii)2.

Occurred: Chs. 476 and 586, Acts of 2002.

Article – Agriculture

2–513.

(b) (1) A landowner whose land is subject to an easement may not use the land for any commercial, industrial, or residential purpose except:

(i) As determined by the Foundation, for **[**farm**]** **FARM–** and **[**forest**]** **FOREST–**related uses and home occupations; or

DRAFTER'S NOTE:

Error: Omitted hyphens in § 2–513(b)(1)(i) of the Agriculture Article.

Occurred: Ch. 258, Acts of 2003.

10–1601.

(c) The Program is established for the purpose of:

(3) Developing and regularly updating a database of farmers interested in selling their farm products to Maryland schools, including the types and amounts of farm products the farmers want to sell and the time periods **[**that**]** **IN WHICH** the farmers want to sell;

DRAFTER'S NOTE:

Error: Grammatical error in § 10–1601(c)(3) of the Agriculture Article.

Occurred: Chs. 371 and 372, Acts of 2008.

Article – Business Occupations and Professions

2–401.

(a) To operate a business through which certified public accountancy is practiced, a firm shall hold a permit issued by the Board if the firm:

(3) performs attest services described in § 2–101(c)(1), **[**(3)**] (3),** or (4) of this title for a client with a home office in this State.

DRAFTER'S NOTE:

Error: Omitted comma in § 2–401(a)(3) of the Business Occupations and Professions Article.

Occurred: Ch. 536, Acts of 2008.

2–4A–01.

(a) In this **[**section**] SUBTITLE** the following words have the meanings indicated.

DRAFTER'S NOTE:

Error: Erroneous internal reference in § 2–4A–01(a) of the Business Occupations and Professions Article.

Occurred: Ch. 88, Acts of 2005.

Article – Business Regulation

2–106.1.

(c) (2) The Comptroller shall distribute the fees to the **[**fund**] FUND**.

(d) The **[**fund**] FUND** shall be used to cover the actual documented direct and indirect costs of fulfilling the statutory and regulatory duties of each occupational and professional licensing board described in subsection (a) of this section.

(e) The Secretary or a designee of the Secretary shall administer the **[**fund**]** **FUND**.

(f) The Legislative Auditor shall audit the accounts and transactions of the **[**fund**]** **FUND** as provided in § 2–1220 of the State Government Article.

DRAFTER'S NOTE:

Error: Capitalization error in § 2–106.1(c)(2), (d), (e), and (f) of the Business Regulation Article.

Occurred: Ch. 227, Acts of 2003.

8–707.

(b) (1) To qualify for a license, an applicant shall meet the requirements of this **[**section**]** **SUBTITLE**.

DRAFTER'S NOTE:

Error: Erroneous internal reference in § 8–707(b)(1) of the Business Regulation Article.

Occurred: Ch. 537, Acts of 2008.

16–501.

(f) "Licensed wholesaler" means a wholesaler who is licensed under Title 16, Subtitle **[**2,**]** **2** of this article to act as a wholesaler and any person who is an authorized agent of the licensed wholesaler for the stamping and distribution of cigarettes.

DRAFTER'S NOTE:

Error: Extraneous comma in § 16–501(f) of the Business Regulation Article.

Occurred: Ch. 455, Acts of 2003.

Article – Corporations and Associations

4A–1002.

(b) In order to register, a foreign limited liability company shall submit to the Department an application for registration as a foreign limited liability company executed by an authorized person and setting forth:

(5) A statement that the Department is appointed as the resident agent of the foreign limited liability company if no resident agent has been appointed under **[**paragraph**]** **ITEM** (4) of this subsection or, if appointed, the resident agent's authority has been revoked or if the agent cannot be found or served with the exercise of reasonable diligence;

DRAFTER'S NOTE:

Error: Stylistic error in § 4A–1002(b)(5) of the Corporations and Associations Article.

Occurred: Ch. 536, Acts of 1992.

Article – Correctional Services

SUBTITLE 5. TASK FORCE ON PRISONER REENTRY.

2–501.

(b) The Task Force consists of the following members:

(9) the following members, who shall serve ex officio:

(vii) the Commissioner of Correction, or the Commissioner's designee; **[**and**]**

DRAFTER'S NOTE:

Error: Omitted subtitle designation immediately preceding § 2–501 and extraneous conjunction in § 2–501(b)(9)(vii) of the Correctional Services Article.

Occurred: Ch. 625, Acts of 2009.

Article – Courts and Judicial Proceedings

1–708.

(b) (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.

DRAFTER'S NOTE:

Error: Extraneous comma in § 1–708(b)(4) of the Courts and Judicial Proceedings Article.

Occurred: Ch. 717, Acts of 1980.

3–8A–27.

(b) (4) (i) The Department of Juvenile Services may provide access to and the confidential use of a treatment plan of a child described under Title 10, Subtitle 2 of the Criminal Procedure Article by an agency in the District of Columbia or a state agency in Virginia, if the agency:

1. Performs the same functions in the jurisdiction of the agency as described in § 9–216(a) of the Human Services Article; **[**and**]**

2. Has a reciprocal agreement with the State that provides that the specific information to be shared by the State is the same type of information that will be shared by the agency; and

3. Has custody of the child.

DRAFTER'S NOTE:

Error: Extraneous conjunction in § 3–8A–27(b)(4)(i)1 of the Courts and Judicial Proceedings Article.

Occurred: Ch. 486, Acts of 2009.

4–301.

(a) Except as provided in §§ 3–803**[**,**]** **AND** 3–8A–03**[**,**]** **OF THIS ARTICLE** and 4–302 of this **[**article**]** **SUBTITLE**, the District Court has exclusive original jurisdiction in a criminal case in which a person at least 16 years old or a corporation is charged with violation of the vehicle laws, or the State Boat Act, or regulations adopted pursuant to the vehicle laws or State Boat Act.

DRAFTER'S NOTE:

Error: Erroneous internal reference in § 4–301(a) of the Courts and Judicial Proceedings Article.

Occurred: Ch. 415, Acts of 2001.

Article – Criminal Law

8–301.

(k) Notwithstanding any other law, the Department of State Police may initiate investigations and enforce this section throughout the State without regard to any limitation otherwise applicable to **[**that department's**]** **THE DEPARTMENT'S** activities in a municipal corporation or other political subdivision.

DRAFTER'S NOTE:

Error: Stylistic and capitalization errors in § 8–301(k) of the Criminal Law Article.

Occurred: Ch. 509, Acts of 2002.

8–801.

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

(2) "Deception" has the meaning stated in § 7–101 of this article.

(3) "Deprive" has the meaning stated in § 7–101 of this article.

(4) "Obtain" has the meaning stated in § 7–101 of this article.

(5) "Property" has the meaning stated in § 7–101 of this article.

(6) **[**"Value" has the meaning stated in § 7–103 of this article.

(7)**]** (i) "Undue influence" means domination and influence amounting to force and coercion exercised by another person to such an extent that a vulnerable adult or an individual at least 68 years old was prevented from exercising free judgment and choice.

(ii) "Undue influence" does not include the normal influence that one member of a family has over another member of the family.

(7) "VALUE" HAS THE MEANING STATED IN § 7–103 OF THIS ARTICLE.

(8) "Vulnerable adult" has the meaning stated in § 3–604 of this article.

DRAFTER'S NOTE:

Error: Stylistic error (failure to codify definitions in alphabetical order) in § 8–801(a) of the Criminal Law Article.

Occurred: Chs. 479 and 480, Acts of 2002.

Article – Criminal Procedure

5–202.

(e) (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)**]** **ITEM (II)** of this paragraph.

DRAFTER'S NOTE:

Error: Stylistic error in § 5–202(e)(2)(iii) of the Criminal Procedure Article.

Occurred: Ch. 10, Acts of 2001.

Article – Economic Development

10–445.

(b) "CENTR Maryland Program" or "Program" means the Coordinating Emerging Nanobiotechnology Research **IN MARYLAND** Program established under § 10–447 of this subtitle.

DRAFTER'S NOTE:

Error: Misnomer in § 10–445(b) of the Economic Development Article.

Occurred: Chs. 445 and 446, Acts of 2008.

10–449.

(b) Within the CENTR Maryland Program, the Corporation may award operating grants from the Fund to institutions of higher education that shall include:

(2) collaborative grants to support research teams from institutions of higher education working with private sector entities on collaborative research projects that:

(ii) require a matching sum from **THE** private sector entity equivalent to the grant amount; and

DRAFTER'S NOTE:

Error: Omitted article in § 10–449(b)(2)(ii) of the Economic Development Article.

Occurred: Chs. 445 and 446, Acts of 2008.

10–801.

(a) In this subtitle the following words **[**and terms**]** have the meanings indicated.

DRAFTER'S NOTE:

Error: Stylistic error in § 10–801(a) of the Economic Development Article.

Occurred: Ch. 137, Acts of 2008.

12–209.

(b) (2) The agreement shall:

(i) **[**Be**]** **BE** in writing;

(ii) **[**Be**]** **BE** executed by the political subdivision making the pledge, the Maryland Economic Development Corporation, and the other persons that the governing body of the political subdivision determines; and

(iii) **[**Run**]** **RUN** to the benefit of and be enforceable on behalf of the holders of the MEDCO obligations secured by the agreement.

DRAFTER'S NOTE:

Error: Capitalization error in § 12–209(b)(2) of the Economic Development Article.

Occurred: Ch. 182, Acts of 2009.

Article – Education

3–1001.

(c) School board district II consists of:

(6) That part of election district 16, precinct 1 that is **[**within**]** **OUTSIDE** the municipal boundary of the City of Hyattsville as that boundary existed on November 1, 2006;

(d) School board district III consists of:

(4) That part of election district 16, precinct 1 that is **[**outside**]** **WITHIN** the municipal boundary of the City of Hyattsville **AND THAT PART THAT IS GENERALLY SOUTH OF THE MUNICIPAL BOUNDARY OF HYATTSVILLE AND NORTH OF THE MUNICIPAL BOUNDARY OF COTTAGE CITY** as that boundary existed on November 1, 2006.

(e) School board district IV consists of:

(1) Election district 2, precincts 1 through **[**4**]** **4, [**and**]** 6 through **[**10**]** **10, AND 99**;

(2) Election district 13, precincts 1 through 3, 8, 14, and 17;

(3) Election district 14, precinct 2;

(4) Election district 16, precinct 99;

(5) Election district 18, precincts 5 and 12;

(6) **ELECTION DISTRICT 20, PRECINCTS 4, 7, 8, 9, AND 11;**

(7) That part of election district 2, precinct 5 that is outside the municipal boundary of the Town of Edmonston as that boundary existed on September 1, 2002;

[(7)**]** **(8)** That part of election district 19, precinct 4 that is outside the municipal boundary of the Town of Riverdale Park as that boundary existed on September 1, 2002; and

[(8)**]** **(9)** That part of election district 20, precinct 2 that is outside the municipal boundary of the City of New Carrollton as that boundary existed on January 30, 2006.

DRAFTER'S NOTE:

Error: Omitted and erroneous language in § 3–1001(c)(6), (d)(4), and (e) of the Education Article.

Occurred: Chs. 348 and 349, Acts of 2008.

5–206.

(f) (2) The funding level for a county is:

(iii) Except as provided in paragraph (3) of this subsection, in fiscal year 2013 and in each fiscal year thereafter, the funding level for the county for the prior fiscal year increased by the product of the funding level for the county for the prior fiscal year and the percentage change in the Consumer Price Index — **[**all urban consumers — all items,**] (ALL URBAN CONSUMERS — ALL ITEMS),** as published by the Bureau of Labor Statistics of the United States Department of Labor, for the second prior fiscal year.

(3) If the funding level calculated under paragraph **[**(2)(ii)**] (2)(III)** of this subsection is less than the funding level for the prior fiscal year, the funding level for the county shall be the funding level for the prior fiscal year.

DRAFTER'S NOTE:

Error: Capitalization error and stylistic error in § 5–206(f)(2)(iii) and (3), respectively, of the Education Article.

Occurred: Ch. 252, Acts of 2006; as a result of Ch. 487, Acts of 2009.

5–401.

(b) (2) (ii) Each county board shall submit an update to the plan required under **[**paragraph (2)(i) of this subsection**] SUBPARAGRAPH (I) OF THIS PARAGRAPH** for review and approval by the State Superintendent of Schools on or before:

1. October 15, 2008; and

2. October 15, 2009.

DRAFTER'S NOTE:

Error: Stylistic error in § 5–401(b)(2)(ii) of the Education Article.

Occurred: Ch. 652, Acts of 2007.

7–426.1.

(e) If a child has authority to self–administer medication in accordance with subsection **[**(e)**] (B)(3)** of this section, a local county board may require the parent or guardian of the child to sign a statement acknowledging that the school or its

employee incurs no liability as a result of injury arising from self–administration by the child.

DRAFTER'S NOTE:

Error: Erroneous internal reference in § 7–426.1(e) of the Education Article.

Occurred: Ch. 652, Acts of 2009. Correction suggested by the Attorney General in the Bill Review Letter for H.B. 26 of 2009 (footnote 25), dated May 1, 2009.

8–401.

(a) (4) **[**"Special education" means specially designed instruction, at no cost to parents, to meet the unique needs of a child with a disability, including:

(i) Instruction in the classroom, in the home, in hospitals and institutions, and in other settings; and

(ii) Instruction in physical education.

(5)**]** (i) "Related services" means transportation and such developmental, corrective, and other supportive services as may be required to assist a child with a disability to benefit from special education.

(ii) "Related services" includes the early identification and assessment of disabling conditions in children.

(iii) "Related services" does not include a surgically implanted medical device or the replacement of the device.

(5) "SPECIAL EDUCATION" MEANS SPECIALLY DESIGNED INSTRUCTION, AT NO COST TO PARENTS, TO MEET THE UNIQUE NEEDS OF A CHILD WITH A DISABILITY, INCLUDING:

(I) INSTRUCTION IN THE CLASSROOM, IN THE HOME, IN HOSPITALS AND INSTITUTIONS, AND IN OTHER SETTINGS; AND

(II) INSTRUCTION IN PHYSICAL EDUCATION.

DRAFTER'S NOTE:

Error: Stylistic error (failure to codify definitions in alphabetical order) in § 8–401(a)(4) and (5) of the Education Article.

Occurred: Ch. 726, Acts of 1998.

11–206.1.

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

[(1)**] (2)** "Public institution of higher education" means:

(i) A public senior higher education institution; and

(ii) A community college.

[(2)**] (3)** "Nonpublic institution of higher education" means a regionally accredited institution of higher education eligible for aid under § 17–103 of this article.

DRAFTER'S NOTE:

Error: Stylistic error in § 11–206.1(a) of the Education Article.

Occurred: Ch. 311, Acts of 2004.

11–305.

Performance accountability plans developed under this subtitle shall:

(4) In the case of **[**senior**]** public **SENIOR** higher education institutions, designate a set of peer institutions to which the institution's performance will be compared; and

DRAFTER'S NOTE:

Error: Misnomer in § 11–305(4) of the Education Article.

Occurred: Ch. 246, Acts of 1988.

18–601.

(d) A person may apply to an eligible postsecondary institution for a scholarship under this section if the person:

(3) (ii) Was a prisoner of war **OR MISSING IN ACTION, IF THAT OCCURRED** on or after 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;

DRAFTER'S NOTE:

Error: Omitted language in § 18–601(d)(3)(ii) of the Education Article.

Occurred: Ch. 221, Acts of 1990. Correction suggested by the Office of the Attorney General, Counsel to the General Assembly.

18–705.

(a) (5) "Eligible program" means a program approved by the Office and offered by an eligible institution that provides studies leading to:

(i) A child development associate credential from the child development associate consortium; **[**or**]**

DRAFTER'S NOTE:

Error: Extraneous conjunction in § 18–705(a)(5)(i) of the Education Article.

Occurred: Ch. 462, Acts of 1991.

Article – Election Law

2–205.

(b) (2) (ii) In Baltimore County, the counsel may not be compensated less than $2,000 **ANNUALLY**.

DRAFTER'S NOTE:

Error: Omitted word in § 2–205(b)(2)(ii) of the Election Law Article.

Occurred: Ch. 291, Acts of 2002.

2–206.

Subject to the requirements of this article and the policies and guidance of the local board, the election director may:

(1) appoint the employees of the local board;

(2) train judges of election;

(3) give notice of elections;

(4) upon the request of an elderly or disabled voter whose polling place is not structurally barrier free, provide an alternate polling place to the voter;

(5) issue voter acknowledgment notices and voter notification cards;

(6) receive certificates of candidacy;

(7) verify **[**nominating**]** petitions;

(8) **[**receive and maintain campaign finance reports;

(9)**]** in consultation with the local board, conduct the canvass following an election; and

[(10)**] (9)** subject to § 9–306 of this article, process and reject absentee ballot applications.

DRAFTER'S NOTE:

Error: Erroneous language in § 2–206(7) and obsolete language in § 2–206(8) of the Election Law Article.

Occurred: As a result of Ch. 291, Acts of 2002, which required the State Board of Elections, by regulation, to establish the process to be followed by election authorities for verifying and counting signatures on all petitions, not just "nominating" petitions; as a result of Ch. 510, Acts of 2006, which eliminated non–continuing campaign finance entities and, thus, the local filing of campaign finance reports.

3–101.

(c) The State Administrator shall:

(3) instruct the local boards on:

(i) processing voter registration applications and name and address changes;

(ii) entering voter registration information into the statewide voter registration list; and

(iii) removing from the statewide voter registration list information about voters who are no longer eligible to be registered **[**voters.**] VOTERS; AND**

(4) **[**Subject**]** **SUBJECT** to relevant federal law and to regulations adopted by the State Board, establish and conduct a program to identify voters who have changed their addresses.

DRAFTER'S NOTE:

Error: Incorrect punctuation and omitted conjunction in § 3–101(c)(3)(iii) and stylistic error in § 3–101(c)(4) of the Election Law Article.

Occurred: Ch. 572, Acts of 2005.

3–501.

An election director may remove a voter from the statewide voter registration list only:

(2) upon determining, based on information provided pursuant to **[**§ 3–503**] § 3–504** of this subtitle, that the voter is no longer eligible because:

(i) the voter is not qualified to be a registered voter as provided in § 3–102(b) of this title; or

(ii) the voter is deceased;

(4) if, in accordance with the administrative complaint process under § 3–602 of this title, the **[**local board**] STATE ADMINISTRATOR OR THE STATE ADMINISTRATOR'S DESIGNEE** has determined that the voter is not qualified to be registered to vote.

DRAFTER'S NOTE:

Error: Erroneous cross–reference in § 3–501(2) and erroneous entity designation in § 3–501(4) of the Election Law Article.

Occurred: Ch. 572, Acts of 2005; Ch. 354, Acts of 2006.

4–203.

(f) (2) For each of those two party central committees:

(i) two members are elected from each of the legislative districts that lie wholly within Montgomery County;

(ii) one member is elected from the Montgomery County part of each legislative district **[**which**] THAT** is partially within Montgomery County; and

(iii) the remainder shall be elected at large.

DRAFTER'S NOTE:

Error: Grammatical error in § 4–203(f)(2)(ii) of the Election Law Article.

Occurred: Ch. 291, Acts of 2002.

9–406.

(b) An individual rendering assistance under this section shall execute a certification as prescribed by the State Board and included in the instructions under **[**§ 9–408**] § 9–407** of this subtitle.

DRAFTER'S NOTE:

Error: Erroneous cross–reference in § 9–406(b) of the Election Law Article.

Occurred: Ch. 291, Acts of 2002.

13–209.

(c) (1) To join a slate, a candidate shall file a written notice with the **[**board where the candidate filed a certificate of candidacy**] STATE BOARD**.

DRAFTER'S NOTE:

Error: Erroneous entity designation in § 13–209(c)(1) of the Election Law Article.

Occurred: As a result of Ch. 510, Acts of 2006, which eliminated non–continuing campaign finance entities and, thus, the local filing of campaign finance reports.

13–304.

(a) (1) From the date of its organization until its termination under the provisions of this title, a campaign finance entity, except a political club, shall file a campaign finance report **AT THE STATE BOARD** at the **[**times,**] TIMES AND** for the **[**periods,**] PERIODS [**and at the locations**]** required by §§ 13–309, 13–312, and 13–316 of this subtitle.

DRAFTER'S NOTE:

Error: Erroneous entity designation in § 13–304(a)(1) of the Election Law Article.

Occurred: As a result of Ch. 510, Acts of 2006, which eliminated non–continuing campaign finance entities and, thus, the local filing of campaign finance reports.

[13–317.

All campaign finance reports filed with a local board shall be filed in duplicate.**]**

DRAFTER'S NOTE:

Error: Obsolete provision in § 13–317 of the Election Law Article.

Occurred: As a result of Ch. 510, Acts of 2006, which eliminated non–continuing campaign finance entities and, thus, the local filing of campaign finance reports.

13–321.

(a) (1) In accordance with paragraph (2) of this subsection, **[**each board**]** **THE STATE BOARD** shall notify each campaign finance entity that is required under this subtitle to file campaign finance reports **[**with that board**]** of each campaign finance report required to be filed by that entity.

(2) The notice shall be provided by first class mail at least 10 but not more than 20 days before the filing date for each campaign finance report.

(b) The notice required under subsection (a) of this section shall include:

(1) the filing date;

(2) the telephone number, business hours, and location of the **[**board where the campaign finance report is to be filed**]** **STATE BOARD**; and

(3) the penalty for failure to file a timely campaign finance report.

DRAFTER'S NOTE:

Error: Erroneous entity designation in § 13–321(a)(1) and (b)(2) of the Election Law Article.

Occurred: As a result of Ch. 510, Acts of 2006, which eliminated non–continuing campaign finance entities and, thus, the local filing of campaign finance reports. Consequently, the notice requirements under § 13–321 are the responsibility of the State Board.

13–322.

A campaign finance report is timely if:

(2) it is received by the State Board **[**or the local board with which it is required to be filed**]** within 3 days after the filing deadline and a private postal meter postmark or a receipt by a private carrier verifies that the campaign finance report was mailed or delivered to the private carrier on or before the filing deadline.

DRAFTER'S NOTE:

Error: Obsolete language in § 13–322(2) of the Election Law Article.

Occurred: As a result of Ch. 510, Acts of 2006, which eliminated non–continuing campaign finance entities and, thus, the local filing of campaign finance reports.

13–328.

(a) **[**(1)**]** Within 10 days after the deadline for the filing of any campaign finance report that is required to be filed with the State Board, the State Board shall compile a list of the campaign finance entities that failed to file the campaign finance report and distribute the list, or a portion of the list, to such local boards as is required to implement this subtitle.

[(2) Within 10 days after the deadline for the filing of any campaign finance report that is required to be filed with a local board, the local board shall compile a list of the campaign finance entities that failed to file the campaign finance report and transmit the list to the State Board.**]**

[(c) (1) This subsection applies only to a failure to file a campaign finance report as specified in § 13–327 of this subtitle.

(2) A local board promptly shall notify the State Board of any campaign finance report that is more than 30 days overdue to be filed with that local board.**]**

DRAFTER'S NOTE:

Error: Obsolete provisions in § 13–328(a)(2) and (c) of the Election Law Article.

Occurred: As a result of Ch. 510, Acts of 2006, which eliminated non–continuing campaign finance entities and, thus, the local filing of campaign finance reports. Consequently, provisions relating to the reporting and notice responsibilities of the local boards of elections are obsolete.

Article – Environment

1–701.

(g) (3) A member of the Commission:

(i) May not receive compensation **AS A MEMBER OF THE COMMISSION**; but

DRAFTER'S NOTE:

Error: Omitted words in § 1–701(g)(3)(i) of the Environment Article.

Occurred: Ch. 460, Acts of 2003.

3–105.

(a) (3) (ii) This paragraph does not apply in **BALTIMORE CITY OR** Allegany, Anne Arundel, **[**Baltimore City,**]** Calvert, Charles, Garrett, Howard, Montgomery, St. Mary's, and Washington counties.

DRAFTER'S NOTE:

Error: Grammatical error in § 3–105(a)(3)(ii) of the Environment Article.

Occurred: Ch. 338, Acts of 1983.

9–658.

(c) (1) The Dorchester County Sanitary Commission may make the levy of a benefit assessment effective on **THE DATE ON WHICH**:

(i) The **[**date on which the**]** construction is substantially completed; or

(ii) The system is in use for the project for which the benefit assessment is made.

DRAFTER'S NOTE:

Error: Misplaced words in § 9–658(c)(1) of the Environment Article.

Occurred: Ch. 511, Acts of 1986.

9–1703.

(d) A county that achieves a reduction of at least 5 percent in the volume of its waste through the utilization of 1 or more resource recovery facilities in operation as of **[**January 1, 1988**]** **JANUARY 1, 1988,** shall be considered to have achieved a reduction by recycling of 5 percent of its solid waste stream.

DRAFTER'S NOTE:

Error: Omitted comma in § 9–1703(d) of the Environment Article.

Occurred: Ch. 536, Acts of 1988.

15–823.

(c) Liability under the bond shall be for the duration of the mining permit and for a period of **[**five**]** **5** years after its expiration, unless previously released in whole or in part, as provided in § 15–824 of this subtitle.

DRAFTER'S NOTE:

Error: Stylistic error in § 15–823(c) of the Environment Article.

Occurred: Ch. 581, Acts of 1975.

Article – Estates and Trusts

13–207.

(a) Persons are entitled to appointment as guardian for a minor or disabled person according to the following priorities:

(9) A person or corporation nominated by a governmental agency which is paying benefits to him; **AND**

DRAFTER'S NOTE:

Error: Omitted conjunction in § 13–207(a)(9) of the Estates and Trusts Article.

Occurred: Ch. 11, Acts of 1974.

Article – Family Law

5–580.3.

(a) (2) Each employee, as defined in § 5–560 of this subtitle, of a child care center that is required to be licensed or to hold a letter of compliance under this subtitle shall apply to the Department **OF HUMAN RESOURCES**, on or before the first day of actual employment, for a child abuse and neglect clearance.

DRAFTER'S NOTE:

Error: Erroneous reference in § 5–580.3(a)(2) of the Family Law Article.

Occurred: As a result of Ch. 585, Acts of 2005 and publisher changes ratified in Ch. 44, Acts of 2006. Correction recommended by Assistant Attorney General Kathryn M. Rowe, Office of the Counsel to the General Assembly, in memo dated November 6, 2009.

10–301.

(v) (2) "State" includes:

(ii) a foreign country or political subdivision that has:

2. established a reciprocal arrangement for child support with this State as provided in § 10–320 **OF THIS SUBTITLE**; or

DRAFTER'S NOTE:

Error: Stylistic error in § 10–301(v)(2)(ii)2 of the Family Law Article.

Occurred: Ch. 522, Acts of 2008.

10–304.

(b) The bases of personal jurisdiction set forth in subsection (a) of this section or in any other law of this State may not be used to acquire personal jurisdiction for a tribunal of the State to modify a child support order of another state unless the requirements of §§ 10–350 and 10–353.1 **OF THIS SUBTITLE** are met.

DRAFTER'S NOTE:

Error: Stylistic error in § 10–304(b) of the Family Law Article.

Occurred: Ch. 522, Acts of 2008.

Article – Financial Institutions

2–113.

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

(4) An affiliate of an institution described in **[**paragraph**]** **ITEM** (1), (2), or (3) of this subsection.

DRAFTER'S NOTE:

Error: Stylistic error in § 2–113(d)(4) of the Financial Institutions Article.

Occurred: Ch. 633, Acts of 2000.

4–803.

(e) Within 3 months after the application for approval of reorganization is filed for examination, the Commissioner shall approve or reject the application. The Commissioner may not approve the application unless the Commissioner determines:

(2) That if the reorganization is pursuant to an acquisition by the mutual holding company of all the stock of a savings and loan association:

(ii) The mutual holding company agrees to obtain federal insurance for the deposits of the acquired savings and loan **ASSOCIATION** within the time limitation imposed by the Commissioner;

DRAFTER'S NOTE:

Error: Omitted word in § 4–803(e)(2)(ii) of the Financial Institutions Article.

Occurred: Ch. 355, Acts of 1986.

5–203.

(b) (2) If a banking institution is not in the business of accepting deposits or retaining funds in a deposit account as defined in § 5–509 of this **[**article**]** **TITLE**, the Commissioner shall assess the banking institution the sum of:

(i) $5,000; plus

(ii) 1. 0.3 cents for each $1,000 of managed assets held in a fiduciary capacity up to $5,000,000,000;

2. 0.2 cents for each $1,000 of managed assets held in a fiduciary capacity over $5,000,000,000, but not more than $20,000,000,000;

3. 0.1 cent for each $1,000 of managed assets held in a fiduciary capacity over $20,000,000,000 up to $27,500,000,000;

4. 0.2 cents for each $1,000 of nonmanaged and custodial assets held in a fiduciary capacity up to $5,000,000,000; and

5. 0.1 cent for each $1,000 of nonmanaged and custodial assets held in a fiduciary capacity over $5,000,000,000 up to $20,000,000,000.

DRAFTER'S NOTE:

Error: Stylistic error in § 5–203(b)(2) of the Financial Institutions Article.

Occurred: Ch. 293, Acts of 2008.

11–601.

(c) "Clerical or support duties" **[**include**]** **INCLUDES** the following activities relating to the processing or underwriting of a mortgage loan when performed subsequent to the receipt of a loan application:

(1) The receipt, collection, distribution, and analysis of information usual and customary for the processing or underwriting of a mortgage loan; and

(2) Communication with a consumer to obtain information necessary for the processing or underwriting of a mortgage loan, to the extent that the communication does not include offering or negotiating mortgage loan rates or terms, or counseling consumers about mortgage loan rates or terms.

DRAFTER'S NOTE:

Error: Incorrect word usage in § 11–601(c) of the Financial Institutions Article.

Occurred: Ch. 4, Acts of 2009.

11–603.

(c) (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)**]** **(2)** of this subsection; or

DRAFTER'S NOTE:

Error: Stylistic error in § 11–603(c)(5)(i)2 of the Financial Institutions Article.

Occurred: Ch. 4, Acts of 2009.

Article – Health – General

2–302.

(b) The funding shall be:

(2) For fiscal year 1998 and each subsequent fiscal year, the amount of funding for fiscal year 1997 adjusted for:

(i) Inflation, as measured by the Consumer Price Index **[**— all urban consumers**] (ALL URBAN CONSUMERS,** for the second preceding fiscal year, calculated by the U.S. Department of Commerce; and

(ii) Population growth, as measured by the growth in the total population of the State of Maryland for the second preceding fiscal year, according to the most recent statistics available through the Department of Health and Mental Hygiene.

DRAFTER'S NOTE:

Error: Capitalization error in § 2–302(b)(2)(i) of the Health – General Article.

Occurred: Ch. 504, Acts of 1995.

4–224.

To protect the integrity of vital records, to **[**insure**] ENSURE** their proper use, and to **[**insure**] ENSURE** the efficient and proper administration of the vital records system, a person may not, except as authorized in § 4–217, § 4–220, § 4–221, or § 4–222 of this subtitle or § 9–1015 of the State Government Article or by the rules and regulations of the Department:

(1) Permit inspection of or disclose any information contained in a vital record; or

(2) Copy or issue a copy of all or part of any vital record.

DRAFTER'S NOTE:

Error: Incorrect word usage in § 4–224 of the Health – General Article.

Occurred: Ch. 21, Acts of 1982.

4–301.

(k) "Person in interest" means:

(5) If **[**paragraph**] ITEM** (4) of this subsection does not apply to a minor:

(i) A parent of the minor, except if the parent's authority to consent to health care for the minor has been specifically limited by a court order or a valid separation agreement entered into by the parents of the minor; or

(ii) A person authorized to consent to health care for the minor consistent with the authority granted; or

(6) An attorney appointed in writing by a person listed in **[**paragraph**]** **ITEM** (1), (2), (3), (4), or (5) of this subsection.

DRAFTER'S NOTE:

Error: Stylistic error in § 4–301(k)(5) and (6) of the Health – General Article.

Occurred: Ch. 55, Acts of 1991.

5–310.

(d) (2) (v) The appellant may appeal a rejection under subparagraph (iv)2 **OF THIS PARAGRAPH** to a circuit court of competent jurisdiction.

DRAFTER'S NOTE:

Error: Stylistic error in § 5–310(d)(2)(v) of the Health – General Article.

Occurred: Ch. 547, Acts of 1992.

5–609.

(d) An advance directive made in accordance with this subtitle shall be presumed to have been made voluntarily by a competent individual. Authorization for the provision, **[**withholding**]** **WITHHOLDING,** or withdrawal of life–sustaining procedures in accordance with this subtitle shall be presumed to have been made in good faith.

DRAFTER'S NOTE:

Error: Omitted comma in § 5–609(d) of the Health – General Article.

Occurred: Ch. 372, Acts of 1993.

5–704.

(a) The purpose of the State Team is to prevent child deaths by:

(2) Developing plans for and implementing changes within the agencies represented on the **STATE** Team to prevent child deaths; and

DRAFTER'S NOTE:

Error: Omitted word in § 5–704(a)(2) of the Health – General Article.

Occurred: Chs. 355 and 356, Acts of 1999.

7–403.

(b) Within 60 days after the Department receives an application for services for an individual, the Secretary, on the basis of the application, shall:

(2) If a positive determination is made under item **[**(i) or (ii) of paragraph (1)**] (1)(I) OR (II)** of this subsection:

(i) Approve the application;

(ii) Determine the nature of the disability;

(iii) Determine the nature of services that the individual may require;

(iv) Determine the type of environment in which any needed services could be provided with the least restriction on the liberty of the individual;

(v) Determine what types of evaluations, if any, the individual requires;

(vi) Inform the individual of these determinations; and

(vii) Inform the individual that these determinations are preliminary and may be subject to modification as a result of further evaluation.

DRAFTER'S NOTE:

Error: Stylistic error in § 7–403(b)(2) of the Health – General Article.

Occurred: Chs. 636 and 637, Acts of 1986.

7–602.

(c) "Public group home" means a group home that is owned by or leased to **[**this**] THE** State or a political subdivision of **[**this**] THE** State, whether or not this group home is maintained and operated by a private, nonprofit person.

DRAFTER'S NOTE:

Error: Stylistic errors in § 7–602(c) of the Health – General Article.

Occurred: Chs. 636 and 637, Acts of 1986.

7–604.

(a) The Secretary shall, in accordance with the State plan established under Subtitle 3 of this title, determine the need, if any, for **[**1**]** **ONE** or more public group homes for individuals with developmental disability in each county or multicounty region of **[**this**]** **THE** State.

DRAFTER'S NOTE:

Error: Stylistic errors in § 7–604(a) of the Health – General Article.

Occurred: Chs. 636 and 637, Acts of 1986.

7–606.

(a) (1) If the Board of Public Works approves the site that has been chosen by the Secretary, on a default by a county or counties, **[**this**]** **THE** State may:

(i) Acquire the site by lease or purchase, condemnation, or otherwise; **AND**

(ii) Renovate a building or build a public group home that meets the requirements of:

1. The State plan;

2. The regulations issued under § 7–904 of this title relating to community–based residential services; and

3. The program accessibility requirements of the federal regulations (45 C.F.R. §§ 84.21 through 84.23).

(2) Before acquiring the site, the Secretary shall give the governing body for the county where the site is located and the community around the site notice of the intention of **[**this**]** **THE** State to acquire and improve the site.

(b) Each public group home that is acquired under this section shall be operated by:

(2) **[**This**]** **THE** State as a provider of last resort on an interim basis until a suitable private operator can be found.

DRAFTER'S NOTE:

Error: Stylistic error in § 7–606(a)(1) and (2) and (b)(2) and missing conjunction in § 7–606(a)(1)(i) of the Health – General Article.

Occurred: Chs. 636 and 637, Acts of 1986.

7–1006.

(c) (1) (vi) Subsequent to the initial written plan of habilitation for individuals in State residential centers, the written plan of habilitation shall include an annual update on the status and progress toward addressing and resolving the barriers identified in subparagraph (vii)4 of this **[**subsection**]** **PARAGRAPH**.

DRAFTER'S NOTE:

Error: Stylistic error in § 7–1006(c)(1)(vi) of the Health – General Article.

Occurred: Ch. 396, Acts of 2005.

8–502.

(a) After a preliminary evaluation of an individual by the administrator or the designee of the administrator, the individual may be admitted to the facility if it is certified in writing that the individual:

(1) Has acute symptoms of alcohol or drug **[**intoxification**]** **INTOXICATION** or withdrawal; and

DRAFTER'S NOTE:

Error: Incorrect word usage in § 8–502(a)(1) of the Health – General Article.

Occurred: Ch. 782, Acts of 1989.

10–208.

(a) (1) There is a **[**continuing**]** **CONTINUING,** nonlapsing Mental Hygiene Community–Based Services Fund.

DRAFTER'S NOTE:

Error: Omitted comma in § 10–208(a)(1) of the Health – General Article.

Occurred: Ch. 401, Acts of 1994.

10–622.

(b) (1) The petition for emergency evaluation of an individual may be made by:

(i) A physician, **[**a**]** psychologist, **[**a**]** clinical social worker, **[**a**]** licensed clinical professional counselor, clinical nurse specialist in psychiatric and mental health nursing, psychiatric nurse practitioner, **[**a**]** licensed clinical marriage and family therapist, or **[**a**]** health officer or designee of a health officer who has examined the individual;

DRAFTER'S NOTE:

Error: Extraneous articles in § 10–622(b)(1)(i) of the Health – General Article.

Occurred: Ch. 21, Acts of 1982; Ch. 270, Acts of 2001; Ch. 49, Acts of 2002; and Ch. 43, Acts of 2008.

10–623.

(a) If the petitioner under Part IV of this subtitle is not a physician, **[**a**]** psychologist, **[**a**]** clinical social worker, **[**a**]** licensed clinical professional counselor, clinical nurse specialist in psychiatric and mental health nursing, psychiatric nurse practitioner, **[**a**]** licensed clinical marriage and family therapist, **[**a**]** health officer or designee of a health officer, or **[**a**]** peace officer, the petitioner shall present the petition to the court for immediate review.

DRAFTER'S NOTE:

Error: Extraneous articles in § 10–623(a) of the Health – General Article.

Occurred: Ch. 21, Acts of 1982; Ch. 270, Acts of 2001; Ch. 49, Acts of 2002; and Ch. 43, Acts of 2008.

10–624.

(a) (1) A peace officer shall take an emergency evaluee to the nearest emergency facility if the peace officer has a petition under Part IV of this subtitle that:

(ii) Is signed and submitted by a physician, **[**a**]** psychologist, **[**a**]** clinical social worker, **[**a**]** licensed clinical professional counselor, clinical nurse specialist in psychiatric and mental health nursing, psychiatric nurse practitioner, **[**a**]** licensed clinical marriage and family therapist, **[**a**]** health officer or designee of a health officer, or **[**a**]** peace officer.

DRAFTER'S NOTE:

Error: Extraneous articles in § 10–624(a)(1)(ii) of the Health – General Article.

Occurred: Ch. 21, Acts of 1982; Ch. 270, Acts of 2001; Ch. 49, Acts of 2002; and Ch. 43, Acts of 2008.

10–701.

(g) (3) After satisfying the provisions of paragraphs (1) and (2) of this subsection, the executive director of the protection and advocacy agency, or the executive director's designee, may pursue an investigation **[**and**]** **AND,** as part of that investigation, shall continue to have access to the records of the individual whose rights have been allegedly violated.

DRAFTER'S NOTE:

Error: Omitted comma in § 10–701(g)(3) of the Health – General Article.

Occurred: Ch. 429, Acts of 1984.

10–708.

(j) If a panel approves the administration of medication, the lay advisor promptly shall:

(1) Inform the individual of the individual's right to appeal the decision under subsection (k) of this section;

(2) **[**Insure**]** **ENSURE** that the individual has access to a telephone as provided under § 10–702(b) of this subtitle;

(3) If the individual requests a hearing, notify the chief executive officer of the facility or the chief executive officer's designee pursuant to subsection (k)(1) of this section and give the individual written notice of the date, time, and location of the hearing; **AND**

(4) Advise the individual of the provision for renewal of an approval under subsection (m) of this section.

DRAFTER'S NOTE:

Error: Incorrect word usage in § 10–708(j)(2) and omitted conjunction in § 10–708(j)(3) of the Health – General Article.

Occurred: Ch. 385, Acts of 1991.

10–812.

(c) A dispute over a transfer of an individual from the Mental Hygiene Administration to the Developmental Disabilities Administration shall be resolved, in accordance with procedures that the Secretary sets, on request of:

(1) The Mental Hygiene Administration; **OR**

(2) The Developmental Disabilities Administration.

DRAFTER'S NOTE:

Error: Omitted conjunction in § 10–813(c)(1) of the Health – General Article.

Occurred: Chs. 636 and 637, Acts of 1986.

10–905.

Salaries for employees of community mental health programs that **[**this**]** **THE** State funds and that the Department designates to serve a specific area may not be less than salaries of State employees of a comparable grade and step at State facilities.

DRAFTER'S NOTE:

Error: Stylistic error in § 10–905 of the Health – General Article.

Occurred: Ch. 21, Acts of 1982.

13–1101.

(l) "Local health officer" means:

(1) The head of a county health department; or

(2) A person designated by the Department under **[**§ 13–1109(g) or § 13–1115(i)**]** **§ 13–1109(H) OR § 13–1115(F)** of this subtitle.

DRAFTER'S NOTE:

Error: Erroneous cross–references in § 13–1101(l)(2) of the Health – General Article.

Occurred: Chs. 17 and 18, Acts of 2000.

13–1604.

The Advisory Council shall:

(1) Monitor trends in the provision of care to Marylanders with life–limiting illnesses;

(2) Study the impact of State statutes, regulations, policies, and other aspects of public policy on the provision of care at the end of life;

(3) Provide recommendations to the Office of the Attorney General, the Department **[**of Health and Mental Hygiene**]**, the Department of Aging, and other agencies of State government with respect to their activities affecting the provision of care at the end of life;

(4) Advise the **[**Maryland**]** General Assembly on legislative proposals affecting the provision of care at the end of life;

(5) Participate in or otherwise promote public and professional educational efforts concerning care at the end of life; and

(6) Carry out other duties as may be requested by the Governor or the **[**Maryland**]** General Assembly.

DRAFTER'S NOTE:

Error: Stylistic errors in § 13–1604(3), (4), and (6) of the Health – General Article.

Occurred: Ch. 265, Acts of 2002.

13–2702.

(a) Subject to the limitations of its budget, the Department:

(2) (ii) **[**The provision of**]** **SHALL PROVIDE** services through the Mental Hygiene Administration or the Alcohol and Drug Abuse Administration **[**shall be**]** based on eligibility and medical necessity criteria established by these administrations; and

DRAFTER'S NOTE:

Error: Grammatical error in § 13–2702(a)(2)(ii) of the Health – General Article.

Occurred: Chs. 555 and 556, Acts of 2008.

14–401.

(k) "Routine activity" means any type of activity other than a specialized activity as set forth in subsection **[**(e)(3)**] (G)(3)** of this section that is conducted for children by a youth camp.

DRAFTER'S NOTE:

Error: Erroneous internal reference in § 14–401(k) of the Health – General Article.

Occurred: As a result of Ch. 25, § 6, Acts of 2004.

15–103.

(e) By regulation, the Department shall adopt a methodology to ensure that federally qualified health centers are paid reasonable **[**cost based**] COST–BASED** reimbursement that is consistent with federal law.

DRAFTER'S NOTE:

Error: Omitted hyphen in § 15–103(e) of the Health – General Article.

Occurred: Ch. 314, Acts of 2001.

15–133.

(a) The State shall apply to the Health Care Financing Administration of the United States Department of Health and Human Services for grants to assist states in improving **[**home and**] HOME– AND** community–based service systems, including:

(1) Real choice system change grants;

(2) Nursing facility transition grants and "access housing" grants; and

(3) Community–based attendant services with consumer control grants.

DRAFTER'S NOTE:

Error: Omitted hyphen in § 15–133(a) of the Health – General Article.

Occurred: Ch. 495, Acts of 2001.

15–201.

(c) (2) If the applicant **OR RECIPIENT** is a child under the age of 18 years, "family" means:

(i) The minor applicant's or recipient's parents; and

(ii) At the option of the minor applicant's or recipient's parents, the minor applicant's or recipient's siblings.

DRAFTER'S NOTE:

Error: Omitted word in § 15–201(c)(2) of the Health – General Article.

Occurred: Ch. 44, Acts of 1992.

15–205.

(a) The Department shall, subject to § 2–1246 of the State Government Article, provide the Governor and the General Assembly with an annual report summarizing the Program expenditures, numbers of recipients, Program effectiveness, the estimated savings to the **MARYLAND** Medical Assistance Program, additional costs incurred by private insurance companies, and the loss of federal funding.

DRAFTER'S NOTE:

Error: Misnomer in § 15–205(a) of the Health – General Article.

Occurred: Ch. 188, Acts of 1990.

15–501.

(a) An individual who is eligible for medical assistance at the time of application for admission to a licensed nursing home or would become eligible within 6 months following admission shall be provided a comprehensive face–to–face evaluation prior to admission, at no charge to the individual. The Department, under the Maryland Medical Assistance Program, shall pay for the evaluation. The evaluation shall include an assessment of an individual's health, social and functional **[**status**]** **STATUS,** and recommendations for available services **[**which**]** **THAT** could appropriately substitute for nursing home care. The evaluation is advisory only and may not serve as the basis for any action, including denial or commencement of benefits, that restricts the freedom of any individual to select from among any of the available services, including nursing home care, for which the individual is found to be medically eligible. Prior to beginning the evaluation process and annually thereafter, the Department shall prepare and publish an inventory of available services for use in the evaluation and shall provide this information for assistance to the individual upon completion of the evaluation.

DRAFTER'S NOTE:

Error: Omitted comma and grammatical error in § 15–501(a) of the Health – General Article.

Occurred: Ch. 459, Acts of 1986.

18–213.

(j) A fire fighter, emergency medical technician, rescue squadman, law enforcement officer, or correctional officer shall receive from their employers or local governmental bodies, at the expense of the employer or local governmental body, as part of their training, education on:

(2) The current Centers for Disease Control **AND PREVENTION** guidelines for preventing prehospital exposure to HIV and hepatitis B while rendering emergency medical care.

(k) A fire fighter, emergency medical technician, rescue squadman, law enforcement officer, or correctional officer shall receive from their employers, associations, or local governmental bodies, at the employers', associations', or local governmental bodies' expense, equipment recommended by the Centers for Disease Control **AND PREVENTION** to protect a fire fighter, emergency medical technician, rescue squadman, law enforcement officer, or correctional officer from exposure to HIV and hepatitis B while rendering emergency medical care.

DRAFTER'S NOTE:

Error: Misnomer in § 18–213(j)(2) and (k) of the Health – General Article.

Occurred: As a result of changes in federal law enacted by P. L. 102–531 (1992).

18–213.1.

(h) A sworn member of the State Fire Marshal's office shall receive from the State Fire Marshal's office, at the expense of the State Fire Marshal's office, as part of the member's training, education on:

(2) The current Centers for Disease Control **AND PREVENTION** guidelines for preventing prehospital exposure to HIV and hepatitis B while rendering emergency medical care.

(i) A sworn member of the State Fire Marshal's office shall receive from the State Fire Marshal's office, at the State Fire Marshal's expense, equipment recommended by the Centers for Disease Control **AND PREVENTION** to protect a sworn member of the State Fire Marshal's office from exposure to HIV and hepatitis B while rendering emergency medical care.

DRAFTER'S NOTE:

Error: Misnomer in § 18–213.1(h)(2) and (i) of the Health – General Article.

Occurred: As a result of changes in federal law enacted by P. L. 102–531 (1992).

18–308.

(e) A person who violates any provision of **[**subsections**]** **SUBSECTION** (b)(2) or (d) of this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $100 or imprisonment not exceeding 6 months or both.

DRAFTER'S NOTE:

Error: Grammatical error in § 18–308(e) of the Health – General Article.

Occurred: Ch. 21, § 2, Acts of 1982.

18–331.

(c) The Department shall report to the United States Centers for Disease Control **AND PREVENTION** all information collected under subsection (a) of this section, including that received under § 18–330(b) of this subtitle.

DRAFTER'S NOTE:

Error: Misnomer in § 18–331(c) of the Health – General Article.

Occurred: As a result of changes in federal law enacted by P. L. 102–531 (1992).

18–338.1.

(h) (1) Notwithstanding the provisions of **[**Subtitle 3 of Title 4**]** **TITLE 4, SUBTITLE 3** of this article, the records, including any physician order for an HIV test or the results of an HIV test performed on a blood sample of a patient or a health care provider in accordance with the provisions of this section may not be documented in the medical record of the patient or health care provider.

DRAFTER'S NOTE:

Error: Stylistic error in § 18–338.1(h)(1) of the Health – General Article.

Occurred: Ch. 535, Acts of 1991.

(l) The Medical and Chirurgical Faculty of the State of Maryland in consultation with the Centers for Disease Control **AND PREVENTION**, the Maryland Hospital Association, and the Department of Health and Mental Hygiene shall develop a practice protocol for physicians who are infected with HIV.

DRAFTER'S NOTE:

Error: Misnomer in § 18–338.1(l) of the Health – General Article.

Occurred: As a result of changes in federal law enacted by P. L. 102–531 (1992).

18–338.3.

(a) (8) "Public safety worker" means:

(i) A career or volunteer member of a fire, rescue, or emergency medical services department, company, squad, or auxiliary;

(ii) A law enforcement officer;

(iii) The State Fire Marshal or a sworn member of the State Fire Marshal's office; or

(iv) A forensic scientist **[**that**]** **WHO** works under the direction of a law enforcement agency.

(b) Notwithstanding the provisions of § 18–338.1 of this subtitle, the designated infectious disease/communicable disease officer of a hospital shall order a test for the presence of antibodies to the human immunodeficiency virus (HIV) under subsection (d) of this section when:

(1) There has been an exposure in a hospital between a patient and a health care provider, an exposure between **[**the**]** **A** patient and a first responder, or an exposure between a patient and a public safety worker before admission of the patient to a hospital, that, in accordance with the Centers for Disease Control and Prevention recommendations, would warrant recommending or offering chemoprophylaxis treatment for the health care provider, first responder, or public safety worker;

DRAFTER'S NOTE:

Error: Grammatical errors in § 18–338.3(a)(8)(iv) and (b)(1) of the Health – General Article.

Occurred: Ch. 227, Acts of 2007; Ch. 143, Acts of 2003.

18–404.

(e) A resident or employee is not required to receive a vaccine under this section if:

(1) The vaccine is medically contraindicated for the resident or employee;

(2) The vaccine is against the **[**resident**]** **RESIDENT'S** or employee's religious beliefs; or

(3) After being fully informed by the related institution of the health risks associated with not receiving a vaccine, the resident or employee refuses the vaccine.

DRAFTER'S NOTE:

Error: Grammatical error in § 18–404(e)(2) of the Health – General Article.

Occurred: Ch. 420, Acts of 2000.

18–906.

(b) (6) In the event that an individual cannot personally appear before the court, proceedings may be conducted:

(i) By an individual's authorized representative; and

(ii) Through any means that **[**allows**]** **ALLOW** other individuals to fully participate.

DRAFTER'S NOTE:

Error: Grammatical error in § 18–906(b)(6)(ii) of the Health – General Article.

Occurred: Ch. 1, Acts of 2002.

19–109.

(a) In addition to the powers set forth elsewhere in this subtitle, the Commission may:

(3) Appoint advisory committees, which shall include consumers and may include representatives of interested public or private organizations, to make recommendations to the Commission on community–based services, **[**long term**]** **LONG–TERM** care, acute patient services, ambulatory surgical services, specialized health care services, residential treatment centers for emotionally disturbed children and adolescents, mental health and alcohol and drug abuse services, and any other topic or issue that the Commission considers necessary;

(b) In addition to the duties set forth elsewhere in this subtitle, the Commission shall:

(4) Beginning December 1, 2000, and each December 1 thereafter, submit to the Governor, **[**to**]** the Secretary, and, subject to § 2–1246 of the State Government Article, **[**to**]** the General Assembly an annual report on the operations and activities of the Commission during the preceding fiscal year, including:

(i) A copy of each summary, compilation, and supplementary report required by this subtitle; and

(ii) Any other fact, suggestion, or policy recommendation that the Commission considers necessary; and

DRAFTER'S NOTE:

Error: Omitted hyphen and extraneous language in § 19–109(a)(3) and (b)(4) of the Health – General Article.

Occurred: Ch. 702, Acts of 1999.

19–214.

(d) (3) For the portion of the assessment under paragraph (1)(ii) of this subsection:

(i) The Commission shall ensure that the assessment:

3. May not be less as a percentage of net patient revenue than the assessment of **[**.8128%**] 0.8128%** that was in existence on July 1, 2007; and

DRAFTER'S NOTE:

Error: Stylistic error in § 19–214(d)(3)(i)3 of the Health – General Article.

Occurred: Chs. 244 and 245, Acts of 2008.

19–303.

(a) (3) "Community benefit" means an activity that is intended to address community needs and priorities primarily through disease prevention and improvement of health status, including:

(ii) Financial or **[**in kind**] IN–KIND** support of public health programs;

DRAFTER'S NOTE:

Error: Omitted hyphen in § 19–303(a)(3)(ii) of the Health – General Article.

Occurred: Ch. 178, Acts of 2001.

19–307.1.

The Department shall adopt regulations for a limited service hospital that include the following standards:

(9) Adoption, implementation, and enforcement of a policy shall exist that requires, except in an emergency life–threatening situation where it is not feasible or practicable, compliance by all employees and medical staff involved in patient care services with the Centers for Disease **[**Control's**]** **CONTROL AND PREVENTION'S** guidelines on universal precautions; and

DRAFTER'S NOTE:

Error: Misnomer in § 19–307.1(9) of the Health – General Article.

Occurred: As a result of changes in federal law enacted by P. L. 102–531 (1992).

19–345.

(a) A resident of a facility may not be transferred or discharged from the facility involuntarily except for the following reasons:

(4) The resident has failed, after reasonable and appropriate **[**notice**]** **NOTICE,** to pay for, or under Medicare or Medicaid or **[**otherwise**]** **OTHERWISE,** to have paid for**[**,**]** a stay at the facility; or

DRAFTER'S NOTE:

Error: Omitted comma and misplaced comma in § 19–345(a)(4) of the Health – General Article.

Occurred: Ch. 547, Acts of 1995.

19–345.1.

(c) Except as otherwise provided in this section, at least 30 days before the facility involuntarily transfers or discharges a **[**resident**]** **RESIDENT,** the facility shall:

(1) Provide to the resident the written notice required under subsection (a) of this section; and

(2) Provide the written notice required under subsection (a) of this section to:

(i) The next of kin, guardian, or any other individual known to have acted as the individual's representative, if any;

(ii) The Long–Term Care Ombudsman; and

(iii) The Department.

DRAFTER'S NOTE:

Error: Omitted comma in § 19–345.1(c) of the Health – General Article.

Occurred: Ch. 547, Acts of 1995.

(e) (2) If a facility discharges or transfers a resident under the provisions of this **[**subsection**]** **SUBSECTION,** the facility shall provide reasonable notice of the proposed discharge or transfer.

DRAFTER'S NOTE:

Error: Omitted comma in § 19–345.1(e)(2) of the Health – General Article.

Occurred: Ch. 547, Acts of 1995.

19–346.

(d) (3) A facility that is a related institution caring for individuals and whose administrator or bookkeeper has control over or access to the funds of a resident of the facility**[**,**]** shall **[**provide**]** **PROVIDE,** as determined by the Department, either:

(i) A bond in an amount the Department requires;

(ii) A letter of credit equal to 3 times the average yearly balance of funds of all residents of the facility; or

(iii) Self–insurance if the net worth of the facility is at least 3 times the average yearly balance of funds of all residents of the facility.

DRAFTER'S NOTE:

Error: Misplaced comma in § 19–346(d)(3) of the Health – General Article.

Occurred: Ch. 309, Acts of 1986.

(n) (1) A person, including the legal representative of the resident, may not use the assets or income of a resident for any purpose that is not authorized by the resident, a **[**designee**]** **DESIGNEE,** or **A** legal representative, including a representative payee of the resident.

DRAFTER'S NOTE:

Error: Incorrect punctuation and omitted article in § 19–346(n)(1) of the Health – General Article.

Occurred: Ch. 547, Acts of 1995.

19–3A–02.

(b) The regulations shall require the freestanding medical facility to:

(4) (i) Comply, except in a life–threatening emergency in which compliance is not feasible or practicable, with the federal Centers for Disease Control **AND PREVENTION** guidelines on universal precautions; and

(ii) Display the notice developed under § 1–207 of the Health Occupations Article that explains the federal Centers for Disease **[**Control's**] CONTROL AND PREVENTION'S** guidelines on universal precautions at the entrance to the freestanding medical facility;

DRAFTER'S NOTE:

Error: Misnomers in § 19–3A–02(b)(4) of the Health – General Article.

Occurred: As a result of changes in federal law enacted by P. L. 102–531 (1992).

19–705.3.

(b) The Department shall adopt regulations to require health maintenance organizations to:

(1) Adopt, implement, and enforce a policy that requires, except in an emergency life–threatening situation where it is not feasible or practicable, all employees and medical staff involved in patient care services to comply with the Centers for Disease **[**Control's**] CONTROL AND PREVENTION'S** guidelines on universal precautions; and

DRAFTER'S NOTE:

Error: Misnomer in § 19–705.3(b)(1) of the Health – General Article.

Occurred: As a result of changes in federal law enacted by P. L. 102–531 (1992).

19–1407.

(a) (2) The **HEALTH CARE QUALITY** Account shall be funded by civil money penalties paid by nursing homes and other penalties that the Office of Health Care Quality may assess.

(5) The **HEALTH CARE QUALITY** Account is a **[**continuing**] CONTINUING,** nonlapsing fund, not subject to § 7–302 of the State Finance and Procurement Article.

(6) Any unspent portions of the **HEALTH CARE QUALITY** Account may not be transferred or reverted to the General Fund of the State, but shall remain in the **HEALTH CARE QUALITY** Account to be used for the purposes specified in this section.

DRAFTER'S NOTE:

Error: Misnomer in § 19–1407(a)(2), (5), and (6) and omitted comma in § 19–1407(a)(5) of the Health – General Article.

Occurred: Ch. 488, Acts of 2000; Ch. 29, Acts of 2001.

19–1411.

(b) The Secretary, in consultation with the **[**medical and chirurgical faculty**] MEDICAL AND CHIRURGICAL FACULTY OF MARYLAND**, and representatives of the nursing home industry, shall:

(1) Establish qualifications for the medical director of a nursing home or anyone acting for the medical director in his or her absence;

(2) Define the duties of the medical director; and

(3) Adopt regulations for the attending physicians who treat residents of nursing homes that will provide for physician accountability.

DRAFTER'S NOTE:

Error: Misnomer in § 19–1411(b) of the Health – General Article.

Occurred: Chs. 217 and 218, Acts of 2000.

21–2A–01.

(c) The Council consists of the following members:

(8) Four pharmacists, appointed by the Secretary after consultation with the Maryland Pharmacists Association, the Maryland Association of Chain Drug

Stores, **THE** University of Maryland School of Pharmacy, and any other appropriate organization:

(i) Three of whom represent the perspective of independent and chain pharmacies and pharmacists; and

(ii) One of whom represents the perspective of hospital outpatient pharmacies;

DRAFTER'S NOTE:

Error: Omitted article in § 21–2A–01(c)(8) of the Health – General Article.

Occurred: Ch. 276, Acts of 2008.

21–301.

(h) (2) "Food service facility" does not include:

(i) A kitchen in a private home where food is prepared at no charge for guests in the home, for guests at a social gathering, or for service to unemployed, **[**homeless**]** **HOMELESS,** or other disadvantaged populations; or

(ii) A food preparation or serving area where only nonpotentially hazardous food, as defined by the United States Food and Drug Administration, is prepared or served only by an excluded organization.

DRAFTER'S NOTE:

Error: Omitted comma in § 21–301(h)(2)(i) of the Health – General Article.

Occurred: Ch. 297, Acts of 1987.

21–302.

This subtitle does not apply to the manufacture of milk, milk products as defined in § 21–401 of this **[**title**]** **TITLE,** or frozen desserts as defined in § 21–801 of this title.

DRAFTER'S NOTE:

Error: Omitted comma in § 21–302 of the Health – General Article.

Occurred: Ch. 297, Acts of 1987.

21–304.

(a) (2) For excluded organizations, the Department:

(ii) May adopt separate regulations that establish a licensing system, with appropriate standards, that excluded organizations may voluntarily choose to submit to as a nonrescindable alternative to regulation under **[**subparagraph**]** **ITEM** (i) of this paragraph.

DRAFTER'S NOTE:

Error: Stylistic error in § 21–304(a)(2)(ii) of the Health – General Article.

Occurred: Ch. 297, Acts of 1987.

21–316.

(a) Except as otherwise provided in Title 10, Subtitles 2 and **[**4**]** **3** of the State Government Article, before the Department takes any final action under § 21–311 or § 21–315 of this subtitle, the Secretary shall give the person against whom the action is contemplated an opportunity for a hearing before the Department.

DRAFTER'S NOTE:

Error: Erroneous cross–reference in § 21–316(a) of the Health – General Article.

Occurred: Ch. 6, Acts of 1988.

21–318.

(a) If the Department believes that a person is violating any provision of this subtitle or **[**of**]** any regulation adopted under this subtitle, the Department may have the person served with a written order that directs the person served to abate the violation within a time specified in the order.

DRAFTER'S NOTE:

Error: Extraneous language in § 21–318(a) of the Health – General Article.

Occurred: Ch. 297, Acts of 1987.

21–323.1.

(c) Each bed and breakfast establishment that intends to serve hot meals to renters shall be:

(1) Licensed in accordance with § 21–305 of this subtitle; and

(2) **[**Is subject**]** **SUBJECT** to State and local health regulations that govern food safety and contamination.

DRAFTER'S NOTE:

Error: Extraneous language in § 21–323.1(c)(2) of the Health – General Article.

Occurred: Ch. 312, Acts of 2004.

21–1111.

(b) A person may not sell, distribute, or otherwise dispose of any drug, medicine, pharmaceutical preparation, or **[**medical**]** **MEDICINAL** preparation by means of a vending machine or other similar device.

DRAFTER'S NOTE:

Error: Incorrect word usage in § 21–1111(b) of the Health – General Article.

Occurred: Ch. 21, Acts of 1982.

21–1204.

(a) A person who violates any provision of the following sections is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $100:

(1) § 21–820 of this title**[**.**]**; **AND**

(2) § 21–1111 of this title.

DRAFTER'S NOTE:

Error: Stylistic error in § 21–1204(a)(1) of the Health – General Article.

Occurred: Ch. 240, Acts of 1982.

21–1214.

(b) In addition to any criminal penalties imposed under this section, a person who violates any provision of Subtitle 3 of this title or any rule or regulation adopted under Subtitle 3 of this title or any term, **[**condition**]** **CONDITION,** or limitation of any license or registration issued under Subtitle 3 of this title:

(1) Is liable for a civil penalty not exceeding $5,000, to be collected in a civil action in the District Court for any county; and

(2) May be enjoined from continuing the violation.

DRAFTER'S NOTE:

Error: Omitted comma in § 21–1214(b) of the Health – General Article.

Occurred: Ch. 297, Acts of 1987.

24–803.

The Program shall:

(6) Educate injecting drug users on the dangers of contracting the HIV infection or the **[**Hepatitis**]** **HEPATITIS** B virus through needle–sharing practices and unsafe sexual behaviors;

DRAFTER'S NOTE:

Error: Capitalization error in § 24–803(6) of the Health–General Article.

Occurred: Ch. 360, Acts of 1994.

24–806.

(b) With the advice and approval of the oversight committee, the Baltimore City Health Department shall develop and implement a plan for Program evaluation that shall include the following issues:

(6) The impact of the Program on risk behaviors for the transmission of the HIV infection, the **[**Hepatitis**]** **HEPATITIS** B virus, and other life–threatening blood–borne diseases among injecting drug users;

DRAFTER'S NOTE:

Error: Capitalization error in § 24–806(b)(6) of the Health – General Article.

Occurred: Ch. 360, Acts of 1994.

24–903.

The Program shall:

(6) Educate injecting drug users on the dangers of contracting the HIV infection or the **[**Hepatitis**]** **HEPATITIS** B virus through needle–sharing practices and unsafe sexual behaviors;

DRAFTER'S NOTE:

Error: Capitalization error in § 24–903(6) of the Health – General Article.

Occurred: Ch. 251, Acts of 1998.

24–1203.

(b) (2) Of the 17 members:

(iii) One member shall represent the Department of Public Safety and **[**Corrections**]** **CORRECTIONAL SERVICES**;

DRAFTER'S NOTE:

Error: Misnomer in § 24–1203(b)(2)(iii) of the Health – General Article.

Occurred: Ch. 390, Acts of 2004.

24–1406.

(g) (2) (ii) 1. Except as provided in **[**item**]** **SUBSUBPARAGRAPH** 2 of this **[**item**]** **SUBPARAGRAPH**, a lien takes effect on the date a notice of lien is recorded.

DRAFTER'S NOTE:

Error: Stylistic error in § 24–1406(g)(2)(ii)1 of the Health – General Article.

Occurred: Ch. 412, Acts of 2005.

Article – Health Occupations

1–207.

The Department, in consultation with the Medical and Chirurgical Faculty of Maryland, the Maryland Hospital Association, the Maryland Association of Health Maintenance Organizations, the Health Facilities Association of Maryland, the Maryland Association of Nonprofit Homes for the Aging, the Maryland State Dental Association, the Maryland Nurses Association, the Maryland Funeral Directors Association, the Maryland Podiatrists Association, the affected boards, the Association for Practitioners for Infection Control, and a consumer of health care services, shall develop a notice written in layman's language that explains the Centers for Disease **[**Control's**]** **CONTROL AND PREVENTION'S** guidelines on universal precautions.

DRAFTER'S NOTE:

Error: Misnomer in § 1–207 of the Health Occupations Article.

Occurred: As a result of changes in federal law enacted by P.L. 102–531 (1992).

3–5A–11.

(a) Subject to the hearing provisions of § 3–315 of this title, the Board may deny a license or registration to any applicant, reprimand any licensee or registration holder, place any licensee or registration holder on probation, or suspend or revoke the license of a licensee or the registration of a registration holder if the applicant, licensee, or registration holder:

(16) Except in an emergency life–threatening situation where it is not feasible or practicable, fails to comply with the Centers for Disease **[**Control's**]** **CONTROL AND PREVENTION'S** guidelines on universal precautions;

DRAFTER'S NOTE:

Error: Misnomer in § 3–5A–11(a)(16) of the Health Occupations Article.

Occurred: Ch. 678, Acts of 1996.

4–205.

(a) In addition to the powers set forth elsewhere in this title, the Board may:

(6) On receipt of a written and signed complaint, including a referral from the Commissioner of Labor and Industry, conduct an unannounced inspection of the office of a dentist, other than an office of a dentist in a hospital, related institution, freestanding medical facility, or a freestanding birthing center, to determine compliance at that office with the Centers for Disease **[**Control's**]** **CONTROL AND PREVENTION'S** guidelines on universal precautions; and

DRAFTER'S NOTE:

Error: Misnomer in § 4–205(a)(6) of the Health Occupations Article.

Occurred: As a result of changes in federal law enacted by P.L. 102–531 (1992).

4–315.

(a) Subject to the hearing provisions of § 4–318 of this subtitle, the Board may deny a general license to practice dentistry, a limited license to practice dentistry, or a teacher's license to practice dentistry to any applicant, reprimand any licensed dentist, place any licensed dentist on probation, or suspend or revoke the license of any licensed dentist, if the applicant or licensee:

(28) Except in an emergency life–threatening situation where it is not feasible or practicable, fails to comply with the Centers for Disease **[**Control's**]** **CONTROL AND PREVENTION'S** guidelines on universal precautions;

(b) Subject to the hearing provisions of § 4–318 of this subtitle, the Board may deny a general license to practice dental hygiene, a teacher's license to practice dental hygiene, or a temporary license to practice dental hygiene to any applicant, reprimand any licensed dental hygienist, place any licensed dental hygienist on probation, or suspend or revoke the license of any licensed dental hygienist, if the applicant or licensee:

(16) Except in an emergency life–threatening situation where it is not feasible or practicable, fails to comply with the Centers for Disease **[**Control's**]** **CONTROL AND PREVENTION'S** guidelines on universal precautions; or

DRAFTER'S NOTE:

Error: Misnomer in § 4–315(a)(28) and (b)(16) of the Health Occupations Article.

Occurred: As a result of changes in federal law enacted by P.L. 102–531 (1992).

4–403.

(d) The Board shall publish:

(1) An approved standard work authorization form; and

(2) An approved standard subcontracted work authorization form that is of a color different **[**than**]** **FROM** the standard work authorization form.

DRAFTER'S NOTE:

Error: Grammatical error in § 4–403(d)(2) of the Health Occupations Article.

Occurred: Ch. 8, Acts of 1981.

4–501.

(b) For purposes of this section, a dental review committee is:

(7) Any person, including a professional standard review organization, **[**who**]** **THAT** contracts with an agency of this State or of the federal government to perform any of the functions listed in subsection (c) of this section; or

(8) Any person **[**who**]** **THAT** contracts with a provider of dental care to perform any of those functions listed in subsection (c) of this section that are limited to the review of services provided by the provider of dental care.

DRAFTER'S NOTE:

Error: Grammatical errors in § 4–501(b)(7) and (8) of the Health Occupations Article.

Occurred: Ch. 8, Acts of 1981.

7–205.

(a) In addition to the powers and duties set forth elsewhere in this title, the Board has the following powers and duties:

(9) On receipt of a written and signed complaint, including a referral from the Commissioner of Labor and Industry, to conduct an unannounced inspection of the funeral establishment to determine compliance at that funeral establishment with the Centers for Disease **[**Control's**]** **CONTROL AND PREVENTION'S** guidelines on universal precautions;

DRAFTER'S NOTE:

Error: Misnomer in § 7–205(a)(9) of the Health Occupations Article.

Occurred: As a result of changes in federal law enacted by P.L. 102–531 (1992).

7–316.

(a) Subject to the hearing provisions of § 7–319 of this subtitle and except as to a funeral establishment license, the Board may deny a license to any applicant, reprimand any licensee, place any licensee on probation, or suspend or revoke any license if the applicant or licensee:

(28) Except in an emergency life–threatening situation where it is not feasible or practicable, fails to comply with the Centers for Disease **[**Control's**]** **CONTROL AND PREVENTION'S** guidelines on universal precautions;

DRAFTER'S NOTE:

Error: Misnomer in § 7–316(a)(28) of the Health Occupations Article.

Occurred: As a result of changes in federal law enacted by P.L. 102–531 (1992).

8–205.

(a) In addition to the powers and duties set forth elsewhere in this title, the Board has the following powers and duties:

(14) On receipt of a written and signed complaint, including a referral from the Commissioner of Labor and Industry, conduct an unannounced inspection of the office of a nurse in independent practice, other than an office of a nurse in independent practice in a hospital, related institution, freestanding medical facility, or a freestanding birthing center, to determine compliance at that office with the Centers for Disease **[**Control's**]** **CONTROL AND PREVENTION'S** guidelines on universal precautions; and

DRAFTER'S NOTE:

Error: Misnomer in § 8–205(a)(14) of the Health Occupations Article.

Occurred: As a result of changes in federal law enacted by P.L. 102–531 (1992).

8–316.

(a) Subject to the hearing provisions of § 8–317 of this subtitle, the Board may deny a license or grant a probationary license to any applicant, reprimand any licensee, place any licensee on probation, or suspend or revoke the license of a licensee if the applicant or licensee:

(15) Except in an emergency life–threatening situation where it is not feasible or practicable, fails to comply with the Centers for Disease **[**Control's**]** **CONTROL AND PREVENTION'S** guidelines on universal precautions;

DRAFTER'S NOTE:

Error: Misnomer in § 8–316(a)(15) of the Health Occupations Article.

Occurred: As a result of changes in federal law enacted by P.L. 102–531 (1992).

8–6A–10.

(a) Subject to the hearing provisions of § 8–317 of this title, the Board may deny a certificate or issue a probationary certificate to any applicant, reprimand any certificate holder, place any certificate holder on probation, or suspend or revoke the certificate of a certificate holder, if the applicant or certificate holder:

(23) Except in an emergency life–threatening situation where it is not feasible or practicable, fails to comply with the Centers for Disease **[**Control's**]** **CONTROL AND PREVENTION'S** guidelines on universal precautions;

DRAFTER'S NOTE:

Error: Misnomer in § 8–6A–10(a)(23) of the Health Occupations Article.

Occurred: Ch. 393, Acts of 1998.

8–6B–06.

In addition to the powers set forth elsewhere in this subtitle, the Committee shall:

(10) At the request of the Board, after the Board has received a written and signed complaint, including a referral from the Commissioner of Labor and Industry, conduct an unannounced inspection of the office of an electrologist, other than an office of an electrologist in a hospital, related institution, freestanding medical facility, or a freestanding birthing center, to determine compliance at that office with the Centers for Disease **[**Control's**]** **CONTROL AND PREVENTION'S** guidelines on universal precautions and make recommendations to the Board, as necessary;

DRAFTER'S NOTE:

Error: Misnomer in § 8–6B–06(10) of the Health Occupations Article.

Occurred: Ch. 422, Acts of 2003.

8–6B–18.

(a) Subject to the hearing provisions of § 8–317 of this title and § 8–6B–19 of this subtitle, the Board may deny a license to an applicant, grant a probationary license to an applicant, reprimand a licensee, place a licensee on probation, or suspend or revoke a license if the applicant or licensee:

(24) Except in an emergency life–threatening situation where it is not feasible or practicable, fails to comply with the Centers for Disease **[**Control's**]** **CONTROL AND PREVENTION'S** guidelines on universal precautions;

DRAFTER'S NOTE:

Error: Misnomer in § 8–6B–18(a)(24) of the Health Occupations Article.

Occurred: Ch. 422, Acts of 2003.

9–302.

(d) (1) The applicant shall:

(i) 1. Have a baccalaureate or **[**masters**]** **MASTER'S** degree in health care administration from an accredited college or university; or

2. A. Have a baccalaureate or **[**masters**]** **MASTER'S** degree in a field other than health care administration from an accredited college or university; and

B. Have satisfactorily completed a minimum of 100 hours in a course of study in health care administration approved by the Board; and

DRAFTER'S NOTE:

Error: Grammatical errors in § 9–302(d)(1)(i) of the Health Occupations Article.

Occurred: Ch. 656, Acts of 1990.

10–101.

(l) "Occupational therapy" means the therapeutic use of purposeful and meaningful goal–directed activities to evaluate, consult, and treat individuals **[**that**]** **WHO**:

(1) Have a disease or disorder, impairment, activity limitation, or participation restriction that interferes with their ability to function independently in daily life roles; or

(2) Benefit from the prevention of impairments and activity limitations.

DRAFTER'S NOTE:

Error: Grammatical error in § 10–101(l) of the Health Occupations Article.

Occurred: Ch. 412, Acts of 2000.

12–101.

(i) (2) "Distribute" does not include the operations of a person who holds a permit issued under **[**§ 12–602**]** **§ 12–6C–03** of this title.

DRAFTER'S NOTE:

Error: Obsolete internal reference in § 12–101(i)(2) of the Health Occupations Article.

Occurred: As a result of Chs. 352 and 353, Acts of 2007. Correction by the publisher of the Annotated Code in the 2009 Replacement Volume of the Health Occupations Article is ratified by this Act.

12–6B–11.

(a) Unless the Board agrees to accept the surrender of a pharmacy technician's registration, a registered pharmacy technician may not surrender the pharmacy technician's registration nor may the pharmacy technician's registration lapse by operation of law while the registered pharmacy technician is under investigation or while charges are pending against **[**a**]** **THE** registered pharmacy technician.

DRAFTER'S NOTE:

Error: Incorrect word usage in § 12–6B–11(a) of the Health Occupations Article.

Occurred: Ch. 523, Acts of 2006.

14–205.

(a) (1) In addition to the powers set forth elsewhere in this title, the Board may:

(iv) On receipt of a written and signed complaint, including a referral from the Commissioner of Labor and Industry, conduct an unannounced inspection of the office of a physician or acupuncturist, other than an office of a physician or acupuncturist in a hospital, related institution, freestanding medical facility, or a freestanding birthing center, to determine compliance at that office with the Centers for Disease **[**Control's**]** **CONTROL AND PREVENTION'S** guidelines on universal precautions; and

DRAFTER'S NOTE:

Error: Misnomer in § 14–205(a)(1)(iv) of the Health Occupations Article.

Occurred: As a result of changes in federal law enacted by P.L. 102–531 (1992).

14–404.

(a) Subject to the hearing provisions of § 14–405 of this subtitle, the Board, on the affirmative vote of a majority of the quorum, may reprimand any licensee, place any licensee on probation, or suspend or revoke a license if the licensee:

(31) Except in an emergency life–threatening situation where it is not feasible or practicable, fails to comply with the Centers for Disease **[**Control's**]** **CONTROL AND PREVENTION'S** guidelines on universal precautions;

DRAFTER'S NOTE:

Error: Misnomer in § 14–404(a)(31) of the Health Occupations Article.

Occurred: As a result of changes in federal law enacted by P.L. 102–531 (1992).

14–504.

(g) Subject to the hearing provisions of § 14–405 of this title, the Board, on the affirmative vote of a majority of its quorum, may reprimand or place a physician who performs acupuncture on probation or suspend or revoke the registration of a physician for:

(2) Except in an emergency life–threatening situation where it is not feasible or practicable, fails to comply with the Centers for Disease **[**Control's**]** **CONTROL AND PREVENTION'S** guidelines on universal precautions; or

DRAFTER'S NOTE:

Error: Misnomer in § 14–504(g)(2) of the Health Occupations Article.

Occurred: As a result of changes in federal law enacted by P.L. 102–531 (1992).

15–202.

(a) (4) The Board shall:

(i) Appoint the physician assistant members from a list of names submitted by:

1. The Maryland Academy of Physician Assistants; and

2. The State institutions of higher education with approved physician assistant programs;

(ii) Appoint the consumer member selected by the Secretary **[**of the Department of Health and Mental Hygiene**]**; and

(iii) Assign a physician member of the Board to serve as a voting Board representative at all meetings of the **[**Advisory**]** Committee.

DRAFTER'S NOTE:

Error: Stylistic errors in § 15–202(a)(4)(ii) and (iii) of the Health Occupations Article.

Occurred: Ch. 759, Acts of 1986.

15–205.

(b) (3) The Board may:

(iii) On receipt of a written and signed complaint, including a referral from the Commissioner of Labor and Industry, conduct an unannounced inspection of the office of a physician assistant, other than an office of a physician assistant in a hospital, related institution, freestanding medical facility, or a freestanding birthing center, to determine compliance at that office with the Centers for Disease **[**Control's**]** **CONTROL AND PREVENTION'S** guidelines on universal precautions.

DRAFTER'S NOTE:

Error: Misnomer in § 15–205(b)(3)(iii) of the Health Occupations Article.

Occurred: As a result of changes in federal law enacted by P.L. 102–531 (1992).

15–314.

Subject to the hearing provisions of § 15–315 of this subtitle, the Board, on the affirmative vote of a majority of its members then serving, may reprimand any certificate holder or suspend or revoke a certificate if the certificate holder:

(7) Except in an emergency life–threatening situation where it is not feasible or practicable, fails to comply with the Centers for Disease **[**Control's**]** **CONTROL AND PREVENTION'S** guidelines on universal precautions; or

DRAFTER'S NOTE:

Error: Misnomer in § 15–314(7) of the Health Occupations Article.

Occurred: As a result of changes in federal law enacted by P.L. 102–531 (1992).

16–205.

(b) In addition to the duties set forth elsewhere in this title, the Board shall:

(4) Conduct an unannounced inspection of the office of a podiatrist, other than an office of a podiatrist in a hospital, related institution, freestanding medical facility, or a freestanding birthing center, to determine compliance at that office with the Centers for Disease **[**Control's**]** **CONTROL AND PREVENTION'S** guidelines on universal precautions.

DRAFTER'S NOTE:

Error: Misnomer in § 16–205(b)(4) of the Health Occupations Article.

Occurred: As a result of changes in federal law enacted by P.L. 102–531 (1992).

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:

(25) Except in an emergency life–threatening situation where it is not feasible or practicable, fails to comply with the Centers for Disease **[**Control's**]** **CONTROL AND PREVENTION'S** guidelines on universal precautions;

DRAFTER'S NOTE:

Error: Misnomer in § 16–311(a)(25) of the Health Occupations Article.

Occurred: As a result of changes in federal law enacted by P.L. 102–531 (1992).

Article – Human Services

1–202.

(c) A report or record concerning child abuse or neglect:

(2) may be disclosed by the **[**State Department of Education**]** **DEPARTMENT OF HUMAN RESOURCES** to the operator of a child care center that is required to be licensed or to hold a letter of compliance under Title 5, Subtitle 5, Part VII of the Family Law Article or to a family day care provider who is required to be registered under Title 5, Subtitle 5, Part V of the Family Law Article, to determine the suitability of an individual for employment in the child care center or family day care home.

DRAFTER'S NOTE:

Error: Erroneous agency name in § 1–202(c)(2) of the Human Services Article.

Occurred: As a result of Ch. 25, § 12, Acts of 2005, under the authority of which this error was made in attempting to conform to changes enacted by Chs. 359 and 585, Acts of 2005. Correction suggested by the Office of the Attorney General, Counsel to the General Assembly.

Article – Insurance

8–605.1.

(c) A viatical settlement broker shall submit to the viator all offers, **[**counter–offers**]** **COUNTEROFFERS**, acceptances, and rejections relating to the placement of the viator's policy within 72 hours after receipt by the viatical settlement broker.

DRAFTER'S NOTE:

Error: Extraneous hyphen in § 8–605.1(c) of the Insurance Article.

Occurred: Ch. 146, Acts of 2006.

9–229.1.

(a) (7) (i) "Repurchase agreement" or "reverse repurchase agreement" means an agreement, including related terms, that provides for the transfer of certificates of deposit, eligible bankers' acceptances, or securities that are direct obligations of, or that are fully guaranteed as to principal and interest by, the United States or an agency of the United States against the transfer of funds by the transferee of the certificates of deposit, eligible bankers' acceptances, or securities with a simultaneous agreement by the transferee to transfer to the transferor certificates of deposit, eligible bankers' acceptances, or securities as described above in this subparagraph **[**(i)**]** at a certain date not later than 1 year after the transfers or on demand, against the transfer of funds.

DRAFTER'S NOTE:

Error: Stylistic error in § 9–229.1(a)(7)(i) of the Insurance Article.

Occurred: Ch. 568, Acts of 2005.

10–705.

(a) A limited lines license to sell coverage under a policy of portable electronics insurance to a customer issued under this subtitle authorizes a vendor or an authorized representative of the vendor to sell coverage under a policy of portable electronics insurance to customers in connection with, and incidental to, a portable electronics transaction at each location at which the vendor engages in portable electronics transactions in the State if:

(4) **[**(i)**]** the vendor provides a training program, approved by the Commissioner, for any employee or authorized representative who sells coverage under a policy of portable electronics insurance to customers under this subtitle that includes instruction:

[1.**] (I)** about the portable electronics insurance offered to customers of the vendor;

[2.**] (II)** that the employee or authorized representative may not represent or imply to a customer that purchase of coverage under a policy of portable electronics insurance is required in order to purchase portable electronics;

[3.**] (III)** that portable electronics insurance may duplicate insurance coverage already provided by a customer's homeowner's insurance policy, renter's insurance policy, or other source of insurance coverage; and

[4.**] (IV)** about the other disclosures required by item (3) of this subsection.

DRAFTER'S NOTE:

Error: Tabulation error in § 10–705(a)(4) of the Insurance Article.

Occurred: Chs. 316 and 317, Acts of 2009. Correction by the publisher of the Annotated Code in the 2009 Supplement of the Insurance Article is ratified by this Act.

10–708.

The Commissioner may adopt regulations to carry out this subtitle, including regulations **CONCERNING**:

(1) **[**concerning**]** the form and content of required disclosures to customers;

(2) the training requirements for employees and authorized representatives of vendors; and

(3) the qualifications of the individuals who provide training.

DRAFTER'S NOTE:

Error: Misplaced word in § 10–708 of the Insurance Article.

Occurred: Chs. 316 and 317, Acts of 2009. Correction by the publisher of the Annotated Code in the 2009 Supplement of the Insurance Article is ratified by this Act.

15–112.2.

(a) (4) **[**"Fee–for–service dental provider panel" means a provider panel for one or more dental plan organizations, insurers, or nonprofit health service plans offering contracts only for dental services reimbursed on a full or discounted fee–for–service basis.**] "ENROLLEE" MEANS A PERSON ENTITLED TO HEALTH CARE BENEFITS FROM A CARRIER.**

(5) **[**"Enrollee" means a person entitled to health care benefits from a carrier.**] "FEE–FOR–SERVICE DENTAL PROVIDER PANEL" MEANS A PROVIDER PANEL FOR ONE OR MORE DENTAL PLAN ORGANIZATIONS, INSURERS, OR NONPROFIT HEALTH SERVICE PLANS OFFERING CONTRACTS ONLY FOR DENTAL SERVICES REIMBURSED ON A FULL OR DISCOUNTED FEE–FOR–SERVICE BASIS.**

DRAFTER'S NOTE:

Error: Stylistic error (failure to codify terms in alphabetical order) in § 15–112.2(a)(4) and (5) of the Insurance Article.

Occurred: Ch. 549, Acts of 2009.

15–403.2.

(c) Each policy or contract subject to this section shall provide that the same health insurance benefits and eligibility guidelines that apply to any covered dependent are available to a domestic partner of an insured or a child dependent of the domestic partner of an insured at the request of:

(2) the group **[**policy holder**] POLICYHOLDER** of a group policy or contract that is subject to this section.

(d) An insurer, nonprofit health service plan, or health maintenance organization may require a group **[**policy holder**] POLICYHOLDER** that requests coverage for a domestic partner or child dependent of the domestic partner of an insured under subsection (c)(2) of this section to provide proof of the eligibility of the domestic partner or child dependent of the domestic partner for coverage under this section.

DRAFTER'S NOTE:

Error: Misspellings in § 15–403.2(c)(2) and (d) of the Insurance Article.

Occurred: Ch. 639, Acts of 2007.

15–409.

(d) Continuation coverage under this section shall:

(3) allow the payment of the amount specified in **[**paragraph**]** **ITEM** (2) of this subsection in monthly installments if the insured elects to do so;

DRAFTER'S NOTE:

Error: Stylistic error in § 15–409(d)(3) of the Insurance Article.

Occurred: Ch. 35, Acts of 1997.

15–817.

(c) (2) The minimum package of child wellness services shall cover at least:

(i) all visits for and costs of childhood and adolescent immunizations recommended by the Advisory Committee on Immunization Practices of the Centers for Disease Control **AND PREVENTION**;

DRAFTER'S NOTE:

Error: Misnomer in § 15–817(c)(2)(i) of the Insurance Article.

Occurred: As a result of changes in federal law enacted by P.L. 102–531 (1992).

19–807.

(c) (3) Portions of the Medical Assistance Program Account that exceed the amount provided under paragraph (2) of this subsection shall be used by the Secretary only to:

(iii) pay managed care organization health care providers consistent with the fee–for–service health **CARE** provider rates; and

DRAFTER'S NOTE:

Error: Omitted word in § 19–807(c)(3)(iii) of the Insurance Article.

Occurred: Ch. 1, Acts of 2005.

27–401.

(b) (2) "Claim" includes a demand for payment or benefit made against:

(i) the State under Title 12 of the State Government Article, **[**Title 8, Subtitle 1**]** **TITLE 2, SUBTITLE 5** of the State Personnel and Pensions Article, or Title 9 of the Labor and Employment Article; or

DRAFTER'S NOTE:

Error: Erroneous cross–reference in § 27–401(b)(2)(i) of the Insurance Article.

Occurred: Ch. 35, Acts of 1997.

27–402.

The provisions of this subtitle that apply to insurers also apply to:

(8) the State when a claim has been filed against the State under **[**Title 8, Subtitle 1**]** **TITLE 2, SUBTITLE 5** of the State Personnel and Pensions Article;

DRAFTER'S NOTE:

Error: Erroneous cross–reference in § 27–402(8) of the Insurance Article.

Occurred: Ch. 35, Acts of 1997.

27–605.

(b) (6) Except as provided in § 27–501 of this **[**article**]** **TITLE**, a request for additional information under this section does not stay the proposed action.

DRAFTER'S NOTE:

Error: Stylistic error in § 27–605(b)(6) of the Insurance Article.

Occurred: Ch. 580, Acts of 2006.

Article – Labor and Employment

5–205.

(n) In addition to any other authority the Commissioner may exercise under this title, if, as a result of the exercise of the Commissioner's authority under the provisions of this title, the Commissioner has reason to believe that a health care provider required under the Health Occupations Article to comply with the Centers for Disease **[**Control's**]** **CONTROL AND PREVENTION'S** guidelines on universal precautions is not complying with those provisions, the Commissioner shall refer that suspected violation to the health care provider's licensing board.

(o) (1) In addition to any other authority the Commissioner may exercise under this title, if, as a result of the exercise of the Commissioner's authority under the provisions of this title, the Commissioner has reason to believe that an employee or member of the medical staff involved in patient care services of the hospital, related

institution, freestanding medical facility, or freestanding birthing center is not complying with the Centers for Disease **[**Control's**]** **CONTROL AND PREVENTION'S** guidelines on universal precautions, the Commissioner shall refer that suspected violation to the chief executive officer of the hospital, related institution, freestanding medical facility, or freestanding birthing center.

(2) In addition to any other authority the Commissioner may exercise under this title, if, as a result of the exercise of the Commissioner's authority under the provisions of this title, the Commissioner has reasons to believe that a hospital, related institution, freestanding medical facility, or freestanding birthing center is demonstrating a willful and systematic disregard for the Centers for Disease **[**Control's**]** **CONTROL AND PREVENTION'S** guidelines on universal precautions, the Commissioner shall refer that suspected violation to:

(i) the Department of Health and Mental Hygiene; and

(ii) the chief executive officer of the hospital, related institution, freestanding medical facility, or freestanding birthing center.

DRAFTER'S NOTE:

Error: Misnomer in § 5–205(n) and (o)(1) and (2) of the Labor and Employment Article.

Occurred: As a result of changes in federal law enacted by P.L. 102–531 (1992).

Article – Natural Resources

3–104.

(m) To enter into contracts with the federal or any state government, or any unit, instrumentality, or subdivision thereof, or with any municipality or person within or without the State, providing for or relating to the furnishing of services to or the facilities of any project of the Service, or in connection with the services or facilities provided by any water supply project, solid waste project, wastewater purification project, or energy project owned or controlled by the other contracting party, including contracts for the construction and operation of any project in the State or in any other state. These contracts may make provision for:

(1) The payment by the other contracting party to the Service of a fixed amount for the collection, processing, treatment, storage, transporting, use, or disposal of a stated amount of solid waste (whether or not the stated amount of solid waste is collected, processed, treated, stored, transported, **USED,** or disposed of), or of all or any portion of the operating expenses of one or more projects;

DRAFTER'S NOTE:

Error: Omitted word in § 3–104(m)(1) of the Natural Resources Article.

Occurred: Ch. 183, Acts of 2009.

4–204.

(a) (3) Up to eleven commercial watermen and one member of the **[**Sports**]** **SPORT** Fisheries Advisory Commission shall comprise the Commission.

DRAFTER'S NOTE:

Error: Misnomer in § 4–204(a)(3) of the Natural Resources Article.

Occurred: Ch. 616, Acts of 1980.

4–710.

(e) A person may not set any anchored gill net or fyke or hoop net or any line of these nets which has a length more than one third the distance across the waters of the bay, sound, river, creek, cove, or inlet where it is set, or is set so that it impedes or obstructs navigation on or blocks in any way the main channel of the bay, sound, river, creek, **[**cove**]** **COVE,** or inlet. The outer end of the submerged gear of any nets referred to in this subsection shall be marked by means of a paddle, a board, or a buoy or other floating device which shows the name and license number of the net owner.

DRAFTER'S NOTE:

Error: Omitted comma in § 4–710(e) of the Natural Resources Article.

Occurred: Ch. 4, Acts of the Special Session of 1973.

5–102.

(a) The General Assembly finds that:

(1) Forests, streams, valleys, wetlands, parks, **AND** scenic, **[**historic**]** **HISTORIC,** and recreation areas of the State are basic assets and their proper use, development, and preservation are necessary to protect and promote the health, safety, economy, and general welfare of the people of the State;

DRAFTER'S NOTE:

Error: Omitted conjunction and comma in § 5–102(a)(1) of the Natural Resources Article.

Occurred: Ch. 4, Acts of the Special Session of 1973.

5–304.

An applicant for cost–share assistance shall:

(2) File an application with the Department stating:

(iii) A description of the land or lands upon which the practice is to be implemented; **[**and**]**

DRAFTER'S NOTE:

Error: Extraneous conjunction in § 5–304(2)(iii) of the Natural Resources Article.

Occurred: Ch. 620, Acts of 1986.

5–307.

(g) The Department shall use the Fund:

(3) To offset the costs of the Forest **AND PARK** Service for developing and approving forest stewardship plans on privately owned forest lands;

DRAFTER'S NOTE:

Error: Misnomer in § 5–307(g)(3) of the Natural Resources Article.

Occurred: Ch. 175, Acts of 2009.

8–1808.

(d) (4) (ii) 1. Based on competent and substantial evidence, a local jurisdiction shall make written findings as to whether the applicant has overcome the presumption established under paragraph **[**(3)(i)**] (3)(II)** of this subsection.

DRAFTER'S NOTE:

Error: Incorrect internal reference in § 8–1808(d)(4)(ii)1 of the Natural Resources Article.

Occurred: Chs. 650 and 651, Acts of 2009.

Article – Public Safety

1–202.

(b) (2) For fiscal year 2009, and for each following fiscal year, the death benefit provided in the prior fiscal year shall be adjusted by any change in the calendar year preceding the fiscal year in the Consumer Price Index **[**(all urban customers – United States city average – all items)**] (ALL URBAN CONSUMERS – UNITED STATES CITY AVERAGE – ALL ITEMS)**, as published by the United States Bureau of Labor Statistics.

DRAFTER'S NOTE:

Error: Capitalization errors and erroneous word in § 1–202(b)(2) of the Public Safety Article.

Occurred: Ch. 327, Acts of 1998.

Article – Real Property

7–401.

(d) "Mortgage fraud" means any action by a person made with the intent to defraud that involves:

(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), (2), or (3) of this **[**section**] SUBSECTION**;

(5) Conspiring to violate any of the provisions of item (1), (2), (3), or (4) of this **[**section**] SUBSECTION**; or

DRAFTER'S NOTE:

Error: Stylistic error in § 7–401(d)(4) and (5) of the Real Property Article.

Occurred: Chs. 3 and 4, Acts of 2008.

8–110.1.

(a) (8) "Redeemable ground rent" means a ground rent that may be redeemed in accordance with this section or redeemed or extinguished in accordance with § 8–110**[**(g)**] (F)** of this subtitle.

DRAFTER'S NOTE:

Error: Erroneous cross reference in § 8–110.1(a)(8) of the Real Property Article.

Occurred: As a result of Ch. 291, Acts of 2007.

11–102.2.

(c) The application for registration for a residential rental facility under § 11–127 of this **[**subtitle**]** **TITLE** shall include, to the extent reasonably available, a list of all tenants whose leases were terminated during the 180–day period prior to the filing of the application for registration.

DRAFTER'S NOTE:

Error: Stylistic error in § 11–102.2(c) of the Real Property Article.

Occurred: Ch. 769, Acts of 1987.

11–108.1.

Except to the extent otherwise provided by the declaration or bylaws, and subject to § 11–114 of this **[**subtitle**]** **TITLE**, the council of unit owners is responsible for maintenance, repair, and replacement of the common elements, and each unit owner is responsible for maintenance, repair, and replacement of his unit.

DRAFTER'S NOTE:

Error: Stylistic error in § 11–108.1 of the Real Property Article.

Occurred: Chs. 522 and 523, Acts of 2009.

11–111.1.

(i) To the extent that this section is inconsistent with any other provision of this **[**subtitle**]** **TITLE**, this section shall take precedence over any inconsistent provision.

DRAFTER'S NOTE:

Error: Stylistic error in § 11–111.1(i) of the Real Property Article.

Occurred: Ch. 491, Acts of 1989.

11–114.

(g) (2) (iv) In the same manner as provided under § 11–110 of this **[**subtitle**]** **TITLE**, the council of unit owners may make an annual assessment against the unit owner responsible under subparagraph (iii) of this paragraph.

DRAFTER'S NOTE:

Error: Stylistic error in § 11–114(g)(2)(iv) of the Real Property Article.

Occurred: Ch. 694, Acts of 2001.

11–126.

(a) A contract for the initial sale of a unit to a member of the public is not enforceable by the vendor unless:

(2) The contract of sale contains, in conspicuous type, a notice of:

(ii) The warranties provided by § 11–131 of this **[**subtitle**] TITLE**.

DRAFTER'S NOTE:

Error: Stylistic error in § 11–126(a)(2)(ii) of the Real Property Article.

Occurred: Ch. 131, Acts of 1991.

11–127.

(d) (1) (ii) A public offering statement is current if the information required under § 11–126(b)(2), (4), (5), (6), and (12) of this **[**subtitle**] TITLE** is updated and filed by the developer not less than annually.

DRAFTER'S NOTE:

Error: Stylistic error in § 11–127(d)(1)(ii) of the Real Property Article.

Occurred: Ch. 66, Acts of 1999.

14–120.

(i) Except as provided in **[**paragraph**] SUBSECTION** (g)(2) of this section, the court may order appropriate relief under subsection (g) of this section without proof that a defendant knew of the existence of the nuisance.

DRAFTER'S NOTE:

Error: Stylistic error in § 14–120(i) of the Real Property Article.

Occurred: Ch. 501, Acts of 2005.

Article – State Finance and Procurement

11–203.

(b) (1) The following provisions of this Division II apply to each procurement enumerated in subsection (a) of this section:

(ii) **[**§ 12–204**] § 10–204** of this article (**[**"Board approval**] "APPROVAL** for designated contracts");

DRAFTER'S NOTE:

Error: Incorrect cross–reference in § 11–203(b)(1)(ii) of the State Finance and Procurement Article.

Occurred: Ch. 3, Acts of 1994. Correction by the publisher of the Annotated Code in the 2009 Replacement Volume of the State Finance and Procurement Article is ratified by this Act.

13–108.

(a) (1) Except as provided in § 11–205 ("Collusion"), § 10–204 ("Approval for designated contracts"), § 13–219 ("Required clauses – Nondiscrimination clause"), § 13–221 ("Disclosures to Secretary of State"), Title 16 ("Suspension and Debarment of Contractors"), or Title 17 **[**of this article**]** ("Special Provisions – State and Local Subdivisions") **OF THIS ARTICLE**, with the approval of the head of a unit, its procurement officer may make an emergency procurement by any method that the procurement officer considers most appropriate to avoid or mitigate serious damage to public health, safety, or welfare.

(b) (1) Except as provided in § 11–205 ("Collusion"), § 10–204 ("Approval for designated contracts"), § 13–219 ("Required clauses – Nondiscrimination clause"), § 13–221 ("Disclosures to Secretary of State"), Title 16 ("Suspension and Debarment of Contractors"), or Title 17 **[**of this article**]** ("Special Provisions – State and Local Subdivisions") **OF THIS ARTICLE**, with the approval of the head of the unit and the Board, the Maryland Port Commission or the Maryland Aviation Administration may make a procurement on an expedited basis if the head of the unit and the Board find that:

(i) urgent circumstances require prompt action;

(ii) an expedited procurement best serves the public interest; and

(iii) the need for the expedited procurement outweighs the benefits of making the procurement on the basis of competitive sealed bids or competitive sealed proposals.

DRAFTER'S NOTE:

Error: Misplaced phrase in § 13–108(a)(1) and (b)(1) of the State Finance and Procurement Article.

Occurred: Ch. 48, Acts of 1988.

14–401.

(d) (2) A unit may give a preference under this section that is identical to any of the following preferences, or any combination of them:

(ii) the preference that the state in which the nonresident bidder or nonresident offeror has its principal operation through which it would provide supplies or services **GIVES TO ITS RESIDENTS**.

DRAFTER'S NOTE:

Error: Omitted words in § 14–401(d)(2)(ii) of the State Finance and Procurement Article.

Occurred: Ch. 501, Acts of 1999.

14–305.

(a) (1) Within 90 days after the end of the fiscal year, each unit shall report to the Governor's Office of Minority Affairs, the certification agency, and, subject to § 2–1246 of the State Government Article, the Joint Committee on Fair Practices **AND PERSONNEL OVERSIGHT**.

DRAFTER'S NOTE:

Error: Misnomer in § 14–305(a)(1) of the State Finance and Procurement Article.

Occurred: Ch. 327, Acts of 2009.

Article – State Government

6–301.

(e) **[**"Homeowners**] "HOMEOWNER'S** insurer" means an insurer that issues or delivers a policy or contract of homeowner's insurance in the State.

(f) "Insurance consumers" means persons insured under policies or contracts of medical professional liability insurance, and **[**homeowners**] HOMEOWNER'S** insurance issued or delivered in the State by a medical professional liability insurer or a **[**homeowners**] HOMEOWNER'S** insurer.

(g) "Insurer" means a medical professional liability insurer or a **[**homeowners**]** **HOMEOWNER'S** insurer authorized to engage in the insurance business in the State under a certificate of authority issued by the Commissioner.

DRAFTER'S NOTE:

Error: Grammatical errors in § 6–301(e), (f), and (g) of the State Government Article.

Occurred: Ch. 1, Acts of 2005; Ch. 5, Acts of the Special Session of 2004.

6–304.

(a) The Commissioner shall:

(1) collect an annual assessment from each medical professional liability insurer and **[**homeowners**]** **HOMEOWNER'S** insurer for the costs and expenses incurred by the Division in carrying out its duties under this subtitle; and

(2) deposit the amounts collected into the People's Insurance Counsel Fund established under § 6–305 of this subtitle.

(b) The assessment payable by a medical professional liability insurer or **[**homeowners**]** **HOMEOWNER'S** insurer is the product of the fraction obtained by dividing the gross direct premium written by the medical professional liability insurer or **[**homeowners**]** **HOMEOWNER'S** insurer in the prior calendar year by the total amount of gross direct premium written by all medical professional liability insurers or **[**homeowners**]** **HOMEOWNER'S** insurers in the prior calendar year, multiplied by the amount of the total costs and expenses under subsection (a)(1) of this section.

DRAFTER'S NOTE:

Error: Grammatical errors in § 6–304(a)(1) and (b) of the State Government Article.

Occurred: Ch. 5, Acts of the Special Session of 2004.

6–306.

(a) (1) The Division shall evaluate each medical professional liability insurance and **[**homeowners**]** **HOMEOWNER'S** insurance matter pending before the Commissioner to determine whether the interests of insurance consumers are affected.

(b) (1) The Division shall review any rate increase of 10% or more filed with the Commissioner by a medical professional liability insurer or **[**homeowners**]** **HOMEOWNER'S** insurer.

DRAFTER'S NOTE:

Error: Grammatical errors in § 6–306(a)(1) and (b)(1) of the State Government Article.

Occurred: Ch. 1, Acts of 2005; Ch. 5, Acts of the Special Session of 2004.

6–307.

(c) (1) Except as otherwise provided in the Insurance Article and any applicable freedom of information act, the Division shall have full access to the Commissioner's records, including rate filings and supplementary rate information filed with the Commissioner by a medical professional liability insurer or **[**homeowners**]** **HOMEOWNER'S** insurer under Title 11 of the Insurance Article, and shall have the benefit of all other facilities or information of the Commissioner.

DRAFTER'S NOTE:

Error: Grammatical error in § 6–307(c)(1) of the State Government Article.

Occurred: Ch. 5, Acts of the Special Session of 2004.

9–1A–01.

(m) "Family" means spouse, parents, grandparents, children, grandchildren, siblings, uncles, aunts, nephews, nieces, fathers–in–law, mothers–in–law, daughters–in–law, sons–in–law, brothers–in–law, and sisters–in–law, whether by whole blood or half blood, **[**by**]** marriage, adoption, or natural relationship.

DRAFTER'S NOTE:

Error: Extraneous word in § 9–1A–01(m) of the State Government Article.

Occurred: Ch. 4, Acts of the Special Session of 2007.

9–1A–03.

(b) This subtitle, including the authority provided to the Commission under this **[**subtitle**]** **SUBTITLE,** does not apply to:

(1) lotteries conducted under Subtitle 1 of this title;

(2) wagering on horse racing conducted under Title 11 of the Business Regulation Article;

(3) the operation of slot machines as provided under Titles 12 and 13 of the Criminal Law Article; or

(4) other gaming conducted under Titles 12 and 13 of the Criminal Law Article.

DRAFTER'S NOTE:

Error: Omitted comma in § 9–1A–03(b) of the State Government Article.

Occurred: Ch. 4, Acts of the Special Session of 2007.

9–1A–07.

(c) (7) Applicants and licensees shall produce information, documentation, and assurances to establish the following qualification criteria by clear and convincing evidence:

(v) that:

2. the labor peace agreement is valid and enforceable under 29 U.S.C. § **[**185**] 158**;

DRAFTER'S NOTE:

Error: Erroneous cross–reference in § 9–1A–07(c)(7)(v)2 of the State Government Article.

Occurred: Ch. 4, Acts of the Special Session of 2007. Correction recommended by the Office of the Attorney General, Counsel to the General Assembly.

9–1A–24.

(b) (2) Except as provided in paragraph **[**(3)**] (4)** of this subsection, a video lottery operation licensee may not provide food or alcoholic beverages to individuals at no cost.

DRAFTER'S NOTE:

Error: Erroneous internal reference in § 9–1A–24(b)(2) of the State Government Article.

Occurred: Ch. 4, Acts of the Special Session of 2007.

9–603.

(a) The Trust shall consist of the following voting members:

(1) the Governor;

(2) the President of the Senate;

(3) the Speaker of the House of Delegates;

(4) the Secretary **[**of the Department**]** of General Services; and

(5) the Director of the Maryland Historical Trust.

DRAFTER'S NOTE:

Error: Stylistic error in § 9–603(a)(4) of the State Government Article.

Occurred: Ch. 494, Acts of 1988.

9–604.

The Secretary **[**of the Department**]** of General Services is the Chairman of the Trust.

DRAFTER'S NOTE:

Error: Stylistic error in § 9–604 of the State Government Article.

Occurred: Ch. 494, Acts of 1988.

9–1008.

(b) The State Archivist:

(1) shall supervise and control the use of the State Hall of Records Building;

(2) may equip and furnish the Building in accordance with law; and

(3) subject to Title 2, Subtitles 4 and 5, Title 4, Subtitles 7 and 8, §§ 8–127, 8–128, and 8–129, Part V of Title 8, Subtitle 1, **[**Title 10 and**]** **TITLE 10,** Title 12, Subtitle 2, and §§ 13–219 and 13–221 of the State Finance and Procurement Article, shall supervise and control the use of any other real or personal property that the State acquires for use of the Archives.

DRAFTER'S NOTE:

Error: Extraneous conjunction and omitted comma in § 9–1008(b)(3) of the State Government Article.

Occurred: Ch. 22, Acts of 1992.

9–2701.

(h) The Council shall:

(3) recommend one legislative proposal each legislative session concerning an issue included in **[**paragraph**]** **ITEM** (2) of this subsection for possible introduction; and

DRAFTER'S NOTE:

Error: Stylistic error in § 9–2701(h)(3) of the State Government Article.

Occurred: Ch. 559, Acts of 2008.

9.5–101.

(a) There is a Governor's Office of Community Initiatives, as authorized under Executive Order **[**01.01.07.2007.25**]** **01.01.2007.25**.

DRAFTER'S NOTE:

Error: Erroneous cross–reference in § 9.5–101(a) of the State Government Article.

Occurred: Ch. 521, Acts of 2008. Correction by the publisher of the Annotated Code in the 2009 Replacement Volume of the State Government Article is ratified by this Act.

9.5–308.

(b) Money received under subsection (a) of this section**[**,**]** and income and fees derived from educational materials and activities of the Commission are not subject to § 7–302 of the State Finance and Procurement Article.

DRAFTER'S NOTE:

Error: Extraneous comma in § 9.5–308(b) of the State Government Article.

Occurred: Ch. 3, Acts of 2007.

10–222.1.

(c) In an action seeking civil enforcement of an administrative **[**order**]** **ORDER,** a party shall name, as a defendant, each alleged violator against whom the party seeks to obtain civil enforcement.

DRAFTER'S NOTE:

Error: Omitted comma in § 10–222.1(c) of the State Government Article.

Occurred: Ch. 377, Acts of 2000.

10–1102.

(f) (1) "Vital documents" means all applications**[**,**]** or informational materials, notices, and complaint forms offered by State departments, agencies, and programs.

DRAFTER'S NOTE:

Error: Extraneous comma in § 10–1102(f)(1) of the State Government Article.

Occurred: Ch. 141, Acts of 2002.

10–1103.

(c) The provisions of this subtitle shall be fully implemented according to the following schedule:

[(i)**] (1)** on or before July 1, 2003, full implementation by:

[1.**] (I)** the Department of Human Resources;

[2.**] (II)** the Department of Labor, Licensing, and Regulation;

[3.**] (III)** the Department of Health and Mental Hygiene;

[4.**] (IV)** the Department of Juvenile Justice; and

[5.**] (V)** the Workers' Compensation Commission;

[(ii)**] (2)** on or before July 1, 2004, full implementation by:

[1.**] (I)** the Department of Aging;

[2.**] (II)** the Department of Public Safety and Correctional Services;

[3.**] (III)** the Department of Transportation, not including the Maryland Transit Administration;

[4.**] (IV)** the Maryland Human Relations Commission;

[5.**] (V)** the Department of State Police; and

[6.**] (VI)** five independent agencies, boards, or commissions, to be determined by the Secretary **[**of the Department**]** of Human Resources, in consultation with the Office of the Attorney General;

[(iii)**] (3)** on or before July 1, 2005, full implementation by:

[1.**] (I)** the Comptroller of Maryland;

[2.**] (II)** the Department of Housing and Community Development;

[3.**] (III)** the Maryland Transit Administration;

[4.**] (IV)** the Department of Natural Resources;

[5.**] (V)** the Maryland State Department of Education;

[6.**] (VI)** the Office of the Attorney General; and

[7.**] (VII)** five independent agencies, boards, or commissions to be determined by the Secretary **[**of the Department**]** of Human Resources, in consultation with the Office of the Attorney General; and

[(iv)**] (4)** on or before July 1, 2006, full implementation by:

[1.**] (I)** the Department of Agriculture;

[2.**] (II)** the Department of Business and Economic Development;

[3.**] (III)** the Department of Veterans Affairs;

[4.**] (IV)** the Department of the Environment; and

[5.**] (V)** five independent agencies, boards, or commissions to be determined by the Secretary **[**of the Department**]** of Human Resources, in consultation with the Office of the Attorney General.

DRAFTER'S NOTE:

Error: Tabulation error in § 10–1103(c); extraneous language in § 10–1103(c)(ii)6, (iii)7, and (iv)5 of the State Government Article.

Occurred: Ch. 141, Acts of 2002.

20–401.

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 grounds of race, sex, color, creed, national origin, marital status, sexual orientation, **AGE,** or disability.

DRAFTER'S NOTE:

Error: Omitted word in § 20–401 of the State Government Article.

Occurred: As a result of Ch. 366, Acts of 2009. Correction is consistent with other changes enacted in Ch. 366, Acts of 2009. (See e.g. § 20–402 of the State Government Article.)

20–1013.

(d) If the court finds that **[**a discriminatory act**]** **AN UNLAWFUL EMPLOYMENT PRACTICE** occurred, the court may provide the remedies specified in § 20–1009(b) of this subtitle.

DRAFTER'S NOTE:

Error: Obsolete language in § 20–1013(d) of the State Government Article.

Occurred: As a result of Ch. 367, Acts of 2009.

Article – State Personnel and Pensions

2–707.

(a) A member of a reserve component of the armed forces of the United States is eligible for the reinstatement rights and benefits specified in §§ 2–705 and 2–706(a), (b), and (c) of this subtitle if the reservist:

(1) performed active duty for training of a nature and length that meet the requirements for eligibility under **[**Title 38 U.S.C. § 4304(c)**]** **TITLE 38 U.S.C. § 4301 ET SEQ.**;

DRAFTER'S NOTE:

Error: Erroneous cross–reference in § 2–707(a)(1) of the State Personnel and Pensions Article.

Occurred: As a result of changes in federal law enacted under P.L. 103–353 (1994).

3–202.

(f) In making appointments to the Board, the Governor shall ensure, to the extent practicable, that:

(1) the ratio of male **[**and**]** **TO** female members and the racial makeup of the Board is reflective of the general population of the State; and

DRAFTER'S NOTE:

Error: Grammatical error in § 3–202(f)(1) of the State Personnel and Pensions Article.

Occurred: Ch. 298, Acts of 1999.

3–2A–02.

(f) In making appointments to the Board, the Governor shall ensure, to the extent practicable, that:

(1) the ratio of male **[**and**]** **TO** female members and the racial makeup of the Board is reflective of the general population of the State; and

DRAFTER'S NOTE:

Error: Grammatical error in § 3–2A–02(f)(1) of the State Personnel and Pensions Article.

Occurred: Ch. 341, Acts of 2001.

21–306.

(e) (3) (iii) The assets to the credit of the participating governmental units as of the valuation date shall be increased by **[**the sum of**]** the outstanding **[**balances**]** **BALANCE** of**[**:

1.**]** the special accrued liability attributable to the participating governmental units under subsection (d) of this section**[**; and

2. the withdrawal liability attributable to the participating governmental units under paragraph (5) of this subsection**]**.

DRAFTER'S NOTE:

Error: Obsolete item in § 21–306(e)(3)(iii) of the State Personnel and Pensions Article.

Occurred: As a result of Ch. 238, Acts of 2005.

22–406.

(n) On or before October 1 of each year, the State Superintendent of Schools shall submit a report for the previous school year, to the Joint Committee on Pensions, in accordance with § 2–1246 of the State Government Article, that provides:

(7) 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: Grammatical error in § 22–406(n)(7) of the State Personnel and Pensions Article.

Occurred: Ch. 443, Acts of 2007.

23–204.

(d) (2) An individual described in paragraph (1) of this subsection may elect membership in the Law Enforcement Officers' Pension System if the county employing the individual elects to become an eligible governmental unit in the Law Enforcement Officers' Pension System in accordance with **[**§ 31–2A–02 through § 31–2A–05**]** **§§ 31–2A–02 THROUGH 31–2A–05** of this article.

DRAFTER'S NOTE:

Error: Stylistic error in § 23–204(d)(2) of the State Personnel and Pensions Article.

Occurred: Ch. 334, Acts of 2007.

23–407.

(n) On or before October 1 of each year, the State Superintendent of Schools shall submit a report for the previous school year, to the Joint Committee on Pensions, in accordance with § 2–1246 of the State Government Article, that provides:

(7) 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: Grammatical error in § 23–407(n)(7) of the State Personnel and Pensions Article.

Occurred: Ch. 443, Acts of 2007.

38–103.

(d) (2) (ii) 2. Subject to subparagraph (i) of this paragraph and in addition to any service credit received under paragraph (1) of this subsection, a member of the Maryland National Guard who has been activated under Title 10 of the United States Code**[**,**]** and who is on active or inactive duty for training that interrupts the member's service shall receive service credit at the rate of 4 months for each full year for military service, not to exceed a total of 36 months.

DRAFTER'S NOTE:

Error: Extraneous comma in § 38–103(d)(2)(ii)2 of the State Personnel and Pensions Article.

Occurred: Ch. 76, Acts of 2003.

Article – Tax – General

10–727.

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

(2) **"ADMINISTRATION" MEANS THE MARYLAND ENERGY ADMINISTRATION.**

(3) "Bio–heating oil" means heating oil with a blend of at least 5% biodiesel.

[(3) "Administration" means the Maryland Energy Administration.**]**

DRAFTER'S NOTE:

Error: Stylistic error (failure to codify defined terms in alphabetical order) in § 10–727(a) of the Tax – General Article.

Occurred: Ch. 140, Acts of 2008.

Article – Tax – Property

8–401.

(f) A failure to send a notice of any change in value or classification within 30 days after the date provided in subsection (e) of this section creates an irrebuttable presumption that in the instances specified in subsection (b)(1) through (4) of this section **[**that**]** the prior value has not changed unless:

(1) the property has been transferred for consideration to new ownership during the previous calendar year;

(2) the zoning classification of the property changed during the current triennial cycle or the previous calendar year, whichever is earlier, resulting in an increased value of the property;

(3) a substantial change occurred in the use or character of the property during the current triennial cycle or the previous calendar year, whichever is earlier;

(4) extensive improvements have been made on the property during the current triennial cycle or the previous calendar year, whichever is earlier, as provided in § 8–104(c)(1)(iii) of this title;

(5) due to an error in calculating or measuring improvements on the property the assessment for the previous taxable year was clearly erroneous; or

(6) the assessment has been decreased.

DRAFTER'S NOTE:

Error: Extraneous language in § 8–401(f) of the Tax – Property Article.

Occurred: Ch. 171, Acts of 1986.

9–105.

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

(2) "ACTIVE MEMBER" MEANS:

(I) A SHAREHOLDER IN A FAMILY CORPORATION;

(II) A PARTNER IN A GENERAL PARTNERSHIP; OR

(III) A MEMBER OF A LIMITED LIABILITY COMPANY OR PARTNER IN A LIMITED LIABILITY PARTNERSHIP WHO HAS OR SHARES THE AUTHORITY TO MANAGE, CONTROL, AND OPERATE THE LIMITED LIABILITY COMPANY OR LIMITED LIABILITY PARTNERSHIP AND WHO SHARES THE ASSETS AND EARNINGS OF THE LIMITED LIABILITY COMPANY OR LIMITED LIABILITY PARTNERSHIP UNDER AN OPERATING AGREEMENT UNDER § 4A–402 OF THE CORPORATIONS AND ASSOCIATIONS ARTICLE OR UNDER A PARTNERSHIP AGREEMENT.

(3) "AGRICULTURAL OWNERSHIP ENTITY" MEANS A FAMILY CORPORATION, GENERAL PARTNERSHIP, LIMITED LIABILITY COMPANY, OR LIMITED LIABILITY PARTNERSHIP THAT:

(I) OWNS REAL PROPERTY THAT:

1. INCLUDES LAND RECEIVING AN AGRICULTURAL USE ASSESSMENT UNDER § 8–209 OF THIS ARTICLE; AND

2. INCLUDES LAND USED AS A HOMESITE THAT IS PART OF OR CONTIGUOUS TO A PARCEL DESCRIBED IN ITEM 1 OF THIS ITEM;

(II) OWNS PERSONAL PROPERTY USED TO OPERATE THE AGRICULTURAL LAND; AND

(III) OWNS NO OTHER PROPERTY.

[(2)**] (4)** (i) "Dwelling" means:

1. a house that is:

A. used as the principal residence of the homeowner; and

B. actually occupied or expected to be actually occupied by the homeowner for more than 6 months of a 12–month period beginning with the

date of finality for the taxable year for which the property tax credit under this section is sought; and

2. the lot or curtilage on which the house is erected.

(ii) "Dwelling" includes:

1. a condominium unit that is occupied by an individual who has a legal interest in the condominium;

2. an apartment in a cooperative apartment corporation that is occupied by an individual who has a legal interest in the apartment; and

3. a part of real property used other than primarily for residential purposes, if the real property is used as a principal residence by an individual who has a legal interest in the real property.

(5) "FAMILY CORPORATION" MEANS A CORPORATION THAT DOES NOT HAVE ANY STOCKHOLDERS OTHER THAN THE HOMEOWNER AND THE FOLLOWING MEMBERS OF THE HOMEOWNER'S FAMILY:

(I) A SPOUSE OR FORMER SPOUSE;

(II) A CHILD OR STEPCHILD;

(III) A PARENT OR STEPPARENT;

(IV) A BROTHER OR SISTER;

(V) A SON–IN–LAW, DAUGHTER–IN–LAW, STEPSON–IN–LAW, OR STEPDAUGHTER–IN–LAW;

(VI) A GRANDCHILD OR STEPGRANDCHILD; OR

(VII) A GRANDPARENT OR STEPGRANDPARENT.

[(3)**] (6)** "Homeowner" means an individual who has a legal interest in a dwelling or who is an active member of an agricultural ownership entity that has a legal interest in a dwelling.

[(4)**] (7)** "Legal interest" means an interest in a dwelling:

(i) as a sole owner;

(ii) as a joint tenant;

(iii) as a tenant in common;

(iv) as a tenant by the entireties;

(v) through membership in a cooperative;

(vi) under a land installment contract, as defined in § 10–101 of the Real Property Article; or

(vii) as a holder of a life estate.

[(5)**] (8)** "Taxable assessment" means the assessment on which the State, county, or municipal corporation property tax rate was imposed in the preceding taxable year, adjusted by the phased–in assessment increase resulting from a revaluation under § 8–104(c)(1)(iii) of this article, less the amount of any assessment on which a property tax credit under this section is authorized.

[(6) "Agricultural ownership entity" means a family corporation, general partnership, limited liability company, or limited liability partnership that:

(i) owns real property that:

1. includes land receiving an agricultural use assessment under § 8–209 of this article; and

2. includes land used as a homesite that is part of or contiguous to a parcel described in item 1 of this item;

(ii) owns personal property used to operate the agricultural land; and

(iii) owns no other property.

(7) "Active member" means:

(i) a shareholder in a family corporation;

(ii) a partner in a general partnership; or

(iii) a member of a limited liability company or partner in a limited liability partnership who has or shares the authority to manage, control, and operate the limited liability company or limited liability partnership and who shares the assets and earnings of the limited liability company or limited liability partnership under an operating agreement under § 4A–402 of the Corporations and Associations Article or under a partnership agreement.

(8) "Family corporation" means a corporation that does not have any stockholders other than the homeowner and the following members of the homeowner's family:

(i) a spouse or former spouse;

(ii) a child or stepchild;

(iii) a parent or stepparent;

(iv) a brother or sister;

(v) a son–in–law, daughter–in–law, stepson–in–law, or stepdaughter–in–law;

(vi) a grandchild or stepgrandchild; or

(vii) a grandparent or stepgrandparent.**]**

DRAFTER'S NOTE:

Error: Stylistic error (failure to codify defined terms in alphabetical order) in § 9–105(a) of the Tax – Property Article.

Occurred: Ch. 501, Acts of 2004; Chs. 208 and 209, Acts of 2007.

Article – Transportation

2–103.1.

(f) At the earliest practical date but no later than November 1 of each year, the Department shall provide the proposed Consolidated Transportation Program and the proposed Maryland Transportation Plan to the Department of Planning for review and comment on planning issues including consistency between transportation investments and the State Economic Growth, Resource Protection, and Planning Policy and State priority funding areas established under Title 5, Subtitle 7B**[,]** of the State Finance and Procurement Article.

DRAFTER'S NOTE:

Error: Extraneous punctuation in § 2–103(f) of the Transportation Article.

Occurred: Ch. 303, Acts of 2000.

13–209.

(a) The Administration shall maintain an Assurance Fund and deposit in it **[**that part of**]** the filing fees collected under this subtitle **[**that is not credited to the General Fund under § 13–208 of this subtitle**]**.

DRAFTER'S NOTE:

Error: Obsolete cross–reference in § 13–209(a) of the Transportation Article.

Occurred: As a result of Ch. 6, § 5, Acts of 2007 Special Session, which repealed § 13–208 of the Transportation Article.

13–402.

(c) Registration under this subtitle is not required for:

(10) A snowmobile **[**which**]** **THAT** is operated on highways and roadways as prescribed by § 25–102(a)(14) of this article;

(11) A golf cart **[**which**]** **THAT** is operated on a highway on Smith Island, provided that the golf cart is equipped with lighting devices as required by the Administration if it is operated on a highway between dusk and dawn;

(12) A golf cart **[**which**]** **THAT** is operated on an Allegany County highway as allowed by the county under § 25–102(a)(16) of this article; or

DRAFTER'S NOTE:

Error: Grammatical error in § 13–402(c)(10), (11), and (12) of the Transportation Article.

Occurred: Ch. 682, Acts of 1981; Ch. 258, Acts of 1992; Ch. 82, Acts of 1999.

15–311.2.

(a) (1) For the purposes of this section, the term "mechanical repair contract" means any agreement or contract sold by a licensed vehicle dealer under which a specified provider agrees to perform over a fixed period of time, for a specific duration and for a specific identifiable price, services relating to the maintenance or repair of a motor **[**vehicle;**]** **VEHICLE,** provided that the purchase of the contract is optional to the purchaser.

DRAFTER'S NOTE:

Error: Punctuation error in § 15–311.2(a)(1) of the Transportation Article.

Occurred: Ch. 575, Acts of 1981.

16–208.

(a) (1) Except as provided in paragraph (2) of this subsection, §§ 16–205(d–1) and 16–206(a)(4), (b), and (c) of this subtitle, § 16–404(c)(2) and (3) of this title, and § 3–8A–23 of the Courts and Judicial Proceedings **[**Article**]** **ARTICLE,** the Administration may not suspend a license or privilege to drive for a period of more than 1 year.

DRAFTER'S NOTE:

Error: Omitted comma in § 16–208(a)(1) of the Transportation Article.

Occurred: Chs. 219 and 220, Acts of 2006.

16–301.

(c) A person may not **[**display,**]** **DISPLAY OR** cause or permit to be **[**displayed,**]** **DISPLAYED** any canceled license.

(d) A person may not **[**display,**]** **DISPLAY OR** cause or permit to be **[**displayed,**]** **DISPLAYED** any revoked license.

(e) A person may not **[**display,**]** **DISPLAY OR** cause or permit to be **[**displayed,**]** **DISPLAYED** any suspended license.

(f) A person may not **[**display,**]** **DISPLAY OR** cause or permit to be **[**displayed,**]** **DISPLAYED** any fictitious license.

(g) A person may not **[**display,**]** **DISPLAY OR** cause or permit to be **[**displayed,**]** **DISPLAYED** any fraudulently altered license.

DRAFTER'S NOTE:

Error: Grammatical errors in § 16–301(c) through (g) of the Transportation Article.

Occurred: Ch. 472, Acts of 1986.

16–402.1.

(a) When the Administration receives a notice of conviction from a party state to the Driver License Compact under Subtitle 7 of this title, the Administration may not assess points against an individual, except upon receipt of reports of the following convictions:

(2) Driving a motor vehicle while under the influence of intoxicating liquor or a narcotic drug, while intoxicated per se, or while under the influence of any other drug to a degree **[**which**]** **THAT** renders the driver incapable of safely driving a motor vehicle;

DRAFTER'S NOTE:

Error: Grammatical error in § 16–402.1(a)(2) of the Transportation Article.

Occurred: Ch. 320, Acts of 1987.

16–812.

(a) The Administration shall disqualify any individual from driving a commercial motor vehicle for a period of 1 year if:

(2) The individual holds a commercial driver's license and is convicted of committing any of the following offenses while driving a noncommercial motor vehicle:

(iii) Leaving the scene of an accident which requires disqualification as provided by the United States Secretary of Transportation; **OR**

DRAFTER'S NOTE:

Error: Omitted conjunction in § 16–812(a)(2)(iii) of the Transportation Article.

Occurred: Ch. 167, Acts of 2005.

18–105.

(a) A person may not rent a motor vehicle to any other person if he knows that the other person is under the influence of alcohol, impaired by alcohol, impaired by a drug, a combination of drugs, **OR** a combination of one or more drugs and alcohol, or impaired by a controlled dangerous substance.

(b) A person may not rent a motor vehicle to any other person if the person knows that an individual who will drive the rented vehicle is under the influence of alcohol, impaired by alcohol, impaired by a drug, a combination of drugs, **OR** a combination of one or more drugs and alcohol, or impaired by a controlled dangerous substance.

DRAFTER'S NOTE:

Error: Omitted conjunctions in § 18–105 of the Transportation Article.

Occurred: Chs. 4 and 5, Acts of 2001.

21–902.

(c) (3) A person may not violate paragraph (1) **[**or (2)**]** of this subsection while transporting a minor.

DRAFTER'S NOTE:

Error: Incorrect internal reference in § 21–902(c)(3) of the Transportation Article.

Occurred: Ch. 482, Acts of 2005.

21–1207.1.

(c) A person to whom this section applies may not operate or ride as a passenger on a bicycle unless the person is wearing a helmet that meets or exceeds the standards of the American National Standards Institute, the Snell Memorial **[**Foundation's standard**]** **FOUNDATION**, or the **[**standards of the**]** American Society **[**of**]** **FOR** Testing and **[**Measurements**]** **MATERIALS** for protective headgear for use in bicycling.

DRAFTER'S NOTE:

Error: Extraneous language and misnomer in § 21–1207.1(c) of the Transportation Article.

Occurred: Ch. 497, Acts of 1995.

21–1207.2.

(a) An individual under the age of 16 years may not ride on a scooter or on in–line skates on any highway, bicycle way, sidewalk, or other property open to the public or used by the public for pedestrian or vehicular traffic, unless the individual is wearing a helmet that meets or exceeds the standards of the American National Standards Institute, the Snell Memorial Foundation, or the American Society **[**of**]** **FOR** Testing and **[**Measurements**]** **MATERIALS** for protective headgear for use in bicycling or in–line skating.

DRAFTER'S NOTE:

Error: Misnomer in § 21–1207.2(a) of the Transportation Article.

Occurred: Ch. 344, Acts of 2001.

24–301.

(b) (2) **[**An established place of business**]** **"ESTABLISHED PLACE OF BUSINESS"** does not include a tent, temporary stand or other temporary quarters, or permanent quarters occupied under a temporary arrangement.

DRAFTER'S NOTE:

Error: Stylistic error in § 24–301(b)(2) of the Transportation Article.

Occurred: Ch. 756, Acts of 1985.

Chapter 3 of the Acts of the 2007 Special Session

[SECTION 9. AND BE IT FURTHER ENACTED, That, on or before December 1, 2009, and December 1, 2011, the Comptroller shall report to the Governor and, subject to § 2–1246 of the State Government Article, the General Assembly, on the implementation of the imposition of the sales and use tax on the sale of computer services, as provided for under this Act, and the impact on sales and use tax revenues as a result of the imposition of the sales and use tax on the sale of computer services.**]**

DRAFTER'S NOTE:

Error: Obsolete section in Chapter 3 of the Acts of the 2007 Special Session.

Occurred: As a result of Ch. 10, Acts of 2008, which repealed the imposition of the sales and use tax on the sale of computer services.

Chapter 171 of the Acts of 2009

SECTION 6. AND BE IT FURTHER ENACTED, That any reference in the Annotated Code of Maryland rendered incorrect or obsolete by the provisions of **[**Section 6**]** **SECTION 7** of this Act shall be corrected by the publishers of the Annotated Code, in consultation with and subject to the approval of the Department of Legislative Services, with no further action required by the General Assembly.

DRAFTER'S NOTE:

Error: Erroneous cross–reference in Section 6 of Ch. 171, Acts of 2009.

Occurred: Ch. 171, Acts of 2009.

Chapter 172 of the Acts of 2009

SECTION 6. AND BE IT FURTHER ENACTED, That any reference in the Annotated Code of Maryland rendered incorrect or obsolete by the provisions of **[**Section 6**]** **SECTION 7** of this Act shall be corrected by the publishers of the

Annotated Code, in consultation with and subject to the approval of the Department of Legislative Services, with no further action required by the General Assembly.

DRAFTER'S NOTE:

Error: Erroneous cross–reference in Section 6 of Ch. 172, Acts of 2009.

Occurred: Ch. 172, Acts of 2009.

Chapter 180 of the Acts of 2009

SECTION 5. 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 action covered under Article 66B, **[**§ 1.02(1)**] § 1.02(A)(1)** of the Code, as enacted by Section 2 of this Act **THAT WAS TAKEN BEFORE THE EFFECTIVE DATE OF THIS ACT**.

DRAFTER'S NOTE:

Error: Erroneous cross–reference and omitted language in Section 5 of Ch. 180, Acts of 2009.

Occurred: Ch. 180, Acts of 2009.

Chapter 181 of the Acts of 2009

SECTION 5. 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 action covered under Article 66B, **[**§ 1.02(1)**] § 1.02(A)(1)** of the Code, as enacted by Section 2 of this Act **THAT WAS TAKEN BEFORE THE EFFECTIVE DATE OF THIS ACT**.

DRAFTER'S NOTE:

Error: Erroneous cross–reference and omitted language in Section 5 of Ch. 181, Acts of 2009.

Occurred: Ch. 181, Acts of 2009.

Chapter 186 of the Acts of 2009

SECTION 5. AND BE IT FURTHER ENACTED, That funds received **[**by**] FROM** the federal government under the Victims of Crime Act **[**(42 U.S.C. § 10602)**] (42 U.S.C. § 10603)** shall be administered by the Governor's Office of Crime Control and Prevention.

DRAFTER'S NOTE:

Error: Incorrect word usage and incorrect citation in Section 5 of Ch. 186, Acts of 2009.

Occurred: Ch. 186, Acts of 2009. Corrections suggested by the Assistant Attorney General for the Department of Public Safety and Correctional Services and the Assistant Attorney General for the Governor's Office of Crime Control and Prevention in an Advice of Counsel memorandum dated July 10, 2009.

Chapter 487 of the Acts of 2009

SECTION 47. AND BE IT FURTHER ENACTED, That the provisions of **[**§ 10–210(b)**] § 10–210.1(B)** of the Tax – General Article, as amended by Section 2 of this Act, shall be applicable to any taxable year to which § 108(i), § 168(k), § 172(b)(1)(H), or § 179 of the Internal Revenue Code, as amended by the American Recovery and Reinvestment Act of 2009 (P.L. 111–5), apply.

DRAFTER'S NOTE:

Error: Erroneous cross–reference in Section 47 of Ch. 487, Acts of 2009.

Occurred: Ch. 487, Acts of 2009.

Chapter 500 of the Acts of 2009

SECTION **[**3.**] 4.** AND BE IT FURTHER ENACTED, That, during the 30–day period after the first work zone speed control system is in place, a law enforcement agency may issue warnings, but may not issue citations, for violations enforced in accordance with § 21–810 of the Transportation Article, as enacted by this Act.

SECTION **[**4.**] 5.** 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 contract awarded before the effective date of this Act.

SECTION **[**5.**] 6.** AND BE IT FURTHER ENACTED, That an obligation or contract right existing on the effective date of this Act may not be impaired in any way by this Act.

SECTION **[**6.**] 7.** AND BE IT FURTHER ENACTED, That each local jurisdiction that enforces speed limit laws as authorized under this Act shall report to the Governor and the General Assembly on or before December 31, 2013, in accordance with § 2–1246 of the State Government Article, on the effectiveness of speed monitoring systems in the jurisdiction.

SECTION **[**7.**] 8.** AND BE IT FURTHER ENACTED, That § 21–809(b)(1)(i), (iii), and (v) of the Transportation Article, as enacted by Section 1 of this Act, does not apply to speed monitoring systems installed and operated in Montgomery County before October 1, 2009.

SECTION **[**8.**] 9.** AND BE IT FURTHER ENACTED, That Section 3 of this Act shall take effect October 1, 2012.

SECTION **[**9.**] 10.** AND BE IT FURTHER ENACTED, That, except as provided in Section **[**8**] 9** of this Act, this Act shall take effect October 1, 2009.

DRAFTER'S NOTE:

Error: Erroneous numbering in Sections 3 through 9 of Ch. 500, Acts of 2009.

Occurred: Ch. 500, Acts of 2009.

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, 2010. Any enactment of the 2010 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 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 13, 2010.

Chapter 73

(Senate Bill 476)

AN ACT concerning

Maintenance of Effort – Penalty

FOR the purpose of waiving the maintenance of effort penalty for a certain fiscal year; requiring certain legislative committees to report to the General Assembly on or before a certain date; providing for the application of this Act; and generally relating to the maintenance of effort penalty.

Preamble

WHEREAS, The process for waiving the maintenance of effort requirement was established in 1996 and no county had applied for a waiver under that process until fiscal year 2010; and

WHEREAS, When the maintenance of effort waiver process was used for the first time in fiscal year 2010, numerous policy issues were identified including the lack of clarity in the factors used to guide the decision of the State Board of Education whether to grant a waiver; and

WHEREAS, Significant policy issues were also identified regarding the appropriate penalty for not meeting the maintenance of effort requirement; now, therefore,

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That, notwithstanding any other provision of law, for fiscal year 2010 only, the penalty provision under § 5–213 of the Education Article may not be applied to any State aid increase provided under § 5–202 of the Education Article.

SECTION 2. AND BE IT FURTHER ENACTED, That the Senate Budget and Taxation Committee and the House Ways and Means Committee shall study the appropriate calculation of the penalty for failing to meet the maintenance of effort requirement and the appropriate party against whom the penalty should be applied. On or before December 31, 2010, the committees shall report their findings and recommendations to the Legislative Policy Committee, in accordance with § 2–1246 of the State Government Article.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall apply to any penalty that would otherwise be imposed for not meeting the maintenance of effort requirement in fiscal year 2010.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 74

(House Bill 223)

AN ACT concerning

~~Montgomery County –~~ Maintenance of Effort ~~Waiver~~ – Penalty

~~MC 14-10~~

FOR the purpose of waiving the maintenance of effort ~~provisions in law~~ penalty for a certain fiscal year ~~for Montgomery County~~; ~~making this Act an emergency measure~~ requiring certain legislative committees to report to the General Assembly on or before a certain date; providing for the application of this Act; and generally relating to the maintenance of effort ~~requirement of Montgomery County~~ penalty.

Preamble

WHEREAS, The process for waiving the maintenance of effort requirement was established in 1996 and no county had applied for a waiver under that process until fiscal year 2010; and

WHEREAS, When the maintenance of effort waiver process was used for the first time in fiscal year 2010, numerous policy issues were identified including the lack of clarity in the factors used to guide the decision of the State Board of Education whether to grant a waiver; and

WHEREAS, Significant policy issues were also identified regarding the appropriate penalty for not meeting the maintenance of effort requirement; now, therefore,

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That~~:~~,

~~Notwithstanding~~ notwithstanding any other provision of law, for fiscal year 2010 only, ~~Montgomery County is not required to comply with the maintenance of effort provisions of § 5–202(d)~~ the penalty provision under § 5–213 of the Education Article may not be applied to any State aid increase provided under § 5–202 of the Education 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 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.~~

SECTION 2. AND BE IT FURTHER ENACTED, That the Senate Budget and Taxation Committee and the House Ways and Means Committee shall study the appropriate calculation of the penalty for failing to meet the maintenance of effort requirement and the appropriate party against whom the penalty should be applied. On or before December 31, 2010, the committees shall report their findings and recommendations to the Legislative Policy Committee, in accordance with § 2–1246 of the State Government Article.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall apply to any penalty that would otherwise be imposed for not meeting the maintenance of effort requirement in fiscal year 2010.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 75

(Senate Bill 482)

AN ACT concerning

Workers' Compensation – Allegany County Deputy Sheriffs

FOR the purpose of providing that an Allegany County deputy sheriff who suffers from heart disease or hypertension is presumed, under certain circumstances, to have an occupational disease that was suffered in the line of duty; providing for enhanced workers' compensation benefits for certain Allegany County deputy sheriffs for a compensable permanent partial disability of less than a certain number of weeks; providing for the application of this Act; and generally relating to workers' compensation benefits for Allegany County deputy sheriffs.

BY repealing and reenacting, with amendments,
Article – Labor and Employment
Section 9–503(b)(1) and 9–628
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, without amendments,
Article – Labor and Employment
Section 9–629
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)

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

Article – Labor and Employment

9–503.

(b) (1) A paid police officer employed by an airport authority, a county, the Maryland–National Capital Park and Planning Commission, a municipality, or the State, a deputy sheriff of Montgomery County, or, subject to paragraph (2) of this subsection, a deputy sheriff of Baltimore City, Montgomery County correctional officer, Prince George's County deputy sheriff, **[**or**]** Prince George's County correctional officer**, OR A DEPUTY SHERIFF OF ALLEGANY COUNTY** is presumed to be suffering from an occupational disease that was suffered in the line of duty and is compensable under this title if:

(i) the police officer, deputy sheriff, or correctional officer is suffering from heart disease or hypertension; and

(ii) the heart disease or hypertension results in partial or total disability or death.

9–628.

(a) In this section, "public safety employee" means:

(1) a firefighter, fire fighting instructor, or paramedic employed by:

(i) a municipal corporation;

(ii) a county;

(iii) the State;

(iv) the State Airport Authority; or

(v) a fire control district;

(2) a volunteer firefighter or volunteer ambulance, rescue, or advanced life support worker who is a covered employee under § 9–234 of this title and who provides volunteer fire or rescue services to:

(i) a municipal corporation;

(ii) a county;

(iii) the State;

(iv) the State Airport Authority; or

(v) a fire control district;

(3) a police officer employed by:

(i) a municipal corporation;

(ii) a county;

(iii) the State;

(iv) the State Airport Authority; or

(v) the Maryland–National Capital Park and Planning Commission;

(4) a Prince George's County deputy sheriff or correctional officer;

(5) a Montgomery County deputy sheriff or correctional officer; **[**or**]**

(6) AN ALLEGANY COUNTY DEPUTY SHERIFF; OR

[(6)**] (7)** a Howard County deputy sheriff, but only when the deputy sheriff is performing law enforcement duties expressly requested, defined, and authorized in accordance with a written memorandum of understanding executed between the Howard County Sheriff and other law enforcement agencies.

(b) Except as provided in subsections (g) and (h) of this section, if a covered employee is awarded compensation for less than 75 weeks in a claim arising from events occurring on or after January 1, 1988, the employer or its insurer shall pay the covered employee compensation that equals one–third of the average weekly wage of the covered employee but does not exceed $80.

(c) Except as provided in subsections (g) and (h) of this section, if a covered employee is awarded compensation for less than 75 weeks in a claim arising from events occurring on or after January 1, 1989, the employer or its insurer shall pay the covered employee compensation that equals one–third of the average weekly wage of the covered employee but does not exceed $82.50.

(d) Except as provided in subsections (g) and (h) of this section, if a covered employee is awarded compensation for less than 75 weeks in a claim arising from events occurring on or after January 1, 1993, the employer or its insurer shall pay the covered employee compensation that equals one–third of the average weekly wage of the covered employee but does not exceed $94.20.

(e) Except as provided in subsections (g) and (h) of this section, if a covered employee is awarded compensation for less than 75 weeks in a claim arising from events occurring on or after January 1, 2000, the employer or its insurer shall pay the covered employee compensation that equals one–third of the average weekly wage of the covered employee but does not exceed $114.

(f) Except as provided in subsections (g) and (h) of this section, if a covered employee is awarded compensation for less than 75 weeks, the employer or its insurer shall pay to the covered employee compensation that equals one–third of the average weekly wage of the covered employee but does not exceed:

(1) for claims arising from events occurring on or after January 1, 2009, but before January 1, 2010, 14.3% of the State average weekly wage;

(2) for claims arising from events occurring on or after January 1, 2010, but before January 1, 2011, 15.4% of the State average weekly wage; and

(3) for claims arising from events occurring on or after January 1, 2011, 16.7% of the State average weekly wage.

(g) If a covered employee is awarded compensation for less than 75 weeks for a disability listed in § 9–627(b) of this subtitle, the employer or its insurer shall pay the covered employee weekly compensation at the rate set for an award of compensation for a period greater than or equal to 75 weeks but less than 250 weeks under § 9–629 of this subtitle.

(h) If a public safety employee is awarded compensation for less than 75 weeks, the employer or its insurer shall pay the public safety employee compensation at the rate set for an award of compensation for a period greater than or equal to 75 weeks but less than 250 weeks under § 9–629 of this subtitle.

9–629.

If a covered employee is awarded compensation for a period equal to or greater than 75 weeks but less than 250 weeks, the employer or its insurer shall pay the

covered employee weekly compensation that equals two–thirds of the average weekly wage of the covered employee but does not exceed one–third of the State average weekly wage.

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 claims arising from events occurring before the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, April 13, 2010.

Chapter 76

(House Bill 618)

AN ACT concerning

Workers' Compensation – Allegany County Deputy Sheriffs

FOR the purpose of providing that an Allegany County deputy sheriff who suffers from heart disease or hypertension is presumed, under certain circumstances, to have an occupational disease that was suffered in the line of duty; providing for enhanced workers' compensation benefits for certain Allegany County deputy sheriffs for a compensable permanent partial disability of less than a certain number of weeks; providing for the application of this Act; and generally relating to workers' compensation benefits for Allegany County deputy sheriffs.

BY repealing and reenacting, with amendments,
Article – Labor and Employment
Section 9–503(b)(1) and 9–628
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, without amendments,
Article – Labor and Employment
Section 9–629
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)

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

Article – Labor and Employment

9–503.

(b) (1) A paid police officer employed by an airport authority, a county, the Maryland–National Capital Park and Planning Commission, a municipality, or the State, a deputy sheriff of Montgomery County, or, subject to paragraph (2) of this subsection, a deputy sheriff of Baltimore City, Montgomery County correctional officer, Prince George's County deputy sheriff, **[**or**]** Prince George's County correctional officer**, OR A DEPUTY SHERIFF OF ALLEGANY COUNTY** is presumed to be suffering from an occupational disease that was suffered in the line of duty and is compensable under this title if:

(i) the police officer, deputy sheriff, or correctional officer is suffering from heart disease or hypertension; and

(ii) the heart disease or hypertension results in partial or total disability or death.

9–628.

(a) In this section, "public safety employee" means:

(1) a firefighter, fire fighting instructor, or paramedic employed by:

(i) a municipal corporation;

(ii) a county;

(iii) the State;

(iv) the State Airport Authority; or

(v) a fire control district;

(2) a volunteer firefighter or volunteer ambulance, rescue, or advanced life support worker who is a covered employee under § 9–234 of this title and who provides volunteer fire or rescue services to:

(i) a municipal corporation;

(ii) a county;

(iii) the State;

(iv) the State Airport Authority; or

(v) a fire control district;

(3) a police officer employed by:

(i) a municipal corporation;

(ii) a county;

(iii) the State;

(iv) the State Airport Authority; or

(v) the Maryland–National Capital Park and Planning Commission;

(4) a Prince George's County deputy sheriff or correctional officer;

(5) a Montgomery County deputy sheriff or correctional officer; **[**or**]**

(6) AN ALLEGANY COUNTY DEPUTY SHERIFF; OR

[(6)**] (7)** a Howard County deputy sheriff, but only when the deputy sheriff is performing law enforcement duties expressly requested, defined, and authorized in accordance with a written memorandum of understanding executed between the Howard County Sheriff and other law enforcement agencies.

(b) Except as provided in subsections (g) and (h) of this section, if a covered employee is awarded compensation for less than 75 weeks in a claim arising from events occurring on or after January 1, 1988, the employer or its insurer shall pay the covered employee compensation that equals one–third of the average weekly wage of the covered employee but does not exceed $80.

(c) Except as provided in subsections (g) and (h) of this section, if a covered employee is awarded compensation for less than 75 weeks in a claim arising from events occurring on or after January 1, 1989, the employer or its insurer shall pay the covered employee compensation that equals one–third of the average weekly wage of the covered employee but does not exceed $82.50.

(d) Except as provided in subsections (g) and (h) of this section, if a covered employee is awarded compensation for less than 75 weeks in a claim arising from events occurring on or after January 1, 1993, the employer or its insurer shall pay the covered employee compensation that equals one–third of the average weekly wage of the covered employee but does not exceed $94.20.

(e) Except as provided in subsections (g) and (h) of this section, if a covered employee is awarded compensation for less than 75 weeks in a claim arising from events occurring on or after January 1, 2000, the employer or its insurer shall pay the

covered employee compensation that equals one–third of the average weekly wage of the covered employee but does not exceed $114.

(f) Except as provided in subsections (g) and (h) of this section, if a covered employee is awarded compensation for less than 75 weeks, the employer or its insurer shall pay to the covered employee compensation that equals one–third of the average weekly wage of the covered employee but does not exceed:

(1) for claims arising from events occurring on or after January 1, 2009, but before January 1, 2010, 14.3% of the State average weekly wage;

(2) for claims arising from events occurring on or after January 1, 2010, but before January 1, 2011, 15.4% of the State average weekly wage; and

(3) for claims arising from events occurring on or after January 1, 2011, 16.7% of the State average weekly wage.

(g) If a covered employee is awarded compensation for less than 75 weeks for a disability listed in § 9–627(b) of this subtitle, the employer or its insurer shall pay the covered employee weekly compensation at the rate set for an award of compensation for a period greater than or equal to 75 weeks but less than 250 weeks under § 9–629 of this subtitle.

(h) If a public safety employee is awarded compensation for less than 75 weeks, the employer or its insurer shall pay the public safety employee compensation at the rate set for an award of compensation for a period greater than or equal to 75 weeks but less than 250 weeks under § 9–629 of this subtitle.

9–629.

If a covered employee is awarded compensation for a period equal to or greater than 75 weeks but less than 250 weeks, the employer or its insurer shall pay the covered employee weekly compensation that equals two–thirds of the average weekly wage of the covered employee but does not exceed one–third of the State average weekly wage.

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 claims arising from events occurring before the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, April 13, 2010.