

Laws  
of the  
State of Maryland

At the Session of the General Assembly Begun and Held in the  
City of Annapolis on the Twelfth Day of January 2011  
and Ending on the Eleventh Day of April 2011

Bills vetoed by the Governor appear after the Laws

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VOLUME I

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# Laws of Maryland

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MARYLAND, Sct.:

At a Session of the General Assembly of Maryland, begun and held in the City of Annapolis on the Twelfth Day of January 2011, and ending on the Eleventh Day of April 2011, Martin O'Malley, being Governor of the State, the following laws were enacted, to wit:

## Chapter 1

(Senate Bill 182)

AN ACT concerning

### Maryland Health Benefit Exchange Act of 2011

FOR the purpose of establishing the Maryland Health Benefit Exchange as a public corporation and an independent unit of State government; providing that the exercise by the Exchange of its authority under this Act is an essential governmental function; establishing the purposes of the Exchange; providing for the construction of certain provisions of this Act and certain regulations and actions; providing that the Exchange is subject to certain provisions of law; establishing the Board of Trustees of the Exchange; providing for the qualifications, appointment, terms, and removal of members of the Board; prohibiting a member of the Board or a member of the staff of the Exchange from having a certain affiliation with certain persons and entities; establishing certain rules governing action by the Board; establishing certain powers and duties of the Board; requiring a member of the Board to perform the member's duties in accordance with certain standards; requiring a member to disclose certain matters and certain relationships to the Board and to the public; requiring a member to adhere strictly to certain provisions of law relating to conflicts of interest; requiring the Board to appoint an Executive Director of the Exchange, with the approval of the Governor, and to determine the Executive Director's compensation; establishing the duties of the Executive Director; authorizing the Executive Director to employ and retain a certain staff; requiring the Secretary of Budget and Management to review and make certain recommendations about certain changes to the Exchange's salary plans

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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.

proposed by the Executive Director; providing that an employee or independent contractor of the Exchange is not subject to certain laws, regulations, or executive orders; requiring the Exchange to create, consult with, and appoint certain representatives to advisory committees; establishing the Maryland Health Benefit Exchange Fund as a special, nonlapsing fund; specifying the contents and purpose of the Fund; requiring the State Treasurer to hold the Fund separately and invest the money of the Fund; requiring the Comptroller to account for the Fund; establishing certain functions and duties of the Exchange; prohibiting the Exchange and certain insurance carriers from charging certain fees or penalties; requiring the Exchange, ~~in carrying out certain duties,~~ to consult with and consider the recommendations of certain stakeholders in the exercise of certain duties; requiring the Exchange to certify certain health benefit plans as qualified health plans; establishing certain requirements for certification as a qualified health plan; prohibiting the Exchange from making available any health benefit plans that are not qualified health plans or any dental plans that are not qualified dental plans; requiring each carrier that seeks certification of a health benefit plan to take certain actions; providing that certain requirements applicable to qualified health plans also apply to qualified dental plans; authorizing the Exchange to impose certain fees or assessments or otherwise generate funding necessary to support its operations on or after a certain date; requiring the Exchange to adopt certain regulations before imposing or altering certain fees or assessments; requiring certain funds to be deposited in the Maryland Health Benefit Exchange Fund; prohibiting the Exchange from imposing certain fees or assessments in a certain manner; requiring the Exchange to maintain a certain Web site and publish certain information on the Web site; requiring the Exchange to be administered in a certain manner; requiring the Exchange to keep an accurate accounting of all its activities, expenditures, and receipts; requiring the Board to report certain information to certain individuals on an annual basis; requiring the Board to cooperate with any investigation into the affairs of the Exchange conducted by certain individuals; defining certain terms; prohibiting the Exchange from implementing certain functions or imposing certain requirements before certain guidance is received; prohibiting the Exchange from ~~implementing certain functions or imposing certain requirements before certain studies are conducted, reports are made, and actions are taken by the Governor and the General Assembly~~ exercising certain powers, duties, or functions until the Exchange has reported certain findings and recommendations to the Governor and the General Assembly and the Governor and General Assembly have enacted certain legislation; expressing the intent of the General Assembly regarding the appointment of certain members of the Board; requiring the Exchange to conduct certain studies and make certain recommendations to the Governor and the General Assembly; requiring the Exchange to report its findings and recommendations on or before ~~certain dates~~ a certain date; expressing the intent of the General Assembly regarding certain actions of the Exchange; and generally relating to the Maryland Health Benefit Exchange.

## Article – Insurance

Section 31–101 through 31–111 to be under the new title “Maryland Health Benefit Exchange”

Annotated Code of Maryland

(2006 Replacement Volume and 2010 Supplement)

## Preamble

WHEREAS, The federal Patient Protection and Affordable Care Act (Affordable Care Act), as amended by the federal Health Care and Education Reconciliation Act of 2010, requires each state, by January 1, 2014, to establish a health benefit Exchange that makes available qualified health plans to qualified individuals and employers, and meets certain other requirements; and

WHEREAS, The Affordable Care Act requires each state to establish the governance and structure of its health benefit Exchange by March 2012; and

WHEREAS, The State seeks to establish a highly effective, efficient, and accountable Exchange to reduce the number of Marylanders without health insurance and to provide Marylanders with high-quality, affordable private health plans at competitive cost; and

WHEREAS, The Maryland Health Benefit Exchange (Exchange) will pursue these goals by facilitating the purchase and sale of qualified health plans in the individual insurance market, assisting qualified employers in the enrollment of their employees in qualified health plans in the small group market, and administering the distribution of premium tax credits for individuals and small employers; and

WHEREAS, The State intends for the individual and small group markets in Maryland to continue to exist outside the Exchange and for the Exchange to supplement rather than replace these existing markets; and

WHEREAS, The State seeks to ensure that the Exchange will be financially self-sustaining by ~~2016~~ 2015 in compliance with the Affordable Care Act; and

WHEREAS, The State seeks to ensure that the Exchange’s governing structure is broadly-based, reflecting the racial, ethnic, and geographic diversity of the State and the expertise and competence necessary to oversee the effective development and operation of the Exchange; and

WHEREAS, The State seeks to ensure that all populations can access the products offered by the Exchange by requiring cultural competence in all of its operations and outreach; and

WHEREAS, The State intends that determination of eligibility for public sector health insurance programs and federal subsidies for commercial insurance, as well as

enrollment in such programs, shall be simplified through or in conjunction with the development of the Exchange; and

WHEREAS, The Exchange must be transparent, accountable, and able to perform inherently governmental functions such as determining income eligibility and citizenship status, coordinating with other State agencies and programs, and adopting rules and regulations governing health insurance plan participation; and

WHEREAS, The Exchange must at the same time be nimble and flexible, able to respond quickly to changing insurance market conditions, be sensitive and responsive to consumer demands, and remain insulated from changes in the political environment; and

WHEREAS, The State seeks to balance these multifaceted characteristics by creating a public entity, independent of other units of State government, which shall be subject to certain State laws and regulations to ensure transparency, accountability, and coordination with State agencies and programs, but which shall be exempt from other State administrative laws and regulations affecting government operations to ensure sufficient flexibility to operate effectively, efficiently, and in coordination with the private sector; and

WHEREAS, The State recognizes that after it establishes a fully operational Exchange, delineates the full scope of its functions, and has an opportunity to evaluate its operations and performance metrics, it should assess whether the Exchange would function more effectively as a nongovernmental, nonprofit entity or a quasi-governmental entity or should remain an independent public entity; now, therefore,

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

### **Article – Insurance**

#### **TITLE 31. MARYLAND HEALTH BENEFIT EXCHANGE.**

##### **31-101.**

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

(B) “AFFORDABLE CARE ACT” MEANS THE FEDERAL PATIENT PROTECTION AND AFFORDABLE CARE ACT, AS AMENDED BY THE FEDERAL HEALTH CARE AND EDUCATION RECONCILIATION ACT OF 2010, AND ANY REGULATIONS ADOPTED OR GUIDANCE ISSUED UNDER THE ACTS.

(C) “BOARD” MEANS THE BOARD OF TRUSTEES OF THE EXCHANGE.



**(D) “CARRIER” MEANS:**

- (1) AN INSURER AUTHORIZED TO SELL HEALTH INSURANCE;**
- (2) A NONPROFIT HEALTH SERVICE PLAN;**
- (3) A HEALTH MAINTENANCE ORGANIZATION; ~~OR~~**
- (4) A DENTAL PLAN ORGANIZATION; OR**

~~(4)~~ **(5) ANY OTHER ENTITY PROVIDING A PLAN OF HEALTH INSURANCE, HEALTH BENEFITS, OR HEALTH SERVICES AUTHORIZED UNDER THIS ARTICLE OR THE AFFORDABLE CARE ACT.**

**(E) “EXCHANGE” MEANS THE MARYLAND HEALTH BENEFIT EXCHANGE ESTABLISHED AS A PUBLIC CORPORATION UNDER § 31-102 OF THIS TITLE.**

**(F) “FUND” MEANS THE MARYLAND HEALTH BENEFIT EXCHANGE FUND ESTABLISHED UNDER § 31-107 OF THIS SUBTITLE.**

~~(F)~~ **(G) (1) “HEALTH BENEFIT PLAN” MEANS A POLICY, CONTRACT, CERTIFICATE, OR AGREEMENT OFFERED, ISSUED, OR DELIVERED BY A CARRIER TO AN INDIVIDUAL OR SMALL EMPLOYER IN THE STATE TO PROVIDE, DELIVER, ARRANGE FOR, PAY FOR, OR REIMBURSE ANY OF THE COSTS OF HEALTH CARE SERVICES.**

**(2) “HEALTH BENEFIT PLAN” DOES NOT INCLUDE:**

- (I) COVERAGE ONLY FOR ACCIDENT OR DISABILITY INSURANCE OR ANY COMBINATION OF ACCIDENT AND DISABILITY INSURANCE;**
- (II) COVERAGE ISSUED AS A SUPPLEMENT TO LIABILITY INSURANCE;**
- (III) LIABILITY INSURANCE, INCLUDING GENERAL LIABILITY INSURANCE AND AUTOMOBILE LIABILITY INSURANCE;**
- (IV) WORKERS’ COMPENSATION OR SIMILAR INSURANCE;**
- (V) AUTOMOBILE MEDICAL PAYMENT INSURANCE;**
- (VI) CREDIT-ONLY INSURANCE;**
- (VII) COVERAGE FOR ON-SITE MEDICAL CLINICS; OR**

(VIII) OTHER SIMILAR INSURANCE COVERAGE, SPECIFIED IN FEDERAL REGULATIONS ISSUED PURSUANT TO ~~P.L. 104-191~~ THE FEDERAL HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT, UNDER WHICH BENEFITS FOR HEALTH CARE SERVICES ARE SECONDARY OR INCIDENTAL TO OTHER INSURANCE BENEFITS.

(3) “HEALTH BENEFIT PLAN” DOES NOT INCLUDE THE FOLLOWING BENEFITS IF THEY ARE PROVIDED UNDER A SEPARATE POLICY, CERTIFICATE, OR CONTRACT OF INSURANCE, OR ARE OTHERWISE NOT AN INTEGRAL PART OF THE PLAN:

(I) LIMITED SCOPE DENTAL OR VISION BENEFITS;

(II) BENEFITS FOR LONG-TERM CARE, NURSING HOME CARE, HOME HEALTH CARE, COMMUNITY-BASED CARE, OR ANY COMBINATION OF THESE BENEFITS; OR

(III) SUCH OTHER SIMILAR LIMITED BENEFITS AS ARE SPECIFIED IN FEDERAL REGULATIONS ISSUED PURSUANT TO ~~P.L. 104-191~~ THE FEDERAL HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT.

(4) “HEALTH BENEFIT PLAN” DOES NOT INCLUDE THE FOLLOWING BENEFITS IF THE BENEFITS ARE PROVIDED UNDER A SEPARATE POLICY, CERTIFICATE, OR CONTRACT OF INSURANCE, THERE IS NO COORDINATION BETWEEN THE PROVISION OF THE BENEFITS AND ANY EXCLUSION OF BENEFITS UNDER ANY GROUP HEALTH PLAN MAINTAINED BY THE SAME PLAN SPONSOR, AND THE BENEFITS ARE PAID WITH RESPECT TO AN EVENT WITHOUT REGARD TO WHETHER THE BENEFITS ARE PROVIDED UNDER ANY GROUP HEALTH PLAN MAINTAINED BY THE SAME PLAN SPONSOR:

(I) COVERAGE ONLY FOR A SPECIFIED DISEASE OR ILLNESS; OR

(II) HOSPITAL INDEMNITY OR OTHER FIXED INDEMNITY INSURANCE.

(5) “HEALTH BENEFIT PLAN” DOES NOT INCLUDE THE FOLLOWING IF OFFERED AS A SEPARATE POLICY, CERTIFICATE, OR CONTRACT OF INSURANCE:

(I) MEDICARE SUPPLEMENTAL INSURANCE (AS DEFINED UNDER § 1882(G)(1) OF THE SOCIAL SECURITY ACT);

(II) COVERAGE SUPPLEMENTAL TO THE COVERAGE PROVIDED UNDER CHAPTER 55 OF TITLE 10, UNITED STATES CODE (CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS)); OR

(III) SIMILAR SUPPLEMENTAL COVERAGE PROVIDED TO COVERAGE UNDER A GROUP HEALTH PLAN.

(H) “MANAGED CARE ORGANIZATION” HAS THE MEANING STATED IN § 15-101 OF THE HEALTH – GENERAL ARTICLE.

(I) “QUALIFIED DENTAL PLAN” MEANS A PLAN CERTIFIED BY THE EXCHANGE THAT PROVIDES LIMITED SCOPE DENTAL BENEFITS, AS DESCRIBED IN § 31-108(B) OF THIS TITLE.

~~(G)~~ (J) “QUALIFIED EMPLOYER” MEANS A SMALL EMPLOYER THAT ELECTS TO MAKE ITS FULL-TIME EMPLOYEES ELIGIBLE FOR ONE OR MORE QUALIFIED HEALTH PLANS OFFERED THROUGH THE SHOP EXCHANGE AND, AT THE OPTION OF THE EMPLOYER, SOME OR ALL OF ITS PART-TIME EMPLOYEES, PROVIDED THAT THE EMPLOYER:

(1) HAS ITS PRINCIPAL PLACE OF BUSINESS IN THE STATE AND ELECTS TO PROVIDE COVERAGE THROUGH THE SHOP EXCHANGE TO ALL OF ITS ELIGIBLE EMPLOYEES, WHEREVER EMPLOYED; OR

(2) ELECTS TO PROVIDE COVERAGE THROUGH THE SHOP EXCHANGE TO ALL OF ITS ELIGIBLE EMPLOYEES WHO ARE PRINCIPALLY EMPLOYED IN THE STATE.

~~(H)~~ (K) “QUALIFIED HEALTH PLAN” MEANS A HEALTH BENEFIT PLAN THAT HAS BEEN CERTIFIED BY THE EXCHANGE TO MEET THE CRITERIA FOR CERTIFICATION DESCRIBED IN § 1311(C) OF THE AFFORDABLE CARE ACT AND § 31-109 OF THIS TITLE.

~~(I)~~ (L) “QUALIFIED INDIVIDUAL” MEANS AN INDIVIDUAL, INCLUDING A MINOR, WHO AT THE TIME OF ENROLLMENT:

(1) IS SEEKING TO ENROLL IN A QUALIFIED HEALTH PLAN OFFERED TO INDIVIDUALS THROUGH THE EXCHANGE;

(2) RESIDES IN THE STATE;

(3) IS NOT INCARCERATED, OTHER THAN INCARCERATION PENDING DISPOSITION OF CHARGES; AND

(4) IS, AND REASONABLY IS EXPECTED TO BE FOR THE ENTIRE PERIOD FOR WHICH ENROLLMENT IS SOUGHT, A CITIZEN OR NATIONAL OF THE UNITED STATES OR AN ALIEN LAWFULLY PRESENT IN THE UNITED STATES.

~~(H)~~ (M) “SECRETARY” MEANS THE SECRETARY OF THE FEDERAL DEPARTMENT OF HEALTH AND HUMAN SERVICES.

~~(K)~~ (N) “SHOP EXCHANGE” MEANS THE SMALL BUSINESS HEALTH OPTIONS PROGRAM AUTHORIZED UNDER § 31-108(B)(12) OF THIS TITLE.

~~(H)~~ (O) (1) “SMALL EMPLOYER” MEANS AN EMPLOYER THAT, DURING THE PRECEDING CALENDAR YEAR, EMPLOYED AN AVERAGE OF NOT MORE THAN:

(I) 50 EMPLOYEES IF THE PRECEDING CALENDAR YEAR ENDED ON OR BEFORE JANUARY 1, 2016; AND

(II) 100 EMPLOYEES IF THE PRECEDING CALENDAR YEAR ENDED AFTER JANUARY 1, 2016.

(2) FOR PURPOSES OF THIS SUBSECTION:

(I) ALL PERSONS TREATED AS A SINGLE EMPLOYER UNDER § 414(B), (C), (M), OR (O) OF THE INTERNAL REVENUE CODE SHALL BE TREATED AS A SINGLE EMPLOYER;

(II) AN EMPLOYER AND ANY PREDECESSOR EMPLOYER SHALL BE TREATED AS A SINGLE EMPLOYER;

(III) ALL EMPLOYEES SHALL BE COUNTED, INCLUDING PART-TIME EMPLOYEES AND EMPLOYEES WHO ARE NOT ELIGIBLE FOR COVERAGE THROUGH THE EMPLOYER;

(IV) IF AN EMPLOYER WAS NOT IN EXISTENCE THROUGHOUT THE PRECEDING CALENDAR YEAR, THE DETERMINATION OF WHETHER THE EMPLOYER IS A SMALL EMPLOYER SHALL BE BASED ON THE AVERAGE NUMBER OF EMPLOYEES THAT THE EMPLOYER IS REASONABLY EXPECTED TO EMPLOY ON BUSINESS DAYS IN THE CURRENT CALENDAR YEAR; AND

(V) AN EMPLOYER THAT MAKES ENROLLMENT IN QUALIFIED HEALTH PLANS AVAILABLE TO ITS EMPLOYEES THROUGH THE SHOP EXCHANGE, AND WOULD CEASE TO BE A SMALL EMPLOYER BY REASON OF AN INCREASE IN THE NUMBER OF ITS EMPLOYEES, SHALL CONTINUE TO BE

TREATED AS A SMALL EMPLOYER FOR PURPOSES OF THIS TITLE AS LONG AS IT CONTINUOUSLY MAKES ENROLLMENT THROUGH THE SHOP EXCHANGE AVAILABLE TO ITS EMPLOYEES.

31-102.

(A) THERE IS A MARYLAND HEALTH BENEFIT EXCHANGE.

(B) (1) THE EXCHANGE IS A BODY POLITIC AND CORPORATE AND IS AN INSTRUMENTALITY OF THE STATE.

(2) THE EXCHANGE IS A PUBLIC CORPORATION AND A UNIT OF STATE GOVERNMENT.

(3) THE EXERCISE BY THE EXCHANGE OF ITS AUTHORITY UNDER THIS TITLE IS AN ESSENTIAL GOVERNMENTAL FUNCTION.

(C) THE PURPOSES OF THE EXCHANGE ARE TO:

(1) REDUCE THE NUMBER OF UNINSURED IN THE STATE;

(2) FACILITATE THE PURCHASE AND SALE OF QUALIFIED HEALTH PLANS IN THE INDIVIDUAL MARKET IN THE STATE BY PROVIDING A TRANSPARENT MARKETPLACE;

(3) ASSIST QUALIFIED EMPLOYERS IN THE STATE IN FACILITATING THE ENROLLMENT OF THEIR EMPLOYEES IN QUALIFIED HEALTH PLANS IN THE SMALL GROUP MARKET IN THE STATE AND IN ACCESSING SMALL BUSINESS TAX CREDITS; ~~AND~~

(4) ASSIST INDIVIDUALS IN ACCESSING PUBLIC PROGRAMS, PREMIUM TAX CREDITS, AND COST-SHARING REDUCTIONS; AND

(5) SUPPLEMENT THE INDIVIDUAL AND SMALL GROUP INSURANCE MARKETS OUTSIDE OF THE EXCHANGE.

(D) NOTHING IN THIS TITLE, AND NO REGULATION ADOPTED OR OTHER ACTION TAKEN BY THE EXCHANGE UNDER THIS TITLE, MAY BE CONSTRUED TO:

(1) PREEMPT OR SUPERSEDE:

~~(1)~~ (1) THE AUTHORITY OF THE COMMISSIONER TO REGULATE INSURANCE BUSINESS IN THE STATE; OR

~~(2)~~ (II) THE REQUIREMENTS OF THE AFFORDABLE CARE ACT;  
OR

(2) AUTHORIZE THE EXCHANGE TO CARRY OUT ANY FUNCTION NOT AUTHORIZED BY THE AFFORDABLE CARE ACT.

31-103.

(A) THE EXCHANGE IS SUBJECT TO:

(1) THE FOLLOWING PROVISIONS OF THE STATE FINANCE AND PROCUREMENT ARTICLE:

(I) TITLE 12, SUBTITLE 4 (POLICIES AND PROCEDURES FOR EXEMPT UNITS); AND

(II) TITLE 14, SUBTITLE 3 (MINORITY BUSINESS PARTICIPATION);

(2) THE FOLLOWING PROVISIONS OF THE STATE GOVERNMENT ARTICLE:

(I) TITLE 10, SUBTITLE 1 (GOVERNMENTAL PROCEDURES);

(II) TITLE 10, SUBTITLE 5 (MEETINGS);

(III) TITLE 10, SUBTITLE 6, PART III (ACCESS TO PUBLIC RECORDS);

(IV) TITLE 12 (IMMUNITY AND LIABILITY); AND

(V) TITLE 15 (PUBLIC ETHICS); AND

(3) TITLE 5, SUBTITLE 3 OF THE STATE PERSONNEL AND PENSIONS ARTICLE.

(B) THE EXCHANGE IS NOT SUBJECT TO:

(1) TAXATION BY THE STATE OR LOCAL GOVERNMENT;

(2) DIVISION II OF THE STATE FINANCE AND PROCUREMENT ARTICLE, EXCEPT AS PROVIDED IN SUBSECTION (A)(1) OF THIS SECTION;

(3) TITLE 10 OF THE STATE GOVERNMENT ARTICLE, EXCEPT AS PROVIDED IN SUBSECTION (A)(2)(I), (II), AND (III) OF THIS SECTION; OR

(4) DIVISION I OF THE STATE PERSONNEL AND PENSIONS ARTICLE, EXCEPT AS PROVIDED IN SUBSECTION (A)(3) OF THIS SECTION AND ELSEWHERE IN THIS TITLE.

31-104.

(A) THERE IS A BOARD OF TRUSTEES OF THE EXCHANGE.

(B) THE BOARD CONSISTS OF THE FOLLOWING MEMBERS:

(1) THE SECRETARY OF HEALTH AND MENTAL HYGIENE;

(2) THE COMMISSIONER;

(3) THE EXECUTIVE DIRECTOR OF THE MARYLAND HEALTH CARE COMMISSION; AND

(4) THE FOLLOWING MEMBERS APPOINTED BY THE GOVERNOR, WITH THE ADVICE AND CONSENT OF THE SENATE:

(I) THREE MEMBERS WHO:

1. REPRESENT THE INTERESTS OF EMPLOYERS AND INDIVIDUAL CONSUMERS OF PRODUCTS OFFERED BY THE EXCHANGE; AND

2. MAY HAVE PUBLIC HEALTH RESEARCH EXPERTISE; AND

(II) THREE MEMBERS WHO HAVE DEMONSTRATED KNOWLEDGE AND EXPERTISE IN AT LEAST TWO OF THE FOLLOWING AREAS:

1. INDIVIDUAL HEALTH CARE COVERAGE;

2. SMALL EMPLOYER-SPONSORED HEALTH CARE COVERAGE;

3. HEALTH BENEFIT PLAN ADMINISTRATION;

4. HEALTH CARE FINANCE;

5. ADMINISTRATION OF PUBLIC OR PRIVATE HEALTH CARE DELIVERY SYSTEMS; ~~AND~~

**6. PURCHASING AND FACILITATING ENROLLMENT IN HEALTH PLAN COVERAGE, INCLUDING DEMONSTRATED KNOWLEDGE AND EXPERTISE ABOUT THE ROLE OF LICENSED HEALTH INSURANCE PRODUCERS AND THIRD-PARTY ADMINISTRATORS IN CONNECTING EMPLOYERS AND INDIVIDUAL CONSUMERS TO HEALTH PLAN COVERAGE; AND**

**7. PUBLIC HEALTH AND PUBLIC HEALTH RESEARCH, INCLUDING KNOWLEDGE ABOUT THE HEALTH NEEDS AND HEALTH DISPARITIES AMONG THE STATE’S DIVERSE COMMUNITIES.**

**(C) IN MAKING APPOINTMENTS OF MEMBERS UNDER SUBSECTION (B)(4) OF THIS SECTION, THE GOVERNOR SHALL ASSURE THAT:**

**(1) THE BOARD’S COMPOSITION REFLECTS A DIVERSITY OF EXPERTISE;**

**(2) THE BOARD’S COMPOSITION REFLECTS THE GENDER, RACIAL, AND ETHNIC DIVERSITY OF THE STATE; AND**

**(3) THE GEOGRAPHIC AREAS OF THE STATE ARE REPRESENTED.**

**(D) (1) FOR PURPOSES OF THIS SUBSECTION, “AFFILIATION” MEANS:**

**(I) A FINANCIAL INTEREST, AS DEFINED IN § 15–102 OF THE STATE GOVERNMENT ARTICLE;**

**(II) A POSITION OF GOVERNANCE, INCLUDING MEMBERSHIP ON A BOARD OF DIRECTORS, REGARDLESS OF COMPENSATION;**

**(III) A RELATIONSHIP THROUGH WHICH COMPENSATION, AS DEFINED IN § 15–102 OF THE STATE GOVERNMENT ARTICLE, IS RECEIVED; OR**

**(IV) A RELATIONSHIP FOR THE PROVISION OF SERVICES AS A REGULATED LOBBYIST, AS DEFINED IN § 15–102 OF THE STATE GOVERNMENT ARTICLE.**

**(2) A MEMBER OF THE BOARD OR OF THE STAFF OF THE EXCHANGE, WHILE SERVING ON THE BOARD OR THE STAFF, MAY NOT HAVE AN AFFILIATION WITH:**

**(I) A CARRIER, AN INSURANCE PRODUCER, A THIRD-PARTY ADMINISTRATOR, A MANAGED CARE ORGANIZATION, OR ANY OTHER PERSON ~~DOING BUSINESS~~ CONTRACTING DIRECTLY WITH THE EXCHANGE; ~~OR~~**



(II) A TRADE ASSOCIATION OF CARRIERS, INSURANCE PRODUCERS, THIRD-PARTY ADMINISTRATORS, OR MANAGED CARE ORGANIZATIONS; OR

(III) ANY OTHER ASSOCIATION OF ENTITIES DOING BUSINESS IN A POSITION TO CONTRACT DIRECTLY WITH THE EXCHANGE.

(E) (1) THE TERM OF A MEMBER APPOINTED BY THE GOVERNOR IS 4 YEARS.

(2) THE TERMS OF MEMBERS APPOINTED BY THE GOVERNOR ARE STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR MEMBERS OF THE BOARD ON ~~JULY~~ JUNE 1, 2011.

(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.

(F) AN APPOINTED MEMBER OF THE BOARD MAY NOT SERVE MORE THAN TWO CONSECUTIVE FULL TERMS.

(G) THE GOVERNOR SHALL DESIGNATE A CHAIR OF THE BOARD.

(H) (1) THE BOARD SHALL DETERMINE THE TIMES, PLACES, AND FREQUENCY OF ITS MEETINGS.

(2) FIVE MEMBERS OF THE BOARD CONSTITUTE A QUORUM.

(3) ACTION BY THE BOARD REQUIRES THE AFFIRMATIVE VOTE OF AT LEAST FIVE MEMBERS.

(I) A MEMBER OF THE BOARD IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

(J) A MEMBER SHALL:

(1) MEET THE REQUIREMENTS OF THIS TITLE, THE AFFORDABLE CARE ACT, AND ALL APPLICABLE STATE AND FEDERAL LAWS AND REGULATIONS;

(2) SERVE THE PUBLIC INTEREST OF THE INDIVIDUALS AND QUALIFIED EMPLOYERS SEEKING HEALTH CARE COVERAGE THROUGH THE EXCHANGE; AND

(3) ENSURE THE SOUND OPERATION AND FISCAL SOLVENCY OF THE EXCHANGE.

(K) A MEMBER OF THE BOARD SHALL PERFORM THE MEMBER'S DUTIES:

(1) IN GOOD FAITH;

(2) IN THE MANNER THE MEMBER REASONABLY BELIEVES TO BE IN THE BEST INTERESTS OF THE EXCHANGE; AND

(3) WITHOUT INTENTIONAL OR RECKLESS DISREGARD OF THE CARE AN ORDINARILY PRUDENT PERSON IN A LIKE POSITION WOULD USE UNDER SIMILAR CIRCUMSTANCES.

(L) A MEMBER OF THE BOARD WHO PERFORMS THE MEMBER'S DUTIES IN ACCORDANCE WITH THE STANDARD PROVIDED IN SUBSECTION (K) OF THIS SECTION MAY NOT BE LIABLE PERSONALLY FOR ACTIONS TAKEN AS A MEMBER.

(M) A MEMBER OF THE BOARD MAY BE REMOVED FOR INCOMPETENCE, MISCONDUCT, OR FAILURE TO PERFORM THE DUTIES OF THE POSITION.

(N) (1) (I) A MEMBER OF THE BOARD SHALL BE SUBJECT TO THE STATE ETHICS LAW, TITLE 15, SUBTITLES 1 THROUGH 7 OF THE STATE GOVERNMENT ARTICLE.

(II) IN ADDITION TO THE DISCLOSURE REQUIRED UNDER TITLE 15, SUBTITLE 6 OF THE STATE GOVERNMENT ARTICLE, A MEMBER OF THE BOARD SHALL DISCLOSE TO THE BOARD AND TO THE PUBLIC ANY RELATIONSHIP NOT ADDRESSED IN THE REQUIRED FINANCIAL DISCLOSURE THAT THE MEMBER HAS WITH A CARRIER, INSURANCE PRODUCER, THIRD-PARTY ADMINISTRATOR, MANAGED CARE ORGANIZATION, OR OTHER ENTITY IN AN INDUSTRY INVOLVED IN MATTERS LIKELY TO COME BEFORE THE BOARD.

(2) ON ALL MATTERS THAT COME BEFORE THE BOARD, THE MEMBER SHALL:

(I) ADHERE STRICTLY TO THE CONFLICT OF INTEREST PROVISIONS UNDER TITLE 15, SUBTITLE 5 OF THE STATE GOVERNMENT

ARTICLE RELATING TO RESTRICTIONS ON PARTICIPATION, EMPLOYMENT, AND FINANCIAL INTERESTS; AND

(II) PROVIDE FULL DISCLOSURE TO THE BOARD AND THE PUBLIC ON:

1. ANY MATTER THAT GIVES RISE TO A POTENTIAL CONFLICT OF INTEREST; AND

2. THE MANNER IN WHICH THE MEMBER WILL COMPLY WITH THE PROVISIONS OF TITLE 15, SUBTITLE 5 OF THE STATE GOVERNMENT ARTICLE TO AVOID ANY CONFLICT OF INTEREST OR APPEARANCE OF A CONFLICT OF INTEREST.

31-105.

(A) (1) WITH THE APPROVAL OF THE GOVERNOR, THE BOARD SHALL APPOINT AN EXECUTIVE DIRECTOR OF THE EXCHANGE.

(2) ~~SUBJECT TO THE APPROVAL OF THE GOVERNOR, THE~~ THE EXECUTIVE DIRECTOR SHALL SERVE AT THE PLEASURE OF THE BOARD.

(3) THE BOARD SHALL DETERMINE THE APPROPRIATE COMPENSATION FOR THE EXECUTIVE DIRECTOR.

(B) UNDER THE DIRECTION OF THE BOARD, THE EXECUTIVE DIRECTOR SHALL:

(1) BE THE CHIEF ADMINISTRATIVE OFFICER OF THE EXCHANGE;

(2) DIRECT, ADMINISTER, AND MANAGE THE OPERATIONS OF THE EXCHANGE; AND

(3) PERFORM ALL DUTIES NECESSARY TO COMPLY WITH AND CARRY OUT THE PROVISIONS OF THIS TITLE, OTHER STATE LAW AND REGULATIONS, AND THE AFFORDABLE CARE ACT.

(C) (1) THE EXECUTIVE DIRECTOR MAY EMPLOY AND RETAIN A STAFF FOR THE EXCHANGE.

(2) EXCEPT AS PROVIDED IN PARAGRAPHS (3) AND (4) OF THIS SUBSECTION, OR OTHERWISE BY LAW, THE EXECUTIVE DIRECTOR'S APPOINTMENT, RETENTION, AND REMOVAL OF STAFF OF THE EXCHANGE ARE

NOT SUBJECT TO DIVISION I OF THE STATE PERSONNEL AND PENSIONS ARTICLE.

(3) IN HIRING STAFF FOR FUNCTIONS THAT MUST BE PERFORMED BY STATE PERSONNEL UNDER THE AFFORDABLE CARE ACT OR OTHER APPLICABLE FEDERAL OR STATE LAWS, THE EXECUTIVE DIRECTOR'S APPOINTMENT, RETENTION, AND REMOVAL OF ~~SUCH~~ STAFF SHALL BE IN ACCORDANCE WITH DIVISION I OF THE STATE PERSONNEL AND PENSIONS ARTICLE.

(4) ~~TO THE EXTENT PRACTICABLE, IN~~ IN HIRING STAFF FOR FUNCTIONS THAT HAVE BEEN AND CURRENTLY ARE PERFORMED BY STATE PERSONNEL, THE EXECUTIVE DIRECTOR'S APPOINTMENT, RETENTION, AND REMOVAL OF ~~SUCH~~ STAFF SHALL BE IN ACCORDANCE WITH DIVISION I OF THE STATE PERSONNEL AND PENSIONS ARTICLE.

(5) ~~IN HIRING~~ EXCEPT AS PROVIDED IN PARAGRAPH (6) OF THIS SUBSECTION, STAFF FOR ALL OTHER POSITIONS NECESSARY TO CARRY OUT THE PURPOSES OF THIS TITLE, THE EXECUTIVE DIRECTOR, WITH THE APPROVAL OF THE BOARD, MAY:

(I) ~~DESIGNATE POSITIONS AS TECHNICAL OR PROFESSIONAL TO BE~~ SHALL BE POSITIONS IN THE EXECUTIVE SERVICE OR MANAGEMENT SERVICE, OR SPECIAL APPOINTMENTS OF THE SKILLED SERVICE OR THE PROFESSIONAL SERVICE IN THE STATE PERSONNEL MANAGEMENT SYSTEM; ~~AND~~

(II) ~~RETAIN AS INDEPENDENT CONTRACTORS OR EMPLOYEES, AND SET COMPENSATION FOR, ATTORNEYS, FINANCIAL CONSULTANTS, AND ANY OTHER PROFESSIONALS OR CONSULTANTS NECESSARY TO CARRY OUT THE PLANNING, DEVELOPMENT, AND OPERATIONS OF THE EXCHANGE AND THE PROVISIONS OF THIS TITLE.~~

(6) THE EXECUTIVE DIRECTOR MAY RETAIN AS INDEPENDENT CONTRACTORS OR EMPLOYEES, AND SET COMPENSATION FOR, ATTORNEYS, FINANCIAL CONSULTANTS, AND ANY OTHER PROFESSIONALS OR CONSULTANTS NECESSARY TO CARRY OUT THE PLANNING, DEVELOPMENT, AND OPERATIONS OF THE EXCHANGE AND THE PROVISIONS OF THIS TITLE.

(D) THE EXECUTIVE DIRECTOR SHALL DETERMINE THE CLASSIFICATION, GRADE, AND COMPENSATION OF STAFF OF THE EXCHANGE HIRED OR DESIGNATED UNDER SUBSECTION (C)(3), (4), AND (5)~~(4)~~ OF THIS SECTION:

- (1) IN CONSULTATION WITH THE SECRETARY OF BUDGET AND MANAGEMENT;**
- (2) WITH THE APPROVAL OF THE BOARD; AND**
- (3) WHEN POSSIBLE, IN ACCORDANCE WITH THE STATE PAY PLAN.**

**(E) (1) WITH RESPECT TO STAFF OF THE EXCHANGE HIRED OR DESIGNATED UNDER SUBSECTION (C)(3), (4), AND (5)~~(4)~~ OF THIS SECTION, THE EXECUTIVE DIRECTOR SHALL SUBMIT TO THE SECRETARY OF BUDGET AND MANAGEMENT, AT LEAST 45 DAYS BEFORE THE EFFECTIVE DATE OF THE CHANGE, EACH CHANGE TO THE EXCHANGE'S SALARY PLANS THAT INVOLVES INCREASES OR DECREASES IN SALARY RANGES OTHER THAN THOSE ASSOCIATED WITH ROUTINE RECLASSIFICATIONS AND PROMOTIONS OR GENERAL SALARY INCREASES APPROVED BY THE GENERAL ASSEMBLY.**

**(2) REPORTABLE CHANGES INCLUDE:**

- (I) THE CREATION OR ABOLITION OF CLASSES;**
- (II) THE REGRADING OF CLASSES FROM ONE ESTABLISHED RANGE TO ANOTHER; AND**
- (III) THE CREATION OF NEW PAY SCHEDULES OR RANGES.**

**(3) THE SECRETARY OF BUDGET AND MANAGEMENT SHALL:**

- (I) REVIEW THE PROPOSED CHANGE; AND**
- (II) AT LEAST 15 DAYS BEFORE THE EFFECTIVE DATE OF THE PROPOSED CHANGE:**

**1. ADVISE THE EXECUTIVE DIRECTOR WHETHER THE CHANGE WOULD HAVE AN ADVERSE EFFECT ON COMPARABLE STATE JOBS; AND**

**2. IF THERE WOULD BE AN ADVERSE EFFECT, RECOMMEND AN ALTERNATIVE CHANGE THAT WOULD NOT HAVE AN ADVERSE EFFECT ON COMPARABLE STATE JOBS.**

**(4) FAILURE OF THE SECRETARY OF BUDGET AND MANAGEMENT TO RESPOND IN A TIMELY MANNER IS DEEMED TO BE AGREEMENT WITH THE CHANGE AS SUBMITTED.**

(F) EXCEPT AS OTHERWISE PROVIDED IN THIS TITLE, AN EMPLOYEE OR INDEPENDENT CONTRACTOR OF THE EXCHANGE IS NOT SUBJECT TO ANY LAW, REGULATION, OR EXECUTIVE ORDER GOVERNING STATE COMPENSATION, INCLUDING FURLONGHS, PAY CUTS, OR ANY OTHER GENERAL FUND COST SAVINGS MEASURE.

31-106.

(A) SUBJECT TO ANY LIMITATIONS UNDER THIS TITLE OR OTHER APPLICABLE LAW, THE BOARD SHALL HAVE ALL POWERS NECESSARY OR CONVENIENT TO ~~FURTHER~~ CARRY OUT THE FUNCTIONS AUTHORIZED BY THE AFFORDABLE CARE ACT AND CONSISTENT WITH THE PURPOSES OF THE EXCHANGE.

(B) THE ENUMERATION OF SPECIFIC POWERS IN THIS TITLE IS NOT INTENDED TO RESTRICT THE BOARD'S POWER TO TAKE ANY LAWFUL ACTION THAT THE BOARD DETERMINES IS NECESSARY OR CONVENIENT TO ~~FURTHER~~ CARRY OUT THE FUNCTIONS AUTHORIZED BY THE AFFORDABLE CARE ACT AND CONSISTENT WITH THE PURPOSES OF THE EXCHANGE.

(C) IN ADDITION TO THE POWERS SET FORTH ELSEWHERE IN THIS TITLE, THE BOARD MAY:

- (1) ADOPT AND ALTER AN OFFICIAL SEAL;
- (2) SUE, BE SUED, PLEAD, AND BE IMPEADED;
- (3) ADOPT BYLAWS, RULES, AND POLICIES;
- (4) ADOPT REGULATIONS TO CARRY OUT THIS TITLE:

(I) IN ACCORDANCE WITH TITLE 10, SUBTITLE 1 OF THE STATE GOVERNMENT ARTICLE; AND

(II) WITHOUT CONFLICTING WITH OR PREVENTING APPLICATION OF REGULATIONS ADOPTED BY THE SECRETARY UNDER TITLE 1, SUBTITLE D OF THE AFFORDABLE CARE ACT;

(5) MAINTAIN AN OFFICE AT THE PLACE DESIGNATED BY THE BOARD;

(6) ~~APPOINT ADVISORY COMMITTEES COMPOSED OF EXPERTS AND INDIVIDUALS KNOWLEDGEABLE ABOUT INDIVIDUAL AND~~

~~EMPLOYER SPONSORED HEALTH CARE COVERAGE, HEALTH BENEFIT PLAN ADMINISTRATION, HEALTH CARE FINANCE, ADMINISTRATION OF PUBLIC AND PRIVATE HEALTH CARE DELIVERY SYSTEMS, PURCHASING AND FACILITATING ENROLLMENT IN HEALTH PLAN COVERAGE, HEALTH CARE DELIVERY MODELS AND PAYMENT REFORMS, AND OTHER EXPERTS AND INDIVIDUALS AS APPROPRIATE;~~

~~(7)~~ ENTER INTO ANY AGREEMENTS OR CONTRACTS AND EXECUTE THE INSTRUMENTS NECESSARY OR CONVENIENT TO MANAGE ITS OWN AFFAIRS AND CARRY OUT THE PURPOSES OF THIS TITLE;

~~(8)~~ (7) APPLY FOR AND RECEIVE GRANTS, CONTRACTS, OR OTHER PUBLIC OR PRIVATE FUNDING; AND

~~(9)~~ (8) DO ALL THINGS NECESSARY OR CONVENIENT TO CARRY OUT THE POWERS GRANTED BY THIS TITLE.

(D) (1) TO CARRY OUT THE PURPOSES OF THIS TITLE OR PERFORM ANY OF ITS FUNCTIONS UNDER THIS TITLE, THE BOARD MAY CONTRACT OR ENTER INTO MEMORANDA OF UNDERSTANDING WITH ELIGIBLE ENTITIES, INCLUDING:

(I) THE MARYLAND MEDICAL ASSISTANCE PROGRAM;

(II) THE FAMILY INVESTMENT UNIT OF THE DEPARTMENT OF HUMAN RESOURCES;

(III) INSURANCE PRODUCERS AND THIRD PARTY ADMINISTRATORS REGISTERED IN THE STATE ~~THAT ARE NOT AFFILIATED WITH A CARRIER~~; AND

(IV) ANY OTHER ENTITIES ~~NOT AFFILIATED WITH A CARRIER~~ THAT HAVE EXPERIENCE IN INDIVIDUAL AND SMALL GROUP PUBLIC AND PRIVATE HEALTH INSURANCE PLANS ~~AND~~ OR FACILITATING ENROLLMENT IN THOSE PLANS.

(2) THE OPERATIONS OF THE EXCHANGE ARE SUBJECT TO THE PROVISIONS OF THIS TITLE WHETHER THE OPERATIONS ARE PERFORMED DIRECTLY BY THE EXCHANGE OR THROUGH AN ENTITY UNDER A CONTRACT WITH THE EXCHANGE.

(3) THE BOARD SHALL ENSURE THAT ANY ENTITY UNDER A CONTRACT WITH THE EXCHANGE COMPLIES WITH THE PROVISIONS OF THIS

**TITLE WHEN PERFORMING SERVICES THAT ARE SUBJECT TO THIS TITLE ON BEHALF OF THE EXCHANGE.**

**(E) (1) THE BOARD MAY ENTER INTO INFORMATION-SHARING AGREEMENTS WITH FEDERAL AND STATE AGENCIES, AND OTHER STATE HEALTH INSURANCE EXCHANGES, TO CARRY OUT THE PROVISIONS OF THIS TITLE.**

**(2) AN INFORMATION-SHARING AGREEMENT ENTERED INTO UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL:**

**(I) INCLUDE ADEQUATE PROTECTIONS WITH RESPECT TO THE CONFIDENTIALITY OF INFORMATION; AND**

**(II) COMPLY WITH ALL STATE AND FEDERAL LAWS AND REGULATIONS.**

**(F) (1) THE BOARD, IN ACCORDANCE WITH TITLE 12, SUBTITLE 4 OF THE STATE FINANCE AND PROCUREMENT ARTICLE, SHALL ADOPT WRITTEN POLICIES AND PROCEDURES GOVERNING ALL PROCUREMENTS OF THE EXCHANGE.**

**(2) TO THE FULLEST EXTENT PRACTICABLE, AND IN A MANNER THAT DOES NOT IMPAIR THE EXCHANGE'S ABILITY TO CARRY OUT THE PURPOSES OF THIS TITLE, THE BOARD'S PROCUREMENT POLICIES AND PROCEDURES SHALL ESTABLISH AN OPEN AND TRANSPARENT PROCESS THAT:**

**(I) PROMOTES PUBLIC CONFIDENCE IN THE PROCUREMENTS OF THE EXCHANGE;**

**(II) ENSURES FAIR AND EQUITABLE TREATMENT OF ALL PERSONS AND ENTITIES THAT PARTICIPATE IN THE PROCUREMENT SYSTEM OF THE EXCHANGE;**

**(III) FOSTERS APPROPRIATE COMPETITION AND PROVIDES SAFEGUARDS FOR MAINTAINING A PROCUREMENT SYSTEM OF QUALITY AND INTEGRITY;**

**(IV) PROMOTES INCREASED ECONOMIC EFFICIENCY AND RESPONSIBILITY ON THE PART OF THE EXCHANGE;**

**(V) ACHIEVES THE MAXIMUM BENEFIT FROM THE PURCHASING POWER OF THE EXCHANGE; AND**



(VI) PROVIDES CLARITY AND SIMPLICITY IN THE RULES AND PROCEDURES GOVERNING THE PROCUREMENTS OF THE EXCHANGE.

(G) TO CARRY OUT THE PURPOSES OF THIS TITLE, THE BOARD SHALL:

(1) CREATE AND CONSULT WITH ADVISORY COMMITTEES; AND

(2) APPOINT TO THE ADVISORY COMMITTEES REPRESENTATIVES OF:

(I) INSURERS OR HEALTH MAINTENANCE ORGANIZATIONS OFFERING HEALTH BENEFIT PLANS IN THE STATE;

(II) NONPROFIT HEALTH SERVICE PLANS OFFERING HEALTH BENEFIT PLANS IN THE STATE;

(III) LICENSED HEALTH INSURANCE PRODUCERS AND ADVISERS;

(IV) THIRD-PARTY ADMINISTRATORS;

(V) HEALTH CARE PROVIDERS, INCLUDING:

1. HOSPITALS;

2. LONG-TERM CARE FACILITIES;

3. MENTAL HEALTH PROVIDERS;

4. DEVELOPMENTAL DISABILITY PROVIDERS;

5. SUBSTANCE ABUSE TREATMENT PROVIDERS;

6. FEDERALLY QUALIFIED HEALTH CENTERS;

7. PHYSICIANS;

8. NURSES;

9. EXPERTS IN SERVICES AND CARE COORDINATION FOR CRIMINAL AND JUVENILE JUSTICE POPULATIONS;

10. LICENSED HOSPICE PROVIDERS; AND

11. OTHER HEALTH CARE PROFESSIONALS;

(VI) MANAGED CARE ORGANIZATIONS;

(VII) EMPLOYERS, INCLUDING LARGE, SMALL, AND MINORITY-OWNED EMPLOYERS;

(VIII) PUBLIC EMPLOYEE UNIONS, INCLUDING PUBLIC EMPLOYEE UNION MEMBERS WHO ARE CASEWORKERS IN LOCAL DEPARTMENTS OF SOCIAL SERVICES WITH DIRECT KNOWLEDGE OF INFORMATION TECHNOLOGY SYSTEMS USED FOR MEDICAID ELIGIBILITY DETERMINATION;

(IX) CONSUMERS, INCLUDING INDIVIDUALS WHO:

1. RESIDE IN LOWER-INCOME AND RACIAL OR ETHNIC MINORITY COMMUNITIES;

2. HAVE CHRONIC DISEASES OR DISABILITIES; OR

3. BELONG TO OTHER HARD-TO-REACH OR SPECIAL POPULATIONS;

(X) INDIVIDUALS WITH KNOWLEDGE AND EXPERTISE IN ADVOCACY FOR CONSUMERS DESCRIBED IN ITEM (IX) OF THIS ITEM;

(XI) PUBLIC HEALTH RESEARCHERS AND OTHER ACADEMIC EXPERTS WITH KNOWLEDGE AND BACKGROUND RELEVANT TO THE FUNCTIONS AND GOALS OF THE EXCHANGE, INCLUDING KNOWLEDGE OF THE HEALTH NEEDS AND HEALTH DISPARITIES AMONG THE STATE'S DIVERSE COMMUNITIES; AND

(XII) ANY OTHER STAKEHOLDERS IDENTIFIED BY THE EXCHANGE AS HAVING KNOWLEDGE OR REPRESENTING INTERESTS RELEVANT TO THE FUNCTIONS AND DUTIES OF THE EXCHANGE.

31-107.

~~(A) IN THIS SECTION, "FUND" MEANS THE MARYLAND HEALTH BENEFIT EXCHANGE FUND.~~

~~(B)~~ (A) THERE IS A MARYLAND HEALTH BENEFIT EXCHANGE FUND.

~~(C)~~ (B) THE PURPOSE OF THE FUND IS TO PROVIDE FUNDING FOR THE OPERATION AND ADMINISTRATION OF THE EXCHANGE IN CARRYING OUT THE PURPOSES OF THE EXCHANGE UNDER THIS TITLE.

~~(D)~~ (C) THE EXCHANGE SHALL ADMINISTER THE FUND.

~~(E)~~ (D) (1) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(2) THE STATE TREASURER SHALL HOLD THE FUND SEPARATELY, AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.

~~(F)~~ (E) THE FUND CONSISTS OF:

(1) ANY USER FEES OR OTHER ASSESSMENTS COLLECTED BY THE EXCHANGE;

(2) INCOME FROM INVESTMENTS MADE ON BEHALF OF THE FUND;

(3) INTEREST ON DEPOSITS OR INVESTMENTS OF MONEY IN THE FUND;

(4) MONEY COLLECTED BY THE BOARD AS A RESULT OF LEGAL OR OTHER ACTIONS TAKEN BY THE BOARD ON BEHALF OF THE EXCHANGE OR THE FUND;

(5) MONEY DONATED TO THE FUND;

(6) MONEY AWARDED TO THE FUND THROUGH GRANTS; AND

(7) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR THE BENEFIT OF THE FUND.

~~(G)~~ (F) THE FUND MAY BE USED ONLY TO PROVIDE FUNDING FOR THE OPERATION AND ADMINISTRATION OF THE EXCHANGE IN CARRYING OUT THE PURPOSES AUTHORIZED UNDER THIS TITLE.

~~(H)~~ (G) (1) THE STATE TREASURER SHALL INVEST THE MONEY OF THE FUND IN THE SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.

(2) ANY INVESTMENT EARNINGS OF THE FUND SHALL BE CREDITED TO THE FUND.

(3) NO PART OF THE FUND MAY REVERT OR BE CREDITED TO THE GENERAL FUND OR ANY SPECIAL FUND OF THE STATE.

~~(H)~~ (H) A DEBT OR AN OBLIGATION OF THE FUND IS NOT A DEBT OF THE STATE OR A PLEDGE OF CREDIT OF THE STATE.

31-108.

(A) ON OR BEFORE JANUARY 1, 2014, THE FUNCTIONS AND OPERATIONS OF THE EXCHANGE SHALL INCLUDE AT A MINIMUM ALL FUNCTIONS REQUIRED BY § 1311(D)(4) OF THE AFFORDABLE CARE ACT.

(B) ON OR BEFORE JANUARY 1, 2014, IN COMPLIANCE WITH § 1311(D)(4) OF THE AFFORDABLE CARE ACT, THE EXCHANGE SHALL:

(1) MAKE QUALIFIED HEALTH PLANS AVAILABLE TO QUALIFIED INDIVIDUALS AND QUALIFIED EMPLOYERS;

(2) ALLOW A CARRIER TO OFFER A QUALIFIED ~~HEALTH~~ DENTAL PLAN THROUGH THE EXCHANGE THAT PROVIDES LIMITED SCOPE DENTAL BENEFITS ~~UNDER THAT MEET THE REQUIREMENTS OF § 9832(C)(2)(A) OF THE INTERNAL REVENUE CODE~~, EITHER SEPARATELY OR IN CONJUNCTION WITH A QUALIFIED HEALTH PLAN, PROVIDED THAT THE QUALIFIED HEALTH PLAN PROVIDES PEDIATRIC DENTAL BENEFITS THAT MEET THE REQUIREMENTS OF § 1302(B)(1)(J) OF THE AFFORDABLE CARE ACT;

(3) IMPLEMENT PROCEDURES FOR THE CERTIFICATION, RECERTIFICATION, AND DECERTIFICATION OF HEALTH BENEFIT PLANS AS QUALIFIED HEALTH PLANS, CONSISTENT WITH GUIDELINES DEVELOPED BY THE SECRETARY UNDER § 1311(C) OF THE AFFORDABLE CARE ACT;

(4) PROVIDE FOR THE OPERATION OF A TOLL-FREE TELEPHONE HOTLINE TO RESPOND TO REQUESTS FOR ASSISTANCE;

(5) PROVIDE FOR INITIAL, ANNUAL, AND SPECIAL ENROLLMENT PERIODS, IN ACCORDANCE WITH GUIDELINES ADOPTED BY THE SECRETARY UNDER § 1311(C)(6) OF THE AFFORDABLE CARE ACT;

(6) MAINTAIN A WEB SITE THROUGH WHICH ENROLLEES AND PROSPECTIVE ENROLLEES OF QUALIFIED HEALTH PLANS MAY OBTAIN STANDARDIZED COMPARATIVE INFORMATION ON QUALIFIED HEALTH PLANS AND QUALIFIED DENTAL PLANS;

(7) WITH RESPECT TO EACH QUALIFIED HEALTH PLAN OFFERED THROUGH THE EXCHANGE:

(I) ASSIGN A RATING FOR EACH QUALIFIED HEALTH PLAN IN ACCORDANCE WITH THE CRITERIA DEVELOPED BY THE SECRETARY UNDER § 1311(C)(3) OF THE AFFORDABLE CARE ACT AND ANY ADDITIONAL CRITERIA THAT MAY BE APPLICABLE UNDER THE LAWS OF THE STATE AND REGULATIONS ADOPTED BY THE EXCHANGE UNDER THIS TITLE; AND

(II) DETERMINE EACH QUALIFIED HEALTH PLAN'S LEVEL OF COVERAGE IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE SECRETARY UNDER § 1302(D)(2)(A) OF THE AFFORDABLE CARE ACT AND ANY ADDITIONAL REGULATIONS ADOPTED BY THE EXCHANGE UNDER THIS TITLE;

(8) PRESENT QUALIFIED HEALTH PLAN OPTIONS OFFERED BY THE EXCHANGE IN A STANDARDIZED FORMAT, INCLUDING THE USE OF THE UNIFORM OUTLINE OF COVERAGE ESTABLISHED UNDER § 2715 OF THE FEDERAL PUBLIC HEALTH SERVICE ACT;

(9) IN ACCORDANCE WITH § 1413 OF THE AFFORDABLE CARE ACT, PROVIDE INFORMATION AND MAKE DETERMINATIONS REGARDING ELIGIBILITY FOR THE FOLLOWING PROGRAMS:

(I) THE MARYLAND MEDICAL ASSISTANCE PROGRAM UNDER TITLE XIX OF THE SOCIAL SECURITY ACT;

(II) THE MARYLAND CHILDREN'S HEALTH ~~INSURANCE~~ PROGRAM UNDER TITLE XXI OF THE SOCIAL SECURITY ACT; AND

(III) ANY APPLICABLE STATE OR LOCAL PUBLIC HEALTH INSURANCE PROGRAM;

(10) FACILITATE THE ENROLLMENT OF ANY INDIVIDUAL WHO THE EXCHANGE DETERMINES IS ELIGIBLE FOR A PROGRAM DESCRIBED IN ITEM (9) OF THIS SUBSECTION;

(11) ESTABLISH AND MAKE AVAILABLE BY ELECTRONIC MEANS A CALCULATOR TO DETERMINE THE ACTUAL COST OF COVERAGE OF A QUALIFIED HEALTH PLAN AND A QUALIFIED DENTAL PLAN OFFERED BY THE EXCHANGE AFTER APPLICATION OF ANY PREMIUM TAX CREDIT UNDER § 36B OF THE INTERNAL REVENUE CODE AND ANY COST-SHARING REDUCTION UNDER § 1402 OF THE AFFORDABLE CARE ACT;

(12) ESTABLISH A SHOP EXCHANGE THROUGH WHICH QUALIFIED EMPLOYERS MAY ACCESS COVERAGE FOR THEIR EMPLOYEES AT SPECIFIED LEVELS OF COVERAGE AND MEET STANDARDS FOR THE FEDERAL QUALIFIED EMPLOYER TAX CREDIT;

**(13) IMPLEMENT A CERTIFICATION PROCESS FOR INDIVIDUALS EXEMPT FROM THE INDIVIDUAL RESPONSIBILITY REQUIREMENT AND PENALTY UNDER § 5000A OF THE INTERNAL REVENUE CODE ON THE GROUNDS THAT:**

**(I) NO AFFORDABLE QUALIFIED HEALTH PLAN THAT COVERS THE INDIVIDUAL IS AVAILABLE THROUGH THE EXCHANGE OR THE INDIVIDUAL'S EMPLOYER; OR**

**(II) THE INDIVIDUAL MEETS OTHER REQUIREMENTS UNDER THE AFFORDABLE CARE ACT THAT MAKE THE INDIVIDUAL ELIGIBLE FOR THE EXEMPTION;**

**(14) IMPLEMENT A PROCESS FOR TRANSFER TO THE UNITED STATES SECRETARY OF THE TREASURY THE NAME AND TAXPAYER IDENTIFICATION NUMBER OF EACH INDIVIDUAL WHO:**

**(I) IS CERTIFIED AS EXEMPT FROM THE INDIVIDUAL RESPONSIBILITY REQUIREMENT;**

**(II) IS EMPLOYED BUT DETERMINED ELIGIBLE FOR THE PREMIUM TAX CREDIT ON THE GROUNDS THAT:**

**1. THE INDIVIDUAL'S EMPLOYER DOES NOT PROVIDE MINIMUM ESSENTIAL COVERAGE; OR**

**2. THE EMPLOYER'S COVERAGE IS DETERMINED TO BE UNAFFORDABLE FOR THE INDIVIDUAL OR DOES NOT PROVIDE THE REQUISITE MINIMUM ACTUARIAL VALUE;**

**(III) NOTIFIES THE EXCHANGE UNDER § 1411(B)(4) OF THE AFFORDABLE CARE ACT THAT THE INDIVIDUAL HAS CHANGED EMPLOYERS; AND**

**(IV) CEASES COVERAGE UNDER A QUALIFIED HEALTH PLAN DURING THE PLAN YEAR, TOGETHER WITH THE DATE COVERAGE CEASED;**

**(15) PROVIDE NOTICE TO EMPLOYERS OF EMPLOYEES WHO CEASE COVERAGE UNDER A QUALIFIED HEALTH PLAN DURING A PLAN YEAR, TOGETHER WITH THE DATE COVERAGE CEASED;**

**(16) CONDUCT PROCESSES REQUIRED BY THE SECRETARY AND THE UNITED STATES SECRETARY OF THE TREASURY TO DETERMINE**

ELIGIBILITY FOR PREMIUM TAX CREDITS, REDUCED COST-SHARING, AND INDIVIDUAL RESPONSIBILITY REQUIREMENT EXEMPTIONS;

(17) ESTABLISH A NAVIGATOR PROGRAM IN ACCORDANCE WITH § 1311(I) OF THE AFFORDABLE CARE ACT AND ANY REQUIREMENTS ESTABLISHED UNDER THIS TITLE;

(18) (I) ESTABLISH A PROCESS, IN ACCORDANCE WITH § 10108 OF THE AFFORDABLE CARE ACT, FOR CREDITING THE AMOUNT OF FREE CHOICE VOUCHERS TO PREMIUMS OF QUALIFIED HEALTH PLANS AND QUALIFIED DENTAL PLANS IN WHICH QUALIFIED EMPLOYEES ARE ENROLLED; AND

(II) COLLECT THE AMOUNT CREDITED FROM THE EMPLOYER OFFERING THE QUALIFIED HEALTH PLAN;

(19) CARRY OUT A PLAN TO PROVIDE APPROPRIATE ASSISTANCE FOR CONSUMERS SEEKING TO PURCHASE PRODUCTS THROUGH THE EXCHANGE, INCLUDING THE IMPLEMENTATION OF THE NAVIGATOR PROGRAM AND TOLL-FREE HOTLINE REQUIRED UNDER ITEM (4) OF THIS SUBSECTION; AND

(20) CARRY OUT A PUBLIC RELATIONS AND ADVERTISING CAMPAIGN TO PROMOTE THE EXCHANGE.

(C) IF THE INDIVIDUAL ENROLLS IN ANOTHER TYPE OF MINIMUM ESSENTIAL COVERAGE NEITHER THE EXCHANGE NOR A CARRIER OFFERING QUALIFIED HEALTH PLANS THROUGH THE EXCHANGE MAY CHARGE AN INDIVIDUAL A FEE OR PENALTY FOR TERMINATION OF COVERAGE ON THE GROUNDS THAT:

(1) THE INDIVIDUAL HAS BECOME NEWLY ELIGIBLE FOR THAT COVERAGE; OR

(2) THE INDIVIDUAL'S EMPLOYER-SPONSORED COVERAGE HAS BECOME AFFORDABLE UNDER THE STANDARDS OF § 36B(C)(2)(C) OF THE INTERNAL REVENUE CODE.

~~(D) IN CARRYING OUT ITS DUTIES UNDER THIS TITLE, THE EXCHANGE, THROUGH THE ADVISORY COMMITTEES ESTABLISHED UNDER § 31-106(C)(6) OF THIS TITLE OR THROUGH OTHER MEANS, SHALL CONSULT WITH STAKEHOLDERS, INCLUDING:~~

~~(1) INDIVIDUAL HEALTH CARE CONSUMERS;~~

- ~~(2) SMALL AND LARGE EMPLOYERS;~~
- ~~(3) INDIVIDUALS AND ENTITIES WITH EXPERIENCE IN FACILITATING ENROLLMENT IN QUALIFIED HEALTH PLANS;~~
- ~~(4) ADVOCATES FOR SPECIAL AND HARD TO REACH POPULATIONS;~~
- ~~(5) REPRESENTATIVES OF HEALTH CARE PROVIDERS, CARRIERS, AND PLAN ADMINISTRATORS;~~
- ~~(6) EXPERTS IN THE ADMINISTRATION OF PUBLIC AND PRIVATE HEALTH CARE DELIVERY SYSTEMS AND HEALTH CARE FINANCE; AND~~
- ~~(7) ANY OTHER APPROPRIATE STAKEHOLDERS IDENTIFIED BY THE EXCHANGE.~~

(D) THE EXCHANGE, THROUGH THE ADVISORY COMMITTEES ESTABLISHED UNDER § 31-106(G) OF THIS TITLE OR THROUGH OTHER MEANS, SHALL CONSULT WITH AND CONSIDER THE RECOMMENDATIONS OF THE STAKEHOLDERS REPRESENTED ON THE ADVISORY COMMITTEES IN THE EXERCISE OF ITS DUTIES UNDER THIS TITLE.

(E) THE EXCHANGE MAY NOT MAKE AVAILABLE:

- (1) ANY HEALTH BENEFIT PLAN THAT IS NOT A QUALIFIED HEALTH PLAN; OR
- (2) ANY DENTAL PLAN THAT IS NOT A QUALIFIED DENTAL PLAN.

### 31-109.

(A) THE EXCHANGE SHALL CERTIFY HEALTH BENEFIT PLANS AS QUALIFIED HEALTH PLANS.

(B) TO BE CERTIFIED AS A QUALIFIED HEALTH PLAN, A HEALTH BENEFIT PLAN SHALL:

- (1) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, PROVIDE THE ESSENTIAL BENEFITS PACKAGE REQUIRED UNDER § 1302(A) OF THE AFFORDABLE CARE ACT;
- (2) OBTAIN PRIOR APPROVAL OF PREMIUM RATES AND CONTRACT LANGUAGE FROM THE COMMISSIONER;



**(3) EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, PROVIDE AT LEAST A BRONZE LEVEL OF COVERAGE, AS DEFINED IN THE AFFORDABLE CARE ACT AND DETERMINED BY THE EXCHANGE UNDER § 31-108(B)(7)(II) OF THIS TITLE;**

**(4) (I) ENSURE THAT ITS COST-SHARING REQUIREMENTS DO NOT EXCEED THE LIMITS ESTABLISHED UNDER § 1302(C)(1) OF THE AFFORDABLE CARE ACT; AND**

**(II) IF THE HEALTH BENEFIT PLAN IS OFFERED THROUGH THE SHOP EXCHANGE, ENSURE THAT THE HEALTH BENEFIT PLAN'S DEDUCTIBLE DOES NOT EXCEED THE LIMITS ESTABLISHED UNDER § 1302(C)(2) OF THE AFFORDABLE CARE ACT;**

**(5) BE OFFERED BY A CARRIER THAT:**

**(I) IS LICENSED AND IN GOOD STANDING TO OFFER HEALTH INSURANCE COVERAGE IN THE STATE;**

**(II) IF THE CARRIER PARTICIPATES IN THE EXCHANGE'S INDIVIDUAL MARKET, OFFERS AT LEAST ONE QUALIFIED HEALTH PLAN AT THE SILVER LEVEL AND ONE AT THE GOLD LEVEL IN THE INDIVIDUAL MARKET OUTSIDE THE EXCHANGE;**

**(III) IF THE CARRIER PARTICIPATES IN THE SHOP EXCHANGE, OFFERS AT LEAST ONE QUALIFIED HEALTH PLAN AT THE SILVER LEVEL AND ONE AT THE GOLD LEVEL IN THE SMALL GROUP MARKET OUTSIDE THE SHOP EXCHANGE;**

**(IV) CHARGES THE SAME PREMIUM RATE FOR EACH QUALIFIED HEALTH PLAN REGARDLESS OF WHETHER THE QUALIFIED HEALTH PLAN IS OFFERED THROUGH THE EXCHANGE, THROUGH AN INSURANCE PRODUCER OUTSIDE THE EXCHANGE, OR DIRECTLY FROM A CARRIER;**

**(V) DOES NOT CHARGE ANY CANCELLATION FEES OR PENALTIES IN VIOLATION OF § 31-108(C) OF THIS TITLE; AND**

**(VI) COMPLIES WITH THE REGULATIONS ADOPTED BY THE SECRETARY UNDER § 1311(D) OF THE AFFORDABLE CARE ACT AND BY THE EXCHANGE UNDER § 31-106(C)(4) OF THIS TITLE;**

**(6) MEET THE REQUIREMENTS FOR CERTIFICATION ESTABLISHED UNDER THE REGULATIONS ADOPTED BY:**

(I) THE SECRETARY UNDER § 1311(C)(1) OF THE AFFORDABLE CARE ACT, INCLUDING MINIMUM STANDARDS FOR MARKETING PRACTICES, NETWORK ADEQUACY, ESSENTIAL COMMUNITY PROVIDERS IN UNDERSERVED AREAS, ACCREDITATION, QUALITY IMPROVEMENT, UNIFORM ENROLLMENT FORMS AND DESCRIPTIONS OF COVERAGE, AND INFORMATION ON QUALITY MEASURES FOR HEALTH PLAN PERFORMANCE; AND

(II) THE EXCHANGE UNDER § 31-106(C)(4) OF THIS TITLE;

(7) BE IN THE INTEREST OF QUALIFIED INDIVIDUALS AND QUALIFIED EMPLOYERS, AS DETERMINED BY THE EXCHANGE;

(8) PROVIDE ANY OTHER BENEFITS AS MAY BE REQUIRED BY THE COMMISSIONER UNDER ANY APPLICABLE STATE LAW OR REGULATION; AND

(9) MEET ANY OTHER REQUIREMENTS ESTABLISHED BY THE EXCHANGE UNDER THIS TITLE.

(C) A QUALIFIED HEALTH PLAN IS NOT REQUIRED TO PROVIDE ESSENTIAL BENEFITS THAT DUPLICATE THE MINIMUM BENEFITS OF QUALIFIED DENTAL PLANS, AS PROVIDED IN SUBSECTION (G) OF THIS SECTION, IF:

(1) THE EXCHANGE HAS DETERMINED THAT ~~AN ADEQUATE CHOICE OF~~ AT LEAST ONE QUALIFIED DENTAL PLANS PLAN IS AVAILABLE TO SUPPLEMENT THE QUALIFIED HEALTH PLAN'S COVERAGE; AND

(2) AT THE TIME THE CARRIER OFFERS THE QUALIFIED HEALTH PLAN, THE CARRIER DISCLOSES IN A FORM APPROVED BY THE EXCHANGE THAT:

(I) THE PLAN DOES NOT PROVIDE THE FULL RANGE OF ESSENTIAL PEDIATRIC BENEFITS; AND

(II) QUALIFIED DENTAL PLANS PROVIDING THESE AND OTHER DENTAL BENEFITS ALSO NOT PROVIDED BY THE QUALIFIED HEALTH PLAN ARE OFFERED THROUGH THE EXCHANGE.

(D) A QUALIFIED HEALTH PLAN IS NOT REQUIRED TO PROVIDE AT LEAST A BRONZE LEVEL OF COVERAGE UNDER SUBSECTION (B)(3) OF THIS SECTION IF THE QUALIFIED HEALTH PLAN:

(1) MEETS THE REQUIREMENTS AND IS CERTIFIED AS A QUALIFIED CATASTROPHIC PLAN AS PROVIDED UNDER THE AFFORDABLE CARE ACT; AND

**(2) WILL BE OFFERED ONLY TO INDIVIDUALS ELIGIBLE FOR CATASTROPHIC COVERAGE.**

**(E) A HEALTH BENEFIT PLAN MAY NOT BE DENIED CERTIFICATION:**

**(1) SOLELY ON THE GROUNDS THAT THE HEALTH BENEFIT PLAN IS A FEE-FOR-SERVICE PLAN;**

**(2) THROUGH THE IMPOSITION OF PREMIUM PRICE CONTROLS BY THE EXCHANGE; OR**

**(3) SOLELY ON THE GROUNDS THAT THE HEALTH BENEFIT PLAN PROVIDES TREATMENTS NECESSARY TO PREVENT PATIENTS' DEATHS IN CIRCUMSTANCES THE EXCHANGE DETERMINES ARE INAPPROPRIATE OR TOO COSTLY.**

**(F) IN ADDITION TO OTHER RATE FILING REQUIREMENTS THAT MAY BE APPLICABLE UNDER THIS ARTICLE, EACH CARRIER SEEKING CERTIFICATION OF A HEALTH BENEFIT PLAN SHALL:**

**(1) (I) SUBMIT TO THE EXCHANGE A JUSTIFICATION FOR ANY PREMIUM INCREASE BEFORE IMPLEMENTATION OF THE INCREASE; AND**

**(II) POST THE INCREASE ON THE CARRIER'S WEB SITE;**

**(2) SUBMIT TO THE EXCHANGE, THE SECRETARY, AND THE COMMISSIONER, AND MAKE AVAILABLE TO THE PUBLIC, IN PLAIN LANGUAGE AS REQUIRED UNDER § 1311(E)(3)(B) OF THE AFFORDABLE CARE ACT, ACCURATE AND TIMELY DISCLOSURE OF:**

**(I) CLAIMS PAYMENT POLICIES AND PRACTICES;**

**(II) FINANCIAL DISCLOSURES;**

**(III) DATA ON ENROLLMENT, DISENROLLMENT, NUMBER OF CLAIMS DENIED, AND RATING PRACTICES;**

**(IV) INFORMATION ON COST-SHARING AND PAYMENTS WITH RESPECT TO OUT-OF-NETWORK COVERAGE;**

**(V) INFORMATION ON ENROLLEE AND PARTICIPANT RIGHTS UNDER TITLE I OF THE AFFORDABLE CARE ACT; AND**

(VI) ANY OTHER INFORMATION AS DETERMINED APPROPRIATE BY THE SECRETARY AND THE EXCHANGE; AND

(3) MAKE AVAILABLE INFORMATION ABOUT COSTS AN INDIVIDUAL WOULD INCUR UNDER THE INDIVIDUAL'S HEALTH BENEFIT PLAN FOR SERVICES PROVIDED BY A PARTICIPATING HEALTH CARE PROVIDER, INCLUDING COST-SHARING REQUIREMENTS SUCH AS DEDUCTIBLES, CO-PAYMENTS, AND COINSURANCE, IN A MANNER DETERMINED BY THE EXCHANGE.

(G) (1) EXCEPT AS PROVIDED IN PARAGRAPHS (2), (3), AND (4) OF THIS SUBSECTION, THE REQUIREMENTS APPLICABLE TO QUALIFIED HEALTH PLANS UNDER THIS TITLE ALSO SHALL APPLY TO QUALIFIED DENTAL PLANS.

(2) A CARRIER OFFERING A QUALIFIED DENTAL PLAN SHALL BE LICENSED TO OFFER DENTAL COVERAGE BUT NEED NOT BE LICENSED TO OFFER OTHER HEALTH BENEFITS.

(3) A QUALIFIED DENTAL PLAN SHALL:

(I) BE LIMITED TO DENTAL AND ORAL HEALTH BENEFITS, WITHOUT SUBSTANTIAL DUPLICATION OF OTHER BENEFITS TYPICALLY OFFERED BY HEALTH BENEFIT PLANS WITHOUT DENTAL COVERAGE; AND

(II) INCLUDE AT A MINIMUM:

1. THE ESSENTIAL PEDIATRIC DENTAL BENEFITS REQUIRED BY THE SECRETARY UNDER § 1302(B)(1)(J) OF THE AFFORDABLE CARE ACT; AND

2. OTHER DENTAL BENEFITS REQUIRED BY THE SECRETARY OR THE EXCHANGE.

~~(III) INCLUDE ANY OTHER BENEFITS AS MAY BE REQUIRED BY THE SECRETARY OR THE EXCHANGE.~~

(4) CARRIERS JOINTLY MAY OFFER A COMPREHENSIVE PLAN THROUGH THE EXCHANGE IN WHICH DENTAL BENEFITS ARE PROVIDED BY A CARRIER THROUGH A QUALIFIED DENTAL PLAN AND OTHER BENEFITS ARE PROVIDED BY A CARRIER THROUGH A QUALIFIED HEALTH PLAN, PROVIDED THAT THE PLANS ARE PRICED SEPARATELY AND MADE AVAILABLE FOR PURCHASE SEPARATELY AT THE SAME PRICE AS WHEN OFFERED JOINTLY.

(A) ~~SUBJECT BEGINNING JANUARY 1, 2014, SUBJECT TO SUBSECTION~~  
~~(B)~~ SUBSECTIONS (B) AND (C) OF THIS SECTION, THE EXCHANGE MAY:

(1) IMPOSE USER FEES, LICENSING OR OTHER REGULATORY FEES, OR OTHER ASSESSMENTS ON PERSONS THAT BENEFIT FROM THE EXCHANGE THAT DO NOT EXCEED REASONABLE PROJECTIONS REGARDING THE AMOUNT NECESSARY TO SUPPORT THE OPERATIONS OF THE EXCHANGE UNDER THIS TITLE; OR

(2) OTHERWISE GENERATE FUNDING NECESSARY TO SUPPORT ITS OPERATIONS UNDER THIS TITLE.

(B) ANY FEES, ASSESSMENTS, OR OTHER FUNDING MECHANISMS SHALL BE IMPOSED OR IMPLEMENTED, TO THE MAXIMUM EXTENT POSSIBLE, IN A MANNER THAT IS TRANSPARENT AND BROAD-BASED.

(C) BEFORE IMPOSING OR ALTERING ANY FEE OR ASSESSMENT ESTABLISHED BY LAW, THE EXCHANGE SHALL ADOPT REGULATIONS THAT SPECIFY:

(1) THE PERSONS SUBJECT TO THE FEE OR ASSESSMENT;

(2) THE AMOUNT OF THE FEE OR ASSESSMENT; AND

(3) THE MANNER IN WHICH THE FEE OR ASSESSMENT WILL BE COLLECTED.

~~(C)~~ (D) FUNDS COLLECTED THROUGH ANY FEES, ASSESSMENTS, OR OTHER FUNDING MECHANISMS:

(1) SHALL BE DEPOSITED IN THE ~~MARYLAND HEALTH BENEFIT EXCHANGE~~ FUND;

(2) SHALL BE USED ONLY FOR THE PURPOSES AUTHORIZED UNDER THIS TITLE; AND

(3) MAY NOT BE USED FOR STAFF RETREATS, PROMOTIONAL GIVEAWAYS, EXCESSIVE EXECUTIVE COMPENSATION, OR PROMOTION OF FEDERAL OR STATE LEGISLATIVE AND REGULATORY ACTIONS.

(E) THE EXCHANGE MAY NOT IMPOSE FEES OR ASSESSMENTS AUTHORIZED UNDER THIS SECTION IN A MANNER THAT WOULD PROVIDE A

**COMPETITIVE DISADVANTAGE TO HEALTH BENEFIT PLANS OPERATING OUTSIDE OF THE EXCHANGE.**

~~(D)~~ **(F) THE EXCHANGE SHALL MAINTAIN A WEB SITE ON WHICH IT SHALL PUBLISH:**

**(1) THE AVERAGE AMOUNTS OF ANY FEES, ASSESSMENTS, OR OTHER PAYMENTS REQUIRED BY THE EXCHANGE;**

**(2) THE ADMINISTRATIVE COSTS OF THE EXCHANGE; AND**

**(3) THE AMOUNT OF FUNDS KNOWN TO BE LOST THROUGH WASTE, FRAUD, AND ABUSE.**

**31-111.**

**(A) THE EXCHANGE SHALL BE ADMINISTERED IN A MANNER DESIGNED TO:**

**(1) PREVENT DISCRIMINATION;**

**(2) STREAMLINE ENROLLMENT AND OTHER PROCESSES TO MINIMIZE EXPENSES AND ACHIEVE MAXIMUM EFFICIENCY;**

**(3) PREVENT WASTE, FRAUD, AND ABUSE; AND**

**(4) PROMOTE FINANCIAL INTEGRITY.**

**(B) THE EXCHANGE SHALL KEEP AN ACCURATE ACCOUNTING OF ALL ITS ACTIVITIES, EXPENDITURES, AND RECEIPTS.**

**(C) (1) ON OR BEFORE DECEMBER 1 OF EACH YEAR, THE BOARD SHALL FORWARD TO THE SECRETARY, THE GOVERNOR, AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY, A REPORT ON THE ACTIVITIES, EXPENDITURES, AND RECEIPTS OF THE EXCHANGE.**

**(2) THE REPORT SHALL:**

**(I) BE IN THE STANDARDIZED FORMAT REQUIRED BY THE SECRETARY;**

**(II) INCLUDE DATA REGARDING ~~COVERAGE, PRICE, QUALITY, BENEFITS, CONSUMER CHOICE, AND OTHER METRICS TO EVALUATE~~**

~~EXCHANGE PERFORMANCE, ASSURE TRANSPARENCY, AND FACILITATE RESEARCH AND ANALYSIS:~~

1. HEALTH PLAN PARTICIPATION, RATINGS, COVERAGE, PRICE, QUALITY IMPROVEMENT MEASURES, AND BENEFITS;

2. CONSUMER CHOICE, PARTICIPATION, AND SATISFACTION INFORMATION TO THE EXTENT THE INFORMATION IS AVAILABLE;

3. FINANCIAL INTEGRITY, FEE ASSESSMENTS, AND STATUS OF THE FUND; AND

4. ANY OTHER APPROPRIATE METRICS RELATED TO THE OPERATION OF THE EXCHANGE THAT MAY BE USED TO EVALUATE EXCHANGE PERFORMANCE, ASSURE TRANSPARENCY, AND FACILITATE RESEARCH AND ANALYSIS; AND

(III) INCLUDE DATA TO IDENTIFY DISPARITIES RELATED TO GENDER, RACE, ETHNICITY, GEOGRAPHIC LOCATION, LANGUAGE, DISABILITY, OR OTHER ATTRIBUTES OF SPECIAL POPULATIONS.

(D) THE BOARD SHALL COOPERATE FULLY WITH ANY INVESTIGATION INTO THE AFFAIRS OF THE EXCHANGE, INCLUDING MAKING AVAILABLE FOR EXAMINATION THE RECORDS OF THE EXCHANGE, CONDUCTED BY:

(1) THE SECRETARY UNDER THE SECRETARY'S AUTHORITY UNDER THE AFFORDABLE CARE ACT; AND

(2) THE COMMISSIONER UNDER THE COMMISSIONER'S AUTHORITY TO REGULATE THE SALE AND PURCHASE OF INSURANCE IN THE STATE.

SECTION 2. AND BE IT FURTHER ENACTED, That, with respect to the functions of the Maryland Health Benefit Exchange established under Section 1 of this Act, and the requirements for health benefit plan certification mandated by the federal Patient Protection and Affordable Care Act and as implemented by §§ 31-108 and 31-109 of the Insurance Article, as enacted by Section 1 of this Act, that require further guidance from the Secretary of Health and Human Services before full implementation is possible, the Exchange may not implement those functions or impose those requirements until ~~such~~ the further guidance is received.

~~SECTION 3. AND BE IT FURTHER ENACTED, That, with respect to the functions of the Maryland Health Benefit Exchange established under Section 1 of this Act, and the requirements for health benefit plan certification mandated by the federal Patient Protection and Affordable Care Act and as implemented by §§ 31-108 and~~

~~31-109 of the Insurance Article, as enacted by Section 1 of this Act, that require further study and recommendations under Section 5 of this Act before full implementation is possible, including recommendations for further legislative or regulatory action, the Exchange of Trustees of the Maryland Health Benefit Exchange established under Section 1 of this Act, may not implement those functions or impose those requirements until:~~

~~(1) the Exchange conducts the studies and reports its findings and recommendations to the Governor and the General Assembly as required under Section 5 of this Act; and~~

~~(2) the findings and recommendations for further legislative or regulatory action are acted upon by the Governor and the General Assembly. the Maryland Health Benefit Exchange established under Section 1 of this Act may not exercise any powers, duties, or functions under the provisions of § 31-108(b)(1), (7), (12), (17), (19), and (20), § 31-109(a), or § 31-110 of the Insurance Article, as enacted by Section 1 of this Act, until:~~

(1) the Exchange has reported its findings and recommendations, including recommendations for legislation necessary or desirable to carry out its purposes and functions, to the Governor and the General Assembly, in accordance with Section 5 of this Act; and

(2) the Governor and the General Assembly authorize the exercise of the powers, duties, and functions through enactment of additional legislation in the 2012 legislative session.

SECTION 4. AND BE IT FURTHER ENACTED, That, with respect to the Governor's appointment to the Board of Trustees of the Maryland Health Benefit Exchange established under Section 1 of this Act, of those members representing the interests of employers and consumers, it is the intent of the General Assembly that the Governor seek to appoint, where practicable and particularly in the initial appointments, members whose particular knowledge and understanding include the interests of minority-owned employers and individual consumers who come from lower-income and minority communities, have chronic diseases or disabilities, or belong to other hard-to-reach or special populations.

SECTION 5. AND BE IT FURTHER ENACTED, That the Maryland Health Benefit Exchange established under Section 1 of this Act:

(1) in consultation with the advisory committees established under ~~§ 31-106(e)(6)~~ 31-106(g) of the Insurance Article, as enacted by Section 1 of this Act, and with other stakeholders, shall study and make recommendations regarding:

(i) the feasibility and desirability of the Exchange engaging in:



1. selective contracting, either through competitive bidding or a negotiation process similar to that used by large employers, to reduce health care costs and improve quality of care by certifying only those health benefit plans that meet certain requirements such as promoting patient-centered medical homes, adopting electronic health records, meeting minimum outcome standards, implementing payment reforms to reduce medical errors and preventable hospitalizations, reducing disparities, ensuring adequate reimbursements, enrolling low-risk members and underserved populations, managing chronic conditions and promoting healthy consumer lifestyles, value-based insurance design, and adhering to transparency guidelines and uniform price and quality reporting; and

2. multistate or regional contracting ~~within the State~~;

(ii) the rules under which health benefit plans should be offered inside and outside the Exchange in order to mitigate adverse selection and encourage enrollment in the Exchange, including:

1. whether any benefits should be required of qualified health plans beyond those mandated by the federal Patient Protection and Affordable Care Act (Affordable Care Act), and whether any such additional benefits should be required of health benefit plans offered outside the Exchange;

2. whether carriers offering health benefit plans outside the Exchange should be required to offer either all the same health benefit plans inside the Exchange, or alternatively, at least one health benefit plan inside the Exchange; and

3. ~~whether managed care organizations with Health Choice contracts should be required to offer products inside the Exchange, and whether carriers offering health benefit plans inside the Exchange should be required to also participate in the Maryland Medical Assistance Program~~ which provisions applicable to qualified health plans should be made applicable to qualified dental plans;

(iii) the design and operation of the Exchange's Navigator Program and any other appropriate consumer assistance mechanisms, including:

1. ~~how the Navigator Program could utilize, interact with, or complement private sector resources, including insurance producers~~ the infrastructure of the existing private sector health insurance distribution system in the State to determine whether private sector resources may be available and suitable for use by the Exchange;

2. the effect the Exchange may have on private sector employment in the health insurance distribution system in the State;

~~2.~~ 3. what functions, in addition to those required by the Affordable Care Act, should be performed by Navigators;

~~3.~~ 4. what training and expertise should be required of Navigators, and whether different markets and populations require Navigators with different qualifications;

~~4.~~ 5. how Navigators should be retained and compensated, and how disparities between Navigator compensation and the compensation of insurance producers outside the Exchange can be minimized or avoided; ~~and~~

6. how to ensure that Navigators provide information in a manner culturally, linguistically, and otherwise appropriate to the needs of the diverse populations served by the Exchange, and that Navigators have the capacity to meet these needs; and

~~5.~~ 7. what other means of consumer assistance may be appropriate and feasible, and how they should be designed and implemented;

(iv) the design and function of the SHOP Exchange beyond the requirements of the Affordable Care Act, to promote quality, affordability, and portability, including:

1. whether it should be a defined contribution/employee choice model or whether employers should choose the qualified health plan to offer their employees;

2. whether the current individual and small group markets should be merged; and

3. whether the SHOP Exchange should be made available to employers with 50 to 100 employees prior to 2016, as authorized by the Affordable Care Act; ~~and~~

(v) how the Exchange can be self-sustaining by ~~2016~~ 2015 in compliance with the Affordable Care Act, including:

1. a recommended plan for the budget of the Exchange;

2. the user fees, licensing fees, or other assessments that should be imposed by the Exchange to fund its operations, including what type of user fee cap or other methodology would be appropriate to ensure that the income of the Exchange comports with the expenditures of the Exchange; and

3. a recommended plan for how to prevent fraud, waste, and abuse; and

(vi) how the Exchange should conduct its public relations and advertising campaign, including what type of solicitation, if any, of individual consumers or employers, would be desirable and appropriate; and

(2) on or before December ~~1~~ 23, 2011, shall report its ~~interim~~ findings and recommendations, including ~~initial~~ recommendations for further legislative or regulatory action, to the Governor and, in accordance with § 2-1246 of the State Government Article, the General Assembly; ~~and~~

~~(3) on or before December 1, 2012, shall report its final findings and recommendations, including final recommendations for further legislative or regulatory action, to the Governor and, in accordance with § 2-1246 of the State Government Article, the General Assembly.~~

SECTION 6. AND BE IT FURTHER ENACTED, That, on or before December 1, 2015, the Maryland Health Benefit Exchange established under Section 1 of this Act, in consultation with the advisory committees established under § ~~31-106(e)(6)~~ 31-106(g) of the Insurance Article, as enacted by Section 1 of this Act, and with other stakeholders, shall conduct a study and report its findings and recommendations to the Governor and, in accordance with § 2-1246 of the State Government Article, the General Assembly, on whether the Exchange should remain an independent public body or should become a nongovernmental, nonprofit entity.

SECTION 7. AND BE IT FURTHER ENACTED, That the terms of the initial appointed members of the Board of Trustees of the Maryland Health Benefit Exchange, established under Section 1 of this Act, shall expire as follows:

- (1) two members in 2013;
- (2) two members in 2014; and
- (3) two members in 2015.

SECTION 8. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that the Maryland Health Benefits Exchange established under Section 1 of this Act should not take any action that would inhibit the potential transformation of the Exchange into a nongovernmental, nonprofit entity or a quasi-governmental entity.

SECTION ~~8~~ 9. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~July~~ June 1, 2011.

**Approved by the Governor, April 12, 2011.**

## Chapter 2

### (House Bill 166)

AN ACT concerning

#### **Maryland Health Benefit Exchange Act of 2011**

FOR the purpose of establishing the Maryland Health Benefit Exchange as a public corporation and an independent unit of State government; providing that the exercise by the Exchange of its authority under this Act is an essential governmental function; establishing the purposes of the Exchange; providing for the construction of certain provisions of this Act and certain regulations and actions; providing that the Exchange is subject to certain provisions of law; establishing the Board of Trustees of the Exchange; providing for the qualifications, appointment, terms, and removal of members of the Board; prohibiting a member of the Board or a member of the staff of the Exchange from having a certain affiliation with certain persons and entities; establishing certain rules governing action by the Board; establishing certain powers and duties of the Board; requiring a member of the Board to perform the member's duties in accordance with certain standards; requiring a member to disclose certain matters and certain relationships to the Board and to the public; requiring a member to adhere strictly to certain provisions of law relating to conflicts of interest; requiring the Board to appoint an Executive Director of the Exchange, with the approval of the Governor, and to determine the Executive Director's compensation; establishing the duties of the Executive Director; authorizing the Executive Director to employ and retain a certain staff; requiring the Secretary of Budget and Management to review and make certain recommendations about certain changes to the Exchange's salary plans proposed by the Executive Director; providing that an employee or independent contractor of the Exchange is not subject to certain laws, regulations, or executive orders; requiring the Exchange to create, consult with, and appoint certain representatives to advisory committees; establishing the Maryland Health Benefit Exchange Fund as a special, nonlapsing fund; specifying the contents and purpose of the Fund; requiring the State Treasurer to hold the Fund separately and invest the money of the Fund; requiring the Comptroller to account for the Fund; establishing certain functions and duties of the Exchange; prohibiting the Exchange and certain insurance carriers from charging certain fees or penalties; requiring the Exchange, ~~in carrying out certain duties,~~ to consult with and consider the recommendations of certain stakeholders in the exercise of certain duties; requiring the Exchange to certify certain health benefit plans as qualified health plans; establishing certain requirements for certification as a qualified health plan; prohibiting the Exchange from making available any health benefit plans that are not qualified health plans or any dental plans that are not qualified dental plans; requiring each carrier that seeks certification of a health benefit plan to take certain actions; providing that certain requirements applicable to qualified health plans also apply to qualified

dental plans; authorizing the Exchange to impose certain fees or assessments or otherwise generate funding necessary to support its operations on or after a certain date; requiring the Exchange to adopt certain regulations before imposing or altering certain fees or assessments; requiring certain funds to be deposited in the Maryland Health Benefit Exchange Fund; prohibiting the Exchange from imposing certain fees or assessments in a certain manner; requiring the Exchange to maintain a certain Web site and publish certain information on the Web site; requiring the Exchange to be administered in a certain manner; requiring the Exchange to keep an accurate accounting of all its activities, expenditures, and receipts; requiring the Board to report certain information to certain individuals on an annual basis; requiring the Board to cooperate with any investigation into the affairs of the Exchange conducted by certain individuals; defining certain terms; prohibiting the Exchange from implementing certain functions or imposing certain requirements before certain guidance is received; prohibiting the Exchange from ~~implementing certain functions or imposing certain requirements before certain studies are conducted, reports are made, and actions are taken by the Governor and the General Assembly~~ exercising certain powers, duties, or functions until the Exchange has reported certain findings and recommendations to the Governor and the General Assembly and the Governor and General Assembly have enacted certain legislation; expressing the intent of the General Assembly regarding the appointment of certain members of the Board; requiring the Exchange to conduct certain studies and make certain recommendations to the Governor and the General Assembly; requiring the Exchange to report its findings and recommendations on or before ~~certain dates~~ a certain date; expressing the intent of the General Assembly regarding certain actions of the Exchange; and generally relating to the Maryland Health Benefit Exchange.

BY adding to

Article – Insurance

Section 31–101 through 31–111 to be under the new title “Maryland Health Benefit Exchange”

Annotated Code of Maryland

(2006 Replacement Volume and 2010 Supplement)

#### Preamble

WHEREAS, The federal Patient Protection and Affordable Care Act (Affordable Care Act), as amended by the federal Health Care and Education Reconciliation Act of 2010, requires each state, by January 1, 2014, to establish a health benefit Exchange that makes available qualified health plans to qualified individuals and employers, and meets certain other requirements; and

WHEREAS, The Affordable Care Act requires each state to establish the governance and structure of its health benefit Exchange by March 2012; and

WHEREAS, The State seeks to establish a highly effective, efficient, and accountable Exchange to reduce the number of Marylanders without health insurance and to provide Marylanders with high-quality, affordable private health plans at competitive cost; and

WHEREAS, The Maryland Health Benefit Exchange (Exchange) will pursue these goals by facilitating the purchase and sale of qualified health plans in the individual insurance market, assisting qualified employers in the enrollment of their employees in qualified health plans in the small group market, and administering the distribution of premium tax credits for individuals and small employers; and

WHEREAS, The State intends for the individual and small group markets in Maryland to continue to exist outside the Exchange and for the Exchange to supplement rather than replace these existing markets; and

WHEREAS, The State seeks to ensure that the Exchange will be financially self-sustaining by ~~2016~~ 2015 in compliance with the Affordable Care Act; and

WHEREAS, The State seeks to ensure that the Exchange's governing structure is broadly-based, reflecting the racial, ethnic, and geographic diversity of the State and the expertise and competence necessary to oversee the effective development and operation of the Exchange; and

WHEREAS, The State seeks to ensure that all populations can access the products offered by the Exchange by requiring cultural competence in all of its operations and outreach; and

WHEREAS, The State intends that determination of eligibility for public sector health insurance programs and federal subsidies for commercial insurance, as well as enrollment in such programs, shall be simplified through or in conjunction with the development of the Exchange; and

WHEREAS, The Exchange must be transparent, accountable, and able to perform inherently governmental functions such as determining income eligibility and citizenship status, coordinating with other State agencies and programs, and adopting rules and regulations governing health insurance plan participation; and

WHEREAS, The Exchange must at the same time be nimble and flexible, able to respond quickly to changing insurance market conditions, be sensitive and responsive to consumer demands, and remain insulated from changes in the political environment; and

WHEREAS, The State seeks to balance these multifaceted characteristics by creating a public entity, independent of other units of State government, which shall be subject to certain State laws and regulations to ensure transparency, accountability, and coordination with State agencies and programs, but which shall be exempt from other State administrative laws and regulations affecting government

operations to ensure sufficient flexibility to operate effectively, efficiently, and in coordination with the private sector; and

WHEREAS, The State recognizes that after it establishes a fully operational Exchange, delineates the full scope of its functions, and has an opportunity to evaluate its operations and performance metrics, it should assess whether the Exchange would function more effectively as a nongovernmental, nonprofit entity or a quasi-governmental entity or should remain an independent public entity; now, therefore,

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

### Article – Insurance

#### TITLE 31. MARYLAND HEALTH BENEFIT EXCHANGE.

##### 31-101.

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

(B) “AFFORDABLE CARE ACT” MEANS THE FEDERAL PATIENT PROTECTION AND AFFORDABLE CARE ACT, AS AMENDED BY THE FEDERAL HEALTH CARE AND EDUCATION RECONCILIATION ACT OF 2010, AND ANY REGULATIONS ADOPTED OR GUIDANCE ISSUED UNDER THE ACTS.

(C) “BOARD” MEANS THE BOARD OF TRUSTEES OF THE EXCHANGE.

(D) “CARRIER” MEANS:

(1) AN INSURER AUTHORIZED TO SELL HEALTH INSURANCE;

(2) A NONPROFIT HEALTH SERVICE PLAN;

(3) A HEALTH MAINTENANCE ORGANIZATION; ~~OR~~

(4) A DENTAL PLAN ORGANIZATION; OR

~~(4)~~ (5) ANY OTHER ENTITY PROVIDING A PLAN OF HEALTH INSURANCE, HEALTH BENEFITS, OR HEALTH SERVICES AUTHORIZED UNDER THIS ARTICLE OR THE AFFORDABLE CARE ACT.

(E) “EXCHANGE” MEANS THE MARYLAND HEALTH BENEFIT EXCHANGE ESTABLISHED AS A PUBLIC CORPORATION UNDER § 31-102 OF THIS TITLE.

**(F) “FUND” MEANS THE MARYLAND HEALTH BENEFIT EXCHANGE FUND ESTABLISHED UNDER § 31-107 OF THIS SUBTITLE.**

~~(F)~~ **(G) (1) “HEALTH BENEFIT PLAN” MEANS A POLICY, CONTRACT, CERTIFICATE, OR AGREEMENT OFFERED, ISSUED, OR DELIVERED BY A CARRIER TO AN INDIVIDUAL OR SMALL EMPLOYER IN THE STATE TO PROVIDE, DELIVER, ARRANGE FOR, PAY FOR, OR REIMBURSE ANY OF THE COSTS OF HEALTH CARE SERVICES.**

**(2) “HEALTH BENEFIT PLAN” DOES NOT INCLUDE:**

**(I) COVERAGE ONLY FOR ACCIDENT OR DISABILITY INSURANCE OR ANY COMBINATION OF ACCIDENT AND DISABILITY INSURANCE;**

**(II) COVERAGE ISSUED AS A SUPPLEMENT TO LIABILITY INSURANCE;**

**(III) LIABILITY INSURANCE, INCLUDING GENERAL LIABILITY INSURANCE AND AUTOMOBILE LIABILITY INSURANCE;**

**(IV) WORKERS’ COMPENSATION OR SIMILAR INSURANCE;**

**(V) AUTOMOBILE MEDICAL PAYMENT INSURANCE;**

**(VI) CREDIT-ONLY INSURANCE;**

**(VII) COVERAGE FOR ON-SITE MEDICAL CLINICS; OR**

**(VIII) OTHER SIMILAR INSURANCE COVERAGE, SPECIFIED IN FEDERAL REGULATIONS ISSUED PURSUANT TO ~~P.L. 104-191~~ THE FEDERAL HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT, UNDER WHICH BENEFITS FOR HEALTH CARE SERVICES ARE SECONDARY OR INCIDENTAL TO OTHER INSURANCE BENEFITS.**

**(3) “HEALTH BENEFIT PLAN” DOES NOT INCLUDE THE FOLLOWING BENEFITS IF THEY ARE PROVIDED UNDER A SEPARATE POLICY, CERTIFICATE, OR CONTRACT OF INSURANCE, OR ARE OTHERWISE NOT AN INTEGRAL PART OF THE PLAN:**

**(I) LIMITED SCOPE DENTAL OR VISION BENEFITS;**



(II) BENEFITS FOR LONG-TERM CARE, NURSING HOME CARE, HOME HEALTH CARE, COMMUNITY-BASED CARE, OR ANY COMBINATION OF THESE BENEFITS; OR

(III) SUCH OTHER SIMILAR LIMITED BENEFITS AS ARE SPECIFIED IN FEDERAL REGULATIONS ISSUED PURSUANT TO ~~P.L. 104-191~~ THE FEDERAL HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT.

(4) "HEALTH BENEFIT PLAN" DOES NOT INCLUDE THE FOLLOWING BENEFITS IF THE BENEFITS ARE PROVIDED UNDER A SEPARATE POLICY, CERTIFICATE, OR CONTRACT OF INSURANCE, THERE IS NO COORDINATION BETWEEN THE PROVISION OF THE BENEFITS AND ANY EXCLUSION OF BENEFITS UNDER ANY GROUP HEALTH PLAN MAINTAINED BY THE SAME PLAN SPONSOR, AND THE BENEFITS ARE PAID WITH RESPECT TO AN EVENT WITHOUT REGARD TO WHETHER THE BENEFITS ARE PROVIDED UNDER ANY GROUP HEALTH PLAN MAINTAINED BY THE SAME PLAN SPONSOR:

(I) COVERAGE ONLY FOR A SPECIFIED DISEASE OR ILLNESS; OR

(II) HOSPITAL INDEMNITY OR OTHER FIXED INDEMNITY INSURANCE.

(5) "HEALTH BENEFIT PLAN" DOES NOT INCLUDE THE FOLLOWING IF OFFERED AS A SEPARATE POLICY, CERTIFICATE, OR CONTRACT OF INSURANCE:

(I) MEDICARE SUPPLEMENTAL INSURANCE (AS DEFINED UNDER § 1882(G)(1) OF THE SOCIAL SECURITY ACT);

(II) COVERAGE SUPPLEMENTAL TO THE COVERAGE PROVIDED UNDER CHAPTER 55 OF TITLE 10, UNITED STATES CODE (CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS)); OR

(III) SIMILAR SUPPLEMENTAL COVERAGE PROVIDED TO COVERAGE UNDER A GROUP HEALTH PLAN.

(H) "MANAGED CARE ORGANIZATION" HAS THE MEANING STATED IN § 15-101 OF THE HEALTH - GENERAL ARTICLE.

(I) "QUALIFIED DENTAL PLAN" MEANS A PLAN CERTIFIED BY THE EXCHANGE THAT PROVIDES LIMITED SCOPE DENTAL BENEFITS, AS DESCRIBED IN § 31-108(B) OF THIS TITLE.

~~(G)~~ **(J)** “QUALIFIED EMPLOYER” MEANS A SMALL EMPLOYER THAT ELECTS TO MAKE ITS FULL-TIME EMPLOYEES ELIGIBLE FOR ONE OR MORE QUALIFIED HEALTH PLANS OFFERED THROUGH THE SHOP EXCHANGE AND, AT THE OPTION OF THE EMPLOYER, SOME OR ALL OF ITS PART-TIME EMPLOYEES, PROVIDED THAT THE EMPLOYER:

(1) HAS ITS PRINCIPAL PLACE OF BUSINESS IN THE STATE AND ELECTS TO PROVIDE COVERAGE THROUGH THE SHOP EXCHANGE TO ALL OF ITS ELIGIBLE EMPLOYEES, WHEREVER EMPLOYED; OR

(2) ELECTS TO PROVIDE COVERAGE THROUGH THE SHOP EXCHANGE TO ALL OF ITS ELIGIBLE EMPLOYEES WHO ARE PRINCIPALLY EMPLOYED IN THE STATE.

~~(H)~~ **(K)** “QUALIFIED HEALTH PLAN” MEANS A HEALTH BENEFIT PLAN THAT HAS BEEN CERTIFIED BY THE EXCHANGE TO MEET THE CRITERIA FOR CERTIFICATION DESCRIBED IN § 1311(C) OF THE AFFORDABLE CARE ACT AND § 31-109 OF THIS TITLE.

~~(I)~~ **(L)** “QUALIFIED INDIVIDUAL” MEANS AN INDIVIDUAL, INCLUDING A MINOR, WHO AT THE TIME OF ENROLLMENT:

(1) IS SEEKING TO ENROLL IN A QUALIFIED HEALTH PLAN OFFERED TO INDIVIDUALS THROUGH THE EXCHANGE;

(2) RESIDES IN THE STATE;

(3) IS NOT INCARCERATED, OTHER THAN INCARCERATION PENDING DISPOSITION OF CHARGES; AND

(4) IS, AND REASONABLY IS EXPECTED TO BE FOR THE ENTIRE PERIOD FOR WHICH ENROLLMENT IS SOUGHT, A CITIZEN OR NATIONAL OF THE UNITED STATES OR AN ALIEN LAWFULLY PRESENT IN THE UNITED STATES.

~~(J)~~ **(M)** “SECRETARY” MEANS THE SECRETARY OF THE FEDERAL DEPARTMENT OF HEALTH AND HUMAN SERVICES.

~~(K)~~ **(N)** “SHOP EXCHANGE” MEANS THE SMALL BUSINESS HEALTH OPTIONS PROGRAM AUTHORIZED UNDER § 31-108(B)(12) OF THIS TITLE.

~~(L)~~ **(O)** (1) “SMALL EMPLOYER” MEANS AN EMPLOYER THAT, DURING THE PRECEDING CALENDAR YEAR, EMPLOYED AN AVERAGE OF NOT MORE THAN:

(I) 50 EMPLOYEES IF THE PRECEDING CALENDAR YEAR ENDED ON OR BEFORE JANUARY 1, 2016; AND

(II) 100 EMPLOYEES IF THE PRECEDING CALENDAR YEAR ENDED AFTER JANUARY 1, 2016.

(2) FOR PURPOSES OF THIS SUBSECTION:

(I) ALL PERSONS TREATED AS A SINGLE EMPLOYER UNDER § 414(B), (C), (M), OR (O) OF THE INTERNAL REVENUE CODE SHALL BE TREATED AS A SINGLE EMPLOYER;

(II) AN EMPLOYER AND ANY PREDECESSOR EMPLOYER SHALL BE TREATED AS A SINGLE EMPLOYER;

(III) ALL EMPLOYEES SHALL BE COUNTED, INCLUDING PART-TIME EMPLOYEES AND EMPLOYEES WHO ARE NOT ELIGIBLE FOR COVERAGE THROUGH THE EMPLOYER;

(IV) IF AN EMPLOYER WAS NOT IN EXISTENCE THROUGHOUT THE PRECEDING CALENDAR YEAR, THE DETERMINATION OF WHETHER THE EMPLOYER IS A SMALL EMPLOYER SHALL BE BASED ON THE AVERAGE NUMBER OF EMPLOYEES THAT THE EMPLOYER IS REASONABLY EXPECTED TO EMPLOY ON BUSINESS DAYS IN THE CURRENT CALENDAR YEAR; AND

(V) AN EMPLOYER THAT MAKES ENROLLMENT IN QUALIFIED HEALTH PLANS AVAILABLE TO ITS EMPLOYEES THROUGH THE SHOP EXCHANGE, AND WOULD CEASE TO BE A SMALL EMPLOYER BY REASON OF AN INCREASE IN THE NUMBER OF ITS EMPLOYEES, SHALL CONTINUE TO BE TREATED AS A SMALL EMPLOYER FOR PURPOSES OF THIS TITLE AS LONG AS IT CONTINUOUSLY MAKES ENROLLMENT THROUGH THE SHOP EXCHANGE AVAILABLE TO ITS EMPLOYEES.

31-102.

(A) THERE IS A MARYLAND HEALTH BENEFIT EXCHANGE.

(B) (1) THE EXCHANGE IS A BODY POLITIC AND CORPORATE AND IS AN INSTRUMENTALITY OF THE STATE.

(2) THE EXCHANGE IS A PUBLIC CORPORATION AND A UNIT OF STATE GOVERNMENT.

(3) THE EXERCISE BY THE EXCHANGE OF ITS AUTHORITY UNDER THIS TITLE IS AN ESSENTIAL GOVERNMENTAL FUNCTION.

(C) THE PURPOSES OF THE EXCHANGE ARE TO:

(1) REDUCE THE NUMBER OF UNINSURED IN THE STATE;

(2) FACILITATE THE PURCHASE AND SALE OF QUALIFIED HEALTH PLANS IN THE INDIVIDUAL MARKET IN THE STATE BY PROVIDING A TRANSPARENT MARKETPLACE;

(3) ASSIST QUALIFIED EMPLOYERS IN THE STATE IN FACILITATING THE ENROLLMENT OF THEIR EMPLOYEES IN QUALIFIED HEALTH PLANS IN THE SMALL GROUP MARKET IN THE STATE AND IN ACCESSING SMALL BUSINESS TAX CREDITS; ~~AND~~

(4) ASSIST INDIVIDUALS IN ACCESSING PUBLIC PROGRAMS, PREMIUM TAX CREDITS, AND COST-SHARING REDUCTIONS; AND

(5) SUPPLEMENT THE INDIVIDUAL AND SMALL GROUP INSURANCE MARKETS OUTSIDE OF THE EXCHANGE.

(D) NOTHING IN THIS TITLE, AND NO REGULATION ADOPTED OR OTHER ACTION TAKEN BY THE EXCHANGE UNDER THIS TITLE, MAY BE CONSTRUED TO:

(1) PREEMPT OR SUPERSEDE:

~~(1)~~ (I) THE AUTHORITY OF THE COMMISSIONER TO REGULATE INSURANCE BUSINESS IN THE STATE; OR

~~(2)~~ (II) THE REQUIREMENTS OF THE AFFORDABLE CARE ACT;  
OR

(2) AUTHORIZE THE EXCHANGE TO CARRY OUT ANY FUNCTION NOT AUTHORIZED BY THE AFFORDABLE CARE ACT.

31-103.

(A) THE EXCHANGE IS SUBJECT TO:

(1) THE FOLLOWING PROVISIONS OF THE STATE FINANCE AND PROCUREMENT ARTICLE:

(I) TITLE 12, SUBTITLE 4 (POLICIES AND PROCEDURES FOR EXEMPT UNITS); AND

(II) TITLE 14, SUBTITLE 3 (MINORITY BUSINESS PARTICIPATION);

(2) THE FOLLOWING PROVISIONS OF THE STATE GOVERNMENT ARTICLE:

(I) TITLE 10, SUBTITLE 1 (GOVERNMENTAL PROCEDURES);

(II) TITLE 10, SUBTITLE 5 (MEETINGS);

(III) TITLE 10, SUBTITLE 6, PART III (ACCESS TO PUBLIC RECORDS);

(IV) TITLE 12 (IMMUNITY AND LIABILITY); AND

(V) TITLE 15 (PUBLIC ETHICS); AND

(3) TITLE 5, SUBTITLE 3 OF THE STATE PERSONNEL AND PENSIONS ARTICLE.

(B) THE EXCHANGE IS NOT SUBJECT TO:

(1) TAXATION BY THE STATE OR LOCAL GOVERNMENT;

(2) DIVISION II OF THE STATE FINANCE AND PROCUREMENT ARTICLE, EXCEPT AS PROVIDED IN SUBSECTION (A)(1) OF THIS SECTION;

(3) TITLE 10 OF THE STATE GOVERNMENT ARTICLE, EXCEPT AS PROVIDED IN SUBSECTION (A)(2)(I), (II), AND (III) OF THIS SECTION; OR

(4) DIVISION I OF THE STATE PERSONNEL AND PENSIONS ARTICLE, EXCEPT AS PROVIDED IN SUBSECTION (A)(3) OF THIS SECTION AND ELSEWHERE IN THIS TITLE.

31-104.

(A) THERE IS A BOARD OF TRUSTEES OF THE EXCHANGE.

(B) THE BOARD CONSISTS OF THE FOLLOWING MEMBERS:

(1) THE SECRETARY OF HEALTH AND MENTAL HYGIENE;

(2) THE COMMISSIONER;

(3) THE EXECUTIVE DIRECTOR OF THE MARYLAND HEALTH CARE COMMISSION; AND

(4) THE FOLLOWING MEMBERS APPOINTED BY THE GOVERNOR, WITH THE ADVICE AND CONSENT OF THE SENATE:

(I) THREE MEMBERS WHO:

1. REPRESENT THE INTERESTS OF EMPLOYERS AND INDIVIDUAL CONSUMERS OF PRODUCTS OFFERED BY THE EXCHANGE; AND

2. MAY HAVE PUBLIC HEALTH RESEARCH EXPERTISE; AND

(II) THREE MEMBERS WHO HAVE DEMONSTRATED KNOWLEDGE AND EXPERTISE IN AT LEAST TWO OF THE FOLLOWING AREAS:

1. INDIVIDUAL HEALTH CARE COVERAGE;

2. SMALL EMPLOYER-SPONSORED HEALTH CARE COVERAGE;

3. HEALTH BENEFIT PLAN ADMINISTRATION;

4. HEALTH CARE FINANCE;

5. ADMINISTRATION OF PUBLIC OR PRIVATE HEALTH CARE DELIVERY SYSTEMS; ~~AND~~

6. PURCHASING AND FACILITATING ENROLLMENT IN HEALTH PLAN COVERAGE, INCLUDING DEMONSTRATED KNOWLEDGE AND EXPERTISE ABOUT THE ROLE OF LICENSED HEALTH INSURANCE PRODUCERS AND THIRD-PARTY ADMINISTRATORS IN CONNECTING EMPLOYERS AND INDIVIDUAL CONSUMERS TO HEALTH PLAN COVERAGE; AND

7. PUBLIC HEALTH AND PUBLIC HEALTH RESEARCH, INCLUDING KNOWLEDGE ABOUT THE HEALTH NEEDS AND HEALTH DISPARITIES AMONG THE STATE'S DIVERSE COMMUNITIES.

(C) IN MAKING APPOINTMENTS OF MEMBERS UNDER SUBSECTION (B)(4) OF THIS SECTION, THE GOVERNOR SHALL ASSURE THAT:

(1) THE BOARD'S COMPOSITION REFLECTS A DIVERSITY OF EXPERTISE;

(2) THE BOARD'S COMPOSITION REFLECTS THE GENDER, RACIAL, AND ETHNIC DIVERSITY OF THE STATE; AND

(3) THE GEOGRAPHIC AREAS OF THE STATE ARE REPRESENTED.

(D) (1) FOR PURPOSES OF THIS SUBSECTION, "AFFILIATION" MEANS:

(I) A FINANCIAL INTEREST, AS DEFINED IN § 15-102 OF THE STATE GOVERNMENT ARTICLE;

(II) A POSITION OF GOVERNANCE, INCLUDING MEMBERSHIP ON A BOARD OF DIRECTORS, REGARDLESS OF COMPENSATION;

(III) A RELATIONSHIP THROUGH WHICH COMPENSATION, AS DEFINED IN § 15-102 OF THE STATE GOVERNMENT ARTICLE, IS RECEIVED; OR

(IV) A RELATIONSHIP FOR THE PROVISION OF SERVICES AS A REGULATED LOBBYIST, AS DEFINED IN § 15-102 OF THE STATE GOVERNMENT ARTICLE.

(2) A MEMBER OF THE BOARD OR OF THE STAFF OF THE EXCHANGE, WHILE SERVING ON THE BOARD OR THE STAFF, MAY NOT HAVE AN AFFILIATION WITH:

(I) A CARRIER, AN INSURANCE PRODUCER, A THIRD-PARTY ADMINISTRATOR, A MANAGED CARE ORGANIZATION, OR ANY OTHER PERSON ~~DOING BUSINESS~~ CONTRACTING DIRECTLY WITH THE EXCHANGE; ~~OR~~

(II) A TRADE ASSOCIATION OF CARRIERS, INSURANCE PRODUCERS, THIRD-PARTY ADMINISTRATORS, OR MANAGED CARE ORGANIZATIONS; OR

(III) ANY OTHER ASSOCIATION OF ENTITIES ~~DOING BUSINESS~~ IN A POSITION TO CONTRACT DIRECTLY WITH THE EXCHANGE.

(E) (1) THE TERM OF A MEMBER APPOINTED BY THE GOVERNOR IS 4 YEARS.

(2) THE TERMS OF MEMBERS APPOINTED BY THE GOVERNOR ARE STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR MEMBERS OF THE BOARD ON ~~JULY~~ JUNE 1, 2011.

(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.

(F) AN APPOINTED MEMBER OF THE BOARD MAY NOT SERVE MORE THAN TWO CONSECUTIVE FULL TERMS.

(G) THE GOVERNOR SHALL DESIGNATE A CHAIR OF THE BOARD.

(H) (1) THE BOARD SHALL DETERMINE THE TIMES, PLACES, AND FREQUENCY OF ITS MEETINGS.

(2) FIVE MEMBERS OF THE BOARD CONSTITUTE A QUORUM.

(3) ACTION BY THE BOARD REQUIRES THE AFFIRMATIVE VOTE OF AT LEAST FIVE MEMBERS.

(I) A MEMBER OF THE BOARD IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

(J) A MEMBER SHALL:

(1) MEET THE REQUIREMENTS OF THIS TITLE, THE AFFORDABLE CARE ACT, AND ALL APPLICABLE STATE AND FEDERAL LAWS AND REGULATIONS;

(2) SERVE THE PUBLIC INTEREST OF THE INDIVIDUALS AND QUALIFIED EMPLOYERS SEEKING HEALTH CARE COVERAGE THROUGH THE EXCHANGE; AND

(3) ENSURE THE SOUND OPERATION AND FISCAL SOLVENCY OF THE EXCHANGE.

(K) A MEMBER OF THE BOARD SHALL PERFORM THE MEMBER'S DUTIES:



(1) IN GOOD FAITH;

(2) IN THE MANNER THE MEMBER REASONABLY BELIEVES TO BE IN THE BEST INTERESTS OF THE EXCHANGE; AND

(3) WITHOUT INTENTIONAL OR RECKLESS DISREGARD OF THE CARE AN ORDINARILY PRUDENT PERSON IN A LIKE POSITION WOULD USE UNDER SIMILAR CIRCUMSTANCES.

(L) A MEMBER OF THE BOARD WHO PERFORMS THE MEMBER'S DUTIES IN ACCORDANCE WITH THE STANDARD PROVIDED IN SUBSECTION (K) OF THIS SECTION MAY NOT BE LIABLE PERSONALLY FOR ACTIONS TAKEN AS A MEMBER.

(M) A MEMBER OF THE BOARD MAY BE REMOVED FOR INCOMPETENCE, MISCONDUCT, OR FAILURE TO PERFORM THE DUTIES OF THE POSITION.

(N) (1) (I) A MEMBER OF THE BOARD SHALL BE SUBJECT TO THE STATE ETHICS LAW, TITLE 15, SUBTITLES 1 THROUGH 7 OF THE STATE GOVERNMENT ARTICLE.

(II) IN ADDITION TO THE DISCLOSURE REQUIRED UNDER TITLE 15, SUBTITLE 6 OF THE STATE GOVERNMENT ARTICLE, A MEMBER OF THE BOARD SHALL DISCLOSE TO THE BOARD AND TO THE PUBLIC ANY RELATIONSHIP NOT ADDRESSED IN THE REQUIRED FINANCIAL DISCLOSURE THAT THE MEMBER HAS WITH A CARRIER, INSURANCE PRODUCER, THIRD-PARTY ADMINISTRATOR, MANAGED CARE ORGANIZATION, OR OTHER ENTITY IN AN INDUSTRY INVOLVED IN MATTERS LIKELY TO COME BEFORE THE BOARD.

(2) ON ALL MATTERS THAT COME BEFORE THE BOARD, THE MEMBER SHALL:

(I) ADHERE STRICTLY TO THE CONFLICT OF INTEREST PROVISIONS UNDER TITLE 15, SUBTITLE 5 OF THE STATE GOVERNMENT ARTICLE RELATING TO RESTRICTIONS ON PARTICIPATION, EMPLOYMENT, AND FINANCIAL INTERESTS; AND

(II) PROVIDE FULL DISCLOSURE TO THE BOARD AND THE PUBLIC ON:

1. ANY MATTER THAT GIVES RISE TO A POTENTIAL CONFLICT OF INTEREST; AND

**2. THE MANNER IN WHICH THE MEMBER WILL COMPLY WITH THE PROVISIONS OF TITLE 15, SUBTITLE 5 OF THE STATE GOVERNMENT ARTICLE TO AVOID ANY CONFLICT OF INTEREST OR APPEARANCE OF A CONFLICT OF INTEREST.**

**31-105.**

**(A) (1) WITH THE APPROVAL OF THE GOVERNOR, THE BOARD SHALL APPOINT AN EXECUTIVE DIRECTOR OF THE EXCHANGE.**

**(2) ~~SUBJECT TO THE APPROVAL OF THE GOVERNOR, THE~~ THE EXECUTIVE DIRECTOR SHALL SERVE AT THE PLEASURE OF THE BOARD.**

**(3) THE BOARD SHALL DETERMINE THE APPROPRIATE COMPENSATION FOR THE EXECUTIVE DIRECTOR.**

**(B) UNDER THE DIRECTION OF THE BOARD, THE EXECUTIVE DIRECTOR SHALL:**

**(1) BE THE CHIEF ADMINISTRATIVE OFFICER OF THE EXCHANGE;**

**(2) DIRECT, ADMINISTER, AND MANAGE THE OPERATIONS OF THE EXCHANGE; AND**

**(3) PERFORM ALL DUTIES NECESSARY TO COMPLY WITH AND CARRY OUT THE PROVISIONS OF THIS TITLE, OTHER STATE LAW AND REGULATIONS, AND THE AFFORDABLE CARE ACT.**

**(C) (1) THE EXECUTIVE DIRECTOR MAY EMPLOY AND RETAIN A STAFF FOR THE EXCHANGE.**

**(2) EXCEPT AS PROVIDED IN PARAGRAPHS (3) AND (4) OF THIS SUBSECTION, OR OTHERWISE BY LAW, THE EXECUTIVE DIRECTOR'S APPOINTMENT, RETENTION, AND REMOVAL OF STAFF OF THE EXCHANGE ARE NOT SUBJECT TO DIVISION I OF THE STATE PERSONNEL AND PENSIONS ARTICLE.**

**(3) IN HIRING STAFF FOR FUNCTIONS THAT MUST BE PERFORMED BY STATE PERSONNEL UNDER THE AFFORDABLE CARE ACT OR OTHER APPLICABLE FEDERAL OR STATE LAWS, THE EXECUTIVE DIRECTOR'S APPOINTMENT, RETENTION, AND REMOVAL OF ~~SUCH~~ STAFF SHALL BE IN ACCORDANCE WITH DIVISION I OF THE STATE PERSONNEL AND PENSIONS ARTICLE.**

(4) ~~TO THE EXTENT PRACTICABLE, IN~~ IN HIRING STAFF FOR FUNCTIONS THAT HAVE BEEN AND CURRENTLY ARE PERFORMED BY STATE PERSONNEL, THE EXECUTIVE DIRECTOR'S APPOINTMENT, RETENTION, AND REMOVAL OF ~~SUCH~~ STAFF SHALL BE IN ACCORDANCE WITH DIVISION I OF THE STATE PERSONNEL AND PENSIONS ARTICLE.

(5) ~~IN HIRING~~ EXCEPT AS PROVIDED IN PARAGRAPH (6) OF THIS SUBSECTION, STAFF FOR ALL OTHER POSITIONS NECESSARY TO CARRY OUT THE PURPOSES OF THIS TITLE, THE EXECUTIVE DIRECTOR, WITH THE APPROVAL OF THE BOARD, MAY:

(I) ~~DESIGNATE POSITIONS AS TECHNICAL OR PROFESSIONAL TO BE~~ SHALL BE POSITIONS IN THE EXECUTIVE SERVICE OR MANAGEMENT SERVICE, OR SPECIAL APPOINTMENTS OF THE SKILLED SERVICE OR THE PROFESSIONAL SERVICE IN THE STATE PERSONNEL MANAGEMENT SYSTEM; ~~AND~~

(II) ~~RETAIN AS INDEPENDENT CONTRACTORS OR EMPLOYEES, AND SET COMPENSATION FOR, ATTORNEYS, FINANCIAL CONSULTANTS, AND ANY OTHER PROFESSIONALS OR CONSULTANTS NECESSARY TO CARRY OUT THE PLANNING, DEVELOPMENT, AND OPERATIONS OF THE EXCHANGE AND THE PROVISIONS OF THIS TITLE.~~

(6) THE EXECUTIVE DIRECTOR MAY RETAIN AS INDEPENDENT CONTRACTORS OR EMPLOYEES, AND SET COMPENSATION FOR, ATTORNEYS, FINANCIAL CONSULTANTS, AND ANY OTHER PROFESSIONALS OR CONSULTANTS NECESSARY TO CARRY OUT THE PLANNING, DEVELOPMENT, AND OPERATIONS OF THE EXCHANGE AND THE PROVISIONS OF THIS TITLE.

(D) THE EXECUTIVE DIRECTOR SHALL DETERMINE THE CLASSIFICATION, GRADE, AND COMPENSATION OF STAFF OF THE EXCHANGE HIRED OR DESIGNATED UNDER SUBSECTION (C)(3), (4), AND (5)(I) OF THIS SECTION:

(1) IN CONSULTATION WITH THE SECRETARY OF BUDGET AND MANAGEMENT;

(2) WITH THE APPROVAL OF THE BOARD; AND

(3) WHEN POSSIBLE, IN ACCORDANCE WITH THE STATE PAY PLAN.

(E) (1) WITH RESPECT TO STAFF OF THE EXCHANGE HIRED OR DESIGNATED UNDER SUBSECTION (C)(3), (4), AND (5)(I) OF THIS SECTION, THE

**EXECUTIVE DIRECTOR SHALL SUBMIT TO THE SECRETARY OF BUDGET AND MANAGEMENT, AT LEAST 45 DAYS BEFORE THE EFFECTIVE DATE OF THE CHANGE, EACH CHANGE TO THE EXCHANGE'S SALARY PLANS THAT INVOLVES INCREASES OR DECREASES IN SALARY RANGES OTHER THAN THOSE ASSOCIATED WITH ROUTINE RECLASSIFICATIONS AND PROMOTIONS OR GENERAL SALARY INCREASES APPROVED BY THE GENERAL ASSEMBLY.**

**(2) REPORTABLE CHANGES INCLUDE:**

**(I) THE CREATION OR ABOLITION OF CLASSES;**

**(II) THE REGRADING OF CLASSES FROM ONE ESTABLISHED RANGE TO ANOTHER; AND**

**(III) THE CREATION OF NEW PAY SCHEDULES OR RANGES.**

**(3) THE SECRETARY OF BUDGET AND MANAGEMENT SHALL:**

**(I) REVIEW THE PROPOSED CHANGE; AND**

**(II) AT LEAST 15 DAYS BEFORE THE EFFECTIVE DATE OF THE PROPOSED CHANGE:**

**1. ADVISE THE EXECUTIVE DIRECTOR WHETHER THE CHANGE WOULD HAVE AN ADVERSE EFFECT ON COMPARABLE STATE JOBS; AND**

**2. IF THERE WOULD BE AN ADVERSE EFFECT, RECOMMEND AN ALTERNATIVE CHANGE THAT WOULD NOT HAVE AN ADVERSE EFFECT ON COMPARABLE STATE JOBS.**

**(4) FAILURE OF THE SECRETARY OF BUDGET AND MANAGEMENT TO RESPOND IN A TIMELY MANNER IS DEEMED TO BE AGREEMENT WITH THE CHANGE AS SUBMITTED.**

**(F) EXCEPT AS OTHERWISE PROVIDED IN THIS TITLE, AN EMPLOYEE OR INDEPENDENT CONTRACTOR OF THE EXCHANGE IS NOT SUBJECT TO ANY LAW, REGULATION, OR EXECUTIVE ORDER GOVERNING STATE COMPENSATION, INCLUDING FURLOUGHS, PAY CUTS, OR ANY OTHER GENERAL FUND COST SAVINGS MEASURE.**

(A) SUBJECT TO ANY LIMITATIONS UNDER THIS TITLE OR OTHER APPLICABLE LAW, THE BOARD SHALL HAVE ALL POWERS NECESSARY OR CONVENIENT TO ~~FURTHER~~ CARRY OUT THE FUNCTIONS AUTHORIZED BY THE AFFORDABLE CARE ACT AND CONSISTENT WITH THE PURPOSES OF THE EXCHANGE.

(B) THE ENUMERATION OF SPECIFIC POWERS IN THIS TITLE IS NOT INTENDED TO RESTRICT THE BOARD'S POWER TO TAKE ANY LAWFUL ACTION THAT THE BOARD DETERMINES IS NECESSARY OR CONVENIENT TO ~~FURTHER~~ CARRY OUT THE FUNCTIONS AUTHORIZED BY THE AFFORDABLE CARE ACT AND CONSISTENT WITH THE PURPOSES OF THE EXCHANGE.

(C) IN ADDITION TO THE POWERS SET FORTH ELSEWHERE IN THIS TITLE, THE BOARD MAY:

- (1) ADOPT AND ALTER AN OFFICIAL SEAL;
- (2) SUE, BE SUED, PLEAD, AND BE IMPEADED;
- (3) ADOPT BYLAWS, RULES, AND POLICIES;
- (4) ADOPT REGULATIONS TO CARRY OUT THIS TITLE:

(I) IN ACCORDANCE WITH TITLE 10, SUBTITLE 1 OF THE STATE GOVERNMENT ARTICLE; AND

(II) WITHOUT CONFLICTING WITH OR PREVENTING APPLICATION OF REGULATIONS ADOPTED BY THE SECRETARY UNDER TITLE 1, SUBTITLE D OF THE AFFORDABLE CARE ACT;

(5) MAINTAIN AN OFFICE AT THE PLACE DESIGNATED BY THE BOARD;

(6) ~~APPOINT ADVISORY COMMITTEES COMPOSED OF EXPERTS AND INDIVIDUALS KNOWLEDGEABLE ABOUT INDIVIDUAL AND EMPLOYER SPONSORED HEALTH CARE COVERAGE, HEALTH BENEFIT PLAN ADMINISTRATION, HEALTH CARE FINANCE, ADMINISTRATION OF PUBLIC AND PRIVATE HEALTH CARE DELIVERY SYSTEMS, PURCHASING AND FACILITATING ENROLLMENT IN HEALTH PLAN COVERAGE, HEALTH CARE DELIVERY MODELS AND PAYMENT REFORMS, AND OTHER EXPERTS AND INDIVIDUALS AS APPROPRIATE;~~

~~(7)~~ ENTER INTO ANY AGREEMENTS OR CONTRACTS AND EXECUTE THE INSTRUMENTS NECESSARY OR CONVENIENT TO MANAGE ITS OWN AFFAIRS AND CARRY OUT THE PURPOSES OF THIS TITLE;

~~(8)~~ (7) APPLY FOR AND RECEIVE GRANTS, CONTRACTS, OR OTHER PUBLIC OR PRIVATE FUNDING; AND

~~(9)~~ (8) DO ALL THINGS NECESSARY OR CONVENIENT TO CARRY OUT THE POWERS GRANTED BY THIS TITLE.

(D) (1) TO CARRY OUT THE PURPOSES OF THIS TITLE OR PERFORM ANY OF ITS FUNCTIONS UNDER THIS TITLE, THE BOARD MAY CONTRACT OR ENTER INTO MEMORANDA OF UNDERSTANDING WITH ELIGIBLE ENTITIES, INCLUDING:

(I) THE MARYLAND MEDICAL ASSISTANCE PROGRAM;

(II) THE FAMILY INVESTMENT UNIT OF THE DEPARTMENT OF HUMAN RESOURCES;

(III) INSURANCE PRODUCERS AND THIRD PARTY ADMINISTRATORS REGISTERED IN THE STATE ~~THAT ARE NOT AFFILIATED WITH A CARRIER~~; AND

(IV) ANY OTHER ENTITIES ~~NOT AFFILIATED WITH A CARRIER~~ THAT HAVE EXPERIENCE IN INDIVIDUAL AND SMALL GROUP PUBLIC AND PRIVATE HEALTH INSURANCE PLANS ~~AND~~ OR FACILITATING ENROLLMENT IN THOSE PLANS.

(2) THE OPERATIONS OF THE EXCHANGE ARE SUBJECT TO THE PROVISIONS OF THIS TITLE WHETHER THE OPERATIONS ARE PERFORMED DIRECTLY BY THE EXCHANGE OR THROUGH AN ENTITY UNDER A CONTRACT WITH THE EXCHANGE.

(3) THE BOARD SHALL ENSURE THAT ANY ENTITY UNDER A CONTRACT WITH THE EXCHANGE COMPLIES WITH THE PROVISIONS OF THIS TITLE WHEN PERFORMING SERVICES THAT ARE SUBJECT TO THIS TITLE ON BEHALF OF THE EXCHANGE.

(E) (1) THE BOARD MAY ENTER INTO INFORMATION-SHARING AGREEMENTS WITH FEDERAL AND STATE AGENCIES, AND OTHER STATE HEALTH INSURANCE EXCHANGES, TO CARRY OUT THE PROVISIONS OF THIS TITLE.

**(2) AN INFORMATION-SHARING AGREEMENT ENTERED INTO UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL:**

**(I) INCLUDE ADEQUATE PROTECTIONS WITH RESPECT TO THE CONFIDENTIALITY OF INFORMATION; AND**

**(II) COMPLY WITH ALL STATE AND FEDERAL LAWS AND REGULATIONS.**

**(F) (1) THE BOARD, IN ACCORDANCE WITH TITLE 12, SUBTITLE 4 OF THE STATE FINANCE AND PROCUREMENT ARTICLE, SHALL ADOPT WRITTEN POLICIES AND PROCEDURES GOVERNING ALL PROCUREMENTS OF THE EXCHANGE.**

**(2) TO THE FULLEST EXTENT PRACTICABLE, AND IN A MANNER THAT DOES NOT IMPAIR THE EXCHANGE'S ABILITY TO CARRY OUT THE PURPOSES OF THIS TITLE, THE BOARD'S PROCUREMENT POLICIES AND PROCEDURES SHALL ESTABLISH AN OPEN AND TRANSPARENT PROCESS THAT:**

**(I) PROMOTES PUBLIC CONFIDENCE IN THE PROCUREMENTS OF THE EXCHANGE;**

**(II) ENSURES FAIR AND EQUITABLE TREATMENT OF ALL PERSONS AND ENTITIES THAT PARTICIPATE IN THE PROCUREMENT SYSTEM OF THE EXCHANGE;**

**(III) FOSTERS APPROPRIATE COMPETITION AND PROVIDES SAFEGUARDS FOR MAINTAINING A PROCUREMENT SYSTEM OF QUALITY AND INTEGRITY;**

**(IV) PROMOTES INCREASED ECONOMIC EFFICIENCY AND RESPONSIBILITY ON THE PART OF THE EXCHANGE;**

**(V) ACHIEVES THE MAXIMUM BENEFIT FROM THE PURCHASING POWER OF THE EXCHANGE; AND**

**(VI) PROVIDES CLARITY AND SIMPLICITY IN THE RULES AND PROCEDURES GOVERNING THE PROCUREMENTS OF THE EXCHANGE.**

**(G) TO CARRY OUT THE PURPOSES OF THIS TITLE, THE BOARD SHALL:**

**(1) CREATE AND CONSULT WITH ADVISORY COMMITTEES; AND**

**(2) APPOINT TO THE ADVISORY COMMITTEES REPRESENTATIVES OF:**

**(I) INSURERS OR HEALTH MAINTENANCE ORGANIZATIONS OFFERING HEALTH BENEFIT PLANS IN THE STATE;**

**(II) NONPROFIT HEALTH SERVICE PLANS OFFERING HEALTH BENEFIT PLANS IN THE STATE;**

**(III) LICENSED HEALTH INSURANCE PRODUCERS AND ADVISERS;**

**(IV) THIRD-PARTY ADMINISTRATORS;**

**(V) HEALTH CARE PROVIDERS, INCLUDING:**

**1. HOSPITALS;**

**2. LONG-TERM CARE FACILITIES;**

**3. MENTAL HEALTH PROVIDERS;**

**4. DEVELOPMENTAL DISABILITY PROVIDERS;**

**5. SUBSTANCE ABUSE TREATMENT PROVIDERS;**

**6. FEDERALLY QUALIFIED HEALTH CENTERS;**

**7. PHYSICIANS;**

**8. NURSES;**

**9. EXPERTS IN SERVICES AND CARE COORDINATION FOR CRIMINAL AND JUVENILE JUSTICE POPULATIONS;**

**10. LICENSED HOSPICE PROVIDERS; AND**

**11. OTHER HEALTH CARE PROFESSIONALS;**

**(VI) MANAGED CARE ORGANIZATIONS;**

**(VII) EMPLOYERS, INCLUDING LARGE, SMALL, AND MINORITY-OWNED EMPLOYERS;**



(VIII) PUBLIC EMPLOYEE UNIONS, INCLUDING PUBLIC EMPLOYEE UNION MEMBERS WHO ARE CASEWORKERS IN LOCAL DEPARTMENTS OF SOCIAL SERVICES WITH DIRECT KNOWLEDGE OF INFORMATION TECHNOLOGY SYSTEMS USED FOR MEDICAID ELIGIBILITY DETERMINATION;

(IX) CONSUMERS, INCLUDING INDIVIDUALS WHO:

1. RESIDE IN LOWER-INCOME AND RACIAL OR ETHNIC MINORITY COMMUNITIES;

2. HAVE CHRONIC DISEASES OR DISABILITIES; OR

3. BELONG TO OTHER HARD-TO-REACH OR SPECIAL POPULATIONS;

(X) INDIVIDUALS WITH KNOWLEDGE AND EXPERTISE IN ADVOCACY FOR CONSUMERS DESCRIBED IN ITEM (IX) OF THIS ITEM;

(XI) PUBLIC HEALTH RESEARCHERS AND OTHER ACADEMIC EXPERTS WITH KNOWLEDGE AND BACKGROUND RELEVANT TO THE FUNCTIONS AND GOALS OF THE EXCHANGE, INCLUDING KNOWLEDGE OF THE HEALTH NEEDS AND HEALTH DISPARITIES AMONG THE STATE'S DIVERSE COMMUNITIES; AND

(XII) ANY OTHER STAKEHOLDERS IDENTIFIED BY THE EXCHANGE AS HAVING KNOWLEDGE OR REPRESENTING INTERESTS RELEVANT TO THE FUNCTIONS AND DUTIES OF THE EXCHANGE.

31-107.

~~(A) IN THIS SECTION, "FUND" MEANS THE MARYLAND HEALTH BENEFIT EXCHANGE FUND.~~

~~(B)~~ (A) THERE IS A MARYLAND HEALTH BENEFIT EXCHANGE FUND.

~~(C)~~ (B) THE PURPOSE OF THE FUND IS TO PROVIDE FUNDING FOR THE OPERATION AND ADMINISTRATION OF THE EXCHANGE IN CARRYING OUT THE PURPOSES OF THE EXCHANGE UNDER THIS TITLE.

~~(D)~~ (C) THE EXCHANGE SHALL ADMINISTER THE FUND.

~~(E)~~ (D) (1) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

**(2) THE STATE TREASURER SHALL HOLD THE FUND SEPARATELY, AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.**

~~(F)~~ **(E) THE FUND CONSISTS OF:**

**(1) ANY USER FEES OR OTHER ASSESSMENTS COLLECTED BY THE EXCHANGE;**

**(2) INCOME FROM INVESTMENTS MADE ON BEHALF OF THE FUND;**

**(3) INTEREST ON DEPOSITS OR INVESTMENTS OF MONEY IN THE FUND;**

**(4) MONEY COLLECTED BY THE BOARD AS A RESULT OF LEGAL OR OTHER ACTIONS TAKEN BY THE BOARD ON BEHALF OF THE EXCHANGE OR THE FUND;**

**(5) MONEY DONATED TO THE FUND;**

**(6) MONEY AWARDED TO THE FUND THROUGH GRANTS; AND**

**(7) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR THE BENEFIT OF THE FUND.**

~~(G)~~ **(F) THE FUND MAY BE USED ONLY TO PROVIDE FUNDING FOR THE OPERATION AND ADMINISTRATION OF THE EXCHANGE IN CARRYING OUT THE PURPOSES AUTHORIZED UNDER THIS TITLE.**

~~(H)~~ **(G) (1) THE STATE TREASURER SHALL INVEST THE MONEY OF THE FUND IN THE SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.**

**(2) ANY INVESTMENT EARNINGS OF THE FUND SHALL BE CREDITED TO THE FUND.**

**(3) NO PART OF THE FUND MAY REVERT OR BE CREDITED TO THE GENERAL FUND OR ANY SPECIAL FUND OF THE STATE.**

~~(I)~~ **(H) A DEBT OR AN OBLIGATION OF THE FUND IS NOT A DEBT OF THE STATE OR A PLEDGE OF CREDIT OF THE STATE.**

(A) ON OR BEFORE JANUARY 1, 2014, THE FUNCTIONS AND OPERATIONS OF THE EXCHANGE SHALL INCLUDE AT A MINIMUM ALL FUNCTIONS REQUIRED BY § 1311(D)(4) OF THE AFFORDABLE CARE ACT.

(B) ON OR BEFORE JANUARY 1, 2014, IN COMPLIANCE WITH § 1311(D)(4) OF THE AFFORDABLE CARE ACT, THE EXCHANGE SHALL:

(1) MAKE QUALIFIED HEALTH PLANS AVAILABLE TO QUALIFIED INDIVIDUALS AND QUALIFIED EMPLOYERS;

(2) ALLOW A CARRIER TO OFFER A QUALIFIED ~~HEALTH~~ DENTAL PLAN THROUGH THE EXCHANGE THAT PROVIDES LIMITED SCOPE DENTAL BENEFITS ~~UNDER~~ THAT MEET THE REQUIREMENTS OF § 9832(C)(2)(A) OF THE INTERNAL REVENUE CODE, EITHER SEPARATELY OR IN CONJUNCTION WITH A QUALIFIED HEALTH PLAN, PROVIDED THAT THE QUALIFIED HEALTH PLAN PROVIDES PEDIATRIC DENTAL BENEFITS THAT MEET THE REQUIREMENTS OF § 1302(B)(1)(J) OF THE AFFORDABLE CARE ACT;

(3) IMPLEMENT PROCEDURES FOR THE CERTIFICATION, RECERTIFICATION, AND DECERTIFICATION OF HEALTH BENEFIT PLANS AS QUALIFIED HEALTH PLANS, CONSISTENT WITH GUIDELINES DEVELOPED BY THE SECRETARY UNDER § 1311(C) OF THE AFFORDABLE CARE ACT;

(4) PROVIDE FOR THE OPERATION OF A TOLL-FREE TELEPHONE HOTLINE TO RESPOND TO REQUESTS FOR ASSISTANCE;

(5) PROVIDE FOR INITIAL, ANNUAL, AND SPECIAL ENROLLMENT PERIODS, IN ACCORDANCE WITH GUIDELINES ADOPTED BY THE SECRETARY UNDER § 1311(C)(6) OF THE AFFORDABLE CARE ACT;

(6) MAINTAIN A WEB SITE THROUGH WHICH ENROLLEES AND PROSPECTIVE ENROLLEES OF QUALIFIED HEALTH PLANS MAY OBTAIN STANDARDIZED COMPARATIVE INFORMATION ON QUALIFIED HEALTH PLANS AND QUALIFIED DENTAL PLANS;

(7) WITH RESPECT TO EACH QUALIFIED HEALTH PLAN OFFERED THROUGH THE EXCHANGE:

(I) ASSIGN A RATING FOR EACH QUALIFIED HEALTH PLAN IN ACCORDANCE WITH THE CRITERIA DEVELOPED BY THE SECRETARY UNDER § 1311(C)(3) OF THE AFFORDABLE CARE ACT AND ANY ADDITIONAL CRITERIA THAT MAY BE APPLICABLE UNDER THE LAWS OF THE STATE AND REGULATIONS ADOPTED BY THE EXCHANGE UNDER THIS TITLE; AND

(II) DETERMINE EACH QUALIFIED HEALTH PLAN'S LEVEL OF COVERAGE IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE SECRETARY UNDER § 1302(D)(2)(A) OF THE AFFORDABLE CARE ACT AND ANY ADDITIONAL REGULATIONS ADOPTED BY THE EXCHANGE UNDER THIS TITLE;

(8) PRESENT QUALIFIED HEALTH PLAN OPTIONS OFFERED BY THE EXCHANGE IN A STANDARDIZED FORMAT, INCLUDING THE USE OF THE UNIFORM OUTLINE OF COVERAGE ESTABLISHED UNDER § 2715 OF THE FEDERAL PUBLIC HEALTH SERVICE ACT;

(9) IN ACCORDANCE WITH § 1413 OF THE AFFORDABLE CARE ACT, PROVIDE INFORMATION AND MAKE DETERMINATIONS REGARDING ELIGIBILITY FOR THE FOLLOWING PROGRAMS:

(I) THE MARYLAND MEDICAL ASSISTANCE PROGRAM UNDER TITLE XIX OF THE SOCIAL SECURITY ACT;

(II) THE MARYLAND CHILDREN'S HEALTH ~~INSURANCE~~ PROGRAM UNDER TITLE XXI OF THE SOCIAL SECURITY ACT; AND

(III) ANY APPLICABLE STATE OR LOCAL PUBLIC HEALTH INSURANCE PROGRAM;

(10) FACILITATE THE ENROLLMENT OF ANY INDIVIDUAL WHO THE EXCHANGE DETERMINES IS ELIGIBLE FOR A PROGRAM DESCRIBED IN ITEM (9) OF THIS SUBSECTION;

(11) ESTABLISH AND MAKE AVAILABLE BY ELECTRONIC MEANS A CALCULATOR TO DETERMINE THE ACTUAL COST OF COVERAGE OF A QUALIFIED HEALTH PLAN AND A QUALIFIED DENTAL PLAN OFFERED BY THE EXCHANGE AFTER APPLICATION OF ANY PREMIUM TAX CREDIT UNDER § 36B OF THE INTERNAL REVENUE CODE AND ANY COST-SHARING REDUCTION UNDER § 1402 OF THE AFFORDABLE CARE ACT;

(12) ESTABLISH A SHOP EXCHANGE THROUGH WHICH QUALIFIED EMPLOYERS MAY ACCESS COVERAGE FOR THEIR EMPLOYEES AT SPECIFIED LEVELS OF COVERAGE AND MEET STANDARDS FOR THE FEDERAL QUALIFIED EMPLOYER TAX CREDIT;

(13) IMPLEMENT A CERTIFICATION PROCESS FOR INDIVIDUALS EXEMPT FROM THE INDIVIDUAL RESPONSIBILITY REQUIREMENT AND PENALTY UNDER § 5000A OF THE INTERNAL REVENUE CODE ON THE GROUNDS THAT:

(I) NO AFFORDABLE QUALIFIED HEALTH PLAN THAT COVERS THE INDIVIDUAL IS AVAILABLE THROUGH THE EXCHANGE OR THE INDIVIDUAL'S EMPLOYER; OR

(II) THE INDIVIDUAL MEETS OTHER REQUIREMENTS UNDER THE AFFORDABLE CARE ACT THAT MAKE THE INDIVIDUAL ELIGIBLE FOR THE EXEMPTION;

(14) IMPLEMENT A PROCESS FOR TRANSFER TO THE UNITED STATES SECRETARY OF THE TREASURY THE NAME AND TAXPAYER IDENTIFICATION NUMBER OF EACH INDIVIDUAL WHO:

(I) IS CERTIFIED AS EXEMPT FROM THE INDIVIDUAL RESPONSIBILITY REQUIREMENT;

(II) IS EMPLOYED BUT DETERMINED ELIGIBLE FOR THE PREMIUM TAX CREDIT ON THE GROUNDS THAT:

1. THE INDIVIDUAL'S EMPLOYER DOES NOT PROVIDE MINIMUM ESSENTIAL COVERAGE; OR

2. THE EMPLOYER'S COVERAGE IS DETERMINED TO BE UNAFFORDABLE FOR THE INDIVIDUAL OR DOES NOT PROVIDE THE REQUISITE MINIMUM ACTUARIAL VALUE;

(III) NOTIFIES THE EXCHANGE UNDER § 1411(B)(4) OF THE AFFORDABLE CARE ACT THAT THE INDIVIDUAL HAS CHANGED EMPLOYERS; AND

(IV) CEASES COVERAGE UNDER A QUALIFIED HEALTH PLAN DURING THE PLAN YEAR, TOGETHER WITH THE DATE COVERAGE CEASED;

(15) PROVIDE NOTICE TO EMPLOYERS OF EMPLOYEES WHO CEASE COVERAGE UNDER A QUALIFIED HEALTH PLAN DURING A PLAN YEAR, TOGETHER WITH THE DATE COVERAGE CEASED;

(16) CONDUCT PROCESSES REQUIRED BY THE SECRETARY AND THE UNITED STATES SECRETARY OF THE TREASURY TO DETERMINE ELIGIBILITY FOR PREMIUM TAX CREDITS, REDUCED COST-SHARING, AND INDIVIDUAL RESPONSIBILITY REQUIREMENT EXEMPTIONS;

(17) ESTABLISH A NAVIGATOR PROGRAM IN ACCORDANCE WITH § 1311(I) OF THE AFFORDABLE CARE ACT AND ANY REQUIREMENTS ESTABLISHED UNDER THIS TITLE;

(18) (I) ESTABLISH A PROCESS, IN ACCORDANCE WITH § 10108 OF THE AFFORDABLE CARE ACT, FOR CREDITING THE AMOUNT OF FREE CHOICE VOUCHERS TO PREMIUMS OF QUALIFIED HEALTH PLANS AND QUALIFIED DENTAL PLANS IN WHICH QUALIFIED EMPLOYEES ARE ENROLLED; AND

(II) COLLECT THE AMOUNT CREDITED FROM THE EMPLOYER OFFERING THE QUALIFIED HEALTH PLAN;

(19) CARRY OUT A PLAN TO PROVIDE APPROPRIATE ASSISTANCE FOR CONSUMERS SEEKING TO PURCHASE PRODUCTS THROUGH THE EXCHANGE, INCLUDING THE IMPLEMENTATION OF THE NAVIGATOR PROGRAM AND TOLL-FREE HOTLINE REQUIRED UNDER ITEM (4) OF THIS SUBSECTION; AND

(20) CARRY OUT A PUBLIC RELATIONS AND ADVERTISING CAMPAIGN TO PROMOTE THE EXCHANGE.

(C) IF THE INDIVIDUAL ENROLLS IN ANOTHER TYPE OF MINIMUM ESSENTIAL COVERAGE NEITHER THE EXCHANGE NOR A CARRIER OFFERING QUALIFIED HEALTH PLANS THROUGH THE EXCHANGE MAY CHARGE AN INDIVIDUAL A FEE OR PENALTY FOR TERMINATION OF COVERAGE ON THE GROUNDS THAT:

(1) THE INDIVIDUAL HAS BECOME NEWLY ELIGIBLE FOR THAT COVERAGE; OR

(2) THE INDIVIDUAL'S EMPLOYER-SPONSORED COVERAGE HAS BECOME AFFORDABLE UNDER THE STANDARDS OF § 36B(C)(2)(C) OF THE INTERNAL REVENUE CODE.

~~(D) IN CARRYING OUT ITS DUTIES UNDER THIS TITLE, THE EXCHANGE, THROUGH THE ADVISORY COMMITTEES ESTABLISHED UNDER § 31-106(C)(6) OF THIS TITLE OR THROUGH OTHER MEANS, SHALL CONSULT WITH STAKEHOLDERS, INCLUDING:~~

~~(1) INDIVIDUAL HEALTH CARE CONSUMERS;~~

~~(2) SMALL AND LARGE EMPLOYERS;~~

~~(3) INDIVIDUALS AND ENTITIES WITH EXPERIENCE IN FACILITATING ENROLLMENT IN QUALIFIED HEALTH PLANS;~~

~~(4) ADVOCATES FOR SPECIAL AND HARD TO REACH POPULATIONS;~~

~~(5) REPRESENTATIVES OF HEALTH CARE PROVIDERS, CARRIERS, AND PLAN ADMINISTRATORS;~~

~~(6) EXPERTS IN THE ADMINISTRATION OF PUBLIC AND PRIVATE HEALTH CARE DELIVERY SYSTEMS AND HEALTH CARE FINANCE; AND~~

~~(7) ANY OTHER APPROPRIATE STAKEHOLDERS IDENTIFIED BY THE EXCHANGE.~~

(D) THE EXCHANGE, THROUGH THE ADVISORY COMMITTEES ESTABLISHED UNDER § 31-106(G) OF THIS TITLE OR THROUGH OTHER MEANS, SHALL CONSULT WITH AND CONSIDER THE RECOMMENDATIONS OF THE STAKEHOLDERS REPRESENTED ON THE ADVISORY COMMITTEES IN THE EXERCISE OF ITS DUTIES UNDER THIS TITLE.

(E) THE EXCHANGE MAY NOT MAKE AVAILABLE:

(1) ANY HEALTH BENEFIT PLAN THAT IS NOT A QUALIFIED HEALTH PLAN; OR

(2) ANY DENTAL PLAN THAT IS NOT A QUALIFIED DENTAL PLAN.

31-109.

(A) THE EXCHANGE SHALL CERTIFY HEALTH BENEFIT PLANS AS QUALIFIED HEALTH PLANS.

(B) TO BE CERTIFIED AS A QUALIFIED HEALTH PLAN, A HEALTH BENEFIT PLAN SHALL:

(1) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, PROVIDE THE ESSENTIAL BENEFITS PACKAGE REQUIRED UNDER § 1302(A) OF THE AFFORDABLE CARE ACT;

(2) OBTAIN PRIOR APPROVAL OF PREMIUM RATES AND CONTRACT LANGUAGE FROM THE COMMISSIONER;

(3) EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, PROVIDE AT LEAST A BRONZE LEVEL OF COVERAGE, AS DEFINED IN THE AFFORDABLE CARE ACT AND DETERMINED BY THE EXCHANGE UNDER § 31-108(B)(7)(II) OF THIS TITLE;

(4) (I) ENSURE THAT ITS COST-SHARING REQUIREMENTS DO NOT EXCEED THE LIMITS ESTABLISHED UNDER § 1302(C)(1) OF THE AFFORDABLE CARE ACT; AND

(II) IF THE HEALTH BENEFIT PLAN IS OFFERED THROUGH THE SHOP EXCHANGE, ENSURE THAT THE HEALTH BENEFIT PLAN'S DEDUCTIBLE DOES NOT EXCEED THE LIMITS ESTABLISHED UNDER § 1302(C)(2) OF THE AFFORDABLE CARE ACT;

(5) BE OFFERED BY A CARRIER THAT:

(I) IS LICENSED AND IN GOOD STANDING TO OFFER HEALTH INSURANCE COVERAGE IN THE STATE;

(II) IF THE CARRIER PARTICIPATES IN THE EXCHANGE'S INDIVIDUAL MARKET, OFFERS AT LEAST ONE QUALIFIED HEALTH PLAN AT THE SILVER LEVEL AND ONE AT THE GOLD LEVEL IN THE INDIVIDUAL MARKET OUTSIDE THE EXCHANGE;

(III) IF THE CARRIER PARTICIPATES IN THE SHOP EXCHANGE, OFFERS AT LEAST ONE QUALIFIED HEALTH PLAN AT THE SILVER LEVEL AND ONE AT THE GOLD LEVEL IN THE SMALL GROUP MARKET OUTSIDE THE SHOP EXCHANGE;

(IV) CHARGES THE SAME PREMIUM RATE FOR EACH QUALIFIED HEALTH PLAN REGARDLESS OF WHETHER THE QUALIFIED HEALTH PLAN IS OFFERED THROUGH THE EXCHANGE, THROUGH AN INSURANCE PRODUCER OUTSIDE THE EXCHANGE, OR DIRECTLY FROM A CARRIER;

(V) DOES NOT CHARGE ANY CANCELLATION FEES OR PENALTIES IN VIOLATION OF § 31-108(C) OF THIS TITLE; AND

(VI) COMPLIES WITH THE REGULATIONS ADOPTED BY THE SECRETARY UNDER § 1311(D) OF THE AFFORDABLE CARE ACT AND BY THE EXCHANGE UNDER § 31-106(C)(4) OF THIS TITLE;

(6) MEET THE REQUIREMENTS FOR CERTIFICATION ESTABLISHED UNDER THE REGULATIONS ADOPTED BY:

(I) THE SECRETARY UNDER § 1311(C)(1) OF THE AFFORDABLE CARE ACT, INCLUDING MINIMUM STANDARDS FOR MARKETING PRACTICES, NETWORK ADEQUACY, ESSENTIAL COMMUNITY PROVIDERS IN UNDERSERVED AREAS, ACCREDITATION, QUALITY IMPROVEMENT, UNIFORM



ENROLLMENT FORMS AND DESCRIPTIONS OF COVERAGE, AND INFORMATION ON QUALITY MEASURES FOR HEALTH PLAN PERFORMANCE; AND

(II) THE EXCHANGE UNDER § 31-106(C)(4) OF THIS TITLE;

(7) BE IN THE INTEREST OF QUALIFIED INDIVIDUALS AND QUALIFIED EMPLOYERS, AS DETERMINED BY THE EXCHANGE;

(8) PROVIDE ANY OTHER BENEFITS AS MAY BE REQUIRED BY THE COMMISSIONER UNDER ANY APPLICABLE STATE LAW OR REGULATION; AND

(9) MEET ANY OTHER REQUIREMENTS ESTABLISHED BY THE EXCHANGE UNDER THIS TITLE.

(C) A QUALIFIED HEALTH PLAN IS NOT REQUIRED TO PROVIDE ESSENTIAL BENEFITS THAT DUPLICATE THE MINIMUM BENEFITS OF QUALIFIED DENTAL PLANS, AS PROVIDED IN SUBSECTION (G) OF THIS SECTION, IF:

(1) THE EXCHANGE HAS DETERMINED THAT ~~AN ADEQUATE CHOICE OF~~ AT LEAST ONE QUALIFIED DENTAL PLANS PLAN IS AVAILABLE TO SUPPLEMENT THE QUALIFIED HEALTH PLAN'S COVERAGE; AND

(2) AT THE TIME THE CARRIER OFFERS THE QUALIFIED HEALTH PLAN, THE CARRIER DISCLOSES IN A FORM APPROVED BY THE EXCHANGE THAT:

(I) THE PLAN DOES NOT PROVIDE THE FULL RANGE OF ESSENTIAL PEDIATRIC BENEFITS; AND

(II) QUALIFIED DENTAL PLANS PROVIDING THESE AND OTHER DENTAL BENEFITS ALSO NOT PROVIDED BY THE QUALIFIED HEALTH PLAN ARE OFFERED THROUGH THE EXCHANGE.

(D) A QUALIFIED HEALTH PLAN IS NOT REQUIRED TO PROVIDE AT LEAST A BRONZE LEVEL OF COVERAGE UNDER SUBSECTION (B)(3) OF THIS SECTION IF THE QUALIFIED HEALTH PLAN:

(1) MEETS THE REQUIREMENTS AND IS CERTIFIED AS A QUALIFIED CATASTROPHIC PLAN AS PROVIDED UNDER THE AFFORDABLE CARE ACT; AND

(2) WILL BE OFFERED ONLY TO INDIVIDUALS ELIGIBLE FOR CATASTROPHIC COVERAGE.

(E) A HEALTH BENEFIT PLAN MAY NOT BE DENIED CERTIFICATION:

(1) SOLELY ON THE GROUNDS THAT THE HEALTH BENEFIT PLAN IS A FEE-FOR-SERVICE PLAN;

(2) THROUGH THE IMPOSITION OF PREMIUM PRICE CONTROLS BY THE EXCHANGE; OR

(3) SOLELY ON THE GROUNDS THAT THE HEALTH BENEFIT PLAN PROVIDES TREATMENTS NECESSARY TO PREVENT PATIENTS' DEATHS IN CIRCUMSTANCES THE EXCHANGE DETERMINES ARE INAPPROPRIATE OR TOO COSTLY.

(F) IN ADDITION TO OTHER RATE FILING REQUIREMENTS THAT MAY BE APPLICABLE UNDER THIS ARTICLE, EACH CARRIER SEEKING CERTIFICATION OF A HEALTH BENEFIT PLAN SHALL:

(1) (I) SUBMIT TO THE EXCHANGE A JUSTIFICATION FOR ANY PREMIUM INCREASE BEFORE IMPLEMENTATION OF THE INCREASE; AND

(II) POST THE INCREASE ON THE CARRIER'S WEB SITE;

(2) SUBMIT TO THE EXCHANGE, THE SECRETARY, AND THE COMMISSIONER, AND MAKE AVAILABLE TO THE PUBLIC, IN PLAIN LANGUAGE AS REQUIRED UNDER § 1311(E)(3)(B) OF THE AFFORDABLE CARE ACT, ACCURATE AND TIMELY DISCLOSURE OF:

(I) CLAIMS PAYMENT POLICIES AND PRACTICES;

(II) FINANCIAL DISCLOSURES;

(III) DATA ON ENROLLMENT, DISENROLLMENT, NUMBER OF CLAIMS DENIED, AND RATING PRACTICES;

(IV) INFORMATION ON COST-SHARING AND PAYMENTS WITH RESPECT TO OUT-OF-NETWORK COVERAGE;

(V) INFORMATION ON ENROLLEE AND PARTICIPANT RIGHTS UNDER TITLE I OF THE AFFORDABLE CARE ACT; AND

(VI) ANY OTHER INFORMATION AS DETERMINED APPROPRIATE BY THE SECRETARY AND THE EXCHANGE; AND

(3) MAKE AVAILABLE INFORMATION ABOUT COSTS AN INDIVIDUAL WOULD INCUR UNDER THE INDIVIDUAL'S HEALTH BENEFIT PLAN

FOR SERVICES PROVIDED BY A PARTICIPATING HEALTH CARE PROVIDER, INCLUDING COST-SHARING REQUIREMENTS SUCH AS DEDUCTIBLES, CO-PAYMENTS, AND COINSURANCE, IN A MANNER DETERMINED BY THE EXCHANGE.

(G) (1) EXCEPT AS PROVIDED IN PARAGRAPHS (2), (3), AND (4) OF THIS SUBSECTION, THE REQUIREMENTS APPLICABLE TO QUALIFIED HEALTH PLANS UNDER THIS TITLE ALSO SHALL APPLY TO QUALIFIED DENTAL PLANS.

(2) A CARRIER OFFERING A QUALIFIED DENTAL PLAN SHALL BE LICENSED TO OFFER DENTAL COVERAGE BUT NEED NOT BE LICENSED TO OFFER OTHER HEALTH BENEFITS.

(3) A QUALIFIED DENTAL PLAN SHALL:

(I) BE LIMITED TO DENTAL AND ORAL HEALTH BENEFITS, WITHOUT SUBSTANTIAL DUPLICATION OF OTHER BENEFITS TYPICALLY OFFERED BY HEALTH BENEFIT PLANS WITHOUT DENTAL COVERAGE; AND

(II) INCLUDE AT A MINIMUM:

1. THE ESSENTIAL PEDIATRIC DENTAL BENEFITS REQUIRED BY THE SECRETARY UNDER § 1302(B)(1)(J) OF THE AFFORDABLE CARE ACT; AND

2. OTHER DENTAL BENEFITS REQUIRED BY THE SECRETARY OR THE EXCHANGE.

~~(III) INCLUDE ANY OTHER BENEFITS AS MAY BE REQUIRED BY THE SECRETARY OR THE EXCHANGE.~~

(4) CARRIERS JOINTLY MAY OFFER A COMPREHENSIVE PLAN THROUGH THE EXCHANGE IN WHICH DENTAL BENEFITS ARE PROVIDED BY A CARRIER THROUGH A QUALIFIED DENTAL PLAN AND OTHER BENEFITS ARE PROVIDED BY A CARRIER THROUGH A QUALIFIED HEALTH PLAN, PROVIDED THAT THE PLANS ARE PRICED SEPARATELY AND MADE AVAILABLE FOR PURCHASE SEPARATELY AT THE SAME PRICE AS WHEN OFFERED JOINTLY.

31-110.

(A) ~~SUBJECT~~ BEGINNING JANUARY 1, 2014, SUBJECT TO SUBSECTION (B) SUBSECTIONS (B) AND (C) OF THIS SECTION, THE EXCHANGE MAY:

(1) IMPOSE USER FEES, LICENSING OR OTHER REGULATORY FEES, OR OTHER ASSESSMENTS ~~ON PERSONS THAT BENEFIT FROM THE EXCHANGE~~ THAT DO NOT EXCEED REASONABLE PROJECTIONS REGARDING THE AMOUNT NECESSARY TO SUPPORT THE OPERATIONS OF THE EXCHANGE UNDER THIS TITLE; OR

(2) OTHERWISE GENERATE FUNDING NECESSARY TO SUPPORT ITS OPERATIONS UNDER THIS TITLE.

(B) ANY FEES, ASSESSMENTS, OR OTHER FUNDING MECHANISMS SHALL BE IMPOSED OR IMPLEMENTED, TO THE MAXIMUM EXTENT POSSIBLE, IN A MANNER THAT IS TRANSPARENT AND BROAD-BASED.

(C) BEFORE IMPOSING OR ALTERING ANY FEE OR ASSESSMENT ESTABLISHED BY LAW, THE EXCHANGE SHALL ADOPT REGULATIONS THAT SPECIFY:

(1) THE PERSONS SUBJECT TO THE FEE OR ASSESSMENT;

(2) THE AMOUNT OF THE FEE OR ASSESSMENT; AND

(3) THE MANNER IN WHICH THE FEE OR ASSESSMENT WILL BE COLLECTED.

~~(C)~~ (D) FUNDS COLLECTED THROUGH ANY FEES, ASSESSMENTS, OR OTHER FUNDING MECHANISMS:

(1) SHALL BE DEPOSITED IN THE ~~MARYLAND HEALTH BENEFIT EXCHANGE~~ FUND;

(2) SHALL BE USED ONLY FOR THE PURPOSES AUTHORIZED UNDER THIS TITLE; AND

(3) MAY NOT BE USED FOR STAFF RETREATS, PROMOTIONAL GIVEAWAYS, EXCESSIVE EXECUTIVE COMPENSATION, OR PROMOTION OF FEDERAL OR STATE LEGISLATIVE AND REGULATORY ACTIONS.

(E) THE EXCHANGE MAY NOT IMPOSE FEES OR ASSESSMENTS AUTHORIZED UNDER THIS SECTION IN A MANNER THAT WOULD PROVIDE A COMPETITIVE DISADVANTAGE TO HEALTH BENEFIT PLANS OPERATING OUTSIDE OF THE EXCHANGE.

~~(D)~~ (F) THE EXCHANGE SHALL MAINTAIN A WEB SITE ON WHICH IT SHALL PUBLISH:

- (1) THE AVERAGE AMOUNTS OF ANY FEES, ASSESSMENTS, OR OTHER PAYMENTS REQUIRED BY THE EXCHANGE;
- (2) THE ADMINISTRATIVE COSTS OF THE EXCHANGE; AND
- (3) THE AMOUNT OF FUNDS KNOWN TO BE LOST THROUGH WASTE, FRAUD, AND ABUSE.

31-111.

(A) THE EXCHANGE SHALL BE ADMINISTERED IN A MANNER DESIGNED TO:

- (1) PREVENT DISCRIMINATION;
- (2) STREAMLINE ENROLLMENT AND OTHER PROCESSES TO MINIMIZE EXPENSES AND ACHIEVE MAXIMUM EFFICIENCY;
- (3) PREVENT WASTE, FRAUD, AND ABUSE; AND
- (4) PROMOTE FINANCIAL INTEGRITY.

(B) THE EXCHANGE SHALL KEEP AN ACCURATE ACCOUNTING OF ALL ITS ACTIVITIES, EXPENDITURES, AND RECEIPTS.

(C) (1) ON OR BEFORE DECEMBER 1 OF EACH YEAR, THE BOARD SHALL FORWARD TO THE SECRETARY, THE GOVERNOR, AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY, A REPORT ON THE ACTIVITIES, EXPENDITURES, AND RECEIPTS OF THE EXCHANGE.

(2) THE REPORT SHALL:

(I) BE IN THE STANDARDIZED FORMAT REQUIRED BY THE SECRETARY;

(II) INCLUDE DATA REGARDING ~~COVERAGE, PRICE, QUALITY, BENEFITS, CONSUMER CHOICE, AND OTHER METRICS TO EVALUATE EXCHANGE PERFORMANCE, ASSURE TRANSPARENCY, AND FACILITATE RESEARCH AND ANALYSIS;~~

1. HEALTH PLAN PARTICIPATION, RATINGS, COVERAGE, PRICE, QUALITY IMPROVEMENT MEASURES, AND BENEFITS;

2. CONSUMER CHOICE, PARTICIPATION, AND SATISFACTION INFORMATION TO THE EXTENT THE INFORMATION IS AVAILABLE;

3. FINANCIAL INTEGRITY, FEE ASSESSMENTS, AND STATUS OF THE FUND; AND

4. ANY OTHER APPROPRIATE METRICS RELATED TO THE OPERATION OF THE EXCHANGE THAT MAY BE USED TO EVALUATE EXCHANGE PERFORMANCE, ASSURE TRANSPARENCY, AND FACILITATE RESEARCH AND ANALYSIS; AND

(III) INCLUDE DATA TO IDENTIFY DISPARITIES RELATED TO GENDER, RACE, ETHNICITY, GEOGRAPHIC LOCATION, LANGUAGE, DISABILITY, OR OTHER ATTRIBUTES OF SPECIAL POPULATIONS.

(D) THE BOARD SHALL COOPERATE FULLY WITH ANY INVESTIGATION INTO THE AFFAIRS OF THE EXCHANGE, INCLUDING MAKING AVAILABLE FOR EXAMINATION THE RECORDS OF THE EXCHANGE, CONDUCTED BY:

(1) THE SECRETARY UNDER THE SECRETARY'S AUTHORITY UNDER THE AFFORDABLE CARE ACT; AND

(2) THE COMMISSIONER UNDER THE COMMISSIONER'S AUTHORITY TO REGULATE THE SALE AND PURCHASE OF INSURANCE IN THE STATE.

SECTION 2. AND BE IT FURTHER ENACTED, That, with respect to the functions of the Maryland Health Benefit Exchange established under Section 1 of this Act, and the requirements for health benefit plan certification mandated by the federal Patient Protection and Affordable Care Act and as implemented by §§ 31-108 and 31-109 of the Insurance Article, as enacted by Section 1 of this Act, that require further guidance from the Secretary of Health and Human Services before full implementation is possible, the Exchange may not implement those functions or impose those requirements until ~~such~~ the further guidance is received.

~~SECTION 3. AND BE IT FURTHER ENACTED, That, with respect to the functions of the Maryland Health Benefit Exchange established under Section 1 of this Act, and the requirements for health benefit plan certification mandated by the federal Patient Protection and Affordable Care Act and as implemented by §§ 31-108 and 31-109 of the Insurance Article, as enacted by Section 1 of this Act, that require further study and recommendations under Section 5 of this Act before full implementation is possible, including recommendations for further legislative or regulatory action, the Exchange of Trustees of the Maryland Health Benefit Exchange~~

~~established under Section 1 of this Act, may not implement those functions or impose those requirements until:~~

~~(1) the Exchange conducts the studies and reports its findings and recommendations to the Governor and the General Assembly as required under Section 5 of this Act; and~~

~~(2) the findings and recommendations for further legislative or regulatory action are acted upon by the Governor and the General Assembly. the Maryland Health Benefit Exchange established under Section 1 of this Act may not exercise any powers, duties, or functions under the provisions of § 31-108(b)(1), (7), (12), (17), (19), and (20), § 31-109(a), or § 31-110 of the Insurance Article, as enacted by Section 1 of this Act, until:~~

(1) the Exchange has reported its findings and recommendations, including recommendations for legislation necessary or desirable to carry out its purposes and functions, to the Governor and the General Assembly, in accordance with Section 5 of this Act; and

(2) the Governor and the General Assembly authorize the exercise of the powers, duties, and functions through enactment of additional legislation in the 2012 legislative session.

SECTION 4. AND BE IT FURTHER ENACTED, That, with respect to the Governor's appointment to the Board of Trustees of the Maryland Health Benefit Exchange established under Section 1 of this Act, of those members representing the interests of employers and consumers, it is the intent of the General Assembly that the Governor seek to appoint, where practicable and particularly in the initial appointments, members whose particular knowledge and understanding include the interests of minority-owned employers and individual consumers who come from lower-income and minority communities, have chronic diseases or disabilities, or belong to other hard-to-reach or special populations.

SECTION 5. AND BE IT FURTHER ENACTED, That the Maryland Health Benefit Exchange established under Section 1 of this Act:

(1) in consultation with the advisory committees established under ~~§ 31-106(e)(6)~~ § 31-106(g) of the Insurance Article, as enacted by Section 1 of this Act, and with other stakeholders, shall study and make recommendations regarding:

(i) the feasibility and desirability of the Exchange engaging in:

1. selective contracting, either through competitive bidding or a negotiation process similar to that used by large employers, to reduce health care costs and improve quality of care by certifying only those health benefit plans that meet certain requirements such as promoting patient-centered medical homes, adopting electronic health records, meeting minimum outcome standards,

implementing payment reforms to reduce medical errors and preventable hospitalizations, reducing disparities, ensuring adequate reimbursements, enrolling low-risk members and underserved populations, managing chronic conditions and promoting healthy consumer lifestyles, value-based insurance design, and adhering to transparency guidelines and uniform price and quality reporting; and

2. multistate or regional contracting ~~within the State~~;

(ii) the rules under which health benefit plans should be offered inside and outside the Exchange in order to mitigate adverse selection and encourage enrollment in the Exchange, including:

1. whether any benefits should be required of qualified health plans beyond those mandated by the federal Patient Protection and Affordable Care Act (Affordable Care Act), and whether any such additional benefits should be required of health benefit plans offered outside the Exchange;

2. whether carriers offering health benefit plans outside the Exchange should be required to offer either all the same health benefit plans inside the Exchange, or alternatively, at least one health benefit plan inside the Exchange; and

3. ~~whether managed care organizations with Health Choice contracts should be required to offer products inside the Exchange, and whether carriers offering health benefit plans inside the Exchange should be required to also participate in the Maryland Medical Assistance Program~~ which provisions applicable to qualified health plans should be made applicable to qualified dental plans;

(iii) the design and operation of the Exchange's Navigator Program and any other appropriate consumer assistance mechanisms, including:

1. ~~how the Navigator Program could utilize, interact with, or complement private sector resources, including insurance producers~~ the infrastructure of the existing private sector health insurance distribution system in the State to determine whether private sector resources may be available and suitable for use by the Exchange;

2. the effect the Exchange may have on private sector employment in the health insurance distribution system in the State;

~~3.~~ 3. what functions, in addition to those required by the Affordable Care Act, should be performed by Navigators;

~~4.~~ 4. what training and expertise should be required of Navigators, and whether different markets and populations require Navigators with different qualifications;



~~4~~ 5. how Navigators should be retained and compensated, and how disparities between Navigator compensation and the compensation of insurance producers outside the Exchange can be minimized or avoided; ~~and~~

6. how to ensure that Navigators provide information in a manner culturally, linguistically, and otherwise appropriate to the needs of the diverse populations served by the Exchange, and that Navigators have the capacity to meet these needs; and

~~5~~ 7. what other means of consumer assistance may be appropriate and feasible, and how they should be designed and implemented;

(iv) the design and function of the SHOP Exchange beyond the requirements of the Affordable Care Act, to promote quality, affordability, and portability, including:

1. whether it should be a defined contribution/employee choice model or whether employers should choose the qualified health plan to offer their employees;

2. whether the current individual and small group markets should be merged; and

3. whether the SHOP Exchange should be made available to employers with 50 to 100 employees prior to 2016, as authorized by the Affordable Care Act; ~~and~~

(v) how the Exchange can be self-sustaining by ~~2016~~ 2015 in compliance with the Affordable Care Act, including:

1. a recommended plan for the budget of the Exchange;

2. the user fees, licensing fees, or other assessments that should be imposed by the Exchange to fund its operations, including what type of user fee cap or other methodology would be appropriate to ensure that the income of the Exchange comports with the expenditures of the Exchange; and

3. a recommended plan for how to prevent fraud, waste, and abuse; and

(vi) how the Exchange should conduct its public relations and advertising campaign, including what type of solicitation, if any, of individual consumers or employers, would be desirable and appropriate; and

(2) on or before December ~~4~~ 23, 2011, shall report its ~~interim~~ findings and recommendations, including ~~initial~~ recommendations for further legislative or

regulatory action, to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly, ~~and~~

~~(3) on or before December 1, 2012, shall report its final findings and recommendations, including final recommendations for further legislative or regulatory action, to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly.~~

SECTION 6. AND BE IT FURTHER ENACTED, That, on or before December 1, 2015, the Maryland Health Benefit Exchange established under Section 1 of this Act, in consultation with the advisory committees established under § ~~31–106(e)(6)~~ 31–106(g) of the Insurance Article, as enacted by Section 1 of this Act, and with other stakeholders, shall conduct a study and report its findings and recommendations to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly, on whether the Exchange should remain an independent public body or should become a nongovernmental, nonprofit entity.

SECTION 7. AND BE IT FURTHER ENACTED, That the terms of the initial appointed members of the Board of Trustees of the Maryland Health Benefit Exchange, established under Section 1 of this Act, shall expire as follows:

- (1) two members in 2013;
- (2) two members in 2014; and
- (3) two members in 2015.

SECTION 8. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that the Maryland Health Benefits Exchange established under Section 1 of this Act should not take any action that would inhibit the potential transformation of the Exchange into a nongovernmental, nonprofit entity or a quasi-governmental entity.

SECTION ~~8~~ 9. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~July~~ June 1, 2011.

**Approved by the Governor, April 12, 2011.**

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### Chapter 3

(Senate Bill 183)

AN ACT concerning

**Health Insurance – Conformity with Federal Law**

FOR the purpose of altering the circumstances under which a person has the right to a hearing and the right to an appeal from an action of the Maryland Insurance Commissioner; requiring the Commissioner to file certain documents in a court in which a certain appeal is pending; providing that certain provisions of federal law apply to certain health insurance coverage issued or delivered by certain insurers, nonprofit health service plans, and health maintenance organizations; authorizing the Commissioner to enforce certain provisions of law; altering the requirement for certain insurers, nonprofit health service plans, and health maintenance organizations to send a certain notice when a child who is covered under a certain insurance policy or contract reaches a certain age; requiring certain health insurance coverage issued or delivered by certain insurers, nonprofit health service plans, and health maintenance organizations to comply with certain loss ratio requirements; authorizing a member's representative to file a certain grievance, complaint, or appeal; altering the circumstances under which a certain complaint may be filed with the Commissioner; altering requirements for certain filings, timeframes, notices, and evidence of coverage information relating to appeals and grievances; requiring the Commissioner to seek advice from certain independent review organizations or certain medical advisors on certain complaints; altering the information that a certain independent review organization must submit to the Commissioner; requiring certain carriers to provide certain notices to certain members in a manner described in the Patient Protection and Affordable Care Act; altering the calculation of a minimum participation requirement in the small group health insurance market; requiring the Maryland Health Care Commission to include certain mental health and substance abuse benefits under the Standard Health Benefit Plan; making certain provisions of this Act applicable to health maintenance organizations; altering certain definitions; defining certain terms; making conforming and technical changes; providing for the application of this Act; and generally relating to conformity with federal law relating to health insurance and mental health benefits.

BY repealing and reenacting, without amendments,  
Article – Insurance  
Section 1–101(a) and (b)  
Annotated Code of Maryland  
(2003 Replacement Volume and 2010 Supplement)

BY adding to  
Article – Insurance  
Section 1–101(b–1)  
Annotated Code of Maryland  
(2003 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,  
Article – Insurance  
Section 2–210(a) and 2–215(a), (b), (d), and (g)

Annotated Code of Maryland  
(2003 Replacement Volume and 2010 Supplement)

BY adding to

Article – Insurance

Section 15–137.1, 15–10A–01(m), 15–10A–04(e), 15–10A–10, and 15–10D–05

Annotated Code of Maryland

(2006 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,

Article – Insurance

Section 15–416, 15–605(c), 15–802(a), 15–10A–01(f) and (m), 15–10A–02,  
15–10A–03, 15–10A–04(a), 15–10A–05, 15–10D–01, 15–10D–02,  
15–1206(c), and 15–1207

Annotated Code of Maryland

(2006 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, without amendments,

Article – Insurance

Section 15–10A–01(a) and (l)

Annotated Code of Maryland

(2006 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,

Article – Health – General

Section 19–703.1(a) and 19–732(a)

Annotated Code of Maryland

(2009 Replacement Volume and 2010 Supplement)

BY adding to

Article – Health – General

Section 19–706(kkkk)

Annotated Code of Maryland

(2009 Replacement Volume and 2010 Supplement)

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

### **Article – Insurance**

1–101.

- (a) In this article the following words have the meanings indicated.
- (b) “Administration” means the Maryland Insurance Administration.

**(B-1) “AFFORDABLE CARE ACT” MEANS THE FEDERAL PATIENT PROTECTION AND AFFORDABLE CARE ACT, AS AMENDED BY THE FEDERAL HEALTH CARE AND EDUCATION RECONCILIATION ACT OF 2010, AND ANY REGULATIONS ADOPTED OR GUIDANCE ISSUED UNDER THE ACTS.**

2-210.

(a) (1) The Commissioner may hold hearings that the Commissioner considers necessary for any purpose under this article.

(2) The Commissioner shall hold a hearing:

(i) if required by any provision of this article; or

(ii) **EXCEPT AS OTHERWISE PROVIDED IN THIS ARTICLE**, on written demand by a person aggrieved by any act of, threatened act of, or failure to act by the Commissioner or by any report, regulation, or order of the Commissioner, except an order to hold a hearing or an order resulting from a hearing.

2-215.

(a) An appeal under this subtitle may be taken only from:

(1) an order resulting from a hearing; [or]

(2) a refusal by the Commissioner to grant a hearing; **OR**

**(3) A DECISION ISSUED UNDER ~~TITLE 15, SUBTITLE 10A~~ § 15-10A-04 OF THIS ARTICLE.**

(b) An appeal under this subtitle may be taken by:

(1) a party to the hearing; [or]

(2) an aggrieved person whose financial interests are directly affected by the order resulting from a hearing or refusal to grant a hearing; OR

**(3) A PARTY TO THE DECISION ISSUED UNDER § 15-10A-04 OF THIS ARTICLE.**

(d) To take an appeal, a person shall file a petition for judicial review with the appropriate circuit court within 30 days after:

(1) the order resulting from the hearing was served on the persons entitled to receive it;

(2) the order of the Commissioner denying rehearing or reargument was served on the persons entitled to receive it; [or]

(3) the refusal of the Commissioner to grant a hearing; OR

**(4) THE DECISION ISSUED UNDER § 15-10A-04 OF THIS ARTICLE WAS SERVED ON THE PERSONS ENTITLED TO RECEIVE IT.**

(g) (1) In an appeal of an order resulting from a hearing, after receiving a copy of the petition for judicial review and within the time specified in the Maryland Rules, the Commissioner shall file in the court in which the appeal is pending:

(i) a copy of the order of the Commissioner from which the appeal is taken;

(ii) a complete transcript, certified by the Commissioner, of the record on which the order was issued; and

(iii) all exhibits and documentary evidence introduced at the hearing.

(2) In an appeal of a refusal by the Commissioner to grant a hearing, within the time specified in the Maryland Rules, the Commissioner shall file in the court in which the appeal is pending certified copies of all documents on file with the Commissioner that directly relate to the matter on appeal.

**(3) IN AN APPEAL OF A DECISION ISSUED UNDER § 15-10A-04 OF THIS ARTICLE, AFTER RECEIVING A COPY OF THE PETITION FOR JUDICIAL REVIEW AND WITHIN THE TIME SPECIFIED IN THE MARYLAND RULES, THE COMMISSIONER SHALL FILE IN THE COURT IN WHICH THE APPEAL IS PENDING:**

**(I) A COPY OF THE DECISION OF THE COMMISSIONER FROM WHICH THE APPEAL IS TAKEN;**

**(II) A COPY OF THE REPORT OF THE INDEPENDENT REVIEW ORGANIZATION OR MEDICAL EXPERT; AND**

**(III) ALL DOCUMENTARY EVIDENCE PROVIDED TO THE COMMISSIONER AND THE INDEPENDENT REVIEW ORGANIZATION OR MEDICAL EXPERT THAT DIRECTLY RELATES TO THE MATTER ON APPEAL.**

15-137.1.

**(A) NOTWITHSTANDING ANY OTHER PROVISIONS OF LAW, THE FOLLOWING 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 AND ANY OTHER APPLICABLE REGULATIONS OR OTHER FEDERAL REQUIREMENTS, 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~~ AFFORDABLE CARE ACT APPLY TO INDIVIDUAL HEALTH INSURANCE COVERAGE AND HEALTH INSURANCE COVERAGE OFFERED IN THE SMALL GROUP AND LARGE GROUP MARKETS, AS THOSE TERMS ARE DEFINED IN THE FEDERAL PUBLIC HEALTH SERVICE ACT, ISSUED OR DELIVERED IN THE STATE BY AN AUTHORIZED INSURER, NONPROFIT HEALTH SERVICE PLAN, OR HEALTH MAINTENANCE ORGANIZATION:

- (1) COVERAGE OF CHILDREN UP TO THE AGE OF 26 YEARS;
- (2) PREEXISTING CONDITION EXCLUSIONS;
- (3) POLICY RESCISSIONS;
- (4) BONA FIDE WELLNESS PROGRAMS;
- (5) LIFETIME LIMITS;
- (6) ANNUAL LIMITS FOR ESSENTIAL BENEFITS;
- (7) WAITING PERIODS;
- (8) DESIGNATION OF PRIMARY CARE PROVIDERS;
- (9) ACCESS TO OBSTETRICAL AND GYNECOLOGICAL SERVICES;
- (10) EMERGENCY SERVICES;
- (11) SUMMARY OF BENEFITS AND COVERAGE EXPLANATION;
- (12) MINIMUM LOSS RATIO REQUIREMENTS AND PREMIUM REBATES; AND
- (13) DISCLOSURE OF INFORMATION.

(B) THE PROVISIONS OF SUBSECTION (A) OF THIS SECTION DO NOT APPLY TO COVERAGE FOR EXCEPTED BENEFITS, AS DEFINED IN 45 C.F.R. § 146.145(C).

**(C) THE COMMISSIONER MAY ENFORCE THIS SECTION UNDER ANY APPLICABLE PROVISIONS OF THIS ARTICLE.**

15–416.

(a) This section applies to insurers, nonprofit health service plans, and health maintenance organizations that deliver or issue for delivery in the State individual, group, or blanket health insurance policies and contracts.

(b) At least 60 days before a child who is covered under a parent’s individual, group, or blanket health insurance policy or contract [turns 18 years of age] **REACHES THE LIMITING AGE UNDER THE POLICY OR CONTRACT**, an entity subject to this section shall:

(1) notify the parent of criteria under which a child may remain eligible for coverage as a dependent under the policy or contract; and

(2) provide information regarding:

(i) any other policies that may be available to the child from the entity; and

(ii) the availability of additional information from the Administration regarding individual policies in the State.

(c) The Commissioner shall establish and publish by bulletin the notice to be given under this section.

15–605.

(c) (1) [For a health benefit plan that is issued under Subtitle 12 of this title, the Commissioner may require the insurer, nonprofit health service plan, or health maintenance organization to file new rates if the loss ratio is less than 75%.

(2) (i) Subject to subparagraph (ii) of this paragraph, for a health benefit plan that is issued to individuals the Commissioner may require the insurer, nonprofit health service plan, or health maintenance organization to file new rates if the loss ratio is less than 60%.

(ii) Subparagraph (i) of this paragraph does not apply to an insurance product that:

1. is listed under § 15–1201(f)(3) of this title; or



2. is nonrenewable and has a policy term of no more than 6 months.

(iii) The Commissioner may establish a loss ratio for each insurance product described in subparagraph (ii)1 and 2 of this paragraph.]

~~(I) AN AUTHORIZED INSURER, NONPROFIT HEALTH SERVICE PLAN, AND HEALTH MAINTENANCE ORGANIZATION REQUIRED TO SUBMIT AN ANNUAL REPORT UNDER SUBSECTION (A)(1) OF THIS SECTION~~

(I) INDIVIDUAL HEALTH INSURANCE COVERAGE AND HEALTH INSURANCE COVERAGE OFFERED IN THE SMALL GROUP AND LARGE GROUP MARKETS, AS THOSE TERMS ARE DEFINED IN THE FEDERAL PUBLIC HEALTH SERVICE ACT, ISSUED OR DELIVERED IN THE STATE BY AN AUTHORIZED INSURER, NONPROFIT HEALTH SERVICE PLAN, OR HEALTH MAINTENANCE ORGANIZATION SHALL COMPLY WITH THE LOSS RATIO REQUIREMENTS OF SECTIONS 1001(5) AND 10101(F) OF THE AFFORDABLE CARE ACT, WHICH AMEND SECTION 2718 OF THE PUBLIC HEALTH SERVICE ACT.

(II) THE PROVISIONS OF SUBPARAGRAPH (I) OF THIS PARAGRAPH DO NOT APPLY TO COVERAGE FOR EXCEPTED BENEFITS, AS DEFINED IN 45 C.F.R. § 146.145(C).

~~(H)~~ (III) THE COMMISSIONER MAY REQUIRE AN INSURER, A NONPROFIT HEALTH SERVICE PLAN, OR A HEALTH MAINTENANCE ORGANIZATION TO FILE NEW RATES IF THE LOSS RATIO REPORTED IN THE MANNER REQUIRED UNDER 45 C.F.R. § 158 IS LESS THAN THAT REQUIRED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH.

[(3)] **(2)** The authority of the Commissioner under [paragraphs (1) and (2)] **PARAGRAPH (1)** of this subsection to require an insurer, nonprofit health service plan, or health maintenance organization to file new rates based on loss ratio:

(i) is in addition to any other authority of the Commissioner under this article to require that rates not be excessive, inadequate, or unfairly discriminatory; and

(ii) does not limit any existing authority of the Commissioner to determine whether a rate is excessive.

[(4)] **(3)** (i) In determining whether to require an insurer to file new rates under this subsection, the Commissioner may consider the amount of health insurance premiums earned in the State on individual policies in proportion to the total health insurance premiums earned in the State for the insurer.

(ii) The insurer shall provide to the Commissioner the information necessary to determine the proportion of individual health insurance premiums to total health insurance premiums as provided under this paragraph.

**[(5)] (4)** The Secretary of Health and Mental Hygiene, in consultation with the Commissioner and in accordance with their memorandum of understanding, may adjust capitation payments for a managed care organization or for the Maryland Medical Assistance Program of a managed care organization that is a certified health maintenance organization[:

- (i) if the loss ratio is less than 80% during calendar year 1997;  
and
- (ii) during each subsequent calendar year] if the loss ratio is less than 85%.

**[(6)] (5)** A loss ratio reported under paragraph **[(5)] (4)** of this subsection shall be calculated separately and may not be part of another loss ratio reported under this section.

**[(7)] (6)** Any rebate received by a managed care organization may not be considered part of the loss ratio of the managed care organization.

**[(8)] (7)** If the Secretary of Health and Mental Hygiene adjusts capitation payments for a managed care organization or a certified health maintenance organization under paragraph **[(5)] (4)** of this subsection, the managed care organization or certified health maintenance organization may:

- (i) appeal the decision of the Secretary to the Board of Review established under Title 2, Subtitle 2 of the Health – General Article; and
- (ii) take any further appeal allowed by the Administrative Procedure Act under Title 10, Subtitle 2 of the State Government Article.

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) "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.

(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.

(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] **MEANS AN EMPLOYER THAT:**

**(I) EMPLOYED AN AVERAGE OF AT LEAST TWO, BUT NOT MORE THAN 50 EMPLOYEES ON BUSINESS DAYS DURING THE PRECEDING CALENDAR YEAR; AND**

**(II) EMPLOYS AT LEAST TWO EMPLOYEES ON THE FIRST DAY OF THE PLAN YEAR.**

15-10A-01.

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

(f) "Grievance" means a protest filed by a member, **A MEMBER'S REPRESENTATIVE**, or a health care provider on behalf of a member with a carrier through the carrier's internal grievance process regarding an adverse decision concerning the member.

(l) (1) "Member" means a person entitled to health care benefits under a policy, plan, or certificate issued or delivered in the State by a carrier.

- (2) “Member” includes:
  - (i) a subscriber; and
  - (ii) unless preempted by federal law, a Medicare recipient.
- (3) “Member” does not include a Medicaid recipient.

**(M) “MEMBER’S REPRESENTATIVE” MEANS AN INDIVIDUAL WHO HAS BEEN AUTHORIZED BY THE MEMBER TO FILE A GRIEVANCE OR A COMPLAINT ON THE MEMBER’S BEHALF.**

**[(m)] (N)** “Private review agent” has the meaning stated in § 15–10B–01 of this title.

15–10A–02.

(a) Each carrier shall establish an internal grievance process for its members.

(b) (1) An internal grievance process shall meet the same requirements established under Subtitle 10B of this title.

(2) In addition to the requirements of Subtitle 10B of this title, an internal grievance process established by a carrier under this section shall:

(i) include an expedited procedure for use in an emergency case for purposes of rendering a grievance decision within 24 hours of the date a grievance is filed with the carrier;

(ii) provide that a carrier render a final decision in writing on a grievance within 30 working days after the date on which the grievance is filed unless:

1. the grievance involves an emergency case under item (i) of this paragraph;

2. the member, **THE MEMBER’S REPRESENTATIVE**, or a health care provider filing a grievance on behalf of a member agrees in writing to an extension for a period of no longer than 30 working days; or

3. the grievance involves a retrospective denial under item (iv) of this paragraph;

(iii) allow a grievance to be filed on behalf of a member by a health care provider **OR THE MEMBER’S REPRESENTATIVE**;

(iv) provide that a carrier render a final decision in writing on a grievance within 45 working days after the date on which the grievance is filed when the grievance involves a retrospective denial; and

(v) for a retrospective denial, allow a member, **THE MEMBER'S REPRESENTATIVE**, or a health care provider on behalf of a member to file a grievance for at least 180 days after the member receives an adverse decision.

(3) For purposes of using the expedited procedure for an emergency case that a carrier is required to include under paragraph (2)(i) of this subsection, the Commissioner shall define by regulation the standards required for a grievance to be considered an emergency case.

(c) Except as provided in subsection (d) of this section, the carrier's internal grievance process shall be exhausted prior to filing a complaint with the Commissioner under this subtitle.

(d) (1) (i) A member, **THE MEMBER'S REPRESENTATIVE**, or a health care provider filing a complaint on behalf of a member may file a complaint with the Commissioner without first filing a grievance with a carrier and receiving a final decision on the grievance if:

**1. THE CARRIER WAIVES THE REQUIREMENT THAT THE CARRIER'S INTERNAL GRIEVANCE PROCESS BE EXHAUSTED BEFORE FILING A COMPLAINT WITH THE COMMISSIONER;**

**2. THE CARRIER HAS FAILED TO COMPLY WITH ANY OF THE REQUIREMENTS OF THE INTERNAL GRIEVANCE PROCESS AS DESCRIBED IN THIS SECTION; OR**

**3. the member, THE MEMBER'S REPRESENTATIVE, or the health care provider provides sufficient information and supporting documentation in the complaint that demonstrates a compelling reason to do so.**

(ii) The Commissioner shall define by regulation the standards that the Commissioner shall use to decide what demonstrates a compelling reason under subparagraph (i) of this paragraph.

(2) Subject to subsections (b)(2)(ii) and (h) of this section, a member, **A MEMBER'S REPRESENTATIVE**, or a health care provider may file a complaint with the Commissioner if the member, **THE MEMBER'S REPRESENTATIVE**, or the health care provider does not receive a grievance decision from the carrier on or before the 30th working day on which the grievance is filed.

(3) Whenever the Commissioner receives a complaint under paragraph (1) or (2) of this subsection, the Commissioner shall notify the carrier that is the

subject of the complaint within 5 working days after the date the complaint is filed with the Commissioner.

(e) Each carrier shall:

(1) file for review with the Commissioner and submit to the Health Advocacy Unit a copy of its internal grievance process established under this subtitle; and

(2) [update the initial filing annually to reflect any changes made] **FILE ANY REVISION TO THE INTERNAL GRIEVANCE PROCESS WITH THE COMMISSIONER AND THE HEALTH ADVOCACY UNIT AT LEAST 30 DAYS BEFORE ITS INTENDED USE.**

(f) For nonemergency cases, when a carrier renders an adverse decision, the carrier shall:

(1) document the adverse decision in writing after the carrier has provided oral communication of the decision to the member, **THE MEMBER'S REPRESENTATIVE**, or the health care provider acting on behalf of the member; and

(2) send, within 5 working days after the adverse decision has been made, a written notice to the member, **THE MEMBER'S REPRESENTATIVE**, and a health care provider acting on behalf of the member that:

(i) states in detail in clear, understandable language the specific factual bases for the carrier's decision;

(ii) references the specific criteria and standards, including interpretive guidelines, on which the decision was based, and may not solely use generalized terms such as "experimental procedure not covered", "cosmetic procedure not covered", "service included under another procedure", or "not medically necessary";

(iii) states the name, business address, and business telephone number of:

1. the medical director or associate medical director, as appropriate, who made the decision if the carrier is a health maintenance organization; or

2. the designated employee or representative of the carrier who has responsibility for the carrier's internal grievance process if the carrier is not a health maintenance organization;

(iv) gives written details of the carrier's internal grievance process and procedures under this subtitle; and

(v) includes the following information:

1. that the member, **THE MEMBER'S REPRESENTATIVE**, or a health care provider on behalf of the member has a right to file a complaint with the Commissioner within [30 working days] **4 MONTHS** after receipt of a carrier's grievance decision;

2. that a complaint may be filed without first filing a grievance if the member, **THE MEMBER'S REPRESENTATIVE**, or a health care provider filing a grievance on behalf of the member can demonstrate a compelling reason to do so as determined by the Commissioner;

3. the Commissioner's address, telephone number, and facsimile number;

4. a statement that the Health Advocacy Unit is available to assist the member **OR THE MEMBER'S REPRESENTATIVE** in both mediating and filing a grievance under the carrier's internal grievance process; and

5. the address, telephone number, facsimile number, and electronic mail address of the Health Advocacy Unit.

(g) If within 5 working days after a member, **THE MEMBER'S REPRESENTATIVE**, or a health care provider, who has filed a grievance on behalf of a member, files a grievance with the carrier, and if the carrier does not have sufficient information to complete its internal grievance process, the carrier shall:

(1) notify the member, **THE MEMBER'S REPRESENTATIVE**, or **THE** health care provider that it cannot proceed with reviewing the grievance unless additional information is provided; and

(2) assist the member, **THE MEMBER'S REPRESENTATIVE**, or **THE** health care provider in gathering the necessary information without further delay.

(h) A carrier may extend the 30-day or 45-day period required for making a final grievance decision under subsection (b)(2)(ii) of this section with the written consent of the member, **THE MEMBER'S REPRESENTATIVE**, or the health care provider who filed the grievance on behalf of the member.

(i) (1) For nonemergency cases, when a carrier renders a grievance decision, the carrier shall:

(i) document the grievance decision in writing after the carrier has provided oral communication of the decision to the member, **THE MEMBER'S REPRESENTATIVE**, or the health care provider acting on behalf of the member; and

(ii) send, within 5 working days after the grievance decision has been made, a written notice to the member, **THE MEMBER'S REPRESENTATIVE**, and a health care provider acting on behalf of the member that:

1. states in detail in clear, understandable language the specific factual bases for the carrier's decision;

2. references the specific criteria and standards, including interpretive guidelines, on which the grievance decision was based;

3. states the name, business address, and business telephone number of:

A. the medical director or associate medical director, as appropriate, who made the grievance decision if the carrier is a health maintenance organization; or

B. the designated employee or representative of the carrier who has responsibility for the carrier's internal grievance process if the carrier is not a health maintenance organization; and

4. includes the following information:

A. that the member or **THE MEMBER'S REPRESENTATIVE** has a right to file a complaint with the Commissioner within [30 working days] **4 MONTHS** after receipt of a carrier's grievance decision; ~~and~~

B. the Commissioner's address, telephone number, and facsimile number;

**C. A STATEMENT THAT THE HEALTH ADVOCACY UNIT IS AVAILABLE TO ASSIST THE MEMBER OR THE MEMBER'S REPRESENTATIVE IN FILING A COMPLAINT WITH THE COMMISSIONER; AND**

**D. THE ADDRESS, TELEPHONE NUMBER, FACSIMILE NUMBER, AND ELECTRONIC MAIL ADDRESS OF THE HEALTH ADVOCACY UNIT.**

(2) A carrier may not use solely in a notice sent under paragraph (1) of this subsection generalized terms such as "experimental procedure not covered", "cosmetic procedure not covered", "service included under another procedure", or "not medically necessary" to satisfy the requirements of this subsection.

(j) (1) For an emergency case under subsection (b)(2)(i) of this section, within 1 day after a decision has been orally communicated to the member, **THE**



**MEMBER'S REPRESENTATIVE**, or **THE** health care provider, the carrier shall send notice in writing of any adverse decision or grievance decision to:

(i) the member **AND THE MEMBER'S REPRESENTATIVE, IF ANY**; and

(ii) if the grievance was filed on behalf of the member under subsection (b)(2)(iii) of this section, the health care provider.

(2) A notice required to be sent under paragraph (1) of this subsection shall include the following:

(i) for an adverse decision, the information required under subsection (f) of this section; and

(ii) for a grievance decision, the information required under subsection (i) of this section.

(k) **(1)** Each carrier shall include the information required by subsection (f)(2)(iii), (iv), and (v) of this section in the policy, plan, certificate, enrollment materials, or other evidence of coverage that the carrier provides to a member at the time of the member's initial coverage or renewal of coverage.

**(2) EACH CARRIER SHALL INCLUDE AS PART OF THE INFORMATION REQUIRED BY PARAGRAPH (1) OF THIS SUBSECTION A STATEMENT INDICATING THAT, WHEN FILING A COMPLAINT WITH THE COMMISSIONER, THE MEMBER OR THE MEMBER'S REPRESENTATIVE WILL BE REQUIRED TO AUTHORIZE THE RELEASE OF ANY MEDICAL RECORDS OF THE MEMBER THAT MAY BE REQUIRED TO BE REVIEWED FOR THE PURPOSE OF REACHING A DECISION ON THE COMPLAINT.**

(l) (1) Nothing in this subtitle prohibits a carrier from delegating its internal grievance process to a private review agent that has a certificate issued under Subtitle 10B of this title and is acting on behalf of the carrier.

(2) If a carrier delegates its internal grievance process to a private review agent, the carrier shall be:

(i) bound by the grievance decision made by the private review agent acting on behalf of the carrier; and

(ii) responsible for a violation of any provision of this subtitle regardless of the delegation made by the carrier under paragraph (1) of this subsection.

(a) (1) Within [30 working days] **4 MONTHS** after the date of receipt of **AN ADVERSE DECISION OR** a grievance decision, a member, **A MEMBER'S REPRESENTATIVE**, or a health care provider, who filed the grievance on behalf of the member under § 15–10A–02(b)(2)(iii) of this subtitle, may file a complaint with the Commissioner [for review of the grievance decision].

(2) Whenever the Commissioner receives a complaint under this subsection, the Commissioner shall notify the carrier that is the subject of the complaint within 5 working days after the date the complaint is filed with the Commissioner.

(3) Except for an emergency case under subsection (b)(1)(ii) of this section, the carrier that is the subject of a complaint filed under paragraph (1) of this subsection shall provide to the Commissioner any information requested by the Commissioner no later than 7 working days from the date the carrier receives the request for information.

(b) (1) In developing procedures to be used in reviewing and deciding complaints, the Commissioner shall:

(i) allow a health care provider to file a complaint on behalf of a member; and

(ii) establish an expedited procedure for use in an emergency case for the purpose of making a final decision on a complaint within 24 hours after the complaint is filed with the Commissioner.

(2) For purposes of using the expedited procedure for an emergency case under paragraph (1)(ii) of this subsection, the Commissioner shall define by regulation the standards required for a grievance to be considered an emergency case.

(c) (1) Except as provided in paragraph (2) of this subsection and except for an emergency case under subsection (b)(1)(ii) of this section, the Commissioner shall make a final decision on a complaint:

(i) within [30 working] **45** days after a complaint regarding a pending health care service is filed; and

(ii) within 45 [working] days after a complaint is filed regarding a retrospective denial of services already provided.

(2) The Commissioner may extend the period within which a final decision is to be made under paragraph (1) of this subsection for up to an additional 30 working days if:

(i) the Commissioner has not yet received information requested by the Commissioner; and

(ii) the information requested is necessary for the Commissioner to render a final decision on the complaint.

(d) ~~In cases considered appropriate by the Commissioner, the Commissioner may~~ **THE COMMISSIONER SHALL** seek advice from an independent review organization or medical expert, as provided in § 15-10A-05 of this subtitle, for complaints filed with the Commissioner under this subtitle that involve a question of whether a health care service provided or to be provided to a member is medically necessary.

(e) (1) A carrier shall have the burden of persuasion that its adverse decision or grievance decision, as applicable, is correct~~;~~:

(i)~~]~~ during the review of a complaint by the Commissioner or a designee of the Commissioner~~;~~; and

(ii) in any hearing held in accordance with § 2-210 of this article~~]~~.

(2) As part of the review of a complaint, the Commissioner or a designee of the Commissioner may consider all of the facts of the case and any other evidence that the Commissioner or designee of the Commissioner considers appropriate.

(3) As required under § 15-10A-02(i) of this subtitle, the carrier's adverse decision or grievance decision shall state in detail in clear, understandable language the factual bases for the decision and reference the specific criteria and standards, including interpretive guidelines on which the decision was based.

(4) (i) Except as provided in subparagraph (ii) of this paragraph, in responding to a complaint, a carrier may not rely on any basis not stated in its adverse decision or grievance decision.

(ii) The Commissioner may allow a carrier, a member, A **MEMBER'S REPRESENTATIVE**, or a health care provider filing a complaint on behalf of a member to provide additional information as may be relevant for the Commissioner to make a final decision on the complaint.

**(III) THE COMMISSIONER SHALL ALLOW THE MEMBER, THE MEMBER'S REPRESENTATIVE, OR THE HEALTH CARE PROVIDER FILING A COMPLAINT ON BEHALF OF THE MEMBER AT LEAST 5 WORKING DAYS TO PROVIDE THE ADDITIONAL INFORMATION DESCRIBED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH.**

~~[(iii)]~~ **(IV)** The Commissioner's use of additional information may not delay the Commissioner's decision on the complaint by more than 5 working days.

(f) The Commissioner may request the member that filed the complaint or a legally authorized designee of the member to sign a consent form authorizing the release of the member's medical records to the Commissioner or the Commissioner's designee that are needed in order for the Commissioner to make a final decision on the complaint.

15-10A-04.

(a) The Commissioner shall:

(1) notwithstanding the provisions of § 15-10A-03(c)(1)(ii) of this subtitle, for the purpose of making final decisions on complaints, prioritize complaints regarding pending health care services over complaints regarding health care services already delivered;

(2) make and issue in writing a final decision on all complaints filed with the Commissioner under this subtitle that are within the Commissioner's jurisdiction; and

(3) provide notice in writing to all parties to a complaint [of the opportunity and time period for requesting a hearing to be held in accordance with § 2-210 of this article] ~~THAT THE FINAL DECISION:~~

~~(I) IS NOT SUBJECT TO A REQUEST FOR A HEARING UNDER THIS SUBTITLE; AND~~

~~(II) IS SUBJECT TO A RIGHT TO FILE A PETITION FOR JUDICIAL REVIEW UNDER § 2-215 OF THIS ARTICLE OF THE AVAILABLE REMEDY TO THE PARTY DESCRIBED UNDER SUBSECTION (E) OF THIS SECTION AND THE TIME PERIOD FOR REQUESTING THE REMEDY.~~

**(E) (1) A FINAL DECISION OF THE COMMISSIONER MADE ON A COMPLAINT UNDER THIS SUBTITLE:**

**(I) IS NOT SUBJECT TO A REQUEST FOR A HEARING UNDER THIS SUBTITLE FOR A CARRIER; AND**

**(II) IS SUBJECT TO A RIGHT TO FILE A PETITION FOR JUDICIAL REVIEW UNDER § 2-215 OF THIS ARTICLE FOR A CARRIER OR A MEMBER.**

(2) UNLESS PROHIBITED UNDER FEDERAL LAW, A MEMBER MAY REQUEST A HEARING TO BE HELD IN ACCORDANCE WITH § 2-210 OF THIS ARTICLE OF A FINAL DECISION OF THE COMMISSIONER MADE ON A COMPLAINT UNDER THIS SUBTITLE.

15-10A-05.

(a) For [complaints] A COMPLAINT filed with the Commissioner under this subtitle that [involve] INVOLVES a question of whether the health care service provided or to be provided to a member is medically necessary, the Commissioner:

(1) SHALL SELECT AN INDEPENDENT REVIEW ORGANIZATION OR MEDICAL EXPERT TO ADVISE ON THE COMPLAINT; AND

(2) may [select and] accept and base the final decision on [a] THE complaint on the professional judgment of an independent review organization or medical expert.

(b) To ensure access to advice when needed, the Commissioner, in consultation with the Secretary of Health and Mental Hygiene and carriers, shall compile a list of independent review organizations and medical experts.

(c) Any expert reviewer assigned by an independent review organization or medical expert shall be a physician or other appropriate health care provider who meets the following minimum requirements:

(1) be an expert in the treatment of the member's medical condition, and knowledgeable about the recommended health care service or treatment through actual clinical experience;

(2) hold:

(i) a nonrestricted license in a state of the United States; and

(ii) in addition, for physicians, a current certification by a recognized American medical specialty board in the area or areas appropriate to the subject of review; and

(3) have no history of disciplinary actions or sanctions, including loss of staff privileges or participation restrictions that have been taken or are pending by any hospital, governmental agency or unit, or regulatory body that the Commissioner, in accordance with regulations adopted by the Commissioner, considers relevant in meeting the requirements of this subsection.

(d) An independent review organization may not be a subsidiary of, or in any way owned or controlled by, a health benefit plan, or a trade association of health benefit plans, or a trade association of health care providers.

(e) In addition to subsection (d) of this section, to be included on the list compiled under subsection (b) of this section, an independent review organization shall submit to the Commissioner the following information:

(1) if the independent review organization is a publicly held organization, the names of all stockholders and owners of more than 5% of any stock or options of the independent review organization;

(2) the names of all holders of bonds or notes in excess of \$100,000, if any;

(3) the names of all corporations and organizations that the independent review organization controls or is affiliated with, and the nature and extent of any ownership or control, including the affiliated organization's type of business; [and]

(4) the names of all directors, officers, and executives of the independent review organization as well as a statement regarding any relationships the directors, officers, and executives may have with any carrier or health care provider group; AND

**(5) EVIDENCE, IN THE FORM REQUIRED BY THE COMMISSIONER, THAT THE INDEPENDENT REVIEW ORGANIZATION IS ACCREDITED BY A NATIONALLY RECOGNIZED PRIVATE ACCREDITING ORGANIZATION.**

(f) An expert reviewer assigned by an independent review organization or the independent review organization or medical expert selected by the Commissioner under this section may not have a material professional, familial, or financial conflict of interest with any of the following:

(1) the carrier that is the subject of the complaint;

(2) any officer, director, or management employee of the carrier that is the subject of the complaint;

(3) the health care provider, the health care provider's medical group, or the independent practice association that rendered or is proposing to render the health care service that is under review;

(4) the health care facility at which the health care service was provided or will be provided; or

(5) the developer or manufacturer of the principal drug, device, procedure, or other therapy that is being proposed for the member.

(g) For any independent review organization selected by the Commissioner under subsection (a) of this section, the independent review organization shall have a quality assurance mechanism in place that ensures:

- (1) the timeliness and quality of the reviews;
- (2) the qualifications and independence of the expert reviewers; and
- (3) the confidentiality of medical records and review materials.

(h) (1) The carrier that is the subject of the complaint shall be responsible for paying the reasonable expenses of the independent review organization or medical expert selected by the Commissioner in accordance with subsection (a) of this section.

(2) The independent review organization or medical expert shall:

(i) present to the carrier for payment a detailed account of the expenses incurred by the independent review organization or medical expert; and

(ii) provide a copy of the detailed account of expenses to the Commissioner.

(3) The carrier that is the subject of the complaint may not pay and an independent review organization or medical expert may not accept any compensation in addition to the payment for reasonable expenses under paragraph (1) of this subsection.

#### **15-10A-10.**

**A CARRIER SHALL PROVIDE THE NOTICES REQUIRED TO BE PROVIDED TO MEMBERS UNDER THIS SUBTITLE IN A CULTURALLY AND LINGUISTICALLY APPROPRIATE MANNER AS DESCRIBED IN THE AFFORDABLE CARE ACT.**

#### 15-10D-01.

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

(b) "Appeal" means a protest filed by a member, A MEMBER'S REPRESENTATIVE, or a health care provider with a carrier under its internal appeal process regarding a coverage decision concerning a member.

(c) “Appeal decision” means a final determination by a carrier that arises from an appeal filed with the carrier under its appeal process regarding a coverage decision concerning a member.

(d) “Carrier” means a person that offers a health benefit plan and is:

- (1) an authorized insurer that provides health insurance in the State;
- (2) a nonprofit health service plan;
- (3) a health maintenance organization;
- (4) a dental plan organization; or

(5) except for a managed care organization, as defined in Title 15, Subtitle 1 of the Health – General Article, any other person that offers a health benefit plan subject to regulation by the State.

(e) “Complaint” means a protest filed with the Commissioner involving a coverage decision other than that which is covered by Subtitle 10A of this title.

(f) (1) “Coverage decision” means:

(I) an initial determination by a carrier or a representative of the carrier that results in noncoverage of a health care service;

(II) **A DETERMINATION BY A CARRIER THAT AN INDIVIDUAL IS NOT ELIGIBLE FOR COVERAGE UNDER THE CARRIER’S HEALTH BENEFIT PLAN; OR**

(III) **ANY DETERMINATION BY A CARRIER THAT RESULTS IN THE RESCISSION OF AN INDIVIDUAL’S COVERAGE UNDER A HEALTH BENEFIT PLAN.**

(2) “Coverage decision” includes nonpayment of all or any part of a claim.

(3) “Coverage decision” does not include:

(i) an adverse decision as defined in § 15–10A–01(b) of this title; or

(ii) a pharmacy inquiry.

(g) “Designee of the Commissioner” means any person to whom the Commissioner has delegated the authority to review and decide complaints filed under



this subtitle, including an administrative law judge to whom the authority to conduct a hearing has been delegated for recommended or final decision.

(h) (1) "Health benefit plan" means:

(i) a hospital or medical policy or contract, including a policy or contract issued under a multiple employer trust or association;

(ii) a hospital or medical policy or contract issued by a nonprofit health service plan;

(iii) a health maintenance organization contract; or

(iv) a dental plan organization contract.

(2) "Health benefit plan" does not include one or more, or any combination of the following:

(i) long-term care insurance;

(ii) disability insurance;

(iii) accidental travel and accidental death and dismemberment insurance;

(iv) credit health insurance;

(v) a health benefit plan issued by a managed care organization, as defined in Title 15, Subtitle 1 of the Health – General Article;

(vi) disease-specific insurance; or

(vii) fixed indemnity insurance.

(i) "Health care provider" means:

(1) an individual who is licensed under the Health Occupations Article to provide health care services in the ordinary course of business or practice of a profession and is a treating provider of the member; or

(2) a hospital, as defined in § 19–301 of the Health – General Article.

(j) "Health care service" means a health or medical care procedure or service rendered by a health care provider that:

(1) provides testing, diagnosis, or treatment of a human disease or dysfunction; or

(2) dispenses drugs, medical devices, medical appliances, or medical goods for the treatment of a human disease or dysfunction.

(k) (1) “Member” means a person entitled to health care services under a policy, plan, or contract issued or delivered in the State by a carrier.

(2) “Member” includes:

(i) a subscriber; and

(ii) unless preempted by federal law, a Medicare recipient.

(3) “Member” does not include a Medicaid recipient.

**(L) “MEMBER’S REPRESENTATIVE” MEANS AN INDIVIDUAL WHO HAS BEEN AUTHORIZED BY THE MEMBER TO FILE AN APPEAL OR A COMPLAINT ON BEHALF OF THE MEMBER.**

**[(l)] (M)** “Pharmacy benefits manager” has the meaning stated in § 15–1601 of this title.

**[(m)] (N)** “Pharmacy inquiry” means an inquiry submitted by a pharmacist or pharmacy on behalf of a member to a carrier or a pharmacy benefits manager at the point of sale about the scope of pharmacy coverage, pharmacy benefit design, or formulary under a health benefit plan.

15–10D–02.

(a) (1) Each carrier shall establish an internal appeal process for use by its members, **ITS MEMBERS’ REPRESENTATIVES**, and health care providers to dispute coverage decisions made by the carrier.

(2) The carrier may use the internal grievance process established under Subtitle 10A of this title to comply with the requirement of paragraph (1) of this subsection.

(b) **[An internal appeal process established by a]** A carrier under this section shall **[provide that a carrier]** render a final decision in writing to a member, **A MEMBER’S REPRESENTATIVE**, and a health care provider acting on behalf of the member**[,]** within 60 working days after the date on which the appeal is filed.

(c) Except as provided in subsection (d) of this section, the carrier’s internal appeal process shall be exhausted prior to filing a complaint with the Commissioner under this subtitle.

(d) A member, **A MEMBER'S REPRESENTATIVE**, or a health care provider filing a complaint on behalf of a member may file a complaint with the Commissioner without first filing an appeal with a carrier only if the coverage decision involves an urgent medical condition, as defined by regulation adopted by the Commissioner, for which care has not been rendered.

(e) (1) Within 30 calendar days after a coverage decision has been made, a carrier shall send a written notice of the coverage decision to the member **AND THE MEMBER'S REPRESENTATIVE, IF ANY**, and, in the case of a health maintenance organization, the treating health care provider.

(2) Notice of the coverage decision required to be sent under paragraph (1) of this subsection shall:

(i) state in detail in clear, understandable language, the specific factual bases for the carrier's decision; and

(ii) include the following information:

1. that the member, **THE MEMBER'S REPRESENTATIVE**, or a health care provider acting on behalf of the member[,] has a right to file an appeal with the carrier;

2. that the member, **THE MEMBER'S REPRESENTATIVE**, or a health care provider acting on behalf of the member[,] may file a complaint with the Commissioner without first filing an appeal, if the coverage decision involves an urgent medical condition for which care has not been rendered;

3. the Commissioner's address, telephone number, and facsimile number;

4. that the Health Advocacy Unit is available to assist the member **OR THE MEMBER'S REPRESENTATIVE** in both mediating and filing an appeal under the carrier's internal appeal process; and

5. the address, telephone number, facsimile number, and electronic mail address of the Health Advocacy Unit.

(f) (1) Within 30 calendar days after the appeal decision has been made, each carrier shall send to the member, **THE MEMBER'S REPRESENTATIVE**, and the health care provider acting on behalf of the member[,] a written notice of the appeal decision.

(2) Notice of the appeal decision required to be sent under paragraph (1) of this subsection shall:

(i) state in detail in clear, understandable language the specific factual bases for the carrier's decision; and

(ii) include the following information:

1. that the member, **THE MEMBER'S REPRESENTATIVE**, or a health care provider acting on behalf of the member[,] has a right to file a complaint with the Commissioner within [60 working days] **4 MONTHS** after receipt of a carrier's appeal decision; ~~and~~

2. the Commissioner's address, telephone number, and facsimile number;

**3. A STATEMENT THAT THE HEALTH ADVOCACY UNIT IS AVAILABLE TO ASSIST THE MEMBER IN FILING A COMPLAINT WITH THE COMMISSIONER; AND**

**4. THE ADDRESS, TELEPHONE NUMBER, FACSIMILE NUMBER, AND ELECTRONIC MAIL ADDRESS OF THE HEALTH ADVOCACY UNIT.**

(g) The Commissioner may request the member that filed the complaint or a legally authorized designee of the member to sign a consent form authorizing the release of the member's medical records to the Commissioner or the Commissioner's designee that are needed in order for the Commissioner to make a final decision on the complaint.

(h) (1) A carrier shall have the burden of persuasion that its coverage decision or appeal decision, as applicable, is correct:

(i) during the review of a complaint by the Commissioner or a designee of the Commissioner; and

(ii) in any hearing held in accordance with Title 10, Subtitle 2 of the State Government Article to contest a final decision of the Commissioner made and issued under this subtitle.

(2) As part of the review of a complaint, the Commissioner or a designee of the Commissioner may consider all of the facts of the case and any other evidence that the Commissioner or designee of the Commissioner considers appropriate.

(i) The Commissioner shall:

(1) make and issue in writing a final decision on all complaints filed with the Commissioner under this subtitle that are within the Commissioner's jurisdiction; and

(2) provide notice in writing to all parties to a complaint of the opportunity and time period for requesting a hearing to be held in accordance with Title 10, Subtitle 2 of the State Government Article to contest a final decision of the Commissioner made and issued under this subtitle.

#### **15-10D-05.**

**A CARRIER SHALL PROVIDE THE NOTICES REQUIRED TO BE PROVIDED TO MEMBERS UNDER THIS SUBTITLE IN A CULTURALLY AND LINGUISTICALLY APPROPRIATE MANNER AS DESCRIBED IN THE AFFORDABLE CARE ACT.**

#### 15-1206.

(c) (1) Subject to the approval of the Commissioner and as provided under this subsection and § 15-1209(d) of this subtitle, a carrier may impose reasonable minimum participation requirements.

(2) A carrier may not impose a requirement for minimum participation by the eligible employees of a small employer that is greater than 75%.

(3) In applying a minimum participation requirement to determine whether the applicable percentage of participation is met, a carrier may not consider as eligible employees:

(I) those who have group spousal coverage under a public or private plan of health insurance or another employer's health benefit arrangement, including Medicare, Medicaid, and CHAMPUS, that provides benefits similar to or exceeding the benefits provided under the Standard Plan; **OR**

(II) **EMPLOYEES WHO ARE UNDER THE AGE OF 26 YEARS WHO ARE COVERED UNDER THEIR PARENT'S HEALTH BENEFIT PLAN.**

(4) A carrier may not impose a minimum participation requirement for a small employer group if any member of the group participates in a medical savings account.

#### 15-1207.

(a) In accordance with Title 19, Subtitle 1 of the Health – General Article, the Commission shall adopt regulations that specify:

(1) the Comprehensive Standard Health Benefit Plan to apply under this subtitle; and

(2) the requirements for a wellness benefit offered by a carrier to apply under this subtitle.

(b) (1) Subject to paragraph (2) of this subsection, the Commission shall exclude or limit benefits or adjust cost-sharing arrangements in the Standard Plan if the average rate for the Standard Plan exceeds 10% of the average annual wage in the State.

(2) The Commission annually shall determine the average rate for the Standard Plan by using the average rate submitted by each carrier that offers the Standard Plan.

(c) In establishing benefits, the Commission shall judge preventive services, medical treatments, procedures, and related health services based on:

(1) their effectiveness in improving the health status of individuals;

(2) their impact on maintaining and improving health and on reducing the unnecessary consumption of health care services; and

(3) their impact on the affordability of health care coverage.

(d) The Commission may exclude:

(1) a health care service, benefit, coverage, or reimbursement for covered health care services that is required under this article or the Health – General Article to be provided or offered in a health benefit plan that is issued or delivered in the State by a carrier; or

(2) reimbursement required by statute, by a health benefit plan for a service when that service is performed by a health care provider who is licensed under the Health Occupations Article and whose scope of practice includes that service.

**(E) THE COMMISSION SHALL INCLUDE MENTAL HEALTH AND SUBSTANCE ABUSE BENEFITS REQUIRED UNDER § 15–802 OF THIS TITLE AND § 19–703.1 OF THE HEALTH – GENERAL ARTICLE FOR EMPLOYERS THAT MEET THE LARGE EMPLOYER DEFINITION UNDER § 15–802 OF THIS TITLE AND § 19–703.1 OF THE HEALTH – GENERAL ARTICLE.**

[(e)] (F) The Commission shall specify the deductibles and cost-sharing associated with the benefits in the Standard Plan.

[(f)] (G) In establishing cost-sharing as part of the Standard Plan, the Commission shall:

- (1) include cost-sharing and other incentives to help prevent consumers from seeking unnecessary services;
- (2) balance the effect of cost-sharing in reducing premiums and in affecting utilization of appropriate services; and
- (3) limit the total cost-sharing that may be incurred by an individual in a year.

### **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) “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.
  - (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.
  - (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] **MEANS AN EMPLOYER THAT:**
    - (I) EMPLOYED AN AVERAGE OF AT LEAST TWO, BUT NOT MORE THAN 50 EMPLOYEES ON BUSINESS DAYS DURING THE PRECEDING CALENDAR YEAR; AND**
    - (II) EMPLOYS AT LEAST TWO EMPLOYEES ON THE FIRST DAY OF THE PLAN YEAR.**

19-706.

**(KKKK) THE PROVISIONS OF § 15-137.1 OF THE INSURANCE ARTICLE APPLY TO HEALTH MAINTENANCE ORGANIZATIONS.**

19-732.

(a) **[A] EXCEPT AS OTHERWISE PROVIDED IN TITLE 15, SUBTITLE 10A OF THE INSURANCE ARTICLE,** A party aggrieved by a final action of the Commissioner under this subtitle has the right to a hearing and the right to appeal from the action of the Commissioner under §§ 2-210 through 2-215 of the Insurance Article.

SECTION 2. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall apply, for group health benefit plans, to plan years that begin on or after July 1, 2011, and for individual health benefit plans, for policy years that begin on or after July 1, 2011.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2011.

**Approved by the Governor, April 12, 2011.**

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## Chapter 4

### (House Bill 170)

AN ACT concerning

#### **Health Insurance – Conformity with Federal Law**

FOR the purpose of altering the circumstances under which a person has the right to a hearing and the right to an appeal from an action of the Maryland Insurance Commissioner; requiring the Commissioner to file certain documents in a court in which a certain appeal is pending; providing that certain provisions of federal law apply to certain health insurance coverage issued or delivered by certain insurers, nonprofit health service plans, and health maintenance organizations; authorizing the Commissioner to enforce certain provisions of law; altering the requirement for certain insurers, nonprofit health service plans, and health maintenance organizations to send a certain notice when a child who is covered under a certain insurance policy or contract reaches a certain age; requiring certain health insurance coverage issued or delivered by certain insurers, nonprofit health service plans, and health maintenance organizations to comply with certain loss ratio requirements; authorizing a member's representative to file a certain grievance, complaint, or appeal; altering the circumstances under



which a certain complaint may be filed with the Commissioner; altering requirements for certain filings, timeframes, notices, and evidence of coverage information relating to appeals and grievances; requiring the Commissioner to seek advice from certain independent review organizations or certain medical advisors on certain complaints; altering the information that a certain independent review organization must submit to the Commissioner; requiring certain carriers to provide certain notices to certain members in a manner described in the Patient Protection and Affordable Care Act; altering the calculation of a minimum participation requirement in the small group health insurance market; requiring the Maryland Health Care Commission to include certain mental health and substance abuse benefits under the Standard Health Benefit Plan; making certain provisions of this Act applicable to health maintenance organizations; altering certain definitions; defining certain terms; making conforming and technical changes; providing for the application of this Act; and generally relating to conformity with federal law relating to health insurance and mental health benefits.

BY repealing and reenacting, without amendments,

Article – Insurance

Section 1–101(a) and (b)

Annotated Code of Maryland

(2003 Replacement Volume and 2010 Supplement)

BY adding to

Article – Insurance

Section 1–101(b–1)

Annotated Code of Maryland

(2003 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,

Article – Insurance

Section 2–210(a) and 2–215(a), (b), (d), and (g)

Annotated Code of Maryland

(2003 Replacement Volume and 2010 Supplement)

BY adding to

Article – Insurance

Section 15–137.1, 15–10A–01(m), 15–10A–04(e), 15–10A–10, and 15–10D–05

Annotated Code of Maryland

(2006 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,

Article – Insurance

Section 15–416, 15–605(c), 15–802(a), 15–10A–01(f) and (m), 15–10A–02, 15–10A–03, 15–10A–04(a), 15–10A–05, 15–10D–01, 15–10D–02, 15–1206(c), and 15–1207

Annotated Code of Maryland

(2006 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, without amendments,

Article – Insurance

Section 15–10A–01(a) and (l)

Annotated Code of Maryland

(2006 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,

Article – Health – General

Section 19–703.1(a) and 19–732(a)

Annotated Code of Maryland

(2009 Replacement Volume and 2010 Supplement)

BY adding to

Article – Health – General

Section 19–706(kkkk)

Annotated Code of Maryland

(2009 Replacement Volume and 2010 Supplement)

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

#### **Article – Insurance**

1–101.

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

(b) “Administration” means the Maryland Insurance Administration.

**(B–1) “AFFORDABLE CARE ACT” MEANS THE FEDERAL PATIENT PROTECTION AND AFFORDABLE CARE ACT, AS AMENDED BY THE FEDERAL HEALTH CARE AND EDUCATION RECONCILIATION ACT OF 2010, AND ANY REGULATIONS ADOPTED OR GUIDANCE ISSUED UNDER THE ACTS.**

2–210.

(a) (1) The Commissioner may hold hearings that the Commissioner considers necessary for any purpose under this article.

(2) The Commissioner shall hold a hearing:

(i) if required by any provision of this article; or

(ii) **EXCEPT AS OTHERWISE PROVIDED IN THIS ARTICLE**, on written demand by a person aggrieved by any act of, threatened act of, or failure to act by the Commissioner or by any report, regulation, or order of the Commissioner, except an order to hold a hearing or an order resulting from a hearing.

2-215.

(a) An appeal under this subtitle may be taken only from:

(1) an order resulting from a hearing; [or]

(2) a refusal by the Commissioner to grant a hearing; **OR**

**(3) A DECISION ISSUED UNDER ~~TITLE 15, SUBTITLE 10A~~ § 15-10A-04 OF THIS ARTICLE.**

(b) An appeal under this subtitle may be taken by:

(1) a party to the hearing; [or]

(2) an aggrieved person whose financial interests are directly affected by the order resulting from a hearing or refusal to grant a hearing; OR

**(3) A PARTY TO THE DECISION ISSUED UNDER § 15-10A-04 OF THIS ARTICLE.**

(d) To take an appeal, a person shall file a petition for judicial review with the appropriate circuit court within 30 days after:

(1) the order resulting from the hearing was served on the persons entitled to receive it;

(2) the order of the Commissioner denying rehearing or reargument was served on the persons entitled to receive it; [or]

(3) the refusal of the Commissioner to grant a hearing; OR

**(4) THE DECISION ISSUED UNDER § 15-10A-04 OF THIS ARTICLE WAS SERVED ON THE PERSONS ENTITLED TO RECEIVE IT.**

(g) (1) In an appeal of an order resulting from a hearing, after receiving a copy of the petition for judicial review and within the time specified in the Maryland Rules, the Commissioner shall file in the court in which the appeal is pending:

(i) a copy of the order of the Commissioner from which the appeal is taken;

(ii) a complete transcript, certified by the Commissioner, of the record on which the order was issued; and

(iii) all exhibits and documentary evidence introduced at the hearing.

(2) In an appeal of a refusal by the Commissioner to grant a hearing, within the time specified in the Maryland Rules, the Commissioner shall file in the court in which the appeal is pending certified copies of all documents on file with the Commissioner that directly relate to the matter on appeal.

**(3) IN AN APPEAL OF A DECISION ISSUED UNDER § 15-10A-04 OF THIS ARTICLE, AFTER RECEIVING A COPY OF THE PETITION FOR JUDICIAL REVIEW AND WITHIN THE TIME SPECIFIED IN THE MARYLAND RULES, THE COMMISSIONER SHALL FILE IN THE COURT IN WHICH THE APPEAL IS PENDING:**

**(I) A COPY OF THE DECISION OF THE COMMISSIONER FROM WHICH THE APPEAL IS TAKEN;**

**(II) A COPY OF THE REPORT OF THE INDEPENDENT REVIEW ORGANIZATION OR MEDICAL EXPERT; AND**

**(III) ALL DOCUMENTARY EVIDENCE PROVIDED TO THE COMMISSIONER AND THE INDEPENDENT REVIEW ORGANIZATION OR MEDICAL EXPERT THAT DIRECTLY RELATES TO THE MATTER ON APPEAL.**

15-137.1.

**(A) NOTWITHSTANDING ANY OTHER PROVISIONS OF LAW, THE FOLLOWING 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 AND ANY OTHER APPLICABLE REGULATIONS OR OTHER FEDERAL REQUIREMENTS,~~ 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~~ AFFORDABLE CARE ACT APPLY TO INDIVIDUAL HEALTH INSURANCE COVERAGE AND HEALTH INSURANCE COVERAGE OFFERED IN THE SMALL GROUP AND LARGE GROUP MARKETS, AS THOSE TERMS ARE DEFINED IN THE FEDERAL PUBLIC HEALTH SERVICE ACT, ISSUED OR DELIVERED IN THE STATE BY AN AUTHORIZED INSURER, NONPROFIT HEALTH SERVICE PLAN, OR HEALTH MAINTENANCE ORGANIZATION:**

- (1) COVERAGE OF CHILDREN UP TO THE AGE OF 26 YEARS;
- (2) PREEXISTING CONDITION EXCLUSIONS;
- (3) POLICY RESCISSIONS;
- (4) BONA FIDE WELLNESS PROGRAMS;
- (5) LIFETIME LIMITS;
- (6) ANNUAL LIMITS FOR ESSENTIAL BENEFITS;
- (7) WAITING PERIODS;
- (8) DESIGNATION OF PRIMARY CARE PROVIDERS;
- (9) ACCESS TO OBSTETRICAL AND GYNECOLOGICAL SERVICES;
- (10) EMERGENCY SERVICES;
- (11) SUMMARY OF BENEFITS AND COVERAGE EXPLANATION;
- (12) MINIMUM LOSS RATIO REQUIREMENTS AND PREMIUM REBATES; AND
- (13) DISCLOSURE OF INFORMATION.

**(B) THE PROVISIONS OF SUBSECTION (A) OF THIS SECTION DO NOT APPLY TO COVERAGE FOR EXCEPTED BENEFITS, AS DEFINED IN 45 C.F.R. § 146.145(C).**

**(C) THE COMMISSIONER MAY ENFORCE THIS SECTION UNDER ANY APPLICABLE PROVISIONS OF THIS ARTICLE.**

15-416.

(a) This section applies to insurers, nonprofit health service plans, and health maintenance organizations that deliver or issue for delivery in the State individual, group, or blanket health insurance policies and contracts.

(b) At least 60 days before a child who is covered under a parent's individual, group, or blanket health insurance policy or contract [turns 18 years of age] **REACHES THE LIMITING AGE UNDER THE POLICY OR CONTRACT**, an entity subject to this section shall:

(1) notify the parent of criteria under which a child may remain eligible for coverage as a dependent under the policy or contract; and

(2) provide information regarding:

(i) any other policies that may be available to the child from the entity; and

(ii) the availability of additional information from the Administration regarding individual policies in the State.

(c) The Commissioner shall establish and publish by bulletin the notice to be given under this section.

15–605.

(c) (1) [For a health benefit plan that is issued under Subtitle 12 of this title, the Commissioner may require the insurer, nonprofit health service plan, or health maintenance organization to file new rates if the loss ratio is less than 75%.

(2) (i) Subject to subparagraph (ii) of this paragraph, for a health benefit plan that is issued to individuals the Commissioner may require the insurer, nonprofit health service plan, or health maintenance organization to file new rates if the loss ratio is less than 60%.

(ii) Subparagraph (i) of this paragraph does not apply to an insurance product that:

1. is listed under § 15–1201(f)(3) of this title; or

2. is nonrenewable and has a policy term of no more than 6 months.

(iii) The Commissioner may establish a loss ratio for each insurance product described in subparagraph (ii)1 and 2 of this paragraph.]

~~(1) AN AUTHORIZED INSURER, NONPROFIT HEALTH SERVICE PLAN, AND HEALTH MAINTENANCE ORGANIZATION REQUIRED TO SUBMIT AN ANNUAL REPORT UNDER SUBSECTION (A)(1) OF THIS SECTION~~

(1) INDIVIDUAL HEALTH INSURANCE COVERAGE AND HEALTH INSURANCE COVERAGE OFFERED IN THE SMALL GROUP AND LARGE GROUP MARKETS, AS THOSE TERMS ARE DEFINED IN THE FEDERAL PUBLIC HEALTH SERVICE ACT, ISSUED OR DELIVERED IN THE STATE BY AN AUTHORIZED INSURER, NONPROFIT HEALTH SERVICE PLAN, OR HEALTH MAINTENANCE ORGANIZATION SHALL COMPLY WITH THE LOSS RATIO

REQUIREMENTS OF SECTIONS 1001(5) AND 10101(F) OF THE AFFORDABLE CARE ACT, WHICH AMEND SECTION 2718 OF THE PUBLIC HEALTH SERVICE ACT.

(II) THE PROVISIONS OF SUBPARAGRAPH (I) OF THIS PARAGRAPH DO NOT APPLY TO COVERAGE FOR EXCEPTED BENEFITS, AS DEFINED IN 45 C.F.R. § 146.145(C).

~~(H)~~ (III) THE COMMISSIONER MAY REQUIRE AN INSURER, A NONPROFIT HEALTH SERVICE PLAN, OR A HEALTH MAINTENANCE ORGANIZATION TO FILE NEW RATES IF THE LOSS RATIO REPORTED IN THE MANNER REQUIRED UNDER 45 C.F.R. § 158 IS LESS THAN THAT REQUIRED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH.

[(3)] (2) The authority of the Commissioner under [paragraphs (1) and (2)] PARAGRAPH (1) of this subsection to require an insurer, nonprofit health service plan, or health maintenance organization to file new rates based on loss ratio:

(i) is in addition to any other authority of the Commissioner under this article to require that rates not be excessive, inadequate, or unfairly discriminatory; and

(ii) does not limit any existing authority of the Commissioner to determine whether a rate is excessive.

[(4)] (3) (i) In determining whether to require an insurer to file new rates under this subsection, the Commissioner may consider the amount of health insurance premiums earned in the State on individual policies in proportion to the total health insurance premiums earned in the State for the insurer.

(ii) The insurer shall provide to the Commissioner the information necessary to determine the proportion of individual health insurance premiums to total health insurance premiums as provided under this paragraph.

[(5)] (4) The Secretary of Health and Mental Hygiene, in consultation with the Commissioner and in accordance with their memorandum of understanding, may adjust capitation payments for a managed care organization or for the Maryland Medical Assistance Program of a managed care organization that is a certified health maintenance organization[:

(i) if the loss ratio is less than 80% during calendar year 1997; and

(ii) during each subsequent calendar year] if the loss ratio is less than 85%.

**[(6)] (5)** A loss ratio reported under paragraph **[(5)] (4)** of this subsection shall be calculated separately and may not be part of another loss ratio reported under this section.

**[(7)] (6)** Any rebate received by a managed care organization may not be considered part of the loss ratio of the managed care organization.

**[(8)] (7)** If the Secretary of Health and Mental Hygiene adjusts capitation payments for a managed care organization or a certified health maintenance organization under paragraph **[(5)] (4)** of this subsection, the managed care organization or certified health maintenance organization may:

(i) appeal the decision of the Secretary to the Board of Review established under Title 2, Subtitle 2 of the Health – General Article; and

(ii) take any further appeal allowed by the Administrative Procedure Act under Title 10, Subtitle 2 of the State Government Article.

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) “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.

(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.

(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] **MEANS AN EMPLOYER THAT:**

**(I) EMPLOYED AN AVERAGE OF AT LEAST TWO, BUT NOT MORE THAN 50 EMPLOYEES ON BUSINESS DAYS DURING THE PRECEDING CALENDAR YEAR; AND**

**(II) EMPLOYS AT LEAST TWO EMPLOYEES ON THE FIRST DAY OF THE PLAN YEAR.**

15–10A–01.

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

(f) "Grievance" means a protest filed by a member, **A MEMBER'S REPRESENTATIVE**, or a health care provider on behalf of a member with a carrier through the carrier's internal grievance process regarding an adverse decision concerning the member.

(1) (1) "Member" means a person entitled to health care benefits under a policy, plan, or certificate issued or delivered in the State by a carrier.

(2) "Member" includes:

(i) a subscriber; and

(ii) unless preempted by federal law, a Medicare recipient.

(3) "Member" does not include a Medicaid recipient.

**(M) "MEMBER'S REPRESENTATIVE" MEANS AN INDIVIDUAL WHO HAS BEEN AUTHORIZED BY THE MEMBER TO FILE A GRIEVANCE OR A COMPLAINT ON THE MEMBER'S BEHALF.**

[(m)] (N) "Private review agent" has the meaning stated in § 15–10B–01 of this title.

15–10A–02.

(a) Each carrier shall establish an internal grievance process for its members.

(b) (1) An internal grievance process shall meet the same requirements established under Subtitle 10B of this title.

(2) In addition to the requirements of Subtitle 10B of this title, an internal grievance process established by a carrier under this section shall:

(i) include an expedited procedure for use in an emergency case for purposes of rendering a grievance decision within 24 hours of the date a grievance is filed with the carrier;

(ii) provide that a carrier render a final decision in writing on a grievance within 30 working days after the date on which the grievance is filed unless:

1. the grievance involves an emergency case under item (i) of this paragraph;

2. the member, **THE MEMBER'S REPRESENTATIVE**, or a health care provider filing a grievance on behalf of a member agrees in writing to an extension for a period of no longer than 30 working days; or

3. the grievance involves a retrospective denial under item (iv) of this paragraph;

(iii) allow a grievance to be filed on behalf of a member by a health care provider **OR THE MEMBER'S REPRESENTATIVE**;

(iv) provide that a carrier render a final decision in writing on a grievance within 45 working days after the date on which the grievance is filed when the grievance involves a retrospective denial; and

(v) for a retrospective denial, allow a member, **THE MEMBER'S REPRESENTATIVE**, or a health care provider on behalf of a member to file a grievance for at least 180 days after the member receives an adverse decision.

(3) For purposes of using the expedited procedure for an emergency case that a carrier is required to include under paragraph (2)(i) of this subsection, the Commissioner shall define by regulation the standards required for a grievance to be considered an emergency case.

(c) Except as provided in subsection (d) of this section, the carrier's internal grievance process shall be exhausted prior to filing a complaint with the Commissioner under this subtitle.

(d) (1) (i) A member, **THE MEMBER'S REPRESENTATIVE**, or a health care provider filing a complaint on behalf of a member may file a complaint with the Commissioner without first filing a grievance with a carrier and receiving a final decision on the grievance if:

1. **THE CARRIER WAIVES THE REQUIREMENT THAT THE CARRIER'S INTERNAL GRIEVANCE PROCESS BE EXHAUSTED BEFORE FILING A COMPLAINT WITH THE COMMISSIONER;**

2. **THE CARRIER HAS FAILED TO COMPLY WITH ANY OF THE REQUIREMENTS OF THE INTERNAL GRIEVANCE PROCESS AS DESCRIBED IN THIS SECTION; OR**

3. the member, **THE MEMBER'S REPRESENTATIVE**, or the health care provider provides sufficient information and supporting documentation in the complaint that demonstrates a compelling reason to do so.

(ii) The Commissioner shall define by regulation the standards that the Commissioner shall use to decide what demonstrates a compelling reason under subparagraph (i) of this paragraph.

(2) Subject to subsections (b)(2)(ii) and (h) of this section, a member, **A MEMBER'S REPRESENTATIVE**, or a health care provider may file a complaint with the Commissioner if the member, **THE MEMBER'S REPRESENTATIVE**, or the health care provider does not receive a grievance decision from the carrier on or before the 30th working day on which the grievance is filed.

(3) Whenever the Commissioner receives a complaint under paragraph (1) or (2) of this subsection, the Commissioner shall notify the carrier that is the subject of the complaint within 5 working days after the date the complaint is filed with the Commissioner.

(e) Each carrier shall:

(1) file for review with the Commissioner and submit to the Health Advocacy Unit a copy of its internal grievance process established under this subtitle; and

(2) [update the initial filing annually to reflect any changes made] **FILE ANY REVISION TO THE INTERNAL GRIEVANCE PROCESS WITH THE COMMISSIONER AND THE HEALTH ADVOCACY UNIT AT LEAST 30 DAYS BEFORE ITS INTENDED USE.**

(f) For nonemergency cases, when a carrier renders an adverse decision, the carrier shall:

(1) document the adverse decision in writing after the carrier has provided oral communication of the decision to the member, **THE MEMBER'S REPRESENTATIVE**, or the health care provider acting on behalf of the member; and

(2) send, within 5 working days after the adverse decision has been made, a written notice to the member, **THE MEMBER'S REPRESENTATIVE**, and a health care provider acting on behalf of the member that:

(i) states in detail in clear, understandable language the specific factual bases for the carrier's decision;

(ii) references the specific criteria and standards, including interpretive guidelines, on which the decision was based, and may not solely use generalized terms such as "experimental procedure not covered", "cosmetic procedure not covered", "service included under another procedure", or "not medically necessary";

(iii) states the name, business address, and business telephone number of:

1. the medical director or associate medical director, as appropriate, who made the decision if the carrier is a health maintenance organization; or

2. the designated employee or representative of the carrier who has responsibility for the carrier's internal grievance process if the carrier is not a health maintenance organization;

(iv) gives written details of the carrier's internal grievance process and procedures under this subtitle; and

(v) includes the following information:

1. that the member, **THE MEMBER'S REPRESENTATIVE**, or a health care provider on behalf of the member has a right to file a complaint with the Commissioner within [30 working days] **4 MONTHS** after receipt of a carrier's grievance decision;

2. that a complaint may be filed without first filing a grievance if the member, **THE MEMBER'S REPRESENTATIVE**, or a health care provider filing a grievance on behalf of the member can demonstrate a compelling reason to do so as determined by the Commissioner;

3. the Commissioner's address, telephone number, and facsimile number;

4. a statement that the Health Advocacy Unit is available to assist the member **OR THE MEMBER'S REPRESENTATIVE** in both mediating and filing a grievance under the carrier's internal grievance process; and

5. the address, telephone number, facsimile number, and electronic mail address of the Health Advocacy Unit.

(g) If within 5 working days after a member, **THE MEMBER'S REPRESENTATIVE**, or a health care provider, who has filed a grievance on behalf of a member, files a grievance with the carrier, and if the carrier does not have sufficient information to complete its internal grievance process, the carrier shall:

(1) notify the member, **THE MEMBER'S REPRESENTATIVE**, or **THE** health care provider that it cannot proceed with reviewing the grievance unless additional information is provided; and

(2) assist the member, **THE MEMBER'S REPRESENTATIVE**, or **THE** health care provider in gathering the necessary information without further delay.

(h) A carrier may extend the 30-day or 45-day period required for making a final grievance decision under subsection (b)(2)(ii) of this section with the written consent of the member, **THE MEMBER'S REPRESENTATIVE**, or the health care provider who filed the grievance on behalf of the member.

(i) (1) For nonemergency cases, when a carrier renders a grievance decision, the carrier shall:

(i) document the grievance decision in writing after the carrier has provided oral communication of the decision to the member, **THE MEMBER'S REPRESENTATIVE**, or the health care provider acting on behalf of the member; and

(ii) send, within 5 working days after the grievance decision has been made, a written notice to the member, **THE MEMBER'S REPRESENTATIVE**, and a health care provider acting on behalf of the member that:

1. states in detail in clear, understandable language the specific factual bases for the carrier's decision;

2. references the specific criteria and standards, including interpretive guidelines, on which the grievance decision was based;

3. states the name, business address, and business telephone number of:

A. the medical director or associate medical director, as appropriate, who made the grievance decision if the carrier is a health maintenance organization; or

B. the designated employee or representative of the carrier who has responsibility for the carrier's internal grievance process if the carrier is not a health maintenance organization; and

4. includes the following information:

A. that the member or **THE MEMBER'S REPRESENTATIVE** has a right to file a complaint with the Commissioner within [30 working days] **4 MONTHS** after receipt of a carrier's grievance decision; ~~and~~

B. the Commissioner's address, telephone number, and facsimile number;

**C. A STATEMENT THAT THE HEALTH ADVOCACY UNIT IS AVAILABLE TO ASSIST THE MEMBER OR THE MEMBER'S REPRESENTATIVE IN FILING A COMPLAINT WITH THE COMMISSIONER; AND**

**D. THE ADDRESS, TELEPHONE NUMBER, FACSIMILE NUMBER, AND ELECTRONIC MAIL ADDRESS OF THE HEALTH ADVOCACY UNIT.**

(2) A carrier may not use solely in a notice sent under paragraph (1) of this subsection generalized terms such as "experimental procedure not covered", "cosmetic procedure not covered", "service included under another procedure", or "not medically necessary" to satisfy the requirements of this subsection.

(j) (1) For an emergency case under subsection (b)(2)(i) of this section, within 1 day after a decision has been orally communicated to the member, **THE MEMBER'S REPRESENTATIVE**, or **THE** health care provider, the carrier shall send notice in writing of any adverse decision or grievance decision to:

(i) the member **AND THE MEMBER'S REPRESENTATIVE, IF ANY**; and

(ii) if the grievance was filed on behalf of the member under subsection (b)(2)(iii) of this section, the health care provider.

(2) A notice required to be sent under paragraph (1) of this subsection shall include the following:

(i) for an adverse decision, the information required under subsection (f) of this section; and

(ii) for a grievance decision, the information required under subsection (i) of this section.

(k) **(1)** Each carrier shall include the information required by subsection (f)(2)(iii), (iv), and (v) of this section in the policy, plan, certificate, enrollment materials, or other evidence of coverage that the carrier provides to a member at the time of the member's initial coverage or renewal of coverage.

**(2) EACH CARRIER SHALL INCLUDE AS PART OF THE INFORMATION REQUIRED BY PARAGRAPH (1) OF THIS SUBSECTION A STATEMENT INDICATING THAT, WHEN FILING A COMPLAINT WITH THE COMMISSIONER, THE MEMBER OR THE MEMBER'S REPRESENTATIVE WILL BE REQUIRED TO AUTHORIZE THE RELEASE OF ANY MEDICAL RECORDS OF THE MEMBER THAT MAY BE REQUIRED TO BE REVIEWED FOR THE PURPOSE OF REACHING A DECISION ON THE COMPLAINT.**

(l) (1) Nothing in this subtitle prohibits a carrier from delegating its internal grievance process to a private review agent that has a certificate issued under Subtitle 10B of this title and is acting on behalf of the carrier.

(2) If a carrier delegates its internal grievance process to a private review agent, the carrier shall be:

(i) bound by the grievance decision made by the private review agent acting on behalf of the carrier; and

(ii) responsible for a violation of any provision of this subtitle regardless of the delegation made by the carrier under paragraph (1) of this subsection.

15-10A-03.

(a) (1) Within [30 working days] **4 MONTHS** after the date of receipt of **AN ADVERSE DECISION OR** a grievance decision, a member, **A MEMBER'S REPRESENTATIVE**, or a health care provider, who filed the grievance on behalf of the member under § 15-10A-02(b)(2)(iii) of this subtitle, may file a complaint with the Commissioner [for review of the grievance decision].

(2) Whenever the Commissioner receives a complaint under this subsection, the Commissioner shall notify the carrier that is the subject of the complaint within 5 working days after the date the complaint is filed with the Commissioner.

(3) Except for an emergency case under subsection (b)(1)(ii) of this section, the carrier that is the subject of a complaint filed under paragraph (1) of this subsection shall provide to the Commissioner any information requested by the

Commissioner no later than 7 working days from the date the carrier receives the request for information.

(b) (1) In developing procedures to be used in reviewing and deciding complaints, the Commissioner shall:

(i) allow a health care provider to file a complaint on behalf of a member; and

(ii) establish an expedited procedure for use in an emergency case for the purpose of making a final decision on a complaint within 24 hours after the complaint is filed with the Commissioner.

(2) For purposes of using the expedited procedure for an emergency case under paragraph (1)(ii) of this subsection, the Commissioner shall define by regulation the standards required for a grievance to be considered an emergency case.

(c) (1) Except as provided in paragraph (2) of this subsection and except for an emergency case under subsection (b)(1)(ii) of this section, the Commissioner shall make a final decision on a complaint:

(i) within [30 working] **45** days after a complaint regarding a pending health care service is filed; and

(ii) within 45 [working] days after a complaint is filed regarding a retrospective denial of services already provided.

(2) The Commissioner may extend the period within which a final decision is to be made under paragraph (1) of this subsection for up to an additional 30 working days if:

(i) the Commissioner has not yet received information requested by the Commissioner; and

(ii) the information requested is necessary for the Commissioner to render a final decision on the complaint.

(d) ~~In cases considered appropriate by the Commissioner, the Commissioner may~~ **THE COMMISSIONER SHALL** seek advice from an independent review organization or medical expert, as provided in § 15–10A–05 of this subtitle, for complaints filed with the Commissioner under this subtitle that involve a question of whether a health care service provided or to be provided to a member is medically necessary.

(e) (1) A carrier shall have the burden of persuasion that its adverse decision or grievance decision, as applicable, is correct~~;~~:



(i) during the review of a complaint by the Commissioner or a designee of the Commissioner; and

(ii) in any hearing held in accordance with § 2-210 of this article.

(2) As part of the review of a complaint, the Commissioner or a designee of the Commissioner may consider all of the facts of the case and any other evidence that the Commissioner or designee of the Commissioner considers appropriate.

(3) As required under § 15-10A-02(i) of this subtitle, the carrier's adverse decision or grievance decision shall state in detail in clear, understandable language the factual bases for the decision and reference the specific criteria and standards, including interpretive guidelines on which the decision was based.

(4) (i) Except as provided in subparagraph (ii) of this paragraph, in responding to a complaint, a carrier may not rely on any basis not stated in its adverse decision or grievance decision.

(ii) The Commissioner may allow a carrier, a member, **A MEMBER'S REPRESENTATIVE**, or a health care provider filing a complaint on behalf of a member to provide additional information as may be relevant for the Commissioner to make a final decision on the complaint.

**(III) THE COMMISSIONER SHALL ALLOW THE MEMBER, THE MEMBER'S REPRESENTATIVE, OR THE HEALTH CARE PROVIDER FILING A COMPLAINT ON BEHALF OF THE MEMBER AT LEAST 5 WORKING DAYS TO PROVIDE THE ADDITIONAL INFORMATION DESCRIBED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH.**

**[(iii)] (IV)** The Commissioner's use of additional information may not delay the Commissioner's decision on the complaint by more than 5 working days.

(f) The Commissioner may request the member that filed the complaint or a legally authorized designee of the member to sign a consent form authorizing the release of the member's medical records to the Commissioner or the Commissioner's designee that are needed in order for the Commissioner to make a final decision on the complaint.

15-10A-04.

(a) The Commissioner shall:

(1) notwithstanding the provisions of § 15–10A–03(c)(1)(ii) of this subtitle, for the purpose of making final decisions on complaints, prioritize complaints regarding pending health care services over complaints regarding health care services already delivered;

(2) make and issue in writing a final decision on all complaints filed with the Commissioner under this subtitle that are within the Commissioner’s jurisdiction; and

(3) provide notice in writing to all parties to a complaint [of the opportunity and time period for requesting a hearing to be held in accordance with § 2–210 of this article] ~~THAT THE FINAL DECISION:~~

~~(I) IS NOT SUBJECT TO A REQUEST FOR A HEARING UNDER THIS SUBTITLE; AND~~

~~(II) IS SUBJECT TO A RIGHT TO FILE A PETITION FOR JUDICIAL REVIEW UNDER § 2–215 OF THIS ARTICLE OF THE AVAILABLE REMEDY TO THE PARTY DESCRIBED UNDER SUBSECTION (E) OF THIS SECTION AND THE TIME PERIOD FOR REQUESTING THE REMEDY.~~

(E) (1) A FINAL DECISION OF THE COMMISSIONER MADE ON A COMPLAINT UNDER THIS SUBTITLE:

(I) IS NOT SUBJECT TO A REQUEST FOR A HEARING UNDER THIS SUBTITLE FOR A CARRIER; AND

(II) IS SUBJECT TO A RIGHT TO FILE A PETITION FOR JUDICIAL REVIEW UNDER § 2–215 OF THIS ARTICLE FOR A CARRIER OR A MEMBER.

(2) UNLESS PROHIBITED UNDER FEDERAL LAW, A MEMBER MAY REQUEST A HEARING TO BE HELD IN ACCORDANCE WITH § 2–210 OF THIS ARTICLE OF A FINAL DECISION OF THE COMMISSIONER MADE ON A COMPLAINT UNDER THIS SUBTITLE.

15–10A–05.

(a) For [complaints] A COMPLAINT filed with the Commissioner under this subtitle that [involve] INVOLVES a question of whether the health care service provided or to be provided to a member is medically necessary, the Commissioner:

(1) SHALL SELECT AN INDEPENDENT REVIEW ORGANIZATION OR MEDICAL EXPERT TO ADVISE ON THE COMPLAINT; AND

(2) may [select and] accept and base the final decision on [a] THE complaint on the professional judgment of an independent review organization or medical expert.

(b) To ensure access to advice when needed, the Commissioner, in consultation with the Secretary of Health and Mental Hygiene and carriers, shall compile a list of independent review organizations and medical experts.

(c) Any expert reviewer assigned by an independent review organization or medical expert shall be a physician or other appropriate health care provider who meets the following minimum requirements:

(1) be an expert in the treatment of the member's medical condition, and knowledgeable about the recommended health care service or treatment through actual clinical experience;

(2) hold:

(i) a nonrestricted license in a state of the United States; and

(ii) in addition, for physicians, a current certification by a recognized American medical specialty board in the area or areas appropriate to the subject of review; and

(3) have no history of disciplinary actions or sanctions, including loss of staff privileges or participation restrictions that have been taken or are pending by any hospital, governmental agency or unit, or regulatory body that the Commissioner, in accordance with regulations adopted by the Commissioner, considers relevant in meeting the requirements of this subsection.

(d) An independent review organization may not be a subsidiary of, or in any way owned or controlled by, a health benefit plan, or a trade association of health benefit plans, or a trade association of health care providers.

(e) In addition to subsection (d) of this section, to be included on the list compiled under subsection (b) of this section, an independent review organization shall submit to the Commissioner the following information:

(1) if the independent review organization is a publicly held organization, the names of all stockholders and owners of more than 5% of any stock or options of the independent review organization;

(2) the names of all holders of bonds or notes in excess of \$100,000, if any;

(3) the names of all corporations and organizations that the independent review organization controls or is affiliated with, and the nature and

extent of any ownership or control, including the affiliated organization's type of business; [and]

(4) the names of all directors, officers, and executives of the independent review organization as well as a statement regarding any relationships the directors, officers, and executives may have with any carrier or health care provider group; AND

**(5) EVIDENCE, IN THE FORM REQUIRED BY THE COMMISSIONER, THAT THE INDEPENDENT REVIEW ORGANIZATION IS ACCREDITED BY A NATIONALLY RECOGNIZED PRIVATE ACCREDITING ORGANIZATION.**

(f) An expert reviewer assigned by an independent review organization or the independent review organization or medical expert selected by the Commissioner under this section may not have a material professional, familial, or financial conflict of interest with any of the following:

(1) the carrier that is the subject of the complaint;

(2) any officer, director, or management employee of the carrier that is the subject of the complaint;

(3) the health care provider, the health care provider's medical group, or the independent practice association that rendered or is proposing to render the health care service that is under review;

(4) the health care facility at which the health care service was provided or will be provided; or

(5) the developer or manufacturer of the principal drug, device, procedure, or other therapy that is being proposed for the member.

(g) For any independent review organization selected by the Commissioner under subsection (a) of this section, the independent review organization shall have a quality assurance mechanism in place that ensures:

(1) the timeliness and quality of the reviews;

(2) the qualifications and independence of the expert reviewers; and

(3) the confidentiality of medical records and review materials.

(h) (1) The carrier that is the subject of the complaint shall be responsible for paying the reasonable expenses of the independent review organization or medical expert selected by the Commissioner in accordance with subsection (a) of this section.

(2) The independent review organization or medical expert shall:

(i) present to the carrier for payment a detailed account of the expenses incurred by the independent review organization or medical expert; and

(ii) provide a copy of the detailed account of expenses to the Commissioner.

(3) The carrier that is the subject of the complaint may not pay and an independent review organization or medical expert may not accept any compensation in addition to the payment for reasonable expenses under paragraph (1) of this subsection.

#### 15-10A-10.

**A CARRIER SHALL PROVIDE THE NOTICES REQUIRED TO BE PROVIDED TO MEMBERS UNDER THIS SUBTITLE IN A CULTURALLY AND LINGUISTICALLY APPROPRIATE MANNER AS DESCRIBED IN THE AFFORDABLE CARE ACT.**

#### 15-10D-01.

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

(b) "Appeal" means a protest filed by a member, **A MEMBER'S REPRESENTATIVE**, or a health care provider with a carrier under its internal appeal process regarding a coverage decision concerning a member.

(c) "Appeal decision" means a final determination by a carrier that arises from an appeal filed with the carrier under its appeal process regarding a coverage decision concerning a member.

(d) "Carrier" means a person that offers a health benefit plan and is:

(1) an authorized insurer that provides health insurance in the State;

(2) a nonprofit health service plan;

(3) a health maintenance organization;

(4) a dental plan organization; or

(5) except for a managed care organization, as defined in Title 15, Subtitle 1 of the Health – General Article, any other person that offers a health benefit plan subject to regulation by the State.

(e) “Complaint” means a protest filed with the Commissioner involving a coverage decision other than that which is covered by Subtitle 10A of this title.

(f) (1) “Coverage decision” means:

(I) an initial determination by a carrier or a representative of the carrier that results in noncoverage of a health care service;

(II) **A DETERMINATION BY A CARRIER THAT AN INDIVIDUAL IS NOT ELIGIBLE FOR COVERAGE UNDER THE CARRIER’S HEALTH BENEFIT PLAN; OR**

(III) **ANY DETERMINATION BY A CARRIER THAT RESULTS IN THE RESCISSION OF AN INDIVIDUAL’S COVERAGE UNDER A HEALTH BENEFIT PLAN.**

(2) “Coverage decision” includes nonpayment of all or any part of a claim.

(3) “Coverage decision” does not include:

(i) an adverse decision as defined in § 15–10A–01(b) of this title; or

(ii) a pharmacy inquiry.

(g) “Designee of the Commissioner” means any person to whom the Commissioner has delegated the authority to review and decide complaints filed under this subtitle, including an administrative law judge to whom the authority to conduct a hearing has been delegated for recommended or final decision.

(h) (1) “Health benefit plan” means:

(i) a hospital or medical policy or contract, including a policy or contract issued under a multiple employer trust or association;

(ii) a hospital or medical policy or contract issued by a nonprofit health service plan;

(iii) a health maintenance organization contract; or

(iv) a dental plan organization contract.

(2) “Health benefit plan” does not include one or more, or any combination of the following:

- (i) long-term care insurance;
- (ii) disability insurance;
- (iii) accidental travel and accidental death and dismemberment insurance;
- (iv) credit health insurance;
- (v) a health benefit plan issued by a managed care organization, as defined in Title 15, Subtitle 1 of the Health – General Article;
- (vi) disease-specific insurance; or
- (vii) fixed indemnity insurance.

(i) “Health care provider” means:

- (1) an individual who is licensed under the Health Occupations Article to provide health care services in the ordinary course of business or practice of a profession and is a treating provider of the member; or
- (2) a hospital, as defined in § 19–301 of the Health – General Article.

(j) “Health care service” means a health or medical care procedure or service rendered by a health care provider that:

- (1) provides testing, diagnosis, or treatment of a human disease or dysfunction; or
- (2) dispenses drugs, medical devices, medical appliances, or medical goods for the treatment of a human disease or dysfunction.

(k) (1) “Member” means a person entitled to health care services under a policy, plan, or contract issued or delivered in the State by a carrier.

(2) “Member” includes:

- (i) a subscriber; and
- (ii) unless preempted by federal law, a Medicare recipient.

(3) “Member” does not include a Medicaid recipient.

**(L) “MEMBER’S REPRESENTATIVE” MEANS AN INDIVIDUAL WHO HAS BEEN AUTHORIZED BY THE MEMBER TO FILE AN APPEAL OR A COMPLAINT ON BEHALF OF THE MEMBER.**

~~[(1)] (M)~~ “Pharmacy benefits manager” has the meaning stated in § 15–1601 of this title.

~~[(m)] (N)~~ “Pharmacy inquiry” means an inquiry submitted by a pharmacist or pharmacy on behalf of a member to a carrier or a pharmacy benefits manager at the point of sale about the scope of pharmacy coverage, pharmacy benefit design, or formulary under a health benefit plan.

15–10D–02.

(a) (1) Each carrier shall establish an internal appeal process for use by its members, **ITS MEMBERS’ REPRESENTATIVES**, and health care providers to dispute coverage decisions made by the carrier.

(2) The carrier may use the internal grievance process established under Subtitle 10A of this title to comply with the requirement of paragraph (1) of this subsection.

(b) ~~[An internal appeal process established by a]~~ **A** carrier under this section shall ~~[provide that a carrier]~~ render a final decision in writing to a member, **A MEMBER’S REPRESENTATIVE**, and a health care provider acting on behalf of the member~~[,]~~ within 60 working days after the date on which the appeal is filed.

(c) Except as provided in subsection (d) of this section, the carrier’s internal appeal process shall be exhausted prior to filing a complaint with the Commissioner under this subtitle.

(d) A member, **A MEMBER’S REPRESENTATIVE**, or a health care provider filing a complaint on behalf of a member may file a complaint with the Commissioner without first filing an appeal with a carrier only if the coverage decision involves an urgent medical condition, as defined by regulation adopted by the Commissioner, for which care has not been rendered.

(e) (1) Within 30 calendar days after a coverage decision has been made, a carrier shall send a written notice of the coverage decision to the member **AND THE MEMBER’S REPRESENTATIVE, IF ANY**, and, in the case of a health maintenance organization, the treating health care provider.

(2) Notice of the coverage decision required to be sent under paragraph (1) of this subsection shall:

(i) state in detail in clear, understandable language, the specific factual bases for the carrier’s decision; and

(ii) include the following information:



1. that the member, **THE MEMBER'S REPRESENTATIVE**, or a health care provider acting on behalf of the member[,] has a right to file an appeal with the carrier;

2. that the member, **THE MEMBER'S REPRESENTATIVE**, or a health care provider acting on behalf of the member[,] may file a complaint with the Commissioner without first filing an appeal, if the coverage decision involves an urgent medical condition for which care has not been rendered;

3. the Commissioner's address, telephone number, and facsimile number;

4. that the Health Advocacy Unit is available to assist the member **OR THE MEMBER'S REPRESENTATIVE** in both mediating and filing an appeal under the carrier's internal appeal process; and

5. the address, telephone number, facsimile number, and electronic mail address of the Health Advocacy Unit.

(f) (1) Within 30 calendar days after the appeal decision has been made, each carrier shall send to the member, **THE MEMBER'S REPRESENTATIVE**, and the health care provider acting on behalf of the member[,] a written notice of the appeal decision.

(2) Notice of the appeal decision required to be sent under paragraph (1) of this subsection shall:

(i) state in detail in clear, understandable language the specific factual bases for the carrier's decision; and

(ii) include the following information:

1. that the member, **THE MEMBER'S REPRESENTATIVE**, or a health care provider acting on behalf of the member[,] has a right to file a complaint with the Commissioner within [60 working days] **4 MONTHS** after receipt of a carrier's appeal decision; ~~and~~

2. the Commissioner's address, telephone number, and facsimile number;

**3. A STATEMENT THAT THE HEALTH ADVOCACY UNIT IS AVAILABLE TO ASSIST THE MEMBER IN FILING A COMPLAINT WITH THE COMMISSIONER; AND**

**4. THE ADDRESS, TELEPHONE NUMBER, FACSIMILE NUMBER, AND ELECTRONIC MAIL ADDRESS OF THE HEALTH ADVOCACY UNIT.**

(g) The Commissioner may request the member that filed the complaint or a legally authorized designee of the member to sign a consent form authorizing the release of the member's medical records to the Commissioner or the Commissioner's designee that are needed in order for the Commissioner to make a final decision on the complaint.

(h) (1) A carrier shall have the burden of persuasion that its coverage decision or appeal decision, as applicable, is correct:

(i) during the review of a complaint by the Commissioner or a designee of the Commissioner; and

(ii) in any hearing held in accordance with Title 10, Subtitle 2 of the State Government Article to contest a final decision of the Commissioner made and issued under this subtitle.

(2) As part of the review of a complaint, the Commissioner or a designee of the Commissioner may consider all of the facts of the case and any other evidence that the Commissioner or designee of the Commissioner considers appropriate.

(i) The Commissioner shall:

(1) make and issue in writing a final decision on all complaints filed with the Commissioner under this subtitle that are within the Commissioner's jurisdiction; and

(2) provide notice in writing to all parties to a complaint of the opportunity and time period for requesting a hearing to be held in accordance with Title 10, Subtitle 2 of the State Government Article to contest a final decision of the Commissioner made and issued under this subtitle.

**15-10D-05.**

**A CARRIER SHALL PROVIDE THE NOTICES REQUIRED TO BE PROVIDED TO MEMBERS UNDER THIS SUBTITLE IN A CULTURALLY AND LINGUISTICALLY APPROPRIATE MANNER AS DESCRIBED IN THE AFFORDABLE CARE ACT.**

15-1206.

(c) (1) Subject to the approval of the Commissioner and as provided under this subsection and § 15-1209(d) of this subtitle, a carrier may impose reasonable minimum participation requirements.

(2) A carrier may not impose a requirement for minimum participation by the eligible employees of a small employer that is greater than 75%.

(3) In applying a minimum participation requirement to determine whether the applicable percentage of participation is met, a carrier may not consider as eligible employees:

(I) those who have group spousal coverage under a public or private plan of health insurance or another employer's health benefit arrangement, including Medicare, Medicaid, and CHAMPUS, that provides benefits similar to or exceeding the benefits provided under the Standard Plan; OR

(II) **EMPLOYEES WHO ARE UNDER THE AGE OF 26 YEARS WHO ARE COVERED UNDER THEIR PARENT'S HEALTH BENEFIT PLAN.**

(4) A carrier may not impose a minimum participation requirement for a small employer group if any member of the group participates in a medical savings account.

15-1207.

(a) In accordance with Title 19, Subtitle 1 of the Health – General Article, the Commission shall adopt regulations that specify:

(1) the Comprehensive Standard Health Benefit Plan to apply under this subtitle; and

(2) the requirements for a wellness benefit offered by a carrier to apply under this subtitle.

(b) (1) Subject to paragraph (2) of this subsection, the Commission shall exclude or limit benefits or adjust cost-sharing arrangements in the Standard Plan if the average rate for the Standard Plan exceeds 10% of the average annual wage in the State.

(2) The Commission annually shall determine the average rate for the Standard Plan by using the average rate submitted by each carrier that offers the Standard Plan.

(c) In establishing benefits, the Commission shall judge preventive services, medical treatments, procedures, and related health services based on:

(1) their effectiveness in improving the health status of individuals;

(2) their impact on maintaining and improving health and on reducing the unnecessary consumption of health care services; and

(3) their impact on the affordability of health care coverage.

(d) The Commission may exclude:

(1) a health care service, benefit, coverage, or reimbursement for covered health care services that is required under this article or the Health – General Article to be provided or offered in a health benefit plan that is issued or delivered in the State by a carrier; or

(2) reimbursement required by statute, by a health benefit plan for a service when that service is performed by a health care provider who is licensed under the Health Occupations Article and whose scope of practice includes that service.

**(E) THE COMMISSION SHALL INCLUDE MENTAL HEALTH AND SUBSTANCE ABUSE BENEFITS REQUIRED UNDER § 15–802 OF THIS TITLE AND § 19–703.1 OF THE HEALTH – GENERAL ARTICLE FOR EMPLOYERS THAT MEET THE LARGE EMPLOYER DEFINITION UNDER § 15–802 OF THIS TITLE AND § 19–703.1 OF THE HEALTH – GENERAL ARTICLE.**

**[(e) (F)** The Commission shall specify the deductibles and cost-sharing associated with the benefits in the Standard Plan.

**[(f) (G)** In establishing cost-sharing as part of the Standard Plan, the Commission shall:

(1) include cost-sharing and other incentives to help prevent consumers from seeking unnecessary services;

(2) balance the effect of cost-sharing in reducing premiums and in affecting utilization of appropriate services; and

(3) limit the total cost-sharing that may be incurred by an individual in a year.

### **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) "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.

(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.

(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] **MEANS AN EMPLOYER THAT:**

**(I) EMPLOYED AN AVERAGE OF AT LEAST TWO, BUT NOT MORE THAN 50 EMPLOYEES ON BUSINESS DAYS DURING THE PRECEDING CALENDAR YEAR; AND**

**(II) EMPLOYS AT LEAST TWO EMPLOYEES ON THE FIRST DAY OF THE PLAN YEAR.**

19-706.

**(KKKK) THE PROVISIONS OF § 15-137.1 OF THE INSURANCE ARTICLE APPLY TO HEALTH MAINTENANCE ORGANIZATIONS.**

19-732.

(a) **[A] EXCEPT AS OTHERWISE PROVIDED IN TITLE 15, SUBTITLE 10A OF THE INSURANCE ARTICLE,** A party aggrieved by a final action of the Commissioner under this subtitle has the right to a hearing and the right to appeal from the action of the Commissioner under §§ 2-210 through 2-215 of the Insurance Article.

**SECTION 2. AND BE IT FURTHER ENACTED,** That Section 1 of this Act shall apply, for group health benefit plans, to plan years that begin on or after July 1, 2011, and for individual health benefit plans, for policy years that begin on or after July 1, 2011.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2011.

Approved by the Governor, April 12, 2011.

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## Chapter 5

### (Senate Bill 1)

AN ACT concerning

#### **Joint Committee on Workers' Compensation Benefit and Insurance Oversight – Membership**

FOR the purpose of increasing the membership of the Joint Committee on Workers' Compensation Benefit and Insurance Oversight to include a certain member; repealing obsolete provisions; making stylistic changes; and generally relating to membership of the Joint Committee on Workers' Compensation Benefit and Insurance Oversight.

BY repealing and reenacting, with amendments,

Article – State Government

Section 2–10A–03

Annotated Code of Maryland

(2009 Replacement Volume and 2010 Supplement)

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

#### **Article – State Government**

2–10A–03.

(a) There is a Joint Committee on Workers' Compensation Benefit and Insurance Oversight.

(b) (1) The Committee consists of [15] **16** members.

(2) Of the [15] **16** members:

(i) 1. 2 shall be members of the Senate appointed by the President of the Senate; **AND**

2. 2 shall be Delegates appointed by the Speaker of the House of Delegates; and

(ii) [11] 12 shall be appointed jointly by the President and the Speaker as follows:

1. 1 representative of the business community;  
 2. 1 representative of the Maryland labor organizations;  
 3. 1 representative of the Maryland building and construction labor organizations;

4. **1 REPRESENTATIVE OF A SELF-INSURED LOCAL GOVERNMENT ENTITY;**

[4.] 5. 2 members of the public;  
 [5.] 6. 1 member of the insurance industry;  
 [6.] 7. 1 member of the Medical and Chirurgical Faculty of Maryland;

[7.] 8. 1 member of a workers' compensation rating organization;

[8.] 9. 2 members of the Bar of the Court of Appeals of Maryland, 1 of whom represents plaintiffs in workers' compensation cases and 1 of whom represents defendants in workers' compensation cases; and

[9.] 10. 1 member who is certified by the Workers' Compensation Commission as a Maryland rehabilitation service provider.

(c) The members of the Committee serve at the pleasure of the presiding officer who appointed them.

(d) The President and the Speaker shall jointly appoint a Senator and a Delegate each to serve as cochair.

(e) (1) [(i)] The Committee shall examine and evaluate:

[1.] (I) the condition of the workers' compensation benefit and insurance structure in the State; and

[2.] (II) the effect of Chapters 590 and 591 of the Laws of Maryland of 1987 on that structure.

[(ii)] (2) This examination shall include the regulations adopted by the Workers' Compensation Commission that are to be used by physicians to measure impairment when preparing medical evaluations of claimants.

[(2) The Committee shall review the adequacy and appropriateness of all benefits specified in §§ 9–626 and 9–627(a) and (b) of the Labor and Employment Article and make recommendations for necessary changes prior to the 1992 Regular Session of the General Assembly.

(3) The Committee shall direct the Insurance Commissioner to prepare a feasibility study on alternative methods to determine the provision for claim payment and to submit the study to the Governor and the Legislative Policy Committee on or before January 1, 1991.]

(f) The Insurance Commissioner and the Workers' Compensation Commission shall:

(1) cooperate fully with the Committee;

(2) keep the Committee fully informed as to the condition of workers' compensation benefits and workers' compensation insurance in the State and the effect of Chapters 590 and 591 of the Laws of Maryland of 1987 on those benefits and that insurance; and

(3) submit an annual report, subject to § 2–1246 of this title, to the Committee on or before October 1 of each year that incorporates the information described in [paragraph] ITEM (2) of this subsection.

(g) The Committee shall report to the Governor and the Legislative Policy Committee on December 31 of each year.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

**Approved by the Governor, April 12, 2011.**

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## Chapter 6

(Senate Bill 9)

AN ACT concerning

**Harford County – Alcoholic Beverages – Special Class C–3 Miscellaneous  
Organization or Club License**



FOR the purpose of establishing a special Class C–3 (on–sale) beer, wine and liquor license in Harford County; specifying that the County Liquor Control Board may issue a special Class C–3 license only to certain organizations and clubs; authorizing a special Class C–3 license holder to sell or provide alcoholic beverages to certain persons for consumption on the licensed premises under certain circumstances; establishing certain annual fees for a special Class C–3 license; requiring the Board to prescribe a special Class C–3 license application form; requiring an applicant for a special Class C–3 license to sign the application form and pay the annual fee before being issued the license; prohibiting the Board from issuing multiple special Class C–3 licenses to an organization or club in any license year; limiting to a certain amount the total number of days authorized for events held under a special Class C–3 license in any license year; requiring a special Class C–3 license holder to notify the Board of an event in writing within a certain period of time before each event; providing that this Act does not preclude an organization or club from obtaining a single event special Class C license; providing for the application of this Act; making this Act an emergency measure; and generally relating to organization and club licenses in Harford County.

BY repealing and reenacting, without amendments,

Article 2B – Alcoholic Beverages

Section 6–301(n)(1), (2), (3), and (6) and 7–101(a)(1), (b)(1)(i), and (d)(1)(i)

Annotated Code of Maryland

(2005 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,

Article 2B – Alcoholic Beverages

Section 7–101(v)

Annotated Code of Maryland

(2005 Replacement Volume and 2010 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.

(n) (1) This subsection applies only in Harford County.

(2) The Liquor Control Board may issue 6–day (Monday through Saturday) and 7–day Class C–1, Class C–2, and Class C–3 (on–sale) organization or club beer, wine and liquor licenses in accordance with this section.

(3) A license issued under this subsection authorizes the holder of the license to sell or provide alcoholic beverages only for on–premises consumption by the members and guests of the club or organization.

(6) (i) In this paragraph the following words have the meanings indicated.

1. “Miscellaneous organization or club” means a country club, a yacht or boat club, or topiary garden.

2. “Country club” means a club or organization that:

A. May be operated for profit or not for profit;

B. Has 75 or more bona fide members each of whom pays not less than \$50 per year; and

C. Maintains at the time of the application for the license and continues to maintain a regular or championship golf course of 9 holes or more, or, instead of the golf course, a swimming pool at least 20 by 40 feet in size, and at least 6 tennis courts.

3. “Topiary garden” means an organization that:

A. Operates a public museum and garden for its membership and the general public as guests of the membership;

B. Is open to the general public for at least 6 days a week for at least 6 hours a day during 5 months each year; and

C. Has food preparation facilities on the topiary garden premises for the convenience of visiting guests.

4. “Yacht or boat club” means a club or organization that:

A. May be operated for profit or not for profit;

B. Owns real property in Harford County; and

C. Has not less than 150 bona fide dues-paying members and not less than 50 of whom own a yacht, boat, or other vessel.

(ii) A Class C–3 license may be issued only to a miscellaneous organization or club.

(iii) 1. The fee for a 6-day, Monday through Saturday, (on-sale) Class C–3 license under this paragraph is \$1,300.

2. The fee for a 7-day Class C-3 license under this paragraph is \$1,400.

7-101.

(a) (1) On approval by the board of license commissioners for that jurisdiction, if any, of a proper application, made on forms prescribed by the State Comptroller, signed and sworn to, the license issuing authority may grant the types of special licenses for the periods and at the fees specified in this section.

(b) (1) (i) Subject to subsection (a) of this section, a special Class C beer license or a special Class C beer and wine license entitles the holder to exercise any of the privileges conferred by the respective classes of licenses for the use of any person holding any bona fide entertainment conducted by any club, society or association at the place described in the license, for a period not exceeding seven consecutive days from the effective date thereof.

(d) (1) (i) A special Class C beer, wine and liquor license entitles the holder to exercise any of the privileges conferred by this class of license for the use of any person holding a bona fide entertainment conducted by a club, society, or association at the place described for a period not exceeding seven consecutive days, upon the payment of a fee of \$15 per day.

(v) (1) This subsection applies only in Harford County.

(2) (I) The Liquor Control Board may grant a special Class C beer and wine license which entitles the holder to exercise any of the privileges conferred by that class of license at any bona fide entertainment held or conducted by any county fire department.

[(3)] (II) The Board shall prescribe the form for the application and the applicant shall sign it. The fee shall be paid before the license is issued.

[(4)] (III) The annual license fees are as follows for up to:

[(i)] 1. 10 events per year..... \$150;

[(ii)] 2. 20 events per year..... \$300;

[(iii)] 3. 30 events per year..... \$450; and

[(iv)] 4. 40 events per year..... \$600.

[(5)] (IV) A license may not be granted to a fire department more than one time in any year.

[(6)] (v) The total number of days authorized by this special license may not exceed 40 in any calendar year.

[(7)] (vi) A licensee shall notify the Board in writing at least 7 days prior to each event.

[(8)] (vii) This [subsection] PARAGRAPH does not preclude a fire department from obtaining a single event special Class C license under other provisions of this section.

**(3) (i) THE BOARD MAY ISSUE A SPECIAL CLASS C-3 (ON-SALE) BEER, WINE AND LIQUOR LICENSE TO A MISCELLANEOUS ORGANIZATION OR CLUB, AS DEFINED UNDER § 6-301(N)(6)(I)1 OF THIS ARTICLE, THAT HOLDS A CLASS C-3 ORGANIZATION OR CLUB LICENSE.**

**(ii) A SPECIAL CLASS C-3 LICENSE AUTHORIZES THE HOLDER TO SELL OR PROVIDE BEER, WINE, AND LIQUOR ONLY FOR ON-PREMISES CONSUMPTION BY:**

**1. NONMEMBERS OF THE ORGANIZATION OR CLUB WHO HAVE LEASED AN AREA OF THE LICENSED PREMISES FOR A BONA FIDE ENTERTAINMENT, CONFERENCE, OR SOCIAL EVENT; AND**

**2. GUESTS WHO ATTEND THE EVENT.**

**(iii) THE BOARD SHALL PRESCRIBE THE FORM FOR THE APPLICATION, AND THE APPLICANT SHALL SIGN IT.**

**(iv) THE APPLICANT SHALL PAY THE LICENSE FEE BEFORE THE BOARD ISSUES THE LICENSE.**

**(v) THE ANNUAL LICENSE FEES ARE AS FOLLOWS FOR UP TO:**

**1. 10 EVENTS PER YEAR.....\$250;**

**2. 20 EVENTS PER YEAR.....\$400;**

**3. 30 EVENTS PER YEAR.....\$550;**

**4. 40 EVENTS PER YEAR.....\$700; AND**

**5. 60 EVENTS PER YEAR.....\$850.**

(VI) THE BOARD MAY NOT ISSUE MORE THAN ONE LICENSE TO A SINGLE MISCELLANEOUS ORGANIZATION OR CLUB IN ANY LICENSE YEAR.

(VII) THE TOTAL NUMBER OF DAYS AUTHORIZED FOR EVENTS HELD UNDER A LICENSE MAY NOT EXCEED ~~40~~ 60 IN ANY LICENSE YEAR.

(VIII) A LICENSE HOLDER SHALL NOTIFY THE BOARD OF AN EVENT IN WRITING ON A PRESCRIBED FORM AT LEAST 7 DAYS BEFORE EACH EVENT.

(IX) THIS PARAGRAPH DOES NOT PRECLUDE AN ORGANIZATION OR CLUB FROM OBTAINING A SINGLE EVENT SPECIAL CLASS C LICENSE UNDER OTHER PROVISIONS OF THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply in the alcoholic beverages license year beginning May 1, 2011, and in each alcoholic beverages license year thereafter.

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

**Approved by the Governor, April 12, 2011.**

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## Chapter 7

(Senate Bill 32)

AN ACT concerning

### **Agriculture – Practice of Veterinary Medicine – Exclusions**

FOR the purpose of adding trimming and maintaining horse hooves by a farrier or a certain person to the list of activities that are excluded from the definition of the practice of veterinary medicine; and generally relating to the practice of veterinary medicine in the State.

BY repealing and reenacting, without amendments,

Article – Agriculture

Section 2–301(a) and (f)

Annotated Code of Maryland

(2007 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,  
Article – Agriculture  
Section 2–301(g)  
Annotated Code of Maryland  
(2007 Replacement Volume and 2010 Supplement)

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

**Article – Agriculture**

2–301.

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

(f) “Practice of veterinary medicine” includes, but is not limited to, the practice by any person who:

(1) Diagnoses, advises, prescribes, or administers a drug, medicine, biological product, appliance, application, or treatment of any nature, for the prevention, cure, or relief of a wound, fracture, bodily injury, or disease of an animal;

(2) Performs a surgical operation, including cosmetic surgery, upon any animal;

(3) Performs dentistry on any animal;

(4) Performs any manual procedure upon an animal for the diagnosis or treatment of sterility or infertility of the animal;

(5) Represents himself as engaged in the practice of veterinary medicine;

(6) Offers, undertakes, or holds himself out as being able to diagnose, treat, operate, vaccinate, or prescribe for any animal disease, pain, injury, deformity, or physical condition; or

(7) Uses any words, letters, or titles in connection or under circumstances as to induce the belief that the person using them is engaged in the practice of veterinary medicine. This use is prima facie evidence of the intention to represent himself as engaged in the practice of veterinary medicine.

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

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

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

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

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

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

(6) A farrier or a person actively engaged in the art or profession of horseshoeing as long as his actions are limited to the art of horseshoeing **[only] OR TRIMMING AND MAINTAINING HORSE HOOVES;**

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

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

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

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

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

(ii) Anesthesia induction by intramuscular injection;

(iii) Application of casts and splints;

(iv) Dental extractions; and

(v) Suturing of existing surgical skin incisions;

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

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

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

(iii) Practices only acupuncture, acupressure, and moxibustion;

(iv) Cooperates and consults with a veterinary practitioner by:

1. Beginning acupuncture treatment on an animal only if the animal has been seen by a veterinary practitioner within the previous 14 days;

2. Adhering to the terms and conditions of treatment decided by the veterinary practitioner, including the degree of communication and collaboration between the veterinary practitioner and the person practicing acupuncture;

3. Reporting to the veterinary practitioner at the end of treatment or at monthly intervals, at the discretion of the veterinary practitioner; and

4. Not working on an animal for which the person has not been appropriately trained, in accordance with regulations adopted by the Board of Acupuncture; and

(v) Has successfully completed a specialty training program in animal acupuncture that:

1. Is approved by the Board of Acupuncture;

2. Is offered by a school holding nationally recognized accreditation;

3. Consists of at least 135 hours; and

4. Enables the person to:

A. Design effective treatments of animals based on traditional acupuncture theories and principles, including appropriate knowledge of functional animal anatomy and physiology;

B. Handle and restrain animals to the extent appropriate in the practice of acupuncture;



C. Demonstrate sufficient knowledge of animal diseases and zoonoses that would require the immediate attention of a veterinary practitioner; and

D. Communicate effectively with a veterinary practitioner;

(12) A veterinarian licensed in another jurisdiction while consulting with a veterinary practitioner in this State; or

(13) A student of veterinary medicine practicing veterinary medicine who has successfully completed 3 years of veterinary education at an institution approved by the Board and who works under the responsible direct supervision, as defined by the Board, of a veterinary practitioner.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2011.

**Approved by the Governor, April 12, 2011.**

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## Chapter 8

**(Senate Bill 44)**

AN ACT concerning

**~~Insurance~~ – Qualified State Long–Term Care Insurance Partnership Program  
– Reporting**

FOR the purpose of clarifying the scope of a certain report on the Qualified State Long–Term Care Insurance Partnership Program; making a stylistic change; and generally relating to the Qualified State Long–Term Care Insurance Partnership Program.

BY repealing and reenacting, without amendments,  
Article – Health – General  
Section 15–401  
Annotated Code of Maryland  
(2009 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,  
Article – Health – General  
Section 15–407  
Annotated Code of Maryland  
(2009 Replacement Volume and 2010 Supplement)

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

**Article – Health – General**

15–401.

- (a) In this subtitle the following words have the meanings indicated.
- (b) “Commissioner” means the Insurance Commissioner.
- (c) “Program” means the Qualified State Long–Term Care Insurance Partnership.

15–407.

The Department and the Commissioner shall jointly:

(1) Adopt regulations necessary to carry out the provisions of this subtitle consistent with § 1917(b) of the Social Security Act and any applicable federal guidelines;

(2) On or before January 1, 2008, report to the General Assembly, in accordance with § 2–1246 of the State Government Article, on the implementation of the Program, including:

(i) The number of long–term care policies approved by the Department for inclusion in the Program;

(ii) The measures undertaken to educate the public as required under § 15–406 of this subtitle; and

(iii) Any other information related to the implementation of the Program that the Department determines necessary; and

(3) Beginning January 1, 2009, and on or before January 1 of each year thereafter, report to the General Assembly, in accordance with § 2–1246 of the State Government Article, on:

- (i) The effectiveness of the Program;
- (ii) The impact of the Program on State expenditures for medical assistance;
- (iii) The number of enrollees in the Program; and

(iv) The number of long-term care policies offered in the State  
**UNDER THE PROGRAM.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
 October 1, 2011.

**Approved by the Governor, April 12, 2011.**

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## Chapter 9

(House Bill 226)

AN ACT concerning

~~Insurance~~ **Qualified State Long-Term Care Insurance Partnership Program  
 – Reporting**

FOR the purpose of clarifying the scope of a certain report on the Qualified State  
 Long-Term Care Insurance Partnership Program; making a stylistic change;  
 and generally relating to the Qualified State Long-Term Care Insurance  
 Partnership Program.

BY repealing and reenacting, without amendments,  
 Article – Health – General  
 Section 15-401  
 Annotated Code of Maryland  
 (2009 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,  
 Article – Health – General  
 Section 15-407  
 Annotated Code of Maryland  
 (2009 Replacement Volume and 2010 Supplement)

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

### Article – Health – General

15-401.

- (a) In this subtitle the following words have the meanings indicated.
- (b) “Commissioner” means the Insurance Commissioner.

(c) “Program” means the Qualified State Long–Term Care Insurance Partnership.

15–407.

The Department and the Commissioner shall jointly:

(1) Adopt regulations necessary to carry out the provisions of this subtitle consistent with § 1917(b) of the Social Security Act and any applicable federal guidelines;

(2) On or before January 1, 2008, report to the General Assembly, in accordance with § 2–1246 of the State Government Article, on the implementation of the Program, including:

(i) The number of long–term care policies approved by the Department for inclusion in the Program;

(ii) The measures undertaken to educate the public as required under § 15–406 of this subtitle; and

(iii) Any other information related to the implementation of the Program that the Department determines necessary; and

(3) Beginning January 1, 2009, and on or before January 1 of each year thereafter, report to the General Assembly, in accordance with § 2–1246 of the State Government Article on:

(i) The effectiveness of the Program;

(ii) The impact of the Program on State expenditures for medical assistance;

(iii) The number of enrollees in the Program; and

(iv) The number of long–term care policies offered in the State  
**UNDER THE PROGRAM.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

**Approved by the Governor, April 12, 2011.**

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## Chapter 10

### (Senate Bill 55)

AN ACT concerning

#### **Property Tax Assessment Appeal Boards – Membership**

FOR the purpose of altering the number of alternate members of the property tax assessment appeal boards for certain counties and Baltimore City; and generally relating to the membership of property tax assessment appeal boards.

BY repealing and reenacting, with amendments,

Article – Tax – Property

Section 3–103(a) and (c)

Annotated Code of Maryland

(2007 Replacement Volume and 2010 Supplement)

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

#### **Article – Tax – Property**

3–103.

(a) (1) **(I) [Each] EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, EACH** board consists of 3 regular members and 1 alternate member.

**(II) IN ANNE ARUNDEL COUNTY, BALTIMORE CITY, BALTIMORE COUNTY, MONTGOMERY COUNTY, AND PRINCE GEORGE'S COUNTY, EACH BOARD CONSISTS OF 3 REGULAR MEMBERS AND 3 ALTERNATE MEMBERS.**

(2) The Governor shall appoint the members from a list of names submitted as follows:

(i) for Baltimore City, by the Mayor of Baltimore City; or

(ii) for a county other than Baltimore City, by:

1. the county commissioners or the county council of the county; or

2. if the county charter provides for a county executive, by the county executive with the approval of the county council.

(3) The number of names on each list shall be 3 times the number of vacancies.

(4) Each list shall be submitted at least 3 months before the end of a term.

(c) (1) The term of a member is 5 years. The term ends on June 1 of the appropriate year.

(2) The terms of members are staggered as required by the terms provided for members of the board on July 1, 1985.

(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) [The] AN alternate member fills a vacancy of a regular member until the vacancy is permanently filled. However, if [the] AN alternate member is appointed by the Governor as the regular member, the Governor shall appoint a new alternate member.

(6) The board chairman or the Administrator may ask [the] AN alternate member to serve on the board during the temporary absence of a regular member. However, [the] AN alternate may not serve on the board when the 3 regular members are present.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2011.

**Approved by the Governor, April 12, 2011.**

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## Chapter 11

### (Senate Bill 56)

AN ACT concerning

### **Health Insurance – Evaluation of Quality of Care and Performance of Health Benefit Plans**

FOR the purpose of altering certain requirements for and purposes of a certain system that the Maryland Health Care Commission is required to establish and

implement; requiring the system to comparatively evaluate the quality of care and performance of certain categories of health benefit plans; establishing that a purpose of the system is to assist certain health insurance carriers to improve care; requiring the system to solicit performance information from enrollees of certain health benefit plans; altering the entities the recommendations of which the Commission must consider before implementing the system; altering the contents of a certain annual evaluation summary; defining certain terms; making certain conforming changes; and generally relating to evaluations of quality of care and performance of health benefit plans.

BY repealing and reenacting, with amendments,  
 Article – Health – General  
 Section 19–132 and 19–134(c)  
 Annotated Code of Maryland  
 (2009 Replacement Volume and 2010 Supplement)

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

**Article – Health – General**

19–132.

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

(b) “Ambulatory surgical facility” has the meaning stated in § 19–3B–01 of this title.

(c) “CARRIER” MEANS:

(1) ~~A HEALTH~~ AN INSURER OR NONPROFIT HEALTH SERVICE PLAN THAT HOLDS A CERTIFICATE OF AUTHORITY AND PROVIDES HEALTH INSURANCE POLICIES OR CONTRACTS IN THE STATE IN ACCORDANCE WITH ~~THIS ARTICLE OR~~ THE INSURANCE ARTICLE; OR

(2) A HEALTH MAINTENANCE ORGANIZATION THAT HOLDS A CERTIFICATE OF AUTHORITY IN THE STATE.

[(c)] (D) “Comprehensive standard health benefit plan” means the comprehensive standard health benefit plan adopted in accordance with § 15–1207 of the Insurance Article.

(E) (1) “HEALTH BENEFIT PLAN” MEANS A HOSPITAL OR MEDICAL POLICY, CONTRACT, OR CERTIFICATE ISSUED BY A CARRIER.

**(2) “HEALTH BENEFIT PLAN” DOES NOT INCLUDE:**

**(I) COVERAGE FOR ACCIDENT OR DISABILITY INCOME INSURANCE;**

**(II) COVERAGE ISSUED AS A SUPPLEMENT TO LIABILITY INSURANCE;**

**(III) LIABILITY INSURANCE, INCLUDING GENERAL LIABILITY INSURANCE AND AUTOMOBILE LIABILITY INSURANCE;**

**(IV) WORKERS’ COMPENSATION OR SIMILAR INSURANCE;**

**(V) AUTOMOBILE OR PROPERTY MEDICAL PAYMENT INSURANCE;**

**(VI) CREDIT-ONLY INSURANCE;**

**(VII) COVERAGE FOR ON-SITE MEDICAL CLINICS;**

**(VIII) DENTAL OR VISION INSURANCE;**

**(IX) LONG-TERM CARE INSURANCE OR BENEFITS FOR NURSING HOME CARE, HOME HEALTH CARE, COMMUNITY-BASED CARE, OR ANY COMBINATION OF THESE;**

**(X) COVERAGE ONLY FOR A SPECIFIED DISEASE OR ILLNESS;**

**(XI) HOSPITAL INDEMNITY OR OTHER FIXED INDEMNITY INSURANCE; OR**

**(XII) THE FOLLOWING BENEFITS IF OFFERED AS A SEPARATE INSURANCE POLICY:**

**1. MEDICARE SUPPLEMENTAL HEALTH INSURANCE, AS DEFINED IN § 1882(G)(1) OF THE SOCIAL SECURITY ACT;**

**2. COVERAGE SUPPLEMENTAL TO THE COVERAGE PROVIDED UNDER CHAPTER 55 OF TITLE 10 OF THE UNITED STATES CODE; OR**

**3. SIMILAR SUPPLEMENTAL COVERAGE PROVIDED TO COVERAGE UNDER AN EMPLOYER SPONSORED PLAN.**



**[(d)] (F)** “Health care practitioner” means any individual who is licensed, certified, or otherwise authorized under the Health Occupations Article to provide health care services.

**[(e)] (G)** (1) “Health care provider” means:

(i) A person who is licensed, certified, or otherwise authorized under the Health Occupations Article to provide health care in the ordinary course of business or practice of a profession or in an approved education or training program; or

(ii) A facility where health care is provided to patients or recipients, including:

1. A facility, as defined in § 10–101(e) of this article;
2. A hospital, as defined in § 19–301 of this title;
3. A related institution, as defined in § 19–301 of this title;
4. A health maintenance organization, as defined in § 19–701(g) of this title;
5. An outpatient clinic; and
6. A medical laboratory.

(2) “Health care provider” includes the agents and employees of a facility who are licensed or otherwise authorized to provide health care, the officers and directors of a facility, and the agents and employees of a health care provider who are licensed or otherwise authorized to provide health care.

**[(f)] (H)** “Health care service” means any health or medical care procedure or service rendered by a health care practitioner that:

(1) Provides testing, diagnosis, or treatment of human disease or dysfunction; or

(2) Dispenses drugs, medical devices, medical appliances, or medical goods for the treatment of human disease or dysfunction.

**[(g)] (I)** “Hospital” has the meaning stated in § 19–301 of this title.

**[(h)] (J)** (1) “Mandated health insurance service” means a legislative proposal or statute that would require a particular health care service to be provided

or offered in a health benefit plan, by a carrier or other organization authorized to provide health benefit plans in the State.

(2) “Mandated health insurance service”, as applicable to all carriers, does not include services enumerated to describe a health maintenance organization under § 19–701(g)(2) of this title.

[(i)] (K) “Nursing facility” has the meaning stated in § 19–1401 of this title.

[(j)] (L) (1) “Office facility” means the office of one or more health care practitioners in which health care services are provided to individuals.

(2) “Office facility” includes a facility that provides:

- (i) Ambulatory surgery;
- (ii) Radiological or diagnostic imagery; or
- (iii) Laboratory services.

(3) “Office facility” does not include any office, facility, or service operated by a hospital and regulated under Part II of this subtitle.

[(k)] (M) “Payor” means:

(1) A health insurer or nonprofit health service plan that holds a certificate of authority and provides health insurance policies or contracts in the State in accordance with this article or the Insurance Article;

(2) A health maintenance organization that holds a certificate of authority in the State; or

(3) For the purposes of this Part III of this subtitle only, a person that is registered as an administrator under Title 8, Subtitle 3 of the Insurance Article.

19–134.

(c) (1) The Commission shall:

(i) Establish and implement a system to comparatively evaluate the quality of care [outcomes] and performance [measurements] of [health maintenance organization] ~~HEALTH benefit plans~~ CATEGORIES OF HEALTH BENEFIT PLANS AS DETERMINED BY THE COMMISSION [and services] on an objective basis; and

(ii) Annually publish the summary findings of the evaluation.

(2) The purpose of [a comparable performance measurement] **THE EVALUATION** system established under this subsection is to assist [health maintenance organization] **CARRIERS** [benefit plans] to improve [the quality of] care [provided] by establishing a common set of **QUALITY AND** performance measurements and disseminating the findings [of the performance measurements] to [health maintenance organizations] **CARRIERS** and **OTHER** interested parties.

(3) The system, where appropriate, shall:

(i) Solicit performance information from enrollees of [health maintenance organizations] **HEALTH BENEFIT PLANS**; and

(ii) On or before October 1, 2007, to the extent feasible, incorporate racial and ethnic variations.

(4) (i) The Commission shall adopt regulations to establish the system of evaluation provided under this subsection.

(ii) Before adopting regulations to implement an evaluation system under this subsection, the Commission shall consider [any] recommendations of [the quality of care subcommittee of the Group Health Association of America and the National Committee for Quality Assurance] **NATIONALLY RECOGNIZED ORGANIZATIONS THAT ARE INVOLVED IN QUALITY OF CARE AND PERFORMANCE MEASUREMENT**.

(5) The Commission may contract with a private, nonprofit entity to implement the system required under this subsection provided that the entity is not an insurer.

(6) The annual evaluation summary required under paragraph (1) of this subsection shall[:

(i) Include a summary of the Drug Formulary Accreditation Standards of the National Committee for Quality Assurance (NCQA);

(ii) Indicate whether the formulary development process of each health maintenance organization evaluated complies with the National Committee for Quality Assurance (NCQA) accreditation standards; and

(iii) Include] **INCLUDE** to the extent feasible information on racial and ethnic variations.

**SECTION 2. AND BE IT FURTHER ENACTED**, That this Act shall take effect July 1, 2011.

Approved by the Governor, April 12, 2011.

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## Chapter 12

### (Senate Bill 58)

AN ACT concerning

#### **Unemployment Insurance – Judicial Review of Board of Appeals Decision – Passage of Order**

FOR the purpose of repealing the requirement that the Board of Appeals pass a certain order on final decision in a judicial review proceeding; making this Act an emergency measure; and generally relating to the judicial review of a Board of Appeals decision.

BY repealing and reenacting, with amendments,  
Article – Labor and Employment  
Section 8–5A–12  
Annotated Code of Maryland  
(2008 Replacement Volume and 2010 Supplement)

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

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

8–5A–12.

(a) (1) A final decision of the Board of Appeals may be appealed to a circuit court by any party aggrieved by the decision, the Secretary, or both.

(2) In addition to standing authorized under paragraph (1) of this subsection, the Secretary may appeal on behalf of the federal government any decision of the Board of Appeals in which the Secretary is an agent of the federal government and responsible for the administration of a federal unemployment compensation program.

(3) The Board of Appeals may be a party to an appeal under this section and may be represented by the Attorney General or by any qualified lawyer who is a regular salaried employee of the Board of Appeals and who has been designated by it for that purpose on recommendation of the Attorney General.

(4) A court or an officer of a court may not charge an individual who claims benefits a fee in any proceeding under this title.

(b) An employer that is aggrieved by a final decision under § 8–602 or § 8–629 or § 8–638 of this title may appeal to the circuit court for Baltimore City or for a county where the employer does business.

(c) The Board of Appeals may certify to a circuit court a question of law that is involved in a decision by the Board of Appeals.

(d) In a judicial proceeding under this section, findings of fact of the Board of Appeals are conclusive and the jurisdiction of the court is confined to questions of law if:

(1) findings of fact are supported by evidence that is competent, material, and substantial in view of the entire record; and

(2) there is no fraud.

(e) (1) A circuit court shall give priority to an appeal or a certified question of law under this section over all other civil cases except cases under the Workers' Compensation Law of the State.

(2) A circuit court shall hear an appeal or a certified question of law under this section in a summary manner.

(f) In a judicial proceeding under this section, a circuit court may not require a person to:

(1) enter an exception to a ruling of the Board of Appeals; or

(2) post a bond for entering an appeal.

(g) A party may appeal from a decision of a circuit court to the Court of Special Appeals in the same manner as provided for in civil cases, consistent with this title.

[(h) On final decision in a judicial proceeding under this section, the Board of Appeals shall pass an order in accordance with the decision.]

SECTION 2. AND BE IT FURTHER ENACTED, That this Act ~~shall take effect~~ ~~October 1, 2011~~ is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a ye and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

**Approved by the Governor, April 12, 2011.**

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**Chapter 13****(Senate Bill 59)**

AN ACT concerning

**Insurance – Company Action Level Events – Health Insurers**

FOR the purpose of specifying when a certain company action level event occurs for health insurers; making stylistic changes; and generally relating to financial regulation of health insurers.

BY repealing and reenacting, with amendments,  
Article – Insurance  
Section 4–305(a)  
Annotated Code of Maryland  
(2003 Replacement Volume and 2010 Supplement)

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

**Article – Insurance**

4–305.

(a) A company action level event occurs [when]:

(1) **WHEN** an insurer files an RBC report that indicates that:

(i) the insurer has total adjusted capital that is:

1. greater than or equal to its regulatory action level RBC; and

2. less than its company action level RBC;

(ii) in the case of a life insurer, the life insurer has total adjusted capital that:

1. is greater than or equal to its company action level RBC;

2. is less than the product of its authorized control level RBC and 2.5; and

3. has a negative trend; [or]

(iii) in the case of a property and casualty insurer, the property and casualty insurer has total adjusted capital that:

1. is greater than or equal to its company action level RBC;
2. is less than the product of its authorized control level RBC and 3.0; and
3. triggers the trend test calculation included in the property and casualty RBC instructions; **OR**

**(IV) IN THE CASE OF A HEALTH INSURER, THE HEALTH INSURER HAS TOTAL ADJUSTED CAPITAL THAT:**

- 1. IS GREATER THAN OR EQUAL TO ITS COMPANY ACTION LEVEL RBC;**
- 2. IS LESS THAN THE PRODUCT OF ITS AUTHORIZED CONTROL LEVEL RBC AND 3.0; AND**
- 3. TRIGGERS THE TREND TEST CALCULATION INCLUDED IN THE HEALTH RBC INSTRUCTIONS;**

(2) **WHEN** the Commissioner notifies an insurer of an adjusted RBC report that indicates an event under item (1) of this subsection; or

(3) if an insurer requests a hearing to challenge an adjusted RBC report that indicates an event under item (1) of this subsection, **WHEN** the Commissioner notifies the insurer that the Commissioner, after a hearing, has rejected the insurer's challenge.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

**Approved by the Governor, April 12, 2011.**

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**Chapter 14**

**(Senate Bill 60)**

AN ACT concerning

**Unemployment Insurance – Administration of Claims – Changes to  
Withholding Status**

FOR the purpose of repealing the limitation on the number of times per benefit year a claimant for unemployment insurance benefits may change a previously elected withholding status; and generally relating to the administration of unemployment insurance benefit claims.

BY repealing and reenacting, with amendments,  
Article – Labor and Employment  
Section 8–810  
Annotated Code of Maryland  
(2008 Replacement Volume and 2010 Supplement)

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

**Article – Labor and Employment**

8–810.

(a) An individual filing a new claim for unemployment insurance benefits establishing a new benefit year shall be advised of the following, at the time of filing such claim:

(1) unemployment insurance benefits are subject to federal, State, and local income tax;

(2) requirements exist pertaining to estimated tax payments;

(3) the individual may elect to have the Secretary deduct federal income tax from the individual's payment of unemployment insurance benefits at the amount specified in the federal Internal Revenue Code;

(4) the individual may elect to have the Secretary deduct State income tax from the individual's payment of unemployment insurance benefits at the rate of seven percent; and

(5) the individual may change a previously elected withholding status [once during each benefit year].

(b) Amounts deducted from unemployment insurance benefits pursuant to this section shall remain in the Unemployment Insurance Fund until transferred to the appropriate taxing authority as a payment of income tax.



(c) The Secretary shall follow the procedures specified by the United States Department of Labor, the federal Internal Revenue Service, and the Maryland State Comptroller pertaining to the deducting and withholding of income tax.

(d) Amounts deducted from unemployment insurance benefits under this section shall be deducted and withheld only after amounts are deducted and withheld for any overpayments of any unemployment insurance benefits, child support obligations, and to satisfy any other requirements of federal law.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

**Approved by the Governor, April 12, 2011.**

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## Chapter 15

(Senate Bill 61)

AN ACT concerning

### **Public Information Act – Documents Relating to Arrest Warrants**

FOR the purpose of expanding access by the Department of Juvenile Services to certain court files and records relating to arrest warrants and charging documents; repealing certain redundant authority that allows access by the Department of Public Safety and Correctional Services to certain documents relating to arrest warrants and charging documents; providing that provisions of law prohibiting inspection of certain court files and records relating to arrest warrants and charging documents may not be construed to prohibit the release of information by the Department of Public Safety and Correctional Services or the Department of Juvenile Services for a certain purpose; and generally relating to access to documents relating to arrest warrants and charging documents under the Public Information Act.

BY repealing and reenacting, without amendments,  
Article – Criminal Procedure  
Section 10–201(f) and 10–239(h)  
Annotated Code of Maryland  
(2008 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,  
Article – State Government  
Section 10–616(q)  
Annotated Code of Maryland  
(2009 Replacement Volume and 2010 Supplement)

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

**Article – Criminal Procedure**

10–201.

(f) (1) “Criminal justice unit” means a government unit or subunit that allocates a substantial part of its annual budget to any of the following functions and that by law:

(i) may arrest, detain, prosecute, or adjudicate persons suspected of or charged with a crime;

(ii) is responsible for the custodial treatment or confinement under Title 3 of this article of persons charged or convicted of a crime or relieved of criminal punishment by reason of a verdict of not criminally responsible;

(iii) is responsible for the correctional supervision, rehabilitation, or release of persons convicted of a crime; or

(iv) is responsible for criminal identification activities and the collection, storage, and dissemination of criminal history record information.

(2) “Criminal justice unit” includes, when exercising jurisdiction over criminal matters, alternative dispositions of criminal matters, or criminal history record information:

(i) a State, county, or municipal police unit, sheriff’s office, or correctional facility;

(ii) a unit required to report to the Central Repository under § 3–107 or § 3–112 of this article;

(iii) the offices of the Attorney General, State’s Attorneys, and any other person or unit that by law may prosecute persons accused of a crime; and

(iv) the Administrative Office of the Courts, the Court of Appeals, the Court of Special Appeals, the circuit courts, the District Court of Maryland, and the offices of the clerks of these courts.

(3) Except as provided in §§ 10–215(a)(21) and (22), 10–216(d), and 10–220 of this subtitle, “criminal justice unit” does not include:

(i) the Department of Juvenile Services; or

- (ii) a juvenile court.

10-239.

(h) "Criminal justice agency":

(1) means:

(i) courts; and

(ii) a governmental agency or any subunit thereof that:

1. performs the administration of criminal justice pursuant to a statute or executive order; and

2. allocates a substantial part of its annual budget to the administration of criminal justice; and

(2) includes federal and state inspectors general offices.

#### **Article – State Government**

10-616.

(q) (1) Except as provided in paragraph (4) of this subsection and subject to the provisions of paragraph (5) of this subsection, unless otherwise ordered by the court, files and records of the court pertaining to an arrest warrant issued pursuant to Maryland Rule 4-212(d)(1) or (2) and the charging document upon which the arrest warrant was issued may not be open to inspection until either:

(i) the arrest warrant has been served and a return of service has been filed in compliance with Maryland Rule 4-212(g); or

(ii) 90 days have elapsed since the arrest warrant was issued.

(2) Except as provided in paragraph (4) of this subsection and subject to the provisions of paragraph (5) of this subsection, unless otherwise ordered by the court, files and records of the court pertaining to an arrest warrant issued pursuant to a grand jury indictment or conspiracy investigation and the charging document upon which the arrest warrant was issued may not be open to inspection until all arrest warrants for any co-conspirators have been served and all returns of service have been filed in compliance with Maryland Rule 4-212(g).

(3) Subject to the provisions of paragraphs (1) and (2) of this subsection, unless sealed pursuant to Maryland Rule 4-201(d), the files and records shall be open to inspection.

(4) (i) Subject to subparagraph (ii) of this paragraph, the name, address, birth date, driver's license number, sex, height, and weight of an individual contained in an arrest warrant issued pursuant to Maryland Rule 4–212(d)(1) or (2) or issued pursuant to a grand jury indictment or conspiracy investigation may be released to the Motor Vehicle Administration for use by the Administration for purposes of § 13–406.1 or § 16–204 of the Transportation Article.

(ii) Except as provided in subparagraph (i) of this paragraph, information contained in a charging document that identifies an individual may not be released to the Motor Vehicle Administration.

(5) The provisions of paragraphs (1) and (2) of this subsection may not be construed to prohibit:

(i) the release of statistical information concerning unserved arrest warrants;

(ii) the release of information by a State's Attorney or peace officer concerning an unserved arrest warrant and the charging document upon which the arrest warrant was issued; ~~or~~

(iii) inspection of files and records, of a court pertaining to an unserved arrest warrant and the charging document upon which the arrest warrant was issued, by:

1. a judicial officer;
2. any authorized court personnel;
3. a State's Attorney;
4. a peace officer;
5. a correctional officer who is authorized by law to serve an arrest warrant;

6. a bail bondsman, surety insurer, or surety who executes bail bonds who executed a bail bond for the individual who is subject to arrest under the arrest warrant;

7. an attorney authorized by the individual who is subject to arrest under the arrest warrant;

8. [the Department of Public Safety and Correctional Services or] the Department of Juvenile Services [for the purpose of notification of a victim under the provisions of § 11–507 of the Criminal Procedure Article]; or

9. a federal, State, or local criminal justice agency described under Title 10, Subtitle 2 of the Criminal Procedure Article; **OR**

**(IV) THE RELEASE OF INFORMATION BY THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES OR THE DEPARTMENT OF JUVENILE SERVICES FOR THE PURPOSE OF NOTIFICATION OF A VICTIM UNDER § 11-507 OF THE CRIMINAL PROCEDURE ARTICLE.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

Approved by the Governor, April 12, 2011.

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**Chapter 16**

**(Senate Bill 62)**

AN ACT concerning

**Juvenile and Education Records – Disclosure Between Departments of Education and Juvenile Services**

FOR the purpose of authorizing the State Department of Education and the Department of Juvenile Services to share certain ~~information and court~~ records with each other under certain circumstances; and generally relating to juvenile and education records.

BY repealing and reenacting, with amendments,  
 Article – Education  
 Section 22-309  
 Annotated Code of Maryland  
 (2008 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,  
 Article – Courts and Judicial Proceedings  
 Section 3-8A-27(b)(1)  
 Annotated Code of Maryland  
 (2006 Replacement Volume and 2010 Supplement)

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

**Article – Education**

22–309.

The **DEPARTMENT AND THE** Department of Juvenile Services shall work cooperatively [with the Department] to facilitate the implementation of this subtitle, **AND MAY SHARE ~~INFORMATION AND COURT~~ EDUCATION RECORDS WITH EACH OTHER WHEN NECESSARY TO ENSURE THE APPROPRIATE DELIVERY OF SERVICES.**

### Article – Courts and Judicial Proceedings

3–8A–27.

(b) (1) A court record pertaining to a child is confidential and its contents may not be divulged, by subpoena or otherwise, except by order of the court upon good cause shown or as provided in [§] **§§ 7–303 AND 22–309** of the Education Article.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

**Approved by the Governor, April 12, 2011.**

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## Chapter 17

(Senate Bill 66)

AN ACT concerning

### **Criminal Procedure – Criminal Justice Information System Central Repository – Reportable Events**

FOR the purpose of repealing the requirement that the release of a person after arrest without the filing of a charge must be reported to the Criminal Justice Information System Central Repository; and generally relating to the Criminal Justice Information System Central Repository.

BY repealing and reenacting, with amendments,  
Article – Criminal Procedure  
Section 10–215(a)  
Annotated Code of Maryland  
(2008 Replacement Volume and 2010 Supplement)

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

## Article – Criminal Procedure

10–215.

(a) The following events are reportable events under this subtitle that must be reported to the Central Repository in accordance with § 10–214 of this subtitle:

- (1) the issuance or withdrawal of an arrest warrant;
- (2) an arrest;
- [(3) the release of a person after arrest without the filing of a charge;]
- [(4) (3) the filing of a charging document;
- [(5) (4) a release pending trial or an appeal;
- [(6) (5) a commitment to an institution of pretrial detention;
- [(7) (6) the dismissal of an indictment or criminal information;
- [(8) (7) a nolle prosequi;
- [(9) (8) the marking of a charge “stet” on the docket;
- [(10) (9) an acquittal, conviction, verdict of not criminally responsible, or any other disposition of a case at or following trial, including a finding of probation before judgment;
- [(11) (10) the imposition of a sentence;
- [(12) (11) a commitment to a State correctional facility or local correctional facility;
- [(13) (12) a commitment to the Department of Health and Mental Hygiene under § 3–105 or § 3–111 of this article as incompetent to stand trial or not criminally responsible;
- [(14) (13) a release from detention or confinement;
- [(15) (14) a conditional release, revocation of conditional release, or discharge of a person committed to the Department of Health and Mental Hygiene under § 3–105 or § 3–111 of this article as incompetent to stand trial or not criminally responsible;
- [(16) (15) an escape from confinement or commitment;

[(17)] **(16)** a pardon, reprieve, commutation of a sentence, or other change in a sentence, including a change in a sentence that a court orders;

[(18)] **(17)** an entry of an appeal to an appellate court;

[(19)] **(18)** a judgment of an appellate court;

[(20)] **(19)** an order of a court in a collateral proceeding that affects a person's conviction, sentence, or confinement;

[(21)] **(20)** an adjudication of a child as delinquent:

(i) if the child is at least 14 years old, for an act described in § 3–8A–03(d)(1) of the Courts Article; or

(ii) if the child is at least 16 years old, for an act described in § 3–8A–03(d)(4) or (5) of the Courts Article;

[(22)] **(21)** the issuance or withdrawal of a writ of attachment by a juvenile court;

[(23)] **(22)** the initial registration of a person under Title 11, Subtitle 7 of this article;

[(24)] **(23)** the imposition of lifetime sexual offender supervision under Title 11, Subtitle 7 of this article; and

[(25)] **(24)** any other event arising out of or occurring during the course of a criminal proceeding that the Secretary by regulation or the Court of Appeals by rule makes a reportable event.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

**Approved by the Governor, April 12, 2011.**

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## Chapter 18

### (Senate Bill 67)

AN ACT concerning



**Maryland Strategic Energy Investment Fund – Small Rural Electric  
Cooperative – Prohibition**

FOR the purpose of ~~prohibiting funds in a certain account in~~ providing that a certain provision of law relating to the use of certain proceeds received by the Maryland Strategic Energy Investment Fund from being used to offset electricity rates of and credited to a certain account does not apply to residential customers of a small rural electric cooperative; requiring, as approved by the Public Service Commission, certain small rural electric cooperatives to distribute certain moneys held in a certain account as of a certain date to certain organizations; and generally relating to the Maryland Strategic Energy Investment Fund and small rural electric cooperatives.

BY repealing and reenacting, without amendments,  
 Article – State Government  
 Section 9–20B–05(a) and (b)  
 Annotated Code of Maryland  
 (2009 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,  
 Article – State Government  
 Section 9–20B–05(g)  
 Annotated Code of Maryland  
 (2009 Replacement Volume and 2010 Supplement)

BY adding to  
 Article – State Government  
 Section 9–20B–05(g–2)  
 Annotated Code of Maryland  
 (2009 Replacement Volume and 2010 Supplement)

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

**Article – State Government**

9–20B–05.

(a) There is a Maryland Strategic Energy Investment Fund.

(b) The purpose of the Fund is to implement the Strategic Energy Investment Program.

(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:

(1) 17% shall be credited to an energy assistance account to be used for the Electric Universal Service Program and other electricity assistance programs in the Department of Human Resources;

(2) **EXCEPT AS PROVIDED IN SUBSECTION (G-2) OF THIS SECTION,** 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 Utilities Article, on a per customer basis and in a manner prescribed by the Public Service Commission;

(3) at least 46% shall be credited to a low and moderate income efficiency and conservation programs account and to a general efficiency and conservation programs account for energy efficiency and conservation programs, projects, or activities and demand response programs, of which at least one-half shall be targeted to the low and moderate income efficiency and conservation programs account for:

(i) the low-income residential sector at no cost to the participants of the programs, projects, or activities; and

(ii) the moderate-income residential sector;

(4) up to 10.5% shall be credited to a renewable and clean energy programs account for:

(i) subject to subsection (i) of this section, renewable and clean energy programs and initiatives;

(ii) energy-related public education and outreach; and

(iii) climate change programs; and

(5) up to 3.5%, but not more than \$4,000,000, shall be credited to an administrative expense account for costs related to the administration of the Fund, including the review of electric company plans for achieving electricity savings and demand reductions that the electric companies are required under law to submit to the Administration.

**(G-2) ~~THE RATE RELIEF ACCOUNT ESTABLISHED UNDER SUBSECTION (G)(2) OF THIS SECTION MAY NOT BE USED TO OFFSET THE ELECTRICITY RATES OF~~ DOES NOT APPLY TO RESIDENTIAL CUSTOMERS OF A SMALL RURAL ELECTRIC COOPERATIVE, AS DEFINED IN § 1-101 OF THE PUBLIC UTILITIES ARTICLE.**

SECTION 2. AND BE IT FURTHER ENACTED, That, as approved by the Public Service Commission, each small rural electric cooperative, as defined in § 1-101

of the Public Utilities Article, shall distribute to one or more organizations that provide assistance to low income residents in the small rural electric cooperative's service territory any moneys held as of the effective date of this Act in an escrow account for small rural electric cooperative residential customers established in connection with § 9-20B-05(g)(2) of the State Government Article, as in effect before the effective date of this Act.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ June 1, 2011.

**Approved by the Governor, April 12, 2011.**

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## Chapter 19

### (House Bill 281)

AN ACT concerning

#### **Maryland Strategic Energy Investment Fund – Small Rural Electric Cooperative – Prohibition**

FOR the purpose of ~~prohibiting funds in a certain account in~~ providing that a certain provision of law relating to the use of certain proceeds received by the Maryland Strategic Energy Investment Fund from being used to offset electricity rates of and credited to a certain account does not apply to residential customers of a small rural electric cooperative; requiring, as approved by the Public Service Commission, certain small rural electric cooperatives to distribute certain moneys held in a certain account as of a certain date to certain organizations; and generally relating to the Maryland Strategic Energy Investment Fund and small rural electric cooperatives.

BY repealing and reenacting, without amendments,  
 Article – State Government  
 Section 9-20B-05(a) and (b)  
 Annotated Code of Maryland  
 (2009 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,  
 Article – State Government  
 Section 9-20B-05(g)  
 Annotated Code of Maryland  
 (2009 Replacement Volume and 2010 Supplement)

BY adding to  
 Article – State Government

Section 9–20B–05(g–2)  
Annotated Code of Maryland  
(2009 Replacement Volume and 2010 Supplement)

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

**Article – State Government**

9–20B–05.

(a) There is a Maryland Strategic Energy Investment Fund.

(b) The purpose of the Fund is to implement the Strategic Energy Investment Program.

(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:

(1) 17% shall be credited to an energy assistance account to be used for the Electric Universal Service Program and other electricity assistance programs in the Department of Human Resources;

(2) **EXCEPT AS PROVIDED IN SUBSECTION (G–2) OF THIS SECTION,** 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 Utilities Article, on a per customer basis and in a manner prescribed by the Public Service Commission;

(3) at least 46% shall be credited to a low and moderate income efficiency and conservation programs account and to a general efficiency and conservation programs account for energy efficiency and conservation programs, projects, or activities and demand response programs, of which at least one–half shall be targeted to the low and moderate income efficiency and conservation programs account for:

(i) the low–income residential sector at no cost to the participants of the programs, projects, or activities; and

(ii) the moderate–income residential sector;

(4) up to 10.5% shall be credited to a renewable and clean energy programs account for:

(i) subject to subsection (i) of this section, renewable and clean energy programs and initiatives;

- (ii) energy-related public education and outreach; and
- (iii) climate change programs; and

(5) up to 3.5%, but not more than \$4,000,000, shall be credited to an administrative expense account for costs related to the administration of the Fund, including the review of electric company plans for achieving electricity savings and demand reductions that the electric companies are required under law to submit to the Administration.

~~(G-2) THE RATE RELIEF ACCOUNT ESTABLISHED UNDER SUBSECTION SUBSECTION (G)(2) OF THIS SECTION MAY NOT BE USED TO OFFSET THE ELECTRICITY RATES OF DOES NOT APPLY TO RESIDENTIAL CUSTOMERS OF A SMALL RURAL ELECTRIC COOPERATIVE, AS DEFINED IN § 1-101 OF THE PUBLIC UTILITIES ARTICLE.~~

SECTION 2. AND BE IT FURTHER ENACTED, That, as approved by the Public Service Commission, each small rural electric cooperative, as defined in § 1-101 of the Public Utilities Article, shall distribute to one or more organizations that provide assistance to low income residents in the small rural electric cooperative's service territory any moneys held as of the effective date of this Act in an escrow account for small rural electric cooperative residential customers established in connection with § 9-20B-05(g)(2) of the State Government Article, as in effect before the effective date of this Act.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ June 1, 2011.

**Approved by the Governor, April 12, 2011.**

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## Chapter 20

(Senate Bill 80)

AN ACT concerning

### Tree Expert License – Application and Renewal

FOR the purpose of repealing certain tree expert application and license renewal fees; authorizing the Department of Natural Resources to set certain tree expert application and license renewal fees by regulation; authorizing the Department to establish a timetable and procedure for tree expert license renewal by

regulation; providing for the termination of this Act; and generally relating to tree expert licenses.

BY repealing and reenacting, with amendments,  
Article – Natural Resources  
Section 5–419  
Annotated Code of Maryland  
(2005 Replacement Volume and 2010 Supplement)

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

**Article – Natural Resources**

5–419.

(a) An applicant shall pay to the Department at the time of making application, a fee [of \$30. An applicant who fails any examination, shall pay an additional fee of \$20 for each subsequent examination the applicant takes] **SET BY THE DEPARTMENT BY REGULATION IN AN AMOUNT NOT TO EXCEED THE COSTS OF PROCESSING THE APPLICATION.**

(b) **(1)** A tree expert license shall be renewed [annually] **IN ACCORDANCE WITH A TIMETABLE AND PROCEDURE ESTABLISHED BY THE DEPARTMENT BY REGULATION.**

**(2)** A person who holds a license and wishes to renew it shall pay [a \$10 annual renewal fee] **A FEE SET BY THE DEPARTMENT BY REGULATION IN AN AMOUNT NOT TO EXCEED THE COSTS OF PROCESSING THE LICENSE RENEWAL.**

(c) Fees the Department receives shall be paid into the State Treasury for the Department's use. The Secretary shall prepare an annual report on the number of licenses issued and the receipts and expenses under Part III of this subtitle during each fiscal year.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011. It shall remain effective for a period of 5 years and, at the end of September 30, 2016, 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 12, 2011.**

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**Chapter 21****(Senate Bill 81)**

AN ACT concerning

**Higher Education – Assistance Efforts for Family Investment Program  
Recipients – Repeal**

FOR the purpose of repealing a requirement that the Maryland Higher Education Commission and the Department of Human Resources identify, promote, and coordinate certain efforts and services and undertake certain activities at institutions of higher education related to recipients of Family Investment Program services; repealing certain reporting requirements relating to services provided to Program recipients; and generally relating to the repeal of certain assistance efforts for Program recipients at institutions of higher education.

BY repealing

Article – Human Services

Section 5–305

Annotated Code of Maryland

(2007 Volume and 2010 Supplement)

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

**Article – Human Services**

[5–305.

(a) In cooperation with the Department, the Maryland Higher Education Commission shall:

(1) identify and promote efforts at institutions of higher education to provide assistance to recipients; and

(2) coordinate efforts among institutions of higher education to encourage and identify student volunteers to help recipients with educational and employment–related services, including:

(i) literacy training;

(ii) mentoring;

(iii) resume writing; and

(iv) job interviewing skills.

- (b) An institution of higher education shall:
- (1) meet with the local department about developing services for recipients in the jurisdiction in which the institution is located;
  - (2) advise the local department of the services available for recipients;  
and
  - (3) on or before September 15 of each year, provide to the Maryland Higher Education Commission a report on efforts to:
    - (i) encourage and identify student volunteers; and
    - (ii) identify services provided under this section.
- (c) On or before December 1 of each year, the Maryland Higher Education Commission shall submit a report, subject to § 2–1246 of the State Government Article, to the Joint Committee on Welfare Reform on the services provided under this section.]

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2011.

**Approved by the Governor, April 12, 2011.**

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## Chapter 22

### (Senate Bill 82)

AN ACT concerning

### **Commercial Law – Sales of Unpackaged Cigarettes – Prohibitions and Penalties**

FOR the purpose of prohibiting certain persons from purchasing, selling, reselling, distributing, dispensing, or giving away to any person in the State certain unpackaged cigarettes; establishing certain penalties for a violation of certain provisions of this Act; providing for the application of certain provisions of this Act; defining a certain term; and generally relating to the regulation of unpackaged cigarettes.

BY repealing and reenacting, with amendments,  
Article – Commercial Law



Section 11-5A-01 and 11-5A-02 to be under the amended subtitle "Subtitle 5A.  
Sales of Unpackaged Cigarettes"  
Annotated Code of Maryland  
(2005 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, without amendments,  
Article – Commercial Law  
Section 11-5A-03  
Annotated Code of Maryland  
(2005 Replacement Volume and 2010 Supplement)

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

**Article – Commercial Law**

Subtitle 5A. [Cigarette] Sales of [Less Than 20 Per Package] **UNPACKAGED CIGARETTES.**

11-5A-01.

- (a) In this subtitle the following words have the meanings indicated.
- (b) "Retailer" has the meaning stated in § 11-501(i) of this title.
- (c) "Sell" has the meaning stated in § 11-501(j) of this title.

**(D) "UNPACKAGED CIGARETTE" MEANS ANY CIGARETTE NOT CONTAINED IN A SEALED PACKAGE OF 20 OR MORE CIGARETTES.**

**[(d)] (E)** "Vending machine operator" has the meaning stated in § 11-501(k) of this title.

**[(e)] (F)** "Wholesaler" has the meaning stated in § 11-501(m) of this title.

11-5A-02.

**(A) THIS SECTION DOES NOT APPLY TO AN INDIVIDUAL WHO PRODUCES UNPACKED CIGARETTES FOR THE INDIVIDUAL'S CONSUMPTION BY USING:**

- (1) A MECHANICAL ROLLING MACHINE; OR**
- (2) A HAND ROLLING DEVICE OR PROCEDURE.**

**~~(a)~~ (B)** Notwithstanding any other provision of law, a retailer or vending machine operator may not purchase from a tobacco product manufacturer or sell,

resell, distribute, dispense, or give away to any person [a package of cigarettes containing less than 20 cigarettes] **AN UNPACKAGED CIGARETTE.**

~~(C)~~ **(C)** Notwithstanding any other provision of law, a wholesaler may not sell, resell, distribute, dispense, or give away to any person in this State [a package of cigarettes containing less than 20 cigarettes] **AN UNPACKAGED CIGARETTE.**

~~(D)~~ **(D)** **IN ADDITION TO ANY OTHER PENALTIES PROVIDED BY LAW, A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$500 OR IMPRISONMENT NOT EXCEEDING 3 MONTHS OR BOTH.**

11-5A-03.

(a) The State Comptroller shall enforce this subtitle.

(b) The State Comptroller shall:

(1) Employ and determine the duties and compensation of the inspectors and other personnel necessary to enforce this subtitle; and

(2) Adopt reasonable regulations necessary to effectuate and enforce the provisions of this subtitle.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2011.

**Approved by the Governor, April 12, 2011.**

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## Chapter 23

**(Senate Bill 83)**

AN ACT concerning

### **Affordable Housing Programs – Authority of Local Governments to Support Programs – Sunset Repeal**

FOR the purpose of repealing the termination date for a certain provision of law authorizing local governments to take certain actions to support, foster, or promote an affordable housing program for individuals or families of low or moderate income; and generally relating to the authority of local governments to take action to support, foster, and promote affordable housing.

BY repealing and reenacting, without amendments,  
Article 24 – Political Subdivisions – Miscellaneous Provisions  
Section 21–101  
Annotated Code of Maryland  
(2005 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,  
Chapter 386 of the Acts of the General Assembly of 2008  
Section 3

BY repealing and reenacting, with amendments,  
Chapter 387 of the Acts of the General Assembly of 2008  
Section 3

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

**Article 24 – Political Subdivisions – Miscellaneous Provisions**

21–101.

To support, foster, or promote an affordable housing program for individuals or families of low or moderate income, a county or municipality may:

(1) Establish local trust funds or provide for the appropriation of funds;

(2) Waive or modify building permit or development impact fees and charges that are not mandated under State law for the construction or rehabilitation of lower income housing units:

(i) In proportion to the number of lower income housing units of a development; and

(ii) That are:

1. Financed, in whole or in part, by public funding that requires mortgage restrictions or recorded covenants restricting the rental or sale of the housing units to lower income residents in accordance with specific government program requirements; or

2. Developed by a nonprofit organization that:

A. Has been exempt from federal taxation under § 501(c)(3) of the Internal Revenue Code for a period of at least 3 years; and

B. Requires the homebuyer to participate in the construction or rehabilitation of the housing unit;

(3) Enact legislation that restricts cost and resale prices and requires development of affordable housing units as part of any subdivision in return for added density;

(4) Provide land or property from the inventory of the county or municipality; and

(5) Support PILOT (payment in lieu of taxes) programs to encourage construction of affordable housing.

### **Chapter 386 of the Acts of 2008**

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008. [It shall remain effective for a period of 3 years and, at the end of September 30, 2011, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.]

### **Chapter 387 of the Acts of 2008**

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008. [It shall remain effective for a period of 3 years and, at the end of September 30, 2011, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.]

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2011.

**Approved by the Governor, April 12, 2011.**

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## **Chapter 24**

**(Senate Bill 93)**

AN ACT concerning

### **State Board of Examiners of Nursing Home Administrators – Sunset Extension and Program Evaluation**

FOR the purpose of continuing the State Board of Examiners of Nursing Home Administrators 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; altering the membership 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 to certain committees of the General Assembly on or before a certain date; and generally relating to the State Board of Examiners of Nursing Home Administrators.

BY repealing and reenacting, with amendments,  
Article – Health Occupations  
Section ~~9–202~~ and 9–502  
Annotated Code of Maryland  
(2009 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, without amendments,  
Article – State Government  
Section 8–403(a)  
Annotated Code of Maryland  
(2009 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,  
Article – State Government  
Section 8–403(b)(42)  
Annotated Code of Maryland  
(2009 Replacement Volume and 2010 Supplement)

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

### **Article – Health Occupations**

9–202.

(a) (1) The Board consists of [13] 14 members.

(2) Of the [13] 14 Board members:

(i) Six members shall be licensed nursing home administrators who are practicing actively and have at least 5 years experience as licensed nursing home administrators, one of whom has experience with the Eden Alternative Green House or a similar program, if practicable;

(ii) Two shall be individuals who are not nursing home administrators but who are engaged actively in professions that are concerned with the care of chronically ill, infirm, or aged individuals;

(iii) One shall be a physician or a nurse practitioner who specializes in geriatrics;

(iv) One shall be a geriatric social worker; [and]

(V) ONE SHALL BE THE STATE LONG-TERM CARE OMBUDSMAN DESIGNATED UNDER § 10-903 OF THE HUMAN SERVICES ARTICLE; AND

[(v)] (VI) Two shall be consumer members.

(3) Not more than [two] THREE members may be officials or full-time employees of this State or of any of its political subdivisions.

(4) A representative of the Office of Health Care Quality shall serve as an ex officio member.

(b) (1) The Governor shall appoint the consumer members with the advice of the Secretary and the advice and consent of the Senate.

(2) (i) Except for the consumer members AND THE STATE LONG-TERM CARE OMBUDSMAN, the Governor shall appoint each Board member, with the advice of the Secretary.

(ii) The Secretary shall make each recommendation after consulting with the associations and societies appropriate to the disciplines and professions representative of the vacancy to be filled.

(c) Each Board member shall:

(1) Be a United States citizen or have declared an intent to become a United States citizen; and

(2) Have resided in this State for at least 1 year before appointment to the Board.

(d) (1) Each consumer member of the Board:

(i) Shall be a member of the general public;

(ii) May not be or ever have been a nursing home administrator or in training to become a nursing home administrator;

(iii) May not have a household member who is a nursing home administrator or in training to become a nursing home administrator;

(iv) May not participate or ever have participated in a commercial or professional field related to the practice of a nursing home administrator;

(v) May not have a household member who participates in a commercial or professional field related to the practice of a nursing home administrator; and

(vi) May not have had within 2 years before appointment a substantial financial interest in a person regulated by the Board.

(2) One consumer member shall have presently or have had a family member living in a nursing home.

(e) While a member of the Board, a consumer member may not have a substantial financial interest in a person regulated by the Board.

(f) Before taking office, each appointee to the Board shall take the oath required by Article I, § 9 of the Maryland Constitution.

(g) (1) THIS SUBSECTION DOES NOT APPLY TO THE STATE LONG-TERM CARE OMBUDSMAN.

(2) The term of a member is 4 years.

[(2)] (3) The terms of members are staggered as required by the terms provided for members of the Board on July 1, 1981.

[(3)] (4) At the end of a term, a member continues to serve until a successor is appointed and qualifies.

[(4)] (5) 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)] (6) A member may not serve more than 2 consecutive full terms.

[(6)] (7) To the extent practicable, the Governor shall fill any vacancy on the Board within 60 days of the date of the vacancy.

(h) (1) The Governor may remove a member for incompetence, misconduct, incapacity, or neglect of duty.

(2) Upon the recommendation of the Secretary, the Governor may remove a member whom the Secretary finds to have been absent from 2 successive Board meetings without adequate reason.

9–502.

Subject to the evaluation and reestablishment provisions of the Program Evaluation Act, this title and all rules and regulations adopted under this title shall terminate and be of no effect after July 1, [2013] **2017**.

### 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:

(42) Nursing Home Administrators, State Board of Examiners of (§ 9–201 of the Health Occupations Article: July 1, [2012] **2016**);

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before October 1, 2011, the State Board of Examiners of Nursing Home Administrators shall submit a report to the Senate Finance Committee and the House Health and Government Operations Committee, in accordance with § 2–1246 of the State Government Article, on:

(1) a plan to improve the timeliness and functioning of its disciplinary process, including the complaint investigation process;

~~(2) a jointly developed plan to improve communication between the Board and the Department of Aging's Long Term Care Ombudsman Program;~~

~~(3)~~ (3) a review of trends in licensing, with a focus on new licenses issued, the stability of renewal of licenses, and licensees on inactive status;

~~(4)~~ (3) implementation of an online renewal process;

~~(5)~~ (4) implementation of the planned database to track deficiency survey reports;

~~(6)~~ (5) implementation of new and revised regulations proposed through the Regulatory Review and Evaluation Process in 2009, including those relating to the Administrator-in-Training program, the disciplinary process, and new causes for disciplinary action; and



~~(7)~~ (6) the additional revenue generated from alterations to the fee structure through proposed regulatory changes.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2011.

**Approved by the Governor, April 12, 2011.**

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## Chapter 25

(Senate Bill 101)

AN ACT concerning

### **Business Regulation – Motor Fuel Advertising Signs – Requirements**

FOR the purpose of ~~requiring the motor fuel advertising sign of a~~ repealing the requirement that certain retail service station dealer to state dealers advertise a certain price for a unit of diesel fuel and a unit of regular mid-grade gasoline if the retail service station sells diesel fuel sold on the premises; repealing a certain obsolete provision of law relating to the sale of gasohol; authorizing certain signs to state a certain price for certain motor fuel products sold on the premises; and generally relating to requirements for motor fuel advertising signs.

BY repealing and reenacting, with amendments,  
 Article – Business Regulation  
 Section 10–315  
 Annotated Code of Maryland  
 (2010 Replacement Volume and 2010 Supplement)

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

### **Article – Business Regulation**

10–315.

(a) A person who sells motor fuel at retail shall display signs in accordance with this section.

(b) (1) All dispensing equipment for motor fuel shall be marked conspicuously to show in numerals of equal size the price, including taxes, of a gallon of the motor fuel offered for sale.

(2) If numerals that show a fractional cent are used, the combined height and width of the numerator and denominator shall equal the height and width of the other numerals used.

(c) (1) A sign or other means on the premises and approaches to a retail outlet that advertises the retail price of motor fuel:

(i) may list the price and each tax separately if the listing of the total of the price and all taxes is the same size as the separate listing of the price; but

(ii) shall list the total of the price and all taxes by numerals of uniform size.

(2) In the listing of the total of the price and all taxes, a denominator need not be used to indicate a fraction, but:

(i) if a denominator is used, the numerator and denominator combined shall be the same size as the numeral that indicates the whole number; or

(ii) if a denominator is not used, the numerator shall be the same size as the numeral that indicates the whole number.

(d) If the retail price of motor fuel is advertised on a sign or by other means on the premises of and approaches to the retail outlet, the grade designation displayed for any motor fuel in the advertisement shall be the same as the grade designation that is required to be displayed for that motor fuel on the retail dispensing pump as specified by the Comptroller.

(e) (1) This subsection does not apply to:

~~(i)~~ a retail service station dealer who operates with not more than 3 dispensing units that combined have not more than 6 nozzles; ~~or~~

~~(ii) the sale of gasoline.~~

(2) **(1)** Each retail service station dealer shall keep a sign on the premises that:

~~(i)~~ **1.** states the lowest price for a whole measurement unit of:

~~1.~~ regular ~~and mid-grade~~ gasoline sold on the premises;  
**OR**

~~2. IF THE RETAIL SERVICE STATION SELLS DIESEL FUEL, DIESEL FUEL AND REGULAR GASOLINE SOLD ON THE PREMISES;~~

- ~~(ii)~~ 2. states the unit of measurement used; and
- ~~(iii)~~ 3. is readable by passing motorists.

(II) THE SIGN REQUIRED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH ALSO MAY STATE THE LOWEST PRICE FOR A WHOLE MEASUREMENT UNIT OF DIESEL AND OTHER MOTOR FUEL PRODUCTS SOLD ON THE PREMISES.

(3) All numerals on the sign shall:

- (i) be uniform;
- (ii) be at least 8 inches high and 3.5 inches wide; and
- (iii) have a brush stroke of at least 1 inch.

(4) A numeral in a fraction or a letter shall be at least one-third the height of a numeral that indicates a whole number.

(5) If a new or additional sign is required to comply with this subsection, the supplier of the gasoline shall provide the sign and numerals without cost to the retail service station dealer.

(f) A sign required at a service station by this section or any other State or federal law is exempt from the provisions of a local law, ordinance, or regulation for the purpose of determining:

- (1) the total number of signs permitted; and
- (2) the area of signs permitted.

(g) Except as provided in subsection (f) of this section, signs regulated by this section or other State law or by federal law may be regulated by the local zoning authority and shall be consistent with the local law, ordinance, or regulation governing signs.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

Approved by the Governor, April 12, 2011.

**Chapter 26****(Senate Bill 115)**

AN ACT concerning

**Criminal Law – ~~Abuse or Neglect of Animals~~ Animal Abuse, Neglect, or Cruelty – Sentencing Conditions of Probation**

FOR the purpose of authorizing a court, as a condition of ~~sentencing~~ probation for certain violations concerning ~~the abuse or neglect of animals~~ animal abuse, neglect, or cruelty, to prohibit a certain defendant from owning, possessing, or residing with an animal ~~for a certain period~~; and generally relating to animal abuse, neglect, or cruelty.

BY repealing and reenacting, with amendments,  
Article – Criminal Law  
Section 10–604 and 10–606  
Annotated Code of Maryland  
(2002 Volume and 2010 Supplement)

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

**Article – Criminal Law**

10–604.

- (a) A person may not:
- (1) overdrive or overload an animal;
  - (2) deprive an animal of necessary sustenance;
  - (3) inflict unnecessary suffering or pain on an animal;
  - (4) cause, procure, or authorize an act prohibited under item (1), (2), or (3) of this subsection; or
  - (5) if the person has charge or custody of an animal, as owner or otherwise, unnecessarily fail to provide the animal with nutritious food in sufficient quantity, necessary veterinary care, proper drink, air, space, shelter, or protection from the weather.

(b) (1) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 90 days or a fine not exceeding \$1,000 or both.

(2) As a condition of sentencing, the court may:

~~(H)~~ order a defendant convicted of violating this section to participate in and pay for psychological counseling;~~AND.~~

~~(H) (3) AS A CONDITION OF PROBATION, THE COURT MAY PROHIBIT A DEFENDANT CONVICTED OF VIOLATING THIS SECTION FROM OWNING, POSSESSING, OR RESIDING WITH AN ANIMAL FOR A SPECIFIED PERIOD OF TIME.~~

10-606.

(a) A person may not:

(1) intentionally mutilate, torture, cruelly beat, or cruelly kill an animal;

(2) cause, procure, or authorize an act prohibited under item (1) of this subsection; or

(3) except in the case of self-defense, intentionally inflict bodily harm, permanent disability, or death on an animal owned or used by a law enforcement unit.

(b) (1) A person who violates this section is guilty of the felony of aggravated cruelty to animals and on conviction is subject to imprisonment not exceeding 3 years or a fine not exceeding \$5,000 or both.

(2) As a condition of sentencing, the court may:

~~(H)~~ order a defendant convicted of violating this section to participate in and pay for psychological counseling;~~AND.~~

~~(H) (3) AS A CONDITION OF PROBATION, THE COURT MAY PROHIBIT A DEFENDANT CONVICTED OF VIOLATING THIS SECTION FROM OWNING, POSSESSING, OR RESIDING WITH AN ANIMAL FOR A SPECIFIED PERIOD OF TIME, INCLUDING THE LIFE OF THE DEFENDANT.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

Approved by the Governor, April 12, 2011.

**Chapter 27****(House Bill 227)**

AN ACT concerning

**Criminal Law – ~~Abuse or Neglect of Animals~~ Animal Abuse, Neglect, or Cruelty – ~~Sentencing~~ Conditions of Probation**

FOR the purpose of authorizing a court, as a condition of ~~sentencing~~ probation for certain violations concerning ~~the abuse or neglect of animals~~ animal abuse, neglect, or cruelty, to prohibit a certain defendant from owning, possessing, or residing with an animal ~~for a certain period~~; and generally relating to animal abuse, neglect, or cruelty.

BY repealing and reenacting, with amendments,  
Article – Criminal Law  
Section 10–604 and 10–606  
Annotated Code of Maryland  
(2002 Volume and 2010 Supplement)

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

**Article – Criminal Law**

10–604.

- (a) A person may not:
- (1) overdrive or overload an animal;
  - (2) deprive an animal of necessary sustenance;
  - (3) inflict unnecessary suffering or pain on an animal;
  - (4) cause, procure, or authorize an act prohibited under item (1), (2), or (3) of this subsection; or
  - (5) if the person has charge or custody of an animal, as owner or otherwise, unnecessarily fail to provide the animal with nutritious food in sufficient quantity, necessary veterinary care, proper drink, air, space, shelter, or protection from the weather.

(b) (1) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 90 days or a fine not exceeding \$1,000 or both.

(2) As a condition of sentencing, the court may:

~~(H)~~ order a defendant convicted of violating this section to participate in and pay for psychological counseling;~~AND.~~

~~(H) (3) AS A CONDITION OF PROBATION, THE COURT MAY PROHIBIT A DEFENDANT CONVICTED OF VIOLATING THIS SECTION FROM OWNING, POSSESSING, OR RESIDING WITH AN ANIMAL FOR A SPECIFIED PERIOD OF TIME.~~

10-606.

(a) A person may not:

(1) intentionally mutilate, torture, cruelly beat, or cruelly kill an animal;

(2) cause, procure, or authorize an act prohibited under item (1) of this subsection; or

(3) except in the case of self-defense, intentionally inflict bodily harm, permanent disability, or death on an animal owned or used by a law enforcement unit.

(b) (1) A person who violates this section is guilty of the felony of aggravated cruelty to animals and on conviction is subject to imprisonment not exceeding 3 years or a fine not exceeding \$5,000 or both.

(2) As a condition of sentencing, the court may:

~~(H)~~ order a defendant convicted of violating this section to participate in and pay for psychological counseling;~~AND.~~

~~(H) (3) AS A CONDITION OF PROBATION, THE COURT MAY PROHIBIT A DEFENDANT CONVICTED OF VIOLATING THIS SECTION FROM OWNING, POSSESSING, OR RESIDING WITH AN ANIMAL FOR A SPECIFIED PERIOD OF TIME, INCLUDING THE LIFE OF THE DEFENDANT.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

Approved by the Governor, April 12, 2011.

## Chapter 28

### (Senate Bill 132)

AN ACT concerning

#### Job Applicant Fairness Act

FOR the purpose of prohibiting an employer from using the credit report or credit history of an employee or applicant for employment for certain purposes; authorizing an employer to request or ~~consider~~ use an applicant's or employee's credit report or credit history under certain circumstances; providing that, for the purpose of this Act, a position for which an employer has a bona fide purpose that is substantially job-related for requesting or using information in a credit report or credit history includes a position that meets certain criteria; ~~authorizing certain civil actions under certain circumstances~~ individuals to file a complaint with the Commissioner of Labor and Industry; requiring that a complaint filed by an employee under this Act be investigated promptly by the Commissioner; requiring the Commissioner to attempt to resolve a certain matter informally; authorizing the Commissioner to assess certain civil penalties and send a certain order to pay a certain penalty to certain parties under certain circumstances; authorizing an employer to request a certain hearing under certain circumstances; requiring the Commissioner to schedule a certain hearing under certain circumstances; establishing that an order to pay a civil penalty becomes final under certain circumstances; authorizing the Commissioner or a complainant to bring certain court actions under certain circumstances; providing that this Act does not apply to certain employers; specifying that this Act does not prohibit an employer from performing an employment-related background investigation that meets certain requirements; and generally relating to the use by employers of credit reports and credit histories of employees and applicants for employment.

BY adding to

Article – Labor and Employment

Section 3-711

Annotated Code of Maryland

(2008 Replacement Volume and 2010 Supplement)

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

#### Article – Labor and Employment

3-711.

(A) THIS SECTION DOES NOT APPLY TO AN EMPLOYER THAT IS:



(1) REQUIRED TO INQUIRE INTO AN APPLICANT'S OR EMPLOYEE'S CREDIT REPORT OR CREDIT HISTORY UNDER FEDERAL LAW OR ANY PROVISION OF STATE LAW FOR THE PURPOSE OF EMPLOYMENT;

(2) A FINANCIAL INSTITUTION, ~~OR AN AFFILIATE OR SUBSIDIARY OF THE FINANCIAL INSTITUTION,~~ THAT ACCEPTS DEPOSITS THAT ARE INSURED BY A FEDERAL AGENCY, OR AN AFFILIATE OR SUBSIDIARY OF THE FINANCIAL INSTITUTION; ~~OR~~

(3) A CREDIT UNION SHARE GUARANTY CORPORATION THAT IS APPROVED BY THE MARYLAND COMMISSIONER OF FINANCIAL REGULATION; OR

~~(3)~~ (4) AN ENTITY, OR AN AFFILIATE OF THE ENTITY, THAT IS REGISTERED AS AN INVESTMENT ADVISOR WITH THE UNITED STATES SECURITIES AND EXCHANGE COMMISSION.

(B) ~~AN~~ EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, AN EMPLOYER MAY NOT USE AN APPLICANT'S OR EMPLOYEE'S CREDIT REPORT OR CREDIT HISTORY IN DETERMINING WHETHER TO:

(1) DENY EMPLOYMENT TO THE APPLICANT;

(2) DISCHARGE THE EMPLOYEE; OR

(3) DETERMINE COMPENSATION OR THE TERMS, CONDITIONS, OR PRIVILEGES OF EMPLOYMENT.

(C) (1) AN EMPLOYER MAY REQUEST OR ~~CONSIDER~~ USE AN APPLICANT'S OR EMPLOYEE'S CREDIT REPORT OR CREDIT HISTORY IF:

~~(1)~~ ~~(1)~~ 1. THE APPLICANT HAS RECEIVED AN OFFER OF EMPLOYMENT; AND

~~(1)~~ 2. THE CREDIT REPORT OR CREDIT HISTORY WILL BE USED FOR A PURPOSE OTHER THAN A PURPOSE PROHIBITED BY SUBSECTION (B) OF THIS SECTION; OR

~~(2)~~ (II) THE EMPLOYER HAS A BONA FIDE PURPOSE FOR ~~OBTAINING~~ REQUESTING OR USING INFORMATION IN THE CREDIT REPORT OR CREDIT HISTORY THAT IS:

~~(1)~~ 1. SUBSTANTIALLY JOB-RELATED; AND

~~(H)~~ 2. DISCLOSED IN WRITING TO THE EMPLOYEE OR APPLICANT.

(2) FOR THE PURPOSES OF THIS SUBSECTION, A POSITION FOR WHICH AN EMPLOYER HAS A BONA FIDE PURPOSE THAT IS SUBSTANTIALLY JOB-RELATED FOR REQUESTING OR USING INFORMATION IN A CREDIT REPORT OR CREDIT HISTORY INCLUDES A POSITION THAT:

(I) IS MANAGERIAL AND INVOLVES SETTING THE DIRECTION OR CONTROL OF A BUSINESS, OR A DEPARTMENT, DIVISION, UNIT, OR AGENCY OF A BUSINESS;

(II) INVOLVES ACCESS TO PERSONAL INFORMATION, AS DEFINED IN § 14-3501 OF THE COMMERCIAL LAW ARTICLE, OF A CUSTOMER, EMPLOYEE, OR EMPLOYER, EXCEPT FOR PERSONAL INFORMATION CUSTOMARILY PROVIDED IN A RETAIL TRANSACTION;

(III) INVOLVES A FIDUCIARY RESPONSIBILITY TO THE EMPLOYER, INCLUDING THE AUTHORITY TO ISSUE PAYMENTS, COLLECT DEBTS, TRANSFER MONEY, OR ENTER INTO CONTRACTS;

(IV) IS PROVIDED AN EXPENSE ACCOUNT OR A CORPORATE DEBIT OR CREDIT CARD; OR

(V) HAS ACCESS TO:

1. INFORMATION, INCLUDING A FORMULA, PATTERN, COMPILATION, PROGRAM, DEVICE, METHOD, TECHNIQUE, OR PROCESS, THAT:

A. DERIVES INDEPENDENT ECONOMIC VALUE, ACTUAL OR POTENTIAL, FROM NOT BEING GENERALLY KNOWN TO, AND NOT BEING READILY ASCERTAINABLE BY PROPER MEANS BY, OTHER PERSONS WHO CAN OBTAIN ECONOMIC VALUE FROM THE DISCLOSURE OR USE OF THE INFORMATION; AND

B. IS THE SUBJECT OF EFFORTS THAT ARE REASONABLE UNDER THE CIRCUMSTANCES TO MAINTAIN ITS SECRECY; OR

2. OTHER CONFIDENTIAL BUSINESS INFORMATION;

(D) (1) IF AN EMPLOYER VIOLATES SUBSECTION (B) ~~OR (C)~~ OF THIS SECTION, THE APPLICANT OR EMPLOYEE MAY ~~BRING AN ACTION FOR~~

~~INJUNCTIVE RELIEF, DAMAGES, OR OTHER RELIEF~~ FILE A WRITTEN COMPLAINT WITH THE COMMISSIONER.

(2) IF THE COMMISSIONER RECEIVES A WRITTEN COMPLAINT UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE COMMISSIONER SHALL INVESTIGATE THE MATTER PROMPTLY.

(3) IF THE COMMISSIONER DETERMINES THAT THE EMPLOYER HAS WILLFULLY OR NEGLIGENTLY VIOLATED SUBSECTION (B) OR (C) OF THIS SECTION, THE COMMISSIONER SHALL TRY TO RESOLVE THE MATTER INFORMALLY.

(4) IF THE COMMISSIONER IS UNABLE TO RESOLVE THE MATTER INFORMALLY, THE COMMISSIONER MAY:

(I) ASSESS A CIVIL PENALTY OF:

1. UP TO \$500 FOR AN INITIAL VIOLATION OF SUBSECTION (B) OR (C) OF THIS SECTION; OR

2. UP TO \$2,500 FOR A REPEAT VIOLATION OF SUBSECTION (B) OR (C) OF THIS SECTION; AND

(II) SEND AN ORDER TO PAY THE CIVIL PENALTY TO THE COMPLAINANT AND THE EMPLOYER.

(5) (I) WITHIN 30 DAYS AFTER AN EMPLOYER RECEIVES AN ORDER TO PAY A CIVIL PENALTY UNDER PARAGRAPH (4) OF THIS SECTION, THE EMPLOYER MAY REQUEST A DE NOVO ADMINISTRATIVE HEARING, SUBJECT TO THE REQUIREMENTS OF TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

(II) ON RECEIPT OF A REQUEST FOR A HEARING UNDER ITEM (I) OF THIS PARAGRAPH, THE COMMISSIONER SHALL SCHEDULE A HEARING.

(III) IF A HEARING IS NOT REQUESTED UNDER ITEM (I) OF THIS PARAGRAPH, THE ORDER TO PAY A CIVIL PENALTY BECOMES A FINAL ORDER OF THE COMMISSIONER.

(6) IF AN EMPLOYER FAILS TO COMPLY WITH A FINAL ORDER TO PAY A CIVIL PENALTY, THE COMMISSIONER OR THE COMPLAINANT MAY BRING AN ACTION TO ENFORCE THE ORDER TO PAY A CIVIL PENALTY IN THE CIRCUIT

COURT IN THE COUNTY WHERE THE EMPLOYER OR THE COMPLAINANT IS LOCATED.

(E) THIS SECTION MAY NOT BE CONSTRUED TO PROHIBIT AN EMPLOYER FROM PERFORMING AN EMPLOYMENT-RELATED BACKGROUND INVESTIGATION THAT:

(1) INCLUDES USE OF A CONSUMER REPORT OR INVESTIGATIVE CONSUMER REPORT;

(2) IS AUTHORIZED UNDER THE FEDERAL FAIR CREDIT REPORTING ACT; AND

(3) DOES NOT INVOLVE INVESTIGATION OF CREDIT INFORMATION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

Approved by the Governor, April 12, 2011.

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**Chapter 29**

**(House Bill 87)**

AN ACT concerning

**Job Applicant Fairness Act**

FOR the purpose of prohibiting an employer from using the credit report or credit history of an employee or applicant for employment for certain purposes; authorizing an employer to request or ~~consider use~~ use an applicant's or employee's credit report or credit history under certain circumstances; providing that, for the purpose of this Act, a position for which an employer has a bona fide purpose that is substantially job-related for requesting or using information in a credit report or credit history includes a position that meets certain criteria; authorizing certain ~~civil actions under certain circumstances~~ individuals to file a complaint with the Commissioner of Labor and Industry; requiring that a complaint filed by an employee under this Act be investigated promptly by the Commissioner; requiring the Commissioner to attempt to resolve a certain matter informally; authorizing the Commissioner to assess certain civil penalties and send a certain order to pay a certain penalty to certain parties under certain circumstances; authorizing an employer to request a certain hearing under certain circumstances; requiring the Commissioner to schedule a

certain hearing under certain circumstances; establishing that an order to pay a civil penalty becomes final under certain circumstances; authorizing the Commissioner or a complainant to bring certain court actions under certain circumstances; providing that this Act does not apply to certain employers; specifying that this Act does not prohibit an employer from performing an employment-related background investigation that meets certain requirements; and generally relating to the use by employers of credit reports and credit histories of employees and applicants for employment.

BY adding to

Article – Labor and Employment

Section 3-711

Annotated Code of Maryland

(2008 Replacement Volume and 2010 Supplement)

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

**Article – Labor and Employment**

**3-711.**

**(A) THIS SECTION DOES NOT APPLY TO AN EMPLOYER THAT IS:**

**(1) REQUIRED TO INQUIRE INTO AN APPLICANT'S OR EMPLOYEE'S CREDIT REPORT OR CREDIT HISTORY UNDER FEDERAL LAW OR ANY PROVISION OF STATE LAW FOR THE PURPOSE OF EMPLOYMENT;**

**(2) A FINANCIAL INSTITUTION, ~~OR AN AFFILIATE OR SUBSIDIARY OF THE FINANCIAL INSTITUTION,~~ THAT ACCEPTS DEPOSITS THAT ARE INSURED BY A FEDERAL AGENCY, OR AN AFFILIATE OR SUBSIDIARY OF THE FINANCIAL INSTITUTION; ~~OR~~**

**(3) A CREDIT UNION SHARE GUARANTY CORPORATION THAT IS APPROVED BY THE MARYLAND COMMISSIONER OF FINANCIAL REGULATION;**  
**OR**

**~~(3)~~ (4) AN ENTITY, OR AN AFFILIATE OF THE ENTITY, THAT IS REGISTERED AS AN INVESTMENT ADVISOR WITH THE UNITED STATES SECURITIES AND EXCHANGE COMMISSION.**

**(B) ~~AN~~ EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, AN EMPLOYER MAY NOT USE AN APPLICANT'S OR EMPLOYEE'S CREDIT REPORT OR CREDIT HISTORY IN DETERMINING WHETHER TO:**

- (1) DENY EMPLOYMENT TO THE APPLICANT;
- (2) DISCHARGE THE EMPLOYEE; OR
- (3) DETERMINE COMPENSATION OR THE TERMS, CONDITIONS, OR PRIVILEGES OF EMPLOYMENT.

(c) (1) AN EMPLOYER MAY REQUEST OR ~~CONSIDER~~ USE AN APPLICANT'S OR EMPLOYEE'S CREDIT REPORT OR CREDIT HISTORY IF:

~~(1)~~ ~~(1)~~ 1. THE APPLICANT HAS RECEIVED AN OFFER OF EMPLOYMENT; AND

~~(1)~~ 2. THE CREDIT REPORT OR CREDIT HISTORY WILL BE USED FOR A PURPOSE OTHER THAN A PURPOSE PROHIBITED BY SUBSECTION (B) OF THIS SECTION; OR

~~(2)~~ (II) THE EMPLOYER HAS A BONA FIDE PURPOSE FOR ~~OBTAINING~~ REQUESTING OR USING INFORMATION IN THE CREDIT REPORT OR CREDIT HISTORY THAT IS:

~~(1)~~ 1. SUBSTANTIALLY JOB-RELATED; AND

~~(1)~~ 2. DISCLOSED IN WRITING TO THE EMPLOYEE OR APPLICANT.

(2) FOR THE PURPOSES OF THIS SUBSECTION, A POSITION FOR WHICH AN EMPLOYER HAS A BONA FIDE PURPOSE THAT IS SUBSTANTIALLY JOB-RELATED FOR REQUESTING OR USING INFORMATION IN A CREDIT REPORT OR CREDIT HISTORY INCLUDES A POSITION THAT:

(I) IS MANAGERIAL AND INVOLVES SETTING THE DIRECTION OR CONTROL OF A BUSINESS, OR A DEPARTMENT, DIVISION, UNIT, OR AGENCY OF A BUSINESS;

(II) INVOLVES ACCESS TO PERSONAL INFORMATION, AS DEFINED IN § 14-3501 OF THE COMMERCIAL LAW ARTICLE, OF A CUSTOMER, EMPLOYEE, OR EMPLOYER, EXCEPT FOR PERSONAL INFORMATION CUSTOMARILY PROVIDED IN A RETAIL TRANSACTION;

(III) INVOLVES A FIDUCIARY RESPONSIBILITY TO THE EMPLOYER, INCLUDING THE AUTHORITY TO ISSUE PAYMENTS, COLLECT DEBTS, TRANSFER MONEY, OR ENTER INTO CONTRACTS;

(IV) IS PROVIDED AN EXPENSE ACCOUNT OR A CORPORATE DEBIT OR CREDIT CARD; OR

(V) HAS ACCESS TO:

1. INFORMATION, INCLUDING A FORMULA, PATTERN, COMPILATION, PROGRAM, DEVICE, METHOD, TECHNIQUE, OR PROCESS, THAT:

A. DERIVES INDEPENDENT ECONOMIC VALUE, ACTUAL OR POTENTIAL, FROM NOT BEING GENERALLY KNOWN TO, AND NOT BEING READILY ASCERTAINABLE BY PROPER MEANS BY, OTHER PERSONS WHO CAN OBTAIN ECONOMIC VALUE FROM THE DISCLOSURE OR USE OF THE INFORMATION; AND

B. IS THE SUBJECT OF EFFORTS THAT ARE REASONABLE UNDER THE CIRCUMSTANCES TO MAINTAIN ITS SECRECY; OR

2. OTHER CONFIDENTIAL BUSINESS INFORMATION.

(D) (1) IF AN EMPLOYER VIOLATES SUBSECTION (B) ~~OR (C)~~ OF THIS SECTION, THE APPLICANT OR EMPLOYEE MAY ~~BRING AN ACTION FOR INJUNCTIVE RELIEF, DAMAGES, OR OTHER RELIEF~~ FILE A WRITTEN COMPLAINT WITH THE COMMISSIONER.

(2) IF THE COMMISSIONER RECEIVES A WRITTEN COMPLAINT UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE COMMISSIONER SHALL INVESTIGATE THE MATTER PROMPTLY.

(3) IF THE COMMISSIONER DETERMINES THAT THE EMPLOYER HAS WILLFULLY OR NEGLIGENTLY VIOLATED SUBSECTION (B) OR (C) OF THIS SECTION, THE COMMISSIONER SHALL TRY TO RESOLVE THE MATTER INFORMALLY.

(4) IF THE COMMISSIONER IS UNABLE TO RESOLVE THE MATTER INFORMALLY, THE COMMISSIONER MAY:

(I) ASSESS A CIVIL PENALTY OF:

1. UP TO \$500 FOR AN INITIAL VIOLATION OF SUBSECTION (B) OR (C) OF THIS SECTION; OR

2. UP TO \$2,500 FOR A REPEAT VIOLATION OF SUBSECTION (B) OR (C) OF THIS SECTION; AND

(II) SEND AN ORDER TO PAY THE CIVIL PENALTY TO THE COMPLAINANT AND THE EMPLOYER.

(5) (I) WITHIN 30 DAYS AFTER AN EMPLOYER RECEIVES AN ORDER TO PAY A CIVIL PENALTY UNDER PARAGRAPH (4) OF THIS SECTION, THE EMPLOYER MAY REQUEST A DE NOVO ADMINISTRATIVE HEARING, SUBJECT TO THE REQUIREMENTS OF TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

(II) ON RECEIPT OF A REQUEST FOR A HEARING UNDER ITEM (I) OF THIS PARAGRAPH, THE COMMISSIONER SHALL SCHEDULE A HEARING.

(III) IF A HEARING IS NOT REQUESTED UNDER ITEM (I) OF THIS PARAGRAPH, THE ORDER TO PAY A CIVIL PENALTY BECOMES A FINAL ORDER OF THE COMMISSIONER.

(6) IF AN EMPLOYER FAILS TO COMPLY WITH A FINAL ORDER TO PAY A CIVIL PENALTY, THE COMMISSIONER OR THE COMPLAINANT MAY BRING AN ACTION TO ENFORCE THE ORDER TO PAY A CIVIL PENALTY IN THE CIRCUIT COURT IN THE COUNTY WHERE THE EMPLOYER OR THE COMPLAINANT IS LOCATED.

(E) THIS SECTION MAY NOT BE CONSTRUED TO PROHIBIT AN EMPLOYER FROM PERFORMING AN EMPLOYMENT-RELATED BACKGROUND INVESTIGATION THAT:

(1) INCLUDES USE OF A CONSUMER REPORT OR INVESTIGATIVE CONSUMER REPORT;

(2) IS AUTHORIZED UNDER THE FEDERAL FAIR CREDIT REPORTING ACT; AND

(3) DOES NOT INVOLVE INVESTIGATION OF CREDIT INFORMATION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

Approved by the Governor, April 12, 2011.

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**Chapter 30****(Senate Bill 143)**

AN ACT concerning

**Home Inspectors – Records – Retention Requirements**

FOR the purpose of requiring licensed home inspectors to retain certain records for a certain period of time under certain circumstances; requiring licensed home inspectors to make certain records available to the State Commission of Real Estate Appraisers and Home Inspectors on the request of the Commission; and generally relating to record retention by home inspectors.

BY adding to

Article – Business Occupations and Professions  
Section 16–4A–05  
Annotated Code of Maryland  
(2010 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****16–4A–05.**

**(A) SUBJECT TO THE PROVISIONS OF SUBSECTION (B) OF THIS SECTION, A LICENSED HOME INSPECTOR SHALL KEEP, FOR 5 YEARS FROM THE DATE OF DELIVERY TO THE CLIENT, THE ORIGINAL OR A COPY OF:**

**(1) EACH CONTRACT THE LICENSEE ENTERS INTO FOR THE PROVISION OF HOME INSPECTION SERVICES;**

**(2) EACH HOME INSPECTION REPORT THE LICENSEE PREPARES OR SIGNS; AND**

**(3) ALL SUPPORTING DATA THAT THE LICENSEE ASSEMBLES OR FORMULATES TO PREPARE A HOME INSPECTION REPORT.**

**(B) IF, WITHIN THE 5–YEAR PERIOD FOR THE RETENTION OF RECORDS, A LICENSED HOME INSPECTOR IS GIVEN NOTICE THAT A HOME INSPECTION IS INVOLVED IN LITIGATION, A NEW 5–YEAR PERIOD SHALL START ON THE DATE OF THE FINAL DISPOSITION OF THE LITIGATION.**

(C) A LICENSED HOME INSPECTOR SHALL MAKE ANY RECORD REQUIRED TO BE KEPT UNDER THIS SECTION AVAILABLE TO THE COMMISSION TO INSPECT OR COPY.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

Approved by the Governor, April 12, 2011.

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## Chapter 31

(Senate Bill 145)

AN ACT concerning

### **Motor Fuel Tax – Personal Liability – ~~Corporations,~~ Limited Liability Companies, and Limited Liability Partnerships**

FOR the purpose of establishing personal liability of certain ~~officers of corporations, members~~ persons who exercise certain control over the fiscal management of limited liability companies, ~~partners of~~ and limited liability partnerships, ~~and other individuals~~ for payment of the motor fuel tax, interest, and penalties under certain circumstances; and generally relating to liability for the payment of motor fuel taxes.

BY repealing and reenacting, with amendments,

Article – Tax – General

Section 9–314

Annotated Code of Maryland

(2010 Replacement Volume)

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

#### **Article – Tax – General**

9–314.

- (a) The motor fuel tax on gasoline shall be paid by:
- (1) the licensed Class B dealer who first receives gasoline imported into the State;
  - (2) any other dealer who:

- (i) uses the gasoline; or
  - (ii) first sells the gasoline in this State to a buyer other than a licensed dealer authorized to acquire gasoline, in accordance with § 9-322 of this subtitle, without paying the motor fuel tax; or
  - (3) any other person who acquires gasoline on which the motor fuel tax has not been paid.
- (b) The motor fuel tax on special fuel other than turbine fuel shall be paid by:
- (1) a special fuel seller who delivers that special fuel into a tank from which a motor vehicle can be fueled unless the person who uses or resells the special fuel has an exemption certificate that authorizes the person to acquire special fuel, in accordance with § 9-322 of this subtitle, without paying the motor fuel tax;
  - (2) a special fuel user who uses that special fuel in a motor vehicle that is owned or operated by the special fuel user and registered to operate on a public highway; or
  - (3) any other person who acquires that special fuel unless:
    - (i) the motor fuel tax on that special fuel has been paid; or
    - (ii) the person has an exemption certificate that authorizes the person to acquire special fuel, in accordance with § 9-322 of this subtitle, without paying the motor fuel tax.
- (c) The motor fuel tax on turbine fuel shall be paid by:
- (1) the turbine fuel seller who delivers the turbine fuel into the fuel supply tank of a turbine-powered aircraft; or
  - (2) any other person who acquires turbine fuel on which motor fuel tax has not been paid unless the person has an exemption certificate that authorizes the person to acquire turbine fuel, in accordance with § 9-322 of this subtitle, without paying the motor fuel tax.
- (d) A person required to pay motor fuel tax under this section shall pay it with the return that covers the period in which the person received, sold, or used the motor fuel.
- (e) ¶If a corporation, other than a nonstock, not for profit corporation, is required to pay motor fuel tax, personal liability for the tax and interest and penalties on the tax extends to any officer of the corporation who exercises direct control over its fiscal management. ~~¶ IF A PERSON LIABLE FOR MOTOR FUEL TAX AND FOR THE INTEREST AND PENALTIES OF THE TAX IS A CORPORATION, OTHER THAN A~~

~~NONSTOCK, NOT FOR PROFIT CORPORATION, OR IS A LIMITED LIABILITY COMPANY OR LIMITED LIABILITY PARTNERSHIP (INCLUDING A LIMITED PARTNERSHIP REGISTERED AS A LIMITED LIABILITY LIMITED PARTNERSHIP), PERSONAL LIABILITY FOR THE MOTOR FUEL TAX AND FOR THE INTEREST AND PENALTIES OF THE TAX EXTENDS TO:~~

~~(1) IN THE CASE OF A CORPORATION:~~

~~(I) THE PRESIDENT, VICE PRESIDENT, OR TREASURER OF THE CORPORATION; AND~~

~~(II) ANY OFFICER OF THE CORPORATION WHO DIRECTLY OR INDIRECTLY OWNS MORE THAN 20% OF THE STOCK OF THE CORPORATION; AND~~

~~(2) IN THE CASE OF A LIMITED LIABILITY COMPANY:~~

~~(I) IF THE LIMITED LIABILITY COMPANY DOES NOT HAVE AN OPERATING AGREEMENT, ALL MEMBERS; OR~~

~~(II) IF THE LIMITED LIABILITY COMPANY HAS AN OPERATING AGREEMENT, THOSE INDIVIDUALS WHO MANAGE THE BUSINESS AND AFFAIRS OF THE LIMITED LIABILITY COMPANY; AND~~

~~(3) IN THE CASE OF A LIMITED LIABILITY PARTNERSHIP:~~

~~(I) IF THE LIMITED LIABILITY PARTNERSHIP DOES NOT HAVE A WRITTEN PARTNERSHIP AGREEMENT, ALL GENERAL PARTNERS; OR~~

~~(II) IF THE LIMITED LIABILITY PARTNERSHIP HAS A WRITTEN PARTNERSHIP AGREEMENT, THOSE INDIVIDUALS WHO MANAGE THE BUSINESS AND AFFAIRS OF THE LIMITED LIABILITY PARTNERSHIP.~~

~~(F) A MEMBER OF A LIMITED LIABILITY COMPANY DOES NOT MANAGE THE BUSINESS AND AFFAIRS OF THE LIMITED LIABILITY COMPANY UNDER SUBSECTION (E) OF THIS SECTION SOLELY BY DOING ONE OR MORE OF THE FOLLOWING:~~

~~(1) CONSULTING WITH OR ADVISING THE INDIVIDUALS WHO MANAGE THE BUSINESS AND AFFAIRS OF THE LIMITED LIABILITY COMPANY;~~

~~(2) DIRECTING THE MANAGEMENT OF THE LIMITED LIABILITY COMPANY IN THE SAME MANNER AS A DIRECTOR OF A CORPORATION DIRECTS THE MANAGEMENT OF A CORPORATION; OR~~

~~(3) VOTING ON ANY MATTER REQUIRED TO BE VOTED ON BY THE MEMBERS OF THE LIMITED LIABILITY COMPANY, INCLUDING, BUT NOT LIMITED TO:~~

~~(I) THE APPROVAL OR DISAPPROVAL OF AMENDMENTS TO THE OPERATING AGREEMENT;~~

~~(II) THE TERMINATION AND WINDING UP OF THE LIMITED LIABILITY COMPANY;~~

~~(III) THE SALE, EXCHANGE, LEASE, MORTGAGE, PLEDGE, OR OTHER TRANSFER OF A MATERIAL PORTION OF THE ASSETS OF THE LIMITED LIABILITY COMPANY;~~

~~(IV) THE INCURRENCE OF INDEBTEDNESS BY THE LIMITED LIABILITY COMPANY OTHER THAN IN THE ORDINARY COURSE OF ITS BUSINESS;~~

~~(V) A CHANGE IN THE NATURE OF THE BUSINESS OF THE LIMITED LIABILITY COMPANY;~~

~~(VI) THE EXPULSION OR ADMISSION OF A MEMBER;~~

~~(VII) THE APPOINTMENT OR DISCHARGE OF A MANAGER;~~

~~(VIII) THE MERGER OF THE LIMITED LIABILITY COMPANY WITH OR INTO ANY OTHER ENTITY; OR~~

~~(IX) ANY MATTER RELATED TO THE BUSINESS OF THE LIMITED LIABILITY COMPANY NOT OTHERWISE ENUMERATED IN THIS SECTION THAT THE OPERATING AGREEMENT STATES MAY BE SUBJECT TO THE APPROVAL OR DISAPPROVAL OF THE MEMBERS.~~

~~(G) THE POSSESSION OR EXERCISE OF POWERS OTHER THAN THOSE CONTAINED IN SUBSECTION (F) OF THIS SECTION BY A MEMBER DOES NOT NECESSARILY CONSTITUTE MANAGEMENT BY THE MEMBER OF THE BUSINESS OR AFFAIRS OF THE LIMITED LIABILITY COMPANY.~~

~~(H) THE SAME RULES AND EXCEPTIONS APPLICABLE TO A MEMBER OF A LIMITED LIABILITY COMPANY SET FORTH IN SUBSECTIONS (F) AND (G) OF THIS SECTION SHALL BE APPLICABLE TO INDIVIDUALS AND MEMBERS OF LIMITED LIABILITY PARTNERSHIPS.~~

(F) IF A LIMITED LIABILITY COMPANY, OR LIMITED LIABILITY PARTNERSHIP, INCLUDING A LIMITED PARTNERSHIP REGISTERED AS A LIMITED

**LIABILITY LIMITED PARTNERSHIP, IS REQUIRED TO PAY THE MOTOR FUEL TAX AND INTEREST AND PENALTIES ON THE TAX, PERSONAL LIABILITY FOR THE TAX AND INTEREST AND PENALTIES ON THE TAX EXTENDS TO ANY PERSON WHO EXERCISES DIRECT CONTROL OVER THE FISCAL MANAGEMENT OF THE LIMITED LIABILITY COMPANY OR LIMITED LIABILITY PARTNERSHIP.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

**Approved by the Governor, April 12, 2011.**

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**Chapter 32**

**(Senate Bill 169)**

AN ACT concerning

**Bankruptcy – Homestead Exemption – Debtor’s Residence**

FOR the purpose of altering ~~the categories of dwelling units that qualify for the homestead~~ a certain exemption that an individual may claim in a certain bankruptcy proceeding; ~~providing~~ clarifying that the exemption ~~is limited to a certain amount of~~ for an individual debtor’s aggregate interest in owner-occupied real ~~or personal~~ property, ~~an owner-occupied~~ includes a condominium unit, or a cooperative; authorizing an individual debtor to exempt the debtor’s aggregate interest in a cooperative housing corporation that owns property that the debtor occupies as a residence; providing for the application of this Act; and generally relating to debtor exemptions in bankruptcy proceedings.

BY repealing and reenacting, with amendments,  
Article – Courts and Judicial Proceedings  
Section 11–504  
Annotated Code of Maryland  
(2006 Replacement Volume and 2010 Supplement)

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

**Article – Courts and Judicial Proceedings**

11–504.

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

(2) "Value" means fair market value as of the date upon which the execution or other judicial process becomes effective against the property of the debtor, or the date of filing the petition under the federal Bankruptcy Code.

(b) The following items are exempt from execution on a judgment:

(1) Wearing apparel, books, tools, instruments, or appliances, in an amount not to exceed \$5,000 in value necessary for the practice of any trade or profession except those kept for sale, lease, or barter.

(2) Money payable in the event of sickness, accident, injury, or death of any person, including compensation for loss of future earnings. This exemption includes but is not limited to money payable on account of judgments, arbitrations, compromises, insurance, benefits, compensation, and relief. Disability income benefits are not exempt if the judgment is for necessities contracted for after the disability is incurred.

(3) Professionally prescribed health aids for the debtor or any dependent of the debtor.

(4) The debtor's interest, not to exceed \$1,000 in value, in household furnishings, household goods, wearing apparel, appliances, books, animals kept as pets, and other items that are held primarily for the personal, family, or household use of the debtor or any dependent of the debtor.

(5) Cash or property of any kind equivalent in value to \$6,000 is exempt, if within 30 days from the date of the attachment or the levy by the sheriff, the debtor elects to exempt cash or selected items of property in an amount not to exceed a cumulative value of \$6,000.

(6) Money payable or paid in accordance with an agreement or court order for child support.

(7) Money payable or paid in accordance with an agreement or court order for alimony to the same extent that wages are exempt from attachment under § 15–601.1(b)(1)(ii) or (2)(i) of the Commercial Law Article.

(8) The debtor's beneficial interest in any trust property that is immune from the claims of the debtor's creditors under § 14–113 of the Estates and Trusts Article.

(9) With respect to claims by a separate creditor of a husband or wife, trust property that is immune from the claims of the separate creditors of the husband or wife under § 14–113 of the Estates and Trusts Article.

(c) (1) In order to determine whether the property listed in subsection (b)(4) and (5) of this section is subject to execution, the sheriff shall appraise the property at the time of levy. The sheriff shall return the appraisal with the writ.

(2) An appraisal made by the sheriff under this subsection is subject to review by the court on motion of the debtor.

(3) Procedures will be as prescribed by rules issued by the Court of Appeals.

(d) The debtor may not waive, by cognovit note or otherwise, the provisions of subsections (b) and (h) of this section.

(e) The exemptions in this section do not apply to wage attachments.

(f) (1) **(I)** In addition to the exemptions provided in subsection (b) of this section, and in other statutes of this State, in any proceeding under Title 11 of the United States Code, entitled “Bankruptcy”, any individual debtor domiciled in this State may exempt the debtor’s aggregate interest in:

**[(i)] 1.** Personal property, up to \$5,000; and

**[(ii)] 2.** [Owner-occupied residential real property, up to]  
**SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH:**

**A. OWNER-OCCUPIED RESIDENTIAL REAL ~~OR~~**  
**~~PERSONAL~~ PROPERTY;**

**~~B. AN OWNER-OCCUPIED, INCLUDING A~~**  
**CONDOMINIUM UNIT; OR**

**~~C. B. A COOPERATIVE HOUSING CORPORATION THAT~~**  
**OWNS PROPERTY THAT THE DEBTOR OCCUPIES AS A RESIDENCE.**

**(II) THE EXEMPTION ALLOWED UNDER SUBPARAGRAPH**  
**(I)2 OF THIS PARAGRAPH MAY NOT EXCEED** the amount under 11 U.S.C. § 522(d)(1), adjusted in accordance with 11 U.S.C. § 104, subject to the provisions of paragraphs (2) and (3) of this subsection.

(2) An individual may not claim the exemption under paragraph **[(1)(ii)] (1)(I)2** of this subsection on a particular property if:

(i) The individual has claimed successfully the exemption on the property within 8 years prior to the filing of the bankruptcy proceeding in which the exemption under this subsection is claimed; or



(ii) The individual's spouse, child, child's spouse, parent, sibling, grandparent, or grandchild has claimed successfully the exemption on the property within 8 years prior to the filing of the bankruptcy proceeding in which the exemption under this subsection is claimed.

(3) The exemption under paragraph [(1)(ii)] **(1)(I)2** of this subsection may not be claimed by both a husband and wife in the same bankruptcy proceeding.

(g) In any bankruptcy proceeding, a debtor is not entitled to the federal exemptions provided by § 522(d) of the federal Bankruptcy Code.

(h) (1) In addition to the exemptions provided in subsections (b) and (f) of this section and any other provisions of law, any money or other assets payable to a participant or beneficiary from, or any interest of any participant or beneficiary in, a retirement plan qualified under § 401(a), § 403(a), § 403(b), § 408, § 408A, § 414(d), or § 414(e) of the United States Internal Revenue Code of 1986, as amended, or § 409 (as in effect prior to January 1984) of the United States Internal Revenue Code of 1954, as amended, shall be exempt from any and all claims of the creditors of the beneficiary or participant, other than claims by the Department of Health and Mental Hygiene.

(2) Paragraph (1) of this subsection does not apply to:

(i) An alternate payee under a qualified domestic relations order, as defined in § 414(p) of the United States Internal Revenue Code of 1986, as amended;

(ii) A retirement plan, qualified under § 401(a) of the United States Internal Revenue Code of 1986, as amended, as a creditor of an individual retirement account qualified under § 408 of the United States Internal Revenue Code of 1986, as amended; or

(iii) The assets of a bankruptcy case filed before January 1, 1988.

(3) The interest of an alternate payee in a plan described in subsection (h)(1) of this section shall be exempt from any and all claims of any creditor of the alternate payee, except claims by the Department of Health and Mental Hygiene.

(4) If a contribution to a retirement plan described under paragraph (1) of this subsection exceeds the amount deductible or, in the case of contribution under § 408A of the Internal Revenue Code, the maximum contribution allowed under the applicable provisions of the United States Internal Revenue Code of 1986, as amended, the portion of that contribution that exceeds the amount deductible or, in the case of contribution under § 408A of the Internal Revenue Code, the maximum contribution allowed, and any accrued earnings on such a portion, are not exempt under paragraph (1) of this subsection.

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 case filed before the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

**Approved by the Governor, April 12, 2011.**

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## Chapter 33

(Senate Bill 191)

AN ACT concerning

**Real Property – ~~Interference With~~ Obliterating, Damaging, or Removing  
Property Markers – Penalty Increase**

FOR the purpose of ~~altering~~ increasing the penalty for willfully obliterating, damaging, or removing any stake, marker, monument, or other landmark set in the property of another person by any civil engineer, surveyor, or real estate appraiser or any of their assistants except under certain circumstances; and generally relating to the penalty for ~~interfering with~~ obliterating, damaging, or removing property markers.

BY repealing and reenacting, with amendments,  
Article – Real Property  
Section 14–111(b)  
Annotated Code of Maryland  
(2010 Replacement Volume and 2010 Supplement)

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

### Article – Real Property

14–111.

(b) Any person who willfully obliterates, damages, or removes any stake, marker, monument, or other landmark set in the property of another person by any civil engineer, surveyor, or real estate appraiser or any of their assistants, except if the stake, marker, monument, or other landmark interferes with the proper use of the property, is guilty of a misdemeanor and on conviction shall be fined not more than **[\$500] \$2,500**.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

Approved by the Governor, April 12, 2011.

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## Chapter 34

### (House Bill 117)

AN ACT concerning

#### **Real Property – ~~Interference With~~ Obliterating, Damaging, or Removing Property Markers – Penalty Increase**

FOR the purpose of ~~altering~~ increasing the penalty for willfully obliterating, damaging, or removing any stake, marker, monument, or other landmark set in the property of another person by any civil engineer, surveyor, or real estate appraiser or any of their assistants except under certain circumstances; and generally relating to the penalty for ~~interfering with~~ obliterating, damaging, or removing property markers.

BY repealing and reenacting, with amendments,  
 Article – Real Property  
 Section 14–111(b)  
 Annotated Code of Maryland  
 (2010 Replacement Volume and 2010 Supplement)

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

#### **Article – Real Property**

14–111.

(b) Any person who willfully obliterates, damages, or removes any stake, marker, monument, or other landmark set in the property of another person by any civil engineer, surveyor, or real estate appraiser or any of their assistants, except if the stake, marker, monument, or other landmark interferes with the proper use of the property, is guilty of a misdemeanor and on conviction shall be fined not more than **[\$500] \$2,500**.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

Approved by the Governor, April 12, 2011.

**Chapter 35****(Senate Bill 192)**

AN ACT concerning

**Harford County – Board of Elections – Membership**

FOR the purpose of altering the number of regular members of the Harford County Board of Elections; requiring the members of the local board to be of certain political parties; requiring a vacancy on the local board to be filled in a certain manner; providing for the effective date of this Act; and generally relating to the membership of the Harford County Board of Elections.

BY repealing and reenacting, with amendments,

Article – Election Law

Section 2–201

Annotated Code of Maryland

(2010 Replacement Volume)

(As enacted by Chapter 344 of the Acts of the General Assembly of 2010)

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

**Article – Election Law**

2–201.

(a) (1) There is a county board of elections in each county of the State.

(2) Each local board and its staff is subject to the direction and authority of the State Board and is accountable to the State Board for its actions in all matters regarding the implementation of the requirements of this article and any applicable federal law.

(b) (1) Except as provided in subsections (j), (k), and (l) of this section, each local board consists of three regular members and two substitute members.

(2) Two regular members and one substitute member shall be of the majority party, and one regular member and one substitute member shall be of the principal minority party.

(3) Except as provided in subsection (l) of this section, in the event of the absence of a regular member or a vacancy in the office of a regular member, the substitute member of the same political party shall exercise the powers and duties of a

regular member until the regular member returns or the vacancy is filled as prescribed in subsection (h) of this section.

(c) Each regular and substitute member of a local board shall:

(1) be appointed in accordance with subsection (g) of this section;

(2) be a registered voter in the county for which the individual is appointed for the 5 years immediately preceding the appointment; and

(3) be eligible for reappointment.

(d) (1) The term of a member is 4 years and begins on the first Monday in June of each year following a gubernatorial election.

(2) At the end of a term, a member continues to serve until a successor is appointed and qualifies.

(e) Before taking office, a member shall take and subscribe to the oath prescribed in Article I, § 9 of the Maryland Constitution.

(f) The Governor may remove a member for incompetence, misconduct, or other good cause, upon written charges stating the Governor's grounds for dismissal and after affording the member notice and an ample opportunity to be heard.

(g) (1) The Governor shall request the county central committee representing the majority party or the principal minority party, as appropriate, to submit a list of at least four eligible individuals from which the Governor may make an appointment of a regular member or a substitute member of the local board.

(2) The Governor may reject all of the nominees if the Governor determines them to be unfit or incompetent, in which case the Governor shall notify the State Board in writing and request an additional list of at least four eligible nominees from the county central committee. A third list may be requested in the same manner.

(3) If a list containing the names of four eligible nominees is not submitted within 20 days of a request or if all the nominees on three lists are rejected, the Governor may appoint any eligible person who is a member of the appropriate political party.

(4) (i) Except as provided in subparagraph (ii) of this paragraph, each appointment shall be subject to confirmation by the Senate of Maryland.

(ii) In Caroline, Dorchester, and Kent counties, if there is no resident Senator of the particular county, the confirmation required under subparagraph (i) of this paragraph shall be by the House of Delegates of Maryland.

(iii) If an appointee is rejected, the Governor shall make another appointment from the list or lists submitted under paragraphs (1) and (2) of this subsection. If a list is not provided, or the nominees on three lists are rejected, the Governor may appoint an eligible individual as provided in paragraph (3) of this subsection.

(h) (1) Except as provided in subsections (j), (k), and (l) of this section, if a member of a local board dies, resigns, is removed, or becomes ineligible:

(i) the substitute member belonging to the same political party shall become a regular member of the local board; and

(ii) the Governor shall appoint an eligible person from the same political party to be the new substitute member.

(2) If a substitute member of a local board becomes a regular member as provided in paragraph (1)(ii) of this subsection, dies, resigns, is removed, or becomes ineligible when the confirming legislative body is not in session, the Governor shall appoint an eligible person from the same political party as the predecessor substitute member to fill the vacancy. That individual shall serve until the earlier of:

(i) the adjournment of the next session of the General Assembly; or

(ii) the appointment of another individual to fill the same vacancy.

(i) A board shall meet within 20 days after the beginning of the term to elect one of its regular members as president.

(j) (1) In Prince George's County, the local board consists of five regular members and three substitute members.

(2) Four regular members and two substitute members shall be of the majority party, and one regular member and one substitute member shall be of the principal minority party.

(3) If a vacancy occurs on the local board among the members from the majority party, the Governor shall designate one of the substitute members from that party to fill the vacancy.

(k) (1) In Montgomery County, the local board consists of five regular members and two substitute members.

(2) Three regular members and one substitute member shall be of the majority party, and two regular members and one substitute member shall be of the principal minority party.

(1) (1) In Wicomico County, Worcester County, [and] Somerset County, **AND HARFORD COUNTY**, the local board consists of five regular members.

(2) Three regular members shall be of the majority party, and two regular members shall be of the principal minority party.

(3) (i) If a vacancy occurs on the local board, the Governor shall appoint an eligible person from the same political party as the predecessor member to fill the vacancy in accordance with subsection (g) of this section for the remainder of the unexpired term and until a successor is appointed and qualifies.

(ii) An appointment made while the Senate of Maryland is not in session shall be considered temporary until the appointee is confirmed by the Senate.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October 1~~ June 6, 2011.

**Approved by the Governor, April 12, 2011.**

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## Chapter 36

### (Senate Bill 205)

AN ACT concerning

#### **Real Property – Residential Property Foreclosure Procedures – Accuracy of Notice of Intent to Foreclose**

FOR the purpose of requiring that a certain ~~notice of intent to foreclose be signed by an agent of the secured party; requiring that the agent make a certain affirmation under penalties of perjury~~ affidavit regarding the accuracy of the contents of a certain intent to foreclose be included in an order to docket or a complaint to foreclose on a mortgage or deed of trust on residential property; providing for the application of this Act; and generally relating to foreclosure of a mortgage or deed of trust on residential property.

BY repealing and reenacting, with amendments,

Article – Real Property

Section ~~7-105.1(e)~~ 7-105.1(d)(1)

Annotated Code of Maryland

(2010 Replacement Volume and 2010 Supplement)

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

### Article – Real Property

7-105.1.

~~(e) (1) Except as provided in subsection (b)(2)(iii) of this section, at least 45 days before the filing of an action to foreclose a mortgage or deed of trust on residential property, the secured party shall send a written notice of intent to foreclose to the mortgagor or grantor and the record owner.~~

~~(2) The notice of intent to foreclose shall be sent:~~

~~(i) By certified mail, postage prepaid, return receipt requested, bearing a postmark from the United States Postal Service; and~~

~~(ii) By first class mail.~~

~~(3) A copy of the notice of intent to foreclose shall be sent to the Commissioner of Financial Regulation.~~

~~(4) The notice of intent to foreclose shall:~~

~~(i) Be in the form that the Commissioner of Financial Regulation prescribes by regulation; [and]~~

~~(ii) Contain:~~

~~1. The name and telephone number of:~~

~~A. The secured party;~~

~~B. The mortgage servicer, if applicable; and~~

~~C. An agent of the secured party who is authorized to modify the terms of the mortgage loan;~~

~~2. The name and license number of the Maryland mortgage lender and mortgage originator, if applicable;~~

~~3. The amount required to cure the default and reinstate the loan, including all past due payments, penalties, and fees;~~



~~4. A statement recommending that the mortgagor or grantor seek housing counseling services;~~

~~5. The telephone number and the Internet address of nonprofit and government resources available to assist mortgagors and grantors facing foreclosure, as identified by the Commissioner of Financial Regulation;~~

~~6. An explanation of the Maryland foreclosure process and time line, as prescribed by the Commissioner of Financial Regulation; and~~

~~7. Any other information that the Commissioner of Financial Regulation requires by regulation; AND~~

~~(H) BE SIGNED BY AN AGENT OF THE SECURED PARTY, WHO SHALL AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THE NOTICE OF INTENT TO FORECLOSE ARE TRUE TO THE BEST OF THE AGENT'S KNOWLEDGE, INFORMATION, AND BELIEF.~~

~~(5) The notice of intent to foreclose shall be accompanied by:~~

~~(i) A loss mitigation application:~~

~~1. For loss mitigation programs that are applicable to the loan secured by the mortgage or deed of trust that is the subject of the foreclosure action; or~~

~~2. If the secured party does not have its own loss mitigation application, in the form prescribed by the Commissioner of Financial Regulation;~~

~~(ii) Instructions for completing the loss mitigation application and a telephone number to call to confirm receipt of the application;~~

~~(iii) A description of the eligibility requirements for the loss mitigation programs offered by the secured party that may be applicable to the loan secured by the mortgage or deed of trust that is the subject of the foreclosure action; and~~

~~(iv) An envelope preprinted with the address of the person responsible for conducting loss mitigation analysis on behalf of the secured party for the loan secured by the mortgage or deed of trust that is the subject of the foreclosure action.~~

(d) An order to docket or a complaint to foreclose a mortgage or deed of trust on residential property shall:

(1) Include:(i) If applicable, the license number of:

1. The mortgage originator; and
2. The mortgage lender; and

(ii) An affidavit stating:

1. The date on which the default occurred and the nature of the default; and

2. If applicable, that [a]:

A. A notice of intent to foreclose was sent to the mortgagor or grantor in accordance with subsection (c) of this section and the date on which the notice was sent; and

B. AT THE TIME THE NOTICE OF INTENT TO FORECLOSE WAS SENT, THE CONTENTS OF THE NOTICE OF INTENT TO FORECLOSE WERE ACCURATE; AND

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 order to docket or complaint to foreclose on residential property filed before July 1, 2011.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2011.

Approved by the Governor, April 12, 2011.

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## Chapter 37

(House Bill 366)

AN ACT concerning

**Real Property – Residential Property Foreclosure Procedures – Accuracy of Notice of Intent to Foreclose**

FOR the purpose of requiring that a certain ~~notice of intent to foreclose be signed by an agent of the secured party; requiring that the agent make a certain~~

~~affirmation under penalties of perjury affidavit regarding the accuracy of the contents of a certain intent to foreclose be included in an order to docket or a complaint to foreclose on a mortgage or deed of trust on residential property; providing for the application of this Act; and generally relating to foreclosure of a mortgage or deed of trust on residential property.~~

BY repealing and reenacting, with amendments,

Article – Real Property

Section ~~7-105.1(e)~~ 7-105.1(d)(1)

Annotated Code of Maryland

(2010 Replacement Volume and 2010 Supplement)

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

### Article – Real Property

7-105.1.

~~(e) (1) Except as provided in subsection (b)(2)(iii) of this section, at least 45 days before the filing of an action to foreclose a mortgage or deed of trust on residential property, the secured party shall send a written notice of intent to foreclose to the mortgagor or grantor and the record owner.~~

~~(2) The notice of intent to foreclose shall be sent:~~

~~(i) By certified mail, postage prepaid, return receipt requested, bearing a postmark from the United States Postal Service; and~~

~~(ii) By first class mail.~~

~~(3) A copy of the notice of intent to foreclose shall be sent to the Commissioner of Financial Regulation.~~

~~(4) The notice of intent to foreclose shall:~~

~~(i) Be in the form that the Commissioner of Financial Regulation prescribes by regulation; [and]~~

~~(ii) Contain:~~

~~1. The name and telephone number of:~~

~~A. The secured party;~~

~~B. The mortgage servicer, if applicable; and~~

~~C. An agent of the secured party who is authorized to modify the terms of the mortgage loan;~~

~~2. The name and license number of the Maryland mortgage lender and mortgage originator, if applicable;~~

~~3. The amount required to cure the default and reinstate the loan, including all past due payments, penalties, and fees;~~

~~4. A statement recommending that the mortgagor or grantor seek housing counseling services;~~

~~5. The telephone number and the Internet address of nonprofit and government resources available to assist mortgagors and grantors facing foreclosure, as identified by the Commissioner of Financial Regulation;~~

~~6. An explanation of the Maryland foreclosure process and time line, as prescribed by the Commissioner of Financial Regulation; and~~

~~7. Any other information that the Commissioner of Financial Regulation requires by regulation; AND~~

~~(III) BE SIGNED BY AN AGENT OF THE SECURED PARTY, WHO SHALL AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THE NOTICE OF INTENT TO FORECLOSE ARE TRUE TO THE BEST OF THE AGENT'S KNOWLEDGE, INFORMATION, AND BELIEF.~~

~~(5) The notice of intent to foreclose shall be accompanied by:~~

~~(i) A loss mitigation application:~~

~~1. For loss mitigation programs that are applicable to the loan secured by the mortgage or deed of trust that is the subject of the foreclosure action; or~~

~~2. If the secured party does not have its own loss mitigation application, in the form prescribed by the Commissioner of Financial Regulation;~~

~~(ii) Instructions for completing the loss mitigation application and a telephone number to call to confirm receipt of the application;~~

~~(iii) A description of the eligibility requirements for the loss mitigation programs offered by the secured party that may be applicable to the loan secured by the mortgage or deed of trust that is the subject of the foreclosure action; and~~

~~(iv) An envelope preprinted with the address of the person responsible for conducting loss mitigation analysis on behalf of the secured party for the loan secured by the mortgage or deed of trust that is the subject of the foreclosure action.~~

(d) An order to docket or a complaint to foreclose a mortgage or deed of trust on residential property shall:

(1) Include:

(i) If applicable, the license number of:

1. The mortgage originator; and

2. The mortgage lender; and

(ii) An affidavit stating:

1. The date on which the default occurred and the nature of the default; and

2. If applicable, that [a]:

A. A notice of intent to foreclose was sent to the mortgagor or grantor in accordance with subsection (c) of this section and the date on which the notice was sent; and

B. AT THE TIME THE NOTICE OF INTENT TO FORECLOSE WAS SENT, THE CONTENTS OF THE NOTICE OF INTENT TO FORECLOSE WERE ACCURATE; AND

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 order to docket or complaint to foreclose on residential property filed before July 1, 2011.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2011.

**Approved by the Governor, April 12, 2011.**

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## Chapter 38

### (Senate Bill 217)

AN ACT concerning

### **Life Insurance and Annuities – Retained Asset Accounts – Beneficiaries’ Bill of Rights**

FOR the purpose of prohibiting an insurer from ~~using~~ offering a certain retained asset account as the mode of settlement of the proceeds payable under a life insurance policy or annuity contract unless the insurer ~~discloses the option of using a retained asset account to the beneficiary or the beneficiary’s legal representative at a certain time; requiring the insurer to inform the beneficiary of the right to receive a lump sum payment of certain proceeds in a certain form; requiring an insurer to ensure that a complete description and explanation, in a certain format, of all of the payment options for certain proceeds available to the beneficiary be made at a certain time under certain circumstances; requiring that certain information be included in the description and explanation of payment options for certain proceeds~~ makes a certain offer and complies with certain disclosure requirements; requiring an insurer to disclose in writing to a beneficiary all the settlement options available under a certain policy or contract under certain circumstances; requiring an insurer that offers to a beneficiary a retained asset account as a settlement option to provide to the beneficiary in writing certain information under certain circumstances; requiring the description and explanation certain information to be in a certain form; requiring insurers to report certain information about retained asset accounts to the Maryland Insurance Administration; requiring an insurer to immediately return any remaining balance in a retained asset account to the beneficiary if the account becomes inactive in a certain manner; providing that failure to meet certain requirements of this Act is an unfair trade practice and a violation of certain provisions of the Insurance Article; defining a certain term; providing for the applicability of this Act; and generally relating to retained asset accounts under life insurance and annuities.

BY adding to

Article – Insurance

Section 16–117

Annotated Code of Maryland

(2006 Replacement Volume and 2010 Supplement)

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

#### **Article – Insurance**

**16–117.**

(A) IN THIS SECTION, "RETAINED ASSET ACCOUNT" MEANS ANY MECHANISM WHEREBY THE SETTLEMENT OF PROCEEDS PAYABLE UNDER A LIFE INSURANCE POLICY OR AN ANNUITY CONTRACT, ~~INCLUDING THE PAYMENT OF CASH SURRENDER VALUE,~~ IS ACCOMPLISHED BY THE INSURER OR AN ENTITY ACTING ON BEHALF OF THE INSURER DEPOSITING THE PROCEEDS INTO AN A CHECKING OR DRAFT ACCOUNT, WHERE THOSE PROCEEDS ARE RETAINED BY THE INSURER IN ACCORDANCE WITH A SUPPLEMENTARY CONTRACT.

(B) ~~(1) AN INSURER MAY NOT USE OFFER A RETAINED ASSET ACCOUNT AS THE MODE OF SETTLEMENT OF THE PROCEEDS PAYABLE UNDER A LIFE INSURANCE POLICY OR AN ANNUITY CONTRACT UNLESS, BEFORE THE TRANSFER OF THE DEATH BENEFIT TO THE RETAINED ASSET ACCOUNT, THE INSURER DISCLOSES THE OPTION OF USING A RETAINED ASSET ACCOUNT TO THE BENEFICIARY OR THE BENEFICIARY'S LEGAL REPRESENTATIVE.~~

~~(2) THE INSURER SHALL INFORM THE BENEFICIARY OF THE RIGHT TO RECEIVE A LUMP-SUM PAYMENT OF THE PROCEEDS OF THE LIFE INSURANCE POLICY OR ANNUITY CONTRACT IN THE FORM OF A BANK CHECK.~~

~~(C) (1) THE INSURER SHALL ENSURE THAT A COMPLETE DESCRIPTION AND EXPLANATION, IN WRITTEN OR ELECTRONIC FORMAT, OF ALL OF THE PAYMENT OPTIONS FOR THE PROCEEDS OF A LIFE INSURANCE POLICY OR ANNUITY CONTRACT AVAILABLE TO THE BENEFICIARY PRECEDES OR ACCOMPANIES THE TENDER OF OTHER THAN A LUMP-SUM PAYMENT OF THE DEATH BENEFIT UNDER THE LIFE INSURANCE POLICY OR ANNUITY CONTRACT.~~

~~(2) THE REQUIRED DESCRIPTION AND EXPLANATION SHALL INCLUDE THE FOLLOWING: THE INSURER:~~

(1) OFFERS THE BENEFICIARY AT LEAST ONE OTHER MODE OF SETTLEMENT OF PROCEEDS; AND

(2) COMPLIES WITH THE PROVISIONS OF SUBSECTIONS (C) AND (D) OF THIS SECTION.

(C) EXCEPT AS PROVIDED IN SUBSECTION (E) OF THIS SECTION, WHEN A BENEFICIARY FILES A CLAIM FOR PROCEEDS, IF ONE OF THE SETTLEMENT OPTIONS IS A RETAINED ASSET ACCOUNT, THE INSURER SHALL DISCLOSE IN WRITING TO THE BENEFICIARY ALL THE SETTLEMENT OPTIONS AVAILABLE UNDER THE POLICY OR CONTRACT.

(D) (1) EXCEPT AS PROVIDED IN SUBSECTION (E) OF THIS SECTION, IF AN INSURER OFFERS TO A BENEFICIARY A RETAINED ASSET ACCOUNT AS A

SETTLEMENT OPTION, THE INSURER SHALL PROVIDE TO THE BENEFICIARY IN WRITING:

(I) ~~THE~~ A RECOMMENDATION TO CONSULT A TAX ADVISOR, AN INVESTMENT ADVISOR, OR ANY OTHER FINANCIAL ADVISOR REGARDING TAX LIABILITY AND INVESTMENT OPTIONS;

(II) AN EXPLANATION OF THE FEATURES OF THE RETAINED ASSET ACCOUNT, INCLUDING:

~~(H)~~ 1. THE INITIAL INTEREST RATE METHOD USED TO DETERMINE INTEREST RATES APPLIED TO THE RETAINED ASSET ACCOUNT, WHEN AND HOW INTEREST RATES MAY CHANGE, AND ANY DIVIDENDS AND OTHER GAINS THAT MAY BE PAID OR DISTRIBUTED TO THE ACCOUNT HOLDER;

~~(HH)~~ 2. THE CUSTODIAN OF THE FUNDS OR ASSETS OF THE RETAINED ASSET ACCOUNT;

~~(IV)~~ 3. WHETHER THE COVERAGE FUNDS IN THE RETAINED ASSET ACCOUNT ARE GUARANTEED BY THE FEDERAL DEPOSIT INSURANCE CORPORATION (FDIC) AND THE AMOUNT OF THE COVERAGE, IF ANY;

~~(V)~~ 4. THE LIMITATIONS, IF ANY, ON THE NUMBERS AND AMOUNTS OF WITHDRAWALS OF FUNDS FROM THE RETAINED ASSET ACCOUNT OR INVESTMENT, INCLUDING ANY MINIMUM OR MAXIMUM BENEFIT PAYMENT WITHDRAWAL AMOUNTS;

~~(VI)~~ THE DELAYS, IF ANY, THAT THE ACCOUNT HOLDER MAY ENCOUNTER IN COMPLETING AUTHORIZED TRANSACTIONS AND THE ANTICIPATED DURATION OF THE DELAYS;

~~(VII)~~ 5. THE SERVICES PROVIDED FOR A FEE, INCLUDING A LIST OF THE FEES OR THE METHOD OF THEIR CALCULATION;

~~(VIII)~~ 6. THE NATURE AND FREQUENCY OF STATEMENTS OF ACCOUNT;

~~(IX)~~ 7. A STATEMENT THAT THE PAYMENT OF SOME OR ALL OF THE PROCEEDS OF THE DEATH BENEFIT MAY BE BY THE DELIVERY OF CHECKS, DRAFTS, OR OTHER INSTRUMENTS TO ACCESS THE AVAILABLE FUNDS OBLIGATION OF THE INSURER TO PAY THE TOTAL POLICY OR CONTRACT PROCEEDS IS SATISFIED BY DEPOSITING THE TOTAL PROCEEDS IN THE RETAINED ASSET ACCOUNT;



~~(x)~~ 8. A STATEMENT THAT THE ENTIRE PROCEEDS ARE AVAILABLE TO THE ACCOUNT HOLDER BY THE USE OF ONE CHECK, DRAFT, OR OTHER INSTRUMENT;

~~(xi)~~ 9. A STATEMENT THAT THE INSURER OR A RELATED PARTY MAY DERIVE INCOME, IN ADDITION TO ANY FEES CHARGED ON THE RETAINED ASSET ACCOUNT, FROM THE TOTAL GAINS RECEIVED ON THE INVESTMENT OF THE BALANCE OF FUNDS IN THE RETAINED ASSET ACCOUNT; AND

~~(xii)~~ 10. THE TELEPHONE NUMBER, ADDRESS, AND OTHER CONTACT INFORMATION, INCLUDING WEB SITE ADDRESS, FOR OBTAINING ADDITIONAL INFORMATION REGARDING THE RETAINED ASSET ACCOUNT; AND

~~(xiii) THE STATEMENT "FOR FURTHER INFORMATION, PLEASE CONTACT THE MARYLAND INSURANCE ADMINISTRATION".~~

(iii) THE STATEMENT "FOR FURTHER INFORMATION, PLEASE CONTACT YOUR STATE INSURANCE DEPARTMENT".

~~(3) (2) THE REQUIRED DESCRIPTION AND EXPLANATION INFORMATION REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE ~~IN~~ IN EASY TO READ LANGUAGE.~~

~~(i) EASY TO UNDERSTAND LANGUAGE; AND~~

~~(ii) BOLD OR AT LEAST 12 POINT TYPE.~~

~~(d) INSURERS SHALL REPORT, ON AN ANNUAL BASIS, THE FOLLOWING INFORMATION TO THE ADMINISTRATION:~~

~~(1) THE NUMBER AND DOLLAR BALANCE OF RETAINED ASSET ACCOUNTS IN FORCE AT THE BEGINNING OF THE YEAR;~~

~~(2) THE NUMBER AND DOLLAR AMOUNT OF RETAINED ASSET ACCOUNTS ISSUED OR ADDED DURING THE YEAR;~~

~~(3) THE NUMBER AND DOLLAR AMOUNT OF RETAINED ASSET ACCOUNTS CLOSED OUT OR WITHDRAWN DURING THE YEAR;~~

~~(4) THE NUMBER AND DOLLAR BALANCE OF RETAINED ASSET ACCOUNTS IN FORCE AT THE END OF THE YEAR;~~

~~(5) THE INVESTMENT EARNINGS CREDITED TO RETAINED ASSET ACCOUNTS;~~

~~(6) FEES AND OTHER CHARGES ASSESSED DURING THE YEAR;~~

~~(7) A DESCRIPTION OF THE INTEREST RATES PAID ON RETAINED ASSET ACCOUNTS AND THE METHODOLOGY AND FACTORS USED TO DETERMINE THE INTEREST RATES PAID TO BENEFICIARIES WITH RETAINED ASSET ACCOUNTS;~~

~~(8) THE TOTAL NUMBER AND VALUE OF RETAINED ASSET ACCOUNTS THAT HAVE BEEN IN EXISTENCE FOR 1 YEAR, 3 YEARS, AND 5 YEARS;~~

~~(9) THE IDENTITY OF ANY FINANCIAL INSTITUTION OR OTHER ENTITY THAT ADMINISTERS RETAINED ASSET ACCOUNTS ON THE INSURER'S BEHALF;~~

~~(10) THE NUMBER AND AMOUNTS OF RETAINED ASSET ACCOUNTS THAT ARE TRANSFERRED ANNUALLY TO STATE UNCLAIMED PROPERTY FUNDS UNDER ABANDONED PROPERTY LAWS; AND~~

~~(11) ANY OTHER INFORMATION RELATING TO RETAINED ASSET ACCOUNTS AS REQUIRED BY THE ADMINISTRATION.~~

~~(E) (1) AN INSURER SHALL RETURN IMMEDIATELY ANY REMAINING BALANCE HELD IN A RETAINED ASSET ACCOUNT TO THE BENEFICIARY WHEN THE RETAINED ASSET ACCOUNT BECOMES INACTIVE.~~

~~(2) A RETAINED ASSET ACCOUNT BECOMES INACTIVE FOR PURPOSES OF THIS SUBSECTION IF NO FUNDS ARE WITHDRAWN FROM THE RETAINED ASSET ACCOUNT, AND NO AFFIRMATIVE DIRECTIVE HAS BEEN PROVIDED TO THE INSURER BY THE BENEFICIARY, DURING ANY CONTINUOUS 4 YEAR PERIOD.~~

(E) AN INSURER IS NOT REQUIRED TO PROVIDE THE DISCLOSURES OR INFORMATION SPECIFIED IN SUBSECTIONS (C) AND (D) OF THIS SECTION IF:

(1) THE INSURER PERMITS THE BENEFICIARY TO FILE THE CLAIM OVER THE TELEPHONE;

(2) THE INSURER DOES NOT REQUIRE THE BENEFICIARY TO FILE A DEATH CERTIFICATE OR OTHER PAPERWORK TO FILE THE CLAIM FOR PROCEEDS; AND

**(3) THE BENEFICIARY SELECTS PAYMENT OF A LUMP SUM CHECK, PAYABLE DIRECTLY TO THE BENEFICIARY, AS THE SETTLEMENT OPTION DURING THE TELEPHONE CALL IN WHICH THE BENEFICIARY FILES THE CLAIM FOR PROCEEDS.**

**(F) FAILURE TO MEET ANY REQUIREMENT OF THIS SECTION IS AN UNFAIR TRADE PRACTICE AND A VIOLATION OF TITLE 27 OF THIS ARTICLE.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act applies to claims for death benefits under individual or group policies of life insurance or individual or group annuity contracts issued, delivered, or renewed in the State on or after October 1, 2011.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

**Approved by the Governor, April 12, 2011.**

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## Chapter 39

**(Senate Bill 218)**

AN ACT concerning

**Public Safety – Law Enforcement Officers’ Bill of Rights – Internal Investigation Unit**

FOR the purpose of including the Internal Investigation Unit of the Department of Public Safety and Correctional Services in the definition of law enforcement officer covered by the Law Enforcement Officers’ Bill of Rights.

BY repealing and reenacting, with amendments,

Article – Public Safety

Section 3–101(e)

Annotated Code of Maryland

(2003 Volume and 2010 Supplement)

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

**Article – Public Safety**

3–101.

- (e) (1) “Law enforcement officer” means an individual who:
- and
- (i) in an official capacity is authorized by law to make arrests;
- agencies:
- (ii) is a member of one of the following law enforcement agencies:
1. the Department of State Police;
  2. the Police Department of Baltimore City;
  3. the Baltimore City School Police Force;
  4. the Baltimore City Watershed Police Force;
  5. the police department, bureau, or force of a county;
  6. the police department, bureau, or force of a municipal corporation;
  7. the office of the sheriff of a county;
  8. the police department, bureau, or force of a bicounty agency;
  9. the Maryland Transportation Authority Police;
  10. the police forces of the Department of Transportation;
  11. the police forces of the Department of Natural Resources;
  12. the Field Enforcement Bureau of the Comptroller’s Office;
  13. the Housing Authority of Baltimore City Police Force;
  14. the Crofton Police Department;
  15. the police force of the Department of Health and Mental Hygiene;
  16. the police force of the Department of General Services;

and Regulation;

Maryland;

College; [or]

College; **OR**

17. the police force of the Department of Labor, Licensing,

18. the police forces of the University System of

19. the police force of Morgan State University;

20. the office of State Fire Marshal;

21. the Ocean Pines Police Department;

22. the police force of the Baltimore City Community

23. the police force of the Hagerstown Community

**24. THE INTERNAL INVESTIGATION UNIT OF THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES.**

(2) "Law enforcement officer" does not include:

(i) an individual who serves at the pleasure of the Police Commissioner of Baltimore City;

(ii) an individual who serves at the pleasure of the appointing authority of a charter county;

(iii) the police chief of a municipal corporation;

(iv) an officer who is in probationary status on initial entry into the law enforcement agency except if an allegation of brutality in the execution of the officer's duties is made;

(v) a Montgomery County fire and explosive investigator as defined in § 2-208.1 of the Criminal Procedure Article;

(vi) an Anne Arundel County or City of Annapolis fire and explosive investigator as defined in § 2-208.2 of the Criminal Procedure Article;

(vii) a Prince George's County fire and explosive investigator as defined in § 2-208.3 of the Criminal Procedure Article;

(viii) a Worcester County fire and explosive investigator as defined in § 2-208.4 of the Criminal Procedure Article; or

(ix) a City of Hagerstown fire and explosive investigator as defined in § 2–208.5 of the Criminal Procedure Article.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

**Approved by the Governor, April 12, 2011.**

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## Chapter 40

### (Senate Bill 226)

AN ACT concerning

#### **Bicycle and Pedestrian Advisory Committee – Meetings**

FOR the purpose of altering a certain provision of law relating to the location and frequency of meetings of the Bicycle and Pedestrian Advisory Committee; and generally relating to meetings of the Bicycle and Pedestrian Advisory Committee.

BY repealing and reenacting, with amendments,  
Article – Transportation  
Section 2–606  
Annotated Code of Maryland  
(2008 Replacement Volume and 2010 Supplement)

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

#### **Article – Transportation**

2–606.

(a) The Governor shall appoint a Bicycle and Pedestrian Advisory Committee to provide guidance to State agencies concerning:

- (1) Funding of bicycle and pedestrian related programs;
  - (2) Public education and awareness of bicycling and pedestrian related activities;
  - (3) Public education and awareness of bicycling and pedestrian safety;
- and

- (4) Any other issue directly related to bicycling and pedestrians.
- (b) The Committee shall consist of the following:
- (1) One representative each from:
    - (i) The Department of Transportation;
    - (ii) The Department of Natural Resources;
    - (iii) The State Department of Education;
    - (iv) The Department of State Police;
    - (v) The Department of Business and Economic Development;
    - (vi) The Department of Health and Mental Hygiene;
    - (vii) The Department of Planning;
    - (viii) The Department of Disabilities; and
    - (ix) The Maryland–National Capital Park and Planning Commission;
  - (2) One citizen member from each of the following areas:
    - (i) The Eastern Shore;
    - (ii) Western Maryland; and
    - (iii) Southern Maryland;
  - (3) Two citizen members from each of the following areas:
    - (i) The Baltimore metropolitan area; and
    - (ii) The Washington metropolitan area; and
  - (4) Up to six citizen members selected to represent the interests of bicyclists, pedestrians, and the disabled community to include:
    - (i) A representative of individuals who are visually impaired;
    - (ii) A representative of individuals who are mobility impaired.
- and

(c) One of the citizen members selected under subsection (b) of this section shall have an expertise in bicycle and pedestrian safety.

(d) The total membership of the Committee may not exceed 22 members.

(e) The Governor shall select a chairman from among the citizen members.

(f) (1) The term of a member is 4 years.

(2) The terms of members are staggered as required by the terms provided for members of the Committee on October 1, 2001.

(3) At the end of a term, a member continues to serve until a successor is appointed and qualifies.

(4) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies.

(g) The Committee may adopt procedures necessary to ensure the orderly transaction of business.

(h) The Committee shall [meet at least quarterly with at least one meeting held in Annapolis] **HOLD REGULAR MEETINGS AS IT DEEMS APPROPRIATE.**

(i) A member of the Committee may not receive compensation but shall be reimbursed for expenses under the Standard State Travel Regulations, as provided for in the State budget.

(j) The Department shall provide staff, administrative support, and operating expenses for the Committee as provided in the State budget.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

**Approved by the Governor, April 12, 2011.**

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## Chapter 41

**(Senate Bill 255)**

AN ACT concerning

**Life Insurance – Definition and Permitted Riders and Provisions**



FOR the purpose of expanding the definition of “life insurance” to include certain benefits; authorizing a policy of life insurance to include a certain rider or supplemental policy provision; requiring the Maryland Insurance Administration to conduct a certain analysis and make a certain determination; requiring the Administration to report on certain findings to certain committees of the General Assembly on or before a certain date; and generally relating to life insurance.

BY repealing and reenacting, with amendments,  
Article – Insurance  
Section 1–101(x)  
Annotated Code of Maryland  
(2003 Replacement Volume and 2010 Supplement)

BY adding to  
Article – Insurance  
Section 16–218  
Annotated Code of Maryland  
(2006 Replacement Volume and 2010 Supplement)

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

### **Article – Insurance**

1–101.

(x) (1) “Life insurance” means insurance for which the probabilities of the duration of human life or the rate of mortality are an element or condition of the insurance.

(2) “Life insurance” includes the granting of:

- (i) endowment benefits;
- (ii) additional benefits in the event of death by accident or accidental means;
- (iii) additional disability benefits in the event of dismemberment or loss of sight;
- (iv) additional disability benefits that operate to safeguard the contract from lapse or to provide a special surrender value, special benefit, or annuity in the event of total and permanent disability;

(v) benefits that provide payment or reimbursement for long-term home health care, or long-term care in a nursing home or other related institution;

(vi) burial insurance; [and]

(vii) optional modes of settlement of proceeds of life insurance;

**(VIII) ADDITIONAL BENEFITS FOR A SECOND OPINION FOR SPECIFIED HEALTH CONDITIONS; AND**

**(IX) ADDITIONAL BENEFITS THAT PROVIDE A LUMP-SUM BENEFIT FOR A SPECIFIED DISEASE AND THAT MEET THE REQUIREMENTS ESTABLISHED BY THE COMMISSIONER UNDER § 15-109 OF THIS ARTICLE.**

(3) “Life insurance” does not include workers’ compensation insurance.

**16-218.**

**A POLICY OF LIFE INSURANCE MAY INCLUDE A RIDER OR SUPPLEMENTAL POLICY PROVISION THAT OPERATES TO SAFEGUARD THE CONTRACT FROM LAPSE IN THE EVENT OF INVOLUNTARY UNEMPLOYMENT.**

SECTION 2. AND BE IT FURTHER ENACTED, That the Maryland Insurance Administration shall:

(1) in consultation with the life insurance industry, conduct an analysis of the appropriate scope of health insurance products that may be sold in conjunction with a life insurance policy in light of the expansion of the definition of “life insurance” under Section 1 of this Act and determine any necessary legislative changes; and

(2) on or before December 1, 2011, report on its findings under this section to the Senate Finance Committee and the House Health and Government Operations Committee in accordance with § 2-1246 of the State Government Article.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

**Approved by the Governor, April 12, 2011.**

AN ACT concerning

**Life Insurance – Definition and Permitted Riders and Provisions**

FOR the purpose of expanding the definition of “life insurance” to include certain benefits; authorizing a policy of life insurance to include a certain rider or supplemental policy provision; requiring the Maryland Insurance Administration to conduct a certain analysis and make a certain determination; requiring the Administration to report on certain findings to certain committees of the General Assembly on or before a certain date; and generally relating to life insurance.

BY repealing and reenacting, with amendments,  
Article – Insurance  
Section 1–101(x)  
Annotated Code of Maryland  
(2003 Replacement Volume and 2010 Supplement)

BY adding to  
Article – Insurance  
Section 16–218  
Annotated Code of Maryland  
(2006 Replacement Volume and 2010 Supplement)

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

**Article – Insurance**

1–101.

(x) (1) “Life insurance” means insurance for which the probabilities of the duration of human life or the rate of mortality are an element or condition of the insurance.

(2) “Life insurance” includes the granting of:

- (i) endowment benefits;
- (ii) additional benefits in the event of death by accident or accidental means;
- (iii) additional disability benefits in the event of dismemberment or loss of sight;

(iv) additional disability benefits that operate to safeguard the contract from lapse or to provide a special surrender value, special benefit, or annuity in the event of total and permanent disability;

(v) benefits that provide payment or reimbursement for long-term home health care, or long-term care in a nursing home or other related institution;

(vi) burial insurance; [and]

(vii) optional modes of settlement of proceeds of life insurance;

**(VIII) ADDITIONAL BENEFITS FOR A SECOND OPINION FOR SPECIFIED HEALTH CONDITIONS; AND**

**(IX) ADDITIONAL BENEFITS THAT PROVIDE A LUMP-SUM BENEFIT FOR A SPECIFIED DISEASE AND THAT MEET THE REQUIREMENTS ESTABLISHED BY THE COMMISSIONER UNDER § 15-109 OF THIS ARTICLE.**

(3) “Life insurance” does not include workers’ compensation insurance.

**16-218.**

**A POLICY OF LIFE INSURANCE MAY INCLUDE A RIDER OR SUPPLEMENTAL POLICY PROVISION THAT OPERATES TO SAFEGUARD THE CONTRACT FROM LAPSE IN THE EVENT OF INVOLUNTARY UNEMPLOYMENT.**

SECTION 2. AND BE IT FURTHER ENACTED, That the Maryland Insurance Administration shall:

(1) in consultation with the life insurance industry, conduct an analysis of the appropriate scope of health insurance products that may be sold in conjunction with a life insurance policy in light of the expansion of the definition of “life insurance” under Section 1 of this Act and determine any necessary legislative changes; and

(2) on or before December 1, 2011, report on its findings under this section to the Senate Finance Committee and the House Health and Government Operations Committee in accordance with § 2-1246 of the State Government Article.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

**Approved by the Governor, April 12, 2011.**

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**Chapter 43****(Senate Bill 256)**

AN ACT concerning

**Business Regulation – Definition of Home Builder**

FOR the purpose of altering the definition of “home builder” to include a person who enters into a contract with a consumer under which the person agrees to provide the consumer with a new home; excluding from the definition of “home builder” a real estate developer who does not enter into contracts with consumers to provide or construct homes; excluding from the definition of “home builder” a buyer’s agent representing a prospective buyer in the purchase of a new home; and generally relating to the definition of home builder for the purpose of home builder registration.

BY repealing and reenacting, with amendments,  
Article – Business Regulation  
Section 4.5–101(g)  
Annotated Code of Maryland  
(2010 Replacement Volume and 2010 Supplement)

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

**Article – Business Regulation**

4.5–101.

(g) (1) “Home builder” means a person that undertakes to erect or otherwise construct a new home.

(2) “Home builder” includes:

(i) a custom home builder as defined in § 10–501 of the Real Property Article;

(ii) a new home builder subject to § 10–301 of the Real Property Article; [and]

(iii) the installer or retailer of a mobile home or an industrialized building intended for residential use; AND

**(IV) A PERSON ~~WHO~~ THAT ENTERS INTO A CONTRACT WITH A CONSUMER UNDER WHICH THE PERSON AGREES TO PROVIDE THE CONSUMER WITH A NEW HOME.**

(3) “Home builder” does not include:

(i) an employee of a registrant who does not hold himself or herself out for hire in home building except as an employee of a registrant;

(ii) subcontractors or other vendors hired by the registrant to perform services or supply materials for the construction of a new home who do not otherwise meet the requirements of this title;

(iii) the manufacturer of industrialized buildings intended for residential use or of mobile homes, unless the manufacturer also installs the industrialized buildings or mobile homes;

(iv) a real estate developer who does not construct, **OR ENTER INTO CONTRACTS WITH CONSUMERS TO PROVIDE OR CONSTRUCT**, homes;

(v) a financial institution that lends funds for the construction or purchase of residential dwellings in the State; [or]

(vi) except as otherwise provided in this title, a person who erects or constructs new homes solely in Montgomery County; **OR**

**(VII) A BUYER’S AGENT, AS DEFINED IN § 17–530 OF THE BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE, WHEN REPRESENTING A PROSPECTIVE BUYER IN THE PURCHASE OF A NEW HOME.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

**Approved by the Governor, April 12, 2011.**

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## Chapter 44

**(House Bill 1041)**

AN ACT concerning

**Business Regulation – Definition of Home Builder**

FOR the purpose of altering the definition of “home builder” to include a person who enters into a contract with a consumer under which the person agrees to provide the consumer with a new home; excluding from the definition of “home builder” a real estate developer who does not enter into contracts with consumers to provide or construct homes; excluding from the definition of “home builder” a buyer’s agent representing a prospective buyer in the purchase of a new home; and generally relating to the definition of home builder for the purpose of home builder registration.

BY repealing and reenacting, with amendments,  
 Article – Business Regulation  
 Section 4.5–101(g)  
 Annotated Code of Maryland  
 (2010 Replacement Volume and 2010 Supplement)

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

**Article – Business Regulation**

4.5–101.

(g) (1) “Home builder” means a person that undertakes to erect or otherwise construct a new home.

(2) “Home builder” includes:

(i) a custom home builder as defined in § 10–501 of the Real Property Article;

(ii) a new home builder subject to § 10–301 of the Real Property Article; [and]

(iii) the installer or retailer of a mobile home or an industrialized building intended for residential use; AND

**(IV) A PERSON THAT ENTERS INTO A CONTRACT WITH A CONSUMER UNDER WHICH THE PERSON AGREES TO PROVIDE THE CONSUMER WITH A NEW HOME.**

(3) “Home builder” does not include:

(i) an employee of a registrant who does not hold himself or herself out for hire in home building except as an employee of a registrant;

(ii) subcontractors or other vendors hired by the registrant to perform services or supply materials for the construction of a new home who do not otherwise meet the requirements of this title;

(iii) the manufacturer of industrialized buildings intended for residential use or of mobile homes, unless the manufacturer also installs the industrialized buildings or mobile homes;

(iv) a real estate developer who does not construct, **OR ENTER INTO CONTRACTS WITH CONSUMERS TO PROVIDE OR CONSTRUCT**, homes;

(v) a financial institution that lends funds for the construction or purchase of residential dwellings in the State; [or]

(vi) except as otherwise provided in this title, a person who erects or constructs new homes solely in Montgomery County; **OR**

**(VII) A BUYER'S AGENT, AS DEFINED IN § 17-530 OF THE BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE, WHEN REPRESENTING A PROSPECTIVE BUYER IN THE PURCHASE OF A NEW HOME.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

**Approved by the Governor, April 12, 2011.**

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## Chapter 45

### (Senate Bill 269)

AN ACT concerning

#### **Workers' Compensation – Jurisdiction Pending Appeal – Proposed Settlement**

FOR the purpose of expanding the circumstances under which the Workers' Compensation Commission retains jurisdiction pending an appeal of a Commission order to include a request for approval of a proposed settlement of all or part of a claim; and generally relating to the jurisdiction of the Commission pending an appeal of a workers' compensation order.

BY repealing and reenacting, with amendments,  
Article – Labor and Employment  
Section 9-742



Annotated Code of Maryland  
(2008 Replacement Volume and 2010 Supplement)

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

**Article – Labor and Employment**

9–742.

(a) The Commission retains jurisdiction pending an appeal to consider:

(1) a request for additional medical treatment and attention; [and]

(2) a request for temporary total disability benefits, provided that the covered employee's temporary total disability benefits were granted in the order on appeal, and were terminated by the insurer or self-insurer pending adjudication or resolution of the appeal; AND

**(3) A REQUEST FOR APPROVAL OF A PROPOSED SETTLEMENT OF ALL OR PART OF A CLAIM.**

(b) (1) If the Commission finds that a covered employee needs additional medical attention pending an appeal, the Commission may pass a supplemental order requiring the employer to provide additional medical treatment and attention.

(2) If the Commission finds that a covered employee's temporary total disability benefits were terminated pending adjudication or resolution of the appeal, and that the employee was temporarily totally disabled at the time of termination, the Commission may pass a supplemental order requiring the employer to provide the employee with temporary total disability benefits.

(3) If the Commission's decision to reinstate temporary total disability benefits is reversed or modified on appeal, the insurer or self-insurer shall be entitled to an offset or credit for overpayment of the temporary total disability benefits granted in the supplemental order.

(c) A supplemental order passed by the Commission under this section is subject to review on the pending appeal.

(d) When an appeal that is pending relates solely to a penalty imposed by the Commission, the Commission retains jurisdiction over all matters in the case other than imposition of the penalty.

(e) This section may not be construed to prevent the Commission from ordering an offset or credit against an award for temporary total or permanent partial

disability benefits for any temporary total disability benefits previously paid to a covered employee, as authorized under any other provision of this title.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

**Approved by the Governor, April 12, 2011.**

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## **Chapter 46**

### **(House Bill 453)**

AN ACT concerning

#### **Workers' Compensation – Jurisdiction Pending Appeal – Proposed Settlement**

FOR the purpose of expanding the circumstances under which the Workers' Compensation Commission retains jurisdiction pending an appeal of a Commission order to include a request for approval of a proposed settlement of all or part of a claim; and generally relating to the jurisdiction of the Commission pending an appeal of a workers' compensation order.

BY repealing and reenacting, with amendments,  
Article – Labor and Employment  
Section 9–742  
Annotated Code of Maryland  
(2008 Replacement Volume and 2010 Supplement)

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

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

9–742.

(a) The Commission retains jurisdiction pending an appeal to consider:

(1) a request for additional medical treatment and attention; [and]

(2) a request for temporary total disability benefits, provided that the covered employee's temporary total disability benefits were granted in the order on appeal, and were terminated by the insurer or self-insurer pending adjudication or resolution of the appeal; **AND**

**(3) A REQUEST FOR APPROVAL OF A PROPOSED SETTLEMENT OF ALL OR PART OF A CLAIM.**

(b) (1) If the Commission finds that a covered employee needs additional medical attention pending an appeal, the Commission may pass a supplemental order requiring the employer to provide additional medical treatment and attention.

(2) If the Commission finds that a covered employee's temporary total disability benefits were terminated pending adjudication or resolution of the appeal, and that the employee was temporarily totally disabled at the time of termination, the Commission may pass a supplemental order requiring the employer to provide the employee with temporary total disability benefits.

(3) If the Commission's decision to reinstate temporary total disability benefits is reversed or modified on appeal, the insurer or self-insurer shall be entitled to an offset or credit for overpayment of the temporary total disability benefits granted in the supplemental order.

(c) A supplemental order passed by the Commission under this section is subject to review on the pending appeal.

(d) When an appeal that is pending relates solely to a penalty imposed by the Commission, the Commission retains jurisdiction over all matters in the case other than imposition of the penalty.

(e) This section may not be construed to prevent the Commission from ordering an offset or credit against an award for temporary total or permanent partial disability benefits for any temporary total disability benefits previously paid to a covered employee, as authorized under any other provision of this title.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

**Approved by the Governor, April 12, 2011.**

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**Chapter 47**

**(Senate Bill 271)**

AN ACT concerning

**Public Utilities – Net Energy Metering – Hydroelectric**

FOR the purpose of including in the definition of eligible customer-generators that are eligible for net energy metering a customer that uses a certain type of

hydroelectric generating facility; defining a certain term; and generally relating to net energy metering.

BY repealing and reenacting, with amendments,

Article – Public Utilities

Section 7–306(a)

Annotated Code of Maryland  
(2010 Replacement Volume)

BY repealing and reenacting, without amendments,

Article – Public Utilities

Section 7–306(b)

Annotated Code of Maryland  
(2010 Replacement Volume)

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

### Article – Public Utilities

7–306.

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

(2) “Biomass” means “qualified biomass” as defined in § 7–701 of this title.

(3) **“CLOSED CONDUIT HYDRO” MEANS A HYDROELECTRIC GENERATING FACILITY THAT:**

**(I) GENERATES ELECTRICITY WITHIN EXISTING PIPING OR LIMITED ADJACENT PIPING OF A POTABLE WATER SUPPLY SYSTEM;**

**(II) IS OWNED OR OPERATED BY A MUNICIPALITY MUNICIPAL CORPORATION OR PUBLIC WATER AUTHORITY; AND**

**(III) IS DESIGNED TO PRODUCE LESS ENERGY THAN IS CONSUMED TO OPERATE THE WATER SUPPLY SYSTEM.**

(4) “Eligible customer-generator” means a customer that owns and operates, leases and operates, or contracts with a third party that owns and operates a biomass, micro combined heat and power, solar, fuel cell, [or] wind, **OR CLOSED CONDUIT HYDRO** electric generating facility that:

(i) is located on the customer’s premises or contiguous property;

(ii) is interconnected and operated in parallel with an electric company's transmission and distribution facilities; and

(iii) is intended primarily to offset all or part of the customer's own electricity requirements.

**[(4)] (5)** "Fuel cell" means an electric generating facility that:

(i) includes integrated power plant systems containing a stack, tubular array, or other functionally similar configuration used to electrochemically convert fuel to electric energy; and

(ii) may include:

1. an inverter and fuel processing system; and
2. other plant equipment to support the plant's operation or its energy conversion, including heat recovery equipment.

**[(5)] (6)** "Generation credit" means a credit associated with the generation of electricity produced in excess of the electricity consumed by an eligible customer-generator in one billing period.

**[(6)] (7)** "Micro combined heat and power" means the simultaneous or sequential production of useful thermal energy and electrical or mechanical power not exceeding 30 kilowatts.

**[(7)] (8)** "Net energy metering" means measurement of the difference between the electricity that is supplied by an electric company and the electricity that is generated by an eligible customer-generator and fed back to the electric grid over the eligible customer-generator's billing period.

(b) The General Assembly finds and declares that a program to provide net energy metering for eligible customer-generators is a means to encourage private investment in renewable energy resources, stimulate in-State economic growth, enhance continued diversification of the State's energy resource mix, and reduce costs of interconnection and administration.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

**Approved by the Governor, April 12, 2011.**

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**Chapter 48****(Senate Bill 278)**

AN ACT concerning

**Juvenile Law – Truancy Reduction Pilot Program – Talbot County**

FOR the purpose of authorizing the Circuit Administrative Judge of the Second Circuit to establish a Truancy Reduction Pilot Program in the juvenile court in Talbot County; making certain provisions relating to Truancy Reduction Pilot Programs in certain counties applicable to Talbot County; and generally relating to Truancy Reduction Pilot Programs.

BY repealing and reenacting, without amendments,  
Article – Courts and Judicial Proceedings  
Section 3–8C–01  
Annotated Code of Maryland  
(2006 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,  
Article – Courts and Judicial Proceedings  
Section 3–8C–02  
Annotated Code of Maryland  
(2006 Replacement Volume and 2010 Supplement)

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

**Article – Courts and Judicial Proceedings**

3–8C–01.

This subtitle applies only:

(1) In a county in which the circuit administrative judge has established a Truancy Reduction Pilot Program under § 3–8C–02 of this subtitle; and

(2) To the extent that funds are provided in an annual State budget for a Truancy Reduction Pilot Program.

3–8C–02.

(a) (1) The Circuit Administrative Judge of the First Circuit may establish a Truancy Reduction Pilot Program in one or more of the juvenile courts in Dorchester County, Somerset County, Wicomico County, and Worcester County.

**(2) THE CIRCUIT ADMINISTRATIVE JUDGE OF THE SECOND CIRCUIT MAY ESTABLISH A TRUANCY REDUCTION PILOT PROGRAM IN THE JUVENILE COURT IN TALBOT COUNTY.**

**[(2)] (3)** The Circuit Administrative Judge of the Third Circuit may establish a Truancy Reduction Pilot Program in the juvenile court in Harford County.

**[(3)] (4)** The Circuit Administrative Judge of the Seventh Circuit may establish a Truancy Reduction Pilot Program in the juvenile court in Prince George's County.

(b) After consultation with the administrative judges of the first, **SECOND**, third, and seventh circuits, the Chief Judge of the Court of Appeals may accept a gift or grant to implement the pilot programs in each respective circuit.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2011.

**Approved by the Governor, April 12, 2011.**

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**Chapter 49**

**(House Bill 49)**

AN ACT concerning

**Juvenile Law – Truancy Reduction Pilot Program – Talbot County**

FOR the purpose of authorizing the Circuit Administrative Judge of the Second Circuit to establish a Truancy Reduction Pilot Program in the juvenile court in Talbot County; making certain provisions relating to Truancy Reduction Pilot Programs in certain counties applicable to Talbot County; and generally relating to Truancy Reduction Pilot Programs.

BY repealing and reenacting, without amendments,  
Article – Courts and Judicial Proceedings  
Section 3–8C–01  
Annotated Code of Maryland  
(2006 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,  
Article – Courts and Judicial Proceedings  
Section 3–8C–02  
Annotated Code of Maryland

(2006 Replacement Volume and 2010 Supplement)

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

**Article – Courts and Judicial Proceedings**

3–8C–01.

This subtitle applies only:

(1) In a county in which the circuit administrative judge has established a Truancy Reduction Pilot Program under § 3–8C–02 of this subtitle; and

(2) To the extent that funds are provided in an annual State budget for a Truancy Reduction Pilot Program.

3–8C–02.

(a) (1) The Circuit Administrative Judge of the First Circuit may establish a Truancy Reduction Pilot Program in one or more of the juvenile courts in Dorchester County, Somerset County, Wicomico County, and Worcester County.

**(2) THE CIRCUIT ADMINISTRATIVE JUDGE OF THE SECOND CIRCUIT MAY ESTABLISH A TRUANCY REDUCTION PILOT PROGRAM IN THE JUVENILE COURT IN TALBOT COUNTY.**

**[(2)] (3)** The Circuit Administrative Judge of the Third Circuit may establish a Truancy Reduction Pilot Program in the juvenile court in Harford County.

**[(3)] (4)** The Circuit Administrative Judge of the Seventh Circuit may establish a Truancy Reduction Pilot Program in the juvenile court in Prince George's County.

(b) After consultation with the administrative judges of the first, **SECOND**, third, and seventh circuits, the Chief Judge of the Court of Appeals may accept a gift or grant to implement the pilot programs in each respective circuit.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2011.

**Approved by the Governor, April 12, 2011.**

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**Chapter 50****(Senate Bill 283)**

AN ACT concerning

**State Board of Architects – Retired Status Licenses**

FOR the purpose of authorizing the State Board of Architects to issue a retired status license to a licensed architect under certain circumstances; prohibiting the holder of a retired status license from engaging in the practice of architecture; authorizing the holder of a retired status license to use a certain designation; authorizing the Board to reactivate a license to practice architecture for an individual who holds a retired status license under certain circumstances; and generally relating to the practice of architecture.

BY adding to

Article – Business Occupations and Professions  
Section 3–309.2  
Annotated Code of Maryland  
(2010 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****3–309.2.**

**(A) THE BOARD MAY ISSUE A RETIRED STATUS LICENSE TO AN INDIVIDUAL WHO:**

**(1) IS CURRENTLY LICENSED BY THE BOARD TO PRACTICE ARCHITECTURE;**

**(2) HAS BEEN A LICENSED ARCHITECT FOR AT LEAST 25 YEARS, OF WHICH 5 YEARS HAVE BEEN IN MARYLAND;**

**(3) IS NOT THE SUBJECT OF A PENDING DISCIPLINARY ACTION RELATED TO THE PRACTICE OF ARCHITECTURE IN THIS OR ANOTHER STATE;**

**(4) SUBMITS TO THE BOARD AN APPLICATION ON THE FORM PROVIDED BY THE BOARD; AND**

**(5) PAYS TO THE BOARD A FEE SET BY THE BOARD.**

**(B) THE HOLDER OF A RETIRED STATUS LICENSE ISSUED UNDER THIS SECTION:**

- (1) MAY USE THE DESIGNATION OF “ARCHITECT EMERITUS”; BUT**
- (2) MAY NOT ENGAGE IN THE PRACTICE OF ARCHITECTURE.**

**(C) THE BOARD MAY REACTIVATE THE LICENSE OF AN INDIVIDUAL WHO HOLDS A RETIRED STATUS LICENSE IF THAT INDIVIDUAL:**

**(1) SUBMITS TO THE BOARD AN APPLICATION FOR REACTIVATION ON THE FORM PROVIDED BY THE BOARD;**

**(2) MEETS ALL CONTINUING EDUCATION REQUIREMENTS, NOT EXCEEDING 24 CREDIT HOURS, THAT WOULD HAVE BEEN REQUIRED FOR RENEWAL OF A LICENSE UNDER § 3–309.1 OF THIS SUBTITLE IF THE INDIVIDUAL HAD NOT BEEN ISSUED A RETIRED STATUS LICENSE;**

**(3) IS NOT THE SUBJECT OF A PENDING DISCIPLINARY ACTION RELATED TO THE PRACTICE OF ARCHITECTURE IN THIS OR ANY OTHER STATE; AND**

**(4) PAYS TO THE BOARD A REACTIVATION FEE SET BY THE BOARD.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

**Approved by the Governor, April 12, 2011.**

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## **Chapter 51**

**(Senate Bill 284)**

AN ACT concerning

### **Education – High School Graduation Records – Collection, Maintenance, Analysis, and Reporting**

FOR the purpose of altering the Maryland high school graduation rate formula and ethnic and racial categories in the formula to be consistent with certain federal regulations and guidelines; defining a certain term; repealing a certain annual

reporting requirement; and generally relating to the collection, maintenance, analysis, and reporting of Maryland high school graduation records.

BY repealing and reenacting, with amendments,  
 Article – Education  
 Section 7–203.2  
 Annotated Code of Maryland  
 (2008 Replacement Volume and 2010 Supplement)

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

**Article – Education**

7–203.2.

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

(2) (i) [“Four–year cohort” means a group of students who enter ninth grade together.] **“FOUR–YEAR ADJUSTED COHORT” MEANS A GROUP OF STUDENTS WHO ARE ENTERING THE NINTH GRADE FOR THE FIRST TIME FROM A COHORT THAT IS SUBSEQUENTLY ADJUSTED BY ADDING ANY STUDENTS WHO TRANSFER INTO THE COHORT LATER DURING THE NINTH GRADE AND THE NEXT THREE YEARS AND SUBTRACTING ANY STUDENTS WHO TRANSFER OUT, EMIGRATE TO ANOTHER COUNTRY, OR DIE DURING THAT SAME PERIOD.**

(ii) “Four–year **ADJUSTED** cohort” also includes [a student who:

1. Transfers into the group:
  - A. During the ninth grade of the group’s first year in high school;
  - B. During the tenth grade of the group’s second year in high school;
  - C. During the eleventh grade of the group’s third year in high school; or
  - D. During the twelfth grade of the group’s fourth year in high school;
2. Is retained in grade; or
3. Is enrolled in a GED program.

(iii) “Four-year cohort” does not include a student who:

1. Dies before graduation;
2. Transfers out of the group; or
3. The county board confirms has permanently left the

United States.

(iv) Students] **STUDENTS** retained in grade [are] **AND** only counted once as members of their original cohort.

(3) “Graduation rate” means the percentage obtained from applying the graduation rate formula.

(4) (i) “Graduation rate formula” means the number of students who graduate on time with a Maryland high school diploma divided by the number of students in the four-year **ADJUSTED** cohort.

(ii) “Graduation rate formula” does not include students who graduate on time with a GED or other certificate not aligned with State standards.

(5) (i) “On time” means on or before the conclusion of a four-year **ADJUSTED** cohort’s fourth year of high school.

(ii) “On time” includes a senior summer session in a jurisdiction that offers senior summer sessions.

(6) (i) “Transfer out” means a student who the county board confirms, via written documentation, has enrolled in another high school or other educational program from which that student is expected to receive a Maryland high school diploma.

(ii) “Transfer out” does not include a student enrolled in:

1. A GED program; or
2. An alternative education program that does not issue or provide credits toward a Maryland high school diploma.

(b) The purpose of this section is to:

(1) Initiate a process by which the State may achieve the goal of collecting, maintaining, analyzing, and publicly reporting data relating to the graduation rates of students in public high schools as an essential step in addressing gaps in educational achievement among a diverse student population; and

(2) Explicitly delineate the duties and responsibilities of the Department and the county boards in this regard.

(c) (1) Beginning on or before September 1, 2011, and each year thereafter, a county board shall:

(i) Collect, maintain, and analyze graduation rates for public schools, local school systems, and the State; and

(ii) Report the information required under item (i) of this paragraph to[:

1. The public] **THE PUBLIC AND THE DEPARTMENT** in the aggregate and disaggregated by [American Indian, African American, Hispanic, White, Asian/Pacific Islander, students who are limited English proficient, students who receive free and reduced priced meals, and students who receive special education services; and

2. The Department]:

1. **HISPANIC OR LATINO OF ANY RACE;**

2. **FOR INDIVIDUALS WHO ARE NONHISPANIC OR NONLATINO ONLY:**

A. **AMERICAN INDIAN OR ALASKA NATIVE;**

B. **ASIAN;**

C. **BLACK OR AFRICAN AMERICAN;**

D. **NATIVE HAWAIIAN OR OTHER PACIFIC ISLANDER;**

E. **WHITE; OR**

F. **TWO OR MORE RACES;**

3. **STUDENTS WHO ARE LIMITED ENGLISH PROFICIENT;**

4. **STUDENTS WHO RECEIVE FREE AND REDUCED PRICED MEALS; AND**

**5. STUDENTS WHO RECEIVE SPECIAL EDUCATION SERVICES.**

(2) Beginning on or before October 1, 2011, and each year thereafter, the Department shall:

(i) Compile the information received under paragraph (1) of this subsection and calculate a graduation rate for the State; and

(ii) Post the information obtained under this subsection for each county on its website in the aggregate and disaggregated by [American Indian, African American, Hispanic, White, Asian/Pacific Islander, students who are limited English proficient, students who receive free and reduced priced meals, and students who receive special education services]:

1. HISPANIC OR LATINO OF ANY RACE;
2. FOR INDIVIDUALS WHO ARE NONHISPANIC OR NONLATINO ONLY:
  - A. AMERICAN INDIAN OR ALASKA NATIVE;
  - B. ASIAN;
  - C. BLACK OR AFRICAN AMERICAN;
  - D. NATIVE HAWAIIAN OR OTHER PACIFIC ISLANDER;
  - E. WHITE; OR
  - F. TWO OR MORE RACES;
3. STUDENTS WHO ARE LIMITED ENGLISH PROFICIENT;
4. STUDENTS WHO RECEIVE FREE AND REDUCED PRICED MEALS; AND
5. STUDENTS WHO RECEIVE SPECIAL EDUCATION SERVICES.

(d) (1) The county boards and the Department may develop and implement additional indicators to collect, maintain, analyze, and publicly report data regarding alternative high school completions.

(2) The Department shall ensure that the information collected under paragraph (1) of this subsection is comparable for public schools and local school systems in the State.

(e) The Department shall:

(1) Implement training for administrators and other personnel responsible for collecting, maintaining, analyzing, and publicly reporting data regarding four-year **ADJUSTED** cohorts and graduation rates;

(2) Implement a standard process for verifying the accuracy of data including:

(i) Statistical checks and analyses; and

(ii) On-site audits of record-keeping procedures;

(3) Implement a public awareness campaign including outreach to civic associations, community-based groups, and parent organizations and the solicitation of suggestions and community support regarding the need for collecting, maintaining, analyzing, and publicly reporting accurate data regarding four-year **ADJUSTED** cohorts and graduation rates;

(4) Provide technical support to the county boards with collecting, maintaining, analyzing, and publicly reporting graduation rate data; and

(5) Serve as a central repository for this data.

[(f) (1) On or before November 1 of each year, the State Board shall report to the Governor and, subject to § 2-1246 of the State Government Article, to the General Assembly, regarding:

(i) The implementation of this section;

(ii) Statistical analyses and data verification processes developed under this section; and

(iii) Discrepancies discovered while collecting, maintaining, analyzing, and publicly reporting the information required under this section.

(2) The report required under this subsection shall be posted on the Department's website.]

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2011.

Approved by the Governor, April 12, 2011.

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## Chapter 52

### (Senate Bill 288)

AN ACT concerning

#### **Higher Education – Cultural Diversity Programs – Reporting Requirements**

FOR the purpose of altering the dates by which certain institutions of higher education and the Maryland Higher Education Commission must submit certain reports on the promotion and enhancement of cultural diversity at institutions of higher education; and generally relating to reports on programs to promote and enhance cultural diversity at institutions of higher education.

BY repealing and reenacting, with amendments,  
Article – Education  
Section 10–211(c) and 11–406(c) and (d)  
Annotated Code of Maryland  
(2008 Replacement Volume and 2010 Supplement)

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

#### **Article – Education**

10–211.

(c) (1) In this subsection, “cultural diversity” means the inclusion of those racial and ethnic groups and individuals that are or have been underrepresented in higher education.

(2) On or before [May] **JULY** 1 of each year, each nonpublic institution of higher education eligible for State aid under § 17–103 of this article shall submit a report on the institution’s programs to promote and enhance cultural diversity on its campus to the Maryland Independent College and University Association.

(3) (i) On or before [August] **SEPTEMBER** 1 of each year, the Maryland Independent College and University Association shall submit a report on the status of the programs reported to the Association under paragraph (2) of this subsection to the Commission.



(ii) The report submitted to the Commission under subparagraph (i) of this paragraph shall include an analysis of the best practices used by nonpublic institutions of higher education to promote and enhance cultural diversity on their campuses.

11-406.

(c) (1) On or before [May] **JULY** 1 of each year, each institution shall submit the plan developed under subsection (b) of this section to the governing body of the institution for the governing body's review.

(2) On or before [August] **SEPTEMBER** 1 of each year, the governing body of an institution shall submit a progress report regarding the institution's implementation of its plan to the Commission.

(d) (1) The Commission shall review the progress report submitted by each governing body under subsection (c) of this section to monitor compliance with the diversity goals of the State Plan for Higher Education.

(2) On or before [October] **DECEMBER** 1 of each year, the Commission shall submit a report, in accordance with § 2-1246 of the State Government Article, to the Senate Education, Health, and Environmental Affairs Committee, the Senate Budget and Taxation Committee, the House Appropriations Committee, and the House Committee on Ways and Means on the extent to which the institutions of higher education in the State are in compliance with the diversity goals of the State Plan for Higher Education.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2011.

**Approved by the Governor, April 12, 2011.**

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## **Chapter 53**

**(Senate Bill 292)**

AN ACT concerning

### **Institutions of Postsecondary Education – Falsified Transcripts, Diplomas, and Grade Reports – Penalties**

FOR the purpose of prohibiting a person from falsely altering, causing or procuring to be falsely altered, or willingly aiding or assisting in falsely altering a transcript, diploma, or grade report of an institution of postsecondary education; prohibiting a person from knowingly buying, selling, or distributing a false, forged, counterfeited, or

altered transcript, diploma, or grade report of an institution of postsecondary education; establishing certain penalties; and generally relating to falsified transcripts, diplomas, and grade reports of institutions of postsecondary education.

BY repealing and reenacting, with amendments,

Article – Education

Section 26–301

Annotated Code of Maryland

(2008 Replacement Volume and 2010 Supplement)

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

### Article – Education

26–301.

(a) (1) A person may not falsely make, **FALSELY ALTER**, forge, [or] counterfeit, or cause or procure to be falsely made, **FALSELY ALTERED**, forged, or counterfeited, or willingly aid or assist in falsely making, **FALSELY ALTERING**, forging, or counterfeiting a transcript, diploma, or grade report of [a postsecondary educational] **AN institution OF POSTSECONDARY EDUCATION**.

(2) A person may not **KNOWINGLY BUY, SELL, DISTRIBUTE**, use, offer, or present as genuine a false, forged, counterfeited, or altered transcript, diploma, or grade report of [a postsecondary educational] **AN institution OF POSTSECONDARY EDUCATION**.

(3) A person may not use, offer or present a transcript, diploma, or grade report of [a postsecondary educational] **AN institution OF POSTSECONDARY EDUCATION** in a fraudulent manner.

(b) A person who violates any provision of this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$1,000, or imprisonment not exceeding 6 months, or both.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

**Approved by the Governor, April 12, 2011.**

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**Chapter 54**

**(Senate Bill 299)**

AN ACT concerning

**Wiretapping and Electronic Surveillance – Investigation of Human Trafficking**

FOR the purpose of adding certain human trafficking offenses to those crimes for which evidence may be gathered by, and a judge may grant an order authorizing, interception of oral, wire, or electronic communications; and generally relating to wiretap and electronic surveillance and human trafficking.

BY repealing and reenacting, with amendments,  
Article – Courts and Judicial Proceedings  
Section 10–402(c)(2) and 10–406(a)  
Annotated Code of Maryland  
(2006 Replacement Volume and 2010 Supplement)

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

**Article – Courts and Judicial Proceedings**

10–402.

(c) (2) (i) This paragraph applies to an interception in which:

1. The investigative or law enforcement officer or other person is a party to the communication; or
2. One of the parties to the communication has given prior consent to the interception.

(ii) It is lawful under this subtitle for an investigative or law enforcement officer acting in a criminal investigation or any other person acting at the prior direction and under the supervision of an investigative or law enforcement officer to intercept a wire, oral, or electronic communication in order to provide evidence:

1. Of the commission of:
  - A. Murder;
  - B. Kidnapping;
  - C. Rape;
  - D. A sexual offense in the first or second degree;

- E. Child abuse in the first or second degree;
  - F. Child pornography under § 11–207, § 11–208, or § 11–208.1 of the Criminal Law Article;
  - G. Gambling;
  - H. Robbery under § 3–402 or § 3–403 of the Criminal Law Article;
  - I. A felony under Title 6, Subtitle 1 of the Criminal Law Article;
  - J. Bribery;
  - K. Extortion;
  - L. Dealing in a controlled dangerous substance, including a violation of § 5–617 or § 5–619 of the Criminal Law Article;
  - M. A fraudulent insurance act, as defined in Title 27, Subtitle 4 of the Insurance Article;
  - N. An offense relating to destructive devices under § 4–503 of the Criminal Law Article;
  - O. A HUMAN TRAFFICKING OFFENSE UNDER § 11–303 OF THE CRIMINAL LAW ARTICLE;**
  - [O.] P. Sexual solicitation of a minor under § 3–324 of the Criminal Law Article;
  - [P.] Q. An offense relating to obstructing justice under § 9–302, § 9–303, or § 9–305 of the Criminal Law Article;
  - [Q.] R. Sexual abuse of a minor under § 3–602 of the Criminal Law Article; or
  - [R.] S. A conspiracy or solicitation to commit an offense listed in items A through [Q] R of this item; or
2. If:
    - A. A person has created a barricade situation; and

B. Probable cause exists for the investigative or law enforcement officer to believe a hostage or hostages may be involved.

10-406.

(a) The Attorney General, State Prosecutor, or any State's Attorney may apply to a judge of competent jurisdiction, and the judge, in accordance with the provisions of § 10-408 of this subtitle, may grant an order authorizing the interception of wire, oral, or electronic communications by investigative or law enforcement officers when the interception may provide or has provided evidence of the commission of:

- (1) Murder;
- (2) Kidnapping;
- (3) Rape;
- (4) A sexual offense in the first or second degree;
- (5) Child abuse in the first or second degree;
- (6) Child pornography under § 11-207, § 11-208, or § 11-208.1 of the Criminal Law Article;
- (7) Gambling;
- (8) Robbery under § 3-402 or § 3-403 of the Criminal Law Article;
- (9) A felony under Title 6, Subtitle 1 of the Criminal Law Article;
- (10) Bribery;
- (11) Extortion;
- (12) Dealing in a controlled dangerous substance, including a violation of § 5-617 or § 5-619 of the Criminal Law Article;
- (13) A fraudulent insurance act, as defined in Title 27, Subtitle 4 of the Insurance Article;
- (14) An offense relating to destructive devices under § 4-503 of the Criminal Law Article;
- (15) A HUMAN TRAFFICKING OFFENSE UNDER § 11-303 OF THE CRIMINAL LAW ARTICLE;**

[(15)] (16) Sexual solicitation of a minor under § 3–324 of the Criminal Law Article;

[(16)] (17) An offense relating to obstructing justice under § 9–302, § 9–303, or § 9–305 of the Criminal Law Article;

[(17)] (18) Sexual abuse of a minor under § 3–602 of the Criminal Law Article; or

[(18)] (19) A conspiracy or solicitation to commit an offense listed in items (1) through [(17)] (18) of this subsection.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

**Approved by the Governor, April 12, 2011.**

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## Chapter 55

### (House Bill 345)

AN ACT concerning

#### **Wiretapping and Electronic Surveillance – Investigation of Human Trafficking**

FOR the purpose of adding certain human trafficking offenses to those crimes for which evidence may be gathered by, and a judge may grant an order authorizing, interception of oral, wire, or electronic communications; and generally relating to wiretap and electronic surveillance and human trafficking.

BY repealing and reenacting, with amendments,  
Article – Courts and Judicial Proceedings  
Section 10–402(c)(2) and 10–406(a)  
Annotated Code of Maryland  
(2006 Replacement Volume and 2010 Supplement)

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

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

10–402.

- (c) (2) (i) This paragraph applies to an interception in which:
1. The investigative or law enforcement officer or other person is a party to the communication; or
  2. One of the parties to the communication has given prior consent to the interception.
- (ii) It is lawful under this subtitle for an investigative or law enforcement officer acting in a criminal investigation or any other person acting at the prior direction and under the supervision of an investigative or law enforcement officer to intercept a wire, oral, or electronic communication in order to provide evidence:
1. Of the commission of:
    - A. Murder;
    - B. Kidnapping;
    - C. Rape;
    - D. A sexual offense in the first or second degree;
    - E. Child abuse in the first or second degree;
    - F. Child pornography under § 11–207, § 11–208, or § 11–208.1 of the Criminal Law Article;
    - G. Gambling;
    - H. Robbery under § 3–402 or § 3–403 of the Criminal Law Article;
    - I. A felony under Title 6, Subtitle 1 of the Criminal Law Article;
    - J. Bribery;
    - K. Extortion;
    - L. Dealing in a controlled dangerous substance, including a violation of § 5–617 or § 5–619 of the Criminal Law Article;
    - M. A fraudulent insurance act, as defined in Title 27, Subtitle 4 of the Insurance Article;

N. An offense relating to destructive devices under § 4–503 of the Criminal Law Article;

**O. A HUMAN TRAFFICKING OFFENSE UNDER § 11–303 OF THE CRIMINAL LAW ARTICLE;**

[O.] P. Sexual solicitation of a minor under § 3–324 of the Criminal Law Article;

[P.] Q. An offense relating to obstructing justice under § 9–302, § 9–303, or § 9–305 of the Criminal Law Article;

[Q.] R. Sexual abuse of a minor under § 3–602 of the Criminal Law Article; or

[R.] S. A conspiracy or solicitation to commit an offense listed in items A through [Q] R of this item; or

2. If:

A. A person has created a barricade situation; and

B. Probable cause exists for the investigative or law enforcement officer to believe a hostage or hostages may be involved.

10–406.

(a) The Attorney General, State Prosecutor, or any State’s Attorney may apply to a judge of competent jurisdiction, and the judge, in accordance with the provisions of § 10–408 of this subtitle, may grant an order authorizing the interception of wire, oral, or electronic communications by investigative or law enforcement officers when the interception may provide or has provided evidence of the commission of:

(1) Murder;

(2) Kidnapping;

(3) Rape;

(4) A sexual offense in the first or second degree;

(5) Child abuse in the first or second degree;

(6) Child pornography under § 11–207, § 11–208, or § 11–208.1 of the Criminal Law Article;



- (7) Gambling;
- (8) Robbery under § 3-402 or § 3-403 of the Criminal Law Article;
- (9) A felony under Title 6, Subtitle 1 of the Criminal Law Article;
- (10) Bribery;
- (11) Extortion;
- (12) Dealing in a controlled dangerous substance, including a violation of § 5-617 or § 5-619 of the Criminal Law Article;
- (13) A fraudulent insurance act, as defined in Title 27, Subtitle 4 of the Insurance Article;
- (14) An offense relating to destructive devices under § 4-503 of the Criminal Law Article;
- (15) A HUMAN TRAFFICKING OFFENSE UNDER § 11-303 OF THE CRIMINAL LAW ARTICLE;**
- ~~[(15)]~~ **(16)** Sexual solicitation of a minor under § 3-324 of the Criminal Law Article;
- ~~[(16)]~~ **(17)** An offense relating to obstructing justice under § 9-302, § 9-303, or § 9-305 of the Criminal Law Article;
- ~~[(17)]~~ **(18)** Sexual abuse of a minor under § 3-602 of the Criminal Law Article; or
- ~~[(18)]~~ **(19)** A conspiracy or solicitation to commit an offense listed in items (1) through ~~[(17)]~~ **(18)** of this subsection.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

Approved by the Governor, April 12, 2011.

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**Chapter 56**  
**(Senate Bill 322)**

AN ACT concerning

**State Board of Veterinary Medical Examiners – Registered Veterinary Technician**

FOR the purpose of altering the definition of the term “practice of veterinary medicine” to exclude certain procedures performed by a certain veterinary technician under certain circumstances; and generally relating to the regulation of the practice of veterinary medicine.

BY repealing and reenacting, without amendments,  
Article – Agriculture  
Section 2–301(f)  
Annotated Code of Maryland  
(2007 Replacement Volume and 2010 Supplement)

BY repealing  
Article – Agriculture  
Section 2–301(g)(10)  
Annotated Code of Maryland  
(2007 Replacement Volume and 2010 Supplement)

BY adding to  
Article – Agriculture  
Section 2–301(g)(10)  
Annotated Code of Maryland  
(2007 Replacement Volume and 2010 Supplement)

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

**Article – Agriculture**

2–301.

(f) “Practice of veterinary medicine” includes, but is not limited to, the practice by any person who:

(1) Diagnoses, advises, prescribes, or administers a drug, medicine, biological product, appliance, application, or treatment of any nature, for the prevention, cure, or relief of a wound, fracture, bodily injury, or disease of an animal;

(2) Performs a surgical operation, including cosmetic surgery, upon any animal;

(3) Performs dentistry on any animal;

(4) Performs any manual procedure upon an animal for the diagnosis or treatment of sterility or infertility of the animal;

(5) Represents himself as engaged in the practice of veterinary medicine;

(6) Offers, undertakes, or holds himself out as being able to diagnose, treat, operate, vaccinate, or prescribe for any animal disease, pain, injury, deformity, or physical condition; or

(7) Uses any words, letters, or titles in connection or under circumstances as to induce the belief that the person using them is engaged in the practice of veterinary medicine. This use is prima facie evidence of the intention to represent himself as engaged in the practice of veterinary medicine.

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

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

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

(ii) Anesthesia induction by intramuscular injection;

(iii) Application of casts and splints;

(iv) Dental extractions; and

(v) Suturing of existing surgical skin incisions;]

**(10) A REGISTERED VETERINARY TECHNICIAN WHEN PERFORMING A PROCEDURE UNDER THE RESPONSIBLE DIRECT SUPERVISION OF A VETERINARY PRACTITIONER AS PROVIDED BY REGULATIONS ADOPTED BY THE BOARD;**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

**Approved by the Governor, April 12, 2011.**

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## Chapter 57

### (Senate Bill 342)

AN ACT concerning

#### Peace Orders – Extension of Duration

FOR the purpose of ~~extending the maximum duration of a final peace order~~ authorizing a judge to extend the term of a final peace order under certain circumstances after certain notice and a hearing; and generally relating to peace orders.

BY repealing and reenacting, ~~with~~ without amendments,  
 Article – Courts and Judicial Proceedings  
 Section 3–1505(f)  
 Annotated Code of Maryland  
 (2006 Replacement Volume and 2010 Supplement)

~~BY repealing and reenacting, without amendments,  
 Article – Family Law  
 Section 4–506(j)(1)  
 Annotated Code of Maryland  
 (2006 Replacement Volume and 2010 Supplement)~~

BY repealing and reenacting, with amendments,  
 Article – Courts and Judicial Proceedings  
 Section 3–1506(a)  
 Annotated Code of Maryland  
 (2006 Replacement Volume and 2010 Supplement)

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

#### Article – Courts and Judicial Proceedings

3–1505.

(f) All relief granted in a final peace order shall be effective for the period stated in the order, not to exceed ~~[6 months]~~ **1 YEAR**.

#### ~~Article – Family Law~~

~~4–506.~~

~~(j) (1) Except as provided in paragraphs (2) and (3) of this subsection, all relief granted in a final protective order shall be effective for the period stated in the order, not to exceed 1 year.~~

3-1506.

(a) (1) A peace order may be modified or rescinded during the term of the peace order after:

[(1)] (I) Giving notice to the petitioner and the respondent; and

[(2)] (II) A hearing.

(2) FOR GOOD CAUSE SHOWN, A JUDGE MAY EXTEND THE TERM OF THE PEACE ORDER FOR 6 MONTHS BEYOND THE PERIOD SPECIFIED IN § 3-1505(F) OF THIS SUBTITLE, AFTER:

(I) GIVING NOTICE TO THE PETITIONER AND THE RESPONDENT; AND

(II) A HEARING.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

Approved by the Governor, April 12, 2011.

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## Chapter 58

(House Bill 667)

AN ACT concerning

### Peace Orders – Extension of Duration

FOR the purpose of ~~extending the maximum duration of a final peace order~~ authorizing a judge to extend the term of a final peace order under certain circumstances after certain notice and a hearing; and generally relating to peace orders.

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

Article – Courts and Judicial Proceedings

Section 3-1505(f)

Annotated Code of Maryland

(2006 Replacement Volume and 2010 Supplement)

~~BY repealing and reenacting, without amendments,  
Article – Family Law  
Section 4–506(j)(1)  
Annotated Code of Maryland  
(2006 Replacement Volume and 2010 Supplement)~~

BY repealing and reenacting, with amendments,  
Article – Courts and Judicial Proceedings  
Section 3–1506(a)  
Annotated Code of Maryland  
(2006 Replacement Volume and 2010 Supplement)

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

**Article – Courts and Judicial Proceedings**

3–1505.

(f) All relief granted in a final peace order shall be effective for the period stated in the order, not to exceed ~~[6 months]~~ **1 YEAR**.

~~Article – Family Law~~

~~4–506.~~

~~(j) (1) Except as provided in paragraphs (2) and (3) of this subsection, all relief granted in a final protective order shall be effective for the period stated in the order, not to exceed 1 year.~~

3–1506.

(a) **(1)** A peace order may be modified or rescinded during the term of the peace order after:

[(1)] **(I)** Giving notice to the petitioner and the respondent; and

[(2)] **(II)** A hearing.

**(2) FOR GOOD CAUSE SHOWN, A JUDGE MAY EXTEND THE TERM OF THE PEACE ORDER FOR 6 MONTHS BEYOND THE PERIOD SPECIFIED IN § 3–1505(F) OF THIS SUBTITLE, AFTER:**

**(I) GIVING NOTICE TO THE PETITIONER AND THE RESPONDENT; AND**

**(II) A HEARING.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

**Approved by the Governor, April 12, 2011.**

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**Chapter 59**

**(Senate Bill 356)**

AN ACT concerning

**State Retirement and Pension System – Military Service Credit – Eligibility**

FOR the purpose of altering the criteria used to determine the eligibility of certain members of the State Retirement and Pension System to receive service credit for military service so as to require a certain amount of service credit in the State Retirement and Pension System in a certain manner; and generally relating to eligibility criteria for certain members of the State Retirement and Pension System to receive service credit for military service.

BY repealing and reenacting, with amendments,  
 Article – State Personnel and Pensions  
 Section 38–104(b)  
 Annotated Code of Maryland  
 (2009 Replacement Volume and 2010 Supplement)

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

**Article – State Personnel and Pensions**

38–104.

(b) Except as provided in subsection (c) of this section, an individual described in subsection (a) of this section, who has not met the conditions set forth in § 38–103(a)(2) through (4) of this subtitle, is entitled to receive service credit for military service only on the attainment of 10 years of [creditable] service **CREDIT EARNED THROUGH EMPLOYMENT AS A MEMBER OF A STATE SYSTEM.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2011.

Approved by the Governor, April 12, 2011.

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## Chapter 60

### (Senate Bill 359)

AN ACT concerning

#### **State Retirement and Pension System – Unclaimed Money – Former Members, Retirees, and Beneficiaries**

FOR the purpose of authorizing the State Retirement Agency to publish the names of certain former members, retirees, or beneficiaries of former members or retirees of the State Retirement and Pension System and the names of certain participating employers in a certain manner, if the individuals are entitled to certain money from the State Retirement and Pension System; and generally relating to notifying former members, retirees, and beneficiaries of the State Retirement and Pension System of unclaimed money due the individuals.

BY adding to

Article – State Personnel and Pensions

Section 21–506

Annotated Code of Maryland

(2009 Replacement Volume and 2010 Supplement)

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

#### **Article – State Personnel and Pensions**

#### **21–506.**

**(A) THIS SECTION APPLIES TO A FORMER MEMBER, RETIREE, OR A BENEFICIARY OF A DECEASED FORMER MEMBER OR RETIREE OF A STATE SYSTEM WHO:**

**(1) IS ENTITLED TO A REFUND OF ACCUMULATED CONTRIBUTIONS AND HAS MADE NO CLAIM FOR THOSE CONTRIBUTIONS; OR**

**(2) IS CURRENTLY ELIGIBLE TO RECEIVE A VESTED ALLOWANCE AND HAS NOT FILED AN APPLICATION FOR THE VESTED ALLOWANCE.**



(B) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE STATE RETIREMENT AGENCY MAY POST THE NAMES OF THE INDIVIDUALS DESCRIBED IN SUBSECTION (A) OF THIS SECTION AND THE NAMES OF THE LAST PARTICIPATING EMPLOYER OF THE FORMER MEMBERS OR RETIREES ON THE STATE RETIREMENT AGENCY'S WEB SITE OR OTHERWISE PUBLISH THE NAMES OF THE INDIVIDUALS AND EMPLOYERS FOR THE PURPOSE OF NOTIFYING THE INDIVIDUALS THAT THEY HAVE UNCLAIMED MONEY HELD BY THE STATE RETIREMENT AGENCY.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2011.

Approved by the Governor, April 12, 2011.

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## Chapter 61

(Senate Bill 383)

AN ACT concerning

### **Somerset County – Deputy State's Attorney – Private Practice**

FOR the purpose of repealing a prohibition against the deputy State's Attorney for Somerset County engaging in the private practice of law; making this Act an emergency measure; and generally relating to the deputy State's Attorney in Somerset County.

BY repealing and reenacting, with amendments,  
Article – Criminal Procedure  
Section 15–420  
Annotated Code of Maryland  
(2008 Replacement Volume and 2010 Supplement)

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

### **Article – Criminal Procedure**

15–420.

- (a) This section applies only in Somerset County.
- (b) The State's Attorney's salary is \$98,000.

(c) (1) The State's Attorney may appoint a deputy State's Attorney who shall:

(i) serve at the pleasure of the State's Attorney; and

(ii) present cases to the grand jury, sign indictments and criminal informations, and perform other functions necessary to the operation of the office and as directed by the State's Attorney or as authorized by law.

(2) The county commissioners shall set a salary for the deputy State's Attorney that may not exceed the salary of the State's Attorney.

(d) The State's Attorney may:

(1) appoint one or more assistants at salaries that the county commissioners set; and

(2) hire one or more investigators at salaries provided in the county budget.

(e) The State's Attorney [and deputy State's Attorney] may not engage in the private practice of law.

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

**Approved by the Governor, April 12, 2011.**

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## **Chapter 62**

**(Senate Bill 391)**

AN ACT concerning

### **Washington County – Alcoholic Beverages – Wine Festival License**

FOR the purpose of establishing a special wine festival (WF) license in Washington County; requiring that an applicant for a special WF license must be a holder of a certain other license; specifying that a holder of a special WF license may display and sell wine in a certain manner; requiring the Washington County Board of License Commissioners to assure that the primary focus of the Festival

is the promotion of Maryland wine; requiring a holder of a special WF license to display and sell certain wine; providing for a license fee; providing that this Act does not prohibit the holder of a special WF license from holding another alcoholic beverages license; authorizing the Board to choose certain weekends for festivals; requiring the Board to choose certain locations for the festivals; requiring the Board to adopt certain regulations; defining certain terms; and generally relating to wine in Washington County.

BY renumbering

Article 2B – Alcoholic Beverages

Section 8–313.1

to be Section 8–313.2

Annotated Code of Maryland

(2005 Replacement Volume and 2010 Supplement)

BY adding to

Article 2B – Alcoholic Beverages

Section 8–313.1

Annotated Code of Maryland

(2005 Replacement Volume and 2010 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 8–313.1 of Article 2B – Alcoholic Beverages of the Annotated Code of Maryland be renumbered to be Section(s) 8–313.2.

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

**Article 2B – Alcoholic Beverages**

**8–313.1.**

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

(2) “BOARD” MEANS THE WASHINGTON COUNTY BOARD OF LICENSE COMMISSIONERS.

(3) “FESTIVAL” MEANS THE WASHINGTON COUNTY WINE FESTIVAL.

(B) THIS SECTION APPLIES ONLY IN WASHINGTON COUNTY.

(C) THE BOARD MAY ISSUE A SPECIAL WINE FESTIVAL (WF) LICENSE.

(D) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, TO BE ELIGIBLE FOR A SPECIAL WF LICENSE, AN APPLICANT MUST BE A HOLDER OF AN EXISTING STATE RETAIL ALCOHOLIC BEVERAGES LICENSE, A STATE CLASS 3 WINERY LICENSE, OR A STATE CLASS 4 LIMITED WINERY LICENSE.

(E) A SPECIAL WF LICENSE ENTITLES THE HOLDER TO DISPLAY AND SELL AT RETAIL WINE FOR CONSUMPTION ON OR OFF THE PREMISES ON THE DAYS AND FOR THE HOURS DESIGNATED FOR THE FESTIVAL IN THE COUNTY.

(F) (1) THE BOARD SHALL ASSURE THAT THE PRIMARY FOCUS OF THE FESTIVAL IS THE PROMOTION OF MARYLAND WINE.

(2) A HOLDER OF A SPECIAL WF LICENSE SHALL DISPLAY AND SELL WINE THAT IS DISTRIBUTED IN THE STATE.

(G) THE SPECIAL WF LICENSE FEE IS \$20.

(H) THIS SECTION DOES NOT PROHIBIT THE HOLDER OF A SPECIAL WF LICENSE FROM HOLDING ANOTHER ALCOHOLIC BEVERAGES LICENSE OF A DIFFERENT CLASS OR NATURE.

(I) THE BOARD MAY CHOOSE 2 WEEKENDS ANNUALLY FOR THE FESTIVALS.

(J) THE BOARD SHALL CHOOSE LOCATIONS IN THE COUNTY FOR THE FESTIVALS THAT ARE NOT LICENSED UNDER THIS ARTICLE.

(K) THE BOARD SHALL ADOPT REGULATIONS TO CARRY OUT THIS SECTION.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2011.

Approved by the Governor, April 12, 2011.

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## Chapter 63

(Senate Bill 428)

AN ACT concerning

**Mental Hygiene – Admission Provisions – Definition of “Psychologist”**

FOR the purpose of altering the definition of “psychologist” for purposes of certain provisions of law relating to admissions to certain mental health facilities.

BY repealing and reenacting, with amendments,  
Article – Health – General  
Section 10–601  
Annotated Code of Maryland  
(2009 Replacement Volume and 2010 Supplement)

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

**Article – Health – General**

10–601.

- (a) In this subtitle the following words have the meanings indicated.
- (b) “Clinical social worker” means an individual who is licensed under Title 19 of the Health Occupations Article to practice clinical social work.
- (c) “Licensed clinical marriage and family therapist” means an individual who is licensed under Title 17, Subtitle 3A of the Health Occupations Article to practice clinical marriage and family therapy.
- (d) “Licensed clinical professional counselor” means an individual who is licensed under Title 17, Subtitle 3A of the Health Occupations Article to practice clinical professional counseling.
- (e) “Physician” means an individual who is licensed under Title 14 of the Health Occupations Article to practice medicine in this State.
- (f) “Psychologist” means an individual who is[:
- (1) Licensed] **LICENSED** under Title 18 of the Health Occupations Article **TO PRACTICE PSYCHOLOGY**[; and
  - (2) Listed in the National Register of Health Service Providers in Psychology].

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

**Approved by the Governor, April 12, 2011.**

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**Chapter 64****(Senate Bill 454)**

AN ACT concerning

**Annual Curative Bill**

FOR the purpose of generally curing previous Acts of the General Assembly with possible title defects; altering the date by which Queen Anne's County is required to file its annual financial report for the fiscal year with the Department of Legislative Services; altering the date by which St. Mary's County is required to file its annual financial report for the fiscal year with the Department of Legislative Services; authorizing the reserve investments of an insurer to include securities lending, repurchase, reverse repurchase, and dollar roll transactions with business entities, subject to certain requirements; authorizing certain nonprofit organizations to market and sell certain commemorative hunting licenses in cooperation with the Department of Natural Resources; requiring the proceeds from sales of certain hunting licenses to be used to fund conservation law enforcement by the Natural Resources Police Force; authorizing the Department of Natural Resources to adopt regulations to carry out certain provisions relating to commemorative hunting licenses; authorizing a person in certain counties to hunt deer on private property with a crossbow on certain Sundays, subject to certain provisions; authorizing the Board of County Commissioners of Cecil County to enact an ordinance to allow collective bargaining between the Board of County Commissioners and a certain representative of certain employees in the Division of Emergency Medical Services concerning certain issues; requiring that the proceeds of the loan under Chapter 523 of the Acts of 2010 be expended not later than a certain number of years after the issuance of the bonds authorized under the Act; establishing that, except as otherwise provided, provisions of law relating to certain rights of State correctional officers supersede inconsistent provisions of certain other State and local laws; establishing that the Administrative Procedure Act governs to the extent that certain provisions of law relating to procedures for certain correctional officer hearing boards are inconsistent with the Administrative Procedure Act; providing for the effect and construction of certain provisions of this Act; making this Act an emergency measure; and generally repealing and reenacting without amendments certain Acts of the General Assembly that may be subject to possible title defects in order to validate those Acts.

BY repealing and reenacting, without amendments,

Article 19 – Comptroller

Section 37

Annotated Code of Maryland

(2005 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, without amendments,

Article – Insurance

Section 5–608(t)

Annotated Code of Maryland

(2003 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, without amendments,

Article – Natural Resources

Section 10–301.3 and 10–410(a)

Annotated Code of Maryland

(2007 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, without amendments,

Article – Public Utilities

Section 12–128

Annotated Code of Maryland

(2010 Replacement Volume)

BY repealing and reenacting, without amendments,

The Public Local Laws of Cecil County

Section 15–13

Article 8 – Public Local Laws of Maryland

(1989 Edition and November 2010 Supplement, as amended)

(As enacted by Chapter 602 of the Acts of the General Assembly of 2010)

BY repealing and reenacting, without amendments,

Chapter 485 of the Acts of the General Assembly of 2009, as amended by

Chapter 483 of the Acts of the General Assembly of 2010

Section 1(3) Item KA05(E) and Item VE01(B)

BY repealing and reenacting, without amendments,

Chapter 523 of the Acts of the General Assembly of 2010

Section 1(8)

BY repealing and reenacting, without amendments,

Article – Correctional Services

Section 10–903 and 10–909

Annotated Code of Maryland

(2008 Replacement Volume and 2010 Supplement)

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

### **Article 19 – Comptroller**

(a) (1) Except as provided in paragraph (2) of this subsection, each county, municipal corporation, and taxing district in the State shall by the first day of November after the close of the fiscal year file with the Department of Legislative Services its financial report covering the full period of that fiscal year.

(2) (i) Each county, municipal corporation, or taxing district with a population of more than 400,000 may by the first day of January after the close of the fiscal year file with the Department of Legislative Services its financial report covering the full period of that fiscal year.

(ii) Unless subparagraph (i) of this paragraph applies, Howard County may by the first day of December after the close of the fiscal year file with the Department of Legislative Services its financial report covering the full period of that fiscal year.

(iii) Frederick County may by the first day of January after the close of the fiscal year file with the Department of Legislative Services its financial report covering the full period of that fiscal year.

(iv) Queen Anne's County may by the first day of January after the close of the fiscal year file with the Department of Legislative Services its financial report covering the full period of that fiscal year.

(v) St. Mary's County may by the first day of January after the close of the fiscal year file with the Department of Legislative Services its financial report covering the full period of that fiscal year.

(vi) Wicomico County may by the first day of January after the close of the fiscal year file with the Department of Legislative Services its financial report covering the full period of that fiscal year.

(b) The reports required by subsection (a) of this section shall be:

(1) Properly filled in on the form or forms established by the Department as provided in this subtitle; and

(2) Verified by the chief executive officer of each county, municipal corporation, and taxing district.

**DRAFTER'S NOTE:**

Error: Purpose paragraphs of bills being cured failed to accurately describe the changes made by the bills.

Occurred: Chapter 642 (Senate Bill 994) and Chapter 682 (House Bill 511) of the Acts of 2010.



**Article – Insurance**

5–608.

(t) (1) The reserve investments of an insurer may include securities lending, repurchase, reverse repurchase, and dollar roll transactions with business entities, subject to the requirements of paragraphs (2) through (9) of this subsection.

(2) (i) The insurer's board of directors shall adopt a written plan that specifies guidelines and objectives to be followed, such as:

1. a description of how cash received will be invested or used for general corporate purposes of the insurer;

2. operational procedures to manage interest rate risk, counterparty default risk, the conditions under which proceeds from reverse repurchase transactions may be used in the ordinary course of business, and the use of acceptable collateral in a manner that reflects the liquidity needs of the transaction; and

3. the extent to which the insurer may engage in these transactions.

(ii) The insurer shall file with the Commissioner the written plan including all changes and amendments to the written plan for use in the State on or before the date the plan becomes effective.

(3) (i) The insurer shall enter into a written agreement for all transactions authorized under this subsection other than dollar roll transactions.

(ii) The written agreement shall require that each transaction terminate no more than 1 year from its inception or on the earlier demand of the insurer.

(iii) The agreement shall be with the business entity counterparty, but for securities lending transactions, the agreement may be with an agent acting on behalf of the insurer, if the agent is a qualified business entity, and if the agreement:

1. requires the agent to enter into separate agreements with each counterparty that are consistent with the requirements of this section; and

2. prohibits securities lending transactions under the agreement with the agent or its affiliates.

(4) (i) Cash received in a transaction under this subsection shall be invested in accordance with this subtitle and in a manner that recognizes the liquidity needs of the transaction or used by the insurer for its general corporate purposes.

(ii) For so long as the transaction remains outstanding, the insurer, its agent, or its custodian shall maintain, as to acceptable collateral received in a transaction under this subsection, either physically or through the book entry systems of the Federal Reserve, Depository Trust Company, Participants Trust Company, or other securities depositories approved by the Commissioner:

1. possession of the acceptable collateral;
2. a perfected security interest in the acceptable collateral; or
3. in the case of a jurisdiction outside the United States, title to, or rights of a secured creditor to, the acceptable collateral.

(5) (i) The limitations of § 5–606(a) of this subtitle do not apply to the business entity counterparty exposure created by transactions under this subsection.

(ii) For purposes of calculations made to determine compliance with this subsection, no effect will be given to the insurer's future obligation to resell securities, in the case of a repurchase transaction, or to repurchase securities, in the case of a reverse repurchase transaction.

(iii) An insurer may not enter into a transaction under this subsection if, as a result of and after giving effect to the transaction:

1. A. the aggregate amount of securities then loaned, sold to, or purchased from any one business entity counterparty under this subsection would exceed 5% of its admitted assets; and  
B. in calculating the amount sold to or purchased from a business entity counterparty under repurchase or reverse repurchase transactions, effect may be given to netting provisions under a master written agreement; or
2. the aggregate amount of all securities then loaned, sold to, or purchased from all business entities under this subsection would exceed 40% of its admitted assets.

(6) (i) In a securities lending transaction, the insurer shall receive acceptable collateral having a market value as of the transaction date at least equal to 102% of the market value of the securities loaned by the insurer in the transaction as of that date.

(ii) If at any time the market value of the acceptable collateral is less than the market value of the loaned securities, the business entity counterparty shall be obligated to deliver additional acceptable collateral, the market value of which, together with the market value of all acceptable collateral then held in connection with the transaction, at least equals 102% of the market value of the loaned securities.

(7) (i) In a reverse repurchase transaction, other than a dollar roll transaction, the insurer shall receive acceptable collateral having a market value as of the transaction date at least equal to 95% of the market value of the securities transferred by the insurer in the transaction as of that date.

(ii) If at any time the market value of the acceptable collateral is less than 95% of the market value of the securities so transferred, the business entity counterparty shall be obligated to deliver additional acceptable collateral, the market value of which, together with the market value of all acceptable collateral then held in connection with the transaction, at least equals 95% of the market value of the transferred securities.

(8) In a dollar roll transaction, the insurer shall receive cash in an amount at least equal to the market value of the securities transferred by the insurer in the transaction as of the transaction date.

(9) (i) In a repurchase transaction, the insurer shall receive as acceptable collateral transferred securities having a market value at least equal to 102% of the purchase price paid by the insurer for the securities.

(ii) If at any time the market value of the acceptable collateral is less than 100% of the purchase price paid by the insurer, the business entity counterparty shall be obligated to provide additional acceptable collateral, the market value of which, together with the market value of all acceptable collateral then held in connection with the transaction, at least equals 102% of the purchase price.

(iii) Securities acquired by an insurer in a repurchase transaction may not be sold in a reverse repurchase transaction, loaned in a securities lending transaction, or otherwise pledged.

**DRAFTER'S NOTE:**

Error: Purpose paragraph of bill being cured failed to accurately describe the changes made by the bill.

Occurred: Chapter 120 (House Bill 69) of the Acts of 2010.

**Article – Natural Resources**

- (a) There is a commemorative lifetime hunting license.
- (b) The Department shall issue a limited number of commemorative lifetime hunting licenses to certain nonprofit organizations, consistent with eligibility criteria developed by the Department, until December 31, 2011.
- (c) Nonprofit organizations issued hunting licenses under this section may, in cooperation with the Department, market and sell the hunting licenses.
- (d) All proceeds from sales of hunting licenses under this section shall be used by the Department to fund conservation law enforcement by the Natural Resources Police Force.
- (e) The Department may adopt regulations to carry out the provisions of this section.

**DRAFTER'S NOTE:**

Error: Purpose paragraph of bill being cured failed to accurately describe the changes made by the bill.

Occurred: Chapter 367 (Senate Bill 987) of the Acts of 2010.

10–410.

- (a) (1) Except as provided in paragraphs (2), (3), and (4) of this subsection, a person may not hunt any game bird or mammal on Sundays.
- (2) The following persons may hunt the specified game birds and mammals on Sundays:
  - (i) A person using State certified raptors to hunt game birds or mammals during open season;
  - (ii) An unarmed person participating in an organized fox chase to chase foxes;
  - (iii) Provided that the provisions of § 10–906(b)(3) of this title are met, a person:
    - 1. Using a regulated shooting ground under § 10–906 of this title to hunt the following pen-reared game birds:
      - A. Pheasants;
      - B. Bobwhite quail;

- C. Chukar partridge;
- D. Hungarian partridge;
- E. Tower released flighted mallard ducks; and
- F. Turkey on a regulated shooting ground that was permitted to release turkey before September 1, 1992; and

2. Having the written permission of the owner of the land or other person designated by the owner of the land, if the land is owned or leased by a person other than the person hunting on Sundays;

(iv) Subject to the provisions of § 10–411 of this subtitle, in Allegany, Calvert, Charles, Dorchester, Frederick, Garrett, St. Mary's, Somerset, Talbot, Washington, Wicomico, and Worcester counties, a person hunting deer on private property with a bow and arrow or crossbow during open season on the last three Sundays in October and the second Sunday in November; and

(v) Except on Easter Sunday, in Allegany County and Garrett County, a person hunting turkey on the last Sunday in April and the first Sunday in May.

(3) Subject to the provisions of § 10–415 of this subtitle, in Calvert County, Charles County, and St. Mary's County, a person may hunt deer on private property on:

(i) The first Sunday of the bow hunting season in November;

and

(ii) Each Sunday in the deer firearms season.

(4) Provided that the provisions of § 10–415 of this subtitle are met and subject to paragraph (5) of this subsection, the Department may allow a person to hunt deer on private property on the first Sunday of:

(i) The bow hunting season in November; and

(ii) The deer firearms season.

(5) The Sunday deer hunting provisions under paragraph (4) of this subsection do not apply:

(i) In Baltimore, Carroll, Howard, and Prince George's counties;

and

(ii) In Baltimore City.

**DRAFTER’S NOTE:**

Error: Purpose paragraph of bill being cured failed to accurately describe the changes made by the bill.

Occurred: Chapter 666 (House Bill 301) of the Acts of 2010.

**Article – Public Utilities**

12–128.

(a) A political subdivision, municipal corporation, the Department of Transportation, an administration of the Department of Transportation, or the Maryland Transportation Authority may charge, assess, or collect from a person a one-time initial marking fee not exceeding \$35 for reimbursement of expenses that the political subdivision, municipal corporation, the Department of Transportation, an administration of the Department of Transportation, or the Maryland Transportation Authority incurs to comply with this subtitle.

(b) If re-marking is requested, or is required after renotification under § 12–108(b) of this subtitle, a political subdivision, municipal corporation, or any of the transportation entities specified in subsection (a) of this section may charge, assess, or collect from a person a re-marking fee not exceeding \$15 for reimbursement of expenses that the political subdivision, municipal corporation, or any of the transportation entities specified in subsection (a) of this section incurs to comply with this subtitle.

**DRAFTER’S NOTE:**

Error: Function paragraph of bill being cured incorrectly indicated that § 12–128 of the Public Utility Companies Article (which was renamed to be the Public Utilities Article by Chapter 37 of the Acts of 2010) was unamended.

Occurred: Chapter 635 (Senate Bill 911) of the Acts of 2010.

Article 8 – Cecil County

15–13.

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

(2) (a) “Collective bargaining” means to meet in good faith at reasonable times to attempt to negotiate an agreement concerning subjects of bargaining authorized by law.

(b) “Collective bargaining” does not include a meeting in which only representatives of the Board of County Commissioners are in attendance or a meeting in which only representatives of the exclusive representative are in attendance.

(3) “Employee” means a regular, nonexempt, uniformed employee within the Cecil County Division of Emergency Medical Services at the rank of captain or below.

(4) “Employee organization” means an organization of employees that, as one of its primary purposes, represents employees in collective bargaining with the employer.

(5) “Exclusive representative” means the employee organization that has been certified through an election by eligible employees or otherwise recognized by the Board of County Commissioners to represent and negotiate for those employees with the Board of County Commissioners terms and conditions of employment.

B. The Board of County Commissioners may enact an ordinance to:

(1) Authorize recognition of an exclusive representative by election or voluntary recognition through a check of authorization cards at the Board’s option and provide a process for such authorization;

(2) Authorize withdrawal of recognition of an exclusive representative based on circumstances specified in the ordinance and provide a process for the withdrawal;

(3) Allow collective bargaining between the Board of County Commissioners and the exclusive representative of its employees concerning terms and conditions of employment, and a process to resolve disagreements concerning the interpretation of any agreement made between the exclusive representative and the Board;

(4) Set forth the subjects of collective bargaining and the rights reserved by the Board from those subjects;

(5) Set forth the time frames of the collective bargaining process;

(6) Provide rules of conduct for collective bargaining; and

(7) Provide a process and remedies for violations of established rules.

C. Once authorized by an ordinance, collective bargaining between the Board of County Commissioners and the exclusive representative shall include a memorandum of understanding concerning the agreements made as a result of bargaining.

D. Subject to an annual exercise of authority concerning fiscal procedures in State law or county ordinance, a memorandum of understanding between the Board of County Commissioners and an exclusive representative shall be binding on the Board and the exclusive representative.

E. The Board of County Commissioners may retain or designate individuals to negotiate on its behalf with the exclusive representative.

F. This section does not:

(1) Authorize or otherwise permit an employee to engage in a strike as defined in § 3–303 of the State Personnel and Pensions Article of the Annotated Code of Maryland;

(2) Authorize or otherwise permit the County to engage in a lockout as defined in § 3–304 of the State Personnel and Pensions Article of the Annotated Code of Maryland;

(3) Require any method, means, or scope of bargaining between the Board of County Commissioners and an exclusive representative;

(4) Authorize binding interest arbitration; and

(5) Authorize the collection of mandatory membership fees from nonmembers of the employee organization.

DRAFTER’S NOTE:

Error: Purpose paragraph of bill being cured failed to accurately describe the changes made by the bill.

Occurred: Chapter 602 (Senate Bill 731) of the Acts of 2010.

Chapter 485 of the Acts of 2009, as amended by Chapter 483 of the Acts of 2010

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

(3)

DEPARTMENT OF NATURAL RESOURCES

KA05 CAPITAL GRANTS AND LOANS ADMINISTRATION  
(Statewide)

(E) Program Open Space. Provide funds for the purchase of conservation easements and acquisition of land .....66,260,559



DRAFTER'S NOTE:

Error: Function paragraph of bill being cured incorrectly indicated that Chapter 485 of the Acts of 2009, Section 1(3) Item KA05(A)(6), rather than Item KA05(E), was being amended.

Occurred: Chapter 483 (Senate Bill 142) of the Acts of 2010.

DEPARTMENT OF JUVENILE SERVICES

VE01

RESIDENTIAL SERVICES

(B) Baltimore Regional Treatment Center. Provide funds to acquire land for a new treatment center, provided that before the Departments of Juvenile Services and General Services acquire or lease land for a new treatment center, the departments shall submit a report to the budget committees detailing the site selection process including:

- (1) site selection criteria;
- (2) written appraisals;
- (3) what other sites were considered and why they were rejected; and
- (4) the extent to which the departments pursued already publicly owned property.

The budget committees shall have 45 days from the receipt of the report to review and comment. (Regional) ..... 0

DRAFTER'S NOTE:

Error: Function paragraph of bill being cured failed to adequately describe the changes made to Chapter 485 of the Acts of 2009, Section 1(3) Item VE01(B).

Occurred: Chapter 483 (Senate Bill 142) of the Acts of 2010.

Chapter 523 of the Acts of 2010

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

(8) The proceeds of the loan shall be expended for the purposes provided in this Act not later than 3 years after the issuance of the bonds authorized under this Act.

**DRAFTER'S NOTE:**

Error: Typographical error in purpose paragraph of bill being cured.

Occurred: Chapter 523 (Senate Bill 202) of the Acts of 2010.

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

**Article – Correctional Services**

10–903.

(a) Except as otherwise provided, the provisions of this subtitle supersede any inconsistent provisions of any other State law, including § 11–106 of the State Personnel and Pensions Article, that conflict with this subtitle to the extent of the conflict.

(b) This subtitle does not limit the authority of the appointing authority to regulate the competent and effective operation and management of a State correctional facility by reasonable means including the transfer and reassignment of employees if:

(1) that action is not punitive in nature; and

(2) the appointing authority determines that action to be in the best interests of the internal management of the correctional facility.

10–909.

(a) A correctional officer who has been charged with a felony may request a stay of all charges and proceedings under this section until after a verdict has been reached in the felony case.

(b) A correctional officer who has been convicted of a felony is not entitled to a hearing under this section.

(c) (1) (i) The hearing board authorized under this section shall consist of at least three members.

1. For correctional officers holding the rank of sergeant or below, the hearing board shall be composed of two correctional officers who are members of the bargaining unit, one of whom is the same rank as the correctional officer facing charges, and one correctional officer ranked lieutenant or higher.

2. For correctional officers holding the rank of lieutenant and above, the hearing board shall be composed of one correctional officer of equal rank, one correctional officer of equal or lower rank, and one correctional officer of equal or higher rank.

(ii) Correctional officers assigned to serve on a hearing board shall be randomly selected from a rotating list of correctional officers eligible to serve on disciplinary hearing boards maintained by the Department.

(iii) The Department, after consultation with the exclusive representative for the correctional officers who are covered by this subtitle, shall determine:

1. the manner of selection of correctional officers who are eligible to serve on a rotating list; and

2. the manner of the selection of correctional officers for a hearing board.

(iv) Correctional officers assigned to serve on a hearing board shall be from a facility other than the facility to which the correctional officer facing charges is regularly assigned, and may not have had a role in the investigation or the interrogation of the correctional officer against whom the charges are filed, or be involved in any way with the incidents that are the subject of the complaint.

(v) 1. The highest ranking member of the hearing board shall serve as the hearing board chair.

2. The chair of the hearing board:

A. shall participate in any deliberations; but

B. may only vote on the decision in the event of a tie; and

C. may file a statement of position for the record.

3. The chair of the hearing board shall be from a different facility than the other board members.

(vi) The appointing authority and the exclusive bargaining representative may negotiate an alternative method of forming the hearing board for members of the collective bargaining unit.

(2) (i) Decisions of the hearing board shall be by majority vote of all members of the board.

(ii) The votes of the hearing board are confidential, and decisions shall be reported by the chair.

(d) (1) In connection with a disciplinary hearing, the hearing board may issue subpoenas to compel the attendance and testimony of witnesses and the production of documents as relevant or necessary.

(2) The subpoenas may be served without cost in accordance with the Maryland Rules that relate to service of process issued by a court.

(3) Each party may request the hearing board to issue a subpoena or order under this subtitle.

(4) In case of refusal to obey a subpoena served under this subsection, the parties to the proceeding may apply without cost to the circuit court of a county where the subpoenaed party resides or conducts business, for an order to compel the attendance and testimony of the witness or the production of the documents sought.

(5) On a finding that the attendance and testimony of the witness or the production of the documents sought is relevant or necessary, the court may:

(i) issue without cost an order that requires the attendance and testimony of witnesses or the production of documents; and

(ii) impose punishment for failure to obey the order.

(e) (1) The hearing shall be conducted by the hearing board.

(2) The hearing board shall give the Department and correctional officer ample opportunity to present evidence and argument about the issues involved.

(3) (i) The correctional facility and correctional officer may be represented by legal counsel they each may select.

(ii) In the alternative, a correctional officer may be represented:

1. by an agent of the exclusive representative of the correctional officer designated under § 3–406 of the State Personnel and Pensions Article; or

2. if the correctional officer is not within the bargaining unit for which an exclusive representative is designated under § 3–406 of the State Personnel and Pensions Article, by any person chosen by the correctional officer.

(4) Each party has the right to cross-examine witnesses who testify, and each party may submit rebuttal evidence.

(f) (1) Evidence with probative value that is commonly accepted by reasonable and prudent individuals in the conduct of their affairs is admissible and shall be given probative effect.

(2) The hearing board shall give effect to the rules of privilege recognized by law and may exclude incompetent, irrelevant, immaterial, and unduly repetitious evidence.

(3) Each record or document that a party desires to use shall be offered and made a part of the record.

(4) Documentary evidence may be received in the form of copies or excerpts or by incorporation by reference.

(g) (1) The hearing board may take notice of:

(i) judicially and administratively cognizable facts; and

(ii) general, technical, or scientific facts within its specialized knowledge.

(2) The hearing board shall:

(i) notify each party of the facts so noticed either before or during the hearing or by reference in preliminary reports or otherwise; and

(ii) give each party an opportunity and reasonable time to contest the facts so noticed.

(3) The hearing board may use its experience, technical competence, and specialized knowledge in the evaluation of the evidence presented.

(h) The officiating member of a hearing board shall administer oaths or affirmations and examine individuals under oath.

(i) (1) A correctional officer shall be granted release time from the correctional officer's normal work schedule to attend a conference or hearing as a witness.

(2) Expenses incurred in connection with attendance by a correctional officer at conferences or hearings, whether as a grievant, as a grievant's representative, or as a witness, shall be borne by the Department.

(j) An official record, including testimony and exhibits, shall be kept of the hearing.

(k) To the extent that any provision of this section is inconsistent with the Administrative Procedure Act, the Administrative Procedure Act shall govern.

**DRAFTER'S NOTE:**

Error: Purpose paragraph of bill being cured failed to accurately describe the changes made by the bill.

Occurred: Chapter 194 (Senate Bill 887) of the Acts of 2010.

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

**Approved by the Governor, April 12, 2011.**

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**Chapter 65**

**(Senate Bill 455)**

AN ACT concerning

**Annual Corrective Bill**

FOR the purpose of correcting certain errors and omissions in certain articles of the Annotated Code, certain local laws, and 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 5–401(r), 6–201(r)(19)(xi)3., 6–401(r), 7–101(b)(11)(iv)1., and  
13–101(b)(1)(iv) and (c)(4)(i)

Annotated Code of Maryland

(2005 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,

Article 2B – Alcoholic Beverages

Section 12–104(e)(5)(ii)

Annotated Code of Maryland

(2005 Replacement Volume and 2010 Supplement)

(As enacted by Chapter 419 of the Acts of the General Assembly of 2010)

BY repealing and reenacting, with amendments,

Article 24 – Political Subdivisions – Miscellaneous Provisions

Section 9–1302(a)

Annotated Code of Maryland

(2005 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,

Article 28 – Maryland–National Capital Park and Planning Commission

Section 5–114.1(g)(1)(xi) and (xvii)

Annotated Code of Maryland

(2010 Replacement Volume)

BY repealing and reenacting, with amendments,

Article – Business Occupations and Professions

Section 11–101(f)(2), 11–402, 14–314(f)(3) and (4), and 18–3A–02(c)

Annotated Code of Maryland

(2010 Replacement Volume)

BY repealing and reenacting, with amendments,

Article – Commercial Law

Section 2–316.1(1)

Annotated Code of Maryland

(2002 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,

Article – Commercial Law

Section 11–1101(d)(1), 12–1201(g), 14–701(a), 14–1201(f), 16–207(f)(2), and  
19–203(8)

Annotated Code of Maryland

(2005 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,

Article – Corporations and Associations

Section 3–603(b)(4)(ii), 4A–911(d), 9A–1007(d), 10–209(d), and 12–801(d)

Annotated Code of Maryland

(2007 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,

Article – Courts and Judicial Proceedings  
Section 3–2A–02(c)(2)(ii) and 3–8A–01(p)  
Annotated Code of Maryland  
(2006 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,  
Article – Criminal Law  
Section 3–802(a)(1)(iii), 4–203(c)(4)(i)1., and 5–401(b)(2)(ii)  
Annotated Code of Maryland  
(2002 Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,  
Article – Criminal Law  
Section 9–804(c)(2)(i)  
Annotated Code of Maryland  
(2002 Volume and 2010 Supplement)  
(As enacted by Chapter 197 of the Acts of the General Assembly of 2010)

BY repealing and reenacting, with amendments,  
Article – Criminal Procedure  
Section 11–503(c)(1)(ii) and 11–701(o)(4)(i)  
Annotated Code of Maryland  
(2008 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,  
Article – Education  
Section 3–114(d), 7–103(a)(1)(ii), 7–302(c), 7–409(f)(7)(i)4., 11–102(b)(1)(i),  
11–206(a)(2), 13–511(b)(2)(x), 13–516(e)(3), and 18–705(c)(4)  
Annotated Code of Maryland  
(2008 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,  
Article – Education  
Section 7–311(c)(4)  
Annotated Code of Maryland  
(2008 Replacement Volume and 2010 Supplement)  
(As enacted by Chapters 237 and 238 of the Acts of the General Assembly of  
2010)

BY repealing and reenacting, with amendments,  
Article – Education  
Section 19–102(a)(5) and (e)(2)(ii)  
Annotated Code of Maryland  
(2008 Replacement Volume and 2010 Supplement)  
(As enacted by Chapter 246 of the Acts of the General Assembly of 1988)

BY repealing and reenacting, with amendments,



Article – Election Law  
Section 3–301(b)  
Annotated Code of Maryland  
(2010 Replacement Volume)

BY repealing and reenacting, with amendments,  
Article – Environment  
Section 4–203(b)(8), 5–203.1(a)(2), 7–214, 15–1204(b)(2), and 16–101(j)  
Annotated Code of Maryland  
(2007 Replacement Volume and 2010 Supplement)

BY repealing  
Article – Environment  
Section 16–101(i)  
Annotated Code of Maryland  
(2007 Replacement Volume and 2010 Supplement)

BY adding to  
Article – Environment  
Section 16–101(j)  
Annotated Code of Maryland  
(2007 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,  
Article – Estates and Trusts  
Section 9–103(b) and 9–105(c)  
Annotated Code of Maryland  
(2001 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,  
Article – Family Law  
Section 4–508.1(c) and 5–561(i)(2)(ii)  
Annotated Code of Maryland  
(2006 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,  
Article – Health – General  
Section 4–301(c), 7–717(a)(2), 13–1101(z) through (ii), 13–1114(c),  
15–135(e)(2)(ii), 18–338.1(h)(1), 19–120(a), (e), (g)(2)(iii) and (iv),  
(h)(2)(ii)2.C. and (iii)2.A., (j)(2)(iv)1., 2.A., and 3., (k)(2)(ii)1. and (6)(v),  
(viii), and (ix), (l), (n), and (o), 19–211(a)(1), 19–705.1(b), 19–706(fff)  
through (jjjj), and 19–1409(b)(8)  
Annotated Code of Maryland  
(2009 Replacement Volume and 2010 Supplement)

BY repealing  
Article – Health – General

Section 13–1101(y), 19–120(m), and 19–706(eee)  
Annotated Code of Maryland  
(2009 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,  
Article – Health – General  
Section 18–331(b)  
Annotated Code of Maryland  
(2009 Replacement Volume and 2010 Supplement)  
(As enacted by Chapter 578 of the Acts of the General Assembly of 1984)

BY repealing and reenacting, with amendments,  
Article – Health Occupations  
Section 3–602, 4–308(f) and (h)(4)(viii), 4–315(a)(24), 8–205(a)(3),  
14–504(g)(2), and 15–402(a)  
Annotated Code of Maryland  
(2009 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,  
Article – Health Occupations  
Section 15–101(q)  
Annotated Code of Maryland  
(2009 Replacement Volume and 2010 Supplement)  
(As enacted by Chapters 273 and 274 of the Acts of the General Assembly of  
2010)

BY repealing and reenacting, with amendments,  
Article – Housing and Community Development  
Section 2–201  
Annotated Code of Maryland  
(2006 Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,  
Article – Human Services  
Section 5–309(b)(3)(ii), 5–313(a)(2)(ii), 5–318(e)(1)(ii), and 10–902(c)(2)  
Annotated Code of Maryland  
(2007 Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,  
Article – Labor and Employment  
Section 6–107(b)(2)  
Annotated Code of Maryland  
(2008 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,  
Article – Labor and Employment  
Section 8–903(c)

Annotated Code of Maryland  
(2008 Replacement Volume and 2010 Supplement)  
(As enacted by Chapter 2 of the Acts of the General Assembly of 2010)

BY repealing and reenacting, with amendments,  
Article – Natural Resources  
Section 1–203(b) and (f), 4–216(d)(3), and 4–217(d)(3); the subtitle designation  
“Subtitle 6. Licensing, Regulation and Supervision of Fishing and  
Fisheries in Nontidal Waters” to immediately precede Section 4–601; and  
4–745(a)(1), (b)(4)(iii)2., (c), and (d)(2)  
Annotated Code of Maryland  
(2005 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, without amendments,  
Article – Natural Resources  
Section 4–601  
Annotated Code of Maryland  
(2005 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,  
Article – Natural Resources  
Section 4–614(a)(2)  
Annotated Code of Maryland  
(2005 Replacement Volume and 2010 Supplement)  
(As enacted by Chapter 465 of the Acts of the General Assembly of 2010)

BY repealing and reenacting, with amendments,  
Article – Natural Resources  
Section 8–1815(a)(2)(i)1.  
Annotated Code of Maryland  
(2007 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,  
Article – Public Utilities  
Section 7–701(h)(2) and 27–102(d)(4)  
Annotated Code of Maryland  
(2010 Replacement Volume)

BY repealing and reenacting, with amendments,  
Article – Public Utilities  
Section 12–107(b)  
Annotated Code of Maryland  
(2010 Replacement Volume)  
(As enacted by Chapter 635 of the Acts of the General Assembly of 2010)

BY repealing and reenacting, with amendments,  
Article – Real Property

Section 7–105.1(d)(2)(x)1., 8–402.2(c)(2), 8A–401(a), 8A–603, 8A–605(b),  
8A–1201(b)(2)(iv), 9–103(c)(2), 9–105(a)(1)(iii) and (3),  
11–109(c)(16)(iii), 14–125.1(d)(4), and 14–506(b)(3)(i)  
Annotated Code of Maryland  
(2010 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,  
Article – Real Property  
Section 8–5A–02(b)  
Annotated Code of Maryland  
(2010 Replacement Volume and 2010 Supplement)  
(As enacted by Chapters 318 and 319 of the Acts of the General Assembly of  
2010)

BY repealing and reenacting, with amendments,  
Article – State Finance and Procurement  
Section 5–7B–01(c)(1)(i), 8–117(g)(1), 10A–101(a)(3) and (5), 14–301(i)(1)(i)5.,  
and 14–409(c)  
Annotated Code of Maryland  
(2009 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,  
Article – State Government  
Section 2–10A–03(b)(2)(i), 9–1A–26(a)(1), and 9–1406(h)(1)(iv)3.  
Annotated Code of Maryland  
(2009 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,  
Article – State Personnel and Pensions  
Section 21–305.5(h)(3), 21–306(d)(4)(ii) and (e)(2)(i), 21–306.1(e)(2)(i),  
21–306.2(e)(2)(i), 26–303(a), 28–201, and 28–304  
Annotated Code of Maryland  
(2009 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,  
Article – Tax – General  
Section 10–720(c)(3), 10–722(i)(2) and (j)(2), and 11–108  
Annotated Code of Maryland  
(2010 Replacement Volume)

BY repealing and reenacting, with amendments,  
Article – Tax – General  
Section 10–909(1)(ii)  
Annotated Code of Maryland  
(2010 Replacement Volume)  
(As enacted by Chapter 135 of the Acts of the General Assembly of 1988)

BY repealing and reenacting, with amendments,

Article – Tax – General

Section 10–912(a)(7)(i)2., (ii)2., and (iii)2.

Annotated Code of Maryland

(2010 Replacement Volume)

(As enacted by Chapter 410 of the Acts of the General Assembly of 2004)

BY repealing and reenacting, with amendments,

Article – Tax – Property

Section 9–317(b)(2) and (3)

Annotated Code of Maryland

(2007 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,

Article – Transportation

Section 4–312(a)(1) and 4–406(a)(5)(ii)

Annotated Code of Maryland

(2008 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,

Article – Transportation

Section 13–410(f), 13–506(e)(2), 13–815(a)(3)(vii) and (e)(3), 15–101(g)(2)(i),  
16–111(e)(3)(i), and 17–106(e)(4)(i); and the subtitle designation “Subtitle  
3. Mobile Seafood Vendors” to immediately precede Section 24–301

Annotated Code of Maryland

(2009 Replacement Volume and 2010 Supplement)

BY repealing

Article – Transportation

Section 16–104

Annotated Code of Maryland

(2009 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, without amendments,

Article – Transportation

Section 24–301(a)

Annotated Code of Maryland

(2009 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,

Chapter 15 of the Acts of the General Assembly of 2010

Section 3

BY repealing and reenacting, with amendments,

The Public Local Laws of Washington County

Section 1–106.5

Article 22 – The Public Local Laws of Maryland

(2007 Edition and October 2010 Supplement, as amended)

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

**Article 2B – Alcoholic Beverages**

5–401.

(r) **(1)** In Prince George’s County the annual license fee **FOR A CLASS D BEER AND LIGHT WINE LICENSE UNDER SUBSECTION (A) OF THIS SECTION** is \$365.

**(2) (I) THIS PARAGRAPH APPLIES ONLY IN PRINCE GEORGE’S COUNTY.**

**(II) THERE IS A SPECIAL CLASS D BEER AND WINE LICENSE THAT MAY BE ISSUED FOR AN ESTABLISHMENT IN A WATERFRONT ENTERTAINMENT RETAIL COMPLEX, AS DEFINED IN THE COUNTY ZONING ORDINANCE.**

**(III) THE HOURS OF OPERATION ARE FROM 9 A.M. TO 2 A.M. THE FOLLOWING DAY.**

**(IV) A LICENSE HOLDER NEED NOT MEET ANY FOOD REQUIREMENTS.**

**(V) BEER AND WINE MAY BE SOLD FOR CONSUMPTION ON AND OFF THE PREMISES 7 DAYS A WEEK.**

**(VI) THE ANNUAL LICENSE FEE IS \$660.**

DRAFTER’S NOTE:

Error: Miscodification of provisions originally codified under Art. 2B, § 6–401(r) instead of Art. 2B, § 5–401(r), and omitted words (“for consumption”) in subsection (r)(2)(v). Correction suggested by Attorney General in a Bill Review Letter for H.B. 571 of 2010, dated April 28, 2010. Additional language added for clarification.

Occurred: Ch. 423, Acts of 2010.

6–201.

(r) (19) (xi) 3. The permit holder promptly shall be given an opportunity for a hearing in circuit court on the granting of the temporary restraining order in accordance with **TITLE 15**, Chapter 500 of the Maryland Rules.

DRAFTER'S NOTE:

Error: Incomplete cross-reference in Art. 2B, § 6-201(r)(19)(xi)3.

Occurred: Ch. 684, Acts of 2010.

6-401.

(r) [(1) This subsection applies only in Prince George's County.

(2) There is a special Class D beer and wine license that may be issued for an establishment in a waterfront entertainment retail complex, as defined in the county zoning ordinance.

(3) The hours of operation are from 9 a.m. to 2 a.m. the following day.

(4) A license holder need not meet any food requirements.

(5) Beer and wine may be sold on and off the premises 7 days a week.

(6) The annual license fee is \$660] **THIS SECTION DOES NOT APPLY IN PRINCE GEORGE'S COUNTY.**

DRAFTER'S NOTE:

Error: Miscodification of provisions originally codified under Art. 2B, § 6-401(r) instead of § 5-401(r). Statutory language before the miscodification occurred is restored by this correction. Correction suggested by the Attorney General in the Bill Review Letter for H.B. 571 of 2010, dated April 28, 2010.

Occurred: Ch. 423, Acts of 2010.

7-101.

(b) (11) In Prince George's County:

(iv) 1. The Board of License Commissioners may issue a Class D beer and wine license to an individual or **ON BEHALF OF AN** entity that holds an event in the property of a conceptual site plan at least part of which includes a waterfront entertainment retail complex as defined by the county zoning ordinance;

DRAFTER'S NOTE:

Error: Omitted words in Art. 2B, § 7–101(b)(11)(iv)1.

Occurred: Ch. 423, Acts of 2010.

12–104.

(e) (5) (ii) Subject to [subparagraphs] **SUBPARAGRAPH** (iii) [and (iv)] of this paragraph, the Comptroller may issue one Class 6 pub–brewery license or one Class 7 micro–brewery license, but not both, to a person that holds not more than three Class B beer, wine and liquor licenses.

**DRAFTER’S NOTE:**

Error: Erroneous internal reference in Art. 2B, § 12–104(e)(5)(ii).

Occurred: Ch. 419, Acts of 2010. Correction by the publisher of the Annotated Code in the 2010 Supplement of Article 2B – Alcoholic Beverages is ratified by this Act.

13–101.

(b) (1) The provisions of this section apply to:

(iv) In Baltimore City, [any bottle club, as defined in] **AN ESTABLISHMENT COVERED UNDER § 20–102(a)** of this article.

(c) (4) (i) This paragraph applies only to [a bottle club as defined in] **AN ESTABLISHMENT COVERED UNDER § 20–102(a)** of this article, in Baltimore City.

**DRAFTER’S NOTE:**

Error: Obsolete language in Art. 2B, § 13–101(b)(1)(iv) and (c)(4)(i).

Occurred: As a result of Chs. 550 and 551, Acts of 2010, which repealed the definition of “bottle club”.

#### **Article 24 – Political Subdivisions – Miscellaneous Provisions**

9–1302.

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

(2) “Cost” has the meaning stated in § 9–1301 of this subtitle.



(3) “County tax limitation” means a provision of a county charter that limits:

(i) The maximum property tax rate that a county may impose;  
or

(ii) The rate of growth of county property tax revenues.

**(4) “COUNTY TRANSPORTATION IMPROVEMENTS” INCLUDES:**

**(I) FOR COUNTY ROADS AND HIGHWAYS:**

**1. COUNTY RIGHTS-OF-WAY, ROADWAY SURFACES, ROADWAY SUBGRADES, SHOULDERS, MEDIAN DIVIDERS, DRAINAGE FACILITIES AND STRUCTURES, RELATED STORMWATER MANAGEMENT FACILITIES AND STRUCTURES, ROADWAY CUTS, ROADWAY FILLS, GUARDRAILS, BRIDGES, HIGHWAY GRADE SEPARATION STRUCTURES, TUNNELS, OVERPASSES, UNDERPASSES, INTERCHANGES, ENTRANCE PLAZAS, APPROACHES, AND OTHER STRUCTURES FORMING AN INTEGRAL PART OF A STREET, ROAD, OR HIGHWAY, INCLUDING BICYCLE AND WALKING PATHS, DESIGNATED BUS LANES, SIDEWALKS, PEDESTRIAN PLAZAS, STREETSCLAPING, AND RELATED INFRASTRUCTURE; AND**

**2. ANY OTHER PROPERTY ACQUIRED FOR THE CONSTRUCTION, OPERATION, OR USE OF THE HIGHWAY; AND**

**(II) FOR COUNTY TRANSIT FACILITIES, ANY ONE OR MORE OR COMBINATION OF TRACKS, RIGHTS-OF-WAY, BRIDGES, TUNNELS, SUBWAYS, ROLLING STOCK, STATIONS, TERMINALS, PORTS, PARKING AREAS, EQUIPMENT, FIXTURES, BUILDING STRUCTURES, OTHER REAL OR PERSONAL PROPERTY, AND SERVICES INCIDENTAL TO OR USEFUL OR DESIGNED FOR USE IN CONNECTION WITH THE RENDERING OF TRANSIT SERVICE BY ANY MEANS, INCLUDING RAIL, BUS, MOTOR VEHICLE, OR OTHER MODE OF TRANSPORTATION BUT DOES NOT INCLUDE ANY RAILROAD FACILITY.**

**[(4)] (5)** “Highway facility” has the meaning stated in § 3-101(f) of the Transportation Article.

**[(5)] (6)** “Special taxing district” means a defined geographic area designated by a county within which ad valorem or special taxes are imposed for the purpose of financing the cost of infrastructure improvements.

**(7) “STATE TRANSPORTATION IMPROVEMENTS” INCLUDES HIGHWAY FACILITIES, TRANSIT FACILITIES, AND RELATED INFRASTRUCTURE.**

**[(6)] (8)** “Transit facility” has the meaning stated in § 3–101(k) of the Transportation Article.

**[(7)** “State transportation improvements” includes highway facilities, transit facilities, and related infrastructure.

**(8)** “County transportation improvements” includes:

**(i)** For county roads and highways:

1. County rights-of-way, roadway surfaces, roadway subgrades, shoulders, median dividers, drainage facilities and structures, related stormwater management facilities and structures, roadway cuts, roadway fills, guardrails, bridges, highway grade separation structures, tunnels, overpasses, underpasses, interchanges, entrance plazas, approaches, and other structures forming an integral part of a street, road, or highway, including bicycle and walking paths, designated bus lanes, sidewalks, pedestrian plazas, streetscaping, and related infrastructure; and

2. Any other property acquired for the construction, operation, or use of the highway; and

**(ii)** For county transit facilities, any one or more or combination of tracks, rights-of-way, bridges, tunnels, subways, rolling stock, stations, terminals, ports, parking areas, equipment, fixtures, building structures, other real or personal property, and services incidental to or useful or designed for use in connection with the rendering of transit service by any means, including rail, bus, motor vehicle, or other mode of transportation but does not include any railroad facility.]

**DRAFTER’S NOTE:**

Error: Stylistic error (failure to codify definitions in alphabetical order) in Art. 24, § 9–1302(a).

Occurred: Ch. 617, Acts of 2010.

**Article 28 – Maryland–National Capital Park and Planning Commission**

5–114.1.

**(g)** **(1)** Subject to the applicable laws and regulations, this section and any agreement made under it may not impair the rights and responsibilities of the MNCPPC to:

(xi) Establish employee performance standards and evaluate and assign **EMPLOYEES**, except that evaluation and assignment procedures are subjects for bargaining;

(xvii) Suspend, discharge, or otherwise discipline employees for cause, subject to the grievance procedure set forth in the collective bargaining agreement; **OR**

**DRAFTER'S NOTE:**

Error: Omitted word and omitted comma in Art. 28, § 5-114.1(g)(1)(xi); omitted conjunction in Art. 28, § 5-114.1(g)(1)(xvii).

Occurred: Ch. 248, Acts of 2002.

**Article – Business Occupations and Professions**

11-101.

(f) (2) “Limited license” includes a [~~37-foot-draft~~] **40-FOOT-DRAFT** limited license, a [~~34-foot-draft~~] **36-FOOT-DRAFT** limited license, and a [~~28-foot-draft~~] **32-FOOT-DRAFT** limited license.

**DRAFTER'S NOTE:**

Error: Obsolete language in § 11-101(f)(2) of the Business Occupations and Professions Article.

Occurred: As a result of Ch. 125, Acts of 2010.

11-402.

Subject to the provisions of this subtitle, the Board may issue:

- (1) a license;
- (2) a [~~37-foot-draft~~] **40-FOOT-DRAFT** limited license;
- (3) a [~~34-foot-draft~~] **36-FOOT-DRAFT** limited license; and
- (4) a [~~28-foot-draft~~] **32-FOOT-DRAFT** limited license.

**DRAFTER'S NOTE:**

Error: Obsolete language in § 11-402 of the Business Occupations and Professions Article.

Occurred: As a result of Ch. 125, Acts of 2010.

14–314.

(f) The Board shall adopt regulations to require a demonstration of continuing professional competency for a licensee as a condition of renewal of a license under this section in accordance with the following:

(3) if a license expires between October 1, 2012, and September 30, 2013, a licensee is required to fulfill 50% of the continuing professional competency [requirement] **REQUIREMENTS** as provided in the regulations adopted by the Board under this subsection; and

(4) if a license expires on or after October 1, 2013, a licensee is required to fulfill the full continuing professional competency [requirement] **REQUIREMENTS** as provided in the regulations adopted by the Board under this subsection.

**DRAFTER’S NOTE:**

Error: Grammatical errors in § 14–314(f)(3) and (4) of the Business Occupations and Professions Article.

Occurred: Ch. 124, Acts of 2010.

18–3A–02.

(c) The State Department of Education, in conjunction with the Secretary, may establish by regulation a cooperative education program under which a minor may learn the security systems trade with on–site supervision by a security systems [registrar] **REGISTRANT** under the auspices of cooperative education registration with the schools.

**DRAFTER’S NOTE:**

Error: Incorrect word usage in § 18–3A–02(c) of the Business Occupations and Professions Article.

Occurred: Ch. 262, Acts of 2002.

**Article – Commercial Law**

2–316.1.

(1) The provisions of § 2–316 do not apply to sales of consumer goods, as defined by [§ 9–109] **§ 9–102**, services, or both.

DRAFTER'S NOTE:

Error: Erroneous cross-reference in § 2–316.1(1) of the Commercial Law Article.

Occurred: As a result of Ch. 282, Acts of 1999.

11–1101.

(d) (1) “Person” means an individual, corporation, business trust, statutory trust, estate, trust, partnership, association, [2] **TWO** or more persons having a joint or common interest, or any other legal **OR** commercial entity.

DRAFTER'S NOTE:

Error: Stylistic error and omitted word in § 11–1101(d)(1) of the Commercial Law Article.

Occurred: Ch. 340, Acts of 1986 (which enacted § 11–1101(d)(1) as § 11–1001(d)(1)).

12–1201.

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

DRAFTER'S NOTE:

Error: Omitted words in § 12–1201(g) of the Commercial Law Article.

Occurred: As a result of Ch. 611, Acts of 2010, which revised and expanded the law governing business trusts, and replaced the term “business trust” with “statutory trust” in the governing law. Correction suggested by the Attorney General in the Bill Review Letter for S.B. 878/H.B. 799 of 2010 (footnote 8), dated April 27, 2010.

14–701.

(a) In this [section] **SUBTITLE** the following words have the meanings indicated.

DRAFTER'S NOTE:

Error: Erroneous internal reference in § 14–701(a) of the Commercial Law Article.

Occurred: Ch. 49, Acts of 1975.

14–1201.

(f) “Employment purposes” when used in connection with a consumer report means a report used for the purpose of evaluating a consumer for employment, promotion, [reassignment] **REASSIGNMENT**, or retention as an employee.

DRAFTER’S NOTE:

Error: Omitted comma in § 14–1201(f) of the Commercial Law Article.

Occurred: Ch. 584, Acts of 1976 (which enacted § 14–1201(f) as § 14–1201(h)).

16–207.

(f) (2) The exclusion or limitation of any storage fees as provided in [subsections (e)(1)(iii) and (f)(1) of this section] **SUBSECTION (E)(1)(III) OF THIS SECTION AND PARAGRAPH (1) OF THIS SUBSECTION** does not apply to any person who conducts auctions as a business in this State, and is required to maintain records under § 15–113 [in] **OF** the Transportation Article, and that person is also exempt from the maximum storage fee limits under this subsection.

DRAFTER’S NOTE:

Error: Stylistic errors in § 16–207(f)(2) of the Commercial Law Article.

Occurred: Ch. 651, Acts of 1986; Ch. 509, Acts of 1984.

19–203.

This title does not require the repurchasing from a dealer of:

(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] **SUBTITLE** shall be considered new and unused;

DRAFTER’S NOTE:

Error: Stylistic error in § 19–203(8) of the Commercial Law Article.

Occurred: Ch. 433, Acts of 2005.

### Article – Corporations and Associations

3–603.

(b) The vote required by § 3–602(b) of this subtitle does not apply to a business combination as defined in § 3–601(e)(1) of this subtitle if each of the following conditions is met:

(4) (ii) The provisions of subparagraph (i)1 and 2 of this paragraph do not apply if no interested stockholder or an affiliate or associate of the interested stockholder voted as a director of the corporation in a manner inconsistent with [such subsubparagraphs] **SUBPARAGRAPH (I)1 AND 2 OF THIS PARAGRAPH** and the interested stockholder, within 10 days after any act or failure to act inconsistent with [such subsubparagraphs] **SUBPARAGRAPH (I)1 AND 2 OF THIS PARAGRAPH**, notifies the board of directors of the corporation in writing that the interested stockholder disapproves thereof and requests in good faith that the board of directors rectify such act or failure to act.

#### DRAFTER'S NOTE:

Error: Stylistic errors in § 3–603(b)(4)(ii) of the Corporations and Associations Article.

Occurred: Ch. 1, Acts of the Special Session of 1983.

4A–911.

(d) After the lists are certified, the Department shall issue a proclamation declaring that, **SUBJECT TO § 4A–920 OF THIS SUBTITLE**, the right to do business in Maryland and the right to the use of the name for each limited liability company is forfeited as of the date of the proclamation, without proceedings of any kind either at law or in equity.

#### DRAFTER'S NOTE:

Error: Omitted cross-reference in § 4A–911(d) of the Corporations and Associations Article.

Occurred: Ch. 295, Acts of 1995 (which enacted § 4A–911(d) as § 4A–913(d)). Correction made in response to a statement by the Court of Special Appeals of Maryland in *Price v. Upper Chesapeake Health Ventures, Inc.*, 192 Md. App. 695 (2010) (footnote 13), *cert. denied*, 415 Md. 609 (2010).

9A–1007.

(d) After the lists are certified, the Department shall issue a proclamation declaring that, **SUBJECT TO § 9A–1016 OF THIS SUBTITLE**, the right to do business as a limited liability partnership in Maryland and the right to the use of the name for each limited liability partnership is forfeited as of the date of the proclamation, without proceedings of any kind either at law or in equity.

DRAFTER'S NOTE:

Error: Omitted cross-reference in § 9A–1007(d) of the Corporations and Associations Article.

Occurred: Ch. 654, Acts of 1997 (which enacted § 9A–1007(d) as § 9–1007(d)). Correction made in response to a statement by the Court of Special Appeals of Maryland in *Price v. Upper Chesapeake Health Ventures, Inc.*, 192 Md. App. 695 (2010) (footnote 13), *cert. denied*, 415 Md. 609 (2010).

10–209.

(d) After the lists are certified, the Department shall issue a proclamation declaring that, **SUBJECT TO § 10–218 OF THIS SUBTITLE**, the right to do business in Maryland and the right to the use of the name for each limited partnership is forfeited as of the date of the proclamation, without proceedings of any kind either at law or in equity.

DRAFTER'S NOTE:

Error: Omitted cross-reference in § 10–209(d) of the Corporations and Associations Article.

Occurred: Ch. 295, Acts of 1995. Correction made in response to a statement by the Court of Special Appeals of Maryland in *Price v. Upper Chesapeake Health Ventures, Inc.*, 192 Md. App. 695 (2010) (footnote 13), *cert. denied*, 415 Md. 609 (2010).

12–801.

(d) After the lists are certified, the Department shall issue a proclamation declaring, for each statutory trust included on a list, that, **SUBJECT TO § 12–810 OF THIS SUBTITLE**, the right to do business in the State and to use the name of the statutory trust is forfeited as of the date of the proclamation, without proceedings of any kind at law or at equity.

DRAFTER'S NOTE:

Error: Omitted cross-reference in § 12–801(d) of the Corporations and Associations Article.



Occurred: Ch. 452, Acts of 1999. Correction made in response to a statement by the Court of Special Appeals of Maryland in *Price v. Upper Chesapeake Health Ventures, Inc.*, 192 Md. App. 695 (2010) (footnote 13), *cert. denied*, 415 Md. 609 (2010).

### Article – Courts and Judicial Proceedings

3–2A–02.

(c) (2) (ii) 1. In addition to any other qualifications, a health care provider who attests in a certificate of a qualified expert or testifies in relation to a proceeding before a panel or court concerning a defendant's compliance with or departure from standards of care:

A. Shall have had clinical experience, provided consultation relating to clinical practice, or taught medicine in the defendant's specialty or a related field of health care, or in the field of health care in which the defendant provided care or treatment to the plaintiff, within 5 years of the date of the alleged act or omission giving rise to the cause of action; and

B. Except as provided in [item] SUBSUBPARAGRAPH 2 of this subparagraph, if the defendant is board certified in a specialty, shall be board certified in the same or a related specialty as the defendant.

2. [Item (ii)1.B] SUBSUBPARAGRAPH 1B of this subparagraph does not apply if:

A. The defendant was providing care or treatment to the plaintiff unrelated to the area in which the defendant is board certified; or

B. The health care provider taught medicine in the defendant's specialty or a related field of health care.

#### DRAFTER'S NOTE:

Error: Erroneous internal references in § 3–2A–02(c)(2)(ii) of the Courts and Judicial Proceedings Article.

Occurred: Ch. 5, Acts of the Special Session of 2005.

3–8A–01.

(p) “Disposition hearing” means a hearing under this subtitle to determine:

(1) Whether a child needs or requires guidance, treatment, or rehabilitation; [and] **AND**, if so

(2) The nature of the guidance, treatment, or rehabilitation.

**DRAFTER’S NOTE:**

Error: Omitted comma in § 3–2A–01(p)(1) of the Courts and Judicial Proceedings Article.

Occurred: Ch. 463, Acts of 1976.

**Article – Criminal Law**

3–802.

(a) In this section, “stalking” means a malicious course of conduct that includes approaching or pursuing another where the person intends to place or knows or reasonably should have known the conduct would place another in reasonable fear:

(1) (iii) of rape or sexual offense as defined by §§ 3–303 through 3–308 of this [article] **TITLE** or attempted rape or sexual offense in any degree;

**DRAFTER’S NOTE:**

Error: Stylistic error in § 3–802(a)(1)(iii) of the Criminal Law Article.

Occurred: Ch. 313, Acts of 2003.

4–203.

(c) (4) (i) If the person has previously been convicted more than once under this section, § 4–204 of this subtitle, or § 4–101 or § 4–102 of this title, or of any combination of these crimes:

1. except as provided in item [(2)] **2** of this subparagraph, the person is subject to imprisonment for not less than 3 years and not exceeding 10 years; or

**DRAFTER’S NOTE:**

Error: Stylistic error in § 4–203(c)(4)(i)1 of the Criminal Law Article.

Occurred: Ch. 482, Acts of 2005.

5–401.

(b) For purposes of this subtitle, a drug is a depressant or stimulant drug if:

(2) it contains any quantity of:

(ii) a derivative of barbituric acid that [the Secretary of Health and Human Services designates as] **IS DESIGNATED AS** habit forming under [§ 502(d) of] the Federal Food, Drug, and Cosmetic Act [(21 U.S.C. § 352(d))];

**DRAFTER'S NOTE:**

Error: Obsolete cross-reference in § 5-401(b)(2)(ii) of the Criminal Law Article.

Occurred: As a result of changes in federal law enacted by P.L. 105-115 (1997).  
9-804.

(c) (2) (i) A sentence imposed under paragraph (1)(i) of this subsection [this section] for a first offense may be separate from and consecutive to or concurrent with a sentence for any crime based on the act establishing a violation of this section.

**DRAFTER'S NOTE:**

Error: Extraneous language in § 9-804(c)(2)(i) of the Criminal Law Article.

Occurred: Ch. 197, Acts of 2010. Correction by the publisher of the Annotated Code in the 2010 Supplement of the Criminal Law Article is ratified by this Act.

**Article – Criminal Procedure**

11-503.

(c) (1) The State's Attorney's office shall:

(ii) send an information copy of the notification to the [office] **OFFICE** of the Attorney General.

**DRAFTER'S NOTE:**

Error: Capitalization error in § 11-503(c)(1)(ii) of the Criminal Procedure Article.

Occurred: Ch. 10, Acts of 2001.

11-701.

(o) "Tier I sex offender" means a person who has been convicted of:

(4) any of the following federal offenses:

(i) misleading domain names on the Internet under 18 U.S.C. § [2252C] **2252B**;

DRAFTER'S NOTE:

Error: Erroneous cross-reference in § 11–701(o)(4)(i) of the Criminal Procedure Article.

Occurred: Chs. 174 and 175, Acts of 2010.

**Article – Education**

3–114.

(d) An individual subject to the authority of the county board may not serve as a member of the county board. At the time of filing a certificate of candidacy for election to a county board, a person shall certify to the local board of supervisors of [election] **ELECTIONS** whether or not he is subject to the authority of the county board. The Governor shall not issue a commission of election to a person who has certified affirmatively and who is elected to a county board until the member-elect offers proof that he is no longer subject to the authority of the county board.

DRAFTER'S NOTE:

Error: Misnomer in § 3–114(d) of the Education Article.

Occurred: Ch. 338, Acts of 1982.

7–103.

(a) Except as provided in subsections (b), (e), and (f) of this section, each public school under the jurisdiction of a county board:

(1) (ii) If normal school attendance is prevented because of conditions described in subsection (b) of this section, shall be open for at least 1,080 hours during a 10-month period; [and]

DRAFTER'S NOTE:

Error: Extraneous conjunction in § 7–103(a)(1)(ii) of the Education Article.

Occurred: Ch. 120, Acts of 1982.

7–302.

(c) The county superintendent, the superintendent's designee, or the supervisor of pupil personnel shall provide to the local education agency [for inclusion in the report of the local education agency under § 7-304(f)(1) of this subtitle] information regarding the number of students identified as being habitually truant.

DRAFTER'S NOTE:

Error: Obsolete language in § 7-302(c) of the Education Article.

Occurred: As a result of Ch. 27, Acts of 2010, which repealed § 7-304(f) of the Education Article.

7-311.

(c) The committee established under subsection (b) of this section shall consist of:

(4) One member **WHO** shall be a designee of the County Superintendent; [and]

DRAFTER'S NOTE:

Error: Omitted word and extraneous conjunction in § 7-311(c)(4) of the Education Article.

Occurred: Chs. 237 and 238, Acts of 2010. Correction by the publisher of the Annotated Code in the 2010 Supplement of the Education Article is ratified by this Act.

7-409.

(f) (7) The Advisory Council shall:

(i) Develop and coordinate programs in collaboration with public schools to educate students regarding the importance of:

4. The value of physical activity and its relationship to improved academic achievement and stress reduction; [and]

DRAFTER'S NOTE:

Error: Extraneous conjunction in § 7-409(f)(7)(i)4 of the Education Article.

Occurred: Chs. 622 and 623, Acts of 2009.

11-102.

(b) (1) One member of the Commission shall be:

(i) A regularly enrolled student in good standing at a Maryland institution of higher education to which the Commission has issued a certificate of approval under this title or that may operate without a certificate of approval under [§ 11–202(c)] **§ 11–202.1** of this title; and

DRAFTER’S NOTE:

Error: Obsolete cross–reference in § 11–102(b)(1)(i) of the Education Article.

Occurred: As a result of Ch. 221, Acts of 2010, which repealed § 11–202(c) of the Education Article and added a similar provision in § 11–202.1 of the Education Article.

11–206.

(a) This section does not apply to:

(2) Programs offered by institutions of higher education that operate in the State without a certificate of approval in accordance with [§ 11–202(c)(2) or (3)] **§ 11–202.1(B)** of this subtitle.

DRAFTER’S NOTE:

Error: Obsolete cross–reference in § 11–206(a) of the Education Article.

Occurred: As a result of Ch. 221, Acts of 2010, which repealed § 11–202(c)(2) and (3) of the Education Article and added a similar provision in § 11–202.1(b) of the Education Article.

13–511.

(b) (2) Of the 31 members:

(x) One shall be a representative of the [Maryland trauma net] **MARYLAND TRAUMA CENTER NETWORK**;

DRAFTER’S NOTE:

Error: Misnomer in § 13–511(b)(2)(x) of the Education Article.

Occurred: Ch. 592, Acts of 1993.

13–516.

(e) (3) Eight of the appointed members shall be licensed or certified emergency medical service providers who are actively providing emergency medical services at the time of their appointment. Three shall be members of a governmental fire, rescue, or emergency medical services company, three shall be members of a volunteer fire, rescue, or emergency medical services company, one shall be an employee of a commercial ambulance service, and one shall be an emergency medical dispatcher. In appointing the provider representatives of the provider review panel, the **EMS** Board shall give consideration to providing for reasonable representation from throughout the State.

**DRAFTER'S NOTE:**

Error: Misnomer in § 13-516(e)(3) of the Education Article.

Occurred: Ch. 201, § 1, Acts of 1997.

18-705.

(e) (4) **(I)** A recipient of tuition assistance may reapply for an award if the recipient:

**[(i)] 1.** Remains enrolled as a full-time student in an eligible program; or

**[(ii)] 2.** Remains enrolled as a part-time student and continues to hold authorized employment as a child care provider; and

**[(iii)] (II)** Satisfies any additional criteria the Office of Student Financial Assistance may establish.

**DRAFTER'S NOTE:**

Error: Stylistic error in § 18-705(c)(4) of the Education Article.

Occurred: Ch. 462, Acts of 1991.

19-102.

(a) In order to provide auxiliary and academic facilities a system may:

(5) Establish 1 or more trust funds for the deposit of any auxiliary facilities fees and academic fees which may be imposed pursuant to this [subtitle] **TITLE**, and retain the interest revenue or other investment income thereon, for the purpose of acquiring, constructing, reconstructing, renovating, equipping, maintaining, repairing, and operating auxiliary and academic facilities;

(e) (2) A system shall report:

(ii) By December 1, subject to § 2–1246 of the State Government Article, to the Department of Legislative Services, the anticipated sources and amounts of payments required for the next fiscal year for:

1. Auxiliary facilities; and
2. Academic facilities authorized under the requirements of this [subtitle] **TITLE**.

**DRAFTER’S NOTE:**

Error: Stylistic error in § 19–102(a)(5) and (e)(2)(ii) of the Education Article.

Occurred: Ch. 246, Acts of 1988. Correction by the publisher of the Annotated Code in the 2010 Supplement of the Education Article is ratified by this Act.

### **Article – Election Law**

3–301.

(b) **[A] THE INFORMATION CONTAINED IN THE VOTER REGISTRATION APPLICATION FOR A** qualified applicant shall be electronically entered into the statewide voter registration list on an expedited basis at the time voter registration information is provided to the local board and shall be assigned to the county in which the applicant resides unless registration is closed pursuant to § 3–302 of this subtitle.

**DRAFTER’S NOTE:**

Error: Omitted language in § 3–301(b) of the Election Law Article.

Occurred: Ch. 572, Acts of 2005.

### **Article – Environment**

4–203.

(b) The Department shall adopt rules and regulations which establish criteria and procedures for stormwater management in Maryland. The rules and regulations shall:

(8) Specify **THAT** all stormwater management plans shall be designed to:

- (i) Prevent soil erosion from any development project;



(ii) Prevent, to the maximum extent practicable, an increase in nonpoint pollution;

(iii) Maintain the integrity of stream channels for their biological function, as well as for drainage;

(iv) Minimize pollutants in stormwater runoff from new development and redevelopment in order to:

1. Restore, [enhance] **ENHANCE**, and maintain the chemical, physical, and biological integrity of the waters of the State;

2. Protect public health;

3. Safeguard fish and aquatic life and scenic and ecological values; and

4. Enhance the domestic, municipal, recreational, industrial, and other uses of water as specified by the Department;

(v) Protect public safety through the proper design and operation of stormwater management facilities;

(vi) Maintain 100% of average annual predevelopment groundwater recharge volume for the site;

(vii) Capture and treat stormwater runoff to remove pollutants and enhance water quality;

(viii) Implement a channel protection strategy to reduce downstream erosion in receiving streams; and

(ix) Implement quantity control strategies to prevent increases in the frequency and magnitude of out-of-bank flooding from large, less frequent storm events; **AND**

(9) (i) Establish a comprehensive process for approving grading and sediment control plans and stormwater management plans; and

(ii) Specify that the comprehensive process established under [subparagraph] **ITEM** (i) of this [paragraph] **ITEM** takes into account the cumulative impacts of both plans.

**DRAFTER'S NOTE:**

Error: Omitted words and omitted comma in § 4-203(b)(8) and stylistic errors in § 4-203(b)(9) of the Environment Article.

Occurred: Chs. 121 and 122, Acts of 2007.

5–203.1.

(a) (2) “Major project” means a project that:

(i) Proposes to permanently impact 5,000 square feet or more of wetlands or waterways, including the 100–year floodplain;

(ii) Is located in an area identified as potentially impacting threatened or endangered species or species in need of conservation by a geographical information system database that:

1. Includes sensitive species project review areas and waterfowl concentration and staging areas;

2. Has been developed and maintained by the Department of Natural Resources; and

3. Is used by the Department to screen incoming applications;

(iii) Is located in an area that has been identified as potentially impacting historical or [archeological] **ARCHAEOLOGICAL** resources by a geographical information system database that:

1. Includes Maryland [archeological] **ARCHAEOLOGICAL** sites, the Maryland Inventory of Historic Properties, the National Register of Historic Places, the Maryland Historical Trust Preservation Easements, the Annapolis Maryland Inventory of Historic Properties, and the Annapolis Maryland Inventory of Historic Properties street map;

2. Has been developed and maintained by the Maryland Historical Trust; and

3. Is used by the Department to screen incoming applications;

(iv) Is located in an area identified as potentially impacting a nontidal wetland of special State concern by a geographical information system database that:

1. Has been developed and maintained by the Department of Natural Resources; and

2. Is used by the Department to screen incoming applications;

(v) Is adjacent to Use III or Use IV waters, as defined in regulation by the Department; or

(vi) Requires the issuance of a public notice by the Department.

**DRAFTER'S NOTE:**

Error: Misspelling in § 5–203.1(a)(2)(iii) of the Environment Article.

Occurred: Ch. 142, Acts of 2008.

7–214.

A member of the Council:

(1) May not receive compensation **AS A MEMBER OF THE COUNCIL**;  
but

(2) Is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

**DRAFTER'S NOTE:**

Error: Omitted words in § 7–214 of the Environment Article.

Occurred: Ch. 240, Acts of 1982.

15–1204.

(b) (2) A notice recorded under subsection (a) of this section shall contain:  
(i) **1.** The name of the owner, or co-owners, of the mineral interest; or

**[(ii)] 2.** If the identity of the owner cannot be determined, information that states that the owner cannot be determined; and

**[(iii)] (II)** An identification of the mineral interest or part of the mineral interest to be preserved, in accordance with subsection (c) of this section.

**DRAFTER'S NOTE:**

Error: Tabulation error in § 15–204(b)(2) of the Environment Article.

Occurred: Chs. 268 and 269, Acts of 2010.

16–101.

[(i) (1) “Pier” means any pier, wharf, dock, walkway, bulkhead, breakwater, piles, or other similar structure.

(2) “Pier” does not include any structure on pilings or stilts that was originally constructed beyond the landward boundaries of State or private wetlands.]

[(j)] (I) “Person” means any natural person, partnership, joint-stock company, unincorporated association or society, the federal government, the State, any unit of the State, a political subdivision, or other corporation of any type.

**(J) (1) “PIER” MEANS ANY PIER, WHARF, DOCK, WALKWAY, BULKHEAD, BREAKWATER, PILES, OR OTHER SIMILAR STRUCTURE.**

**(2) “PIER” DOES NOT INCLUDE ANY STRUCTURE ON PILINGS OR STILTS THAT WAS ORIGINALLY CONSTRUCTED BEYOND THE LANDWARD BOUNDARIES OF STATE OR PRIVATE WETLANDS.**

DRAFTER’S NOTE:

Error: Stylistic error (definitions not in proper alphabetical order) in § 16–101(i) and (j) of the Environment Article.

Occurred: Ch. 794, Acts of 1989.

### **Article – Estates and Trusts**

9–103.

(b) Unless a contrary intent is expressed in the will and except as provided in [§§ 3–208, 3–303,] **§§ 3–208 AND 3–303 OF THIS ARTICLE** and subsection (c) of this section, shares of legatees abate without preference or priority as between real and personal property, in the order provided in this subsection.

- (1) Property not disposed of by the will,
- (2) Residuary legacies,
- (3) General legacy, other than (4), (5), and (6) of this subsection,
- (4) General legacy to dependents of testator,
- (5) General legacy to creditor of testator in satisfaction of a just debt,

- (6) General legacy to surviving spouse of testator,
- (7) Specific and demonstrative legacies.

Abatement within each classification is in proportion to the amounts of property each of the legatees or heirs would have received, had full distribution of the property been made in accordance with the terms of the will.

**DRAFTER'S NOTE:**

Error: Stylistic error in § 9–103(b) of the Estates and Trusts Article.

Occurred: Ch. 11, § 2, Acts of 1974.

9–105.

(c) A [state] **STATE** or local excise tax may not be imposed upon the transfer of property or the recordation of an instrument executed without consideration by a personal representative.

**DRAFTER'S NOTE:**

Error: Capitalization error in § 9–105(c) of the Estates and Trusts Article.

Occurred: Ch. 11, § 2, Acts of 1974.

### **Article – Family Law**

4–508.1.

(c) A law enforcement officer shall arrest with or without a warrant and take into custody a person [whom] **WHO** the officer has probable cause to believe is in violation of an order for protection that was issued by a court of another state or a Native American tribe and is in effect at the time of the violation if the person seeking the assistance of the law enforcement officer:

(1) has filed with the District Court or circuit court for the jurisdiction in which the person seeks assistance a copy of the order; or

(2) displays or presents to the law enforcement officer a copy of the order that appears valid on its face.

**DRAFTER'S NOTE:**

Error: Grammatical error in § 4–508.1(c) of the Family Law Article.

Occurred: Ch. 615, Acts of 1996.

5–561.

(i) (2) The local department shall reimburse:

(ii) an individual described in subsection [(c)(4)(ii)] **(C)(6)(II)** of this section for the costs borne by the individual under subsection (h) of this section.

DRAFTER’S NOTE:

Error: Erroneous internal reference in § 5–561(i)(2)(ii) of the Family Law Article.

Occurred: As a result of Ch. 507, Acts of 2005, which renumbered § 5–561(c)(4) of the Family Law Article to be § 5–561(c)(6) of the Family Law Article.

#### Article – Health – General

4–301.

(c) [“Disclose or disclosure”] **“DISCLOSE” OR “DISCLOSURE”** means the transmission or communication of information in a medical record, including an acknowledgment that a medical record on a particular patient or recipient exists.

DRAFTER’S NOTE:

Error: Stylistic error in § 4–301(c) of the Health – General Article.

Occurred: Ch. 480, Acts of 1990.

7–717.

(a) (2) “Low intensity support services” includes the services and items listed in [§ 7–701(d) and § 7–706(c)] **§§ 7–701(D) AND 7–706(C)** of this subtitle.

DRAFTER’S NOTE:

Error: Stylistic error in § 7–717(a)(2) of the Health – General Article.

Occurred: Chs. 503 and 504, Acts of 2010.

13–1101.

[(y) “Statewide Academic Health Center Network Grant” means the grant that is distributed under § 13–1118 of this subtitle.]

**[(z)] (Y)** “Statewide Academic Health Center Public Health Grant” means a grant that is distributed under § 13–1115 of this subtitle.

**[(aa)] (Z)** “Statewide Academic Health Center Tobacco–Related Diseases Research Grant” means a grant that is distributed under § 13–1017 of this title.

**[(bb)] (AA)** “Statewide Public Health Component” means the component of the Program that is established under § 13–1106 of this subtitle.

**[(cc)] (BB)** “Surveillance and Evaluation Component” means the component of the Program that is established under § 13–1103 of this subtitle.

**[(dd)] (CC)** “Targeted cancer” means a cancer that is identified by the Department under § 13–1102(d) of this subtitle.

**[(ee)] (DD)** “Task Force Report” means the report entitled “Report of the Governor’s Task Force to Conquer Cancer” that was issued in December 1999.

**[(ff)] (EE)** “Tobacco–related diseases” means cardiovascular disease, chronic pulmonary disease, peripheral vascular disease, stroke, and infant mortality due to low birth weight.

**[(gg)] (FF)** “Treatment” includes appropriate access to:

(1) Local hospitals, community clinics, physicians, and other health care providers; and

(2) Clinical trials, transportation, case management, hospice care, and cancer support groups.

**[(hh)] (GG)** “Uninsured individual” means an individual:

(1) For whom the appropriate treatment is not covered by private health insurance, Medicaid, Medicare, or the Maryland Children’s Health Program; and

(2) Who the Department determines does not have the financial means to pay for appropriate treatment.

**[(ii)] (HH)** “University of Maryland Medical Group” means the University of Maryland Medical System Corporation, the University of Maryland Medical School, and the University of Maryland, Baltimore.

DRAFTER’S NOTE:

Error: Obsolete definition in § 13–1101(y) of the Health – General Article.

Occurred: As a result of Ch. 484, Acts of 2010.

13–1114.

(c) Subject to §§ 13–1115 [through 13–1118] **AND 13–1116** of this subtitle, the Department may implement the Statewide Academic Health Center Component by distributing:

(1) Statewide Academic Health Center Public Health Grants, as provided under § 13–1115 of this subtitle; **AND**

(2) Statewide Academic Health Center Cancer Research Grants, as provided under § 13–1116 of this subtitle[;

(3) A Statewide Academic Health Center Tobacco–Related Diseases Research Grant, as provided under § 13–1117 of this subtitle; and

(4) A Statewide Academic Health Center Network Grant, as provided under § 13–1118 of this subtitle].

DRAFTER’S NOTE:

Error: Obsolete language in § 13–1114(c) of the Health – General Article.

Occurred: As a result of Ch. 484, Acts of 2010.

15–135.

(e) If a resident who would qualify for home– and community–based waiver services under § 15–137 of this subtitle indicates an interest or preference for living in the community, the Department, or the Department’s designee, shall provide the resident with:

(2) Assistance in:

(ii) Moving from a nursing facility to a community–based setting appropriate to the [residents’] **RESIDENT’S** needs and expressed wishes.

DRAFTER’S NOTE:

Error: Grammatical error in § 15–135(e)(2)(ii) of the Health – General Article.

Occurred: Chs. 426 and 427, Acts of 2004.



18–331.

(b) On the basis of information collected under this subsection and of other information available, the Department shall periodically revise and update the information required by § 18–329 **OF THIS SUBTITLE** and the guidelines adopted under § 18–332 of this subtitle.

**DRAFTER'S NOTE:**

Error: Stylistic error in § 18–331(b) of the Health – General Article.

Occurred: Ch. 578, Acts of 1984. Correction by the publisher of the Annotated Code in the 2010 Supplement of the Health – General Article is ratified by this Act.

18–338.1.

(h) (1) Notwithstanding the provisions of 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] **SECTION**, may not be documented in the medical record of the patient or health care provider.

**DRAFTER'S NOTE:**

Error: Omitted comma in § 18–338.1(h)(1) of the Health – General Article.

Occurred: Ch. 535, Acts of 1991.

19–120.

- (a) (1) In this section the following words have the meanings indicated.
- (2) [“Limited service hospital” means a health care facility that:
- (i) Is licensed as a hospital on or after January 1, 1999;
  - (ii) Changes the type or scope of health care services offered by eliminating the facility’s capability to admit or retain patients for overnight hospitalization;
  - (iii) Retains an emergency or urgent care center; and
  - (iv) Complies with the regulations adopted by the Secretary under § 19–307.1 of this title.

(3)] “CONSOLIDATION” AND “MERGER” INCLUDE INCREASES AND DECREASES IN BED CAPACITY OR SERVICES AMONG THE COMPONENTS OF AN ORGANIZATION THAT:

(I) OPERATES MORE THAN ONE HEALTH CARE FACILITY;  
OR

(II) OPERATES ONE OR MORE HEALTH CARE FACILITIES AND HOLDS AN OUTSTANDING CERTIFICATE OF NEED TO CONSTRUCT A HEALTH CARE FACILITY.

(3) (i) “Health care service” means any clinically related patient service.

(ii) “Health care service” includes a medical service.

(4) “LIMITED SERVICE HOSPITAL” MEANS A HEALTH CARE FACILITY THAT:

(I) IS LICENSED AS A HOSPITAL ON OR AFTER JANUARY 1, 1999;

(II) CHANGES THE TYPE OF SCOPE OF HEALTH CARE SERVICES OFFERED BY ELIMINATING THE FACILITY’S CAPABILITY TO ADMIT OR RETAIN PATIENTS FOR OVERNIGHT HOSPITALIZATION;

(III) RETAINS AN EMERGENCY OR URGENT CARE CENTER;  
AND

(IV) COMPLIES WITH THE REGULATIONS ADOPTED BY THE SECRETARY UNDER § 19-307.1 OF THIS TITLE.

[(4)] (5) “Medical service” means:

(i) Any of the following categories of health care services:

1. Medicine, surgery, gynecology, addictions;

2. Obstetrics;

3. Pediatrics;

4. Psychiatry;

5. Rehabilitation;

6. Chronic care;
7. Comprehensive care;
8. Extended care;
9. Intermediate care; or
10. Residential treatment; or

(ii) Any subcategory of the rehabilitation, psychiatry, comprehensive care, or intermediate care categories of health care services for which need is projected in the State health plan.

**DRAFTER'S NOTE:**

Error: Stylistic error (failure to codify definitions in alphabetical order) in § 19–120(a)(2) of the Health – General Article; stylistic error (failure to codify definitions in the first subsection of the section) in § 19–120(m) of the Health – General Article (shown as added language in § 19–120(a)(2) of the Health – General Article).

Occurred: Ch. 678, Acts of 1999; Ch. 109, Acts of 1985.

(e) (1) A person shall have a certificate of need issued by the Commission before the person develops, operates, or participates in any of the [following] health care projects for which a certificate of need is required under this section.

(2) A certificate of need issued [prior to January 13, 1987] **BEFORE JANUARY 13, 1987**, may not be rendered wholly or partially invalid solely because certain conditions have been imposed, if an appeal concerning the certificate of need, challenging the power of the Commission to impose certain conditions on a certificate of need, has not been noted by an aggrieved party before January 13, 1987.

**DRAFTER'S NOTE:**

Error: Extraneous word in § 19–120(e)(1) of the Health – General Article; stylistic error and omitted comma in § 19–120(e)(2) of the Health – General Article.

Occurred: Ch. 108, Acts of 1982; Ch. 8, Acts of 1987.

(g) (2) This subsection does not apply if:

(iii) Subject to the provisions of subsections (i) and (j) of this section, the relocation is of an existing health care facility owned or controlled by a merged asset system and is to:

1. A site within the primary service area of the health care facility to be relocated if:

A. The proposed relocation is not across county boundaries; and

B. At least 45 days prior to the proposed [relocation] **RELOCATION**, notice is filed with the Commission;

2. A site outside the primary service area of the health care facility to be relocated but within the primary service area of the merged asset system if:

A. At least 45 days prior to the proposed [relocation] **RELOCATION**, notice is filed with the Commission; and

B. The Commission in its sole discretion, and in accordance with the criteria adopted by regulation, finds that the relocation is in the public interest, is not inconsistent with the State health plan, and will result in the more efficient and effective delivery of health care services; or

3. For a limited service hospital, a site within the immediate area as defined in regulation by the Commission; or

(iv) The relocation involves moving a portion of a complement of comprehensive care beds previously approved by the Commission after [January 1, 1995] **JANUARY 1, 1995**, for use in a proposed new related institution, as defined in § 19–301 of this title, but unbuilt on [October 1, 1998] **OCTOBER 1, 1998**, if:

1. The comprehensive care beds that were originally approved by the Commission in a prior certificate of need review were approved for use in a proposed new related institution to be located in a municipal corporation within Carroll County in which a related institution is not located;

2. The comprehensive care beds being relocated will be used to establish an additional new related institution that is located in another municipal corporation within Carroll County in which a related institution is not located;

3. The comprehensive care beds not being relocated are intended to be used to establish a related institution on the original site; and

4. Both the previously approved comprehensive care beds for use on the original site and the relocated comprehensive care beds for use on

the new site will be used as components of single buildings on each site that also offer independent or assisted living residential units.

**DRAFTER'S NOTE:**

Error: Omitted commas in § 19–120(g)(2)(iii) of the Health – General Article; omitted commas in § 19–120(g)(2)(iv) of the Health – General Article.

Occurred: Ch. 678, Acts of 1999; Ch. 782, Acts of 1998.

(h) (2) This subsection does not apply to any increase or decrease in bed capacity if:

(ii) 2. C. At least 45 days prior to the [change] **CHANGE**, the hospital provides written notice to the Commission describing the change and providing an updated inventory of the hospital's licensed bed complement;

(iii) 2. The Commission in its sole discretion finds that the proposed change:

A. Is pursuant to the consolidation or merger of [2] **TWO** or more health care facilities, or conversion of a health care facility or part of a facility to a nonhealth-related use;

**DRAFTER'S NOTE:**

Error: Omitted comma in § 19–120(h)(2)(ii)2C of the Health – General Article; stylistic error in § 19–120(h)(2)(iii)2A of the Health – General Article.

Occurred: Ch. 767, Acts of 1988; Ch. 109, Acts of 1985.

(j) (2) This subsection does not apply if:

(iv) 1. At least 45 days before increasing or decreasing the volume of [1] **ONE** or more health care services, written notice of intent to change the volume of health care services is filed with the Commission;

2. The Commission in its sole discretion finds that the proposed change:

A. Is pursuant to the consolidation or merger of [2] **TWO** or more health care facilities, the conversion of a health care facility or part of a facility to a nonhealth-related use, or the conversion of a hospital to a limited service hospital;

3. Within 45 days of receiving notice under item 1 of this [subparagraph] **ITEM**, the Commission [shall notify] **NOTIFIES** the health care facility of its finding.

**DRAFTER'S NOTE:**

Error: Stylistic errors in § 19–120(j)(2)(iv)1 and 2A of the Health – General Article; grammatical error in § 19–120(j)(2)(iv)3 of the Health – General Article; stylistic error in § 19–120(j)(2)(iv)3 of the Health – General Article;

Occurred: Ch. 109, Acts of 1985 (multiple errors); Ch. 5, § 1, Acts of 1989.

(k) (2) A certificate of need is required before any of the following capital expenditures are made by or on behalf of a health care facility other than a hospital:

(ii) Any expenditure that is made to lease or, by comparable arrangement, obtain any plant or equipment for the health care facility other than a hospital, if:

1. The expenditure is made as part of an acquisition, improvement, or expansion, and, after adjustment for inflation as provided in the [rules and] regulations of the Commission, the total expenditure, including the cost of each study, survey, design, plan, working drawing, specification, and other essential activity, is more than \$5,000,000;

(6) This subsection does not apply to:

(v) A capital expenditure made as part of a consolidation or merger of [2] **TWO** or more health care facilities, or conversion of a health care facility or part of a facility to a nonhealth–related use if:

1. At least 45 days before an expenditure is made, written notice of intent is filed with the Commission;

2. Within 45 days of receiving notice, the Commission in its sole discretion finds that the proposed consolidation, merger, or conversion:

A. Is not inconsistent with the State health plan or the institution–specific plan developed by the Commission as appropriate;

B. Will result in the delivery of more efficient and effective health care services; and

C. Is in the public interest; and

3. Within 45 days of receiving notice, the Commission [shall notify] **NOTIFIES** the health care facility of its finding;

(viii) A capital expenditure by a [hospital] **HOSPITAL**, as defined in § 19–301 of this title, for a project in excess of \$10,000,000 for construction or renovation that:

1. May be related to patient care;
2. Does not require, over the entire period or schedule of debt service associated with the project, a total cumulative increase in patient charges or hospital rates of more than \$1,500,000 for the capital costs associated with the project as determined by the Commission, after consultation with the Health Services Cost Review Commission;
3. At least 45 days before the proposed expenditure is made, the hospital notifies the Commission; [and]
4. A. Within 45 days of receipt of the relevant financial information, the Commission makes the financial determination required under item 2 of this [subparagraph] **ITEM**; or  
B. The Commission has not made the financial determination required under item 2 of this [subparagraph] **ITEM** within 60 days of the receipt of the relevant financial information; and  
[4.] **5.** The relevant financial information to be submitted by the hospital is defined in regulations adopted by the Commission, after consultation with the Health Services Cost Review Commission; or

(ix) A plant donated to a [hospital] **HOSPITAL**, as defined in § 19–301 of this title, [which] **THAT** does not require a cumulative increase in patient charges or hospital rates of more than \$1,500,000 for capital costs associated with the donated plant as determined by the Commission, after consultation with the Health Services Cost Review Commission [that], **IF**:

1. At least 45 days before the proposed donation is made, the hospital notifies the Commission; [and]
2. A. Within 45 days of receipt of the relevant financial information, the Commission makes the financial determination required under this [subparagraph] **ITEM (IX) OF THIS PARAGRAPH**; or  
B. The Commission has not made the financial determination required under [item 2] **THIS ITEM (IX)** of this [subparagraph] **PARAGRAPH** within 60 days of the receipt of the relevant financial information; and

[2.] 3. The relevant financial information to be submitted by the hospital is defined in regulations adopted by the Commission after consultation with the Health Services Cost Review Commission.

DRAFTER'S NOTE:

Error: Extraneous words in § 19–120(k)(2)(ii)1 of the Health – General Article; stylistic and grammatical errors in § 19–120(k)(6)(v) of the Health – General Article; omitted comma in § 19–120(k)(6)(viii) of the Health – General Article; stylistic error in § 19–120(k)(6)(viii)3 of the Health – General Article; stylistic error in § 19–120(k)(6)(viii)3A of the Health – General Article; stylistic error in § 19–120(k)(6)(viii)3B of the Health – General Article; omitted comma and grammatical error in § 19–120(k)(6)(ix) of the Health – General Article; incorrect word usage in § 19–120(k)(6)(ix) of the Health – General Article; extraneous conjunction in § 19–120(k)(6)(ix)1 of the Health – General Article; stylistic error in § 19–120(k)(6)(ix)1A of the Health – General Article; stylistic error in § 19–120(k)(6)(ix)1B of the Health – General Article.

Occurred: Ch. 541, Acts of 2006 (multiple errors); Ch. 109, Acts of 1985; Ch. 767, Acts of 1988 (multiple errors); Ch. 3, § 1, Acts of 1995.

(l) A certificate of need is not required to close any hospital or part of a [hospital] **HOSPITAL**, as defined in § 19–301 of this [title] **TITLE**, if:

(1) At least 45 days before the closing or partial closing of a hospital, including a State hospital, a person proposing to close all or part of the hospital files notice of the proposed closing or partial closing with the Commission; and

(2) For a hospital located in a county with fewer than three hospitals, within 30 days after receipt of the notice of intent to close, the hospital, in consultation with the Commission, holds a public informational hearing in the county where the hospital is located.

DRAFTER'S NOTE:

Error: Omitted commas in § 19–120(l) of the Health – General Article.

Occurred: Ch. 109, Acts of 1985.

[(m) In this section the terms “consolidation” and “merger” include increases and decreases in bed capacity or services among the components of an organization which:

(1) Operates more than one health care facility; or

(2) Operates one or more health care facilities and holds an outstanding certificate of need to construct a health care facility.]



**[(n)] (M)** (1) Notwithstanding any other provision of this section, the Commission shall consider the special needs and circumstances of a county where a medical service, as defined in this section, does not exist; and

(2) The Commission shall consider and may approve under this subsection a certificate of need application to establish, build, operate, or participate in a health care project to provide a new medical service in a county if the Commission, in its sole discretion, finds that:

(i) The proposed medical service does not exist in the county that the project would be located;

(ii) The proposed medical service is necessary to meet the health care needs of the residents of that county;

(iii) The proposed medical service would have a positive impact on the existing health care system;

(iv) The proposed medical service would result in the delivery of more efficient and effective health care services to the residents of that county; and

(v) The application meets any other standards or regulations established by the Commission to approve applications under this subsection.

**[(o)] (N)** The Commission may not issue a certificate of need or a determination with respect to an acquisition that authorizes a general hospice to provide home-based hospice services on a statewide basis.

**DRAFTER'S NOTE:**

Error: Stylistic error (failure to codify definitions in the first subsection of the section) in § 19–120(m) of the Health – General Article (shown as added language in § 19–120(a)(2) of the Health – General Article).

Occurred: Ch. 109, Acts of 1985.

19–211.

(a) (1) Except for a facility that is operated or is listed and certified by the First Church of Christ[,] Scientist, Boston, Massachusetts, the Commission has jurisdiction over hospital services offered by or through all facilities.

**DRAFTER'S NOTE:**

Error: Extraneous comma in § 19–211(a)(1) of the Health – General Article.

Occurred: Ch. 21, § 2, Acts of 1982.

19–705.1.

(b) (1) The standards of quality of care shall include:

[(1)] (i) 1. A requirement that a health maintenance organization shall provide for regular hours during which a member may receive services, including providing for services to a member in a timely manner that takes into account the immediacy of need for services; and

[(ii)] 2. Provisions for assuring that all covered services, including any services for which the health maintenance organization has contracted, are accessible to the enrollee with reasonable safeguards with respect to geographic locations;

[(2)] (II) A requirement that a health maintenance organization shall have a system for providing a member with 24–hour access to a physician in cases where there is an immediate need for medical services, and for promoting timely access to and continuity of health care services for members, including:

[(i)] 1. Providing 24–hour access by telephone to a person who is able to appropriately respond to calls from members and providers concerning after–hours care; and

[(ii)] 2. Providing a 24–hour toll free telephone access system for use in hospital emergency departments in accordance with § 19–705.7 of this subtitle;

[(3)] (III) A requirement that any nonparticipating provider shall submit to the health maintenance organization the appropriate documentation of the medical complaint of the member and the services rendered;

[(4)] (IV) A requirement that a health maintenance organization shall have a physician available at all times to provide diagnostic and treatment services;

[(5)] (V) A requirement that a health maintenance organization shall assure that:

[(i)] 1. Each member who is seen for a medical complaint is evaluated under the direction of a physician; and

[(ii)] 2. Each member who receives diagnostic evaluation or treatment is under the medical management of a health maintenance organization physician who provides continuing medical management;

[(6)] (VI) A requirement that each member shall have an opportunity to select a primary physician or a certified nurse practitioner from among those available to the health maintenance organization; and

[(7)] (VII) A requirement that a health maintenance organization print, in any directory of participating providers or hospitals, in a conspicuous manner, the address, telephone number, and facsimile number of the State agency that members, enrollees, and insureds may call to discuss quality of care issues, life and health insurance complaints, and assistance in resolving billing and payment disputes with the health plan or health care provider, as follows:

[(i)] 1. For quality of care issues and life and health care insurance complaints, the Maryland Insurance Administration; and

[(ii)] 2. For assistance in resolving a billing or payment dispute with the health plan or a health care provider, the Health Education and Advocacy Unit of the Consumer Protection Division of the Office of the Attorney General.

[(8)] (2) This subsection may not be construed to require that a health maintenance organization include certified nurse practitioners on the health maintenance organization's provider panel as primary care providers.

DRAFTER'S NOTE:

Error: Stylistic errors in § 19-705.1(b) of the Health – General Article.

Occurred: Chs. 77 and 78, Acts of 2010.

19-706.

[(eee) The provisions of § 19-3A-07(d) of this title apply to health maintenance organizations.]

[(fff)] (EEE) The provisions of § 15-841 of the Insurance Article apply to health maintenance organizations.

[(ggg)] (FFF) The provisions of § 15-131 of the Insurance Article apply to health maintenance organizations.

[(hhh)] (GGG) The provisions of § 15-417 of the Insurance Article apply to health maintenance organizations.

[(iii)] (HHH) The provisions of § 27-222 of the Insurance Article apply to health maintenance organizations.

**[(jjj)] (III)** The provisions of § 27–914 of the Insurance Article apply to health maintenance organizations.

**[(kkk)] (JJJ)** The provisions of § 27–210 of the Insurance Article apply to health maintenance organizations.

**[(lll)] (KKK)** The provisions of Title 14, Subtitle 6 of the Insurance Article apply to health maintenance organizations.

**[(mmm)] (LLL)** The provisions of § 15–842 of the Insurance Article apply to health maintenance organizations.

**[(nnn)] (MMM)** The provisions of §§ 15–403.2 and 15–418 of the Insurance Article apply to health maintenance organizations.

**[(ooo)] (NNN)** The provisions of § 15–145 of this article apply to health maintenance organizations.

**[(ppp)] (OOO)** The provisions of § 2–115 of the Insurance Article apply to health maintenance organizations.

**[(qqq)] (PPP)** The provisions of Title 15, Subtitle 16 of the Insurance Article apply to health maintenance organizations.

**[(rrr)] (QQQ)** The provisions of § 2–517 of the State Personnel and Pensions Article apply to health maintenance organizations.

**[(sss)] (RRR)** The provisions of § 15–843 of the Insurance Article apply to health maintenance organizations.

**[(ttt)] (SSS)** The provisions of § 15–409.1 of the Insurance Article apply to health maintenance organizations.

**[(uuu)] (TTT)** The provisions of § 15–844 of the Insurance Article apply to health maintenance organizations.

**[(vvv)] (UUU)** The provisions of § 15–1106 of the Insurance Article apply to health maintenance organizations.

**[(www)] (VVV)** The provisions of § 15–832.1 of the Insurance Article apply to health maintenance organizations.

**[(xxx)] (WWW)** The provisions of § 15–1105 of the Insurance Article apply to health maintenance organizations.

[(yyy)] (XXX) The provisions of § 15–814 of the Insurance Article apply to health maintenance organizations.

[(zzz)] (YYY) The provisions of § 15–509 of the Insurance Article apply to health maintenance organizations.

[(aaaa)] (ZZZ) The provisions of § 15–132 of the Insurance Article apply to health maintenance organizations.

[(bbbb)] (AAAA) The provisions of Title 15, Subtitle 17 of the Insurance Article apply to health maintenance organizations.

[(cccc)] (BBBB) The provisions of § 15–134 of the Insurance Article apply to health maintenance organizations.

[(dddd)] (CCCC) The provisions of § 5–608(t) of the Insurance Article apply to health maintenance organizations.

[(eeee)] (DDDD) The requirements of § 15–135 of the Insurance Article apply to health maintenance organizations.

[(ffff)] (EEEE) The provisions of Title 15, Subtitle 19 of the Insurance Article apply to health maintenance organizations.

[(gggg)] (FFFF) The provisions of § 15–136 of the Insurance Article apply to health maintenance organizations.

[(hhhh)] (GGGG) The provisions of § 15–1314 of the Insurance Article apply to health maintenance organizations.

[(iiii)] (HHHH) The provisions of Title 15, Subtitle 18 of the Insurance Article apply to health maintenance organizations.

[(jjjj)] (IIII) The provisions of § 15–137 of the Insurance Article apply to health maintenance organizations.

**DRAFTER'S NOTE:**

Error: Obsolete language in § 19–706(eee) of the Health – General Article.

Occurred: As a result of Chs. 505 and 506, Acts of 2010.

19–1409.

(b) The Oversight Committee shall consist of the following members:

(8) Three representatives of area agencies on aging, [one of which shall be a member of a local long-term care ombudsman program established under § 10–213 of the Human Services Article,] appointed by the Secretary of Aging;

DRAFTER’S NOTE:

Error: Obsolete reference in § 19–1409(b)(8) of the Health – General Article.

Occurred: As a result of Ch. 155, § 1, Acts of 2010.

### Article – Health Occupations

3–602.

Subject to the evaluation and reestablishment provisions of the **MARYLAND** Program Evaluation Act, this title and all rules and regulations adopted under this title shall terminate and be of no effect after July 1, 2022.

DRAFTER’S NOTE:

Error: Omitted word in § 3–602 of the Health Occupations Article.

Occurred: Ch. 519, Acts of 1982.

4–308.

(f) While it is effective, a retired volunteer dental hygienist’s license or a volunteer **DENTAL** hygienist’s license to practice dental hygiene issued under this title authorizes the licensee to practice dental hygiene:

(1) Only in a dental office, dental clinic, ambulatory care facility, or hospital;

(2) Only for an entity providing medical care to the poor, elderly, or handicapped that is operated by:

(i) The State or a local government;

(ii) A bona fide charitable organization; or

(iii) Any other entity authorized under regulations adopted by the Board;

(3) If the dental hygienist signs a written statement agreeing to donate at least 100 hours of dental hygiene services without compensation in a facility that satisfies the requirements of items (1) and (2) of this subsection;

(4) If the dental hygienist provides documentation as required by the Board which evidences that the licensee is covered by malpractice insurance; and

(5) If the dental hygienist does not otherwise practice dental hygiene for profit in Maryland.

(h) (4) A facility in which a dental hygienist is authorized to practice under the general supervision of a licensed dentist in accordance with this subsection shall ensure that:

(viii) [Reports] **THE FACILITY REPORTS** to the Board any changes in the status of the facility's general supervision, any supervising dentist, or any dental hygienist within 30 days after the change.

**DRAFTER'S NOTE:**

Error: Omitted words in § 4–308(f) and (h)(4)(viii) of the Health Occupations Article.

Occurred: Ch. 237, Acts of 2003; Ch. 316, Acts of 2008.

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:

(24) Uses or promotes or causes the use of any misleading, deceiving, or untruthful advertising matter, promotional [literature] **LITERATURE**, or testimonial;

**DRAFTER'S NOTE:**

Error: Omitted comma in § 4–315(a)(24) of the Health Occupations Article.

Occurred: Ch. 488, Acts of 1987.

8–205.

(a) In addition to the powers and duties set forth elsewhere in this title, the Board has the following powers and duties:

(3) To adopt rules and regulations for the performance of delegated medical functions [which] **THAT** are recognized jointly by the State Board of Physicians and the State Board of Nursing, under § 14–306(d) of this article;

## DRAFTER'S NOTE:

Error: Grammatical error in § 8–205(a)(3) of the Health Occupations Article.

Occurred: Ch. 437, Acts of 1981.

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] **FAILING** to comply with the Centers for Disease Control and Prevention's guidelines on universal precautions; or

## DRAFTER'S NOTE:

Error: Grammatical error in § 14–504(g)(2) of the Health Occupations Article.

Occurred: Ch. 154, Acts of 1992.

15–101.

(q) “Prescriptive authority” means the authority delegated by a primary or alternate supervising physician to a physician assistant to:

(1) Prescribe and administer controlled dangerous substances, prescription drugs, medical devices, and the oral, written, or electronic ordering of medications; and

(2) Dispense as provided under [§ 15–301.1(c), (d), and (e)] **§ 15–302.2(B), (C), AND (D)** of this title.

## DRAFTER'S NOTE:

Error: Erroneous cross–reference in § 15–101(q)(2) of the Health Occupations Article.

Occurred: Chs. 273 and 274, Acts of 2010. Correction suggested by the Attorney General in the Bill Review Letter for H.B. 323 and S.B. 308 of 2010 (footnote 3), dated April 28, 2010. Incomplete correction of the error (correction of section designation) by the publisher of the Annotated Code is ratified and completed (correction of subsection designations) by this Act.

15–402.



(a) Except as otherwise provided under this title, a person may not represent or imply to the public by use of the title “licensed physician assistant”, by other title, **OR** by description of services, methods, or procedures that the person is licensed to practice as a physician assistant in the State.

**DRAFTER’S NOTE:**

Error: Omitted conjunction in § 15–402(a) of the Health Occupations Article.

Occurred: Ch. 759, Acts of 1986.

**Article – Housing and Community Development**

2–201.

The Department consists of:

- (1) the Division of Credit Assurance;
- (2) the Division of Development Finance;
- (3) the Division of Neighborhood Revitalization;
- (4) the Community Development Administration;
- (5) the Community Legacy Program;
- [(6)] the Community Legacy Board;
- (7) the Advisory Committee to the Community Legacy Board;
- (8) **(6)** the Housing Finance Review Committee;
- [(9)] **(7)** the Lead Hazard Advisory Committee;
- [(10)] **(8)** the Maryland Housing Fund;
- [(11)] **(9)** the Neighborhood Business Development Program; and
- [(12)] **(10)** any other governmental unit that under law is a part of the Department.

**DRAFTER’S NOTE:**

Error: Obsolete language in § 2–201(6) and (7) of the Housing and Community Development Article.

Occurred: As a result of Ch. 487, Acts of 2010, which eliminated the Community Legacy Board and the Advisory Committee to the Community Legacy Board.

### Article – Human Services

5–309.

(b) Except for a recipient who is a single child, the FIP for a recipient shall include:

(3) referral, as appropriate, to family planning counseling and services that:

(ii) **[gives] GIVE** preference to eligible teen parents; and

DRAFTER'S NOTE:

Error: Grammatical error in § 5–309(b)(3)(ii) of the Human Services Article.

Occurred: Ch. 3, § 2, Acts of 2007.

5–313.

(a) Except as provided in subsection (b) of this section and in regulations that the Secretary adopts, a local department may not pay temporary cash assistance to:

(2) a family that includes an adult who:

(ii) **[who]** is not participating in a work activity.

DRAFTER'S NOTE:

Error: Extraneous word in § 5–313(a)(2)(ii) of the Human Services Article.

Occurred: Ch. 351, § 3, Acts of 1996.

5–318.

(e) To be eligible to participate in the job skills enhancement program, an individual shall:

(1) (ii) **BE** a former recipient, a child of a current or former recipient, a foster youth, or obligor;

## DRAFTER'S NOTE:

Error: Omitted word in § 5–318(e)(1)(ii) of the Human Services Article.

Occurred: Ch. 385, § 1, Acts of 2009.

10–902.

(c) (2) The regulations adopted under [subsection (c) of this section] **PARAGRAPH (1) OF THIS SUBSECTION** shall establish:

(i) the requirements for an annual review by the Department of all ombudsman activities; and

(ii) the process for assisting individuals with organizing and operating a resident council and a family council in a long-term care facility.

## DRAFTER'S NOTE:

Error: Erroneous internal reference in § 10–902(c)(2) of the Human Services Article.

Occurred: Ch. 155, § 2, Acts of 2010.

**Article – Labor and Employment**

6–107.

(b) (2) Whenever an activity listed under § 6–106 of this title is to be performed within 10 feet of a high voltage line, the person responsible for performing the activity shall:

(i) comply with the National [Electric] **ELECTRICAL** Safety Code; and

(ii) be qualified as defined in the National [Electric] **ELECTRICAL** Safety Code.

## DRAFTER'S NOTE:

Error: Misnomer in § 6–107(b)(2) of the Labor and Employment Article.

Occurred: Chs. 554 and 555, Acts of 2007.

8–903.

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

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

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

**DRAFTER’S NOTE:**

Error: Obsolete cross–reference in § 8–903(c) of the Labor and Employment Article.

Occurred: As a result of Ch. 2, Acts of 2010. Correction by the publisher of the Annotated Code in the 2010 Supplement of the Labor and Employment Article is ratified by this Act.

**Article – Natural Resources**

1–203.

(b) The Secretary shall issue to each person appointed as A Natural Resources police officer a commission and badge stating “Natural Resources Police Officer”.

(f) Subject to § 1–107 of this [article] **TITLE**, in cases of inconsistency between this subtitle and the provisions of the State Personnel and Pensions Article, the provisions of this subtitle shall control as to all matters relating to the Natural Resources Police Force.

**DRAFTER’S NOTE:**

Error: Omitted article in § 1–203(b) of the Natural Resources Article; erroneous cross–reference in § 1–203(f) of the Natural Resources Article.

Occurred: Ch. 4, § 1, Acts of the First Special Session of 1973; Chs. 330 and 331, Acts of 2010.

4–216.

(d) A holder of a resident consolidated senior sport fishing license may:

(3) Fish for finfish in the Chesapeake Bay and its tributaries or in the State waters of the Atlantic Ocean and the Atlantic coastal bays and **THEIR**

tributaries without holding a Chesapeake Bay and coastal sport fishing license under § 4-745 of this title.

DRAFTER'S NOTE:

Error: Omitted word in § 4-216(d)(3) of the Natural Resources Article.

Occurred: Ch. 465, Acts of 2010.

4-217.

(d) An individual covered under the organization's license exemption may:

(3) Fish for finfish in the Chesapeake Bay and its tributaries or in the State waters of the Atlantic Ocean and the Atlantic coastal bays and **THEIR** tributaries without holding a Chesapeake Bay and coastal sport fishing license under § 4-745 of this title.

DRAFTER'S NOTE:

Error: Omitted word in § 4-217(d)(3) of the Natural Resources Article.

Occurred: Ch. 465, Acts of 2010.

Subtitle 6. Licensing, [Regulation] **REGULATION**, and Supervision of Fishing and Fisheries in Nontidal Waters.

4-601.

"Angling" means catching or attempting to catch fish by hook and line, with the line held in hand, attached to a pole or rod held in hand, or attended in a manner that the fish voluntarily takes bait or lure in its mouth.

DRAFTER'S NOTE:

Error: Omitted comma in subtitle designation immediately preceding § 4-601 of the Natural Resources Article.

Occurred: Ch. 4, § 1, Acts of the First Special Session of 1973.

4-614.

(a) (2) A trout stamp is not required of the following:

(i) A holder of a current resident consolidated senior sport fishing license issued under § 4-216 of this title;

(ii) **A HOLDER OF A LIFETIME COMPLIMENTARY ANGLER'S LICENSE FOR SERVICE DISABLED VETERANS OR FORMER PRISONERS OF WAR ISSUED UNDER § 4-607(A)(2) OF THIS SUBTITLE;**

(III) A person authorized by a disability exemption issued under § 4-217 of this title;

[(iii)] (IV) A resident serving in the armed forces of the United States while on leave if the resident possesses a copy of the resident's official leave order while fishing; or

[(iv)] (V) A person under 16 years of age.

**DRAFTER'S NOTE:**

Error: Omitted language in § 4-614(a)(2) of the Natural Resources Article.

Occurred: As a result of the merging of Chs. 465 and 693, Acts of 2010. Correction by the publisher of the Annotated Code in the 2010 Supplement of the Natural Resources Article is ratified by this Act.

4-745.

(a) (1) Except as provided in subsections (c) and (d) of this section and § 4-217 of this title, a person may not fish for finfish in the Chesapeake Bay or in its tributaries up to tidal boundaries or in State waters of the Atlantic Ocean and the Atlantic coastal bays and **THEIR** tributaries without first obtaining a Chesapeake Bay and coastal sport fishing license or registration issued under subsection (d)(3) of this section and possessing evidence of the license or registration.

(b) (4) (iii) The Department shall use the moneys specified in subparagraph (ii) of this paragraph for:

2. Management assessment and [sportfishing] **SPORT FISHING** surveys; and

(c) A person may fish for finfish in the Chesapeake Bay or its tidal tributaries or in State waters of the Atlantic Ocean and coastal bays and **THEIR** tributaries without a Chesapeake Bay and coastal sport fishing license if the person:

(1) Is under the age of 16;

(2) Possesses a valid commercial license;

(3) Holds a valid tidal water sport fishing license issued by the State of Virginia, Potomac River Fisheries Commission, or District of Columbia, provided

that this exemption shall not take effect until the Secretary has published notice in the Maryland Register of the Secretary's determination that the Virginia, Potomac River Fisheries Commission, or District of Columbia requirements for a tidal water sport fishing license are substantially similar to and reciprocal with the Chesapeake Bay and coastal sport fishing license requirements of this section;

(4) Is fishing pursuant to any special charter boat license issued under subsection (d)(1) of this section;

(5) (i) Is on active duty with the armed forces of the United States;

(ii) Is a resident of this State;

(iii) Is on leave from the armed forces; and

(iv) Has, while fishing, a copy of the person's official leave orders;

(6) Fishes on a free fishing day designated by the Secretary;

(7) Holds a current resident consolidated senior sport fishing license issued under § 4-216 of this title;

(8) Holds a current registration issued under subsection (d)(3) of this section; or

(9) Is fishing on a commercial fishing pier licensed under subsection (d)(4) of this section.

(d) (2) (i) The Department may provide by regulation for issuance of an annual special Chesapeake Bay and coastal sport fishing license, which when permanently affixed to a boat registered in any state shall authorize any person on the boat to fish for finfish in the Chesapeake Bay or in its tributaries up to tidal boundaries or in State waters of the Atlantic Ocean and the Atlantic coastal bays and **THEIR** tributaries, except that such a license may not be used on a boat that has been hired to take such persons fishing.

(ii) The annual fee for this special license shall be \$50.

(iii) If a boat owner purchases the special license under this paragraph, the boat owner may fish anywhere in the Chesapeake Bay **AND ITS TRIBUTARIES** or the State waters of the Atlantic Ocean and the Atlantic coastal bays and **THEIR** tributaries, whether the boat owner is fishing in the owner's boat, in another person's boat, on land, or elsewhere. The Department shall issue a complimentary Chesapeake Bay and coastal sport fishing license to the boat owner who purchases a special license under this paragraph. If a boat to which the special license is affixed has more than one owner, then only the individual applicant who

signs the application for the special license shall be entitled to a complimentary Chesapeake Bay and coastal sport fishing license under this paragraph.

**DRAFTER'S NOTE:**

Error: Omitted word in § 4–745(a)(1), (c), and (d)(2)(i) and (iii) of the Natural Resources Article; misspelling in § 4–745(b)(4)(iii)2 of the Natural Resources Article; omitted phrase in § 4–745(d)(2)(iii) of the Natural Resources Article.

Occurred: Ch. 465, Acts of 2010; Ch. 660, Acts of 1999.

8–1815.

(a) (2) (i) A person who violates a provision of an order, permit, plan, local program, this subtitle, or regulations adopted, approved, or issued under the authority of this subtitle shall be:

1. Subject to prosecution or suit in circuit court or [district court] **DISTRICT COURT** by the chairman or local authorities, who may invoke the sanctions and remedies afforded by State or local law;

**DRAFTER'S NOTE:**

Error: Capitalization error in § 8–1815(a)(2)(i)1 of the Natural Resources Article.

Occurred: Ch. 119, Acts of 2008.

### **Article – Public Utilities**

7–701.

(h) (2) “Qualifying biomass” includes biomass listed in paragraph (1) of this [section] **SUBSECTION** that is used for co–firing, subject to § 7–704(d) of this subtitle.

**DRAFTER'S NOTE:**

Error: Erroneous cross–reference in § 7–701(h)(2) of the Public Utilities Article.

Occurred: Chs. 487 and 488, Acts of 2008.

12–107.

(b) [Of the] **THE** nine members **SHALL BE APPOINTED AS FOLLOWS:**



- (1) one member from a list submitted to the Governor by the Associated Utility Contractors of Maryland;
- (2) one member from a list submitted to the Governor by the Public Works Contractors Association of Maryland;
- (3) two underground facility owners that are members of a one-call system from a list submitted to the Governor by the Maryland members of the Maryland/DC Subscribers Committee;
- (4) one member from a list submitted to the Governor by the one-call centers operating in the State;
- (5) one member who represents the State's underground utility locator community from a list submitted to the Governor by the Maryland members of the Maryland/DC Damage Prevention Committee;
- (6) one member who has experience in the field of underground utilities from a list submitted to the Governor by the Maryland Association of Counties;
- (7) one member who has experience in the field of underground utilities from a list submitted to the Governor by the Maryland Municipal League; and
- (8) one member of the general public from a list submitted to the Governor by the other appointed and qualified members of the Authority.

**DRAFTER'S NOTE:**

Error: Omitted words in § 12-107(b) of the Public Utilities Article.

Occurred: Ch. 635, Acts of 2010. Correction by the publisher of the Annotated Code in the 2010 Supplement of the Public Utilities Article is ratified by this Act.

27-102.

(d) (4) If the construction under this section is an emergency, the Commission shall notify the appropriate county as soon as [practical] **PRACTICABLE** after the cut.

**DRAFTER'S NOTE:**

Error: Incorrect word usage in § 27-102(d)(4) of the Public Utilities Article.

Occurred: Ch. 37, Acts of 2010.

7–105.1.

(d) An order to docket or a complaint to foreclose a mortgage or deed of trust on residential property shall:

(2) Be accompanied by:

(x) If the order to docket or complaint to foreclose concerns owner-occupied residential property and is accompanied by a final loss mitigation affidavit:

1. A request for foreclosure mediation in the form prescribed by regulation adopted by the Commissioner of Financial Regulation; [and]

**DRAFTER'S NOTE:**

Error: Extraneous conjunction in § 7–105.1(d)(2)(x)1. of the Real Property Article.

Occurred: Ch. 485, Acts of 2010.

8–402.2.

(c) (2) The landlord shall mail the notice by certified mail return receipt requested to the mortgagee at the address stated in the recorded request for notice of judgment. If the notice is not given, judgment in favor of the landlord does not impair the lien of the mortgagee. Except as otherwise provided in [subsection (c) of this section] **THIS SUBSECTION**, the property is discharged from the lease and the rights of all persons claiming under the lease are foreclosed unless, within 6 calendar months after execution of the judgment for possession, the tenant or any other person claiming under the lease:

(i) Pays the ground rent, arrears, and all costs awarded against that person; and

(ii) Commences a proceeding to obtain relief from the judgment.

**DRAFTER'S NOTE:**

Error: Stylistic error in § 8–402.2(c)(2) of the Real Property Article.

Occurred: Ch. 286, Acts of 2007.

8–5A–02.

(b) If a tenant or legal occupant is a victim of domestic violence or a victim of sexual assault, the tenant may provide to the landlord the written notice required under § 8-5A-03 or § 8-5A-04 **OF THIS SUBTITLE** and, if the written notice is provided, the tenant shall have 30 days to vacate the leased premises from the date of providing the written notice.

**DRAFTER'S NOTE:**

Error: Stylistic error in § 8-5A-02(b) of the Real Property Article.

Occurred: Chs. 318 and 319, Acts of 2010. Correction by the publisher of the Annotated Code in the 2010 Supplement of the Real Property Article is ratified by this Act.

8A-401.

(a) A park owner **[only]** may increase a park fee **ONLY** if he delivers to each resident a notice in writing, of the increase at least 30 days before the effective date of the increased park fee.

**DRAFTER'S NOTE:**

Error: Grammatical error in § 8A-401(a) of the Real Property Article.

Occurred: Ch. 843, Acts of 1980.

8A-603.

A park owner may **[only]** collect a commission in connection with the sale of a mobile home **ONLY** if he has acted as an agent for either party to the sale pursuant to a separate written agreement.

**DRAFTER'S NOTE:**

Error: Grammatical error in § 8A-603 of the Real Property Article.

Occurred: Ch. 843, Acts of 1980.

8A-605.

(b) If subsection (a) of this section does not apply, the seller shall provide the buyer with a notice, in writing, separate from the contract, and in substantially the following form:

“If the mobile home you are purchasing is to be placed in a mobile home park, the park may have rules and lease provisions that affect you and your home.

You should contact the park office to obtain and carefully review a copy of the lease and rules for the park before you enter into a contract to purchase a mobile home.

Due to land use restrictions in many areas in this State, a mobile home may [only] be placed **ONLY** on property that is within a mobile home park.”

DRAFTER’S NOTE:

Error: Grammatical error in § 8A–605(b) of the Real Property Article.

Occurred: Ch. 332, Acts of 1993.

8A–1201.

(b) (2) A relocation plan for park residents shall include:

(iv) A description of the requirement that a resident provide written notice of the resident’s intention to vacate the park and the [time table] **TIMETABLE** for the owner to pay relocation assistance, as provided under subsection (c)(2) of this section;

DRAFTER’S NOTE:

Error: Stylistic error in § 8A–1201(b)(2)(iv) of the Real Property Article.

Occurred: Chs. 258 and 259, Acts of 2010.

9–103.

(c) (2) If a building is [erected,] **ERECTED** or repaired, [rebuilt] **REBUILT**, or improved to the extent of 25 percent of its value, by a tenant for life or years or by a person employed by the tenant, any lien established in accordance with this subtitle applies only to the extent of the tenant’s interest.

DRAFTER’S NOTE:

Error: Misplaced punctuation in § 9–103(c)(2) of the Real Property Article.

Occurred: Ch. 349, Acts of 1976.

9–105.

(a) In order to establish a lien under this subtitle, a person entitled to a lien shall file proceedings in the circuit court for the county where the land or any part of

the land is located within 180 days after the work has been finished or the materials furnished. The proceedings shall be commenced by filing with the clerk, the following:

(1) A petition to establish the mechanic's lien, which shall set forth at least the following:

(iii) The nature or kind of work done or the kind and amount of materials furnished, the time when the work was done or the materials furnished, the name of the person for whom the work was done or to whom the materials were **[furnished] FURNISHED**, and the amount or sum claimed to be due, less any credit recognized by the petitioner;

(3) Either original or sworn, **[certified] CERTIFIED**, or photostatic copies of material papers or parts thereof, if any, which constitute the basis of the lien claim, unless the absence thereof is explained in the affidavit.

**DRAFTER'S NOTE:**

Error: Omitted commas in § 9–105(a)(1)(iii) and (3) of the Real Property Article.

Occurred: Ch. 349, Acts of 1976.

11–109.

(c) (16) (iii) **[The] IF A REPLACEMENT BOARD MEMBER IS ELECTED, THE** term of each member of the board of directors appointed by the developer shall end 10 days after the meeting **IS HELD** as specified in subparagraph (i) of this paragraph **[is held, if a replacement board member is elected]**.

**DRAFTER'S NOTE:**

Error: Stylistic errors in § 11–109(c)(16)(iii) of the Real Property Article.

Occurred: Chs. 95 and 96, Acts of 2009.

14–125.1.

(d) (4) In filing a suit under this section, the plaintiff shall certify to the court:

**[1.] (I)** What steps the plaintiff has taken to satisfy the notice requirements under this subsection; and

**[2.] (II)** That each condition precedent to the filing of an action under this section has been met.

## DRAFTER'S NOTE:

Error: Stylistic errors in § 14–125.1(d)(4) of the Real Property Article.

Occurred: Ch. 553, Acts of 2001.

14–506.

(b) (3) (i) A seller who sells the specified interest in the property to a purchaser in an ~~[arms–length]~~ **ARMS–LENGTH**, third–party transaction for a fair market price after the affordable housing land trust has failed to exercise its right to repurchase shall execute a signed, notarized affidavit attesting to the fact of the seller's notification to the affordable housing land trust and the affordable housing land trust's failure to exercise its right to repurchase.

## DRAFTER'S NOTE:

Error: Omitted comma in § 14–506(b)(3)(i) of the Real Property Article.

Occurred: Chs. 609 and 610, Acts of 2010.

**Article – State Finance and Procurement**

5–7B–01.

(c) (1) “Growth–related project” means only the items set forth below:

(i) any major capital project as defined in § 2–103.1(a)(4) of the Transportation Article, except existing transportation facilities projects as defined in ~~[§ 4–101(i)]~~ **§ 4–101(H)** of the Transportation Article, project planning as defined in § 8–610(i) of the Transportation Article, or initial project planning as defined in § 8–610(e) of the Transportation Article;

## DRAFTER'S NOTE:

Error: Incorrect cross–reference in § 5–7B–01(c)(1)(i) of the State Finance and Procurement Article.

Occurred: As a result of changes made by the publishers of the Annotated Code in the 2008 Replacement Volume of the Transportation Article to the ordering of § 4–101(h) and (i) of that article. The changes were made under the authority of Ch. 5, Acts of 2007.

8–117.

(g) (1) An enabling act for a capital project that authorizes the creation of a State debt of at least \$500,000 for a hospital or institution of higher education that is

not subject to the reporting requirement under § 14–305 of this article shall include the following paragraph:

“On or before December 31 of any year in which the payment of any funds under the provisions of this Act for the purposes of a capital project as set forth in Section 1(3) above is made and on or before December 31 of the year following a year in which the payment of any funds under the provisions of this Act for the purposes set forth in Section 1(3) above is made, **IF the grantee IS A HOSPITAL OR INSTITUTION OF HIGHER EDUCATION THAT RECEIVES AT LEAST \$500,000 UNDER THIS ACT AND IS NOT SUBJECT TO THE REPORTING REQUIREMENT UNDER § 14–305 OF THE STATE FINANCE AND PROCUREMENT ARTICLE, THE GRANTEE** shall submit a report to the Governor’s Office of Minority Affairs on the extent to which the grantee has used, or will use, any part of the funds received under the provisions of this Act for contracts with minority–owned businesses and **ON** any minority business outreach efforts.”

**DRAFTER’S NOTE:**

Error: Omitted language in § 8–117(g)(1) of the State Finance and Procurement Article.

Occurred: Ch. 398, Acts of 2010. The added language is clarifying only and conforms to the language in the lead–in to § 8–117(g) of the State Finance and Procurement Article. The addition of the word “on” with respect to a report concerning minority business outreach efforts was recommended by the Attorney General in the Bill Review Letter for H.B. 209 of 2010 (footnote 4), dated April 23, 2010.

10A–101.

(a) (3) “Private entity” means an individual, a corporation, a general or limited partnership, a limited liability company, a joint venture, a [business] **STATUTORY** trust, a public benefit corporation, a nonprofit entity, or another business entity.

(5) (i) “Public–private partnership” means a sale or lease agreement between a unit of State government and a private entity under which:

1. the private entity assumes control of the operation and maintenance of an existing State facility; or

2. the private entity constructs, reconstructs, finances, or operates a State facility or a facility for State use and will collect fees, charges, rents, or tolls for the use of the facility.

(ii) “Public–private partnership” does not include:

1. a short-term operating space lease entered into in the ordinary course of business by a unit of State government and a private entity and approved under [§ 10–305] § 4–321 of this article;

2. a procurement governed by Division II of this article;  
or

3. public-private partnership agreements entered into by the University System of Maryland, where no State funds are used to fund or finance any portion of a capital project.

**DRAFTER’S NOTE:**

Error: Incorrect word usage in § 10A–101(a)(3) of the State Finance and Procurement Article and erroneous cross-reference in § 10A–101(a)(5)(ii)1 of the State Finance and Procurement Article.

Occurred: As a result of Ch. 611, Acts of 2010; Chs. 640 and 641, Acts of 2010.

14–301.

(i) (1) Subject to paragraphs (2) and (3) of this subsection, “socially and economically disadvantaged individual” means a citizen or lawfully admitted permanent resident of the United States who is:

(i) in any of the following minority groups:

5. physically or mentally disabled – an individual who has an impairment that substantially limits one or more major life [activity] **ACTIVITIES**, who is regarded generally by the community as having such a disability, and whose disability has substantially limited his or her ability to engage in competitive business; or

**DRAFTER’S NOTE:**

Error: Grammatical error in § 14–301(i)(1)(i)5 of the State Finance and Procurement Article.

Occurred: Ch. 339, Acts of 2001.

14–409.

(c) It is the goal of the Department **OF GENERAL SERVICES** to:

(1) compost, to the extent practicable, all landscape waste on State property that is under its operation for use as fertilizer in landscaping activities; and



(2) increase the percentage of landscaped area fertilized by compost each year.

**DRAFTER'S NOTE:**

Error: Omitted words in § 14-409(c) of the State Finance and Procurement Article.

Occurred: Chs. 593 and 594, Acts of 2010.

**Article – State Government**

2-10A-03.

(b) (2) Of the 15 members:

(i) 1. 2 shall be members of the Senate appointed by the President of the Senate; **AND**

2. 2 shall be Delegates appointed by the Speaker of the House of Delegates; and

**DRAFTER'S NOTE:**

Error: Omitted conjunction in § 2-10A-03(b)(2)(i)1 of the State Government Article.

Occurred: Ch. 55, § 8, Acts of 1991.

9-1A-26.

(a) (1) Except as provided in paragraph (2) of this subsection, all proceeds from the operation of video lottery terminals shall be electronically transferred daily into the State Lottery Fund established under [Subtitle 3] **SUBTITLE 1** of this title and distributed as provided under § 9-1A-27 of this subtitle.

**DRAFTER'S NOTE:**

Error: Erroneous cross-reference in § 9-1A-26(a)(1) of the State Government Article.

Occurred: Ch. 4, § 1, Acts of the Special Session of 2007.

9-1406.

(h) (1) The Subcabinet shall:

(iv) subject to paragraph (2) of this subsection, make recommendations to:

3. the Department of Planning in accordance with [§ 5–904] **§ 5A–303** of the State Finance and Procurement Article; and

**DRAFTER’S NOTE:**

Error: Erroneous cross-reference in § 9–1406(h)(1)(iv)3 of the State Government Article.

Occurred: Ch. 487, § 1, Acts of 2010.

**Article – State Personnel and Pensions**

21–305.5.

(h) (3) The amount determined under paragraph (2) **OF THIS SUBSECTION** may not be less than zero.

**DRAFTER’S NOTE:**

Error: Stylistic error in § 21–305.5(h)(3) of the State Personnel and Pensions Article.

Occurred: Ch. 661, Acts of 1996.

21–306.

(d) (4) Except as provided in paragraph (5) of this subsection, the annual special accrued liability contribution of each participating governmental unit shall be the level annual payment that is sufficient to liquidate, over 25 years beginning on the date of approval by the legislative body of the participating governmental unit, the amount by which the special accrued liability of the participating governmental unit exceeds the sum of:

(ii) any cash and securities transferred to the Local Fire and Police System [in accordance with § 31–205(b) of this article] **FROM THE LOCAL PENSION SYSTEM ON OR BEFORE DECEMBER 31, 2004.**

(e) (2) (i) On and after the date of a participating governmental unit’s withdrawal from the Local Fire and Police System under [§ 31–302(b)] **§ 31–302** of this article, the participating governmental unit and its employees are not required to make any further contributions to the Local Fire and Police System.

**DRAFTER’S NOTE:**

Error: Obsolete cross-reference in § 21-306(d)(4)(ii) and erroneous cross-reference in § 21-306(e)(2)(i) of the State Personnel and Pensions Article.

Occurred: As a result of Ch. 580, Acts of 2010. New language under § 21-306(d)(4)(ii) of the State Personnel and Pensions Article is added to clarify that under former § 31-205(b) of the State Personnel and Pensions Article, no cash or securities were transferred into the Local Fire and Police System after December 31, 2004.

21-306.1.

(e) (2) (i) On and after the date of a participating governmental unit's withdrawal from the Law Enforcement Officers' Pension System under **[§ 31-302(c)] § 31-302** of this article, the participating governmental unit and its employees are not required to make any further contributions to the Law Enforcement Officers' Pension System for those employees who elect to withdraw from the Law Enforcement Officers' Pension System.

DRAFTER'S NOTE:

Error: Erroneous cross-reference in § 21-306.1(e)(2)(i) of the State Personnel and Pensions Article.

Occurred: As a result of Ch. 580, Acts of 2010.

21-306.2.

(e) (2) (i) On and after the date of a participating governmental unit's withdrawal from the Correctional Officers' Retirement System under **[§ 31-302(d)] § 31-302** of this article, the participating governmental unit and its employees are not required to make any further contributions to the Correctional Officers' Retirement System for those employees who elect to withdraw from the Correctional Officers' Retirement System.

DRAFTER'S NOTE:

Error: Erroneous cross-reference in § 21-306.2(e)(2)(i) of the State Personnel and Pensions Article.

Occurred: As a result of Ch. 580, Acts of 2010.

26-303.

(a) This section applies to a member of the Law Enforcement Officers' Pension System who[

(1)] is subject to the Law Enforcement Officers' Modified Pension Benefit under Subtitle 2, Part II of this title[]; and

(2) has not withdrawn the member's accumulated contributions under § 29–303(h) of this article].

DRAFTER'S NOTE:

Error: Obsolete language in § 26–303(a) of the State Personnel and Pensions Article.

Occurred: As a result of Ch. 696, Acts of 2010.

28–201.

(A) This subtitle applies only to an employee of a participating governmental unit who is:

(1) a law enforcement officer [as defined in § 31–201 of this article] **WHO IS CERTIFIED BY THE MARYLAND POLICE TRAINING COMMISSION AS A LAW ENFORCEMENT OFFICER;** or

(2) a fire fighter [as defined in § 31–201 of this article] **WHO IS:**

(I) **A PAID FIREFIGHTER, AS DETERMINED BY THE ELIGIBLE GOVERNMENTAL UNIT; OR**

(II) **A PAID PARAMEDIC, AS DETERMINED BY THE ELIGIBLE GOVERNMENTAL UNIT.**

(B) **THIS SUBTITLE DOES NOT APPLY TO AN EMPLOYEE OF A PARTICIPATING GOVERNMENTAL UNIT WHO IS A VOLUNTEER FIREFIGHTER OR VOLUNTEER PARAMEDIC.**

DRAFTER'S NOTE:

Error: Obsolete cross–reference and omitted language in § 28–201 of the State Personnel and Pensions Article.

Occurred: As a result of Ch. 580, Acts of 2010, which repealed the definitions of “law enforcement officer” and “firefighter” in former § 31–201 of the State Personnel and Pensions Article. The definitions continue to have validity for § 28–201 of the State Personnel and Pensions Article and, therefore, have been substituted for the obsolete cross–references.

28–304.

A member is entitled to eligibility service that equals:

(1) the member's service credit transferred from a retirement or pension system under Title 37 of this article; and

(2) the member's service credit transferred from a retirement or pension system [under § 31–204 of this article] **ON OR BEFORE DECEMBER 31, 2005.**

DRAFTER'S NOTE:

Error: Obsolete cross–reference in § 28–304 of the State Personnel and Pensions Article.

Occurred: As a result of Ch. 580, Acts of 2010. New language under § 28–304 of the State Personnel and Pensions Article is added to clarify that former § 31–204 of the State Personnel and Pensions Article would not have permitted transfers of service credit into the Local Fire and Police System after December 31, 2005.

### Article – Tax – General

10–720.

(c) (3) The maximum amount of credit stated in the initial credit certificate [shall:

(i)] **SHALL**, for an energy producer, be in an amount equal to the lesser of:

[1.] **(I)** the product of multiplying 5 times the taxpayer's estimated annual tax credit, based on estimated annual energy production, as certified by the Administration; or

[2.] **(II)** \$2,500,000.

DRAFTER'S NOTE:

Error: Stylistic error and omitted comma in § 10–720(c)(3) of the Tax – General Article.

Occurred: Ch. 129, Acts of 2006.

10–722.

(i) (2) The regulations adopted under this subsection shall provide that the energy use shall be no more than 65% for new construction of a base building, or 75% in the case of rehabilitation of a base building, of the energy use attributable to a reference building [which] **THAT** meets the requirements of applicable energy efficiency standards.

(j) (2) The regulations adopted under this subsection shall provide that the energy use shall be no more than 65% for new construction, or 75% in the case of rehabilitation, of the energy use attributable to a reference building [which] **THAT** meets the requirements of applicable energy efficiency standards.

**DRAFTER'S NOTE:**

Error: Grammatical errors in § 10–722(i)(2) and (j)(2) of the Tax – General Article.

Occurred: Ch. 620, Acts of 2001.

10–909.

The income tax required to be withheld under § 10–908 of this subtitle shall be withheld:

(1) by a payor other than a fiduciary or S corporation and by an employer:

(ii) if there is no regular period of payment as specified in [subitem] **ITEM** (i) of this item, on a daily basis; and

**DRAFTER'S NOTE:**

Error: Stylistic error in § 10–909(1)(ii) of the Tax – General Article.

Occurred: Ch. 135, Acts of 1988. Correction by the publisher of the Annotated Code in the 2010 Replacement Volume of the Tax – General Article is ratified by this Act.

10–912.

(a) (7) “Transfer pursuant to a foreclosure of a mortgage, deed of trust, or other lien instrument” includes:

(i) with respect to the foreclosure of a mortgage:

2. a transfer by any of the persons described in item 1 of this [subparagraph] **ITEM** to a subsequent purchaser for value;

(ii) with respect to the foreclosure of a deed of trust:

2. a transfer by any of the persons described in item 1 of this [subparagraph] ITEM to a subsequent purchaser for value; and

(iii) with respect to the foreclosure of any other lien instrument:

2. a transfer by any of the persons described in item 1 of this [subparagraph] ITEM to a subsequent purchaser for value.

**DRAFTER'S NOTE:**

Error: Stylistic errors in § 10–912(a)(7)(i)2, (ii)2, and (iii)2 of the Tax – General Article.

Occurred: Ch. 410, Acts of 2004. Correction by the publisher of the Annotated Code in the 2010 Replacement Volume of the Tax – General Article is ratified by this Act.

11–108.

The sale or recharge of a prepaid telephone calling arrangement is taxable in the State if:

(1) the sale or recharge takes place at the vendor's place of business located in the State;

(2) the buyer's shipping address is in the State; or

(3) there is no item shipped, **BUT** the buyer's billing address or the location associated with the buyer's mobile telephone number is in the State.

**DRAFTER'S NOTE:**

Error: Omitted conjunction in § 11–108(3) of the Tax – General Article.

Occurred: Ch. 688, Acts of 1999.

**Article – Tax – Property**

9–317.

(b) (2) The amount of a property tax credit granted under paragraph [(1)(i)4.] **(1)(I)4** of this subsection may not exceed 25% of the county property tax or the municipal corporation property tax due on the property.

(3) The governing body of Montgomery County or of the municipal corporation shall specify the qualifications for eligibility and conditions of certification for the tax credit under paragraph [(1)(i)4.] **(1)(I)4** of this subsection.

**DRAFTER'S NOTE:**

Error: Stylistic error in § 9–317(b)(2) and (3) of the Tax – Property Article.

Occurred: Ch. 769, Acts of 1986.

**Article – Transportation**

4–312.

(a) (1) Notwithstanding the provisions of § 20 of Section 3 and § 16 of Section 4 of Chapter 608 of the Acts of the General Assembly of 1976, tolls may [be continued] **CONTINUE** to be charged on the John F. Kennedy Memorial Highway and any project constructed under the provisions of § 3 (bridge, tunnel, and motorway revenue bonds) of Chapter 608 of the Acts of the General Assembly of 1976.

**DRAFTER'S NOTE:**

Error: Grammatical error in § 4–312(a)(1) of the Transportation Article.

Occurred: Ch. 941, Acts of 1978.

4–406.

(a) (5) (ii) “Public–private partnership” does not include:

1. A short–term operating space lease entered into in the ordinary course of business by the Authority and a private entity [and approved under § 10–305 of the State Finance and Procurement Article]; or

2. A procurement governed by Division II of the State Finance and Procurement Article.

**DRAFTER'S NOTE:**

Error: Unnecessary cross–reference in § 4–406(a)(5)(ii)1 of the Transportation Article.

Occurred: Chs. 640 and 641, Acts of 2010. Correction recommended by the Attorney General in the Bill Review Letter for S.B. 979 of 2010 (Ch. 640) and H.B. 1370 of 2010 (Ch. 641) (footnote 11), dated April 28, 2010.



13-410.

(f) Notwithstanding the provisions of subsection [(c)] **(D)** of this section, the Administration may issue reflectorized registration plates under §§ 13-618 and 13-619 of this title.

DRAFTER'S NOTE:

Error: Erroneous cross-reference in § 13-410(f) of the Transportation Article.

Occurred: As a result of Ch. 522, Acts of 2001.

13-506.

(e) The Administration shall maintain records to indicate that a vehicle:

(2) May not be titled or registered for operation in this State except in accordance with [§ 13-506.1 and § 13-507] **§§ 13-506.1 AND 13-507** of this subtitle.

DRAFTER'S NOTE:

Error: Stylistic error in § 13-506(e)(2) of the Transportation Article.

Occurred: Ch. 422, Acts of 2008.

13-815.

(a) (3) "Qualified plug-in electric drive vehicle" means a motor vehicle that:

(vii) Is propelled to a significant extent by an electric motor that draws electricity from a battery that:

1. For a 4-wheeled motor vehicle, has a capacity of not less than 4 [kilowatt hours] **KILOWATT-HOURS**;

2. For a 2-wheeled or 3-wheeled motor vehicle, has a capacity of not less than 2.5 [kilowatt hours] **KILOWATT-HOURS**; and

3. Is capable of being recharged from an external source of electricity; and

(e) A credit may not be claimed under this section:

(3) For a vehicle that was [originally] **INITIALLY** registered in another state.

## DRAFTER'S NOTE:

Error: Omitted hyphens in § 13–815(a)(3)(vii)1 and 2 of the Transportation Article; incorrect word usage in § 13–815(e)(3) of the Transportation Article.

Occurred: Ch. 490, Acts of 2010. Correction of the incorrect word in § 13–815(e)(3) of the Transportation Article recommended by the Attorney General in the Bill Review Letter for H.B. 469 of 2010 (Ch. 490) (footnote 1), dated May 12, 2010.

15–101.

(g) (2) “Vehicle salesman” does not include:

(i) A person described in subsection [(b)(3)] (C)(3) of this section;

## DRAFTER'S NOTE:

Error: Erroneous cross-reference in § 15–101(g)(2)(i) of the Transportation Article.

Occurred: As a result of Ch. 25, § 13, Acts of 2005.

[16–104.

(a) (1) A Class A driver's license authorizes the licensee to drive:

(i) Combinations of Class F (tractor) and Class G (trailer) vehicles; and

(ii) Any vehicle that a Class B, C, or D driver's license authorizes its holder to drive.

(2) An individual who is issued a Class A driver's license under this subsection may not drive or attempt to drive a motor vehicle on any highway in this State unless a Class A driver's license authorizes the individual to drive a vehicle of the class that individual is driving or attempting to drive.

(b) (1) A Class B driver's license authorizes the licensee to drive:

(i) Vehicles or combinations of vehicles with a registered gross vehicle weight or registered gross combination weight of more than 25,000 pounds, excluding combinations of Class F (tractor) and Class G (trailer) vehicles; and

(ii) Except as provided in § 16–103(c) of this subtitle, any vehicle that a Class C or D driver's license authorizes its holder to drive.

(2) An individual who is issued a Class B driver's license under this subsection may not drive or attempt to drive a motor vehicle on any highway in this State unless a Class B driver's license authorizes the individual to drive a vehicle of the class that the individual is driving or attempting to drive.

(c) (1) A Class C driver's license authorizes the licensee to drive:

(i) Buses; and

(ii) Any vehicle that a Class D driver's license authorizes its holder to drive.

(2) An individual who is issued a Class C driver's license under this subsection may not drive or attempt to drive a motor vehicle on any highway in this State unless a Class C driver's license authorizes the individual to drive a vehicle of the class that the individual is driving or attempting to drive.

(d) (1) A Class D driver's license authorizes the licensee to drive any vehicle or combinations of vehicles, except:

(i) Combinations of Class F (tractor) and Class G (trailer) vehicles;

(ii) Vehicles or combinations of vehicles with a registered gross vehicle weight or registered gross combination weight of more than 25,000 pounds, but not including an uncoupled truck tractor;

(iii) Buses over 10,000 pounds gross vehicle weight; and

(iv) Motorcycles.

(2) An individual who is issued a Class D driver's license under this subsection may not drive or attempt to drive a motor vehicle on any highway in this State unless a Class D driver's license authorizes the individual to drive a vehicle of the class that the individual is driving or attempting to drive.

(e) (1) A Class E driver's license authorizes the licensee to drive motorcycles.

(2) An individual who is issued a Class E driver's license under this subsection may not drive or attempt to drive a motor vehicle on any highway in this State unless a Class E driver's license authorizes the individual to drive a vehicle of the class that the individual is driving or attempting to drive.

(f) Subject to the provisions of the Maryland Vehicle Law, a Class A, B, C, or D licensee may:

(1) Drive any tow truck, as defined in and registered in accordance with § 13–920 of this article, designed and used only for towing vehicles; and

(2) Tow any vehicle with that tow truck.

(g) This section applies to any license issued or renewed on or before December 31, 1989.]

DRAFTER’S NOTE:

Error: Obsolete language.

Occurred: As a result of the fact that § 16–104(g) of the Transportation Article provides that the section applies to licenses “issued or renewed on or before December 31, 1989”, and the Motor Vehicle Administration advises that there are no licenses still in circulation that this section of law affects.

16–111.

(e) (3) An individual who commits an offense as defined in § 16–213(a) of this title while holding a provisional license issued under this subsection is subject to:

(i) The waiting periods under subsection [(d)(2)] **(D)(1)(II)** of this section before qualifying for a license under § 16–111.1 of this subtitle; and

DRAFTER’S NOTE:

Error: Erroneous cross–reference in § 16–111(e)(3)(i) of the Transportation Article.

Occurred: As a result of Ch. 13, Acts of 2004.

17–106.

(e) (4) (i) In this paragraph, “family member” means any individual whose relationship to the vehicle owner is one of those listed under [§ 13–810(b)(1)] **§ 13–810(C)(1)** of this article as being exempt from paying the excise tax imposed on the transfer of a vehicle.

DRAFTER’S NOTE:

Error: Erroneous cross–reference in § 17–106(e)(4)(i) of the Transportation Article.

Occurred: As a result of Ch. 245, Acts of 1988.

Subtitle 3. Mobile Seafood **AND PRODUCE** Vendors.

24–301.

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

**DRAFTER'S NOTE:**

Error: Erroneous subtitle designation immediately preceding § 24–301 of the Transportation Article.

Occurred: As a result of Chs. 565 and 566, Acts of 2010.

**Chapter 15 of the Acts of 2010**

SECTION 3. AND BE IT FURTHER ENACTED, That the terms of the members appointed by **THE GOVERNOR UNDER § 11–203(A) OF THE ECONOMIC DEVELOPMENT ARTICLE, AS ENACTED BY THIS ACT, AND 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.

**DRAFTER'S NOTE:**

Error: Omitted language in Section 3 of Chapter 15 of the Acts of 2010.

Occurred: Ch. 15, § 3, Acts of 2010.

**Article 22 – Washington County**

1–106.5.

**(A)** The County Commissioners may award a contract of purchase or other expenditure for the procurement of professional or technical services, including architectural, design engineering, legal, medical, technological, or technical services, on the basis of the qualifications, resources, and experience of the service provider [and].

**(B) A CONTRACT AWARDED UNDER SUBSECTION (A) OF THIS SECTION** is not subject to the requirements of § 1–106 of this subtitle.

**DRAFTER’S NOTE:**

Error: Stylistic and grammatical errors in § 1–106.5 of the Public Local Laws of Washington County.

Occurred: Ch. 705, Acts of 2010.

**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, 2011. Any enactment of the 2011 Session of the General Assembly that negates or extends the effect of a previously enacted termination provision shall prevail over the provisions of this section.

**SECTION 3. AND BE IT FURTHER ENACTED,** That the Drafter’s Notes contained in this Act are not law and may not be considered to have been enacted as part of this Act.

**SECTION 4. AND BE IT FURTHER ENACTED,** That the provisions of this Act are intended solely to correct technical errors in the law and there is no intent to revive or otherwise affect law that is the subject of other acts, whether those acts were signed by the Governor prior to or after the signing of this Act.

**SECTION 5. AND BE IT FURTHER ENACTED,** That the publishers of the Annotated Code of Maryland, in consultation with and subject to the approval of the Department of Legislative Services, shall make nonsubstantive corrections to codification, style, capitalization, punctuation, grammar, spelling, and any reference rendered incorrect or obsolete by an Act of the General Assembly, with no further action required by the General Assembly. The publishers shall adequately describe any such correction in an editor’s note following the section affected.

**SECTION 6. AND BE IT FURTHER ENACTED,** That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a ye and nay vote supported by three–fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

**Approved by the Governor, April 12, 2011.**

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**Chapter 66****(Senate Bill 457)**

AN ACT concerning

**Lawyers – Bar Admission Requirement – Exception for Rent Escrow Proceedings**

FOR the purpose of providing an exception to certain requirements to practice law in the State for a person representing a landlord in a rent escrow proceeding in the District Court of Maryland and for a person representing a tenant in a rent escrow proceeding in the District Court of Maryland under certain circumstances; and generally relating to exceptions to the requirements to practice law in the State.

BY repealing and reenacting, without amendments,  
Article – Business Occupations and Professions  
Section 10–206(a)  
Annotated Code of Maryland  
(2010 Replacement Volume)

BY repealing and reenacting, with amendments,  
Article – Business Occupations and Professions  
Section 10–206(b)(1) and (2)  
Annotated Code of Maryland  
(2010 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**

10–206.

(a) Except as otherwise provided by law, before an individual may practice law in the State, the individual shall:

- (1) be admitted to the Bar; and
- (2) meet any requirement that the Court of Appeals may set by rule.

(b) This section does not apply to:

(1) a person while representing a landlord in a summary ejectment **OR A RENT ESCROW** proceeding in the District Court of Maryland;

(2) a person while representing a tenant in a summary ejectment **OR A RENT ESCROW** proceeding in the District Court of Maryland if the person is:

(i) a law student practicing in a clinical law program at a law school accredited by the American Bar Association with the in-court supervision of a faculty member; or

(ii) employed by a nonprofit organization receiving grants from the Maryland Legal Services Corporation and:

1. the person has training and experience;
2. the person is supervised by a lawyer; and
3. the supervising lawyer's appearance is entered in the proceeding;

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

**Approved by the Governor, April 12, 2011.**

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## **Chapter 67**

**(House Bill 653)**

AN ACT concerning

### **Lawyers – Bar Admission Requirement – Exception for Rent Escrow Proceedings**

FOR the purpose of providing an exception to certain requirements to practice law in the State for a person representing a landlord in a rent escrow proceeding in the District Court of Maryland and for a person representing a tenant in a rent escrow proceeding in the District Court of Maryland under certain circumstances; and generally relating to exceptions to the requirements to practice law in the State.

BY repealing and reenacting, without amendments,  
Article – Business Occupations and Professions  
Section 10–206(a)  
Annotated Code of Maryland  
(2010 Replacement Volume)

BY repealing and reenacting, with amendments,



Article – Business Occupations and Professions  
Section 10–206(b)(1) and (2)  
Annotated Code of Maryland  
(2010 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**

10–206.

(a) Except as otherwise provided by law, before an individual may practice law in the State, the individual shall:

- (1) be admitted to the Bar; and
- (2) meet any requirement that the Court of Appeals may set by rule.

(b) This section does not apply to:

(1) a person while representing a landlord in a summary ejectment **OR A RENT ESCROW** proceeding in the District Court of Maryland;

(2) a person while representing a tenant in a summary ejectment **OR A RENT ESCROW** proceeding in the District Court of Maryland if the person is:

(i) a law student practicing in a clinical law program at a law school accredited by the American Bar Association with the in-court supervision of a faculty member; or

(ii) employed by a nonprofit organization receiving grants from the Maryland Legal Services Corporation and:

1. the person has training and experience;
2. the person is supervised by a lawyer; and
3. the supervising lawyer's appearance is entered in the proceeding;

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

**Approved by the Governor, April 12, 2011.**

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**Chapter 68****(Senate Bill 480)**

AN ACT concerning

**Courts – Peace Orders – Penalties**

FOR the purpose of altering the penalty, for a second or subsequent offense, for a person who fails to comply with the relief granted in an interim, a temporary, or a final peace order; and generally relating to peace orders.

BY repealing and reenacting, with amendments,  
Article – Courts and Judicial Proceedings  
Section 3–1508  
Annotated Code of Maryland  
(2006 Replacement Volume and 2010 Supplement)

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

**Article – Courts and Judicial Proceedings**

3–1508.

(a) An individual who fails to comply with the relief granted in an interim peace order under § 3–1503.1 of this subtitle, a temporary peace order under § 3–1504(a)(2) of this subtitle, or a final peace order under § 3–1505(d)(1)(i), (ii), (iii), or (iv) of this subtitle is guilty of a misdemeanor and on conviction is subject[, for each offense,] to:

**(1) FOR A FIRST OFFENSE,** a fine not exceeding \$1,000 or imprisonment not exceeding 90 days or both; **AND**

**(2) FOR A SECOND OR SUBSEQUENT OFFENSE, A FINE NOT EXCEEDING \$2,500 OR IMPRISONMENT NOT EXCEEDING 1 YEAR OR BOTH.**

(b) A law enforcement officer shall arrest with or without a warrant and take into custody an individual who the officer has probable cause to believe is in violation of an interim peace order, temporary peace order, or final peace order in effect at the time of the violation.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

Approved by the Governor, April 12, 2011.

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## Chapter 69

### (House Bill 666)

AN ACT concerning

#### Courts – Peace Orders – Penalties

FOR the purpose of altering the penalty, for a second or subsequent offense, for a person who fails to comply with the relief granted in an interim, a temporary, or a final peace order; and generally relating to peace orders.

BY repealing and reenacting, with amendments,  
Article – Courts and Judicial Proceedings  
Section 3–1508  
Annotated Code of Maryland  
(2006 Replacement Volume and 2010 Supplement)

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

#### Article – Courts and Judicial Proceedings

3–1508.

(a) An individual who fails to comply with the relief granted in an interim peace order under § 3–1503.1 of this subtitle, a temporary peace order under § 3–1504(a)(2) of this subtitle, or a final peace order under § 3–1505(d)(1)(i), (ii), (iii), or (iv) of this subtitle is guilty of a misdemeanor and on conviction is subject[, for each offense,] to:

**(1) FOR A FIRST OFFENSE,** a fine not exceeding \$1,000 or imprisonment not exceeding 90 days or both; **AND**

**(2) FOR A SECOND OR SUBSEQUENT OFFENSE, A FINE NOT EXCEEDING \$2,500 OR IMPRISONMENT NOT EXCEEDING 1 YEAR OR BOTH.**

(b) A law enforcement officer shall arrest with or without a warrant and take into custody an individual who the officer has probable cause to believe is in violation of an interim peace order, temporary peace order, or final peace order in effect at the time of the violation.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

**Approved by the Governor, April 12, 2011.**

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## **Chapter 70**

### **(Senate Bill 500)**

AN ACT concerning

#### **Criminal Law – Identity Fraud – Assumption of Identity of Fictitious Person**

FOR the purpose of clarifying that a person is prohibited from knowingly and willfully assuming the identity of a fictitious person to avoid identification, apprehension, or prosecution for a crime, or with fraudulent intent to get a benefit, credit, good, service, or any other thing of value or to avoid the payment of debt or other legal obligation; providing penalties for a violation of this Act; and generally relating to identity fraud.

BY repealing and reenacting, with amendments,  
Article – Criminal Law  
Section 8–301(c)  
Annotated Code of Maryland  
(2002 Volume and 2010 Supplement)

BY repealing and reenacting, without amendments,  
Article – Criminal Law  
Section 8–301(g)  
Annotated Code of Maryland  
(2002 Volume and 2010 Supplement)

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

#### **Article – Criminal Law**

8–301.

(c) A person may not knowingly and willfully assume the identity of another, **INCLUDING A FICTITIOUS PERSON:**

- (1) to avoid identification, apprehension, or prosecution for a crime; or
- (2) with fraudulent intent to:

- (i) get a benefit, credit, good, service, or other thing of value; or
- (ii) avoid the payment of debt or other legal obligation.

(g) (1) A person who violates this section where the benefit, credit, good, service, or other thing of value that is the subject of subsection (b), (c), or (d) of this section has a value of \$500 or greater is guilty of a felony and on conviction is subject to imprisonment not exceeding 15 years or a fine not exceeding \$25,000 or both.

(2) A person who violates this section where the benefit, credit, good, service, or other thing of value that is the subject of subsection (b), (c), or (d) of this section has a value of less than \$500 is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 18 months or a fine not exceeding \$5,000 or both.

(3) A person who violates this section under circumstances that reasonably indicate that the person's intent was to manufacture, distribute, or dispense another individual's personal identifying information without that individual's consent is guilty of a felony and on conviction is subject to imprisonment not exceeding 15 years or a fine not exceeding \$25,000 or both.

(4) A person who violates subsection (c)(1), (e), or (f) of this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 18 months or a fine not exceeding \$5,000 or both.

(5) When the violation of this section is pursuant to one scheme or continuing course of conduct, whether from the same or several sources, the conduct may be considered as one violation and the value of the benefit, credit, good, service, or other thing of value may be aggregated in determining whether the violation is a felony or misdemeanor.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

**Approved by the Governor, April 12, 2011.**

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## Chapter 71

### (House Bill 408)

AN ACT concerning

**Criminal Law – Identity Fraud – Assumption of Identity of Fictitious Person**

FOR the purpose of clarifying that a person is prohibited from knowingly and willfully assuming the identity of a fictitious person to avoid identification, apprehension, or prosecution for a crime, or with fraudulent intent to get a benefit, credit, good, service, or any other thing of value or to avoid the payment of debt or other legal obligation; providing penalties for a violation of this Act; and generally relating to identity fraud.

BY repealing and reenacting, with amendments,  
Article – Criminal Law  
Section 8–301(c)  
Annotated Code of Maryland  
(2002 Volume and 2010 Supplement)

BY repealing and reenacting, without amendments,  
Article – Criminal Law  
Section 8–301(g)  
Annotated Code of Maryland  
(2002 Volume and 2010 Supplement)

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

#### **Article – Criminal Law**

8–301.

(c) A person may not knowingly and willfully assume the identity of another, **INCLUDING A FICTITIOUS PERSON:**

- (1) to avoid identification, apprehension, or prosecution for a crime; or
- (2) with fraudulent intent to:
  - (i) get a benefit, credit, good, service, or other thing of value; or
  - (ii) avoid the payment of debt or other legal obligation.

(g) (1) A person who violates this section where the benefit, credit, good, service, or other thing of value that is the subject of subsection (b), (c), or (d) of this section has a value of \$500 or greater is guilty of a felony and on conviction is subject to imprisonment not exceeding 15 years or a fine not exceeding \$25,000 or both.

(2) A person who violates this section where the benefit, credit, good, service, or other thing of value that is the subject of subsection (b), (c), or (d) of this section has a value of less than \$500 is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 18 months or a fine not exceeding \$5,000 or both.

(3) A person who violates this section under circumstances that reasonably indicate that the person's intent was to manufacture, distribute, or dispense another individual's personal identifying information without that individual's consent is guilty of a felony and on conviction is subject to imprisonment not exceeding 15 years or a fine not exceeding \$25,000 or both.

(4) A person who violates subsection (c)(1), (e), or (f) of this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 18 months or a fine not exceeding \$5,000 or both.

(5) When the violation of this section is pursuant to one scheme or continuing course of conduct, whether from the same or several sources, the conduct may be considered as one violation and the value of the benefit, credit, good, service, or other thing of value may be aggregated in determining whether the violation is a felony or misdemeanor.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

**Approved by the Governor, April 12, 2011.**

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## Chapter 72

### (Senate Bill 509)

AN ACT concerning

#### **Prince George's County – Ethics Reforms**

FOR the purpose of specifying that the ethics provisions required to be enacted by Prince George's County shall contain certain provisions; requiring that the provisions prohibit a person from lobbying the county government for contingent compensation; requiring that the provisions prohibit the county government from issuing a credit card to certain persons; requiring that the provisions prohibit an elected county official from soliciting certain persons to enter into a business relationship with, or provide anything of monetary value to, certain other persons; providing for the construction of certain provisions enacted in accordance with this Act; requiring that the provisions establish a board of ethics composed of a certain number of members and having an executive director; ~~requiring the provisions to provide for an ethics advisor~~ who shall perform certain duties; requiring the provisions to provide for certain meetings of the board of ethics; and generally relating to ethics reform in Prince George's County.

BY repealing and reenacting, with amendments,

Article – State Government

Section 15–807(d)

Annotated Code of Maryland

(2009 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, without amendments,

Article – State Government

Section 15–808

Annotated Code of Maryland

(2009 Replacement Volume and 2010 Supplement)

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

**Article – State Government**

15–807.

(d) (1) [In] **THIS SUBSECTION APPLIES TO** Prince George’s County[, “local].

(2) **“LOCAL official”** includes:

[(1)] (I) each member of the Board of License Commissioners;

[(2)] (II) the chief inspector and any other inspector of the Board of License Commissioners;

[(3)] (III) the administrator of the Board of License Commissioners;  
and

[(4)] (IV) the attorney to the Board of License Commissioners.

(3) **THE CONFLICT-OF-INTEREST PROVISIONS REQUIRED UNDER § 15–803(A)(1) OF THIS SUBTITLE:**

(I) **SHALL PROHIBIT THE COUNTY GOVERNMENT FROM ISSUING A CREDIT CARD TO AN ELECTED COUNTY OFFICIAL OR A MEMBER OF THE COUNTY SCHOOL BOARD; AND**

(II) **SHALL PROHIBIT AN ELECTED COUNTY OFFICIAL FROM DIRECTLY OR INDIRECTLY SOLICITING A PERSON TO ENTER INTO A BUSINESS RELATIONSHIP WITH OR PROVIDE ANYTHING OF MONETARY VALUE TO A SPECIFIC INDIVIDUAL OR ENTITY, IF THE PERSON BEING SOLICITED IS SEEKING:**



1. THE SUCCESS OR DEFEAT OF COUNTY LEGISLATION;

2. A COUNTY CONTRACT; OR

3. ANY OTHER COUNTY BENEFIT.

(4) ANY CONFLICT-OF-INTEREST PROVISION ENACTED IN ACCORDANCE WITH PARAGRAPH (3)(II) OF THIS SUBSECTION MAY NOT BE CONSTRUED TO AFFECT THE VALIDITY OF ANY LEGALLY ENACTED REQUIREMENT OR CONDITION, PROPOSED AND ADOPTED ON THE PUBLIC RECORD AT A PUBLIC HEARING, THE PURPOSE OF WHICH IS TO MITIGATE THE IMPACT OF A DEVELOPMENT ON THE PROPERTY OWNERS IN THE AREAS SURROUNDING THE DEVELOPMENT, INCLUDING:

(I) AN ADEQUATE PUBLIC FACILITIES REQUIREMENT;

(II) A MINORITY BUSINESS REQUIREMENT; OR

(III) A COMMUNITY BENEFIT REQUIREMENT.

~~(4)~~ (5) THE LOBBYING PROVISIONS REQUIRED UNDER § 15-803(A)(3) OF THIS SUBTITLE SHALL PROHIBIT A PERSON FROM BEING ENGAGED FOR LOBBYING PURPOSES FOR COMPENSATION THAT IS DEPENDENT IN ANY MANNER ON THE OUTCOME OF EXECUTIVE OR LEGISLATIVE ACTION BEFORE THE COUNTY GOVERNMENT.

~~(5)~~ (6) THE COUNTY'S ETHICS ENACTMENTS SHALL PROVIDE FOR:

(I) A COUNTY BOARD OF ETHICS COMPOSED OF ~~SEVEN~~ FIVE MEMBERS APPOINTED BY THE COUNTY EXECUTIVE, SUBJECT TO THE ADVICE AND CONSENT OF THE COUNTY COUNCIL;

(II) ~~A FULL-TIME~~ AN EXECUTIVE DIRECTOR OF THE BOARD OF ETHICS; ~~AND~~

~~(III) AN ETHICS ADVISOR WHO:~~

1. SHALL MEET INDIVIDUALLY WITH EACH ELECTED OFFICIAL OF THE COUNTY AT LEAST ANNUALLY, ~~AND SHALL CONSULT MORE FREQUENTLY IF INDICATED,~~ TO ADVISE THE OFFICIAL REGARDING THE REQUIREMENTS OF ANY APPLICABLE ETHICS LAW, RULE, OR STANDARD OF CONDUCT;

2. SHALL ASSIST EACH ELECTED OFFICIAL OF THE COUNTY IN PREPARING ANY AFFIDAVIT OR OTHER DOCUMENT REQUIRED TO BE FILED UNDER THE COUNTY'S ETHICS ENACTMENTS;

3. SHALL CONDUCT ETHICS-RELATED BRIEFINGS FOR THE BENEFIT OF ELECTED OFFICIALS OF THE COUNTY; AND

4. MAY PROVIDE INFORMATION TO ANY PERSON REGARDING LAWS, RULES, AND OTHER STANDARDS OF ETHICAL CONDUCT APPLICABLE TO ELECTED OFFICIALS OF THE COUNTY; AND

(III) THE COUNTY BOARD OF ETHICS TO MEET AT LEAST TWO TIMES EACH YEAR.

15-808.

(a) If the Ethics Commission determines that a county or municipal corporation has not complied with the requirements of this Part I, the Ethics Commission may petition a circuit court with venue over the proceeding for appropriate relief to compel compliance.

(b) The circuit court may grant any available equitable relief.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

**Approved by the Governor, April 12, 2011.**

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## Chapter 73

(Senate Bill 511)

AN ACT concerning

### Criminal Law – Counterfeiting – Venue

FOR the purpose of including the county in which an alleged counterfeit deed or other instrument is filed or recorded in a certain manner as a venue to prosecute a certain counterfeiting crime or other crime based on an act that establishes a certain counterfeiting crime; and generally relating to counterfeit deeds or other instruments.

BY repealing and reenacting, with amendments,

Article – Criminal Law  
Section 8–601  
Annotated Code of Maryland  
(2002 Volume and 2010 Supplement)

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

**Article – Criminal Law**

8–601.

(a) A person, with intent to defraud another, may not counterfeit, cause to be counterfeited, or willingly aid or assist in counterfeiting any:

- (1) bond;
- (2) check;
- (3) deed;
- (4) draft;
- (5) endorsement or assignment of a bond, draft, check, or promissory note;
- (6) entry in an account book or ledger;
- (7) letter of credit;
- (8) negotiable instrument;
- (9) power of attorney;
- (10) promissory note;
- (11) release or discharge for money or property;
- (12) title to a motor vehicle;
- (13) waiver or release of mechanics' lien; or
- (14) will or codicil.

(b) A person may not knowingly, willfully, and with fraudulent intent possess a counterfeit of any of the items listed in subsection (a) of this section.

(c) (1) A person who violates subsection (a) of this section is guilty of a felony and on conviction is subject to imprisonment not exceeding 10 years or a fine not exceeding \$1,000 or both.

(2) A person who violates subsection (b) of this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 3 years or a fine not exceeding \$1,000 or both.

(d) Notwithstanding any other provision of law, the prosecution of an alleged violation of this section or for an alleged violation of a crime based on an act that establishes a violation of this section may be commenced in any county in which:

(1) an element of the crime occurred;

(2) **THE DEED OR OTHER ALLEGED COUNTERFEIT INSTRUMENT IS RECORDED IN THE COUNTY LAND RECORDS, FILED WITH THE CLERK OF THE CIRCUIT COURT, OR FILED WITH THE REGISTER OF WILLS;**

(3) the victim resides; or

[(3)] (4) if the victim is not an individual, the victim conducts business.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

**Approved by the Governor, April 12, 2011.**

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## Chapter 74

### (Senate Bill 529)

AN ACT concerning

#### **Maryland General and Limited Power of Attorney Act – Modifications**

FOR the purpose of establishing that certain provisions of law relating to durable powers of attorney apply to all powers of attorney; altering the authority of an agent under certain statutory form powers of attorney; providing that certain powers shall be deemed to be included in certain forms executed during a certain period of time under certain circumstances; defining certain terms; altering a certain definition; providing for the application of certain provisions of this Act; and generally relating to powers of attorney.

BY repealing and reenacting, with amendments,  
Article – Estates and Trusts  
Section 17–101, 17–105, 17–109, 17–202, and 17–203  
Annotated Code of Maryland  
(2001 Replacement Volume and 2010 Supplement)

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

**Article – Estates and Trusts**

17–101.

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

(b) (1) “Agent” means a person granted authority to act for a principal under a power of attorney, whether denominated an agent, attorney-in-fact, or otherwise.

(2) “Agent” includes an original agent, coagent, successor agent, and a person to which an agent’s authority is delegated.

(c) “Incapacity” means the inability of an individual to manage property or business affairs because the individual:

(1) Meets the grounds required for the appointment of a guardian of the property of a disabled person described in § 13–201 of this article; or

(2) Is:

(i) Missing;

(ii) Detained, including incarcerated in a penal system; or

(iii) Outside the United States and unable to return.

(d) “Power of attorney” means a writing or other record that grants authority to an agent to act in the place of the principal, whether or not the term “power of attorney” is used.

(e) “Principal” means an individual who grants authority to an agent in a power of attorney.

**(F) “PROPERTY” INCLUDES BOTH REAL AND PERSONAL PROPERTY AND ANY RIGHT OR TITLE IN REAL OR PERSONAL PROPERTY, WHETHER HELD INDIVIDUALLY OR JOINTLY AND WHETHER INDIVISIBLE, BENEFICIAL, CONTINGENT, OR OF ANY OTHER NATURE.**

~~[(f)]~~ ~~(G)~~ **(1)** “Statutory form power of attorney” means a power of attorney that is substantially in the same form as one of the powers of attorney set forth in Subtitle 2 of this title.

**(2)** “STATUTORY FORM POWER OF ATTORNEY” DOES NOT INCLUDE A POWER OF ATTORNEY SET FORTH IN SUBTITLE 2 OF THIS TITLE IN WHICH A PRINCIPAL INCORPORATES BY REFERENCE ONE OR MORE PROVISIONS OF ANOTHER WRITING INTO THE SECTION OF THE POWER OF ATTORNEY ENTITLED “SPECIAL INSTRUCTIONS (OPTIONAL)”.

**(H) (1)** “STOCKS AND BONDS” MEANS EVIDENCE OF OWNERSHIP IN OR DEBT ISSUED BY A CORPORATION, PARTNERSHIP, LIMITED LIABILITY COMPANY, FIRM, ASSOCIATION, OR SIMILAR ENTITY.

**(2)** “STOCKS AND BONDS” INCLUDES STOCKS, BONDS, DEBENTURES, NOTES, MEMBERSHIP INTERESTS, MUTUAL FUND INTERESTS, MONEY MARKET ACCOUNT INTERESTS, VOTING TRUST CERTIFICATES, EQUIPMENT TRUST CERTIFICATES, CERTIFICATES OF DEPOSIT, CERTIFICATES OF PARTICIPATION, CERTIFICATES OF BENEFICIAL INTEREST, STOCK RIGHTS, STOCK WARRANTS, AND ANY OTHER INSTRUMENTS EVIDENCING RIGHTS OF A SIMILAR CHARACTER ISSUED BY OR IN CONNECTION WITH ANY CORPORATION, PARTNERSHIP, LIMITED LIABILITY COMPANY, FIRM, ASSOCIATION, OR SIMILAR ENTITY.

17–105.

**(a)** In this section, “durable power of attorney” means a power of attorney by which a principal designates another as an attorney in fact or agent and the authority is exercisable notwithstanding the principal’s subsequent disability or incapacity.

**(B)** THIS SECTION APPLIES TO ALL POWERS OF ATTORNEY.

**[(b)] (C)** When a principal designates another as an attorney in fact or agent by a power of attorney in writing, it is a durable power of attorney unless otherwise provided by its terms.

**[(c)] (D)** Any act done by the attorney in fact or agent in accordance with the power of attorney during any period of disability or incompetence of the principal or during any period of uncertainty as to whether the principal is dead or alive has the same effect and inures to the benefit of and binds the principal as if the principal were alive, competent, and not disabled.

**[(d)] (E)** (1) If a guardian is appointed for the principal, the attorney in fact or agent shall account to the guardian rather than the principal.

(2) The guardian has the same power the principal would have but for the principal's disability or incompetence to revoke, suspend, or terminate all or any part of the power of attorney or agency.

17-109.

(a) Except as provided in subsection (b) of this section, this title applies to all powers of attorney.

(b) **[This] EXCEPT AS PROVIDED IN § 17-105 OF THIS SUBTITLE, THIS** title does not apply to:

(1) A power that is coupled with an interest in the subject of the power, is given as security, or is given for consideration, regardless of whether the power is held for the benefit of the agent or another person, including a power given to or for the benefit of a creditor in connection with a credit transaction;

(2) An advance directive appointing a health care agent under Title 5, Subtitle 6 of the Health – General Article or any other power to make health care decisions;

(3) A proxy or other delegation to exercise any right with respect to an entity, including voting rights or management rights or both, or a delegation of authority to execute, become a party to, or amend a document or agreement governing an entity or entity ownership interest;

(4) A power created on a form prescribed by a government or governmental subdivision, agency, or instrumentality for a governmental purpose;

(5) A power created as part of, or in connection with, an agreement establishing an attorney and client relationship;

(6) A power of attorney that states that it is not subject to this title;

(7) A power authorizing another to prepare, execute, deliver, submit, or file, on behalf of an entity or the governing body or management of an entity, a document or instrument with a government or governmental subdivision, agency, or instrumentality or with a third party;

(8) A power or other delegation of authority contained in a document or agreement governing or binding on an entity that authorizes a person to take action with respect to the entity; and

(9) A power with respect to an entity created in accordance with authorization provided by a federal or State statute that specifically contemplates creation of the power.

17–202.

“MARYLAND STATUTORY FORM  
PERSONAL FINANCIAL POWER OF ATTORNEY  
IMPORTANT INFORMATION AND WARNING

You should be very careful in deciding whether or not to sign this document. The powers granted by you (the principal) in this document are broad and sweeping. This power of attorney authorizes another person (your agent) to make decisions concerning your property for you (the principal). Your agent will be able to make decisions and act with respect to your property (including your money) whether or not you are able to act for yourself.

You should select someone you trust to serve as your agent. Unless you specify otherwise, generally the agent’s authority will continue until you die or revoke the power of attorney or the agent resigns or is unable to act for you.

You need not grant all of the powers listed below. If you choose to grant less than all of the listed powers, you may instead use a Maryland Statutory Form Limited Power of Attorney and mark on that Maryland Statutory Form Limited Power of Attorney which powers you intend to delegate to your attorney-in-fact (the Agent) and which you do not want the Agent to exercise.

This power of attorney becomes effective immediately unless you state otherwise in the Special Instructions.

You should obtain competent legal advice before you sign this power of attorney if you have any questions about the document or the authority you are granting to your agent.

DESIGNATION OF AGENT

I, \_\_\_\_\_,  
(Name of Principal)

Name the following person as my agent:

Name of Agent: \_\_\_\_\_

Agent’s Address: \_\_\_\_\_

Agent’s Telephone Number: \_\_\_\_\_

Designation of Successor Agent(s) (Optional)



If my agent is unable or unwilling to act for me, I name as my successor agent:

Name of Successor Agent: \_\_\_\_\_

Successor Agent's  
Address: \_\_\_\_\_

Successor Agent's  
Telephone Number: \_\_\_\_\_

If my successor agent is unable or unwilling to act for me, I name as my second successor agent:

Name of Second  
Successor Agent: \_\_\_\_\_

Second Successor  
Agent's Address: \_\_\_\_\_

Second Successor Agent's  
Telephone Number: \_\_\_\_\_

#### GRANT OF GENERAL AUTHORITY

I ("the principal") grant my agent and any successor agent, with respect to each subject listed below, the authority to do all acts that I could do to:

(1) Contract with another person, on terms agreeable to the agent, to accomplish a purpose of a transaction and perform, rescind, cancel, terminate, reform, restate, release, or modify the contract or another contract made by or on behalf of the principal;

(2) Execute, acknowledge, seal, deliver, file, or record any instrument or communication the agent considers desirable to accomplish a purpose of a transaction;

(3) Seek on the principal's behalf the assistance of a court or other governmental agency to carry out an act authorized in this power of attorney;

(4) Initiate, participate in, submit to alternative dispute resolution, settle, oppose, or propose or accept a compromise with respect to a claim existing in favor of or against the principal or intervene in litigation relating to the claim;

(5) Engage, compensate, and discharge an attorney, accountant, discretionary investment manager, expert witness, or other advisor;

(6) Prepare, execute, and file a record, report, or other document to safeguard or promote the principal's interest under a statute or regulation and communicate with representatives or employees of a government or governmental subdivision, agency, or instrumentality, on behalf of the principal; and

(7) Do lawful acts with respect to the subject and all property related to the subject.

My agent's authority shall include the authority to act as stated below with regard to each of the following subjects:

#### SUBJECTS AND AUTHORITY

Real property – With respect to this subject, I authorize my agent to: demand, buy, sell, convey, lease, receive, accept as a gift or as security for an extension of credit, or otherwise acquire or reject an interest in real property or a right incident to real property; pledge or mortgage an interest in real property or right incident to real property as security to borrow money or pay, renew, or extend the time of payment of a debt of the principal or a debt guaranteed by the principal, including a reverse mortgage; release, assign, satisfy, or enforce by litigation or otherwise a mortgage, deed of trust, conditional sale contract, encumbrance, lien, or other claim to real property that exists or is asserted; and manage or conserve an interest in real property or a right incident to real property owned or claimed to be owned by the principal, including: (1) insuring against liability or casualty or other loss; (2) obtaining or regaining possession of or protecting the interest or right by litigation or otherwise; (3) paying, assessing, compromising, or contesting taxes or assessments or applying for and receiving refunds in connection with them; and (4) purchasing supplies, hiring assistance or labor, and making repairs or alterations to the real property.

Stocks and bonds – With respect to this subject, I authorize my agent to: buy, sell, and exchange stocks and bonds; establish, continue, modify, or terminate an account with respect to stocks and bonds; pledge stocks and bonds as security to borrow, pay, renew, or extend the time of payment of a debt of the principal; receive certificates and other evidences of ownership with respect to stocks and bonds; exercise voting rights with respect to stocks and bonds in person or by proxy, enter into voting trusts, and consent to limitations on the right to vote.

Banks and other financial institutions – With respect to this subject, I authorize my agent to: continue, modify, **TRANSACT ALL BUSINESS IN CONNECTION WITH**, and terminate an account or other banking arrangement made by or on behalf of the principal; establish, modify, **TRANSACT ALL BUSINESS IN CONNECTION WITH**, and terminate an account or other banking arrangement with a bank, trust company, savings and loan association, credit union, thrift company, brokerage firm, or other financial institution selected by the agent; contract for services available from a financial institution, including renting a safe deposit box or space in a vault; **DEPOSIT, BY CHECK, MONEY ORDER, ELECTRONIC FUNDS TRANSFER, OR OTHERWISE, WITH, OR LEAVE IN THE CUSTODY OF, A FINANCIAL INSTITUTION**

**MONEY OR PROPERTY OF THE PRINCIPAL;** withdraw, by check, money order, electronic funds transfer, or otherwise, money or property of the principal deposited with or left in the custody of a financial institution; receive statements of account, vouchers, notices, and similar documents from a financial institution and act with respect to them; enter a safe deposit box or vault and withdraw or add to the contents; borrow money and pledge as security personal property of the principal necessary to borrow money or pay, renew, or extend the time of payment of a debt of the principal or a debt guaranteed by the principal; make, assign, draw, endorse, discount, guarantee, and negotiate promissory notes, checks, drafts, and other negotiable or nonnegotiable paper of the principal or payable to the principal or the principal's order, transfer money, receive the cash or other proceeds of those transactions; and apply for, receive, and use credit cards and debit cards, electronic transaction authorizations, and traveler's checks from a financial institution.

Insurance and annuities – With respect to this subject, I authorize my agent to: continue, pay the premium or make a contribution on, modify, exchange, rescind, release, or terminate a contract procured by or on behalf of the principal that insures or provides an annuity to either the principal or another person, whether or not the principal is a beneficiary under the contract; procure new, different, and additional contracts of insurance and annuities for the principal and select the amount, type of insurance or annuity, and mode of payment; pay the premium or make a contribution on, modify, exchange, rescind, release, or terminate a contract of insurance or annuity procured by the agent; apply for and receive a loan secured by a contract of insurance or annuity; surrender and receive the cash surrender value on a contract of insurance or annuity; exercise an election; exercise investment powers available under a contract of insurance or annuity; change the manner of paying premiums on a contract of insurance or annuity; change or convert the type of insurance or annuity with respect to which the principal has or claims to have authority described in this section; apply for and procure a benefit or assistance under a statute or regulation to guarantee or pay premiums of a contract of insurance on the life of the principal; collect, sell, assign, hypothecate, borrow against, or pledge the interest of the principal in a contract of insurance or annuity; select the form and timing of the payment of proceeds from a contract of insurance or annuity; pay, from proceeds or otherwise, compromise or contest, and apply for refunds in connection with a tax or assessment levied by a taxing authority with respect to a contract of insurance or annuity or the proceeds or liability from the contract of insurance or annuity accruing by reason of the tax or assessment.

Claims and litigation – With respect to this subject, I authorize my agent to: assert and maintain before a court or administrative agency a claim, claim for relief, cause of action, counterclaim, offset, recoupment, or defense, including an action to recover property or other thing of value, recover damages sustained by the principal, eliminate or modify tax liability, or seek an injunction, specific performance, or other relief; act for the principal with respect to bankruptcy or insolvency, whether voluntary or involuntary, concerning the principal or some other person, or with respect to a reorganization, receivership, or application for the appointment of a receiver or trustee that affects an interest of the principal in property or other thing of value; pay a

judgment, award, or order against the principal or a settlement made in connection with a claim or litigation; and receive money or other thing of value paid in settlement of or as proceeds of a claim or litigation.

Benefits from governmental programs or civil or military service (including any benefit, program, or assistance provided under a statute or regulation including Social Security, Medicare, and Medicaid) – With respect to this subject, I authorize my agent to: execute vouchers in the name of the principal for allowances and reimbursements payable by the United States or a foreign government or by a state or subdivision of a state to the principal; enroll in, apply for, select, reject, change, amend, or discontinue, on the principal's behalf, a benefit or program; prepare, file, and maintain a claim of the principal for a benefit or assistance, financial or otherwise, to which the principal may be entitled under a statute or regulation; initiate, participate in, submit to alternative dispute resolution, settle, oppose, or propose or accept a compromise with respect to litigation concerning a benefit or assistance the principal may be entitled to receive under a statute or regulation; and receive the financial proceeds of a claim described above and conserve, invest, disburse, or use for a lawful purpose anything so received.

Retirement plans (including a plan or account created by an employer, the principal, or another individual to provide retirement benefits or deferred compensation of which the principal is a participant, beneficiary, or owner, including a plan or account under the following sections of the Internal Revenue Code: (1) an individual retirement account under Internal Revenue Code Section 408, 26 U.S.C. § 408; (2) a Roth individual retirement account under Internal Revenue Code Section 408A, 26 U.S.C. § 408A; (3) a deemed individual retirement account under Internal Revenue Code Section 408(q), 26 U.S.C. § 408(q); (4) an annuity or mutual fund custodial account under Internal Revenue Code Section 403(b), 26 U.S.C. § 403(b); (5) a pension, profit-sharing, stock bonus, or other retirement plan qualified under Internal Revenue Code Section 401(a), 26 U.S.C. § 401(a); (6) a plan under Internal Revenue Code Section 457(b), 26 U.S.C. § 457(b); and (7) a nonqualified deferred compensation plan under Internal Revenue Code Section 409A, 26 U.S.C. § 409A – With respect to this subject, I authorize my agent to: select the form and timing of payments under a retirement plan and withdraw benefits from a plan; make a rollover, including a direct trustee-to-trustee rollover, of benefits from one retirement plan to another; establish a retirement plan in the principal's name; make contributions to a retirement plan; exercise investment powers available under a retirement plan; borrow from, sell assets to, or purchase assets from a retirement plan.

Taxes – With respect to this subject, I authorize my agent to: prepare, sign, and file federal, state, local, and foreign income, gift, payroll, property, federal insurance contributions act, and other tax returns, claims for refunds, requests for extension of time, petitions regarding tax matters, and other tax-related documents, including receipts, offers, waivers, consents, including consents and agreements under Internal Revenue Code Section 2032(a), 26 U.S.C. § 2032(a), closing agreements, and other powers of attorney required by the Internal Revenue Service or other taxing authority with respect to a tax year on which the statute of limitations has not run and the

following 25 tax years; pay taxes due, collect refunds, post bonds, receive confidential information, and contest deficiencies determined by the Internal Revenue Service or other taxing authority; exercise elections available to the principal under federal, state, local, or foreign tax law; and act for the principal in all tax matters for all periods before the Internal Revenue Service, or other taxing authority.

SPECIAL INSTRUCTIONS (OPTIONAL)

YOU MAY GIVE SPECIAL INSTRUCTIONS ON THE FOLLOWING LINES:

\_\_\_\_\_
\_\_\_\_\_
\_\_\_\_\_
\_\_\_\_\_
\_\_\_\_\_
\_\_\_\_\_
\_\_\_\_\_
\_\_\_\_\_

EFFECTIVE DATE

This power of attorney is effective immediately unless I have stated otherwise in the Special Instructions.

TERMINATION DATE (OPTIONAL)

This power of attorney shall terminate on \_\_\_\_\_, 20\_\_\_\_.
(Use a specific calendar date)

NOMINATION OF GUARDIAN (OPTIONAL)

If it becomes necessary for a court to appoint a guardian of my estate or guardian of my person, I nominate the following person(s) for appointment:

Name of nominee for guardian of my property:
( ) My agent (or successor agent) named above

or

Nominee's address: \_\_\_\_\_
Nominee's telephone number: \_\_\_\_\_

Name of nominee for guardian of my person:
( ) My agent (or successor agent) named above

or

Nominee's address: \_\_\_\_\_

Nominee’s telephone number: \_\_\_\_\_

SIGNATURE AND ACKNOWLEDGMENT

\_\_\_\_\_  
Your Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Your Name Printed

\_\_\_\_\_  
\_\_\_\_\_  
Your Address

\_\_\_\_\_  
Your Telephone Number

STATE OF MARYLAND  
(COUNTY) OF \_\_\_\_\_

This document was acknowledged before me on

\_\_\_\_\_,  
(Date)

By \_\_\_\_\_ to be his/her act.  
(Name of Principal)

\_\_\_\_\_  
Signature of Notary (SEAL, IF ANY)  
My commission expires: \_\_\_\_\_

WITNESS ATTESTATION

The foregoing power of attorney was, on the date written above, published and declared by

\_\_\_\_\_  
(Name of Principal)

in our presence to be his/her power of attorney. We, in his/her presence and at his/her request, and in the presence of each other, have attested to the same and have signed our names as attesting witnesses.

\_\_\_\_\_  
Witness #1 Signature

Witness #1 Name Printed

---



---

Witness #1 Address

---

Witness #1 Telephone Number

---

Witness #2 Signature

---

Witness #2 Name Printed

---

Witness #2 Address

---

Witness #2 Telephone Number”

17–203.

“MARYLAND STATUTORY FORM LIMITED POWER OF ATTORNEY

PLEASE READ CAREFULLY

This power of attorney authorizes another person (your agent) to make decisions concerning your property for you (the principal). You need not give to your agent all the authorities listed below and may give the agent only those limited powers that you specifically indicate. This power of attorney gives your agent the right to make limited decisions for you. You should very carefully weigh your decision as to what powers you give your agent. Your agent will be able to make decisions and act with respect to your property (including your money) whether or not you are able to act for yourself.

If you choose to make a grant of limited authority, you should check the boxes that identify the specific authorization you choose to give your agent.

This power of attorney does not authorize the agent to make health care decisions for you.

You should select someone you trust to serve as your agent. Unless you specify otherwise, generally the agent’s authority will continue until you die or revoke the power of attorney or the agent resigns or is unable to act for you.

Your agent is not entitled to compensation unless you indicate otherwise in the special instructions of this power of attorney. If you indicate that your agent is to receive compensation, your agent is entitled to reasonable compensation or compensation as specified in the Special Instructions.

This form provides for designation of one agent. If you wish to name more than one agent you may name a coagent in the Special Instructions. Coagents are not required to act together unless you include that requirement in the Special Instructions.

If your agent is unavailable or unwilling to act for you, your power of attorney will end unless you have named a successor agent. You may also name a second successor agent.

This power of attorney becomes effective immediately unless you state otherwise in the Special Instructions.

If you have questions about the power of attorney or the authority you are granting to your agent, you should seek legal advice before signing this form.

#### DESIGNATION OF AGENT

I, \_\_\_\_\_, name the following person  
(Name of Principal)  
as my agent:

Name of  
Agent: \_\_\_\_\_  
Agent's  
Address: \_\_\_\_\_  
Agent's Telephone  
Number: \_\_\_\_\_

#### DESIGNATION OF SUCCESSOR AGENT(S) (OPTIONAL)

If my agent is unable or unwilling to act for me, I name as my successor agent:

Name of Successor Agent: \_\_\_\_\_  
Successor Agent's  
Address: \_\_\_\_\_  
Successor Agent's Telephone Number: \_\_\_\_\_

If my successor agent is unable or unwilling to act for me, I name as my second successor agent:

Name of Second Successor  
Agent: \_\_\_\_\_  
Second Successor Agent's  
Address: \_\_\_\_\_  
Second Successor Agent's Telephone Number: \_\_\_\_\_

#### GRANT OF GENERAL AUTHORITY



I (“the principal”) grant my agent and any successor agent, with respect to each subject that I choose below, the authority to do all acts that I could do to:

(1) Demand, receive, and obtain by litigation or otherwise, money or another thing of value to which the principal is, may become, or claims to be entitled, and conserve, invest, disburse, or use anything so received or obtained for the purposes intended;

(2) Contract with another person, on terms agreeable to the agent, to accomplish a purpose of a transaction and perform, rescind, cancel, terminate, reform, restate, release, or modify the contract or another contract made by or on behalf of the principal;

(3) Execute, acknowledge, seal, deliver, file, or record any instrument or communication the agent considers desirable to accomplish a purpose of a transaction, including creating a schedule contemporaneously or at a later time listing some or all of the principal’s property and attaching the schedule to this power of attorney;

(4) Initiate, participate in, submit to alternative dispute resolution, settle, oppose, or propose or accept a compromise with respect to a claim existing in favor of or against the principal or intervene in litigation relating to the claim;

(5) Seek on the principal’s behalf the assistance of a court or other governmental agency to carry out an act authorized in this power of attorney;

(6) Engage, compensate, and discharge an attorney, accountant, discretionary investment manager, expert witness, or other advisor;

(7) Prepare, execute, and file a record, report, or other document to safeguard or promote the principal’s interest under a statute or regulation;

(8) Communicate with representatives or employees of a government or governmental subdivision, agency, or instrumentality, on behalf of the principal;

(9) Access communications intended for, and communicate on behalf of the principal, whether by mail, electronic transmission, telephone, or other means; and

(10) Do lawful acts with respect to the subject and all property related to the subject.

(INITIAL each authority in any subject you want to include in the agent’s general authority. Cross through each authority in any subject that you want to exclude. If you wish to grant general authority over an entire subject, you may initial “All of the above” instead of initialing each authority.)

## SUBJECTS AND AUTHORITY

A. Real Property – With respect to this category, I authorize my agent to:

Demand, buy, lease, receive, accept as a gift or as security for an extension of credit, or otherwise acquire or reject an interest in real property or a right incident to real property

Sell, exchange, convey with or without covenants, representations, or warranties, quitclaim, release, surrender, retain title for security, encumber, partition, consent to partitioning, subject to an easement or covenant, subdivide, apply for zoning or other governmental permits, plat or consent to platting, develop, grant an option concerning, lease, sublease, contribute to an entity in exchange for an interest in that entity, or otherwise grant or dispose of an interest in real property or a right incident to real property

Pledge or mortgage an interest in real property or right incident to real property as security to borrow money or pay, renew, or extend the time of payment of a debt of the principal or a debt guaranteed by the principal, including a reverse mortgage

Release, assign, satisfy, or enforce by litigation or otherwise a mortgage, deed of trust, conditional sale contract, encumbrance, lien, or other claim to real property that exists or is asserted

Manage or conserve an interest in real property or a right incident to real property owned or claimed to be owned by the principal, including:

(1) Insuring against liability or casualty or other loss;

(2) Obtaining or regaining possession of or protecting the interest or right by litigation or otherwise;

(3) Paying, assessing, compromising, or contesting taxes or assessments or applying for and receiving refunds in connection with them; and

(4) Purchasing supplies, hiring assistance or labor, and making repairs or alterations to the real property

Use, develop, alter, replace, remove, erect, or install structures or other improvements on real property in or incident to which the principal has, or claims to have, an interest or right

Participate in a reorganization with respect to real property or an entity that owns an interest in or a right incident to real property and receive, hold, and act with respect to stocks and bonds or other property received in a plan of reorganization, including:

(1) Selling or otherwise disposing of the stocks and bonds or other property;

(2) Exercising or selling an option, a right of conversion, or a similar right with respect to the stocks and bonds or other property; and

(3) Exercising voting rights in person or by proxy

Change the form of title of an interest in or a right incident to real property

Dedicate to public use, with or without consideration, easements or other real property in which the principal has, or claims to have, an interest

All of the above

B. Tangible Personal Property – With respect to this subject, I authorize my agent to:

Demand, buy, receive, accept as a gift or as security for an extension of credit, or otherwise acquire or reject ownership or possession of tangible personal property or an interest in tangible personal property

Sell, exchange, convey with or without covenants, representations, or warranties, quitclaim, release, surrender, create a security interest in, grant options concerning, lease, sublease, or otherwise dispose of tangible personal property or an interest in tangible personal property

Grant a security interest in tangible personal property or an interest in tangible personal property as security to borrow money or pay, renew, or extend the time of payment of a debt of the principal or a debt guaranteed by the principal

Release, assign, satisfy, or enforce by litigation or otherwise, a security interest, lien, or other claim on behalf of the principal, with respect to tangible personal property or an interest in tangible personal property

Manage or conserve tangible personal property or an interest in tangible personal property on behalf of the principal, including:

(1) Insuring against liability or casualty or other loss;

(2) Obtaining or regaining possession of or protecting the property or interest, by litigation or otherwise;

(3) Paying, assessing, compromising, or contesting taxes or assessments or applying for and receiving refunds in connection with taxes or assessments;

(4) Moving the property from place to place;

(5) Storing the property for hire or on a gratuitous bailment;  
and

(6) Using and making repairs, alterations, or improvements to the property

Change the form of title of an interest in tangible personal property

All of the above

C. Stocks and Bonds – With respect to this subject, I authorize my agent to:

Buy, sell, and exchange stocks and bonds

Establish, continue, modify, or terminate an account with respect to stocks and bonds

Pledge stocks and bonds as security to borrow, pay, renew, or extend the time of payment of a debt of the principal

Receive certificates and other evidences of ownership with respect to stocks and bonds

Exercise voting rights with respect to stocks and bonds in person or by proxy, enter into voting trusts, and consent to limitations on the right to vote

All of the above

D. Commodities – With respect to this subject, I authorize my agent to:

Buy, sell, exchange, assign, settle, and exercise commodity futures contracts and call or put options on stocks or stock indexes traded on a regulated option exchange

Establish, continue, modify, and terminate option accounts

All of the above

E. Banks and Other Financial Institutions – With respect to this subject, I authorize my agent to:

Continue, modify, **TRANSACT ALL BUSINESS IN CONNECTION WITH**, and terminate an account or other banking arrangement made by or on behalf of the principal

Establish, modify, **TRANSACT ALL BUSINESS IN CONNECTION WITH**, and terminate an account or other banking arrangement with a bank, trust company, savings and loan association, credit union, thrift company, brokerage firm, or other financial institution selected by the agent

Contract for services available from a financial institution, including renting a safe deposit box or space in a vault

**DEPOSIT, BY CHECK, MONEY ORDER, ELECTRONIC FUNDS TRANSFER, OR OTHERWISE, WITH, OR LEAVE IN THE CUSTODY OF, A FINANCIAL INSTITUTION MONEY OR PROPERTY OF THE PRINCIPAL**

Withdraw, by check, money order, electronic funds transfer, or otherwise, money or property of the principal deposited with or left in the custody of a financial institution

Receive statements of account, vouchers, notices, and similar documents from a financial institution and act with respect to them

Enter a safe deposit box or vault and withdraw or add to the contents

Borrow money and pledge as security personal property of the principal necessary to borrow money or pay, renew, or extend the time of payment of a debt of the principal or a debt guaranteed by the principal

Make, assign, draw, endorse, discount, guarantee, and negotiate promissory notes, checks, drafts, and other negotiable or nonnegotiable paper of the principal or payable to the principal or the principal's order, transfer money, receive the cash or other proceeds of those transactions, and accept a draft drawn by a person on the principal and pay the draft when due

Receive for the principal and act on a sight draft, warehouse receipt, other document of title whether tangible or electronic, or other negotiable or nonnegotiable instrument

Apply for, receive, and use letters of credit, credit cards and debit cards, electronic transaction authorizations, and traveler's checks from a financial institution and give an indemnity or other agreement in connection with letters of credit

Consent to an extension of the time of payment with respect to commercial paper or a financial transaction with a financial institution

All of the above

F. Operation of an Entity or a Business – With respect to this subject, I authorize my agent to:

Operate, buy, sell, enlarge, reduce, or terminate an ownership interest

Perform a duty or discharge a liability and exercise in person or by proxy a right, power, privilege, or an option that the principal has, may have, or claims to have

Enforce the terms of an ownership agreement

Initiate, participate in, submit to alternative dispute resolution, settle, oppose, or propose or accept a compromise with respect to litigation to which the principal is a party because of an ownership interest

Exercise in person or by proxy, or enforce by litigation or otherwise, a right, power, privilege, or an option the principal has or claims to have as the holder of stocks and bonds

Initiate, participate in, submit to alternative dispute resolution, settle, oppose, or propose or accept a compromise with respect to litigation to which the principal is a party concerning stocks and bonds

With respect to an entity or business owned solely by the principal:

(1) Continue, modify, renegotiate, extend, and terminate a contract made by or on behalf of the principal with respect to the entity or business before execution of this power of attorney;

(2) Determine:

(i) The location of the operation of the entity or business;

(ii) The nature and extent of the business of the entity or business;

(iii) The methods of manufacturing, selling, merchandising, financing, accounting, and advertising employed in the operation of the entity or business;

(iv) The amount and types of insurance carried by the entity or business; and

(v) The mode of engaging, compensating, and dealing with the employees and accountants, attorneys, or other advisors of the entity or business;

(3) Change the name or form of organization under which the entity or business is operated and enter into an ownership agreement with other persons to take over all or part of the operation of the entity or business; and

(4) Demand and receive money due or claimed by the principal or on the principal's behalf in the operation of the entity or business and control and disburse the money in the operation of the entity or business

Put additional capital into an entity or a business in which the principal has an interest

Join in a plan of reorganization, consolidation, conversion, domestication, or merger of the entity or business

Sell or liquidate all or part of an entity or business

Establish the value of an entity or a business under a buyout agreement to which the principal is a party

Prepare, sign, file, and deliver reports, compilations of information, returns, or other papers with respect to an entity or business and make related payments

Pay, compromise, or contest taxes, assessments, fines, or penalties and perform other acts to protect the principal from illegal or unnecessary taxation, assessments, fines, or penalties, with respect to an entity or a business, including attempts to recover, as permitted by law, money paid before or after the execution of this power of attorney

All of the above

G. Insurance and Annuities – With respect to this subject, I authorize my agent to:

Continue, pay the premium or make a contribution on, modify, exchange, rescind, release, or terminate a contract procured by or on behalf of the principal that insures or provides an annuity to either the principal or another person, whether or not the principal is a beneficiary under the contract

Procure new, different, and additional contracts of insurance and annuities for the principal and the principal's spouse, children, and other dependents, and select the amount, type of insurance or annuity, and mode of payment

Pay the premium or make a contribution on, modify, exchange, rescind, release, or terminate a contract of insurance or annuity procured by the agent

Apply for and receive a loan secured by a contract of insurance or annuity

Surrender and receive the cash surrender value on a contract of insurance or annuity

Exercise an election

Exercise investment powers available under a contract of insurance or annuity

Change the manner of paying premiums on a contract of insurance or annuity

Change or convert the type of insurance or annuity with respect to which the principal has or claims to have authority described in this section

Apply for and procure a benefit or assistance under a statute or regulation to guarantee or pay premiums of a contract of insurance on the life of the principal

Collect, sell, assign, hypothecate, borrow against, or pledge the interest of the principal in a contract of insurance or annuity

Select the form and timing of the payment of proceeds from a contract of insurance or annuity

Pay, from proceeds or otherwise, compromise or contest, and apply for refunds in connection with a tax or assessment levied by a taxing authority with respect to a contract of insurance or annuity or the proceeds or liability from the contract of insurance or annuity accruing by reason of the tax or assessment

All of the above

H. Estates, Trusts, and Other Beneficial Interests (including trusts, probate estates, guardianships, conservatorships, escrows, or custodianships or funds from which the principal is, may become, or claims to be entitled to a share or payment) – With respect to this subject, I authorize my agent to:



Accept, receive, receipt for, sell, assign, pledge, or exchange a share in or payment from the fund described above

Demand or obtain money or another thing of value to which the principal is, may become, or claims to be entitled by reason of the fund described above, by litigation or otherwise

Exercise for the benefit of the principal a presently exercisable general power of appointment held by the principal

Initiate, participate in, submit to alternative dispute resolution, settle, oppose, or propose or accept a compromise with respect to litigation to ascertain the meaning, validity, or effect of a deed, will, declaration of trust, or other instrument or transaction affecting the interest of the principal

Initiate, participate in, submit to alternative dispute resolution, settle, oppose, or propose or accept a compromise with respect to litigation to remove, substitute, or surcharge a fiduciary

Conserve, invest, disburse, or use anything received for an authorized purpose

Transfer an interest of the principal in real property, stocks and bonds, accounts with financial institutions or securities intermediaries, insurance, annuities, and other property to the trustee of a revocable trust created by the principal as settlor

Reject, renounce, disclaim, release, or consent to a reduction in or modification of a share in or payment from the fund described above

All of the above

I. Claims and Litigation – With respect to this subject, I authorize my agent to:

Assert and maintain before a court or administrative agency a claim, claim for relief, cause of action, counterclaim, offset, recoupment, or defense, including an action to recover property or other thing of value, recover damages sustained by the principal, eliminate or modify tax liability, or seek an injunction, specific performance, or other relief

Bring an action to determine adverse claims or intervene or otherwise participate in litigation

Seek an attachment, garnishment, order of arrest, or other preliminary, provisional, or intermediate relief and use an available procedure to effect or satisfy a judgment, order, or decree

Make or accept a tender, offer of judgment, or admission of facts, submit a controversy on an agreed statement of facts, consent to examination, and bind the principal in litigation

Submit to alternative dispute resolution, settle, and propose or accept a compromise

Waive the issuance and service of process on the principal, accept service of process, appear for the principal, designate persons on which process directed to the principal may be served, execute and file or deliver stipulations on the principal's behalf, verify pleadings, seek appellate review, procure and give surety and indemnity bonds, contract and pay for the preparation and printing of records and briefs, receive, execute, and file or deliver a consent, waiver, release, confession of judgment, satisfaction of judgment, notice, agreement, or other instrument in connection with the prosecution, settlement, or defense of a claim or litigation

Act for the principal with respect to bankruptcy or insolvency, whether voluntary or involuntary, concerning the principal or some other person, or with respect to a reorganization, receivership, or application for the appointment of a receiver or trustee that affects an interest of the principal in property or other thing of value

Pay a judgment, award, or order against the principal or a settlement made in connection with a claim or litigation

Receive money or other thing of value paid in settlement of or as proceeds of a claim or litigation

All of the above

J. Personal and Family Maintenance – With respect to this subject, I authorize my agent to:

Perform the acts necessary to maintain the customary standard of living of the principal, the principal's spouse, and the following individuals, whether living when this power of attorney is executed or later born:

(1) The principal's children;

(2) Other individuals legally entitled to be supported by the principal; and

(3) The individuals whom the principal has customarily supported or indicated the intent to support;

Make periodic payments of child support and other family maintenance required by a court or governmental agency or an agreement to which the principal is a party

Provide living quarters for the individuals described above by:

(1) Purchase, lease, or other contract; or

(2) Paying the operating costs, including interest, amortization payments, repairs, improvements, and taxes, for premises owned by the principal or occupied by those individuals

Provide normal domestic help, usual vacations and travel expenses, and funds for shelter, clothing, food, appropriate education, including postsecondary and vocational education, and other current living costs for the individuals described above

Pay expenses for necessary health care and custodial care on behalf of the individuals described above

Act as the principal's personal representative in accordance with the Health Insurance Portability and Accountability Act, §§ 1171 through 1179 of the Social Security Act, 42 U.S.C. § 1320D, and applicable regulations in making decisions related to the past, present, or future payment for the provision of health care consented to by the principal or anyone authorized under the law of this State to consent to health care on behalf of the principal

Continue provisions made by the principal for automobiles or other means of transportation, including registering, licensing, insuring, and replacing the means of transportation, for the individuals described above

Maintain credit and debit accounts for the convenience of the individuals described above and open new accounts

Continue payments incidental to the membership or affiliation of the principal in a religious institution, club, society, order, or other organization or to continue contributions to those organizations

(NOTE: Authority with respect to personal and family maintenance is neither dependent on, nor limited by, authority that an agent may or may not have with respect to gifts under this power of attorney.)

All of the above

K. Benefits from Governmental Programs or Civil or Military Service (including any benefit, program, or assistance provided under a statute or regulation

including Social Security, Medicare, and Medicaid) – With respect to this subject, I authorize my agent to:

Execute vouchers in the name of the principal for allowances and reimbursements payable by the United States or a foreign government or by a state or subdivision of a state to the principal, including allowances and reimbursements for transportation of the individuals described in “J. Personal and Family Maintenance” above, and for shipment of the household effects of those individuals

Take possession and order the removal and shipment of property of the principal from a post, warehouse, depot, dock, or other place of storage or safekeeping, either governmental or private, and execute and deliver a release, voucher, receipt, bill of lading, shipping ticket, certificate, or other instrument for that purpose

Enroll in, apply for, select, reject, change, amend, or discontinue, on the principal’s behalf, a benefit or program

Prepare, file, and maintain a claim of the principal for a benefit or assistance, financial or otherwise, to which the principal may be entitled under a statute or regulation

Initiate, participate in, submit to alternative dispute resolution, settle, oppose, or propose or accept a compromise with respect to litigation concerning a benefit or assistance the principal may be entitled to receive under a statute or regulation

Receive the financial proceeds of a claim described above and conserve, invest, disburse, or use for a lawful purpose anything so received

All of the above

L. Retirement Plans (including a plan or account created by an employer, the principal, or another individual to provide retirement benefits or deferred compensation of which the principal is a participant, beneficiary, or owner, including a plan or account under the following sections of the Internal Revenue Code:

(1) An individual retirement account under Internal Revenue Code Section 408, 26 U.S.C. § 408;

(2) A Roth individual retirement account under Internal Revenue Code Section 408A, 26 U.S.C. § 408A;

(3) A deemed individual retirement account under Internal Revenue Code Section 408(q), 26 U.S.C. § 408(q);

(4) An annuity or mutual fund custodial account under Internal Revenue Code Section 403(b), 26 U.S.C. § 403(b);

(5) A pension, profit-sharing, stock bonus, or other retirement plan qualified under Internal Revenue Code Section 401(a), 26 U.S.C. § 401(a);

(6) A plan under Internal Revenue Code Section 457(b), 26 U.S.C. § 457(b); and

(7) A nonqualified deferred compensation plan under Internal Revenue Code Section 409A, 26 U.S.C. § 409A) – With respect to this subject, I authorize my agent to:

Select the form and timing of payments under a retirement plan and withdraw benefits from a plan

Make a rollover, including a direct trustee-to-trustee rollover, of benefits from one retirement plan to another

Establish a retirement plan in the principal's name

Make contributions to a retirement plan

Exercise investment powers available under a retirement plan

Borrow from, sell assets to, or purchase assets from a retirement plan

All of the above

M. Taxes – With respect to this subject, I authorize my agent to:

Prepare, sign, and file federal, state, local, and foreign income, gift, payroll, property, Federal Insurance Contributions Act, and other tax returns, claims for refunds, requests for extension of time, petitions regarding tax matters, and other tax-related documents, including receipts, offers, waivers, consents, including consents and agreements under Internal Revenue Code Section 2032A, 26 U.S.C. § 2032A, closing agreements, and other powers of attorney required by the Internal Revenue Service or other taxing authority with respect to a tax year on which the statute of limitations has not run and the following 25 tax years

Pay taxes due, collect refunds, post bonds, receive confidential information, and contest deficiencies determined by the Internal Revenue Service or other taxing authority

Exercise elections available to the principal under federal, state, local, or foreign tax law

Act for the principal in all tax matters for all periods before the Internal Revenue Service, or other taxing authority

All of the above

N. Gifts (including gifts to a trust, an account under the Uniform Transfers to Minors Act, and a tuition savings account or prepaid tuition plan as defined under Internal Revenue Code Section 529, 26 U.S.C. § 529) – With respect to this subject, I authorize my agent to:

Make outright to, or for the benefit of, a person, a gift of part or all of the principal's property, including by the exercise of a presently exercisable general power of appointment held by the principal, in an amount for each donee not to exceed the annual dollar limits of the federal gift tax exclusion under Internal Revenue Code Section 2503(b), 26 U.S.C. § 2503(b), without regard to whether the federal gift tax exclusion applies to the gift, or if the principal's spouse agrees to consent to a split gift pursuant to Internal Revenue Code Section 2513, 26 U.S.C. § 2513, in an amount for each donee not to exceed twice the annual federal gift tax exclusion limit

Consent, pursuant to Internal Revenue Code Section 2513, 26 U.S.C. § 2513, to the splitting of a gift made by the principal's spouse in an amount for each donee not to exceed the aggregate annual gift tax exclusions for both spouses

(NOTE: An agent may only make a gift of the principal's property as the agent determines is consistent with the principal's objectives if actually known by the agent and, if unknown, as the agent determines is consistent with the principal's best interest based on all relevant factors, including:

- (1) The value and nature of the principal's property;
- (2) The principal's foreseeable obligations and need for maintenance;
- (3) Minimization of taxes, including income, estate, inheritance, generation–skipping transfer, and gift taxes;
- (4) Eligibility for a benefit, a program, or assistance under a statute or regulation; and
- (5) The principal's personal history of making or joining in making gifts.)

All of the above

GRANT OF SPECIFIC AUTHORITY (OPTIONAL)

My agent MAY NOT do any of the following specific acts for me UNLESS I have INITIALED the specific authority listed below:

(CAUTION: Granting any of the following will give your agent the authority to take actions that could significantly reduce your property or change how your property is distributed at your death. INITIAL ONLY the specific authority you WANT to give your agent.)

Create an inter vivos trust, or amend, revoke, or terminate an existing inter vivos trust if the trust expressly authorizes that action by the agent

Make a gift, subject to any special instructions in this power of attorney

Create or change rights of survivorship

Create or change a beneficiary designation

Authorize another person to exercise the authority granted under this power of attorney

Waive the principal's right to be a beneficiary of a joint and survivor annuity, including a survivor benefit under a retirement plan

Exercise fiduciary powers that the principal has authority to delegate

Disclaim or refuse an interest in property, including a power of appointment

LIMITATION ON AGENT'S AUTHORITY

An agent that is not my ancestor, spouse, or descendant MAY NOT use my property to benefit the agent or a person to whom the agent owes an obligation of support unless I have included that authority in the Special Instructions.

SPECIAL INSTRUCTIONS (OPTIONAL)

You may give special instructions on the following lines:

\_\_\_\_\_
\_\_\_\_\_
\_\_\_\_\_
\_\_\_\_\_
\_\_\_\_\_
\_\_\_\_\_
\_\_\_\_\_

EFFECTIVE DATE

This power of attorney is effective immediately unless I have stated otherwise in the Special Instructions.

TERMINATION DATE (OPTIONAL)

This power of attorney shall terminate on \_\_\_\_\_, 20\_\_\_\_.  
(Use a specific calendar date)

NOMINATION OF GUARDIAN (OPTIONAL)

If it becomes necessary for a court to appoint a guardian of my property or guardian of my person, I nominate the following person(s) for appointment:

Name of Nominee for guardian of my property:

\_\_\_\_\_

Nominee’s Address:\_\_\_\_\_

Nominee’s Telephone Number:\_\_\_\_\_

Name of Nominee for guardian of my person:

\_\_\_\_\_

Nominee’s Address:\_\_\_\_\_

Nominee’s Telephone Number:\_\_\_\_\_

SIGNATURE AND ACKNOWLEDGMENT

\_\_\_\_\_  
Your Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Your Name Printed

\_\_\_\_\_

\_\_\_\_\_  
Your Address

\_\_\_\_\_  
Your Telephone Number

STATE OF MARYLAND  
(COUNTY) OF \_\_\_\_\_

This document was acknowledged before me on \_\_\_\_\_,  
(Date)

by \_\_\_\_\_.  
(Name of Principal)



\_\_\_\_\_  
 Signature of Notary (Seal, if any)  
 My commission expires: \_\_\_\_\_

WITNESS ATTESTATION

The foregoing power of attorney was, on the date written above, published and declared by \_\_\_\_\_  
 (Name of Principal)  
 in our presence to be his/her power of attorney. We, in his/her presence and at his/her request, and in the presence of each other, have attested to the same and have signed our names as attesting witnesses.

\_\_\_\_\_  
Witness #1 Signature

\_\_\_\_\_  
Witness #1 Name Printed

\_\_\_\_\_  
Witness #1 Address

\_\_\_\_\_  
Witness #1 Telephone Number

\_\_\_\_\_  
Witness #2 Signature

\_\_\_\_\_  
Witness #2 Name Printed

\_\_\_\_\_  
Witness #2 Address

\_\_\_\_\_  
Witness #2 Telephone Number

This document prepared by:  
 \_\_\_\_\_  
 \_\_\_\_\_

IMPORTANT INFORMATION FOR AGENT

Agent's Duties

When you accept the authority granted under this power of attorney, a special legal relationship is created between you and the principal. This relationship imposes on you legal duties that continue until you resign or the power of attorney is terminated or revoked. You must:

(1) Do what you know the principal reasonably expects you to do with the principal's property or, if you do not know the principal's expectations, act in the principal's best interest;

(2) Act with care, competence, and diligence for the best interest of the principal;

(3) Do nothing beyond the authority granted in this power of attorney; and

(4) Disclose your identity as an agent whenever you act for the principal by writing or printing the name of the principal and signing your own name as "agent" in the following manner:

---

(Principal's Name) by

(Your Signature) as Agent

Unless the Special Instructions in this power of attorney state otherwise, you must also:

(1) Act loyally for the principal's benefit;

(2) Avoid conflicts that would impair your ability to act in the principal's best interest;

(3) Keep a record of all receipts, disbursements, and transactions made on behalf of the principal;

(4) Cooperate with any person that has authority to make health care decisions for the principal to do what you know the principal reasonably expects or, if you do not know the principal's expectations, to act in the principal's best interest; and

(5) Attempt to preserve the principal's estate plan if you know the plan and preserving the plan is consistent with the principal's best interest.

#### Termination of Agent's Authority

You must stop acting on behalf of the principal if you learn of any event that terminates this power of attorney or your authority under this power of attorney. Events that terminate a power of attorney or your authority to act under a power of attorney include:

(1) Death of the principal;

- (2) The principal's revocation of the power of attorney or your authority;
- (3) The occurrence of a termination event stated in the power of attorney;
- (4) The purpose of the power of attorney is fully accomplished; or

(5) If you are married to the principal, a legal action is filed with a court to end your marriage, or for your legal separation, unless the Special Instructions in this power of attorney state that such an action will not terminate your authority.

#### Liability of Agent

The meaning of the authority granted to you is defined in the Maryland Power of Attorney Act, Title 17 of the Estates and Trusts Article. If you violate the Maryland Power of Attorney Act, Title 17 of the Estates and Trusts Article, or act outside the authority granted, you may be liable for any damages caused by your violation.

If there is anything about this document or your duties that you do not understand, you should seek legal advice.”

~~SECTION 2. AND BE IT FURTHER ENACTED, That the changes made to § 17-105 of the Estates and Trusts Article by Section 1 of this Act shall be construed to apply retroactively and shall be applied to and interpreted to affect any power of attorney executed on or after October 1, 2010.~~

~~SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.~~

SECTION 2. AND BE IT FURTHER ENACTED, That the changes made to § 17-101 of the Estates and Trusts Article by Section 1 of this Act shall be construed to apply retroactively and shall be applied to and interpreted to affect any power of attorney executed on or after May 20, 2010.

SECTION 3. AND BE IT FURTHER ENACTED, That the changes made to §§ 17-105 and 17-109 of the Estates and Trusts Article by Section 1 of this Act shall apply to any power of attorney existing on or after October 1, 2010, regardless of the effective date of the governing instrument in which the power of attorney was created.

SECTION 4. AND BE IT FURTHER ENACTED, That, for each power of attorney that is substantially in the form set forth under § 17-202 of the Estates and Trusts Article and executed by a principal on or after May 20, 2010, and before June 1, 2011, subject to any special instructions added to the power of attorney by the principal, the agent designated by the principal is deemed to have the authority to:

(1) transact all business in connection with an account or other banking arrangement made by or on behalf of the principal;

(2) transact all business in connection with an account or other banking arrangement with a bank, trust company, savings and loan association, credit union, thrift company, brokerage firm, or other financial institution selected by the agent; and

(3) deposit by check, money order, electronic funds transfer, or otherwise with, or leave in the custody of, a financial institution money or property of the principal.

SECTION 5. AND BE IT FURTHER ENACTED, That, for each power of attorney that is substantially in the form set forth under § 17–203 of the Estates and Trusts Article and executed by a principal on or after May 20, 2010, and before June 1, 2011, subject to any special instructions added to the power of attorney by the principal:

(1) if a principal granted to the agent the authority set forth under the first item of subheading E. “Banks and Other Financial Institutions” of § 17–203 of the Estates and Trusts Article, the agent is deemed to have the authority to transact all business in connection with an account or other banking arrangement made by or on behalf of the principal;

(2) if a principal granted to the agent the authority set forth under the second item of subheading E. “Banks and Other Financial Institutions” of § 17–203 of the Estates and Trusts Article, the agent is deemed to have the authority to transact all business in connection with an account or other banking arrangement with a bank, trust company, savings and loan association, credit union, thrift company, brokerage firm, or other financial institution selected by the agent; and

(3) if a principal granted to the agent the authority set forth under the first, second, or fourth item of subheading E. “Banks and Other Financial Institutions” of § 17–203 of the Estates and Trusts Article, the agent is deemed to have the authority to deposit by check, money order, electronic funds transfer, or otherwise with, or leave in the custody of, a financial institution money or property of the principal.

SECTION 6. AND BE IT FURTHER ENACTED, That Sections 4 and 5 of this Act shall apply retroactively to any act of an agent on or after May 20, 2010.

SECTION 7. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2011.

**Approved by the Governor, April 12, 2011.**

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**Chapter 75****(House Bill 247)**

AN ACT concerning

**Maryland General and Limited Power of Attorney Act – Modifications**

FOR the purpose of establishing that certain provisions of law relating to durable powers of attorney apply to all powers of attorney; altering the authority of an agent under certain statutory form powers of attorney; providing that certain powers shall be deemed to be included in certain forms executed during a certain period of time under certain circumstances; defining certain terms; altering a certain definition; providing for the application of certain provisions of this Act; and generally relating to powers of attorney.

BY repealing and reenacting, with amendments,  
Article – Estates and Trusts  
Section 17–101, 17–105, 17–109, 17–202, and 17–203  
Annotated Code of Maryland  
(2001 Replacement Volume and 2010 Supplement)

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

**Article – Estates and Trusts**

17–101.

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

(b) (1) “Agent” means a person granted authority to act for a principal under a power of attorney, whether denominated an agent, attorney-in-fact, or otherwise.

(2) “Agent” includes an original agent, coagent, successor agent, and a person to which an agent’s authority is delegated.

(c) “Incapacity” means the inability of an individual to manage property or business affairs because the individual:

(1) Meets the grounds required for the appointment of a guardian of the property of a disabled person described in § 13–201 of this article; or

(2) Is:

(i) Missing;

- (ii) Detained, including incarcerated in a penal system; or
- (iii) Outside the United States and unable to return.

(d) “Power of attorney” means a writing or other record that grants authority to an agent to act in the place of the principal, whether or not the term “power of attorney” is used.

(e) “Principal” means an individual who grants authority to an agent in a power of attorney.

**(F) “PROPERTY” INCLUDES BOTH REAL AND PERSONAL PROPERTY AND ANY RIGHT OR TITLE IN REAL OR PERSONAL PROPERTY, WHETHER HELD INDIVIDUALLY OR JOINTLY AND WHETHER INDIVISIBLE, BENEFICIAL, CONTINGENT, OR OF ANY OTHER NATURE.**

**[(f)] ~~(G)~~ (1)** “Statutory form power of attorney” means a power of attorney that is substantially in the same form as one of the powers of attorney set forth in Subtitle 2 of this title.

**(2) “STATUTORY FORM POWER OF ATTORNEY” DOES NOT INCLUDE A POWER OF ATTORNEY SET FORTH IN SUBTITLE 2 OF THIS TITLE IN WHICH A PRINCIPAL INCORPORATES BY REFERENCE ONE OR MORE PROVISIONS OF ANOTHER WRITING INTO THE SECTION OF THE POWER OF ATTORNEY ENTITLED “SPECIAL INSTRUCTIONS (OPTIONAL)”.**

**(H) (1) “STOCKS AND BONDS” MEANS EVIDENCE OF OWNERSHIP IN OR DEBT ISSUED BY A CORPORATION, PARTNERSHIP, LIMITED LIABILITY COMPANY, FIRM, ASSOCIATION, OR SIMILAR ENTITY.**

**(2) “STOCKS AND BONDS” INCLUDES STOCKS, BONDS, DEBENTURES, NOTES, MEMBERSHIP INTERESTS, MUTUAL FUND INTERESTS, MONEY MARKET ACCOUNT INTERESTS, VOTING TRUST CERTIFICATES, EQUIPMENT TRUST CERTIFICATES, CERTIFICATES OF DEPOSIT, CERTIFICATES OF PARTICIPATION, CERTIFICATES OF BENEFICIAL INTEREST, STOCK RIGHTS, STOCK WARRANTS, AND ANY OTHER INSTRUMENTS EVIDENCING RIGHTS OF A SIMILAR CHARACTER ISSUED BY OR IN CONNECTION WITH ANY CORPORATION, PARTNERSHIP, LIMITED LIABILITY COMPANY, FIRM, ASSOCIATION, OR SIMILAR ENTITY.**

(a) In this section, “durable power of attorney” means a power of attorney by which a principal designates another as an attorney in fact or agent and the authority is exercisable notwithstanding the principal’s subsequent disability or incapacity.

**(B) THIS SECTION APPLIES TO ALL POWERS OF ATTORNEY.**

**[(b)] (C)** When a principal designates another as an attorney in fact or agent by a power of attorney in writing, it is a durable power of attorney unless otherwise provided by its terms.

**[(c)] (D)** Any act done by the attorney in fact or agent in accordance with the power of attorney during any period of disability or incompetence of the principal or during any period of uncertainty as to whether the principal is dead or alive has the same effect and inures to the benefit of and binds the principal as if the principal were alive, competent, and not disabled.

**[(d)] (E)** (1) If a guardian is appointed for the principal, the attorney in fact or agent shall account to the guardian rather than the principal.

(2) The guardian has the same power the principal would have but for the principal’s disability or incompetence to revoke, suspend, or terminate all or any part of the power of attorney or agency.

17–109.

(a) Except as provided in subsection (b) of this section, this title applies to all powers of attorney.

(b) **[This] EXCEPT AS PROVIDED IN § 17–105 OF THIS SUBTITLE, THIS** title does not apply to:

(1) A power that is coupled with an interest in the subject of the power, is given as security, or is given for consideration, regardless of whether the power is held for the benefit of the agent or another person, including a power given to or for the benefit of a creditor in connection with a credit transaction;

(2) An advance directive appointing a health care agent under Title 5, Subtitle 6 of the Health – General Article or any other power to make health care decisions;

(3) A proxy or other delegation to exercise any right with respect to an entity, including voting rights or management rights or both, or a delegation of authority to execute, become a party to, or amend a document or agreement governing an entity or entity ownership interest;

- (4) A power created on a form prescribed by a government or governmental subdivision, agency, or instrumentality for a governmental purpose;
- (5) A power created as part of, or in connection with, an agreement establishing an attorney and client relationship;
- (6) A power of attorney that states that it is not subject to this title;
- (7) A power authorizing another to prepare, execute, deliver, submit, or file, on behalf of an entity or the governing body or management of an entity, a document or instrument with a government or governmental subdivision, agency, or instrumentality or with a third party;
- (8) A power or other delegation of authority contained in a document or agreement governing or binding on an entity that authorizes a person to take action with respect to the entity; and
- (9) A power with respect to an entity created in accordance with authorization provided by a federal or State statute that specifically contemplates creation of the power.

17–202.

#### “MARYLAND STATUTORY FORM

#### PERSONAL FINANCIAL POWER OF ATTORNEY

#### IMPORTANT INFORMATION AND WARNING

You should be very careful in deciding whether or not to sign this document. The powers granted by you (the principal) in this document are broad and sweeping. This power of attorney authorizes another person (your agent) to make decisions concerning your property for you (the principal). Your agent will be able to make decisions and act with respect to your property (including your money) whether or not you are able to act for yourself.

You should select someone you trust to serve as your agent. Unless you specify otherwise, generally the agent’s authority will continue until you die or revoke the power of attorney or the agent resigns or is unable to act for you.

You need not grant all of the powers listed below. If you choose to grant less than all of the listed powers, you may instead use a Maryland Statutory Form Limited Power of Attorney and mark on that Maryland Statutory Form Limited Power of Attorney which powers you intend to delegate to your attorney-in-fact (the Agent) and which you do not want the Agent to exercise.



This power of attorney becomes effective immediately unless you state otherwise in the Special Instructions.

You should obtain competent legal advice before you sign this power of attorney if you have any questions about the document or the authority you are granting to your agent.

#### DESIGNATION OF AGENT

I, \_\_\_\_\_,  
(Name of Principal)

Name the following person as my agent:

Name of Agent: \_\_\_\_\_

Agent's Address: \_\_\_\_\_

Agent's Telephone Number: \_\_\_\_\_

#### Designation of Successor Agent(s) (Optional)

If my agent is unable or unwilling to act for me, I name as my successor agent:

Name of Successor Agent: \_\_\_\_\_

Successor Agent's  
Address: \_\_\_\_\_

Successor Agent's  
Telephone Number: \_\_\_\_\_

If my successor agent is unable or unwilling to act for me, I name as my second successor agent:

Name of Second  
Successor Agent: \_\_\_\_\_

Second Successor  
Agent's Address: \_\_\_\_\_

Second Successor Agent's  
Telephone Number: \_\_\_\_\_

#### GRANT OF GENERAL AUTHORITY

I (“the principal”) grant my agent and any successor agent, with respect to each subject listed below, the authority to do all acts that I could do to:

(1) Contract with another person, on terms agreeable to the agent, to accomplish a purpose of a transaction and perform, rescind, cancel, terminate, reform, restate, release, or modify the contract or another contract made by or on behalf of the principal;

(2) Execute, acknowledge, seal, deliver, file, or record any instrument or communication the agent considers desirable to accomplish a purpose of a transaction;

(3) Seek on the principal’s behalf the assistance of a court or other governmental agency to carry out an act authorized in this power of attorney;

(4) Initiate, participate in, submit to alternative dispute resolution, settle, oppose, or propose or accept a compromise with respect to a claim existing in favor of or against the principal or intervene in litigation relating to the claim;

(5) Engage, compensate, and discharge an attorney, accountant, discretionary investment manager, expert witness, or other advisor;

(6) Prepare, execute, and file a record, report, or other document to safeguard or promote the principal’s interest under a statute or regulation and communicate with representatives or employees of a government or governmental subdivision, agency, or instrumentality, on behalf of the principal; and

(7) Do lawful acts with respect to the subject and all property related to the subject.

My agent’s authority shall include the authority to act as stated below with regard to each of the following subjects:

#### SUBJECTS AND AUTHORITY

Real property – With respect to this subject, I authorize my agent to: demand, buy, sell, convey, lease, receive, accept as a gift or as security for an extension of credit, or otherwise acquire or reject an interest in real property or a right incident to real property; pledge or mortgage an interest in real property or right incident to real property as security to borrow money or pay, renew, or extend the time of payment of a debt of the principal or a debt guaranteed by the principal, including a reverse mortgage; release, assign, satisfy, or enforce by litigation or otherwise a mortgage, deed of trust, conditional sale contract, encumbrance, lien, or other claim to real property that exists or is asserted; and manage or conserve an interest in real property or a right incident to real property owned or claimed to be owned by the principal, including: (1) insuring against liability or casualty or other loss; (2) obtaining or regaining possession of or protecting the interest or right by litigation or otherwise; (3)

paying, assessing, compromising, or contesting taxes or assessments or applying for and receiving refunds in connection with them; and (4) purchasing supplies, hiring assistance or labor, and making repairs or alterations to the real property.

Stocks and bonds – With respect to this subject, I authorize my agent to: buy, sell, and exchange stocks and bonds; establish, continue, modify, or terminate an account with respect to stocks and bonds; pledge stocks and bonds as security to borrow, pay, renew, or extend the time of payment of a debt of the principal; receive certificates and other evidences of ownership with respect to stocks and bonds; exercise voting rights with respect to stocks and bonds in person or by proxy, enter into voting trusts, and consent to limitations on the right to vote.

Banks and other financial institutions – With respect to this subject, I authorize my agent to: continue, modify, **TRANSACT ALL BUSINESS IN CONNECTION WITH**, and terminate an account or other banking arrangement made by or on behalf of the principal; establish, modify, **TRANSACT ALL BUSINESS IN CONNECTION WITH**, and terminate an account or other banking arrangement with a bank, trust company, savings and loan association, credit union, thrift company, brokerage firm, or other financial institution selected by the agent; contract for services available from a financial institution, including renting a safe deposit box or space in a vault; **DEPOSIT, BY CHECK, MONEY ORDER, ELECTRONIC FUNDS TRANSFER, OR OTHERWISE, WITH, OR LEAVE IN THE CUSTODY OF, A FINANCIAL INSTITUTION MONEY OR PROPERTY OF THE PRINCIPAL**; withdraw, by check, money order, electronic funds transfer, or otherwise, money or property of the principal deposited with or left in the custody of a financial institution; receive statements of account, vouchers, notices, and similar documents from a financial institution and act with respect to them; enter a safe deposit box or vault and withdraw or add to the contents; borrow money and pledge as security personal property of the principal necessary to borrow money or pay, renew, or extend the time of payment of a debt of the principal or a debt guaranteed by the principal; make, assign, draw, endorse, discount, guarantee, and negotiate promissory notes, checks, drafts, and other negotiable or nonnegotiable paper of the principal or payable to the principal or the principal's order, transfer money, receive the cash or other proceeds of those transactions; and apply for, receive, and use credit cards and debit cards, electronic transaction authorizations, and traveler's checks from a financial institution.

Insurance and annuities – With respect to this subject, I authorize my agent to: continue, pay the premium or make a contribution on, modify, exchange, rescind, release, or terminate a contract procured by or on behalf of the principal that insures or provides an annuity to either the principal or another person, whether or not the principal is a beneficiary under the contract; procure new, different, and additional contracts of insurance and annuities for the principal and select the amount, type of insurance or annuity, and mode of payment; pay the premium or make a contribution on, modify, exchange, rescind, release, or terminate a contract of insurance or annuity procured by the agent; apply for and receive a loan secured by a contract of insurance or annuity; surrender and receive the cash surrender value on a contract of insurance

or annuity; exercise an election; exercise investment powers available under a contract of insurance or annuity; change the manner of paying premiums on a contract of insurance or annuity; change or convert the type of insurance or annuity with respect to which the principal has or claims to have authority described in this section; apply for and procure a benefit or assistance under a statute or regulation to guarantee or pay premiums of a contract of insurance on the life of the principal; collect, sell, assign, hypothecate, borrow against, or pledge the interest of the principal in a contract of insurance or annuity; select the form and timing of the payment of proceeds from a contract of insurance or annuity; pay, from proceeds or otherwise, compromise or contest, and apply for refunds in connection with a tax or assessment levied by a taxing authority with respect to a contract of insurance or annuity or the proceeds or liability from the contract of insurance or annuity accruing by reason of the tax or assessment.

Claims and litigation – With respect to this subject, I authorize my agent to: assert and maintain before a court or administrative agency a claim, claim for relief, cause of action, counterclaim, offset, recoupment, or defense, including an action to recover property or other thing of value, recover damages sustained by the principal, eliminate or modify tax liability, or seek an injunction, specific performance, or other relief; act for the principal with respect to bankruptcy or insolvency, whether voluntary or involuntary, concerning the principal or some other person, or with respect to a reorganization, receivership, or application for the appointment of a receiver or trustee that affects an interest of the principal in property or other thing of value; pay a judgment, award, or order against the principal or a settlement made in connection with a claim or litigation; and receive money or other thing of value paid in settlement of or as proceeds of a claim or litigation.

Benefits from governmental programs or civil or military service (including any benefit, program, or assistance provided under a statute or regulation including Social Security, Medicare, and Medicaid) – With respect to this subject, I authorize my agent to: execute vouchers in the name of the principal for allowances and reimbursements payable by the United States or a foreign government or by a state or subdivision of a state to the principal; enroll in, apply for, select, reject, change, amend, or discontinue, on the principal's behalf, a benefit or program; prepare, file, and maintain a claim of the principal for a benefit or assistance, financial or otherwise, to which the principal may be entitled under a statute or regulation; initiate, participate in, submit to alternative dispute resolution, settle, oppose, or propose or accept a compromise with respect to litigation concerning a benefit or assistance the principal may be entitled to receive under a statute or regulation; and receive the financial proceeds of a claim described above and conserve, invest, disburse, or use for a lawful purpose anything so received.

Retirement plans (including a plan or account created by an employer, the principal, or another individual to provide retirement benefits or deferred compensation of which the principal is a participant, beneficiary, or owner, including a plan or account under the following sections of the Internal Revenue Code: (1) an individual retirement account under Internal Revenue Code Section 408, 26 U.S.C. § 408; (2) a Roth

individual retirement account under Internal Revenue Code Section 408A, 26 U.S.C. § 408A; (3) a deemed individual retirement account under Internal Revenue Code Section 408(q), 26 U.S.C. § 408(q); (4) an annuity or mutual fund custodial account under Internal Revenue Code Section 403(b), 26 U.S.C. § 403(b); (5) a pension, profit-sharing, stock bonus, or other retirement plan qualified under Internal Revenue Code Section 401(a), 26 U.S.C. § 401(a); (6) a plan under Internal Revenue Code Section 457(b), 26 U.S.C. § 457(b); and (7) a nonqualified deferred compensation plan under Internal Revenue Code Section 409A, 26 U.S.C. § 409A – With respect to this subject, I authorize my agent to: select the form and timing of payments under a retirement plan and withdraw benefits from a plan; make a rollover, including a direct trustee-to-trustee rollover, of benefits from one retirement plan to another; establish a retirement plan in the principal's name; make contributions to a retirement plan; exercise investment powers available under a retirement plan; borrow from, sell assets to, or purchase assets from a retirement plan.

Taxes – With respect to this subject, I authorize my agent to: prepare, sign, and file federal, state, local, and foreign income, gift, payroll, property, federal insurance contributions act, and other tax returns, claims for refunds, requests for extension of time, petitions regarding tax matters, and other tax-related documents, including receipts, offers, waivers, consents, including consents and agreements under Internal Revenue Code Section 2032(a), 26 U.S.C. § 2032(a), closing agreements, and other powers of attorney required by the Internal Revenue Service or other taxing authority with respect to a tax year on which the statute of limitations has not run and the following 25 tax years; pay taxes due, collect refunds, post bonds, receive confidential information, and contest deficiencies determined by the Internal Revenue Service or other taxing authority; exercise elections available to the principal under federal, state, local, or foreign tax law; and act for the principal in all tax matters for all periods before the Internal Revenue Service, or other taxing authority.

SPECIAL INSTRUCTIONS (OPTIONAL)

YOU MAY GIVE SPECIAL INSTRUCTIONS ON THE FOLLOWING LINES:

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EFFECTIVE DATE

This power of attorney is effective immediately unless I have stated otherwise in the Special Instructions.

TERMINATION DATE (OPTIONAL)

This power of attorney shall terminate on \_\_\_\_\_, 20\_\_\_\_.  
(Use a specific calendar date)

NOMINATION OF GUARDIAN (OPTIONAL)

If it becomes necessary for a court to appoint a guardian of my estate or guardian of my person, I nominate the following person(s) for appointment:

Name of nominee for guardian of my property:

( ) My agent (or successor agent) named above

or

\_\_\_\_\_  
Nominee’s address: \_\_\_\_\_

Nominee’s telephone number: \_\_\_\_\_

Name of nominee for guardian of my person:

( ) My agent (or successor agent) named above

or

\_\_\_\_\_  
Nominee’s address: \_\_\_\_\_

Nominee’s telephone number: \_\_\_\_\_

SIGNATURE AND ACKNOWLEDGMENT

\_\_\_\_\_  
Your Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Your Name Printed

\_\_\_\_\_  
Your Address

\_\_\_\_\_  
Your Telephone Number

STATE OF MARYLAND  
(COUNTY) OF \_\_\_\_\_

This document was acknowledged before me on

\_\_\_\_\_,  
(Date)

By \_\_\_\_\_ to be his/her act.  
(Name of Principal)

\_\_\_\_\_  
Signature of Notary (SEAL, IF ANY)  
My commission expires: \_\_\_\_\_

WITNESS ATTESTATION

The foregoing power of attorney was, on the date written above, published and declared by

\_\_\_\_\_  
(Name of Principal)

in our presence to be his/her power of attorney. We, in his/her presence and at his/her request, and in the presence of each other, have attested to the same and have signed our names as attesting witnesses.

\_\_\_\_\_  
Witness #1 Signature

\_\_\_\_\_  
Witness #1 Name Printed

\_\_\_\_\_  
Witness #1 Address

\_\_\_\_\_  
Witness #1 Telephone Number

\_\_\_\_\_  
Witness #2 Signature

\_\_\_\_\_  
Witness #2 Name Printed

\_\_\_\_\_  
Witness #2 Address

\_\_\_\_\_  
Witness #2 Telephone Number"

17-203.

“MARYLAND STATUTORY FORM LIMITED POWER OF ATTORNEY

PLEASE READ CAREFULLY

This power of attorney authorizes another person (your agent) to make decisions concerning your property for you (the principal). You need not give to your agent all the authorities listed below and may give the agent only those limited powers that you specifically indicate. This power of attorney gives your agent the right to make limited decisions for you. You should very carefully weigh your decision as to what powers you give your agent. Your agent will be able to make decisions and act with respect to your property (including your money) whether or not you are able to act for yourself.

If you choose to make a grant of limited authority, you should check the boxes that identify the specific authorization you choose to give your agent.

This power of attorney does not authorize the agent to make health care decisions for you.

You should select someone you trust to serve as your agent. Unless you specify otherwise, generally the agent's authority will continue until you die or revoke the power of attorney or the agent resigns or is unable to act for you.

Your agent is not entitled to compensation unless you indicate otherwise in the special instructions of this power of attorney. If you indicate that your agent is to receive compensation, your agent is entitled to reasonable compensation or compensation as specified in the Special Instructions.

This form provides for designation of one agent. If you wish to name more than one agent you may name a coagent in the Special Instructions. Coagents are not required to act together unless you include that requirement in the Special Instructions.

If your agent is unavailable or unwilling to act for you, your power of attorney will end unless you have named a successor agent. You may also name a second successor agent.

This power of attorney becomes effective immediately unless you state otherwise in the Special Instructions.

If you have questions about the power of attorney or the authority you are granting to your agent, you should seek legal advice before signing this form.

#### DESIGNATION OF AGENT

I, \_\_\_\_\_, name the following person  
(Name of Principal)  
as my agent:

Name of  
Agent: \_\_\_\_\_  
Agent's  
Address: \_\_\_\_\_



Agent's Telephone  
Number: \_\_\_\_\_

#### DESIGNATION OF SUCCESSOR AGENT(S) (OPTIONAL)

If my agent is unable or unwilling to act for me, I name as my successor agent:

Name of Successor Agent: \_\_\_\_\_  
Successor Agent's  
Address: \_\_\_\_\_  
Successor Agent's Telephone Number: \_\_\_\_\_

If my successor agent is unable or unwilling to act for me, I name as my second  
successor agent:

Name of Second Successor  
Agent: \_\_\_\_\_  
Second Successor Agent's  
Address: \_\_\_\_\_  
Second Successor Agent's Telephone Number: \_\_\_\_\_

#### GRANT OF GENERAL AUTHORITY

I ("the principal") grant my agent and any successor agent, with respect to each  
subject that I choose below, the authority to do all acts that I could do to:

(1) Demand, receive, and obtain by litigation or otherwise, money or  
another thing of value to which the principal is, may become, or claims to be entitled,  
and conserve, invest, disburse, or use anything so received or obtained for the  
purposes intended;

(2) Contract with another person, on terms agreeable to the agent, to  
accomplish a purpose of a transaction and perform, rescind, cancel, terminate, reform,  
restate, release, or modify the contract or another contract made by or on behalf of the  
principal;

(3) Execute, acknowledge, seal, deliver, file, or record any instrument  
or communication the agent considers desirable to accomplish a purpose of a  
transaction, including creating a schedule contemporaneously or at a later time listing  
some or all of the principal's property and attaching the schedule to this power of  
attorney;

(4) Initiate, participate in, submit to alternative dispute resolution,  
settle, oppose, or propose or accept a compromise with respect to a claim existing in  
favor of or against the principal or intervene in litigation relating to the claim;

(5) Seek on the principal's behalf the assistance of a court or other governmental agency to carry out an act authorized in this power of attorney;

(6) Engage, compensate, and discharge an attorney, accountant, discretionary investment manager, expert witness, or other advisor;

(7) Prepare, execute, and file a record, report, or other document to safeguard or promote the principal's interest under a statute or regulation;

(8) Communicate with representatives or employees of a government or governmental subdivision, agency, or instrumentality, on behalf of the principal;

(9) Access communications intended for, and communicate on behalf of the principal, whether by mail, electronic transmission, telephone, or other means; and

(10) Do lawful acts with respect to the subject and all property related to the subject.

(INITIAL each authority in any subject you want to include in the agent's general authority. Cross through each authority in any subject that you want to exclude. If you wish to grant general authority over an entire subject, you may initial "All of the above" instead of initialing each authority.)

#### SUBJECTS AND AUTHORITY

A. Real Property – With respect to this category, I authorize my agent to:

Demand, buy, lease, receive, accept as a gift or as security for an extension of credit, or otherwise acquire or reject an interest in real property or a right incident to real property

Sell, exchange, convey with or without covenants, representations, or warranties, quitclaim, release, surrender, retain title for security, encumber, partition, consent to partitioning, subject to an easement or covenant, subdivide, apply for zoning or other governmental permits, plat or consent to platting, develop, grant an option concerning, lease, sublease, contribute to an entity in exchange for an interest in that entity, or otherwise grant or dispose of an interest in real property or a right incident to real property

Pledge or mortgage an interest in real property or right incident to real property as security to borrow money or pay, renew, or extend the time of payment of a debt of the principal or a debt guaranteed by the principal, including a reverse mortgage

Release, assign, satisfy, or enforce by litigation or otherwise a mortgage, deed of trust, conditional sale contract, encumbrance, lien, or other claim to real property that exists or is asserted

Manage or conserve an interest in real property or a right incident to real property owned or claimed to be owned by the principal, including:

- (1) Insuring against liability or casualty or other loss;
- (2) Obtaining or regaining possession of or protecting the interest or right by litigation or otherwise;
- (3) Paying, assessing, compromising, or contesting taxes or assessments or applying for and receiving refunds in connection with them; and
- (4) Purchasing supplies, hiring assistance or labor, and making repairs or alterations to the real property

Use, develop, alter, replace, remove, erect, or install structures or other improvements on real property in or incident to which the principal has, or claims to have, an interest or right

Participate in a reorganization with respect to real property or an entity that owns an interest in or a right incident to real property and receive, hold, and act with respect to stocks and bonds or other property received in a plan of reorganization, including:

- (1) Selling or otherwise disposing of the stocks and bonds or other property;
- (2) Exercising or selling an option, a right of conversion, or a similar right with respect to the stocks and bonds or other property; and
- (3) Exercising voting rights in person or by proxy

Change the form of title of an interest in or a right incident to real property

Dedicate to public use, with or without consideration, easements or other real property in which the principal has, or claims to have, an interest

All of the above

B. Tangible Personal Property – With respect to this subject, I authorize my agent to:

Demand, buy, receive, accept as a gift or as security for an extension of credit, or otherwise acquire or reject ownership or possession of tangible personal property or an interest in tangible personal property

Sell, exchange, convey with or without covenants, representations, or warranties, quitclaim, release, surrender, create a security interest in, grant options concerning, lease, sublease, or otherwise dispose of tangible personal property or an interest in tangible personal property

Grant a security interest in tangible personal property or an interest in tangible personal property as security to borrow money or pay, renew, or extend the time of payment of a debt of the principal or a debt guaranteed by the principal

Release, assign, satisfy, or enforce by litigation or otherwise, a security interest, lien, or other claim on behalf of the principal, with respect to tangible personal property or an interest in tangible personal property

Manage or conserve tangible personal property or an interest in tangible personal property on behalf of the principal, including:

(1) Insuring against liability or casualty or other loss;

(2) Obtaining or regaining possession of or protecting the property or interest, by litigation or otherwise;

(3) Paying, assessing, compromising, or contesting taxes or assessments or applying for and receiving refunds in connection with taxes or assessments;

(4) Moving the property from place to place;

(5) Storing the property for hire or on a gratuitous bailment;  
and

(6) Using and making repairs, alterations, or improvements to the property

Change the form of title of an interest in tangible personal property

All of the above

C. Stocks and Bonds – With respect to this subject, I authorize my agent to:

Buy, sell, and exchange stocks and bonds

Establish, continue, modify, or terminate an account with respect to stocks and bonds

Pledge stocks and bonds as security to borrow, pay, renew, or extend the time of payment of a debt of the principal

Receive certificates and other evidences of ownership with respect to stocks and bonds

Exercise voting rights with respect to stocks and bonds in person or by proxy, enter into voting trusts, and consent to limitations on the right to vote

All of the above

D. Commodities – With respect to this subject, I authorize my agent to:

Buy, sell, exchange, assign, settle, and exercise commodity futures contracts and call or put options on stocks or stock indexes traded on a regulated option exchange

Establish, continue, modify, and terminate option accounts

All of the above

E. Banks and Other Financial Institutions – With respect to this subject, I authorize my agent to:

Continue, modify, **TRANSACT ALL BUSINESS IN CONNECTION WITH**, and terminate an account or other banking arrangement made by or on behalf of the principal

Establish, modify, **TRANSACT ALL BUSINESS IN CONNECTION WITH**, and terminate an account or other banking arrangement with a bank, trust company, savings and loan association, credit union, thrift company, brokerage firm, or other financial institution selected by the agent

Contract for services available from a financial institution, including renting a safe deposit box or space in a vault

**DEPOSIT, BY CHECK, MONEY ORDER, ELECTRONIC FUNDS TRANSFER, OR OTHERWISE, WITH, OR LEAVE IN THE CUSTODY OF, A FINANCIAL INSTITUTION MONEY OR PROPERTY OF THE PRINCIPAL**

Withdraw, by check, money order, electronic funds transfer, or otherwise, money or property of the principal deposited with or left in the custody of a financial institution

Receive statements of account, vouchers, notices, and similar documents from a financial institution and act with respect to them

Enter a safe deposit box or vault and withdraw or add to the contents

Borrow money and pledge as security personal property of the principal necessary to borrow money or pay, renew, or extend the time of payment of a debt of the principal or a debt guaranteed by the principal

Make, assign, draw, endorse, discount, guarantee, and negotiate promissory notes, checks, drafts, and other negotiable or nonnegotiable paper of the principal or payable to the principal or the principal's order, transfer money, receive the cash or other proceeds of those transactions, and accept a draft drawn by a person on the principal and pay the draft when due

Receive for the principal and act on a sight draft, warehouse receipt, other document of title whether tangible or electronic, or other negotiable or nonnegotiable instrument

Apply for, receive, and use letters of credit, credit cards and debit cards, electronic transaction authorizations, and traveler's checks from a financial institution and give an indemnity or other agreement in connection with letters of credit

Consent to an extension of the time of payment with respect to commercial paper or a financial transaction with a financial institution

All of the above

F. Operation of an Entity or a Business – With respect to this subject, I authorize my agent to:

Operate, buy, sell, enlarge, reduce, or terminate an ownership interest

Perform a duty or discharge a liability and exercise in person or by proxy a right, power, privilege, or an option that the principal has, may have, or claims to have

Enforce the terms of an ownership agreement

Initiate, participate in, submit to alternative dispute resolution, settle, oppose, or propose or accept a compromise with respect to litigation to which the principal is a party because of an ownership interest

( ) Exercise in person or by proxy, or enforce by litigation or otherwise, a right, power, privilege, or an option the principal has or claims to have as the holder of stocks and bonds

( ) Initiate, participate in, submit to alternative dispute resolution, settle, oppose, or propose or accept a compromise with respect to litigation to which the principal is a party concerning stocks and bonds

( ) With respect to an entity or business owned solely by the principal:

(1) Continue, modify, renegotiate, extend, and terminate a contract made by or on behalf of the principal with respect to the entity or business before execution of this power of attorney;

(2) Determine:

(i) The location of the operation of the entity or business;

(ii) The nature and extent of the business of the entity or business;

(iii) The methods of manufacturing, selling, merchandising, financing, accounting, and advertising employed in the operation of the entity or business;

(iv) The amount and types of insurance carried by the entity or business; and

(v) The mode of engaging, compensating, and dealing with the employees and accountants, attorneys, or other advisors of the entity or business;

(3) Change the name or form of organization under which the entity or business is operated and enter into an ownership agreement with other persons to take over all or part of the operation of the entity or business; and

(4) Demand and receive money due or claimed by the principal or on the principal's behalf in the operation of the entity or business and control and disburse the money in the operation of the entity or business

( ) Put additional capital into an entity or a business in which the principal has an interest

( ) Join in a plan of reorganization, consolidation, conversion, domestication, or merger of the entity or business

( ) Sell or liquidate all or part of an entity or business

Establish the value of an entity or a business under a buyout agreement to which the principal is a party

Prepare, sign, file, and deliver reports, compilations of information, returns, or other papers with respect to an entity or business and make related payments

Pay, compromise, or contest taxes, assessments, fines, or penalties and perform other acts to protect the principal from illegal or unnecessary taxation, assessments, fines, or penalties, with respect to an entity or a business, including attempts to recover, as permitted by law, money paid before or after the execution of this power of attorney

All of the above

G. Insurance and Annuities – With respect to this subject, I authorize my agent to:

Continue, pay the premium or make a contribution on, modify, exchange, rescind, release, or terminate a contract procured by or on behalf of the principal that insures or provides an annuity to either the principal or another person, whether or not the principal is a beneficiary under the contract

Procure new, different, and additional contracts of insurance and annuities for the principal and the principal's spouse, children, and other dependents, and select the amount, type of insurance or annuity, and mode of payment

Pay the premium or make a contribution on, modify, exchange, rescind, release, or terminate a contract of insurance or annuity procured by the agent

Apply for and receive a loan secured by a contract of insurance or annuity

Surrender and receive the cash surrender value on a contract of insurance or annuity

Exercise an election

Exercise investment powers available under a contract of insurance or annuity

Change the manner of paying premiums on a contract of insurance or annuity

Change or convert the type of insurance or annuity with respect to which the principal has or claims to have authority described in this section



Apply for and procure a benefit or assistance under a statute or regulation to guarantee or pay premiums of a contract of insurance on the life of the principal

Collect, sell, assign, hypothecate, borrow against, or pledge the interest of the principal in a contract of insurance or annuity

Select the form and timing of the payment of proceeds from a contract of insurance or annuity

Pay, from proceeds or otherwise, compromise or contest, and apply for refunds in connection with a tax or assessment levied by a taxing authority with respect to a contract of insurance or annuity or the proceeds or liability from the contract of insurance or annuity accruing by reason of the tax or assessment

All of the above

H. Estates, Trusts, and Other Beneficial Interests (including trusts, probate estates, guardianships, conservatorships, escrows, or custodianships or funds from which the principal is, may become, or claims to be entitled to a share or payment) – With respect to this subject, I authorize my agent to:

Accept, receive, receipt for, sell, assign, pledge, or exchange a share in or payment from the fund described above

Demand or obtain money or another thing of value to which the principal is, may become, or claims to be entitled by reason of the fund described above, by litigation or otherwise

Exercise for the benefit of the principal a presently exercisable general power of appointment held by the principal

Initiate, participate in, submit to alternative dispute resolution, settle, oppose, or propose or accept a compromise with respect to litigation to ascertain the meaning, validity, or effect of a deed, will, declaration of trust, or other instrument or transaction affecting the interest of the principal

Initiate, participate in, submit to alternative dispute resolution, settle, oppose, or propose or accept a compromise with respect to litigation to remove, substitute, or surcharge a fiduciary

Conserve, invest, disburse, or use anything received for an authorized purpose

Transfer an interest of the principal in real property, stocks and bonds, accounts with financial institutions or securities intermediaries, insurance,

annuities, and other property to the trustee of a revocable trust created by the principal as settlor

Reject, renounce, disclaim, release, or consent to a reduction in or modification of a share in or payment from the fund described above

All of the above

I. Claims and Litigation – With respect to this subject, I authorize my agent to:

Assert and maintain before a court or administrative agency a claim, claim for relief, cause of action, counterclaim, offset, recoupment, or defense, including an action to recover property or other thing of value, recover damages sustained by the principal, eliminate or modify tax liability, or seek an injunction, specific performance, or other relief

Bring an action to determine adverse claims or intervene or otherwise participate in litigation

Seek an attachment, garnishment, order of arrest, or other preliminary, provisional, or intermediate relief and use an available procedure to effect or satisfy a judgment, order, or decree

Make or accept a tender, offer of judgment, or admission of facts, submit a controversy on an agreed statement of facts, consent to examination, and bind the principal in litigation

Submit to alternative dispute resolution, settle, and propose or accept a compromise

Waive the issuance and service of process on the principal, accept service of process, appear for the principal, designate persons on which process directed to the principal may be served, execute and file or deliver stipulations on the principal's behalf, verify pleadings, seek appellate review, procure and give surety and indemnity bonds, contract and pay for the preparation and printing of records and briefs, receive, execute, and file or deliver a consent, waiver, release, confession of judgment, satisfaction of judgment, notice, agreement, or other instrument in connection with the prosecution, settlement, or defense of a claim or litigation

Act for the principal with respect to bankruptcy or insolvency, whether voluntary or involuntary, concerning the principal or some other person, or with respect to a reorganization, receivership, or application for the appointment of a receiver or trustee that affects an interest of the principal in property or other thing of value

Pay a judgment, award, or order against the principal or a settlement made in connection with a claim or litigation

Receive money or other thing of value paid in settlement of or as proceeds of a claim or litigation

All of the above

J. Personal and Family Maintenance – With respect to this subject, I authorize my agent to:

Perform the acts necessary to maintain the customary standard of living of the principal, the principal's spouse, and the following individuals, whether living when this power of attorney is executed or later born:

(1) The principal's children;

(2) Other individuals legally entitled to be supported by the principal; and

(3) The individuals whom the principal has customarily supported or indicated the intent to support;

Make periodic payments of child support and other family maintenance required by a court or governmental agency or an agreement to which the principal is a party

Provide living quarters for the individuals described above by:

(1) Purchase, lease, or other contract; or

(2) Paying the operating costs, including interest, amortization payments, repairs, improvements, and taxes, for premises owned by the principal or occupied by those individuals

Provide normal domestic help, usual vacations and travel expenses, and funds for shelter, clothing, food, appropriate education, including postsecondary and vocational education, and other current living costs for the individuals described above

Pay expenses for necessary health care and custodial care on behalf of the individuals described above

Act as the principal's personal representative in accordance with the Health Insurance Portability and Accountability Act, §§ 1171 through 1179 of the Social Security Act, 42 U.S.C. § 1320D, and applicable regulations in making decisions related to the past, present, or future payment for the provision of health care

consented to by the principal or anyone authorized under the law of this State to consent to health care on behalf of the principal

Continue provisions made by the principal for automobiles or other means of transportation, including registering, licensing, insuring, and replacing the means of transportation, for the individuals described above

Maintain credit and debit accounts for the convenience of the individuals described above and open new accounts

Continue payments incidental to the membership or affiliation of the principal in a religious institution, club, society, order, or other organization or to continue contributions to those organizations

(NOTE: Authority with respect to personal and family maintenance is neither dependent on, nor limited by, authority that an agent may or may not have with respect to gifts under this power of attorney.)

All of the above

K. Benefits from Governmental Programs or Civil or Military Service (including any benefit, program, or assistance provided under a statute or regulation including Social Security, Medicare, and Medicaid) – With respect to this subject, I authorize my agent to:

Execute vouchers in the name of the principal for allowances and reimbursements payable by the United States or a foreign government or by a state or subdivision of a state to the principal, including allowances and reimbursements for transportation of the individuals described in “J. Personal and Family Maintenance” above, and for shipment of the household effects of those individuals

Take possession and order the removal and shipment of property of the principal from a post, warehouse, depot, dock, or other place of storage or safekeeping, either governmental or private, and execute and deliver a release, voucher, receipt, bill of lading, shipping ticket, certificate, or other instrument for that purpose

Enroll in, apply for, select, reject, change, amend, or discontinue, on the principal’s behalf, a benefit or program

Prepare, file, and maintain a claim of the principal for a benefit or assistance, financial or otherwise, to which the principal may be entitled under a statute or regulation

Initiate, participate in, submit to alternative dispute resolution, settle, oppose, or propose or accept a compromise with respect to litigation concerning

a benefit or assistance the principal may be entitled to receive under a statute or regulation

Receive the financial proceeds of a claim described above and conserve, invest, disburse, or use for a lawful purpose anything so received

All of the above

L. Retirement Plans (including a plan or account created by an employer, the principal, or another individual to provide retirement benefits or deferred compensation of which the principal is a participant, beneficiary, or owner, including a plan or account under the following sections of the Internal Revenue Code:

(1) An individual retirement account under Internal Revenue Code Section 408, 26 U.S.C. § 408;

(2) A Roth individual retirement account under Internal Revenue Code Section 408A, 26 U.S.C. § 408A;

(3) A deemed individual retirement account under Internal Revenue Code Section 408(q), 26 U.S.C. § 408(q);

(4) An annuity or mutual fund custodial account under Internal Revenue Code Section 403(b), 26 U.S.C. § 403(b);

(5) A pension, profit-sharing, stock bonus, or other retirement plan qualified under Internal Revenue Code Section 401(a), 26 U.S.C. § 401(a);

(6) A plan under Internal Revenue Code Section 457(b), 26 U.S.C. § 457(b); and

(7) A nonqualified deferred compensation plan under Internal Revenue Code Section 409A, 26 U.S.C. § 409A) – With respect to this subject, I authorize my agent to:

Select the form and timing of payments under a retirement plan and withdraw benefits from a plan

Make a rollover, including a direct trustee-to-trustee rollover, of benefits from one retirement plan to another

Establish a retirement plan in the principal's name

Make contributions to a retirement plan

Exercise investment powers available under a retirement plan

Borrow from, sell assets to, or purchase assets from a retirement plan

All of the above

M. Taxes – With respect to this subject, I authorize my agent to:

Prepare, sign, and file federal, state, local, and foreign income, gift, payroll, property, Federal Insurance Contributions Act, and other tax returns, claims for refunds, requests for extension of time, petitions regarding tax matters, and other tax-related documents, including receipts, offers, waivers, consents, including consents and agreements under Internal Revenue Code Section 2032A, 26 U.S.C. § 2032A, closing agreements, and other powers of attorney required by the Internal Revenue Service or other taxing authority with respect to a tax year on which the statute of limitations has not run and the following 25 tax years

Pay taxes due, collect refunds, post bonds, receive confidential information, and contest deficiencies determined by the Internal Revenue Service or other taxing authority

Exercise elections available to the principal under federal, state, local, or foreign tax law

Act for the principal in all tax matters for all periods before the Internal Revenue Service, or other taxing authority

All of the above

N. Gifts (including gifts to a trust, an account under the Uniform Transfers to Minors Act, and a tuition savings account or prepaid tuition plan as defined under Internal Revenue Code Section 529, 26 U.S.C. § 529) – With respect to this subject, I authorize my agent to:

Make outright to, or for the benefit of, a person, a gift of part or all of the principal's property, including by the exercise of a presently exercisable general power of appointment held by the principal, in an amount for each donee not to exceed the annual dollar limits of the federal gift tax exclusion under Internal Revenue Code Section 2503(b), 26 U.S.C. § 2503(b), without regard to whether the federal gift tax exclusion applies to the gift, or if the principal's spouse agrees to consent to a split gift pursuant to Internal Revenue Code Section 2513, 26 U.S.C. § 2513, in an amount for each donee not to exceed twice the annual federal gift tax exclusion limit

Consent, pursuant to Internal Revenue Code Section 2513, 26 U.S.C. § 2513, to the splitting of a gift made by the principal's spouse in an amount for each donee not to exceed the aggregate annual gift tax exclusions for both spouses

(NOTE: An agent may only make a gift of the principal's property as the agent determines is consistent with the principal's objectives if actually known by the agent and, if unknown, as the agent determines is consistent with the principal's best interest based on all relevant factors, including:

- (1) The value and nature of the principal's property;
  - (2) The principal's foreseeable obligations and need for maintenance;
  - (3) Minimization of taxes, including income, estate, inheritance, generation-skipping transfer, and gift taxes;
  - (4) Eligibility for a benefit, a program, or assistance under a statute or regulation; and
  - (5) The principal's personal history of making or joining in making gifts.)
- All of the above

#### GRANT OF SPECIFIC AUTHORITY (OPTIONAL)

My agent MAY NOT do any of the following specific acts for me UNLESS I have INITIALED the specific authority listed below:

(CAUTION: Granting any of the following will give your agent the authority to take actions that could significantly reduce your property or change how your property is distributed at your death. INITIAL ONLY the specific authority you WANT to give your agent.)

- Create an inter vivos trust, or amend, revoke, or terminate an existing inter vivos trust if the trust expressly authorizes that action by the agent
- Make a gift, subject to any special instructions in this power of attorney
- Create or change rights of survivorship
- Create or change a beneficiary designation
- Authorize another person to exercise the authority granted under this power of attorney
- Waive the principal's right to be a beneficiary of a joint and survivor annuity, including a survivor benefit under a retirement plan
- Exercise fiduciary powers that the principal has authority to delegate

( ) Disclaim or refuse an interest in property, including a power of appointment

LIMITATION ON AGENT’S AUTHORITY

An agent that is not my ancestor, spouse, or descendant MAY NOT use my property to benefit the agent or a person to whom the agent owes an obligation of support unless I have included that authority in the Special Instructions.

SPECIAL INSTRUCTIONS (OPTIONAL)

You may give special instructions on the following lines:

\_\_\_\_\_
\_\_\_\_\_
\_\_\_\_\_
\_\_\_\_\_
\_\_\_\_\_
\_\_\_\_\_
\_\_\_\_\_

EFFECTIVE DATE

This power of attorney is effective immediately unless I have stated otherwise in the Special Instructions.

TERMINATION DATE (OPTIONAL)

This power of attorney shall terminate on \_\_\_\_\_, 20\_\_\_\_.
(Use a specific calendar date)

NOMINATION OF GUARDIAN (OPTIONAL)

If it becomes necessary for a court to appoint a guardian of my property or guardian of my person, I nominate the following person(s) for appointment:

Name of Nominee for guardian of my property:

\_\_\_\_\_
Nominee’s Address:\_\_\_\_\_
Nominee’s Telephone Number:\_\_\_\_\_

Name of Nominee for guardian of my person:

\_\_\_\_\_
Nominee’s Address:\_\_\_\_\_
Nominee’s Telephone Number:\_\_\_\_\_

SIGNATURE AND ACKNOWLEDGMENT



\_\_\_\_\_  
Your Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Your Name Printed

\_\_\_\_\_  
Your Address

\_\_\_\_\_  
Your Telephone Number

STATE OF MARYLAND  
(COUNTY) OF \_\_\_\_\_

This document was acknowledged before me on \_\_\_\_\_,  
(Date)

by \_\_\_\_\_.  
(Name of Principal)

\_\_\_\_\_  
Signature of Notary (Seal, if any)  
My commission expires: \_\_\_\_\_

WITNESS ATTESTATION

The foregoing power of attorney was, on the date written above, published and declared by \_\_\_\_\_  
(Name of Principal)  
in our presence to be his/her power of attorney. We, in his/her presence and at his/her request, and in the presence of each other, have attested to the same and have signed our names as attesting witnesses.

\_\_\_\_\_  
Witness #1 Signature

\_\_\_\_\_  
Witness #1 Name Printed

\_\_\_\_\_  
Witness #1 Address

\_\_\_\_\_  
Witness #1 Telephone Number

---

Witness #2 Signature

---

Witness #2 Name Printed

---

Witness #2 Address

---

Witness #2 Telephone Number

This document prepared by:

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### IMPORTANT INFORMATION FOR AGENT

#### Agent's Duties

When you accept the authority granted under this power of attorney, a special legal relationship is created between you and the principal. This relationship imposes on you legal duties that continue until you resign or the power of attorney is terminated or revoked. You must:

- (1) Do what you know the principal reasonably expects you to do with the principal's property or, if you do not know the principal's expectations, act in the principal's best interest;
- (2) Act with care, competence, and diligence for the best interest of the principal;
- (3) Do nothing beyond the authority granted in this power of attorney; and
- (4) Disclose your identity as an agent whenever you act for the principal by writing or printing the name of the principal and signing your own name as "agent" in the following manner:

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(Principal's Name) by (Your Signature) as Agent

Unless the Special Instructions in this power of attorney state otherwise, you must also:

- (1) Act loyally for the principal's benefit;

- (2) Avoid conflicts that would impair your ability to act in the principal's best interest;
- (3) Keep a record of all receipts, disbursements, and transactions made on behalf of the principal;
- (4) Cooperate with any person that has authority to make health care decisions for the principal to do what you know the principal reasonably expects or, if you do not know the principal's expectations, to act in the principal's best interest; and
- (5) Attempt to preserve the principal's estate plan if you know the plan and preserving the plan is consistent with the principal's best interest.

#### Termination of Agent's Authority

You must stop acting on behalf of the principal if you learn of any event that terminates this power of attorney or your authority under this power of attorney. Events that terminate a power of attorney or your authority to act under a power of attorney include:

- (1) Death of the principal;
- (2) The principal's revocation of the power of attorney or your authority;
- (3) The occurrence of a termination event stated in the power of attorney;
- (4) The purpose of the power of attorney is fully accomplished; or
- (5) If you are married to the principal, a legal action is filed with a court to end your marriage, or for your legal separation, unless the Special Instructions in this power of attorney state that such an action will not terminate your authority.

#### Liability of Agent

The meaning of the authority granted to you is defined in the Maryland Power of Attorney Act, Title 17 of the Estates and Trusts Article. If you violate the Maryland Power of Attorney Act, Title 17 of the Estates and Trusts Article, or act outside the authority granted, you may be liable for any damages caused by your violation.

If there is anything about this document or your duties that you do not understand, you should seek legal advice."

~~SECTION 2. AND BE IT FURTHER ENACTED, That the changes made to § 17-105 of the Estates and Trusts Article by Section 1 of this Act shall be construed to apply retroactively and shall be applied to and interpreted to affect any power of attorney executed on or after October 1, 2010.~~

~~SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.~~

SECTION 2. AND BE IT FURTHER ENACTED, That the changes made to § 17–101 of the Estates and Trusts Article by Section 1 of this Act shall be construed to apply retroactively and shall be applied to and interpreted to affect any power of attorney executed on or after May 20, 2010.

SECTION 3. AND BE IT FURTHER ENACTED, That the changes made to §§ 17–105 and 17–109 of the Estates and Trusts Article by Section 1 of this Act shall apply to any power of attorney existing on or after October 1, 2010, regardless of the effective date of the governing instrument in which the power of attorney was created.

SECTION 4. AND BE IT FURTHER ENACTED, That, for each power of attorney that is substantially in the form set forth under § 17–202 of the Estates and Trusts Article and executed by a principal on or after May 20, 2010, and before June 1, 2011, subject to any special instructions added to the power of attorney by the principal, the agent designated by the principal is deemed to have the authority to:

(1) transact all business in connection with an account or other banking arrangement made by or on behalf of the principal;

(2) transact all business in connection with an account or other banking arrangement with a bank, trust company, savings and loan association, credit union, thrift company, brokerage firm, or other financial institution selected by the agent; and

(3) deposit by check, money order, electronic funds transfer, or otherwise with, or leave in the custody of, a financial institution money or property of the principal.

SECTION 5. AND BE IT FURTHER ENACTED, That, for each power of attorney that is substantially in the form set forth under § 17–203 of the Estates and Trusts Article and executed by a principal on or after May 20, 2010, and before June 1, 2011, subject to any special instructions added to the power of attorney by the principal:

(1) if a principal granted to the agent the authority set forth under the first item of subheading E. “Banks and Other Financial Institutions” of § 17–203 of the Estates and Trusts Article, the agent is deemed to have the authority to transact all business in connection with an account or other banking arrangement made by or on behalf of the principal;

(2) if a principal granted to the agent the authority set forth under the second item of subheading E. “Banks and Other Financial Institutions” of § 17–203 of the Estates and Trusts Article, the agent is deemed to have the authority to transact all business in connection with an account or other banking arrangement with a bank,

trust company, savings and loan association, credit union, thrift company, brokerage firm, or other financial institution selected by the agent; and

(3) if a principal granted to the agent the authority set forth under the first, second, or fourth item of subheading E. "Banks and Other Financial Institutions" of § 7-203 of the Estates and Trusts Article, the agent is deemed to have the authority to deposit by check, money order, electronic funds transfer, or otherwise with, or leave in the custody of, a financial institution money or property of the principal.

SECTION 6. AND BE IT FURTHER ENACTED, That Sections 4 and 5 of this Act shall apply retroactively to any act of an agent on or after May 20, 2010.

SECTION 7. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2011.

Approved by the Governor, April 12, 2011.

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## Chapter 76

(Senate Bill 599)

AN ACT concerning

### **Courts and Judicial Proceedings – Prelitigation Discovery – Insurance Coverage**

FOR the purpose of requiring ~~a property and casualty insurer to disclose to a certain claimant~~ certain insurers to disclose to certain claimants under certain circumstances certain limits of coverage in any insurance agreement under which certain persons may be liable to satisfy all or part of the claim or to indemnify or reimburse for payments made to satisfy the claim; requiring disclosure of certain limits of coverage within a certain time period under certain circumstances; providing for certain procedures; providing that certain persons are not civilly or criminally liable for disclosure of certain documentation; providing that certain disclosure of certain documentation does not constitute a certain admission and or a certain waiver of certain terms, conditions, or rights; providing that certain documentation is not admissible as evidence by reason of a certain disclosure; defining certain terms; providing for the application of this Act; and generally relating to the disclosure of certain coverage limits in certain insurance agreements.

BY adding to

Article – Courts and Judicial Proceedings

Section 10-1101 through 10-1105 to be under the new subtitle "Subtitle 11. Prelitigation Discovery"

Annotated Code of Maryland  
(2006 Replacement Volume and 2010 Supplement)

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

**Article – Courts and Judicial Proceedings**

**SUBTITLE 11. PRELITIGATION DISCOVERY.**

**10-1101.**

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

**(B) “BENEFICIARY” MEANS AN INDIVIDUAL WHO MAY BRING AN ACTION FOR WRONGFUL DEATH UNDER TITLE 3, SUBTITLE 9 OF THIS ARTICLE.**

**(C) “CLAIMANT” MEANS:**

**(1) A PERSON WHO ALLEGES DAMAGES AS A RESULT OF A VEHICLE ACCIDENT OR AN ATTORNEY WHO REPRESENTS THE PERSON; OR**

**(2) A PERSONAL REPRESENTATIVE OF THE ESTATE OF A DECEDENT WHO DIED AS A RESULT OF A VEHICLE ACCIDENT OR AN ATTORNEY WHO REPRESENTS THE PERSONAL REPRESENTATIVE OF THE ESTATE OF THE DECEDENT.**

**(D) “INSURER” INCLUDES A PROPERTY AND CASUALTY INSURER, A SELF-INSURANCE PLAN, OR ANY PERSON REQUIRED TO PROVIDE INDEMNIFICATION FOR A CLAIM FOR WRONGFUL DEATH, PERSONAL INJURY, OR PROPERTY DAMAGE.**

**(E) “VEHICLE” HAS THE MEANING STATED IN § 11-176 OF THE TRANSPORTATION ARTICLE.**

**~~10-1101.~~ 10-1102.**

**(A) AFTER A CLAIMANT FILES A WRITTEN TORT CLAIM ~~WITH A PROPERTY AND CASUALTY INSURER, THE CLAIMANT MAY OBTAIN FROM THE PROPERTY AND CASUALTY~~ CONCERNING A VEHICLE ACCIDENT AND PROVIDES THE DOCUMENTATION DESCRIBED IN § 10-1103 OR § 10-1104 OF THIS SUBTITLE ~~WITH~~ TO AN INSURER, THE CLAIMANT MAY OBTAIN FROM THE INSURER DOCUMENTATION OF THE APPLICABLE LIMITS OF LIABILITY**

COVERAGE IN ANY INSURANCE AGREEMENT UNDER WHICH ~~ANY PERSON ENGAGED IN THE INSURANCE BUSINESS~~ THE INSURER MAY BE LIABLE TO:

- (1) SATISFY ALL OR PART OF THE CLAIM; OR
- (2) INDEMNIFY OR REIMBURSE FOR PAYMENTS MADE TO SATISFY THE CLAIM.

~~(B) THE PROPERTY AND CASUALTY INSURER SHALL PROVIDE THE CLAIMANT THE DOCUMENTATION REQUIRED BY SUBSECTION (A) OF THIS SECTION WITHIN 30 DAYS AFTER RECEIPT OF A WRITTEN REQUEST FOR THE DOCUMENTATION.~~

10-1103.

(A) THIS SECTION DOES NOT APPLY TO A CLAIM DESCRIBED UNDER § 10-1104 OF THIS SUBTITLE.

(B) A CLAIMANT MAY OBTAIN THE DOCUMENTATION DESCRIBED IN § 10-1102 OF THIS SUBTITLE IF THE CLAIMANT PROVIDES IN WRITING TO THE INSURER:

- (1) THE DATE OF THE VEHICLE ACCIDENT;
- (2) THE NAME AND LAST KNOWN ADDRESS OF THE ALLEGED TORTFEASOR;
- (3) A COPY OF THE VEHICLE ACCIDENT REPORT, IF AVAILABLE;
- (4) THE INSURER'S CLAIM NUMBER, IF AVAILABLE;
- (5) THE CLAIMANT'S HEALTH CARE BILLS AND DOCUMENTATION OF THE CLAIMANT'S LOSS OF INCOME, IF ANY, RESULTING FROM THE VEHICLE ACCIDENT; AND
- (6) THE RECORDS OF HEALTH CARE TREATMENT FOR THE CLAIMANT'S INJURIES CAUSED BY THE VEHICLE ACCIDENT.

(C) IF THE AMOUNT OF THE ~~INCURRED~~ HEALTH CARE BILLS AND LOSS OF INCOME DOCUMENTED BY THE CLAIMANT UNDER THIS SECTION IS AT LEAST \$12,500, THE INSURER SHALL DISCLOSE IN WRITING THE APPLICABLE LIMITS OF COVERAGE IN EACH WRITTEN AGREEMENT UNDER WHICH THE INSURER MAY BE LIABLE.

**10-1104.**

**(A) THIS SECTION APPLIES TO A CLAIM BY THE ESTATE OF AN INDIVIDUAL OR A BENEFICIARY OF THE INDIVIDUAL RESULTING FROM THE DEATH OF THE INDIVIDUAL IN A VEHICLE ACCIDENT.**

**(B) A CLAIMANT MAY OBTAIN THE DOCUMENTATION DESCRIBED IN § 10-1102 OF THIS SUBTITLE IF THE CLAIMANT PROVIDES IN WRITING TO THE INSURER:**

- (1) THE DATE OF THE VEHICLE ACCIDENT;**
- (2) THE NAME AND LAST KNOWN ADDRESS OF THE ALLEGED TORTFEASOR;**
- (3) A COPY OF THE VEHICLE ACCIDENT REPORT, IF AVAILABLE;**
- (4) THE INSURER'S CLAIM NUMBER, IF AVAILABLE;**
- (5) A COPY OF THE DECEDENT'S DEATH CERTIFICATE ISSUED IN THE STATE OR ANOTHER JURISDICTION;**
- (6) A COPY OF THE LETTERS OF ADMINISTRATION ISSUED TO APPOINT THE PERSONAL REPRESENTATIVE OF THE DECEDENT'S ESTATE IN THE STATE OR A SUBSTANTIALLY SIMILAR DOCUMENT ISSUED BY ANOTHER JURISDICTION;**
- (7) THE NAME OF EACH BENEFICIARY OF THE DECEDENT, IF KNOWN;**
- (8) THE RELATIONSHIP TO THE DECEDENT OF EACH KNOWN BENEFICIARY OF THE DECEDENT;**
- (9) THE AMOUNT OF ECONOMIC DAMAGES, IF ANY, CLAIMED BY EACH KNOWN BENEFICIARY OF THE DECEDENT, INCLUDING ANY AMOUNT CLAIMED BASED ON FUTURE LOSS OF EARNINGS OF THE DECEDENT;**
- (10) THE HEALTH CARE BILLS FOR HEALTH CARE TREATMENT, IF ANY, OF THE DECEDENT RESULTING FROM THE VEHICLE ACCIDENT;**
- (11) THE RECORDS OF HEALTH CARE TREATMENT FOR INJURIES TO THE DECEDENT CAUSED BY THE VEHICLE ACCIDENT; AND**



(12) DOCUMENTATION OF THE DECEDENT'S PAST LOSS OF INCOME, IF ANY, RESULTING FROM THE VEHICLE ACCIDENT.

10-1105.

(A) AN INSURER SHALL PROVIDE IN WRITING THE DOCUMENTATION DESCRIBED UNDER § 10-1102 OF THIS SUBTITLE WITHIN 30 DAYS AFTER THE DATE OF A REQUEST IN ACCORDANCE WITH § 10-1103 OR § 10-1104 OF THIS SUBTITLE, REGARDLESS OF WHETHER THE INSURER CONTESTS THE APPLICABILITY OF COVERAGE TO A CLAIM.

(B) AN INSURER, AND THE EMPLOYEES AND AGENTS OF AN INSURER, MAY NOT BE CIVILLY OR CRIMINALLY LIABLE FOR THE DISCLOSURE OF DOCUMENTATION REQUIRED UNDER THIS SUBTITLE.

(C) DISCLOSURE OF THE DOCUMENTATION UNDER THIS SUBTITLE DOES NOT CONSTITUTE AN:

(1) AN ADMISSION THAT A CLAIM IS SUBJECT TO THE APPLICABLE AGREEMENT BETWEEN THE INSURER AND THE ALLEGED TORTFEASOR; OR

(2) A WAIVER OF ANY TERM OR CONDITION OF THE APPLICABLE AGREEMENT BETWEEN THE INSURER AND THE ALLEGED TORTFEASOR OR ANY RIGHT OF THE INSURER, INCLUDING ANY POTENTIAL DEFENSE CONCERNING COVERAGE OR LIABILITY.

(D) DOCUMENTATION DISCLOSED UNDER THIS SECTION IS NOT ADMISSIBLE AS EVIDENCE AT TRIAL BY REASON OF ITS DISCLOSURE UNDER THIS SUBTITLE.

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 claim filed with an insurer, as defined in Section 1 of this Act, before the effective date of this Act.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

Approved by the Governor, April 12, 2011.

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**Chapter 77****(House Bill 921)**

AN ACT concerning

**Courts and Judicial Proceedings – Prelitigation Discovery – Insurance Coverage**

FOR the purpose of requiring ~~a property and casualty insurer to disclose to a certain claimant~~ certain insurers to disclose to certain claimants under certain circumstances certain limits of coverage in any insurance agreement under which certain persons may be liable to satisfy all or part of the claim or to indemnify or reimburse for payments made to satisfy the claim; requiring disclosure of certain limits of coverage within a certain time period under certain circumstances; providing for certain procedures; providing that certain persons are not civilly or criminally liable for disclosure of certain documentation; providing that certain disclosure of certain documentation does not constitute a certain admission or a certain waiver of certain terms, conditions, or rights; providing that certain documentation is not admissible as evidence by reason of a certain disclosure; defining certain terms; providing for the application of this Act; and generally relating to the disclosure of certain coverage limits in certain insurance agreements.

BY adding to

Article – Courts and Judicial Proceedings

Section 10–1101 through 10–1105 to be under the new subtitle “Subtitle 11.

Prelitigation Discovery”

Annotated Code of Maryland

(2006 Replacement Volume and 2010 Supplement)

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

**Article – Courts and Judicial Proceedings**

**SUBTITLE 11. PRELITIGATION DISCOVERY.**

**10–1101.**

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

**(B) “BENEFICIARY” MEANS AN INDIVIDUAL WHO MAY BRING AN ACTION FOR WRONGFUL DEATH UNDER TITLE 3, SUBTITLE 9 OF THIS ARTICLE.**

**(C) "CLAIMANT" MEANS:**

**(1) A PERSON WHO ALLEGES DAMAGES AS A RESULT OF A VEHICLE ACCIDENT OR AN ATTORNEY WHO REPRESENTS THE PERSON; OR**

**(2) A PERSONAL REPRESENTATIVE OF THE ESTATE OF A DECEDENT WHO DIED AS A RESULT OF A VEHICLE ACCIDENT OR AN ATTORNEY WHO REPRESENTS THE PERSONAL REPRESENTATIVE OF THE ESTATE OF THE DECEDENT.**

**(D) "INSURER" INCLUDES A PROPERTY AND CASUALTY INSURER, A SELF-INSURANCE PLAN, OR ANY PERSON REQUIRED TO PROVIDE INDEMNIFICATION FOR A CLAIM FOR WRONGFUL DEATH, PERSONAL INJURY, OR PROPERTY DAMAGE.**

**(E) "VEHICLE" HAS THE MEANING STATED IN § 11-176 OF THE TRANSPORTATION ARTICLE.**

**~~10-1101.~~ 10-1102.**

**~~(A) AFTER A CLAIMANT FILES A WRITTEN TORT CLAIM WITH A PROPERTY AND CASUALTY INSURER, THE CLAIMANT MAY OBTAIN FROM THE PROPERTY AND CASUALTY CONCERNING A VEHICLE ACCIDENT AND PROVIDES THE DOCUMENTATION DESCRIBED IN § 10-1103 OR § 10-1104 OF THIS SUBTITLE WITH TO AN INSURER, THE CLAIMANT MAY OBTAIN FROM THE INSURER DOCUMENTATION OF THE APPLICABLE LIMITS OF LIABILITY COVERAGE IN ANY INSURANCE AGREEMENT UNDER WHICH ANY PERSON ENGAGED IN THE INSURANCE BUSINESS THE INSURER MAY BE LIABLE TO:~~**

**(1) SATISFY ALL OR PART OF THE CLAIM; OR**

**(2) INDEMNIFY OR REIMBURSE FOR PAYMENTS MADE TO SATISFY THE CLAIM.**

**~~(B) THE PROPERTY AND CASUALTY INSURER SHALL PROVIDE THE CLAIMANT THE DOCUMENTATION REQUIRED BY SUBSECTION (A) OF THIS SECTION WITHIN 30 DAYS AFTER RECEIPT OF A WRITTEN REQUEST FOR THE DOCUMENTATION.~~**

**10-1103.**

**(A) THIS SECTION DOES NOT APPLY TO A CLAIM DESCRIBED UNDER § 10-1104 OF THIS SUBTITLE.**

**(B) A CLAIMANT MAY OBTAIN THE DOCUMENTATION DESCRIBED IN § 10-1102 OF THIS SUBTITLE IF THE CLAIMANT PROVIDES IN WRITING TO THE INSURER:**

- (1) THE DATE OF THE VEHICLE ACCIDENT;**
- (2) THE NAME AND LAST KNOWN ADDRESS OF THE ALLEGED TORTFEASOR;**
- (3) A COPY OF THE VEHICLE ACCIDENT REPORT, IF AVAILABLE;**
- (4) THE INSURER'S CLAIM NUMBER, IF AVAILABLE;**
- (5) THE CLAIMANT'S HEALTH CARE BILLS AND DOCUMENTATION OF THE CLAIMANT'S LOSS OF INCOME, IF ANY, RESULTING FROM THE VEHICLE ACCIDENT; AND**
- (6) THE RECORDS OF HEALTH CARE TREATMENT FOR THE CLAIMANT'S INJURIES CAUSED BY THE VEHICLE ACCIDENT.**

**(C) IF THE AMOUNT OF THE ~~INCURRED~~ HEALTH CARE BILLS AND LOSS OF INCOME DOCUMENTED BY THE CLAIMANT UNDER THIS SECTION IS AT LEAST \$12,500, THE INSURER SHALL DISCLOSE IN WRITING THE APPLICABLE LIMITS OF COVERAGE IN EACH WRITTEN AGREEMENT UNDER WHICH THE INSURER MAY BE LIABLE.**

**10-1104.**

**(A) THIS SECTION APPLIES TO A CLAIM BY THE ESTATE OF AN INDIVIDUAL OR A BENEFICIARY OF THE INDIVIDUAL RESULTING FROM THE DEATH OF THE INDIVIDUAL IN A VEHICLE ACCIDENT.**

**(B) A CLAIMANT MAY OBTAIN THE DOCUMENTATION DESCRIBED IN § 10-1102 OF THIS SUBTITLE IF THE CLAIMANT PROVIDES IN WRITING TO THE INSURER:**

- (1) THE DATE OF THE VEHICLE ACCIDENT;**
- (2) THE NAME AND LAST KNOWN ADDRESS OF THE ALLEGED TORTFEASOR;**
- (3) A COPY OF THE VEHICLE ACCIDENT REPORT, IF AVAILABLE;**
- (4) THE INSURER'S CLAIM NUMBER, IF AVAILABLE;**

(5) A COPY OF THE DECEDENT'S DEATH CERTIFICATE ISSUED IN THE STATE OR ANOTHER JURISDICTION;

(6) A COPY OF THE LETTERS OF ADMINISTRATION ISSUED TO APPOINT THE PERSONAL REPRESENTATIVE OF THE DECEDENT'S ESTATE IN THE STATE OR A SUBSTANTIALLY SIMILAR DOCUMENT ISSUED BY ANOTHER JURISDICTION;

(7) THE NAME OF EACH BENEFICIARY OF THE DECEDENT, IF KNOWN;

(8) THE RELATIONSHIP TO THE DECEDENT OF EACH KNOWN BENEFICIARY OF THE DECEDENT;

(9) THE AMOUNT OF ECONOMIC DAMAGES, IF ANY, CLAIMED BY EACH KNOWN BENEFICIARY OF THE DECEDENT, INCLUDING ANY AMOUNT CLAIMED BASED ON FUTURE LOSS OF EARNINGS OF THE DECEDENT;

(10) THE HEALTH CARE BILLS FOR HEALTH CARE TREATMENT, IF ANY, OF THE DECEDENT RESULTING FROM THE VEHICLE ACCIDENT;

(11) THE RECORDS OF HEALTH CARE TREATMENT FOR INJURIES TO THE DECEDENT CAUSED BY THE VEHICLE ACCIDENT; AND

(12) DOCUMENTATION OF THE DECEDENT'S PAST LOSS OF INCOME, IF ANY, RESULTING FROM THE VEHICLE ACCIDENT.

10-1105.

(A) AN INSURER SHALL PROVIDE IN WRITING THE DOCUMENTATION DESCRIBED UNDER § 10-1102 OF THIS SUBTITLE WITHIN 30 DAYS AFTER THE DATE OF A REQUEST IN ACCORDANCE WITH § 10-1103 OR § 10-1104 OF THIS SUBTITLE, REGARDLESS OF WHETHER THE INSURER CONTESTS THE APPLICABILITY OF COVERAGE TO A CLAIM.

(B) AN INSURER, AND THE EMPLOYEES AND AGENTS OF AN INSURER, MAY NOT BE CIVILLY OR CRIMINALLY LIABLE FOR THE DISCLOSURE OF DOCUMENTATION REQUIRED UNDER THIS SUBTITLE.

(C) DISCLOSURE OF THE DOCUMENTATION UNDER THIS SUBTITLE DOES NOT CONSTITUTE:

(1) AN ADMISSION THAT A CLAIM IS SUBJECT TO THE APPLICABLE AGREEMENT BETWEEN THE INSURER AND THE ALLEGED TORTFEASOR; OR

(2) A WAIVER OF ANY TERM OR CONDITION OF THE APPLICABLE AGREEMENT BETWEEN THE INSURER AND THE ALLEGED TORTFEASOR OR ANY RIGHT OF THE INSURER, INCLUDING ANY POTENTIAL DEFENSE CONCERNING COVERAGE OR LIABILITY.

(D) DOCUMENTATION DISCLOSED UNDER THIS SUBTITLE IS NOT ADMISSIBLE AS EVIDENCE AT TRIAL BY REASON OF ITS DISCLOSURE UNDER THIS SUBTITLE.

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 claim filed with an insurer, as defined in Section 1 of this Act, before the effective date of this Act.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

Approved by the Governor, April 12, 2011.

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## Chapter 78

(Senate Bill 652)

AN ACT concerning

### Public Safety – Use of Electronic Control Devices – Reports

FOR the purpose of requiring a law enforcement agency that issues electronic control devices to its law enforcement officers to report certain information relating to the use of electronic control devices annually on or before a certain date to the Governor's Office of Crime Control and Prevention using a certain format; requiring the Police Training Commission, in consultation with the Governor's Office of Crime Control and Prevention, the Maryland Chiefs of Police Association, and the Maryland Sheriffs' Association, to develop a standardized format that certain law enforcement agencies shall use in reporting certain data to the Governor's Office of Crime Control and Prevention; requiring a law enforcement agency to compile certain information as a report in a certain format and to submit the report to the Governor's Office of Crime Control and Prevention on or before a certain date; requiring the Governor's Office of Crime Control and Prevention to analyze and summarize certain reports of law

enforcement agencies and to submit a report of the analyses and summaries to the Governor, the General Assembly, and each law enforcement agency on or before a certain date each year; providing that, if a law enforcement agency fails to comply with the reporting requirements of this Act, the Governor's Office of Crime Control and Prevention shall report the noncompliance to the Police Training Commission; providing that the Commission shall contact a certain law enforcement agency and request that the agency comply with this Act under certain circumstances; providing that, if a certain law enforcement agency fails to comply with certain reporting provisions within a certain period after being contacted by the Police Training Commission, the Governor's Office of Crime Control and Prevention and the Commission jointly shall make a certain report to the Governor and the Legislative Policy Committee of the General Assembly; defining certain terms; providing for the termination of this Act; and generally relating to the use of electronic control devices by law enforcement officers.

BY adding to

Article – Public Safety

Section 3–508

Annotated Code of Maryland

(2003 Volume and 2010 Supplement)

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

**Article – Public Safety**

**3–508.**

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

~~(2) “DEPLOY” MEANS POINTING AN ECD AT A PERSON, WHETHER OR NOT THE ECD LASER DOT IS AIMED AT THE PERSON.~~

~~(3)~~ (2) (1) “DISCHARGE” MEANS FIRING AN ECD AT A PERSON.

(II) “DISCHARGE” DOES NOT INCLUDE FIRING AN ECD DURING A TRAINING EXERCISE.

~~(4)~~ (3) “ELECTRONIC CONTROL DEVICE” OR “(ECD)” MEANS A PORTABLE DEVICE DESIGNED AS A WEAPON CAPABLE OF INJURING, IMMOBILIZING, OR INFLICTING PAIN ON AN INDIVIDUAL BY THE DISCHARGE OF ELECTRICAL CURRENT.

~~(5)~~ (4) “LAW ENFORCEMENT AGENCY” MEANS AN AGENCY THAT IS LISTED IN § 3-101(E) OF THIS TITLE.

~~(6)~~ (5) “POLICE TRAINING COMMISSION” MEANS THE UNIT WITHIN THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES ESTABLISHED UNDER § 3-202 OF THIS TITLE.

(B) ON OR BEFORE MARCH 31 OF EACH YEAR, A LAW ENFORCEMENT AGENCY THAT ISSUES ELECTRONIC CONTROL DEVICES TO ITS LAW ENFORCEMENT OFFICERS SHALL REPORT, FOR EACH TIME A LAW ENFORCEMENT OFFICER DISCHARGES AN ECD, THE FOLLOWING INFORMATION TO THE GOVERNOR’S OFFICE OF CRIME CONTROL AND PREVENTION USING THE FORMAT DEVELOPED UNDER SUBSECTION (C) OF THIS SECTION:

~~(1) FOR EACH TIME A LAW ENFORCEMENT OFFICER DEPLOYS AN ECD:~~

~~(I) THE DATE, TIME, AND LOCATION OF THE DEPLOYMENT;~~  
AND

~~(II) THE RACE, GENDER, AND AGE OF THE PERSON AGAINST WHOM THE ECD WAS DEPLOYED; AND~~

~~(2) FOR EACH TIME A LAW ENFORCEMENT OFFICER DISCHARGES AN ECD:~~

~~(I)~~ (1) THE DATE, TIME, AND LOCATION OF THE DISCHARGE;

~~(II)~~ (2) THE TYPE OF MODE USED AND THE POINT OF IMPACT;

~~(III)~~ (3) THE NUMBER OF ECD CYCLES, THE DURATION OF EACH CYCLE, AND THE DURATION BETWEEN CYCLES;

~~(IV)~~ (4) THE RACE, GENDER, AND AGE OF THE PERSON AGAINST WHOM THE ECD WAS DISCHARGED;

~~(V)~~ (5) THE LAW ENFORCEMENT OFFICER’S REASON FOR DISCHARGING THE ECD;

~~(VI)~~ (6) THE TYPE OF WEAPON, IF ANY, POSSESSED BY THE PERSON AGAINST WHOM THE ECD WAS DISCHARGED;



~~(VII)~~ (7) THE TYPE OF INCIDENT IN WHICH THE PERSON AGAINST WHOM THE ECD WAS DISCHARGED WAS INVOLVED;

~~(VIII)~~ ANY RISK FACTORS PRESENT AT THE TIME OF THE DISCHARGE;

~~(IX)~~ (8) ANY INJURIES OR DEATHS RESULTING FROM THE DISCHARGE OTHER THAN PUNCTURES OR LACERATIONS CAUSED BY THE ECD PROBES; AND

~~(X)~~ (9) THE TYPE OF MEDICAL CARE, IF ANY, PROVIDED TO THE PERSON AGAINST WHOM THE ECD WAS DISCHARGED, OTHER THAN THE TREATMENT OF PUNCTURES OR LACERATIONS CAUSED BY THE ECD PROBES.

(C) THE POLICE TRAINING COMMISSION, IN CONSULTATION WITH THE GOVERNOR'S OFFICE OF CRIME CONTROL AND PREVENTION, THE MARYLAND CHIEFS OF POLICE ASSOCIATION, AND THE MARYLAND SHERIFFS' ASSOCIATION, SHALL DEVELOP A STANDARDIZED FORMAT THAT EACH LAW ENFORCEMENT AGENCY SHALL USE IN REPORTING DATA TO THE GOVERNOR'S OFFICE OF CRIME CONTROL AND PREVENTION UNDER SUBSECTION (B) OF THIS SECTION.

(D) A LAW ENFORCEMENT AGENCY SHALL:

(1) COMPILE THE DATA DESCRIBED IN SUBSECTION (B) OF THIS SECTION FOR EACH YEAR AS A REPORT IN THE FORMAT REQUIRED UNDER SUBSECTION (C) OF THIS SECTION;

(2) NOT LATER THAN MARCH 31 OF EACH YEAR, SUBMIT THE REPORT TO:

(I) THE GOVERNOR'S OFFICE OF CRIME CONTROL AND PREVENTION; AND

(II) 1. THE LOCAL GOVERNING BODY OF THE JURISDICTION SERVED BY THE LAW ENFORCEMENT AGENCY THAT IS THE SUBJECT OF THE REPORT; OR

2. IF THE JURISDICTION SERVED BY THE LAW ENFORCEMENT AGENCY THAT IS THE SUBJECT OF THE REPORT IS A MUNICIPAL CORPORATION, THE CHIEF EXECUTIVE OFFICER OF THE JURISDICTION; AND

(3) MAKE THE REPORT AVAILABLE TO THE PUBLIC ON REQUEST.

(E) (1) THE GOVERNOR'S OFFICE OF CRIME CONTROL AND PREVENTION SHALL ANALYZE AND SUMMARIZE THE REPORTS OF LAW ENFORCEMENT AGENCIES SUBMITTED UNDER SUBSECTION (D) OF THIS SECTION.

(2) THE GOVERNOR'S OFFICE OF CRIME CONTROL AND PREVENTION SHALL SUBMIT A REPORT OF THE ANALYSES AND SUMMARIES OF THE REPORTS OF LAW ENFORCEMENT AGENCIES DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION TO THE GOVERNOR, THE GENERAL ASSEMBLY, AS PROVIDED IN § 2-1246 OF THE STATE GOVERNMENT ARTICLE, AND EACH LAW ENFORCEMENT AGENCY BEFORE SEPTEMBER 1 OF EACH YEAR.

(F) (1) IF A LAW ENFORCEMENT AGENCY FAILS TO COMPLY WITH THE REPORTING PROVISIONS OF THIS SECTION, THE GOVERNOR'S OFFICE OF CRIME CONTROL AND PREVENTION SHALL REPORT THE NONCOMPLIANCE TO THE POLICE TRAINING COMMISSION.

(2) ON RECEIPT OF A REPORT OF NONCOMPLIANCE, THE POLICE TRAINING COMMISSION SHALL CONTACT THE LAW ENFORCEMENT AGENCY AND REQUEST THAT THE AGENCY COMPLY WITH THE REQUIRED REPORTING PROVISIONS.

(3) IF THE LAW ENFORCEMENT AGENCY FAILS TO COMPLY WITH THE REQUIRED REPORTING PROVISIONS OF THIS SECTION WITHIN 30 DAYS AFTER BEING CONTACTED BY THE POLICE TRAINING COMMISSION WITH A REQUEST TO COMPLY, THE GOVERNOR'S OFFICE OF CRIME CONTROL AND PREVENTION AND THE POLICE TRAINING COMMISSION JOINTLY SHALL REPORT THE NONCOMPLIANCE TO THE GOVERNOR AND THE LEGISLATIVE POLICY COMMITTEE OF THE GENERAL ASSEMBLY.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011. It shall remain effective for a period of 5 years and, at the end of September 30, 2016, 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 12, 2011.

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## Chapter 79

(House Bill 507)

AN ACT concerning

**Public Safety – Use of Electronic Control Devices – Reports**

FOR the purpose of requiring a law enforcement agency that issues electronic control devices to its law enforcement officers to report certain information relating to the use of electronic control devices annually on or before a certain date to the Governor's Office of Crime Control and Prevention using a certain format; requiring the Police Training Commission, in consultation with the Governor's Office of Crime Control and Prevention, the Maryland Chiefs of Police Association, and the Maryland Sheriffs' Association, to develop a standardized format that certain law enforcement agencies shall use in reporting certain data to the Governor's Office of Crime Control and Prevention; requiring a law enforcement agency to compile certain information as a report in a certain format and to submit the report to the Governor's Office of Crime Control and Prevention on or before a certain date; requiring the Governor's Office of Crime Control and Prevention to analyze and summarize certain reports of law enforcement agencies and to submit a report of the analyses and summaries to the Governor, the General Assembly, and each law enforcement agency on or before a certain date each year; providing that, if a law enforcement agency fails to comply with the reporting requirements of this Act, the Governor's Office of Crime Control and Prevention shall report the noncompliance to the Police Training Commission; providing that the Commission shall contact a certain law enforcement agency and request that the agency comply with this Act under certain circumstances; providing that, if a certain law enforcement agency fails to comply with certain reporting provisions within a certain period after being contacted by the Police Training Commission, the Governor's Office of Crime Control and Prevention and the Commission jointly shall make a certain report to the Governor and the Legislative Policy Committee of the General Assembly; defining certain terms; providing for the termination of this Act; and generally relating to the use of electronic control devices by law enforcement officers.

BY adding to

Article – Public Safety

Section 3–508

Annotated Code of Maryland

(2003 Volume and 2010 Supplement)

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

**Article – Public Safety****3–508.**

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

~~(2) “DEPLOY” MEANS POINTING AN ECD AT A PERSON, WHETHER OR NOT THE ECD LASER DOT IS AIMED AT THE PERSON.~~

~~(3)~~ (2) (1) “DISCHARGE” MEANS FIRING AN ECD AT A PERSON.

(II) “DISCHARGE” DOES NOT INCLUDE FIRING AN ECD DURING A TRAINING EXERCISE.

~~(4)~~ (3) “ELECTRONIC CONTROL DEVICE” OR “~~(ECD)~~ ECD” MEANS A PORTABLE DEVICE DESIGNED AS A WEAPON CAPABLE OF INJURING, IMMOBILIZING, OR INFLICTING PAIN ON AN INDIVIDUAL BY THE DISCHARGE OF ELECTRICAL CURRENT.

~~(5)~~ (4) “LAW ENFORCEMENT AGENCY” MEANS AN AGENCY THAT IS LISTED IN § 3-101(E) OF THIS TITLE.

~~(6)~~ (5) “POLICE TRAINING COMMISSION” MEANS THE UNIT WITHIN THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES ESTABLISHED UNDER § 3-202 OF THIS TITLE.

(B) ON OR BEFORE MARCH 31 OF EACH YEAR, A LAW ENFORCEMENT AGENCY THAT ISSUES ELECTRONIC CONTROL DEVICES TO ITS LAW ENFORCEMENT OFFICERS SHALL REPORT, FOR EACH TIME A LAW ENFORCEMENT OFFICER DISCHARGES AN ECD, THE FOLLOWING INFORMATION TO THE GOVERNOR’S OFFICE OF CRIME CONTROL AND PREVENTION USING THE FORMAT DEVELOPED UNDER SUBSECTION (C) OF THIS SECTION:

~~(1) FOR EACH TIME A LAW ENFORCEMENT OFFICER DEPLOYS AN ECD:~~

~~(I) THE DATE, TIME, AND LOCATION OF THE DEPLOYMENT;~~  
AND

~~(II) THE RACE, GENDER, AND AGE OF THE PERSON AGAINST WHOM THE ECD WAS DEPLOYED; AND~~

~~(2) FOR EACH TIME A LAW ENFORCEMENT OFFICER DISCHARGES AN ECD:~~

~~(I)~~ (1) THE DATE, TIME, AND LOCATION OF THE DISCHARGE;

~~(II)~~ (2) THE TYPE OF MODE USED AND THE POINT OF IMPACT;

~~(III)~~ (3) THE NUMBER OF ECD CYCLES, THE DURATION OF EACH CYCLE, AND THE DURATION BETWEEN CYCLES;

~~(IV)~~ (4) THE RACE, GENDER, AND AGE OF THE PERSON AGAINST WHOM THE ECD WAS DISCHARGED;

~~(V)~~ (5) THE LAW ENFORCEMENT OFFICER'S REASON FOR DISCHARGING THE ECD;

~~(VI)~~ (6) THE TYPE OF WEAPON, IF ANY, POSSESSED BY THE PERSON AGAINST WHOM THE ECD WAS DISCHARGED;

~~(VII)~~ (7) THE TYPE OF INCIDENT IN WHICH THE PERSON AGAINST WHOM THE ECD WAS DISCHARGED WAS INVOLVED;

~~(VIII)~~ (8) ~~ANY RISK FACTORS PRESENT AT THE TIME OF THE DISCHARGE;~~

~~(IX)~~ (9) (8) ANY INJURIES OR DEATHS RESULTING FROM THE DISCHARGE OTHER THAN PUNCTURES OR LACERATIONS CAUSED BY THE ECD PROBES; AND

~~(X)~~ (10) (9) THE TYPE OF MEDICAL CARE, IF ANY, PROVIDED TO THE PERSON AGAINST WHOM THE ECD WAS DISCHARGED, OTHER THAN THE TREATMENT OF PUNCTURES OR LACERATIONS CAUSED BY THE ECD PROBES.

(C) THE POLICE TRAINING COMMISSION, IN CONSULTATION WITH THE GOVERNOR'S OFFICE OF CRIME CONTROL AND PREVENTION, THE MARYLAND CHIEFS OF POLICE ASSOCIATION, AND THE MARYLAND SHERIFFS' ASSOCIATION, SHALL DEVELOP A STANDARDIZED FORMAT THAT EACH LAW ENFORCEMENT AGENCY SHALL USE IN REPORTING DATA TO THE GOVERNOR'S OFFICE OF CRIME CONTROL AND PREVENTION UNDER SUBSECTION (B) OF THIS SECTION.

(D) A LAW ENFORCEMENT AGENCY SHALL:

(1) COMPILE THE DATA DESCRIBED IN SUBSECTION (B) OF THIS SECTION FOR EACH YEAR AS A REPORT IN THE FORMAT REQUIRED UNDER SUBSECTION (C) OF THIS SECTION;

(2) NOT LATER THAN MARCH 31 OF EACH YEAR, SUBMIT THE REPORT TO:

**(I) THE GOVERNOR'S OFFICE OF CRIME CONTROL AND PREVENTION; AND**

**(II) 1. THE LOCAL GOVERNING BODY OF THE JURISDICTION SERVED BY THE LAW ENFORCEMENT AGENCY THAT IS THE SUBJECT OF THE REPORT; OR**

**2. IF THE JURISDICTION SERVED BY THE LAW ENFORCEMENT AGENCY THAT IS THE SUBJECT OF THE REPORT IS A MUNICIPAL CORPORATION, THE CHIEF EXECUTIVE OFFICER OF THE JURISDICTION; AND**

**(3) MAKE THE REPORT AVAILABLE TO THE PUBLIC ON REQUEST.**

**(E) (1) THE GOVERNOR'S OFFICE OF CRIME CONTROL AND PREVENTION SHALL ANALYZE AND SUMMARIZE THE REPORTS OF LAW ENFORCEMENT AGENCIES SUBMITTED UNDER SUBSECTION (D) OF THIS SECTION.**

**(2) THE GOVERNOR'S OFFICE OF CRIME CONTROL AND PREVENTION SHALL SUBMIT A REPORT OF THE ANALYSES AND SUMMARIES OF THE REPORTS OF LAW ENFORCEMENT AGENCIES DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION TO THE GOVERNOR, THE GENERAL ASSEMBLY, AS PROVIDED IN § 2-1246 OF THE STATE GOVERNMENT ARTICLE, AND EACH LAW ENFORCEMENT AGENCY BEFORE SEPTEMBER 1 OF EACH YEAR.**

**(F) (1) IF A LAW ENFORCEMENT AGENCY FAILS TO COMPLY WITH THE REPORTING PROVISIONS OF THIS SECTION, THE GOVERNOR'S OFFICE OF CRIME CONTROL AND PREVENTION SHALL REPORT THE NONCOMPLIANCE TO THE POLICE TRAINING COMMISSION.**

**(2) ON RECEIPT OF A REPORT OF NONCOMPLIANCE, THE POLICE TRAINING COMMISSION SHALL CONTACT THE LAW ENFORCEMENT AGENCY AND REQUEST THAT THE AGENCY COMPLY WITH THE REQUIRED REPORTING PROVISIONS.**

**(3) IF THE LAW ENFORCEMENT AGENCY FAILS TO COMPLY WITH THE REQUIRED REPORTING PROVISIONS OF THIS SECTION WITHIN 30 DAYS AFTER BEING CONTACTED BY THE POLICE TRAINING COMMISSION WITH A REQUEST TO COMPLY, THE GOVERNOR'S OFFICE OF CRIME CONTROL AND PREVENTION AND THE POLICE TRAINING COMMISSION JOINTLY SHALL REPORT THE NONCOMPLIANCE TO THE GOVERNOR AND THE LEGISLATIVE POLICY COMMITTEE OF THE GENERAL ASSEMBLY.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011. It shall remain effective for a period of 5 years and, at the end of September 30, 2016, 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 12, 2011.**

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## Chapter 80

### (Senate Bill 673)

AN ACT concerning

#### **Estates and Trusts – Payment of Attorney’s Fees – Contingency Fee**

FOR the purpose of authorizing the payment of fees from an estate to an attorney without court approval if the fee is paid to an attorney representing the estate in litigation under a certain contingency fee agreement, the fee does not exceed the terms of the contingency fee agreement, a copy of the contingency fee agreement is on file with the register of wills, and the attorney files a certain statement with each account; and generally relating to payment of certain attorney’s fees.

BY repealing and reenacting, with amendments,  
Article – Estates and Trusts  
Section 7–604  
Annotated Code of Maryland  
(2001 Replacement Volume and 2010 Supplement)

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

#### **Article – Estates and Trusts**

7–604.

(a) Payment of commissions to personal representatives under § 7–601 of this subtitle, and attorney’s fees under § 7–602 of this subtitle may be made without court approval if:

(1) **(I)** Each creditor, who has filed a claim that is still open, and all interested persons consent in writing to the payment;

**[(2)] (II)** The combined sum of the payments of commissions and attorney’s fees does not exceed the amounts provided in § 7–601 of this subtitle; and

**[(3)] (III)** The signed written consent form states the amounts of the payments and is filed with the register of wills; **OR**

**(2) (I) THE FEE IS PAID TO AN ATTORNEY REPRESENTING THE ESTATE IN LITIGATION UNDER A CONTINGENCY FEE AGREEMENT SIGNED BY THE DECEDENT OR THE CURRENT PERSONAL REPRESENTATIVE OF THE DECEDENT’S ESTATE;**

**(II) THE FEE DOES NOT EXCEED THE TERMS OF THE CONTINGENCY FEE AGREEMENT;**

**(III) A COPY OF THE CONTINGENCY FEE AGREEMENT IS ON FILE WITH THE REGISTER OF WILLS; AND**

**(IV) THE ATTORNEY FILES A STATEMENT WITH EACH ACCOUNT STATING THAT THE SCOPE OF THE REPRESENTATION BY THE ATTORNEY DOES NOT EXTEND TO THE ADMINISTRATION OF THE ESTATE.**

(b) When rendering accounts, the personal representative shall designate any payment made under this section as an expense.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

**Approved by the Governor, April 12, 2011.**

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## **Chapter 81**

**(Senate Bill 682)**

AN ACT concerning

### **Behavioral Health – Veterans – Coordination and Provision of Services**

FOR the purpose of reenacting certain provisions of law that were abrogated as of a certain date to provide for the continuance of the coordination of certain behavioral health services for certain veterans; requiring the Department of Health and Mental Hygiene, in collaboration with the United States Department of Veterans Affairs, the Maryland Department of Veterans Affairs, the Maryland National Guard, and the Maryland Defense Force, to provide behavioral health services coordination for certain veterans, subject to certain limitations; requiring the Department of Health and Mental Hygiene, subject to



certain limitations, to coordinate, provide, and fund certain behavioral health services for certain veterans under certain circumstances; requiring the Department of Health and Mental Hygiene to seek certain reimbursement for certain services; requiring the Department of Health and Mental Hygiene to separately account for certain funds; defining certain terms; and generally relating to the coordination and provision of behavioral health services for veterans.

BY adding to

Article – Health – General

Section 13–2701 and 13–2702 to be under the new subtitle “Subtitle 27. Behavioral Health Services for Maryland Veterans”

Annotated Code of Maryland

(2009 Replacement Volume and 2010 Supplement)

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

**Article – Health – General**

**SUBTITLE 27. BEHAVIORAL HEALTH SERVICES FOR MARYLAND VETERANS.**

**13–2701.**

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

(B) “BEHAVIORAL HEALTH SERVICES” MEANS MENTAL HEALTH SERVICES OR ALCOHOL AND SUBSTANCE ABUSE SERVICES.

(C) (1) “CRISIS SERVICES” MEANS TEMPORARY SERVICES DESIGNED TO ADDRESS AND STABILIZE A SEVERE BEHAVIORAL HEALTH PROBLEM AND TO AVOID AN EMERGENCY SITUATION.

(2) “CRISIS SERVICES” INCLUDES HOTLINES, IN–HOME SUPPORT, AND RESIDENTIAL CRISIS SERVICES.

(D) “MARYLAND DEFENSE FORCE” MEANS THE MILITARY FORCE ESTABLISHED UNDER § 13–501 OF THE PUBLIC SAFETY ARTICLE.

(E) “MARYLAND NATIONAL GUARD” MEANS THE MARYLAND ARMY NATIONAL GUARD AND MARYLAND AIR NATIONAL GUARD.

(F) “SERVICE COORDINATION” MEANS A SERVICE DESIGNED TO COORDINATE AND PROVIDE ASSISTANCE IN OBTAINING ACCESS TO BEHAVIORAL HEALTH SERVICES.

(G) “UNIFORMED SERVICES” HAS THE MEANING STATED IN 10 U.S.C. § 101.

(H) “VETERAN” MEANS A MARYLAND RESIDENT WHO SERVED ON ACTIVE DUTY IN THE UNIFORMED SERVICES OF THE UNITED STATES, OTHER THAN FOR TRAINING, AND WAS DISCHARGED OR RELEASED UNDER CONDITIONS OTHER THAN DISHONORABLE.

(I) “WEB-BASED RESOURCE PROGRAM” MEANS AN INTERACTIVE WEB-BASED COMMUNICATION MEDIUM THAT:

(1) ALLOWS INDIVIDUALS TO ACCESS COMPREHENSIVE INFORMATION, ADVOCACY, AND OTHER RESOURCES REGARDING PUBLIC AND PRIVATE BEHAVIORAL HEALTH SERVICES, CRISIS AND EMERGENCY SERVICES, AND EARLY INTERVENTION AND PREVENTION PROGRAMS; AND

(2) ENABLES THE PUBLIC AND PRIVATE HEALTH CARE COMMUNITIES TO WORK TOGETHER TO ADDRESS THE PROBLEMS RELATED TO PROVIDING AND OBTAINING ACCESS TO BEHAVIORAL HEALTH SERVICES.

13-2702.

(A) SUBJECT TO THE LIMITATIONS OF ITS BUDGET, THE DEPARTMENT:

(1) IN COLLABORATION WITH THE UNITED STATES DEPARTMENT OF VETERANS AFFAIRS, THE MARYLAND DEPARTMENT OF VETERANS AFFAIRS, THE MARYLAND NATIONAL GUARD, AND THE MARYLAND DEFENSE FORCE, SHALL PROVIDE BEHAVIORAL HEALTH SERVICE COORDINATION FOR VETERANS IN ALL GEOGRAPHIC REGIONS OF THE STATE TO CONNECT THEM TO BEHAVIORAL HEALTH SERVICES WHICH MAY BE AVAILABLE THROUGH THE UNITED STATES DEPARTMENT OF VETERANS AFFAIRS;

(2) (I) WHERE BEHAVIORAL HEALTH SERVICES ARE NOT YET AVAILABLE OR ACCESSIBLE THROUGH THE UNITED STATES DEPARTMENT OF VETERANS AFFAIRS, SHALL PROVIDE SERVICE COORDINATION FOR VETERANS IN ALL GEOGRAPHIC REGIONS OF THE STATE TO CONNECT THEM TO BEHAVIORAL HEALTH SERVICES WHICH MAY BE AVAILABLE THROUGH THE MENTAL HYGIENE ADMINISTRATION OR THE ALCOHOL AND DRUG ABUSE

ADMINISTRATION, UNTIL SUCH FEDERAL SERVICES CAN BE ACCESSED AND OBTAINED; AND

(II) SHALL PROVIDE BEHAVIORAL HEALTH SERVICES THROUGH THE MENTAL HYGIENE ADMINISTRATION OR THE ALCOHOL AND DRUG ABUSE ADMINISTRATION BASED ON ELIGIBILITY AND MEDICAL NECESSITY CRITERIA ESTABLISHED BY THESE ADMINISTRATIONS; AND

(3) SHALL PROVIDE VETERANS UP-TO-DATE INFORMATION ABOUT BEHAVIORAL HEALTH SERVICES AND RESOURCES THROUGH A WEB-BASED RESOURCE PROGRAM.

(B) SUBJECT TO THE LIMITATIONS OF ITS BUDGET AND IN ADDITION TO THE SERVICE COORDINATION PROVIDED UNDER SUBSECTION (A) OF THIS SECTION, THE DEPARTMENT SHALL PROVIDE OR FUND CERTAIN BEHAVIORAL HEALTH SERVICES FOR VETERANS WHO:

(1) MEET THE ELIGIBILITY AND MEDICAL NECESSITY CRITERIA OF THE MENTAL HYGIENE ADMINISTRATION AND THE ALCOHOL AND DRUG ABUSE ADMINISTRATION; AND

(2) CANNOT OBTAIN IMMEDIATE ACCESS TO BEHAVIORAL HEALTH SERVICES THROUGH THE UNITED STATES DEPARTMENT OF VETERANS AFFAIRS.

(C) (1) THE BEHAVIORAL HEALTH SERVICES PROVIDED UNDER SUBSECTION (B) OF THIS SECTION MAY INCLUDE:

(I) CRISIS SERVICES IN ALL GEOGRAPHIC REGIONS OF THE STATE; AND

(II) SHORT-TERM BEHAVIORAL HEALTH SERVICES, WHERE EXISTING FEDERAL AND STATE BEHAVIORAL HEALTH SERVICES ARE DETERMINED BY THE DEPARTMENT TO BE INADEQUATE OR INACCESSIBLE.

(2) THE SHORT-TERM BEHAVIORAL HEALTH SERVICES PROVIDED UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION:

(I) SHALL BE AVAILABLE ONLY UNTIL A VETERAN IS ABLE TO ACCESS AND OBTAIN ADEQUATE BEHAVIORAL HEALTH SERVICES THROUGH THE UNITED STATES DEPARTMENT OF VETERANS AFFAIRS; AND

(II) MAY INCLUDE:

1. SCREENING ASSESSMENTS;
2. INDIVIDUAL, FAMILY, AND GROUP THERAPY;
3. SUBSTANCE ABUSE EARLY INTERVENTION AND DETOXIFICATION SERVICES; AND
4. SUBSTANCE ABUSE MEDICATION-ASSISTED TREATMENT.

(3) THE DEPARTMENT SHALL SEEK REIMBURSEMENT FROM THE UNITED STATES DEPARTMENT OF VETERANS AFFAIRS OR OTHER RESPONSIBLE PUBLIC OR PRIVATE PAYER FOR ANY BEHAVIORAL HEALTH SERVICES PROVIDED UNDER SUBSECTION (B) OF THIS SECTION.

(D) THE DEPARTMENT SHALL ACCOUNT SEPARATELY FOR FUNDS USED TO PROVIDE BEHAVIORAL HEALTH SERVICES TO VETERANS UNDER SUBSECTION (B) OF THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2011.

Approved by the Governor, April 12, 2011.

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## Chapter 82

(House Bill 793)

AN ACT concerning

### Behavioral Health – Veterans – Coordination and Provision of Services

FOR the purpose of reenacting certain provisions of law that were abrogated as of a certain date to provide for the continuance of the coordination of certain behavioral health services for certain veterans; requiring the Department of Health and Mental Hygiene, in collaboration with the United States Department of Veterans Affairs, the Maryland Department of Veterans Affairs, the Maryland National Guard, and the Maryland Defense Force, to provide behavioral health services coordination for certain veterans, subject to certain limitations; requiring the Department of Health and Mental Hygiene, subject to certain limitations, to coordinate, provide, and fund certain behavioral health services for certain veterans under certain circumstances; requiring the

Department of Health and Mental Hygiene to seek certain reimbursement for certain services; requiring the Department of Health and Mental Hygiene to separately account for certain funds; defining certain terms; and generally relating to the coordination and provision of behavioral health services for veterans.

BY adding to

Article – Health – General

Section 13–2701 and 13–2702 to be under the new subtitle “Subtitle 27. Behavioral Health Services for Maryland Veterans”

Annotated Code of Maryland

(2009 Replacement Volume and 2010 Supplement)

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

**Article – Health – General**

**SUBTITLE 27. BEHAVIORAL HEALTH SERVICES FOR MARYLAND VETERANS.**

**13–2701.**

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

(B) “BEHAVIORAL HEALTH SERVICES” MEANS MENTAL HEALTH SERVICES OR ALCOHOL AND SUBSTANCE ABUSE SERVICES.

(C) (1) “CRISIS SERVICES” MEANS TEMPORARY SERVICES DESIGNED TO ADDRESS AND STABILIZE A SEVERE BEHAVIORAL HEALTH PROBLEM AND TO AVOID AN EMERGENCY SITUATION.

(2) “CRISIS SERVICES” INCLUDES HOTLINES, IN–HOME SUPPORT, AND RESIDENTIAL CRISIS SERVICES.

(D) “MARYLAND DEFENSE FORCE” MEANS THE MILITARY FORCE ESTABLISHED UNDER § 13–501 OF THE PUBLIC SAFETY ARTICLE.

(E) “MARYLAND NATIONAL GUARD” MEANS THE MARYLAND ARMY NATIONAL GUARD AND MARYLAND AIR NATIONAL GUARD.

(F) “SERVICE COORDINATION” MEANS A SERVICE DESIGNED TO COORDINATE AND PROVIDE ASSISTANCE IN OBTAINING ACCESS TO BEHAVIORAL HEALTH SERVICES.

(G) “UNIFORMED SERVICES” HAS THE MEANING STATED IN 10 U.S.C. § 101.

(H) “VETERAN” MEANS A MARYLAND RESIDENT WHO SERVED ON ACTIVE DUTY IN THE UNIFORMED SERVICES OF THE UNITED STATES, OTHER THAN FOR TRAINING, AND WAS DISCHARGED OR RELEASED UNDER CONDITIONS OTHER THAN DISHONORABLE.

(I) “WEB-BASED RESOURCE PROGRAM” MEANS AN INTERACTIVE WEB-BASED COMMUNICATION MEDIUM THAT:

(1) ALLOWS INDIVIDUALS TO ACCESS COMPREHENSIVE INFORMATION, ADVOCACY, AND OTHER RESOURCES REGARDING PUBLIC AND PRIVATE BEHAVIORAL HEALTH SERVICES, CRISIS AND EMERGENCY SERVICES, AND EARLY INTERVENTION AND PREVENTION PROGRAMS; AND

(2) ENABLES THE PUBLIC AND PRIVATE HEALTH CARE COMMUNITIES TO WORK TOGETHER TO ADDRESS THE PROBLEMS RELATED TO PROVIDING AND OBTAINING ACCESS TO BEHAVIORAL HEALTH SERVICES.

13-2702.

(A) SUBJECT TO THE LIMITATIONS OF ITS BUDGET, THE DEPARTMENT:

(1) IN COLLABORATION WITH THE UNITED STATES DEPARTMENT OF VETERANS AFFAIRS, THE MARYLAND DEPARTMENT OF VETERANS AFFAIRS, THE MARYLAND NATIONAL GUARD, AND THE MARYLAND DEFENSE FORCE, SHALL PROVIDE BEHAVIORAL HEALTH SERVICE COORDINATION FOR VETERANS IN ALL GEOGRAPHIC REGIONS OF THE STATE TO CONNECT THEM TO BEHAVIORAL HEALTH SERVICES WHICH MAY BE AVAILABLE THROUGH THE UNITED STATES DEPARTMENT OF VETERANS AFFAIRS;

(2) (I) WHERE BEHAVIORAL HEALTH SERVICES ARE NOT YET AVAILABLE OR ACCESSIBLE THROUGH THE UNITED STATES DEPARTMENT OF VETERANS AFFAIRS, SHALL PROVIDE SERVICE COORDINATION FOR VETERANS IN ALL GEOGRAPHIC REGIONS OF THE STATE TO CONNECT THEM TO BEHAVIORAL HEALTH SERVICES WHICH MAY BE AVAILABLE THROUGH THE MENTAL HYGIENE ADMINISTRATION OR THE ALCOHOL AND DRUG ABUSE ADMINISTRATION, UNTIL SUCH FEDERAL SERVICES CAN BE ACCESSED AND OBTAINED; AND

(II) SHALL PROVIDE BEHAVIORAL HEALTH SERVICES THROUGH THE MENTAL HYGIENE ADMINISTRATION OR THE ALCOHOL AND

**DRUG ABUSE ADMINISTRATION BASED ON ELIGIBILITY AND MEDICAL NECESSITY CRITERIA ESTABLISHED BY THESE ADMINISTRATIONS; AND**

**(3) SHALL PROVIDE VETERANS UP-TO-DATE INFORMATION ABOUT BEHAVIORAL HEALTH SERVICES AND RESOURCES THROUGH A WEB-BASED RESOURCE PROGRAM.**

**(B) SUBJECT TO THE LIMITATIONS OF ITS BUDGET AND IN ADDITION TO THE SERVICE COORDINATION PROVIDED UNDER SUBSECTION (A) OF THIS SECTION, THE DEPARTMENT SHALL PROVIDE OR FUND CERTAIN BEHAVIORAL HEALTH SERVICES FOR VETERANS WHO:**

**(1) MEET THE ELIGIBILITY AND MEDICAL NECESSITY CRITERIA OF THE MENTAL HYGIENE ADMINISTRATION AND THE ALCOHOL AND DRUG ABUSE ADMINISTRATION; AND**

**(2) CANNOT OBTAIN IMMEDIATE ACCESS TO BEHAVIORAL HEALTH SERVICES THROUGH THE UNITED STATES DEPARTMENT OF VETERANS AFFAIRS.**

**(C) (1) THE BEHAVIORAL HEALTH SERVICES PROVIDED UNDER SUBSECTION (B) OF THIS SECTION MAY INCLUDE:**

**(I) CRISIS SERVICES IN ALL GEOGRAPHIC REGIONS OF THE STATE; AND**

**(II) SHORT-TERM BEHAVIORAL HEALTH SERVICES, WHERE EXISTING FEDERAL AND STATE BEHAVIORAL HEALTH SERVICES ARE DETERMINED BY THE DEPARTMENT TO BE INADEQUATE OR INACCESSIBLE.**

**(2) THE SHORT-TERM BEHAVIORAL HEALTH SERVICES PROVIDED UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION:**

**(I) SHALL BE AVAILABLE ONLY UNTIL A VETERAN IS ABLE TO ACCESS AND OBTAIN ADEQUATE BEHAVIORAL HEALTH SERVICES THROUGH THE UNITED STATES DEPARTMENT OF VETERANS AFFAIRS; AND**

**(II) MAY INCLUDE:**

**1. SCREENING ASSESSMENTS;**

**2. INDIVIDUAL, FAMILY, AND GROUP THERAPY;**

3. SUBSTANCE ABUSE EARLY INTERVENTION AND DETOXIFICATION SERVICES; AND

4. SUBSTANCE ABUSE MEDICATION-ASSISTED TREATMENT.

(3) THE DEPARTMENT SHALL SEEK REIMBURSEMENT FROM THE UNITED STATES DEPARTMENT OF VETERANS AFFAIRS OR OTHER RESPONSIBLE PUBLIC OR PRIVATE PAYER FOR ANY BEHAVIORAL HEALTH SERVICES PROVIDED UNDER SUBSECTION (B) OF THIS SECTION.

(D) THE DEPARTMENT SHALL ACCOUNT SEPARATELY FOR FUNDS USED TO PROVIDE BEHAVIORAL HEALTH SERVICES TO VETERANS UNDER SUBSECTION (B) OF THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2011.

Approved by the Governor, April 12, 2011.

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## Chapter 83

(Senate Bill 691)

AN ACT concerning

### **Public Service Commission – Certificate of Public Convenience and Necessity – Renewable Source Generator Lead Line**

FOR the purpose of requiring a person to obtain a certificate of public convenience and necessity prior to beginning construction in the State of a qualified generator lead line; ~~prohibiting a person from beginning applying for a certificate of public convenience and necessity for the construction of a qualified generator lead line under certain circumstances;~~ requiring the Public Service Commission to provide an opportunity for public comment and hold a certain public hearing on a certain application; requiring the Commission to take a final action on a certain application only under certain circumstances; defining a certain term; making this Act an emergency measure; and generally relating to a certificate of public convenience and necessity for a renewable source generator lead line.

BY repealing and reenacting, with amendments,  
Article – Public Utilities  
Section 7–207(a), (b), (d), and (e)  
Annotated Code of Maryland



(2010 Replacement Volume)

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

**Article – Public Utilities**

7–207.

(a) (1) **(I)** In this section and § 7–208 of this subtitle, “construction” means:

**[(i)] 1.** any physical change at a site, including fabrication, erection, installation, or demolition; or

**[(ii)] 2.** the entry into a binding agreement or contractual obligation to purchase equipment exclusively for use in construction in the State or to undertake a program of actual construction in the State which cannot be canceled or modified without substantial loss to the owner or operator of the proposed generating station.

**[(2)] (II)** “Construction” does not include a change that is needed for the temporary use of a site or route for nonutility purposes or for use in securing geological data, including any boring that is necessary to ascertain foundation conditions.

**(2) IN THIS SECTION, “QUALIFIED GENERATOR LEAD LINE” MEANS AN OVERHEAD TRANSMISSION LINE THAT IS DESIGNED TO CARRY A VOLTAGE IN EXCESS OF 69,000 VOLTS AND WOULD ALLOW AN OUT-OF-STATE TIER 1 OR TIER 2 RENEWABLE SOURCE TO INTERCONNECT WITH A PORTION OF THE ELECTRIC SYSTEM IN MARYLAND THAT IS OWNED BY AN ELECTRIC COMPANY.**

(b) (1) (i) Unless a certificate of public convenience and necessity for the construction is first obtained from the Commission, a person may not begin construction in the State of:

**1. a generating station; OR**

**2. A QUALIFIED GENERATOR LEAD LINE.**

(ii) If a person obtains Commission approval for construction under § 7–207.1 of this subtitle, the Commission shall exempt a person from the requirement to obtain a certificate of public convenience and necessity under this section.

(III) NOTWITHSTANDING SUBPARAGRAPH (I) OF THIS PARAGRAPH, A PERSON MAY NOT ~~BEGIN~~ APPLY TO OBTAIN A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR CONSTRUCTION OF A QUALIFIED GENERATOR LEAD LINE UNLESS:

1. ~~WITHIN 10 DAYS AFTER~~ AT LEAST 90 DAYS BEFORE THE FILING OF AN APPLICATION FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY, THE PERSON HAD IN GOOD FAITH OFFERED THE ELECTRIC COMPANY THAT OWNS THAT PORTION OF THE ELECTRIC GRID IN MARYLAND TO WHICH THE QUALIFIED GENERATOR LEAD LINE WOULD INTERCONNECT A FULL AND FAIR OPPORTUNITY FOR THE ELECTRIC COMPANY TO CONSTRUCT THE QUALIFIED GENERATOR LEAD LINE; AND

2. ~~WITHIN 90 DAYS AFTER FILING~~ AT ANY TIME AT LEAST 10 DAYS BEFORE THE FILING OF AN APPLICATION FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY, THE ELECTRIC COMPANY:

A. DID NOT ACCEPT FROM THE PERSON A PROPOSAL OR A NEGOTIATED VERSION OF THE PROPOSAL UNDER WHICH THE ELECTRIC COMPANY WOULD CONSTRUCT THE QUALIFIED GENERATOR LEAD LINE; OR

B. STATED IN WRITING THAT THE ELECTRIC COMPANY ~~HAD NO OBJECTION TO THE PERSON CONSTRUCTING~~ DID NOT INTEND TO CONSTRUCT THE QUALIFIED GENERATOR LEAD LINE.

(2) Unless a certificate of public convenience and necessity for the construction is first obtained from the Commission, and the Commission has found that the capacity is necessary to ensure a sufficient supply of electricity to customers in the State, a person may not exercise a right of condemnation in connection with the construction of a generating station.

(3) Unless a certificate of public convenience and necessity for the construction is first obtained from the Commission, an electric company may not begin construction of an overhead transmission line that is designed to carry a voltage in excess of 69,000 volts or exercise a right of condemnation with the construction.

(d) (1) The Commission shall provide an opportunity for public comment and hold a public hearing on the application for a certificate of public convenience and necessity in each county and municipal corporation in which any portion of the construction of a generating station, [or of] an overhead transmission line designed to carry a voltage in excess of 69,000 volts, **OR A QUALIFIED GENERATOR LEAD LINE** is proposed to be located.

(2) The Commission shall hold the public hearing jointly with the governing body of the county or municipal corporation in which any portion of the

construction of the generating station, [or] overhead transmission line, **OR QUALIFIED GENERATOR LEAD LINE** is proposed to be located, unless the governing body declines to participate in the hearing.

(3) Once in each of the 4 successive weeks immediately before the hearing date, the Commission shall provide weekly notice of the public hearing and an opportunity for public comment by advertisement in a newspaper of general circulation in the county or municipal corporation affected by the application.

(4) (i) The Commission shall ensure presentation and recommendations from each interested State unit, and shall allow representatives of each State unit to sit during hearing of all parties.

(ii) The Commission shall allow each State unit 15 days after the conclusion of the hearing to modify the State unit's initial recommendations.

(e) The Commission shall take final action on an application for a certificate of public convenience and necessity only after due consideration of:

(1) the recommendation of the governing body of each county or municipal corporation in which any portion of the construction of the generating station, [or] overhead transmission line, **OR QUALIFIED GENERATOR LEAD LINE** is proposed to be located; and

(2) the effect of the generating station, [or] overhead transmission line, **OR QUALIFIED GENERATOR LEAD LINE** on:

- (i) the stability and reliability of the electric system;
- (ii) economics;
- (iii) esthetics;
- (iv) historic sites;
- (v) aviation safety as determined by the Maryland Aviation Administration and the administrator of the Federal Aviation Administration;
- (vi) when applicable, air and water pollution; and
- (vii) the availability of means for the required timely disposal of wastes produced by any generating station.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a ye and nay vote supported by three-fifths of all the members

elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

**Approved by the Governor, April 12, 2011.**

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## Chapter 84

### (House Bill 590)

AN ACT concerning

#### **Public Service Commission – Certificate of Public Convenience and Necessity – Renewable Source Generator Lead Line**

FOR the purpose of requiring a person to obtain a certificate of public convenience and necessity prior to beginning construction in the State of a qualified generator lead line; prohibiting a person from applying for a certificate of public convenience and necessity for the construction of a qualified generator lead line under certain circumstances; requiring the Public Service Commission to provide an opportunity for public comment and hold a certain public hearing on a certain application; requiring the Commission to take a final action on a certain application only under certain circumstances; defining a certain term; making this Act an emergency measure; and generally relating to a certificate of public convenience and necessity for a renewable source generator lead line.

BY repealing and reenacting, with amendments,

Article – Public Utilities  
Section 7–207(a), (b), (d), and (e)  
Annotated Code of Maryland  
(2010 Replacement Volume)

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

#### **Article – Public Utilities**

7–207.

(a) (1) **(I)** In this section and § 7–208 of this subtitle, “construction” means:

**[(i)] 1.** any physical change at a site, including fabrication, erection, installation, or demolition; or

[(ii)] 2. the entry into a binding agreement or contractual obligation to purchase equipment exclusively for use in construction in the State or to undertake a program of actual construction in the State which cannot be canceled or modified without substantial loss to the owner or operator of the proposed generating station.

[(2)] (II) "Construction" does not include a change that is needed for the temporary use of a site or route for nonutility purposes or for use in securing geological data, including any boring that is necessary to ascertain foundation conditions.

(2) IN THIS SECTION, "QUALIFIED GENERATOR LEAD LINE" MEANS AN OVERHEAD TRANSMISSION LINE THAT IS DESIGNED TO CARRY A VOLTAGE IN EXCESS OF 69,000 VOLTS AND WOULD ALLOW AN OUT-OF-STATE TIER 1 OR TIER 2 RENEWABLE SOURCE TO INTERCONNECT WITH A PORTION OF THE ELECTRIC SYSTEM IN MARYLAND THAT IS OWNED BY AN ELECTRIC COMPANY.

(b) (1) (i) Unless a certificate of public convenience and necessity for the construction is first obtained from the Commission, a person may not begin construction in the State of:

1. a generating station; OR
2. A QUALIFIED GENERATOR LEAD LINE.

(ii) If a person obtains Commission approval for construction under § 7-207.1 of this subtitle, the Commission shall exempt a person from the requirement to obtain a certificate of public convenience and necessity under this section.

(III) NOTWITHSTANDING SUBPARAGRAPH (I) OF THIS PARAGRAPH, A PERSON MAY NOT APPLY TO OBTAIN A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR CONSTRUCTION OF A QUALIFIED GENERATOR LEAD LINE UNLESS:

1. AT LEAST 90 DAYS BEFORE THE FILING OF AN APPLICATION FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY, THE PERSON HAD IN GOOD FAITH OFFERED THE ELECTRIC COMPANY THAT OWNS THAT PORTION OF THE ELECTRIC GRID IN MARYLAND TO WHICH THE QUALIFIED GENERATOR LEAD LINE WOULD INTERCONNECT A FULL AND FAIR OPPORTUNITY FOR THE ELECTRIC COMPANY TO CONSTRUCT THE QUALIFIED GENERATOR LEAD LINE; AND

**2. AT ANY TIME AT LEAST 10 DAYS BEFORE THE FILING OF AN APPLICATION FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY, THE ELECTRIC COMPANY:**

**A. DID NOT ACCEPT FROM THE PERSON A PROPOSAL OR A NEGOTIATED VERSION OF THE PROPOSAL UNDER WHICH THE ELECTRIC COMPANY WOULD CONSTRUCT THE QUALIFIED GENERATOR LEAD LINE; OR**

**B. STATED IN WRITING THAT THE ELECTRIC COMPANY DID NOT INTEND TO CONSTRUCT THE QUALIFIED GENERATOR LEAD LINE.**

(2) Unless a certificate of public convenience and necessity for the construction is first obtained from the Commission, and the Commission has found that the capacity is necessary to ensure a sufficient supply of electricity to customers in the State, a person may not exercise a right of condemnation in connection with the construction of a generating station.

(3) Unless a certificate of public convenience and necessity for the construction is first obtained from the Commission, an electric company may not begin construction of an overhead transmission line that is designed to carry a voltage in excess of 69,000 volts or exercise a right of condemnation with the construction.

(d) (1) The Commission shall provide an opportunity for public comment and hold a public hearing on the application for a certificate of public convenience and necessity in each county and municipal corporation in which any portion of the construction of a generating station, [or of] an overhead transmission line designed to carry a voltage in excess of 69,000 volts, **OR A QUALIFIED GENERATOR LEAD LINE** is proposed to be located.

(2) The Commission shall hold the public hearing jointly with the governing body of the county or municipal corporation in which any portion of the construction of the generating station, [or] overhead transmission line, **OR QUALIFIED GENERATOR LEAD LINE** is proposed to be located, unless the governing body declines to participate in the hearing.

(3) Once in each of the 4 successive weeks immediately before the hearing date, the Commission shall provide weekly notice of the public hearing and an opportunity for public comment by advertisement in a newspaper of general circulation in the county or municipal corporation affected by the application.

(4) (i) The Commission shall ensure presentation and recommendations from each interested State unit, and shall allow representatives of each State unit to sit during hearing of all parties.

(ii) The Commission shall allow each State unit 15 days after the conclusion of the hearing to modify the State unit's initial recommendations.

(e) The Commission shall take final action on an application for a certificate of public convenience and necessity only after due consideration of:

(1) the recommendation of the governing body of each county or municipal corporation in which any portion of the construction of the generating station, [or] overhead transmission line, **OR QUALIFIED GENERATOR LEAD LINE** is proposed to be located; and

(2) the effect of the generating station, [or] overhead transmission line, **OR QUALIFIED GENERATOR LEAD LINE** on:

- (i) the stability and reliability of the electric system;
- (ii) economics;
- (iii) esthetics;
- (iv) historic sites;
- (v) aviation safety as determined by the Maryland Aviation Administration and the administrator of the Federal Aviation Administration;
- (vi) when applicable, air and water pollution; and
- (vii) the availability of means for the required timely disposal of wastes produced by any generating station.

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 12, 2011.**

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## Chapter 85

**(Senate Bill 705)**

AN ACT concerning

**Health Insurance – Dental Provider Contracts – Prohibited Provision**

FOR the purpose of prohibiting a carrier from including in a dental provider contract a provision that requires a dental provider to provide certain services at a fee set by the carrier; defining a certain term; providing for the application of this Act; and generally relating to dental provider contracts and health insurance carriers.

BY repealing and reenacting, without amendments,  
Article – Insurance  
Section 15–112.2(a)  
Annotated Code of Maryland  
(2006 Replacement Volume and 2010 Supplement)

BY adding to  
Article – Insurance  
Section 15–112.2(g)  
Annotated Code of Maryland  
(2006 Replacement Volume and 2010 Supplement)

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

### **Article – Insurance**

15–112.2.

- (a) (1) In this section the following words have the meanings indicated.
- (2) “Capitated dental provider panel” means a provider panel for one or more dental plan organizations offering contracts only for dental services reimbursed on a capitated basis for certain services.
- (3) “Carrier” means:
- (i) an insurer;
  - (ii) a nonprofit health service plan;
  - (iii) a health maintenance organization; or
  - (iv) a dental plan organization.
- (4) “Enrollee” means a person entitled to health care benefits from a carrier.
- (5) “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.

(6) "HMO provider panel" means a provider panel for one or more health maintenance organizations.

(7) "Managed care organization" has the meaning stated in § 15-101 of the Health – General Article.

(8) "Non-HMO provider panel" means a provider panel for one or more nonprofit health service plans or insurers.

(9) "Provider" has the meaning stated in § 19-701 of the Health – General Article.

(10) "Provider contract" means a contract:

(i) between a provider and a carrier, an affiliate of a carrier, or an entity that contracts with a provider to serve a carrier; and

(ii) under which the provider agrees to provide health care services to enrollees.

(11) "Provider panel" means the providers that contract either directly or through a subcontracting entity with a carrier to provide health care services to enrollees.

**(G) (1) IN THIS SUBSECTION, "COVERED SERVICE SERVICES" MEANS ~~A HEALTH CARE SERVICE THAT IS~~ HEALTH CARE SERVICES THAT ARE REIMBURSABLE UNDER A POLICY OR CONTRACT FOR DENTAL SERVICES BETWEEN AN ENROLLEE AND A CARRIER, SUBJECT TO ANY CONTRACTUAL LIMITATIONS ON BENEFITS, INCLUDING DEDUCTIBLES, COPAYMENTS, OR FREQUENCY LIMITATIONS.**

**(2) A CARRIER MAY NOT INCLUDE IN A DENTAL PROVIDER CONTRACT A PROVISION THAT REQUIRES A DENTAL PROVIDER TO PROVIDE HEALTH CARE SERVICES THAT ARE NOT COVERED SERVICES AT A FEE SET BY THE CARRIER.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to all dental provider contracts issued, renewed, or amended in the State on or after October 1, 2011.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

Approved by the Governor, April 12, 2011.

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## Chapter 86

### (Senate Bill 720)

AN ACT concerning

#### Commercial Fishing Apprenticeship Permit – Eligibility

FOR the purpose of providing that certain practical commercial fishing experience obtained in certain jurisdictions by certain individuals applies toward the requirements for obtaining a commercial fishing license through the commercial fishing apprenticeship permit; requiring an apprenticeship permittee to obtain the required practical experience within a certain period of time before applying for a commercial fishing license or authorization; altering the process for documenting practical experience under the commercial fishing apprenticeship program; providing that a person may not obtain a seafood landing license through the commercial fishing apprenticeship programs; and generally relating to the commercial fishing apprenticeship program in the State.

BY repealing and reenacting, with amendments,  
Article – Natural Resources  
Section 4–701.1  
Annotated Code of Maryland  
(2005 Replacement Volume and 2010 Supplement)

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

#### Article – Natural Resources

4–701.1.

(a) This section applies to a person who does not qualify for a license required under Subtitle 2, Subtitle 7, Subtitle 8, Subtitle 9, or Subtitle 10 of this title, except for a seafood dealer license **OR A SEAFOOD LANDING LICENSE**, to be licensed to guide fishing parties or to catch, sell, buy, process, transport, export, or otherwise deal in fish caught in tidal waters.

(b) Except as provided under subsection (h) of this section, the Department may issue an apprenticeship permit to authorize a person to gain practical experience in the presence of a tidal fish licensee regarding commercial fishing activities.

(c) An apprenticeship permit is valid for up to 3 years from the date of issuance and may be renewed for 1 year if the applicant shows good cause.

(d) The fees for an apprenticeship permit shall be the same as the annual fees applied under § 4–701(d) of this subtitle for each commercial fishing activity for the term of the apprenticeship and the first license year.

(e) (1) The Department may accept an application for an apprenticeship permit from a person who is at least 14 years of age and does not qualify for a commercial tidal fish license or an authorization for a particular fishing activity.

(2) The Department may issue an apprenticeship permit if the number of tidal fish authorizations issued for that fishing activity is less than the target number established by regulation.

(3) The Department shall maintain a list in chronological order of persons who have applied for an apprenticeship permit but have not been issued an apprenticeship permit due to the target number already having been issued.

(4) The Department shall issue an apprenticeship permit to the first person on the list when a permit becomes available.

(5) The Department may not issue an apprenticeship permit for a particular fishing activity unless the number of the tidal fish authorizations issued for the particular activity is below the target number or a review by the General Assembly has been completed.

(f) The Department shall issue a tidal fish license or authorization in accordance with § 4–701(h) of this subtitle to persons who have completed the criteria established in subsection (g) or (h) of this section.

(g) (1) **(I)** The practical experience of a permittee shall consist of:

**[(i)] 1.** For each commercial fishing activity authorized under § 4–701(d)(2)(ii) of this subtitle, 150 days of experience in the fishing activity applied for;

**[(ii)] 2.** For multiple fishing activities under § 4–701(d)(2)(ii) of this subtitle and an unlimited tidal fish authorization, 180 days of experience in at least two commercial fishing activities; and

**[(iii)] 3.** For the purposes of subparagraph (ii) of this paragraph, at least 60 days of practical experience spent in separate commercial fishing activities.

**(II) A PERMITEE SHALL OBTAIN THE PRACTICAL EXPERIENCE REQUIRED UNDER THIS SUBSECTION WITHIN 10 YEARS BEFORE APPLYING FOR A LICENSE OR AN AUTHORIZATION UNDER SUBSECTION (F) OF THIS SECTION.**

(2) Except as provided in paragraph (6) of this subsection, the practical experience shall be documented by the permittee on the forms provided by the Department and submitted to the Department on a monthly basis when engaging in practical experience. The forms shall include:

(i) Number of days spent gaining practical experience under the presence of a tidal fish licensee;

(ii) Particular fishing activities;

(iii) The signature of a tidal fish licensee certifying that the recorded information regarding the practical experience in fishing activities is true and correct; and

(iv) Copies of appropriate income tax forms documenting the permittee's compensated employment in the presence of a tidal fish licensee.

(3) (i) An applicant for an apprenticeship permit may begin to complete the requirements of this subsection if the applicant posts the fee for the apprenticeship permit.

(ii) This paragraph may not be construed to alter the applicant's position on the waiting list established under subsection (e)(3) of this section.

(4) An applicant shall be issued an apprenticeship permit in accordance with subsection (e)(4) of this section.

(5) An applicant may be credited with the completed requirements that were accrued and documented in accordance with paragraph (2) or (6) of this subsection before being issued an apprenticeship permit.

(6) (i) This paragraph shall apply only to **AN INDIVIDUAL WHO:**

1. **[An individual who served] SERVED** as a crew member to a tidal fish licensee **[within the past 10 years] OR A PERSON THAT HOLDS A COMMERCIAL FISHING LICENSE ISSUED BY ANOTHER STATE OR THE FEDERAL GOVERNMENT;**

2. **[An individual who held] HELD** a Maryland Provisional Chesapeake Bay Charter Boat Permit in accordance with § 4-210.2 of this title;

3. [An individual who held] **HELD** a tidal fish license [within the past 10 years] and has not permanently transferred a tidal fish license within the past 24 months in accordance with § 4-701(i) of this subtitle;

4. [An individual who held] **HELD** a temporary transfer of a tidal fish license [within the past 10 years; and];

5. [An individual who harvested] **HARVESTED** fish from the waters of the Exclusive Economic Zone and landed the fish in the State;

**6. HOLDS A COMMERCIAL FISHING LICENSE ISSUED BY ANOTHER STATE OR THE FEDERAL GOVERNMENT; AND**

**7. HELD A COMMERCIAL FISHING LICENSE ISSUED BY ANOTHER STATE OR THE FEDERAL GOVERNMENT.**

(ii) Practical experience shall [include] **BE DOCUMENTED BY:**

1. [The] **STATING THE** number of days spent engaged in a particular fishing activity [and documented] **UP TO THE MINIMUM NUMBER OF DAYS REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION** on forms **AND IN A MANNER** provided by the Department; and

2. Any fishing activity reports required by the State, **BY ANOTHER STATE**, or **BY THE** federal government.

(iii) For an individual who served as a crew member to a tidal fish licensee **OR PERSON THAT HOLDS A COMMERCIAL FISHING LICENSE ISSUED BY ANOTHER STATE OR THE FEDERAL GOVERNMENT**, practical fishing experience shall [include] **BE DOCUMENTED BY:**

1. [The] **STATING THE** number of days spent serving as a crew member engaged in a particular fishing activity [and] **UP TO THE MINIMUM NUMBER OF DAYS REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION**, certified in writing by the tidal fish licensee or **PERSON THAT HOLDS A COMMERCIAL FISHING LICENSE ISSUED BY ANOTHER STATE OR THE FEDERAL GOVERNMENT** on forms provided by the Department; and

2. Any fishing activity reports of the tidal fish licensee required by the State, **ANOTHER STATE**, or **BY THE** federal government.

(7) In addition to practical experience, before a license may be issued to a permittee, the permittee shall complete an 8-hour program approved by the Department concerning commercial fishing activities.

(h) (1) The Department shall adopt regulations to establish criteria for the practical experience for an individual who holds a valid tidal fish license and who has applied for an additional authorization other than a fishing guide authorization or an unlimited tidal fish authorization.

(2) The criteria established in accordance with paragraph (1) of this subsection shall include documentation at the time of application for an authorization, for the previous 2 years, that at least 20% of the individual's gross income was from the individual's commercial fishing activities.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2011.

**Approved by the Governor, April 12, 2011.**

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## Chapter 87

### (Senate Bill 768)

AN ACT concerning

#### **Child Abuse – Out of Court Statements of Child Victims**

FOR the purpose of altering the age for the admission into evidence of a certain out of court statement made by a child victim; adding certain counselors and ~~caseworkers~~ therapists to the list of certain professionals to whom a child victim's out of court statement was made and who may testify concerning the statement; ~~repealing provisions that allow certain out of court statements to be admissible if the child victim does not testify;~~ requiring the child victim to testify as a prerequisite to the admissibility of the child victim's out of court statement in a criminal proceeding or certain juvenile court proceeding; clarifying the circumstances under which an out of court statement of a child victim may be admitted into evidence in a child in need of assistance proceeding in the juvenile court; requiring notice to certain individuals of the audio or visual recording of a certain out of court statement by a child victim; limiting the circumstances under which notice of the content of a certain out of court statement by a child victim is required to be provided ~~and under which a certain deposition is authorized;~~ eliminating the requirement that the court examine the child victim in chambers under certain circumstances; and generally relating to out of court statements of child victims.

BY repealing and reenacting, with amendments,  
Article – Criminal Procedure  
Section 11-304

Annotated Code of Maryland  
(2008 Replacement Volume and 2010 Supplement)

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

**Article – Criminal Procedure**

11–304.

(a) In this section, “statement” means:

- (1) an oral or written assertion; or
- (2) nonverbal conduct intended as an assertion, including sounds, gestures, demonstrations, drawings, and similar actions.

(b) Subject to subsections (c), (d), and (e) of this section, the court may admit into evidence in a juvenile court proceeding or in a criminal proceeding an out of court statement to prove the truth of the matter asserted in the statement made by a child victim who:

- (1) is under the age of [12] **13** years; and
- (2) is the alleged victim or the child alleged to need assistance in the case before the court concerning:
  - (i) child abuse under § 3–601 or § 3–602 of the Criminal Law Article;
  - (ii) rape or sexual offense under §§ 3–303 through 3–307 of the Criminal Law Article;
  - (iii) attempted rape or attempted sexual offense in the first degree or in the second degree under §§ 3–309 through 3–312 of the Criminal Law Article; or
  - (iv) in a juvenile court proceeding, abuse or neglect as defined in § 5–701 of the Family Law Article.

(c) An out of court statement may be admissible under this section only if the statement was made to and is offered by a person acting lawfully in the course of the person’s profession when the statement was made who is:

- (1) a physician;
- (2) a psychologist;

(3) a nurse;

(4) a social worker; [or]

(5) a principal, vice principal, teacher, or school counselor at a public or private preschool, elementary school, or secondary school;

**(6) A COUNSELOR LICENSED OR CERTIFIED IN ACCORDANCE WITH TITLE 17 OF THE HEALTH – OCCUPATIONS ARTICLE; OR**

**(7) A ~~CASEWORKER~~ THERAPIST LICENSED OR CERTIFIED IN ACCORDANCE WITH TITLE 17 OF THE HEALTH – OCCUPATIONS ARTICLE.**

(d) (1) Under this section, an out of court statement by a child victim may come into evidence IN A CRIMINAL PROCEEDING OR IN A JUVENILE COURT PROCEEDING OTHER THAN A CHILD IN NEED OF ASSISTANCE PROCEEDING UNDER TITLE 3, SUBTITLE 8 OF THE COURTS ARTICLE to prove the truth of the matter asserted in the statement:

(i) if the statement is not admissible under any other hearsay exception; and

(ii) [regardless of whether] **IF** the child victim testifies.

**‡(2) (I) IN A CHILD IN NEED OF ASSISTANCE PROCEEDING IN THE JUVENILE COURT UNDER TITLE 3, SUBTITLE 8 OF THE COURTS ARTICLE, AN OUT OF COURT STATEMENT BY A CHILD VICTIM MAY COME INTO EVIDENCE TO PROVE THE TRUTH OF THE MATTER ASSERTED IN THE STATEMENT:**

**1. IF THE STATEMENT IS NOT ADMISSIBLE UNDER ANY OTHER HEARSAY EXCEPTION; AND**

**2. REGARDLESS OF WHETHER THE CHILD VICTIM TESTIFIES.**

**(II)** If the child victim does not testify, the child victim's out of court statement will be admissible only if there is corroborative evidence that‡

~~(i) the defendant had the opportunity to commit the alleged crime; or~~

~~(ii) the child respondent or the alleged offender had the opportunity to commit the alleged abuse or neglect.‡~~



~~[(3)] (2)~~ To provide the defendant, child respondent, or alleged offender with an opportunity to prepare a response to the statement, the prosecuting attorney shall serve on the defendant, child respondent, or alleged offender and the attorney for the defendant, child respondent, or alleged offender within a reasonable time before the juvenile court proceeding and at least 20 days before the criminal proceeding in which the statement is to be offered into evidence, notice of:

- (i) the State's intention to introduce the statement; [and]
- (ii) **ANY AUDIO OR VISUAL RECORDING OF THE STATEMENT;**

**AND**

**(III) IF AN AUDIO OR VISUAL RECORDING OF THE STATEMENT IS NOT AVAILABLE,** the content of the statement.

~~[(4)] (3)~~ (i) ~~[(The) IF AN AUDIO OR VISUAL RECORDING OF THE STATEMENT IS NOT AVAILABLE, THE~~ defendant, child respondent, or alleged offender may depose a witness who will testify under this section.

(ii) Unless the State and the defendant, child respondent, or alleged offender agree or the court orders otherwise, the defendant, child respondent, or alleged offender shall file a notice of deposition:

1. in a criminal proceeding, at least 5 days before the date of the deposition; or
2. in a juvenile court proceeding, within a reasonable time before the date of the deposition.

(iii) Except where inconsistent with this paragraph, Maryland Rule 4-261 applies to a deposition taken under this paragraph.

(e) (1) A child victim's out of court statement is admissible under this section only if the statement has particularized guarantees of trustworthiness.

(2) To determine whether the statement has particularized guarantees of trustworthiness under this section, the court shall consider, but is not limited to, the following factors:

- (i) the child victim's personal knowledge of the event;
- (ii) the certainty that the statement was made;
- (iii) any apparent motive to fabricate or exhibit partiality by the child victim, including interest, bias, corruption, or coercion;

(iv) whether the statement was spontaneous or directly responsive to questions;

(v) the timing of the statement;

(vi) whether the child victim's young age makes it unlikely that the child victim fabricated the statement that represents a graphic, detailed account beyond the child victim's expected knowledge and experience;

(vii) the appropriateness of the terminology of the statement to the child victim's age;

(viii) the nature and duration of the abuse or neglect;

(ix) the inner consistency and coherence of the statement;

(x) whether the child victim was suffering pain or distress when making the statement;

(xi) whether extrinsic evidence exists to show the defendant or child respondent had an opportunity to commit the act complained of in the child victim's statement;

(xii) whether the statement was suggested by the use of leading questions; and

(xiii) the credibility of the person testifying about the statement.

(f) In a hearing outside of the presence of the jury or before the juvenile court proceeding, the court shall:

(1) make a finding on the record as to the specific guarantees of trustworthiness that are in the statement; and

(2) determine the admissibility of the statement.

(g) (1) In making a determination under subsection (f) of this section, the court shall examine the child victim in a proceeding in the judge's chambers, the courtroom, or another suitable location that the public may not attend unless:

(I) the child victim:

[(i)] 1. is deceased; or

[(ii)] 2. is absent from the jurisdiction for good cause shown or the State has been unable to procure the child victim's presence by subpoena or other reasonable means; OR

**(II) THE COURT DETERMINES THAT AN AUDIO OR VISUAL RECORDING OF THE CHILD VICTIM'S STATEMENT MAKES AN EXAMINATION OF THE CHILD VICTIM UNNECESSARY.**

(2) Except as provided in paragraph (3) of this subsection, any defendant or child respondent, attorney for a defendant or child respondent, and the prosecuting attorney may be present when the court hears testimony on whether to admit into evidence the out of court statement of a child victim under this section.

(3) When the court examines the child victim as paragraph (1) of this subsection requires:

(i) one attorney for each defendant or child respondent, one attorney for the child victim, and one prosecuting attorney may be present at the examination; and

(ii) the court may not allow a defendant or child respondent to be present at the examination.

(h) (1) This section does not limit the admissibility of a statement under any other applicable hearsay exception or rule of evidence.

(2) This section does not prohibit the court in a juvenile court proceeding from hearing testimony in the judge's chambers.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

**Approved by the Governor, April 12, 2011.**

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## **Chapter 88**

### **(House Bill 859)**

AN ACT concerning

#### **Child Abuse – Out of Court Statements of Child Victims**

FOR the purpose of altering the age for the admission into evidence of a certain out of court statement made by a child victim; adding certain counselors and

~~caseworkers~~ therapists to the list of certain professionals to whom a child victim's out of court statement was made and who may testify concerning the statement; ~~repealing provisions that allow certain out of court statements to be admissible if the child victim does not testify~~; requiring the child victim to testify as a prerequisite to the admissibility of the child victim's out of court statement in a criminal proceeding or certain juvenile court proceeding; clarifying the circumstances under which an out of court statement of a child victim may be admitted into evidence in a child in need of assistance proceeding in the juvenile court; requiring notice to certain individuals of the audio or visual recording of a certain out of court statement by a child victim; limiting the circumstances under which notice of the content of a certain out of court statement by a child victim is required to be provided ~~and under which a certain deposition is authorized~~; eliminating the requirement that the court examine the child victim in chambers under certain circumstances; and generally relating to out of court statements of child victims.

BY repealing and reenacting, with amendments,  
Article – Criminal Procedure  
Section 11–304  
Annotated Code of Maryland  
(2008 Replacement Volume and 2010 Supplement)

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

### Article – Criminal Procedure

11–304.

(a) In this section, “statement” means:

- (1) an oral or written assertion; or
- (2) nonverbal conduct intended as an assertion, including sounds, gestures, demonstrations, drawings, and similar actions.

(b) Subject to subsections (c), (d), and (e) of this section, the court may admit into evidence in a juvenile court proceeding or in a criminal proceeding an out of court statement to prove the truth of the matter asserted in the statement made by a child victim who:

- (1) is under the age of [12] **13** years; and
- (2) is the alleged victim or the child alleged to need assistance in the case before the court concerning:

(i) child abuse under § 3–601 or § 3–602 of the Criminal Law Article;

(ii) rape or sexual offense under §§ 3–303 through 3–307 of the Criminal Law Article;

(iii) attempted rape or attempted sexual offense in the first degree or in the second degree under §§ 3–309 through 3–312 of the Criminal Law Article; or

(iv) in a juvenile court proceeding, abuse or neglect as defined in § 5–701 of the Family Law Article.

(c) An out of court statement may be admissible under this section only if the statement was made to and is offered by a person acting lawfully in the course of the person's profession when the statement was made who is:

(1) a physician;

(2) a psychologist;

(3) a nurse;

(4) a social worker; [or]

(5) a principal, vice principal, teacher, or school counselor at a public or private preschool, elementary school, or secondary school;

**(6) A COUNSELOR LICENSED OR CERTIFIED IN ACCORDANCE WITH TITLE 17 OF THE HEALTH OCCUPATIONS ARTICLE; OR**

**(7) A ~~CASEWORKER~~ THERAPIST LICENSED OR CERTIFIED IN ACCORDANCE WITH TITLE 17 OF THE HEALTH OCCUPATIONS ARTICLE.**

(d) (1) Under this section, an out of court statement by a child victim may come into evidence **IN A CRIMINAL PROCEEDING OR IN A JUVENILE COURT PROCEEDING OTHER THAN A CHILD IN NEED OF ASSISTANCE PROCEEDING UNDER TITLE 3, SUBTITLE 8 OF THE COURTS ARTICLE** to prove the truth of the matter asserted in the statement:

(i) if the statement is not admissible under any other hearsay exception; and

(ii) [regardless of whether] **IF** the child victim testifies.

~~¶(2)~~ **(I) IN A CHILD IN NEED OF ASSISTANCE PROCEEDING IN THE JUVENILE COURT UNDER TITLE 3, SUBTITLE 8 OF THE COURTS ARTICLE, AN OUT OF COURT STATEMENT BY A CHILD VICTIM MAY COME INTO EVIDENCE TO PROVE THE TRUTH OF THE MATTER ASSERTED IN THE STATEMENT:**

**1. IF THE STATEMENT IS NOT ADMISSIBLE UNDER ANY OTHER HEARSAY EXCEPTION; AND**

**2. REGARDLESS OF WHETHER THE CHILD VICTIM TESTIFIES.**

**(II)** If the child victim does not testify, the child victim's out of court statement will be admissible only if there is corroborative evidence that:

~~(i) the defendant had the opportunity to commit the alleged crime; or~~

~~(ii) the child respondent or the alleged offender had the opportunity to commit the alleged abuse or neglect.¶~~

~~¶(3) (2)~~ To provide the defendant, child respondent, or alleged offender with an opportunity to prepare a response to the statement, the prosecuting attorney shall serve on the defendant, child respondent, or alleged offender and the attorney for the defendant, child respondent, or alleged offender within a reasonable time before the juvenile court proceeding and at least 20 days before the criminal proceeding in which the statement is to be offered into evidence, notice of:

(i) the State's intention to introduce the statement; [and]

(ii) **ANY AUDIO OR VISUAL RECORDING OF THE STATEMENT;**

**AND**

**(III) IF AN AUDIO OR VISUAL RECORDING OF THE STATEMENT IS NOT AVAILABLE, the content of the statement.**

~~¶(4) (3)~~ (i) ~~¶The~~ ~~IF AN AUDIO OR VISUAL RECORDING OF THE STATEMENT IS NOT AVAILABLE, THE~~ defendant, child respondent, or alleged offender may depose a witness who will testify under this section.

(ii) Unless the State and the defendant, child respondent, or alleged offender agree or the court orders otherwise, the defendant, child respondent, or alleged offender shall file a notice of deposition:

1. in a criminal proceeding, at least 5 days before the date of the deposition; or

2. in a juvenile court proceeding, within a reasonable time before the date of the deposition.

(iii) Except where inconsistent with this paragraph, Maryland Rule 4–261 applies to a deposition taken under this paragraph.

(e) (1) A child victim's out of court statement is admissible under this section only if the statement has particularized guarantees of trustworthiness.

(2) To determine whether the statement has particularized guarantees of trustworthiness under this section, the court shall consider, but is not limited to, the following factors:

- (i) the child victim's personal knowledge of the event;
- (ii) the certainty that the statement was made;
- (iii) any apparent motive to fabricate or exhibit partiality by the child victim, including interest, bias, corruption, or coercion;
- (iv) whether the statement was spontaneous or directly responsive to questions;
- (v) the timing of the statement;
- (vi) whether the child victim's young age makes it unlikely that the child victim fabricated the statement that represents a graphic, detailed account beyond the child victim's expected knowledge and experience;
- (vii) the appropriateness of the terminology of the statement to the child victim's age;
- (viii) the nature and duration of the abuse or neglect;
- (ix) the inner consistency and coherence of the statement;
- (x) whether the child victim was suffering pain or distress when making the statement;
- (xi) whether extrinsic evidence exists to show the defendant or child respondent had an opportunity to commit the act complained of in the child victim's statement;
- (xii) whether the statement was suggested by the use of leading questions; and

(xiii) the credibility of the person testifying about the statement.

(f) In a hearing outside of the presence of the jury or before the juvenile court proceeding, the court shall:

(1) make a finding on the record as to the specific guarantees of trustworthiness that are in the statement; and

(2) determine the admissibility of the statement.

(g) (1) In making a determination under subsection (f) of this section, the court shall examine the child victim in a proceeding in the judge's chambers, the courtroom, or another suitable location that the public may not attend unless:

(I) the child victim:

[(i)] 1. is deceased; or

[(ii)] 2. is absent from the jurisdiction for good cause shown or the State has been unable to procure the child victim's presence by subpoena or other reasonable means; **OR**

**(II) THE COURT DETERMINES THAT AN AUDIO OR VISUAL RECORDING OF THE CHILD VICTIM'S STATEMENT MAKES AN EXAMINATION OF THE CHILD VICTIM UNNECESSARY.**

(2) Except as provided in paragraph (3) of this subsection, any defendant or child respondent, attorney for a defendant or child respondent, and the prosecuting attorney may be present when the court hears testimony on whether to admit into evidence the out of court statement of a child victim under this section.

(3) When the court examines the child victim as paragraph (1) of this subsection requires:

(i) one attorney for each defendant or child respondent, one attorney for the child victim, and one prosecuting attorney may be present at the examination; and

(ii) the court may not allow a defendant or child respondent to be present at the examination.

(h) (1) This section does not limit the admissibility of a statement under any other applicable hearsay exception or rule of evidence.

(2) This section does not prohibit the court in a juvenile court proceeding from hearing testimony in the judge's chambers.



SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

**Approved by the Governor, April 12, 2011.**

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## Chapter 89

(Senate Bill 885)

AN ACT concerning

**Motor Vehicle Insurers – Standards for Cancellation or Refusal of Insurance  
– Driving While Impaired by Alcohol**

FOR the purpose of establishing that, subject to a certain provision of law, a conviction for driving while impaired by alcohol is included among the standards reasonably related to an insurer's economic and business purposes that may be applied by the insurer for purposes of canceling or refusing to underwrite or renew a particular insurance risk or class of risk in the case of private passenger motor vehicle insurance; and generally relating to standards for the cancellation or refusal of motor vehicle insurance and the offense of driving while impaired by alcohol.

BY repealing and reenacting, without amendments,

Article – Insurance

Section 27–501(a)(2)

Annotated Code of Maryland

(2006 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,

Article – Insurance

Section 27–501(l)(1)(vi)

Annotated Code of Maryland

(2006 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, without amendments,

Article – Transportation

Section 21–902

Annotated Code of Maryland

(2009 Replacement Volume and 2010 Supplement)

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

**Article – Insurance**

27–501.

(a) (2) Except as provided in this section, an insurer or insurance producer may not cancel or refuse to underwrite or renew a particular insurance risk or class of risk except by the application of standards that are reasonably related to the insurer's economic and business purposes.

(l) (1) In the case of private passenger motor vehicle insurance, standards reasonably related to the insurer's economic and business purposes under subsection (a)(2) of this section include, but are not limited to, the following and do not require statistical validation:

(vi) subject to § 27–609 of this title, conviction of the named insured or a covered driver under the policy of any of the following:

1. a violation of § 21–902(a), **(B)**, (c), or (d) of the Transportation Article;
2. homicide, assault, reckless endangerment, or criminal negligence arising out of the operation of the motor vehicle; or
3. using the motor vehicle to participate in a felony;

**Article – Transportation**

21–902.

(a) (1) A person may not drive or attempt to drive any vehicle while under the influence of alcohol.

(2) A person may not drive or attempt to drive any vehicle while the person is under the influence of alcohol per se.

(3) A person may not violate paragraph (1) or (2) of this subsection while transporting a minor.

(b) (1) A person may not drive or attempt to drive any vehicle while impaired by alcohol.

(2) A person may not violate paragraph (1) of this subsection while transporting a minor.

(c) (1) A person may not drive or attempt to drive any vehicle while he is so far impaired by any drug, any combination of drugs, or a combination of one or more drugs and alcohol that he cannot drive a vehicle safely.

(2) It is not a defense to any charge of violating this subsection that the person charged is or was entitled under the laws of this State to use the drug, combination of drugs, or combination of one or more drugs and alcohol, unless the person was unaware that the drug or combination would make the person incapable of safely driving a vehicle.

(3) A person may not violate paragraph (1) of this subsection while transporting a minor.

(d) (1) A person may not drive or attempt to drive any vehicle while the person is impaired by any controlled dangerous substance, as that term is defined in § 5–101 of the Criminal Law Article, if the person is not entitled to use the controlled dangerous substance under the laws of this State.

(2) A person may not violate paragraph (1) of this subsection while transporting a minor.

(e) For purposes of the application of subsequent offender penalties under § 27–101 of this article, a conviction for a crime committed in another state or federal jurisdiction that, if committed in this State, would constitute a violation of subsection (a), (b), (c), or (d) of this section shall be considered a violation of subsection (a), (b), (c), or (d) of this section.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

**Approved by the Governor, April 12, 2011.**

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## Chapter 90

(Senate Bill 901)

AN ACT concerning

### Maryland–National Capital Park and Planning Commission – Prince George’s County – Site Plan Approval Authority

FOR the purpose of ~~prohibiting~~ authorizing the County Council for Prince George’s County, sitting as the district council, ~~from reviewing~~ to review decisions by the Prince George’s County Planning Board to approve or disapprove certain site plans ~~except under certain circumstances~~; authorizing a party of record to appeal certain decisions by the Planning Board to the district council; requiring the district council to decide whether to conduct a certain review within a certain number of days; requiring the district council to conduct a certain

review hearing within a certain number of days unless that period of time is extended in certain circumstances; requiring the district council to issue a certain decision within a certain number of days; prohibiting the district council from revoking certain delegations of approval authority made to the Planning Board by a certain date; authorizing the district council to revoke certain delegations of approval authority for the purpose of delegating that authority to the governing bodies of certain municipal corporations; and generally relating to site plan approval in Prince George's County.

BY adding to

Article 28 – Maryland–National Capital Park and Planning Commission  
Section 8–129  
Annotated Code of Maryland  
(2010 Replacement Volume)

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

**Article 28 – Maryland–National Capital Park and Planning Commission**

**8–129.**

(A) (1) (I) ~~EXCEPT AS PROVIDED IN PARAGRAPH (2)~~ SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE COUNTY COUNCIL FOR PRINCE GEORGE'S COUNTY, SITTING AS A DISTRICT COUNCIL, MAY NOT REVIEW A FINAL DECISION OF THE PRINCE GEORGE'S COUNTY PLANNING BOARD TO APPROVE OR DISAPPROVE A DETAILED SITE PLAN.

~~(2)~~ (II) A PARTY OF RECORD MAY APPEAL TO THE DISTRICT COUNCIL A FINAL DECISION BY THE PLANNING BOARD TO APPROVE OR DISAPPROVE A SITE PLAN.

(2) (I) THE DISTRICT COUNCIL SHALL DECIDE WHETHER TO REVIEW THE FINAL APPROVAL OR DISAPPROVAL OF A DETAILED SITE PLAN UNDER PARAGRAPH (1) OF THIS SUBSECTION WITHIN 30 DAYS FROM THE DATE THE FINAL APPROVAL OR DISAPPROVAL WAS ISSUED.

(II) 1. EXCEPT AS PROVIDED IN SUBSUBPARAGRAPH 2 OF THIS SUBPARAGRAPH, IF THE DISTRICT COUNCIL DECIDES TO REVIEW AN APPROVAL OR A DISAPPROVAL UNDER THIS PARAGRAPH, THE DISTRICT COUNCIL SHALL HOLD A REVIEW HEARING WITHIN 70 DAYS FROM THE DATE THE DISTRICT COUNCIL ISSUES THE DECISION TO CONDUCT A REVIEW.

2. THE TIME FOR HOLDING A REVIEW HEARING UNDER SUBSUBPARAGRAPH 1 OF THIS SUBPARAGRAPH MAY BE EXTENDED FOR

UP TO 45 ADDITIONAL DAYS AT THE DECISION OF THE DISTRICT COUNCIL OR ON REQUEST OF THE APPLICANT.

(III) THE DISTRICT COUNCIL SHALL ISSUE A FINAL DECISION WITHIN 60 DAYS AFTER THE DATE OF THE REVIEW HEARING.

~~(B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE COUNTY COUNCIL FOR PRINCE GEORGE'S COUNTY, SITTING AS A DISTRICT COUNCIL, MAY NOT REVOKE A DELEGATION OF AUTHORITY OVER SITE PLAN APPROVAL MADE TO THE PRINCE GEORGE'S COUNTY PLANNING BOARD ON OR BEFORE JANUARY 1, 2011.~~

~~(2) THE DISTRICT COUNCIL MAY REVOKE A DELEGATION OF SITE PLAN APPROVAL AUTHORITY TO THE PLANNING BOARD ONLY FOR THE PURPOSE OF DELEGATING APPROVAL AUTHORITY OVER DETAILED SITE PLANS TO THE GOVERNING BODY OF A MUNICIPAL CORPORATION IN THE MARYLAND-WASHINGTON REGIONAL DISTRICT UNDER § 8-112.4(B)(1)(IX) OF THIS TITLE.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2011.

Approved by the Governor, April 12, 2011.

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## Chapter 91

(Senate Bill 902)

AN ACT concerning

**Prince George's County – Public Ethics Requirements – Limitations on Contributions to Slates Containing the County Executive or a Member of the County Council and on Participation of County Council Members in Land Use Applications**

FOR the purpose of prohibiting payments to be made, under certain circumstances, to slates that include a member of the County Council for Prince George's County or the Prince George's County Executive during the pendency of certain applications; expanding a prohibition on a member of the County Council voting or participating in certain applications if the member received certain payments during a certain period by including payments to certain slates; repealing a provision that allows a member to participate in certain applications if a certain affidavit is not filed; providing for the prospective application of this Act; and

generally relating to the expansion of public ethics requirements in Prince George's County.

BY repealing and reenacting, without amendments,  
Article – State Government  
Section 15–829(a), (d), (f), (l), and (p)  
Annotated Code of Maryland  
(2009 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,  
Article – State Government  
Section 15–829(m) and 15–831  
Annotated Code of Maryland  
(2009 Replacement Volume and 2010 Supplement)

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

### **Article – State Government**

15–829.

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

(d) “Application” means:

(1) an application for a zoning map amendment, special exception, departure from design standards, revision to a special exception site plan, expansion of a legal nonconforming use, revision to a legal nonconforming use site plan, or a request for a variance from the zoning ordinance;

(2) an application to approve a comprehensive design plan, a conceptual site plan, or a specific design plan; or

(3) participation in adopting and approving an area master plan or sectional map amendment by appearance at a public hearing, filing a statement in the official record, or other similar communication to a member of the County Council or the Planning Board, where the intent is to intensify the zoning category applicable to the land of the applicant.

(f) “Candidate” means a candidate for election to the County Council who becomes a member.

(l) “Member of the County Council” includes any candidate or person duly elected or appointed who takes the oath of office as a member of the County Council for Prince George's County and who thereby serves on the District Council.

(m) "Payment" means any payment or contribution of money or property or the incurring of any liability or promise of anything of value to a treasurer of a candidate [or of], a **CANDIDATE'S** continuing political committee, **OR A SLATE TO WHICH THE CANDIDATE BELONGS.**

(p) "Slate" means a group, combination, or organization of candidates created under the provisions of the Election Law Article.

15-831.

(a) An applicant or agent of the applicant may not make a payment to a member of the County Council, [or to] the County Executive, **OR A SLATE THAT INCLUDES THE COUNTY EXECUTIVE OR A MEMBER OF THE COUNTY COUNCIL,** during the pendency of the application.

(b) (1) After an application has been filed, a member of the County Council may not vote or participate in any way in the proceeding on the application if the member's treasurer or [the member's] continuing political committee, **OR A SLATE TO WHICH THE MEMBER BELONGS OR BELONGED DURING THE 36-MONTH PERIOD PRECEDING THE FILING OF THE APPLICATION,** received a payment[,] during the 36-month period before the filing of the application or during the pendency of the application[,] from any of the applicants or the agents of the applicants.

(2) A member is not subject to the requirements of paragraph (1) of this subsection if:

(i) [as to the application, no applicant or agent has filed an affidavit naming the member or the member's continuing political committee as the recipient of a payment; or

(ii) 1.] a transfer to the member's treasurer [or], A continuing political committee, **OR A SLATE TO WHICH THE MEMBER BELONGS OR BELONGED DURING THE 36-MONTH PERIOD PRECEDING THE FILING OF THE APPLICATION** was made by a political action committee to which an applicant or agent had made a payment;

[2.] **(II)** the applicant or agent made the payment to the political action committee without any intent to subvert the purposes of this subtitle;

[3.] **(III)** the applicant's or agent's payment to the political action committee, and the political action committee's transfer, are disclosed in an affidavit; and

[4.] (IV) the transfer is returned to the political action committee by the member, or the payment is returned to the applicant or agent by the political action committee.

(c) (1) After an application is filed, the applicant shall file an affidavit, under oath, stating to the best of the applicant's information, knowledge, and belief that:

(i) 1. during the 36-month period before the filing of the application and during the pendency of the application, the applicant has not made any payment to [the treasurer of a candidate or] **A MEMBER'S OR CANDIDATE'S TREASURER, A MEMBER'S OR CANDIDATE'S continuing political committee, OR A SLATE TO WHICH THE MEMBER OR CANDIDATE BELONGS OR BELONGED DURING THE 36-MONTH PERIOD PRECEDING THE FILING OF THE APPLICATION;** or

2. if any such payment was made, discloses the name of the member to whose treasurer[,] or [whose] continuing political committee, **OR SLATE TO WHICH THE MEMBER BELONGS OR BELONGED DURING THE 36-MONTH PERIOD PRECEDING THE FILING OF THE APPLICATION,** the payment was made;

(ii) 1. during the 36-month period before the filing of the application and during the pendency of the application, the applicant has not solicited any person or business entity to make a payment to [the treasurer of a candidate or] **A MEMBER'S OR CANDIDATE'S TREASURER, A MEMBER'S OR CANDIDATE'S continuing political committee, OR A SLATE TO WHICH THE MEMBER OR CANDIDATE BELONGS OR BELONGED DURING THE 36-MONTH PERIOD PRECEDING THE FILING OF THE APPLICATION;** or

2. if any such solicited payment was made, discloses the name of the member to whose treasurer[,] or [whose] continuing political committee, **OR SLATE TO WHICH THE MEMBER BELONGS OR BELONGED DURING THE 36-MONTH PERIOD PRECEDING THE FILING OF THE APPLICATION,** the payment was made; and

(iii) 1. during the 36-month period before the filing of the application and during the pendency of the application, a member of the applicant's household has not made a payment to [the treasurer of a candidate or] **A MEMBER'S OR CANDIDATE'S TREASURER, A MEMBER'S OR CANDIDATE'S continuing political committee, OR A SLATE TO WHICH THE MEMBER OR CANDIDATE BELONGS OR BELONGED DURING THE 36-MONTH PERIOD PRECEDING THE FILING OF THE APPLICATION;** or

2. if such a payment has been made, discloses the name of the member to whose treasurer[,] or [whose] continuing political committee, **OR**



**SLATE TO WHICH THE MEMBER BELONGS OR BELONGED DURING THE 36-MONTH PERIOD PRECEDING THE FILING OF THE APPLICATION**, the payment was made.

(2) The affidavit may be filed any time prior to consideration of the application by the District Council, at the discretion of the applicant. However, in no event may the affidavit be filed less than 30 calendar days prior to consideration by the District Council of the application.

(3) A supplemental affidavit shall be filed whenever a payment is made after the original affidavit was filed.

(4) An applicant has no obligation to make any representations pertaining to the actions of anyone other than that applicant under the affidavit. In the case of business entities, anyone with authority to act on behalf of, and bind, the business entity may execute an affidavit on behalf of the business entity itself.

(5) The only disclosures required under the affidavit are those involving individuals or business entities that would be subject to the provisions of this subtitle.

(d) (1) An agent shall file an affidavit in an application only if:

(i) the agent has acted on behalf of the applicant with regard to the specific application; and

(ii) during the 36-month period before the filing of the application and during the pendency of the application, and after becoming an agent of the applicant:

1. the agent has made a payment to a **MEMBER OR candidate [or], A MEMBER'S OR CANDIDATE'S** continuing political committee, **OR A SLATE TO WHICH THE MEMBER OR CANDIDATE BELONGS OR BELONGED DURING THE 36-MONTH PERIOD PRECEDING THE FILING OF THE APPLICATION**; or

2. the agent has solicited any person to make a payment to [the treasurer of a candidate or] **A MEMBER'S OR CANDIDATE'S TREASURER, a MEMBER'S OR CANDIDATE'S** continuing political committee, **OR A SLATE TO WHICH THE MEMBER OR CANDIDATE BELONGS OR BELONGED DURING THE 36-MONTH PERIOD PRECEDING THE FILING OF THE APPLICATION**.

(2) Notwithstanding the provisions of paragraph (1)(ii) of this subsection, an agent shall disclose in the affidavit a payment made before becoming an agent if the agent:

(i) made the payment by prearrangement or in coordination with one or more applicants; or

(ii) acted as an agent as to any other application filed during the 36-month period.

(e) (1) Except as provided in paragraph (2) of this subsection, a contributor, a member of the County Council, or a political action committee is subject to this Part IV if a payment is made by the contributor or a transfer is made by the political action committee to:

(i) the candidate; [or]

(ii) the candidate's continuing political committee; **OR**

**(III) A SLATE TO WHICH THE MEMBER OR CANDIDATE BELONGS OR BELONGED DURING THE 36-MONTH PERIOD PRECEDING THE FILING OF THE APPLICATION.**

(2) The provisions of this Part IV do not apply to:

(i) [any payment or transfer to a slate, unless the slate is composed solely of candidates or members of the County Council;

(ii)] any transfer to the continuing political committee of a candidate or member of the County Council by the continuing political committee of another individual running for elective office; or

[(iii)] **(II)** a payment or transfer to the Prince George's County Central Committee, or State Central Committee, of a political party, even if the Central Committee supports a candidate.

(3) A person may not make a payment in violation of this Part IV.

(f) An applicant or agent may not take any action, directly or indirectly, with the intent to circumvent the intent of this subtitle.

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 prohibit a member of the Prince George's County Council from participating in a district council proceeding based on a payment made before January 1, 2011.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

**Approved by the Governor, April 12, 2011.**

**Chapter 92****(Senate Bill 926)**

AN ACT concerning

**Harford County – Alcoholic Beverages – Continuing Care Facility for Aged –  
Beer, Wine and Liquor License**

FOR the purpose of establishing a Class CCFA (continuing care facility for the aged) beer, wine and liquor license in Harford County; specifying that the Liquor Control Board may issue a Class CCFA license to certain organizations that provide certain care, are licensed as a certain institution, are certified by a certain department, are exempt from certain taxes, and are located in Harford County; authorizing a Class CCFA license holder to sell alcoholic beverages for consumption on the licensed premises under certain circumstances; setting the annual license fee; providing that certain prohibitions do not apply to this Act; and generally relating to beer, wine and liquor licenses in Harford County.

BY adding to

Article 2B – Alcoholic Beverages

Section 8–213.2

Annotated Code of Maryland

(2005 Replacement Volume and 2010 Supplement)

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

**Article 2B – Alcoholic Beverages**

**8–213.2.**

**(A) THIS SECTION APPLIES ONLY IN HARFORD COUNTY.**

**(B) THERE IS A CLASS CCFA (CONTINUING CARE FACILITY FOR THE AGED) BEER, WINE AND LIQUOR LICENSE IN HARFORD COUNTY.**

**(C) THE LIQUOR CONTROL BOARD MAY ISSUE A CLASS CCFA LICENSE TO A CONTINUING CARE FACILITY FOR THE AGED THAT:**

**(1) PROVIDES CONTINUING CARE AS DEFINED IN § 10–401 OF THE HUMAN SERVICES ARTICLE;**

(2) IS LICENSED AS A RELATED INSTITUTION UNDER TITLE 19, SUBTITLE 3 OF THE HEALTH – GENERAL ARTICLE;

(3) IS CERTIFIED BY THE DEPARTMENT OF AGING;

(4) IS EXEMPT FROM FEDERAL INCOME TAX UNDER § 501(C)(3) OF THE INTERNAL REVENUE CODE; AND

(5) IS LOCATED IN HARFORD COUNTY.

(D) A CLASS CCFA LICENSE AUTHORIZES THE HOLDER TO SELL BEER, WINE, AND LIQUOR ON THE LICENSED PREMISES:

(1) FOR CONSUMPTION ONLY ON THE LICENSED PREMISES; AND

(2) DURING THE HOURS AND DAYS FOR SALE SPECIFIED IN § 11-513(B)(1) OF THIS ARTICLE.

(E) THE DISTANCE RESTRICTIONS IN § 9-213(B) OF THIS ARTICLE DO NOT APPLY TO THE HOLDER OF A CLASS CCFA LICENSE.

(F) THE ANNUAL LICENSE FEE IS \$5,000.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2011.

Approved by the Governor, April 12, 2011.

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## Chapter 93

(Senate Bill 948)

AN ACT concerning

### Harford County – One or Two Family Dwellings Constructed as Industrialized Buildings – Sprinkler System Requirement

FOR the purpose of establishing the date for complying with the requirement for installation of automatic fire sprinkler systems in one or two family dwellings constructed as industrialized buildings in Harford County; making this Act an emergency measure; providing for the termination of this Act; and generally relating to industrialized buildings in Harford County.

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That notwithstanding any other provision of law or regulation, in Harford County, an automatic sprinkler system is not required in a one or two family dwelling constructed as an industrialized building, as defined in § 12-301 of the Public Safety Article, if the date of application for a building permit within Harford County or the date the manufacturer affixed the required insignia for the one or two family dwelling constructed as an industrialized building was before January 1, 2011.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a ye and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted. 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 12, 2011.**

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## **Chapter 94**

### **(House Bill 58)**

AN ACT concerning

### **Community Services Reimbursement Rate Commission – Termination Date – Extension**

FOR the purpose of extending the termination date for the Community Services Reimbursement Rate Commission; and generally relating to the Community Services Reimbursement Rate Commission.

BY repealing and reenacting, with amendments,

Chapter 593 of the Acts of the General Assembly of 1996, as amended by Chapter 566 of the Acts of the General Assembly of 1999, Chapter 370 of the Acts of the General Assembly of 2002, Chapter 401 of the Acts of the General Assembly of 2005, and Chapters 572 and 573 of the Acts of the General Assembly of 2008

Section 3

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

**Chapter 593 of the Acts of 1996, as amended by Chapter 566 of the Acts of 1999, Chapter 370 of the Acts of 2002, Chapter 401 of the Acts of 2005, and Chapters 572 and 573 of the Acts of 2008**

SECTION 3. AND BE IT FURTHER ENACTED, That, this Act shall take effect October 1, 1996. It shall remain effective for a period of [15] **20** years and, at the end of September 30, [2011] **2016**, 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, 2011.

**Approved by the Governor, April 12, 2011.**

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## Chapter 95

### (House Bill 62)

AN ACT concerning

**Anne Arundel County – Property Tax Credit – Property Leased to ~~Nonprofit~~  
Public Charter Schools**

FOR the purpose of authorizing the governing body of Anne Arundel County or of a municipal corporation in Anne Arundel County to grant, by law, a property tax credit against the county or municipal corporation property tax imposed on real property leased to a ~~nonprofit~~ certain public charter school and used exclusively for primary or secondary educational purposes; authorizing the governing body of Anne Arundel County or of a municipal corporation in Anne Arundel County to provide, by law, for the amount and duration of the credit and certain other provisions to carry out the credit; providing for the application of this Act; and generally relating to a property tax credit in Anne Arundel County for certain real property leased to ~~nonprofit~~ certain public charter schools.

BY adding to

Article – Tax – Property

Section 9–303(b)(4)

Annotated Code of Maryland

(2007 Replacement Volume and 2010 Supplement)

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

### **Article – Tax – Property**

9–303.

(b) (4) (I) THE GOVERNING BODY OF ANNE ARUNDEL COUNTY OR OF A MUNICIPAL CORPORATION IN ANNE ARUNDEL COUNTY MAY GRANT, BY LAW, A PROPERTY TAX CREDIT UNDER THIS SECTION AGAINST THE COUNTY OR MUNICIPAL CORPORATION PROPERTY TAX IMPOSED ON REAL PROPERTY THAT IS:

1. LEASED TO A ~~NONPROFIT SCHOOL~~ PUBLIC CHARTER SCHOOL, AS DEFINED IN § 9-102 OF THE EDUCATION ARTICLE; AND

2. USED EXCLUSIVELY FOR PRIMARY OR SECONDARY EDUCATIONAL PURPOSES.

(II) THE GOVERNING BODY OF ANNE ARUNDEL COUNTY OR OF A MUNICIPAL CORPORATION IN ANNE ARUNDEL COUNTY MAY PROVIDE, BY LAW, FOR:

1. THE AMOUNT AND DURATION OF THE TAX CREDIT UNDER THIS PARAGRAPH;

2. ADDITIONAL ELIGIBILITY CRITERIA FOR THE TAX CREDIT UNDER THIS PARAGRAPH, INCLUDING A REQUIREMENT THAT THE TAX CREDIT BENEFIT THE PUBLIC CHARTER SCHOOL;

3. REGULATIONS AND PROCEDURES FOR THE APPLICATION AND UNIFORM PROCESSING OF REQUESTS FOR THE TAX CREDIT; AND

4. ANY OTHER PROVISION NECESSARY TO CARRY OUT THE CREDIT UNDER THIS PARAGRAPH.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2011, and shall be applicable to all taxable years beginning after June 30, 2011.

Approved by the Governor, April 12, 2011.

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## Chapter 96

(House Bill 86)

AN ACT concerning

Creation of a State Debt – Qualified Zone Academy Bond

FOR the purpose of authorizing the creation of a State Debt in the amount of \$15,902,000, the proceeds to be used as grants to the Interagency Committee on School Construction and the Maryland State Department of Education for certain development or improvement purposes; providing for disbursement of the loan proceeds and the further grant of funds to eligible school systems for certain purposes, subject to a requirement that the grantees document the provision of a required federal matching fund; providing that, after a certain date, any bonds authorized under this Act shall be cancelled and be of no further effect; providing that the proceeds of the loan under this Act shall be expended not later than a certain number of years after the issuance of the bonds authorized under this Act; authorizing the Board of Public Works to sell certain bonds at certain sales in proportion to the documented matching fund; and providing generally for the issuance and sale of bonds evidencing the loan.

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

(1) The Board of Public Works may borrow money and incur indebtedness on behalf of the State of Maryland through a State loan to be known as the Qualified Zone Academy Bonds Loan of 2011 in a total principal amount of \$15,902,000. This loan shall be evidenced by the issuance, sale, and delivery of State general obligation qualified zone academy bonds, as defined in § 54E of the Internal Revenue Code of the United States, as amended, authorized by a resolution of the Board of Public Works and issued, sold, and delivered in accordance with §§ 8–117 through 8–124 of the State Finance and Procurement Article and Article 31, § 22 of the Annotated Code of Maryland, and §§ 54A and 54E of the Internal Revenue Code, as amended.

(2) The bonds to evidence this loan or installments of this loan may be sold as a single issue or may be consolidated and sold as part of a single issue of bonds under § 8–122 of the State Finance and Procurement Article. Notwithstanding §§ 8–123 and 8–124 of the State Finance and Procurement Article, the Board of Public Works may sell the bonds authorized herein at one or more private sales that best meet the terms and conditions of sale set by the Board. The bonds authorized under this Act shall be issued and sold no later than December 31, 2011.

(3) The cash proceeds from the sale of the bonds shall be paid to the Treasurer and first shall be applied to the payment of the expenses of issuing, selling, and delivering the bonds, unless funds for this purpose are otherwise provided, and then shall be credited on the books of the Comptroller, and held separately in a qualified zone academy bond account, and expended, as determined and approved by the Board of Public Works, for the following public purposes: as grants to the Interagency Committee on School Construction (the “IAC”) and the Maryland State Department of Education (the “MSDE”) (referred to hereafter in this Act as the “grantees”) for the renovation, repair, and capital improvements of qualified zone academies, as defined in § 54E(d)(1) of the Internal Revenue Code, as amended, in accordance with the criteria established under the Aging Schools Program as follows:



(a) for competitively awarded grants by IAC to eligible school systems for qualified academies, including public charter schools; and

(b) for targeted grants awarded by MSDE to eligible school systems for qualified academies, including public charter schools, under the Breakthrough Center Program.

(4) An annual State tax is imposed on all assessable property in the State in rate and amount sufficient to pay the principal of and interest, if any, on the bonds as and when due and until paid in full. The principal shall be discharged within 15 years after the date of issuance of the bonds.

(5) (a) The grantees shall document the provision of a matching fund as provided in this paragraph.

(b) No part of the matching fund may be provided, either directly or indirectly, from funds of the State or any other governmental body, whether appropriated or unappropriated. No part of the fund may consist of real property. The fund shall consist of private business contributions as required under § 54E(b) of the Internal Revenue Code, as amended, and may consist of in kind contributions or funds other than funds of the State or any other governmental body. In case of any dispute as to what money or assets may qualify as matching funds, the Board of Public Works shall determine the matter and the Board's decision is final.

(c) The grantees shall present evidence to the satisfaction of the Board of Public Works of the provision and documentation of the matching fund, and the Board of Public Works shall authorize the sale of the bonds in proportion to the documented matching fund and the disbursement of the proceeds for the purposes set forth in Section 1(3) above.

(6) After December 31, 2011, any bonds authorized under this Act that have not been issued and sold by the Board of Public Works shall be cancelled and be of no further effect.

(7) The proceeds of the loan shall be expended for the purposes provided in this Act not later than 3 years after the issuance of the bonds authorized under this Act.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2011.

**Approved by the Governor, April 12, 2011.**

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**Chapter 97****(House Bill 102)**

AN ACT concerning

**Financial Institutions – Mortgage Loan Originators – Prohibited Acts**

FOR the purpose of prohibiting a person subject to regulation as a mortgage loan originator from making a payment, threat, or promise to another person for a certain purpose in connection with a ~~residential~~ certain mortgage loan or loan application; prohibiting a person subject to regulation as a mortgage loan originator from making a payment, threat, or promise to an appraiser of ~~a property residential real estate~~ property residential real estate for a certain purpose with respect to the value of the ~~property residential real estate~~, and from engaging in certain acts or practices in connection with a certain mortgage loan or loan application; providing that certain provisions of this Act do not prohibit a person subject to regulation as a mortgage loan originator from requesting another person to consider certain information, provide certain details, substantiation, or explanation of a certain conclusion, or correct certain errors, or from withholding payment for an appraisal under certain circumstances; providing that a certain penalty applies to a willful violation of the prohibited acts; and generally relating to the regulation of mortgage loan originators.

BY repealing and reenacting, without amendments,  
Article – Financial Institutions  
Section 11–617  
Annotated Code of Maryland  
(2003 Replacement Volume and 2010 Supplement)

BY adding to  
Article – Financial Institutions  
Section 11–624  
Annotated Code of Maryland  
(2003 Replacement Volume and 2010 Supplement)

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

**Article – Financial Institutions**

11–617.

Any person who willfully violates the provisions of this subtitle is guilty of a felony and, on conviction, is subject to a fine not exceeding \$25,000 or imprisonment not exceeding 5 years or both.

11-624.

(A) A PERSON SUBJECT TO THIS SUBTITLE MAY NOT, IN CONNECTION WITH A MORTGAGE LOAN OR LOAN APPLICATION:

(1) MAKE A PAYMENT, THREAT, OR PROMISE, DIRECTLY OR INDIRECTLY, TO ANOTHER PERSON FOR THE PURPOSE OF INFLUENCING THE PERSON TO VIOLATE ANY FEDERAL OR STATE LAW, OR ANY STANDARD OF PROFESSIONAL PRACTICE RECOGNIZED BY THE FEDERAL OR STATE GOVERNMENT, ~~IN CONNECTION WITH A RESIDENTIAL MORTGAGE LOAN;~~ OR

(2) MAKE A PAYMENT, THREAT, OR PROMISE, DIRECTLY OR INDIRECTLY, TO AN APPRAISER OF ~~A PROPERTY~~ RESIDENTIAL REAL ESTATE FOR THE PURPOSE OF INFLUENCING THE INDEPENDENT JUDGMENT OF THE APPRAISER WITH RESPECT TO THE VALUE OF THE ~~PROPERTY~~ RESIDENTIAL REAL ESTATE, OR ENGAGE IN ANY OTHER ACT OR PRACTICE THAT IMPAIRS OR ATTEMPTS TO IMPAIR AN APPRAISER'S INDEPENDENCE, OBJECTIVITY, OR IMPARTIALITY, INCLUDING:

(i) WITHHOLDING OR THREATENING TO WITHHOLD PAYMENT FOR AN APPRAISAL WITH THE INTENT TO COERCE THE APPRAISER TO AGREE TO A VALUE, RANGE OF VALUES, OR MINIMUM VALUE FOR THE ~~PROPERTY~~ RESIDENTIAL REAL ESTATE;

(ii) CONDITIONING THE PAYMENT OF AN APPRAISAL FEE ON THE OPINION, CONCLUSION, OR VALUATION TO BE REACHED BY THE APPRAISER; OR

(iii) REQUESTING THE APPRAISER TO REPORT A PREDETERMINED OPINION, CONCLUSION, OR VALUATION.

(B) THIS SECTION DOES NOT PROHIBIT A PERSON SUBJECT TO THIS SUBTITLE FROM:

(1) REQUESTING ANOTHER PERSON TO:

(i) CONSIDER ADDITIONAL APPROPRIATE INFORMATION;

(ii) PROVIDE ADDITIONAL DETAILS, SUBSTANTIATION, OR EXPLANATION OF A CONCLUSION MADE BY THE OTHER PERSON; OR

(iii) CORRECT ERRORS IN AN APPRAISAL REPORT OR OTHER MORTGAGE DOCUMENT; OR

**(2) WITHHOLDING PAYMENT FOR AN APPRAISAL PENDING RESOLUTION OF AN ACTION BEFORE A FEDERAL OR STATE COURT OR LICENSING BOARD RELATING TO THE APPRAISAL.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

**Approved by the Governor, April 12, 2011.**

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**Chapter 98**

**(House Bill 105)**

AN ACT concerning

**Vehicle Laws – Races and Speed Contests – Enforcement and Penalties**

FOR the purpose of authorizing a police officer to arrest without a warrant a person who ~~participates~~ drives a vehicle in a certain race or speed contest that results in serious bodily injury to another person under certain circumstances; altering the penalty for a conviction of ~~participating~~ driving a vehicle in a certain race or speed contest that results in serious bodily injury to another person; and generally relating to the prohibition against ~~participating~~ driving a vehicle in certain races or speed contests.

BY repealing and reenacting, without amendments,  
Article – Transportation  
Section 21–1116  
Annotated Code of Maryland  
(2009 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,  
Article – Transportation  
Section 26–202(a)  
Annotated Code of Maryland  
(2009 Replacement Volume and 2010 Supplement)

BY adding to  
Article – Transportation  
Section 27–101(ee)  
Annotated Code of Maryland  
(2009 Replacement Volume and 2010 Supplement)

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

**Article – Transportation**

21–1116.

(a) Except as provided in § 21–1211 of this title, on any highway or on any private property that is used by the public in general, a person may not drive a vehicle in a race or speed contest, whether or not on a wager or for a prize or reward.

(b) Except as provided in § 21–1211 of this title, a person may not participate as a timekeeper or flagman in any race or speed contest specified in subsection (a) of this section.

26–202.

(a) A police officer may arrest without a warrant a person for a violation of the Maryland Vehicle Law, including any rule or regulation adopted under it, or for a violation of any traffic law or ordinance of any local authority of this State, if:

(1) The person has committed or is committing the violation within the view or presence of the officer, and the violation is any of the following:

(i) A violation of § 21–1411 or § 22–409 of this article, relating to vehicles transporting hazardous materials; or

(ii) A violation of § 24–111 or § 24–111.1 of this article, relating to the failure or refusal to submit a vehicle to a weighing or to remove excess weight from it;

(2) The person has committed or is committing the violation within the view or presence of the officer, and either:

(i) The person does not furnish satisfactory evidence of identity;  
or

(ii) The officer has reasonable grounds to believe that the person will disregard a traffic citation;

(3) The officer has probable cause to believe that the person has committed the violation, and the violation is any of the following offenses:

(i) Driving or attempting to drive while under the influence of alcohol, while impaired by alcohol, or in violation of an alcohol restriction;

(ii) Driving or attempting to drive while impaired by any drug, any combination of drugs, or any combination of one or more drugs and alcohol or while impaired by any controlled dangerous substance;

(iii) Failure to stop, give information, or render reasonable assistance, as required by §§ 20–102 and 20–104 of this article, in the event of an accident resulting in bodily injury to or death of any person;

(iv) Driving or attempting to drive a motor vehicle while the driver's license or privilege to drive is suspended or revoked;

(v) Failure to stop or give information, as required by §§ 20–103 through 20–105 of this article, in the event of an accident resulting in damage to a vehicle or other property;

(vi) Any offense that caused or contributed to an accident resulting in bodily injury to or death of any person;

(vii) Fleeing or attempting to elude a police officer;

(viii) Driving or attempting to drive a vehicle in violation of § 16–101 of this article; [or]

(ix) A violation of § 14–110(b), (c), (d), or (e) of this article; **OR**

**(X) A VIOLATION OF ~~§ 21-1116 OF THIS ARTICLE~~ § 21-1116(A) OF THIS ARTICLE THAT RESULTS IN SERIOUS BODILY INJURY TO ANOTHER PERSON;**

(4) The person is a nonresident and the officer has probable cause to believe that:

(i) The person has committed the violation; and

(ii) The violation contributed to an accident; or

(5) The officer has probable cause to believe that the person has committed the violation, and, subject to the procedures set forth in § 26–203 of this subtitle, the person is issued a traffic citation and refuses to acknowledge its receipt by signature.

27–101.

**(EE) ANY PERSON WHO IS CONVICTED OF A VIOLATION OF ~~§ 21-1116~~ § 21-1116(A) OF THIS ARTICLE IS SUBJECT TO:**

**(1) ~~A FINE OF NOT MORE THAN \$500 OR IMPRISONMENT FOR NOT MORE THAN 60 DAYS OR BOTH; OR~~**

~~(2) IF THE VIOLATION THAT RESULTS IN SERIOUS BODILY INJURY TO ANOTHER PERSON AS DEFINED IN § 27-113 OF THIS TITLE, IS SUBJECT TO A FINE OF NOT MORE THAN \$1,000 OR IMPRISONMENT FOR NOT MORE THAN 1 YEAR OR BOTH.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

Approved by the Governor, April 12, 2011.

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## Chapter 99

### (House Bill 108)

AN ACT concerning

#### **Business Regulation – State Amusement Ride Safety Advisory Board – Membership**

FOR the purpose of altering the membership of the State Amusement Ride Safety Advisory Board; requiring that the composition of the Board as to the race and gender of its members reflect the composition of the population of the State; and generally relating to the membership of the State Amusement Ride Safety Advisory Board.

BY repealing and reenacting, without amendments,  
Article – Business Regulation  
Section 3–301  
Annotated Code of Maryland  
(2010 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,  
Article – Business Regulation  
Section 3–304  
Annotated Code of Maryland  
(2010 Replacement Volume and 2010 Supplement)

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

#### **Article – Business Regulation**

3–301.

In this subtitle, “Board” means the State Amusement Ride Safety Advisory Board.

3–304.

(a) (1) The Board consists of 9 members appointed by the Governor with the advice and consent of the Senate.

(2) Of the 9 members of the Board:

(i) 1 shall be a mechanical engineer;

(ii) 1 shall represent owners of carnivals;

(iii) 1 shall represent the State Fair and the county fairs;

**(IV) 1 SHALL REPRESENT AMUSEMENT RIDE RENTAL OPERATORS;**

~~[(iv)] (V)~~ 2 shall represent owners of amusement parks; and

~~[(v)] (VI)~~ ~~[4]~~ 3 shall be consumer members.

(3) In choosing the members of the Board, the Governor shall make every effort to ensure that each region of the State is represented.

**(4) THE COMPOSITION OF THE BOARD AS TO THE RACE AND GENDER OF ITS MEMBERS SHALL REFLECT THE COMPOSITION OF THE POPULATION OF THE STATE.**

(b) Each consumer member of the Board shall be a member of the general public.

(c) (1) The term of a member is 4 years and begins on July 1.

(2) The terms of members are staggered as required by the terms provided for members of the Board on October 1, 1992.

(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.

(d) The Governor may remove a member for incompetence or misconduct.



SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

Approved by the Governor, April 12, 2011.

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## Chapter 100

### (House Bill 110)

AN ACT concerning

#### **Vehicle Laws – Weight and Axle Load Limits**

FOR the purpose of repealing a certain requirement relating to the measurement of the distance between coupled axles for purposes of applying certain weight limitations; repealing certain weight limitations on coupled axles; altering the determination of a certain limitation on the gross weight imposed on the ground surface by the wheels on the front axle of a vehicle combination; repealing a certain exception related to the determination of rated load capacities of tires for purposes of a certain gross weight limitation; altering certain weight limits for over-the-road buses and certain vehicles used for a certain purpose; providing certain weight limit tolerances for vehicles that use certain technologies under certain circumstances; and generally relating to ~~weight limits for motor vehicles~~ vehicle weight and load limits of axles.

BY repealing and reenacting, with amendments,  
Article – Transportation  
Section 24–108  
Annotated Code of Maryland  
(2009 Replacement Volume and 2010 Supplement)

BY adding to  
Article – Transportation  
Section 24–109(g)  
Annotated Code of Maryland  
(2009 Replacement Volume and 2010 Supplement)

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

#### **Article – Transportation**

24–108.

(a) ~~For purposes of this section, the distance between coupled axles (commonly known as “tandem” axles) shall be measured horizontally between their centerlines.~~

~~(b)~~ (1) Subject to paragraph (2) of this subsection AND EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, the gross weight imposed on the ground surface by the wheels of an axle ~~or axles~~ of a vehicle may not exceed the following limits:

<del>(I) Combination Vehicles</del> <b>SINGLE AXLE WEIGHT</b>		
<del>No. of Axles</del>	Registered Gross Weight of Vehicle <del>Combination</del> (in Pounds)	Gross Maximum Weight (in Pounds)
Single axle	73,000 or less	22,400
Single axle	More than 73,000	20,000
<del>Coupled axle</del>	<del>73,000 or less</del>	<del>36,000</del>
<del>Coupled axle</del>	<del>More than 73,000</del>	<del>34,000</del>

  

<del>(II) Single Unit Vehicles</del>		
<del>No. of Axles</del>	<del>Axle Distances Specification</del>	<del>Gross Maximum Weight (in Pounds)</del>
Single axle		<del>22,400</del>
<del>Coupled axles</del>	<del>Axles spaced less than 48 inches apart</del>	<del>36,000</del>
<del>Coupled axles</del>	<del>Axles spaced 48 inches or more apart</del>	<del>40,000</del>

(2) Except for vehicles operated under a permit issued under § 24–112 of this subtitle, the gross weight imposed on the ground surface by the wheels of a front axle of a vehicle combination may not exceed either the lesser of:

(i) The sum of the rated load capacities for each tire on the axle, except as provided in subsection ~~(e)~~ **(B)** of this section; or

(ii) The sum of the rated load capacities indicated by the manufacturer as to each tire on the axle with which the vehicle ~~originally was~~ **IS CURRENTLY** equipped, ~~except as provided in subsection (e) of this section.~~

(3) (i) Except as provided in subparagraphs (ii) and (iii) of this paragraph, any vehicle with a gross maximum weight in excess of 73,000 pounds may travel only on State highways, except while making a delivery or pickup, and then only when traveling by the shortest available legal route to or from the State highway

for the purpose of making such delivery or pickup. In Baltimore City, the shortest available legal route shall be only on designated truck routes.

(ii) If approved by the local governing body and the State Highway Administration, in Dorchester County, a vehicle with a gross maximum weight in excess of 73,000 pounds may use the Linkwood Road when traveling between East New Market and Linkwood.

(iii) 1. The County Commissioners of Garrett County may, by ordinance, establish the authorized gross maximum weight of a vehicle that:

A. Has at least 6 axles;

B. Is a truck tractor and semitrailer combination; and

C. Is using any part of Table Rock Road and Wilson Run Road in Garrett County that is owned and maintained by the county.

2. The gross maximum weight established under this subparagraph may not exceed 87,000 pounds.

~~(B)~~ **(B)** Except on interstate highways, a vehicle carrying farm products as defined under § 10–601 of the Agriculture Article or forest products that have been loaded in fields or other off-highway locations is permitted an axle load limit tolerance of 10 percent.

~~(C)~~ **(C)** (1) In Anne Arundel County and Baltimore County, garbage and refuse trucks that make collections on a fixed route and are owned by or doing business with any governmental entity in the respective county are permitted rear axle load limit tolerances of 10 percent if:

(i) The overweight is due to bad weather; and

(ii) The truck does not exceed its registered gross weight limit.

(2) A privately owned truck is permitted this tolerance only while actually engaged in the business of the governmental entity.

~~(D)~~ **(D)** ANY OVER-THE-ROAD BUS OR ANY VEHICLE THAT IS REGULARLY AND EXCLUSIVELY USED AS AN INTRASTATE PUBLIC AGENCY TRANSIT PASSENGER BUS MAY NOT EXCEED:

**(1) A SINGLE AXLE WEIGHT LIMIT OF 24,000 POUNDS; OR**

**(2) THE TIRE MANUFACTURER'S RATED LOAD CAPACITY FOR ANY TIRE ON THE VEHICLE.**

24–109.

(G) (1) ANY VEHICLE THAT USES AN AUXILIARY POWER UNIT OR AN IDLE–REDUCTION TECHNOLOGY UNIT IN ORDER TO PROMOTE REDUCTION OF FUEL USE AND EMISSIONS FROM ENGINE IDLING SHALL BE ALLOWED UP TO AN ADDITIONAL 400 POUNDS TOTAL IN GROSS, AXLE, TANDEM, OR BRIDGE FORMULA WEIGHT LIMITS.

(2) TO BE ELIGIBLE FOR THE ADDITIONAL WEIGHT LIMIT ALLOWED UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE VEHICLE OPERATOR MUST:

(I) OBTAIN AND MAKE AVAILABLE TO LAW ENFORCEMENT OFFICERS WRITTEN CERTIFICATION OF THE WEIGHT OF THE AUXILIARY POWER UNIT OR IDLE–REDUCTION TECHNOLOGY UNIT; AND

(II) BY DEMONSTRATION OR CERTIFICATION, PROVE THAT THE IDLE–REDUCTION TECHNOLOGY UNIT IS FULLY FUNCTIONAL AT ALL TIMES.

(3) THE ADDITIONAL WEIGHT LIMIT ALLOWED UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY NOT EXCEED THE CERTIFIED WEIGHT OF THE AUXILIARY POWER UNIT OR IDLE–REDUCTION TECHNOLOGY UNIT.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

Approved by the Governor, April 12, 2011.

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## Chapter 101

### (House Bill 112)

AN ACT concerning

#### Vehicle Equipment – Public Transit Vehicles – Flashing Lights

FOR the purpose of authorizing public transit service vehicles to be equipped with or display amber flashing lights or a certain white flashing light; and generally relating to the display of flashing lights on vehicles used to provide public transit service.

BY repealing and reenacting, with amendments,  
Article – Transportation

Section 22-218  
Annotated Code of Maryland  
(2009 Replacement Volume and 2010 Supplement)

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

**Article – Transportation**

22-218.

(a) Every emergency vehicle, in addition to any other equipment and distinctive markings required by this subtitle, shall be equipped with a siren, exhaust whistle, or bell capable of giving an audible signal.

(b) (1) Every emergency vehicle, in addition to any other equipment and distinctive markings required by the Maryland Vehicle Law, shall be equipped with signal lamps mounted as high as practicable, which shall be capable of displaying to the front and to the rear a flashing red light or lights. These lights shall have sufficient intensity to be visible at 500 feet in normal sunlight.

(2) Every school vehicle meeting the requirements established by the Administrator shall be equipped with alternately flashing warning lights in accordance with the standards adopted under § 22-228 of this subtitle.

(c) (1) A person may not drive or move on any highway any vehicle or equipment that is equipped with or displays any light or signal device designed to emit an oscillating, rotating, blinking, or other type of emission of light, unless designated and authorized by the Administrator as indicated in paragraphs (2) through [(11)] **(12)** of this subsection. The provisions of this section do not prohibit the display and use of any lighting device that may be permitted or required elsewhere in the Maryland Vehicle Law.

(2) Vehicles of the police department and other city, county, State, or federal law enforcement agencies may be equipped with and display red, white, or blue lights or signal devices.

(3) (i) Vehicles of city, county, State, or federal fire departments or duly constituted volunteer fire departments or rescue squads, or the Maryland Institute for Emergency Medical Services System, may be equipped with or display red and/or white lights or signal devices.

(ii) In each volunteer fire company, no more than five of the following officers may have their privately owned vehicles equipped with red lights or signal devices which may be displayed only while on route to or at the scene of an emergency:

1. The fire chief or the highest ranking fireline officer;
2. One or more of the assistant chiefs or deputy chiefs, whichever rank is second in command; and
3. The emergency medical services commander.

(iii) 1. The fire police of each volunteer fire company may have their privately owned vehicles equipped with red lights or signal devices designed to emit an oscillating, rotating, blinking, or other type of emission of light.

2. The lights or signal devices may be flashed or oscillated or otherwise used only while the vehicle is at the scene of an accident, flood, or other emergency to which the volunteer fire company is responding.

(4) Ambulances may be equipped with or display red and/or white lights or signal devices.

(5) State vehicles used in response to oil or hazardous materials spills may be equipped with or display red and/or white lights or signal devices.

(6) Service vehicles, rural letter carrier vehicles, slow moving farm vehicles, and tow trucks may be equipped with or display yellow or amber lights or signal devices.

(7) State vehicles designated for emergency use by the Commissioner of Correction may be equipped with or display red lights or signal devices.

**(8) A VEHICLE USED TO PROVIDE PUBLIC TRANSIT SERVICE MAY BE EQUIPPED WITH AND DISPLAY:**

**(I) AMBER FLASHING LIGHTS; OR**

**(II) A WHITE FLASHING LIGHT INSTALLED ON THE ROOF OF THE VEHICLE.**

**[(8)] (9)** (i) Except as provided in subparagraphs (ii) and (iii) of this paragraph, the blue, red, or white lights or signal devices may be flashed or oscillated or otherwise used only while on route to or at the scene of an emergency, and their use does not relieve an emergency vehicle from otherwise giving an audible warning as required elsewhere in the Maryland Vehicle Law.

(ii) The driver of an emergency vehicle may use flashing lights within 100 feet of the entrance ramp of a fire or rescue station while parking or backing the emergency vehicle.

(iii) The driver of an emergency vehicle of a fire department or rescue squad shall, at the discretion of the officer in charge, flash or oscillate or otherwise use red and white lights or signal devices while stopped, standing, or parked on the roadway at the scene of an emergency.

~~[(9)]~~ **(10)** A stationary emergency vehicle serving as a mobile command unit may be equipped with or display a flashing, blinking, or oscillating green light or signal device to designate the vehicle as the command post.

~~[(10)]~~ **(11)** The yellow or amber lights or signal devices permitted on vehicles under paragraph (6) of this subsection may be flashed or oscillated or otherwise used only in the course of official duties, to indicate to the public that the vehicle is a slow moving vehicle or otherwise is impeding traffic.

~~[(11)]~~ **(12)** (i) An emergency vehicle of any foreign state may be equipped with any lights or signals:

1. As provided by this subsection; or
2. As permitted by the state in which the vehicle is registered.

(ii) 1. The use of any lights or signals permitted under this paragraph is limited to an emergency vehicle, as defined in § 11–118 of this article, responding to an emergency or pursuing a violator, and equipped with an audible signal as provided in this section.

2. Foreign vehicles, as defined in § 11–124 of this article, which are privately owned by members of volunteer fire companies, ambulance or rescue squads, fire departments, and law enforcement agencies may be equipped with lights or signals as permitted by the state in which the vehicle is registered, but such lights or signals may be used while the vehicle is in this State only by those personnel and under the circumstances authorized under paragraph (3) of this subsection.

(iii) In addition to the penalties provided in Title 27 of this article, any person convicted of a violation of this section may have his driving privileges suspended for a period of 30 days, and the registration of the vehicle may be suspended for a period of 30 days, notwithstanding that the owner of the vehicle may not be the operator at the time of the offense, unless the owner proves to the satisfaction of the Administration that he had no control over the use or display of a light or signal device and could not prevent the violation of this section.

(d) A police vehicle when used as an emergency vehicle may, but need not be, equipped with the flashing red and/or blue lights specified in this section.

(e) Except as provided in subsection (c)(3) of this section, the flashing lighting described in subsections (b) and (c) of this section may not be used on any vehicle other than an emergency vehicle, service vehicle, or school vehicle.

(f) The use of the signal equipment described in this section imposes on drivers of other vehicles the obligation to yield the right-of-way and stop as required in Title 21 of this article.

(g) On taxicabs, the flashing green lights known as emergency hold-up lights may be mounted on the roof or outside rear and front of the vehicle.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

**Approved by the Governor, April 12, 2011.**

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## Chapter 102

### (House Bill 133)

AN ACT concerning

#### **Courts and Judicial Proceedings – Juvenile Records – Access by the Division of Pretrial Detention and Services**

FOR the purpose of providing that certain laws relating to the confidentiality of juvenile ~~police and court~~ records do not prohibit access to and use of ~~certain~~ juvenile court records by the Maryland Division of Pretrial Detention and Services under certain circumstances; and generally relating to juvenile records.

BY repealing and reenacting, with amendments,  
Article – Courts and Judicial Proceedings  
Section 3–8A–27  
Annotated Code of Maryland  
(2006 Replacement Volume and 2010 Supplement)

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

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

3–8A–27.

(a) (1) A police record concerning a child is confidential and shall be maintained separate from those of adults. Its contents may not be divulged, by



subpoena or otherwise, except by order of the court upon good cause shown or as otherwise provided in § 7–303 of the Education Article.

(2) This subsection does not prohibit:

(i) Access to and confidential use of the record by the Department of Juvenile Services or in the investigation and prosecution of the child by any law enforcement agency;

(ii) Access to and confidential use of the record by the Baltimore City Health Department:

1. If the Baltimore City Health Department is providing treatment or care to a child who is the subject of the record, for a purpose relevant to the provision of the treatment or care;

2. If the record concerns a child convicted of a crime or adjudicated delinquent for an act that caused a death or near fatality; or

3. If the record concerns a victim of a crime of violence, as defined in § 14–101 of the Criminal Law Article, who is a child residing in Baltimore City for the purpose of developing appropriate programs and policies aimed at reducing violence against children in Baltimore City;

(iii) A law enforcement agency of the State or of a political subdivision of the State, the Department of Juvenile Services, or the criminal justice information system from including in the law enforcement computer information system information about an outstanding juvenile court ordered writ of attachment, for the sole purpose of apprehending a child named in the writ; or

(iv) A law enforcement agency of the State or of a political subdivision of the State from releasing to the public photographs and identifying information of a child who has escaped from a detention center for juveniles or a secure residential facility for juveniles, for the purposes of facilitating apprehension of the child and ensuring public safety.

(3) (i) The Baltimore City Health Department shall be liable for the unauthorized release of a police record under this subsection.

(ii) Within 180 days after the Baltimore City Health Department accesses a police record under this subsection, the Baltimore City Health Department shall submit a report to the law enforcement agency from which the record was received detailing the purposes for which the record was used.

(b) (1) A court record pertaining to a child is confidential and its contents may not be divulged, by subpoena or otherwise, except by order of the court upon good cause shown or as provided in § 7–303 of the Education Article.

(2) This subsection does not prohibit access to and the use of the court record or fingerprints of a child described under Title 10, Subtitle 2 of the Criminal Procedure Article in a proceeding in the court involving the child, by personnel of the court, the State's Attorney, counsel for the child, a court-appointed special advocate for the child, or authorized personnel of the Department of Juvenile Services.

(3) (i) Except as provided in subparagraph (ii) of this paragraph, this subsection does not prohibit access to and confidential use of the court record or fingerprints of a child described under Title 10, Subtitle 2 of the Criminal Procedure Article by the Department of Juvenile Services or in an investigation and prosecution by a law enforcement agency.

(ii) The court record or fingerprints of a child described under §§ 10–215(a)(21) and (22), 10–216, and 10–220 of the Criminal Procedure Article may not be disclosed to:

1. A federal criminal justice agency or information center; or

2. Any law enforcement agency other than a law enforcement agency of the State or a political subdivision of the State.

(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;

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.

(ii) A record that is shared under this paragraph may only provide information that is relevant to the supervision, care, and treatment of the child.

(iii) The Department of Juvenile Services shall be liable for an unauthorized release of a court record under this paragraph.

(iv) The Department of Juvenile Services shall adopt regulations to implement this paragraph.

(5) (i) This subsection does not prohibit access to and use of a court record by a judicial officer who is authorized under the Maryland Rules to determine a defendant's eligibility for pretrial release, counsel for the defendant, ~~or~~ the State's Attorney, **OR THE MARYLAND DIVISION OF PRETRIAL DETENTION AND SERVICES** if:

1. The individual who is the subject of the court record is charged as an adult with an offense;

2. The access to and use of the court record is strictly limited for the purpose of determining the defendant's eligibility for pretrial release; and

3. The court record concerns an adjudication of delinquency that occurred within 3 years of the date the individual is charged as an adult.

(ii) The Court of Appeals may adopt rules to implement the provisions of this paragraph.

(6) (i) This subsection does not prohibit access to and confidential use of a court record by the Baltimore City Health Department:

1. If the Baltimore City Health Department is providing treatment or care to a child who is the subject of the record, for a purpose relevant to the provision of the treatment or care;

2. If the record concerns a child convicted of a crime or adjudicated delinquent for an act that caused a death or near fatality; or

3. If the record concerns a victim of a crime of violence, as defined in § 14-101 of the Criminal Law Article, who is a child residing in Baltimore City for the purpose of developing appropriate programs and policies aimed at reducing violence against children in Baltimore City.

(ii) 1. The Baltimore City Health Department shall be liable for the unauthorized release of a court record under this paragraph.

2. Within 180 days after the Baltimore City Health Department accesses a court record under this paragraph, the Baltimore City Health Department shall submit a report to the court detailing the purposes for which the record was used.

(7) (i) This subsection does not prohibit access to and confidential use of a court record by the Department of Human Resources for the purpose of claiming federal Title IV-E funds.

(ii) The Department of Human Resources shall be liable for the unauthorized release of a court record under this paragraph.

(c) The court, on its own motion or on petition, and for good cause shown, may order the court records of a child sealed, and, upon petition or on its own motion, shall order them sealed after the child has reached 21 years of age. If sealed, the court records of a child may not be opened, for any purpose, except by order of the court upon good cause shown.

(d) This section does not prohibit access to or use of any juvenile record by the Maryland Division of Parole and Probation or the Maryland Parole Commission when the Division or the Commission is carrying out any of their statutory duties either at the direction of a court of competent jurisdiction, or when the Maryland Parole Commission is carrying out any of its statutory duties, if the record concerns a charge or adjudication of delinquency.

(e) This section does not prohibit access to and use of any juvenile record by the Maryland Division of Correction when the Division is carrying out any of its statutory duties if: (1) the individual to whom the record pertains is committed to the custody of the Division; and (2) the record concerns an adjudication of delinquency.

~~(f) THIS SECTION DOES NOT PROHIBIT ACCESS TO AND USE OF ANY JUVENILE RECORD BY THE MARYLAND DIVISION OF PRETRIAL DETENTION AND SERVICES WHEN THE DIVISION IS CARRYING OUT ANY OF ITS STATUTORY DUTIES, IF THE RECORD CONCERNS A CHARGE OR AN ADJUDICATION OF DELINQUENCY, AND:~~

~~(1) THE INDIVIDUAL TO WHOM THE RECORD PERTAINS IS IN THE CUSTODY OF THE COMMISSIONER OF PRETRIAL DETENTION AND SERVICES; OR~~

~~(2) THE INDIVIDUAL TO WHOM THE RECORD PERTAINS IS SUPERVISED BY THE DIVISION'S PRETRIAL RELEASE SERVICES PROGRAM.~~

~~(f)~~ (g) Subject to the provisions of §§ 9–219 and 9–220 of the Human Services Article, this section does not prohibit access to or use of any juvenile record for criminal justice research purposes. A record used under this subsection may not contain the name of the individual to whom the record pertains, or any other identifying information which could reveal the individual's name.

~~(g)~~ (h) This section does not prohibit a victim or victim's representative who has filed a notification request form from being notified of proceedings and events involving the defendant or child as provided in this subtitle, the Criminal Procedure Article, or the Criminal Law Article.

~~(h)~~ (i) This section does not prohibit the Department of Public Safety and Correctional Services or a supervising authority, as defined in § 11–701 of the

Criminal Procedure Article, from accessing or using the part of a juvenile record that identifies an offense committed by a juvenile for purposes of complying with Title 11, Subtitle 7 of the Criminal Procedure Article.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

**Approved by the Governor, April 12, 2011.**

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## Chapter 103

(House Bill 136)

AN ACT concerning

**Family Law – ~~Temporary~~ Protective Orders – ~~Electronic~~ Notification of Service**

FOR the purpose of requiring that the system used for the electronic notification of service of a temporary protective order be approved and provided by the Department of Public Safety and Correctional Services; extending the termination date of certain provisions of law that provide for notice of the service on a respondent of certain protective orders; and generally relating to ~~electronic~~ notification of the service of a ~~temporary~~ protective order.

BY repealing and reenacting, without amendments,  
Article – Family Law  
Section 4–505(a)(1)  
Annotated Code of Maryland  
(2006 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,  
Article – Family Law  
Section 4–505(b)(1)  
Annotated Code of Maryland  
(2006 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,  
Chapter 711 of the Acts of the General Assembly of 2009  
Section 2

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

**Article – Family Law**

4–505.

(a) (1) If, after a hearing on a petition, whether ex parte or otherwise, a judge finds that there are reasonable grounds to believe that a person eligible for relief has been abused, the judge may enter a temporary protective order to protect any person eligible for relief from abuse.

(b) (1) Except as provided in paragraph (2) of this subsection, a law enforcement officer shall:

(i) immediately serve the temporary protective order on the alleged abuser under this section; and

(ii) within two hours after service of the order on the respondent, electronically notify the Department of Public Safety and Correctional Services of the service **USING AN ELECTRONIC SYSTEM APPROVED AND PROVIDED BY THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES.**

### **Chapter 711 of the Acts of 2009**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect January 1, 2010, contingent on the receipt by the Governor's Office of Crime Control and Prevention of federal funds under the American Recovery and Reinvestment Act of 2009 to fund implementation of the notification requirements under this Act and if federal funds are not received for this purpose by January 1, 2010, this Act shall be null and void without the necessity of further action by the General Assembly. It shall remain effective for a period of [2] 4 years and, at the end of December 31, [2011] 2013, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

**Approved by the Governor, April 12, 2011.**

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## **Chapter 104**

**(House Bill 156)**

AN ACT concerning

**Health Insurance – Small Group Market – Self-Employed Individuals –  
Sunset Extension**

FOR the purpose of extending the termination date of certain provisions of law relating to health insurance policies for self-employed individuals in the small group insurance market; and generally relating to the small group insurance market.

BY repealing and reenacting, without amendments,  
Chapter 347 of the Acts of the General Assembly of 2005, as amended by  
Chapter 59 of the Acts of the General Assembly of 2007  
Section 2

BY repealing and reenacting, with amendments,  
Chapter 347 of the Acts of the General Assembly of 2005, as amended by  
Chapter 76 of the Acts of the General Assembly of 2008  
Section 4

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

**Chapter 347 of the Acts of 2005, as amended by Chapter 59 of the Acts of 2007**

SECTION 2. AND BE IT FURTHER ENACTED, That each individual enrolled on September 30, 2005 in a health benefit plan offered by a carrier under Title 15, Subtitle 12 of the Insurance Article may at the option of the enrollee remain covered under any policy issued by the carrier to small employers and selected by the enrollee at renewal, subject to the termination provisions under § 15-1212(b) of the Insurance Article, provided the enrollee continues to:

- (1) work and reside in the State; and
- (2) is a self-employed individual organized as a sole proprietorship or in any other legally recognized manner that a self-employed individual may organize:
  - (i) a substantial part of whose income derives from a trade or business through which the individual has attempted to earn taxable income;
  - (ii) who has filed the appropriate Internal Revenue form or forms and schedule for the previous taxable year; and
  - (iii) for whom a copy of the appropriate Internal Revenue form or forms and schedule has been filed with the carrier.

**Chapter 347 of the Acts of 2005, as amended by Chapter 76 of the Acts of 2008**

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2005. Sections 1 and 2 of this Act shall remain effective for a period of [6] 8 years AND 3 MONTHS and, at the end of [September 30, 2011] DECEMBER 31, 2013,

with no further action required by the General Assembly, Sections 1 and 2 of this Act shall be abrogated and of no further force and effect.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2011.

**Approved by the Governor, April 12, 2011.**

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## **Chapter 105**

### **(House Bill 160)**

AN ACT concerning

#### **Baltimore County Public Schools – Funding Accountability and Transparency Act**

FOR the purpose of requiring the Baltimore County Board of Education to develop and operate a certain Web site that includes certain information about certain payments; specifying certain parameters of the Web site; defining certain terms; and generally relating to the development and operation of a searchable Web site by the Baltimore County Board of Education.

BY adding to

Article – Education

Section 5–117

Annotated Code of Maryland

(2008 Replacement Volume and 2010 Supplement)

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

#### **Article – Education**

**5–117.**

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

**(2) (I) “PAYEE” MEANS ANY PARTY WHO RECEIVES FROM THE BALTIMORE COUNTY BOARD OF EDUCATION AN AGGREGATE PAYMENT OF \$25,000 IN A FISCAL YEAR.**

**(II) “PAYEE” DOES NOT INCLUDE:**



1. A BALTIMORE COUNTY PUBLIC SCHOOL EMPLOYEE WITH RESPECT TO THE EMPLOYEE'S COMPENSATION; ~~OR~~

2. A BALTIMORE COUNTY PUBLIC SCHOOL RETIREE WITH RESPECT TO THE RETIREE'S RETIREMENT ALLOWANCE; OR

3. A THIRD PARTY PAYEE THAT ACCEPTS EMPLOYEE PAYROLL-RELATED PAYMENTS INCLUDING:

A. RECURRING PAYMENTS FOR PAYROLL TAXES;

B. EMPLOYEE PAYROLL DEDUCTIONS; AND

C. INVESTMENT-RELATED ACTIVITIES RELATING TO FUND BALANCES.

(3) "SEARCHABLE WEB SITE" MEANS A WEB SITE CREATED IN ACCORDANCE WITH THIS SECTION THAT DISPLAYS AND SEARCHES PAYMENT DATA OF THE BALTIMORE COUNTY BOARD OF EDUCATION.

(B) ON OR BEFORE JANUARY 1, 2013, THE BALTIMORE COUNTY BOARD OF EDUCATION SHALL DEVELOP AND OPERATE A SINGLE SEARCHABLE WEB SITE ACCESSIBLE TO THE PUBLIC AT NO COST THROUGH THE INTERNET.

(C) THE SEARCHABLE WEB SITE SHALL CONTAIN BALTIMORE COUNTY BOARD OF EDUCATION PAYMENT DATA INCLUDING:

(1) THE NAME OF A PAYEE RECEIVING A PAYMENT;

(2) THE LOCATION OF A PAYEE BY ZIP CODE; ~~AND~~

(3) THE AMOUNT OF A PAYMENT MADE TO THE PAYEE DURING THE APPLICABLE FISCAL YEAR;

(4) THE PURPOSE FOR THE PAYMENT; AND

(5) WHETHER THE PAYEE IS A MINORITY BUSINESS ENTERPRISE.

(D) THE SEARCHABLE WEB SITE SHALL ALLOW THE USER TO:

(1) SEARCH DATA FOR FISCAL YEAR 2012 AND EACH YEAR THEREAFTER; AND

(2) SEARCH BY THE FOLLOWING DATA FIELDS:

(I) A PAYEE RECEIVING A PAYMENT; AND

(II) THE ZIP CODE OF A PAYEE RECEIVING A PAYMENT.

(E) THIS SECTION MAY NOT BE CONSTRUED TO REQUIRE THE DISCLOSURE OF INFORMATION THAT IS CONFIDENTIAL UNDER FEDERAL, STATE, OR LOCAL LAW.

(F) THIS SECTION SHALL BE KNOWN AND MAY BE CITED AS THE “BALTIMORE COUNTY PUBLIC SCHOOLS FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT”.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2011.

Approved by the Governor, April 12, 2011.

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## Chapter 106

### (House Bill 176)

AN ACT concerning

#### **State Retirement and Pension System – Reemployment of Retirees – Exemptions**

FOR the purpose of altering the number of years required after retirement for certain retirees of the State Retirement and Pension System to be exempt from a certain earnings offset of their retirement allowance when reemployed by certain employers; and generally relating to the reemployment of retirees in the State Retirement and Pension System.

BY repealing and reenacting, with amendments,  
Article – State Personnel and Pensions  
Section 22–406(c)(4)(i) and 23–407(c)(4)(iii)  
Annotated Code of Maryland  
(2009 Replacement Volume and 2010 Supplement)

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

#### **Article – State Personnel and Pensions**

22-406.

(c) (4) Except for an individual whose allowance is subject to a reduction as provided under paragraphs (1)(iii) and (3) of this subsection, the reduction of an allowance under this subsection does not apply to:

(i) an individual who has been retired for [9] 5 years, beginning on January 1 after the date the individual retires;

23-407.

(c) (4) Except for an individual whose allowance is subject to a reduction as provided under paragraphs (1)(iii) and (3) of this subsection, the reduction of an allowance under this subsection does not apply to:

(iii) an individual who has been retired for [9] 5 years, beginning on January 1 after the date the individual retires;

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2011.

**Approved by the Governor, April 12, 2011.**

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## **Chapter 107**

**(House Bill 183)**

AN ACT concerning

### **State Board of Nursing – Electrologists – Examination and License Term**

FOR the purpose of authorizing the State Board of Nursing to approve an examination and clinical examination relating to the licensure of electrologists; altering the term of a license beginning on a certain date; and generally relating to the State Board of Nursing and the examination and license term of an electrologist license.

BY repealing and reenacting, with amendments,  
Article – Health Occupations  
Section 8-6B-08 and 8-6B-14(b)  
Annotated Code of Maryland  
(2009 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, without amendments,  
Article – Health Occupations

Section 8–6B–14(a)  
Annotated Code of Maryland  
(2009 Replacement Volume and 2010 Supplement)

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

**Article – Health Occupations**

8–6B–08.

(a) To qualify for a license, an applicant shall be an individual who submits to a criminal history records check in accordance with § 8–303 of this title and meets the requirements of this section.

(b) The applicant shall be of good moral character.

(c) The applicant shall be at least 18 years old.

(d) Except as otherwise provided in this subtitle, an applicant shall be a high school graduate or have completed equivalent education and have completed satisfactorily:

(1) An electrology education program, taught by a licensed electrology instructor, that includes at least 600 hours of instruction, and has been approved by the Board; or

(2) An electrology education program in any other state that the Board determines is substantially equivalent to that required by item (1) of this subsection.

(e) (1) Except as otherwise provided in this subtitle, each applicant shall pass:

(i) [A national certification] **AN** examination [developed by the American Electrology Association or its successor, as] approved by the Board; and

(ii) A clinical examination [administered] **APPROVED** by the Board.

(2) Applicants are responsible for scheduling the [national and clinical] examinations **REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION.**

(f) In addition to the other requirements of this section, an applicant for an electrology instructor license shall:

(1) Be a licensed electrologist;

- (2) Have practiced electrology actively for at least 5 years immediately before the application;
- (3) Pass an examination approved by the Board; and
- (4) Meet any other requirements set forth in regulations adopted by the Board under § 8-6B-03 of this subtitle.

8-6B-14.

(a) A license expires on a date set by the Board, unless the license is renewed for an additional term as provided in this section.

(b) **(1) [A] ON OR BEFORE DECEMBER 31, 2012,** A license may not be renewed for a term longer than 1 year.

**(2) BEGINNING ON JANUARY 1, 2013, A LICENSE MAY NOT BE RENEWED FOR A TERM LONGER THAN 2 YEARS.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

**Approved by the Governor, April 12, 2011.**

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## Chapter 108

**(House Bill 197)**

AN ACT concerning

### **Unemployment Insurance Benefits Claims – Appeals – Finality of Order**

FOR the purpose of establishing a certain period of time after which certain decisions are final as to determinations relating to unemployment insurance benefits claims that had been appealed to certain units in the Department of Labor, Licensing, and Regulation; and generally relating to decisions on certain unemployment insurance benefits claims.

BY repealing and reenacting, with amendments,  
Article – Labor and Employment  
Section 8-508 and 8-5A-11  
Annotated Code of Maryland  
(2008 Replacement Volume and 2010 Supplement)

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

**Article – Labor and Employment**

8–508.

(a) An individual who files a claim for benefits or an employer entitled to notice of a determination or redetermination of the claim may file an appeal with the Lower Appeals Division within 15 days after notice of the determination or redetermination is mailed to the claimant or employer at the last known address of the claimant or employer or otherwise is delivered.

(b) The Secretary, at the Secretary's discretion, may be a party to an appeal filed by a claimant or employing unit with the Lower Appeals Division.

(c) Unless an appeal filed under subsection (a) of this section is withdrawn or removed to the Board of Appeals, a hearing examiner shall:

(1) give the parties a reasonable opportunity for a fair hearing in accordance with the notice provisions in §§ 10–207 and 10–208 of the State Government Article, except that the notice is not subject to § 10–208(b)(4) and (7) of the State Government Article;

(2) make findings of fact and conclusions of law, based on a preponderance of evidence, in accordance with § 10–217 of the State Government Article; and

(3) on the basis of the findings of fact and conclusions of law, affirm, modify, or reverse a determination or redetermination.

(d) The hearing examiner promptly shall give each party:

(1) notice of the decision of the hearing examiner in accordance with § 10–221 of the State Government Article; and

(2) a copy of the decision and the findings of fact and conclusions of law that support the decision.

(e) The decision of the hearing examiner is final **AFTER 10 DAYS AFTER NOTICE OF THE DECISION HAS BEEN MAILED OR OTHERWISE DELIVERED TO THE INDIVIDUAL OR EMPLOYER THAT FILED THE APPEAL WITH THE LOWER APPEALS DIVISION**, unless further review is initiated under § 8–5A–10 of this title.

8–5A–11.

A decision of the Board of Appeals is final **AFTER 10 DAYS AFTER NOTICE OF THE DECISION HAS BEEN MAILED OR OTHERWISE DELIVERED TO THE INDIVIDUAL OR EMPLOYER THAT FILED THE APPEAL WITH THE BOARD OF APPEALS**, subject to judicial review under § 8–5A–12 of this subtitle.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

**Approved by the Governor, April 12, 2011.**

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## **Chapter 109**

### **(House Bill 198)**

AN ACT concerning

#### **Financial Institutions – Authority of Commissioner of Financial Regulation – Information Sharing**

FOR the purpose of authorizing the Commissioner of Financial Regulation to enter into cooperative and information-sharing agreements and to exchange information about a financial institution with certain federal or state law enforcement agencies under certain circumstances; increasing the number of agencies with which the Commissioner may enter into cooperative or information-sharing agreements to include the Office of Foreign Assets Control; providing that if the Commissioner receives a record from an agency that retains ownership of the record, the Commissioner may not disclose the record to any person that requests the record under the Maryland Freedom of Information Act; requiring the Commissioner to forward the request to the agency that owns the record for processing in accordance with certain laws and regulations; altering a certain definition; making certain clarifying and conforming changes; and generally relating to the authority of the Commissioner of Financial Regulation to supervise financial institutions.

BY repealing and reenacting, with amendments,  
Article – Financial Institutions  
Section 2–117, 5–901(g), and 5–909  
Annotated Code of Maryland  
(2003 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, without amendments,  
Article – Financial Institutions  
Section 5–901(a)  
Annotated Code of Maryland  
(2003 Replacement Volume and 2010 Supplement)

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

**Article – Financial Institutions**

2–117.

(a) Subject to subsections [(b) and (c)] **(B), (C), AND (D)** of this section, notwithstanding any other provision of [state] **STATE** laws or regulations, the Commissioner may:

(1) Enter into cooperative and information sharing agreements with any federal or state regulatory agency having authority over financial institutions **OR WITH ANY FEDERAL OR STATE LAW ENFORCEMENT AGENCY**, provided that the agreements prohibit the agency from disclosing any shared information without prior written consent from the Commissioner regarding disclosure of the particular information; and

(2) Exchange information about a financial institution, including information obtained during an examination, with any federal or state regulatory agency having authority over the financial institution **OR WITH ANY FEDERAL OR STATE LAW ENFORCEMENT AGENCY**.

**(B) IF THE COMMISSIONER RECEIVES A RECORD FROM AN AGENCY UNDER A COOPERATIVE AND INFORMATION SHARING AGREEMENT AUTHORIZED BY SUBSECTION (A)(1) OF THIS SECTION AND THE AGENCY EXPRESSLY RETAINS OWNERSHIP OF THE RECORD, EITHER IN WRITING OR BY LAW OR REGULATION, THE COMMISSIONER:**

**(1) MAY NOT DISCLOSE THE RECORD TO ANY PERSON THAT REQUESTS THE RECORD UNDER §§ 10–611 THROUGH 10–628 OF THE STATE GOVERNMENT ARTICLE; AND**

**(2) SHALL FORWARD THE REQUEST FOR THE RECORD TO THE AGENCY THAT OWNS THE RECORD FOR PROCESSING IN ACCORDANCE WITH THE LAWS OR REGULATIONS GOVERNING DISCLOSURE OF THE AGENCY’S RECORDS.**

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

[(c)] **(D)** This section does not authorize the Commissioner to share or exchange information in any way prohibited by federal law.



5-901.

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

(g) "Bank supervisory agency" means:

(1) The Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, [and] the Board of Governors of the Federal Reserve System, **AND THE OFFICE OF FOREIGN ASSETS CONTROL**, and any successor to these agencies;

(2) Any agency of another state with primary responsibility for chartering and supervising banks; and

(3) Any agency of a foreign country with primary responsibility for chartering and supervising banks.

5-909.

(A) In order to carry out the purposes of this article, the Commissioner may:

(1) Adopt regulations; and

(2) [Enter] **SUBJECT TO SUBSECTION (B) OF THIS SECTION, ENTER** into cooperative or information-sharing agreements with any other bank supervisory agency.

**(B) IF THE COMMISSIONER RECEIVES A RECORD FROM A BANK SUPERVISORY AGENCY UNDER A COOPERATIVE OR AN INFORMATION-SHARING AGREEMENT AUTHORIZED BY SUBSECTION (A)(2) OF THIS SECTION AND THE BANK SUPERVISORY AGENCY EXPRESSLY RETAINS OWNERSHIP OF THE RECORD, EITHER IN WRITING OR BY LAW OR REGULATION, THE COMMISSIONER:**

**(1) MAY NOT DISCLOSE THE RECORD TO ANY PERSON THAT REQUESTS THE RECORD UNDER §§ 10-611 THROUGH 10-628 OF THE STATE GOVERNMENT ARTICLE; AND**

**(2) SHALL FORWARD THE REQUEST FOR THE RECORD TO THE BANK SUPERVISORY AGENCY THAT OWNS THE RECORD FOR PROCESSING IN ACCORDANCE WITH THE LAWS OR REGULATIONS GOVERNING DISCLOSURE OF THE BANK SUPERVISORY AGENCY'S RECORDS.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

Approved by the Governor, April 12, 2011.

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**Chapter 110**

**(House Bill 203)**

AN ACT concerning

**Junk Dealers and Scrap Metal Processors – State Licensing Laws –  
Applicability and Exemptions**

FOR the purpose of repealing a provision exempting certain counties from certain State licensing laws on junk dealers and scrap metal processors; exempting certain licensed secondhand precious metal object dealers and pawnbrokers from the scope of certain State licensing laws on junk dealers and scrap metal processors; clarifying certain prohibited acts relating to junk dealers and scrap metal processors; repealing certain licensing provisions for Calvert County junk dealers and scrap metal processors; altering a certain definition; making clarifying and stylistic changes; and generally relating to the applicability of and exemptions from State licensing laws on junk dealers and scrap metal processors.

BY repealing and reenacting, without amendments,  
Article – Business Regulation  
Section 17–1001(a) and 17–1012(a)  
Annotated Code of Maryland  
(2010 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,  
Article – Business Regulation  
Section 17–1001(f), 17–1002, 17–1011(a) and (d), and 17–1012(b)  
Annotated Code of Maryland  
(2010 Replacement Volume and 2010 Supplement)

BY repealing  
Article – Business Regulation  
Section 17–1015 through 17–1024  
Annotated Code of Maryland  
(2010 Replacement Volume and 2010 Supplement)

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

**Article – Business Regulation**

17-1001.

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

(f) **(1)** “Junk dealer” or “scrap metal processor” means a person who does business buying or selling junk or scrap metal.

**(2) “JUNK DEALER” OR “SCRAP METAL PROCESSOR” DOES NOT INCLUDE A DEALER OR PAWNBROKER LICENSED UNDER TITLE 12 OF THIS ARTICLE.**

17-1002.

[(a) Except as otherwise provided in this subtitle, this subtitle does not apply in Baltimore City or Anne Arundel, Baltimore, Caroline, Carroll, Dorchester, Kent, Somerset, Washington, and Worcester counties.

(b) **(1)] (A)** This subtitle does not apply to:

**(1) A DEALER OR PAWNBROKER LICENSED UNDER TITLE 12 OF THIS ARTICLE;**

**[(i)] (2)** a person doing business other than junk business or scrap metal business whenever the person:

**[1.] (I)** buys or transports junk or scrap metal used in the operation of the business; or

**[2.] (II)** transports, for disposal or sale, junk or scrap metal accumulated by the business to dispose of or sell the junk or scrap metal; or

**[(ii)] (3)** a vehicle that a common carrier uses to transport junk or scrap metal in the business of the common carrier.

**[(2)] (B)** Except as provided in § 17-1012 of this subtitle, this subtitle does not apply to antique dealers.

17-1011.

(a) **(1)** This section applies to all junk dealers and scrap metal processors doing business in the State, including nonresident junk dealers[, ] **AND** nonresident scrap metal processors[, ] and junk dealers and scrap metal processors who are residents of the counties listed in § 17-1002(a) of this subtitle[.]

(2) This section applies to an automotive dismantler and recycler or scrap metal processor licensed under Title 15, Subtitle 5 of the Transportation Article if the automotive dismantler and recycler or scrap metal processor:

(i) conducts business as a licensed junk dealer or scrap metal processor;

(ii) acquires vehicle parts that qualify as junk or scrap metal as defined under § 17–1001(e) of this subtitle; or

(iii) acquires articles that are listed, or made of metals that are listed, in § 17–1001(e) of this subtitle.

(3) This section does not apply to:

(i) an automotive dismantler and recycler or scrap metal processor that only acquires whole vehicles for the purpose of dismantling, destroying, or scrapping them for the benefit of their parts or the materials in them; or

(ii) a person that buys scrap metal to use as raw material to produce 1,000,000 tons of steel or more in the State per calendar year.

(4) (i) Except as provided in subparagraph (ii) of this paragraph, this section preempts the right of a county or municipality to regulate the resale of junk or scrap metal.

(ii) This section does not limit the power of a county or municipality to license junk dealers and scrap metal processors.

(iii) This section supersedes any existing law of a county or municipality that regulates the resale of junk or scrap metal.

(d) (1) A [State junk licensee] **JUNK DEALER OR SCRAP METAL PROCESSOR** may not barter, buy, exchange, or accept from a person any junk or scrap metal unless the [State junk licensee] **JUNK DEALER OR SCRAP METAL PROCESSOR** keeps records and makes entries in them in accordance with Part II of this subtitle.

(2) A [State junk licensee] **JUNK DEALER OR SCRAP METAL PROCESSOR** may not purchase a catalytic converter from an individual unless the individual, at the time of purchase, provides identification as:

(i) a licensed automotive dismantler and recycler or scrap metal processor; or

(ii) an agent or employee of a licensed commercial enterprise.

(3) A [State junk licensee] **JUNK DEALER OR SCRAP METAL PROCESSOR** may not purchase a cemetery urn, grave marker, or any other item listed under § 17-1001(e)(1)(ii) of this subtitle from an individual unless the individual, at the time of purchase, provides appropriate authorization from a relevant business or unit of federal, State, or local government specifically authorizing the individual to conduct the transaction.

17-1012.

(a) In this section, “historic marker or plaque” means a marker, plaque, or tablet commemorating an historic person or event, or identifying an historic place, structure, or object.

(b) This section applies to all junk dealers, scrap metal processors, and antique dealers who are residents of the State[, including junk dealers, scrap metal processors, and antique dealers who are residents of the counties listed in § 17-1002(a) of this subtitle].

[17-1015.

In Part III of this subtitle, “Calvert County junk dealer or scrap metal processor license” means a license issued by the clerk to do business as a junk dealer or scrap metal processor in Calvert County.]

[17-1016.

Part III of this subtitle applies only in Calvert County.]

[17-1017.

A person must have a Calvert County junk dealer or scrap metal processor license whenever the person does business as a junk dealer or scrap metal processor in Calvert County.]

[17-1018.

An applicant for a Calvert County junk dealer or scrap metal processor license shall:

(1) state to the clerk the applicant’s name and address and the registration number of any motor vehicle used in the applicant’s business; and

(2) pay to the clerk a license fee of \$25.]

[17-1019.

A Calvert County junk dealer or scrap metal processor license expires on the first anniversary of its effective date.]

[17–1020.

Each junk dealer or scrap metal processor shall notify the clerk of any change of address or of motor vehicle registration number.]

[17–1021.

If a Calvert County junk dealer or scrap metal processor licensee buys or sells any stolen goods and transports them by motor vehicle, the owner of the motor vehicle used to transport the goods is liable equally with the Calvert County junk dealer or scrap metal processor licensee.]

[17–1022.

(a) Each month by the 10th day of the month each Calvert County junk dealer or scrap metal processor licensee shall submit to the Office of the Sheriff of Calvert County a report that:

- (1) is on the form that the Sheriff requires;
- (2) is signed and dated by the Calvert County junk dealer or scrap metal processor licensee; and
- (3) includes:
  - (i) a list of the items of junk or scrap metal bought or sold during the preceding month;
  - (ii) the name and address of the seller or buyer of the junk or scrap metal; and
  - (iii) the date of the transaction.

(b) A person who fails to submit the report required by this section is guilty of a misdemeanor and, on conviction, is subject to a fine not exceeding \$25.]

[17–1023.

(a) A junk dealer or scrap metal processor in Calvert County may not buy junk or scrap metal from a minor unless the junk dealer or scrap metal processor first gets permission, signed by the minor's parent or guardian, authorizing the minor to sell junk or scrap metal to the junk dealer or scrap metal processor.

(b) A person who violates this section is guilty of a misdemeanor and, on conviction, is subject to a fine not exceeding \$30 for each offense.]

[17–1024.

Except as otherwise specifically provided in Part III of this subtitle, a person who violates Part III of this subtitle is guilty of a misdemeanor and, on conviction, is subject to a fine not exceeding \$100.]

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

**Approved by the Governor, April 12, 2011.**

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## Chapter 111

### (House Bill 204)

AN ACT concerning

#### **Vehicle Laws – Commercial Motor Vehicles Engaged in Intrastate Commerce – Minimum Security Requirements**

FOR the purpose of extending to certain for–hire vehicles engaged in intrastate commerce that exceed a certain gross vehicle weight rating, the authority of the Motor Vehicle Administration to adopt regulations in conformance with federal standards establishing specific minimum levels of required security for commercial vehicles; providing for a delayed effective date; and generally relating to minimum security requirements for motor carriers.

BY repealing and reenacting, without amendments,  
Article – Transportation  
Section 13–920(h) and 17–103(b)  
Annotated Code of Maryland  
(2009 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,  
Article – Transportation  
Section 25–111.1  
Annotated Code of Maryland  
(2009 Replacement Volume and 2010 Supplement)

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

**Article – Transportation**

13–920.

(h) Subject to § 25–111.1 of this article, a person who registers a tow truck under this section or operates a tow truck in this State that is registered under the laws of another state shall:

(1) Obtain commercial liability insurance in the amount of at least \$100,000 per person, \$300,000 per occurrence bodily injury liability, and \$100,000 per occurrence property damage liability; and

(2) Provide a federal employer identification number and, if applicable to the tow truck under federal requirements:

(i) A U.S. Department of Transportation motor carrier number;  
or

(ii) An Interstate Commerce Commission motor carrier authority number.

17–103.

(b) The security required under this subtitle shall provide for at least:

(1) The payment of claims for bodily injury or death arising from an accident of up to \$30,000 for any one person and up to \$60,000 for any two or more persons, in addition to interest and costs;

(2) The payment of claims for property of others damaged or destroyed in an accident of up to \$15,000, in addition to interest and costs;

(3) Unless waived, the benefits described under § 19–505 of the Insurance Article as to basic required primary coverage;

(4) The benefits required under § 19–509 of the Insurance Article as to required additional coverage; and

(5) For vehicles subject to the provisions of § 25–111.1 of this article, the security requirements adopted under 49 C.F.R., Part 387.

25–111.1.

(a) The Administration, in consultation with the State Highway Administration, may adopt rules and regulations that are consistent with 49 C.F.R., Part 387.



(b) The rules and regulations adopted under subsection (a) of this section shall apply to the following vehicles:

**(1) FOR-HIRE VEHICLES ENGAGED IN INTRASTATE COMMERCE THAT EXCEED A GROSS VEHICLE WEIGHT RATING OF 26,000 POUNDS AND ARE DESIGNED TO CARRY PROPERTY;**

**[(1)] (2)** For-hire vehicles engaged in interstate commerce that:

(i) Exceed a gross vehicle weight rating of 10,000 pounds and are designed to carry property; or

(ii) Are designed to transport passengers, including the driver; and

**[(2)] (3)** Vehicles that are required to be marked or placarded for the transportation of hazardous materials or otherwise are subject to the requirements of 49 C.F.R., Part 387 when transporting hazardous materials.

(c) Any motor carrier operating a vehicle that is subject to the rules and regulations adopted under this section shall, at all times when operating the vehicle on a highway in the State, comply with the rules and regulations adopted under this section.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect January 1, 2012.

**Approved by the Governor, April 12, 2011.**

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## Chapter 112

### (House Bill 210)

AN ACT concerning

### **Environment – Mining – Acid Mine Drainage Abatement and Treatment Fund**

FOR the purpose of conforming State law to federal law as it relates to the percentage of funding available for certain acid mine drainage activities; and generally relating to the Acid Mine Drainage Abatement and Treatment Fund.

BY repealing and reenacting, with amendments,  
Article – Environment

Section 15–1103  
Annotated Code of Maryland  
(2007 Replacement Volume and 2010 Supplement)

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

**Article – Environment**

15–1103.

(a) Except for funds deposited in the Acid Mine Drainage Abatement and Treatment Fund under subsection (b) of this section, any funds the Department receives pursuant to Title IV of the federal Surface Mining Control and Reclamation Act of 1977 shall be deposited, together with any other funds appropriated for the purposes of this subtitle, in a special fund on the books of the Comptroller of the Treasury in an account known as the “Federal–State Reclamation Fund”. The Department shall use the funds to accomplish the purposes of this subtitle in accordance with the provisions of this subtitle. The provisions of this subtitle shall apply only to the “Federal–State Reclamation Fund”.

(b) (1) There is an Acid Mine Drainage Abatement and Treatment Fund in the Department.

(2) Funds granted to the Department for acid mine drainage abatement and treatment under Title IV of the federal Surface Mining Control and Reclamation Act of 1977, as amended [through October 1, 1992], may be deposited by the Department into the Acid Mine Drainage Abatement and Treatment Fund.

(3) Funds deposited into the Acid Mine Drainage Abatement and Treatment Fund, together with all interest earned on those funds, shall remain available until expended and may not revert to the General Fund.

(4) The Department may expend funds deposited into the Acid Mine Drainage Abatement and Treatment Fund and any interest accrued only to abate and treat acid mine drainage in accordance with the provisions of Title IV of the federal Surface Mining Control and Reclamation Act.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

**Approved by the Governor, April 12, 2011.**

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**Chapter 113****(House Bill 215)**

AN ACT concerning

**State Emergency Medical Services Board – Emergency Medical Services  
Providers**

FOR the purpose of exempting certain law enforcement officers from certain requirements relating to the provision of certain emergency medical services; prohibiting the use of a certain term except under certain circumstances; requiring the State Emergency Medical Services Board to adopt certain regulations on or before a certain date; providing that certain emergency medical services providers shall be deemed to be licensed or certified under this Act until a certain event occurs; providing for a delayed effective date for certain provisions of this Act; defining certain terms; altering and repealing certain definitions; making certain conforming changes; and generally relating to emergency medical services providers.

BY repealing and reenacting, with amendments,  
Article – Education  
Section 13–516  
Annotated Code of Maryland  
(2008 Replacement Volume and 2010 Supplement)

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

**Article – Education**

13–516.

- (a) (1) In this section the following words have the meanings indicated.
- (2) “Cardiac rescue technician” (CRT) means an individual who has:
- (i) Completed a cardiac rescue technician course approved by the EMS Board;
  - (ii) Demonstrated competence in medical protocols within this State as determined by the EMS Board; and
  - (iii) Been examined by the EMS Board and licensed as a CRT by the EMS Board.

(3) “Certificate” means a certificate issued by the EMS Board to provide emergency medical services in the State, except where the context requires otherwise.

(4) “Emergency medical dispatcher” (EMD) means an individual who has:

(i) Completed an emergency medical dispatcher course approved by the EMS Board or its equivalent as determined by the EMS Board;

(ii) Demonstrated competence in medical protocols as determined by the EMS Board; and

(iii) Been examined by the EMS Board or has been recognized as an emergency medical dispatcher by an emergency medical dispatcher program approved by the EMS Board and licensed as an emergency medical dispatcher by the EMS Board.

**(5) “EMERGENCY MEDICAL RESPONDER” MEANS AN INDIVIDUAL WHO HAS:**

**(I) COMPLETED AN EMERGENCY MEDICAL RESPONDER COURSE APPROVED BY THE EMS BOARD, OR ITS EQUIVALENT AS DETERMINED BY THE EMS BOARD;**

**(II) DEMONSTRATED COMPETENCE IN MEDICAL PROTOCOLS AS DETERMINED BY THE EMS BOARD;**

**(III) BEEN EXAMINED BY THE EMS BOARD OR BY A BASIC LIFE SUPPORT EDUCATION PROGRAM APPROVED BY THE EMS BOARD; AND**

**(IV) BEEN CERTIFIED AS AN EMERGENCY MEDICAL RESPONDER BY THE EMS BOARD.**

**[(5)] (6) “Emergency medical services” means:**

(i) Medical services provided prehospital to prevent imminent death or aggravation of illness or injury whether or not transport to a hospital or appropriate facility occurs;

(ii) Transport from the scene of a medical emergency to a hospital or appropriate facility whether or not medical services are provided;

(iii) Medical interfacility transport services to an appropriate facility; or

(iv) Medical interfacility critical care transport to an appropriate facility.

**[(6)] (7)** “Emergency medical services provider” means an individual licensed or certified by the EMS Board as:

- (i) A cardiac rescue technician;
- (ii) An emergency medical dispatcher;
- (iii) **AN EMERGENCY MEDICAL RESPONDER;**
- (IV)** An emergency medical [technician–basic] **TECHNICIAN; OR**
- [(iv)] (V)** [An emergency medical technician–paramedic; or
- (v) A first responder] **A PARAMEDIC.**

**[(7)] (8)** “Emergency medical [technician–basic] (EMT–B) **TECHNICIAN” (EMT)** means an individual who has:

- (i) Completed an emergency medical [technician–basic] **TECHNICIAN** course approved by the EMS Board;
- (ii) Demonstrated competence in medical protocols as determined by the EMS Board; and
- (iii) Been examined by the EMS Board **OR BEEN EXAMINED AND REGISTERED BY THE NATIONAL REGISTRY OF EMERGENCY MEDICAL TECHNICIANS, INC. AS AN EMERGENCY MEDICAL TECHNICIAN** and certified as an **[EMT–B] EMT** by the EMS Board.

**[(8)** “Emergency medical technician–paramedic” (EMT–P) means an individual who has:

- (i) Completed an emergency medical technician–paramedic course approved by the EMS Board;
- (ii) Been tested and registered by the National Registry of Emergency Medical Technicians, Inc. as an emergency medical technician–paramedic;
- (iii) Demonstrated competence in medical protocols within this State as determined by the EMS Board; and
- (iv) Been licensed as an EMT–P by the EMS Board.

(9) “First responder” means an individual who has:

(i) Completed a first responder course approved by the EMS Board; and

(ii) Been examined by the EMS Board and certified as a first responder by the EMS Board.]

[(10)] **(9)** “License” means a license issued by the EMS Board to provide emergency medical services in the State, unless the context requires otherwise.

[(11)] **(10)** (i) “Medical direction” means the written or oral instruction by a licensed physician to perform specified medical procedures or administer specified medications or intravenous solutions.

(ii) “Medical direction” includes the activities of a licensed physician in the State serving as a medical director for an agency providing emergency medical services including quality assurance, planning, and education.

[(12)] **(11)** “National registry” means the nonproprietary, nongovernmental agency that provides standardized national testing and registration for emergency medical technicians based on national training standards.

**(12) “PARAMEDIC” MEANS AN INDIVIDUAL WHO HAS:**

**(I) COMPLETED A PARAMEDIC COURSE APPROVED BY THE EMS BOARD;**

**(II) BEEN EXAMINED AND REGISTERED BY THE NATIONAL REGISTRY OF EMERGENCY MEDICAL TECHNICIANS, INC. AS A PARAMEDIC;**

**(III) DEMONSTRATED COMPETENCE IN MEDICAL PROTOCOLS WITHIN THIS STATE AS DETERMINED BY THE EMS BOARD; AND**

**(IV) BEEN LICENSED AS A PARAMEDIC BY THE EMS BOARD.**

(13) “Provider review panel” means the 13–member panel appointed by the EMS Board in accordance with the provisions of subsection (e) of this section.

(14) “Public safety personnel” means:

(i) Any career or volunteer member of a fire, rescue or EMS department, company, squad or auxiliary;

(ii) Any law enforcement officer; or

(iii) The State Fire Marshal or a sworn member of the State Fire Marshal's office.

(b) (1) Except as otherwise provided in this section, an individual may not provide emergency medical services in the State unless issued a license or certificate by the EMS Board under this section.

(2) This section does not apply to:

(i) An individual who:

1. Has completed an emergency medical services course or its equivalent as determined by the EMS Board;

2. Is authorized to provide emergency medical services by any state adjoining this State;

3. Is called on by a public safety agency providing emergency medical services to render emergency medical services in this State or to transport emergency patients from the adjoining state to a health care facility in this State;

4. Is providing emergency medical services within the scope of the license or certificate issued to the individual by the other state; and

5. Is not affiliated with an emergency medical service in this State or is not engaged in providing emergency medical services in this State on a regular basis;

(ii) An individual who is enrolled in an emergency medical services provider training program that meets the standards set by the EMS Board in the course of that training;

(iii) An individual who is not engaged in providing emergency medical services on a regular basis who provides emergency medical services at the scene of a medical emergency in rare instances;

(iv) An individual who is a member of a volunteer fire or rescue company and solely engaged in driving the emergency vehicle;

(v) An individual who assists an emergency medical services provider but does not directly provide emergency medical services; **[or]**

(vi) An individual who has American Red Cross first aid training or its equivalent and who provides services within the scope of that training, does not respond to emergency calls, and does not transport patients; **OR**

(VII) A LAW ENFORCEMENT OFFICER WHO:

1. HAS SUCCESSFULLY COMPLETED A ~~LAW ENFORCEMENT EMERGENCY MEDICAL CARE COURSE APPROVED BY THE EMS BOARD;~~ COURSE:

A. IN FIRST AID AND CPR/AED APPROVED BY THE AMERICAN RED CROSS, THE NATIONAL SAFETY COUNCIL, OR ANOTHER NATIONALLY RECOGNIZED PROGRAM;

B. THAT MEETS THE REQUIREMENTS OF THE NATIONAL EMERGENCY MEDICAL SERVICES EDUCATION STANDARDS AND INSTRUCTIONAL GUIDELINES FOR EMERGENCY MEDICAL RESPONDERS PUBLISHED BY THE U.S. DEPARTMENT OF TRANSPORTATION; OR

C. APPROVED FOR LAW ENFORCEMENT OFFICERS BY THE EMS BOARD;

2. PROVIDES SERVICES WITHIN THE SCOPE OF THAT TRAINING; AND

3. IS NOT DISPATCHED AS AN EMERGENCY MEDICAL SERVICES PROVIDER.

(3) This subsection does not limit the right of an individual to practice a health occupation that the individual is authorized to practice under the Health Occupations Article.

(4) A person who violates any provision of this subsection is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$1,000 or imprisonment not exceeding 1 year or both.

(c) (1) To apply for a license or certificate, an individual shall:

(i) Submit an application on the form that the EMS Board requires; and

(ii) Pay to the EMS Board any application fee set by the EMS Board under subsection (m) of this section.

(2) The EMS Board may not charge a licensing, certifying, testing, or retesting fee to any individual who is a member or employee of any governmental or volunteer fire, rescue, or emergency medical services company at the date of application.



(3) The EMS Board shall provide for the term and renewal of licenses or certificates issued under this section.

(d) (1) The EMS Board may adopt rules, regulations, protocols, orders, and standards to carry out the provisions of this section.

(2) Any regulations of the EMS Board relating to the practice of medicine shall be adopted jointly with the Board of Physicians.

(3) Any regulations of the EMS Board relating to the practice of nursing shall be adopted in collaboration with the Board of Nursing.

(e) (1) (i) There is a provider review panel to the EMS Board.

(ii) The provider review panel shall be appointed by the EMS Board.

(2) The provider review panel consists of 13 members, 11 voting members appointed by the EMS Board and two nonvoting members.

(3) Eight of the appointed members shall be licensed or certified emergency medical service providers who are actively providing emergency medical services at the time of their appointment. Three shall be members of a governmental fire, rescue, or emergency medical services company, three shall be members of a volunteer fire, rescue, or emergency medical services company, one shall be an employee of a commercial ambulance service, and one shall be an emergency medical dispatcher. In appointing the provider representatives of the provider review panel, the **EMS** Board shall give consideration to providing for reasonable representation from throughout the State.

(4) One of the appointed members shall be a physician appointed by the Board of Physicians.

(5) One of the appointed members shall be a medical director with emergency medical services experience.

(6) One of the appointed members shall be a representative of the Medical and Chirurgical Faculty of the State of Maryland who has emergency medical services experience.

(7) The Executive Director of the Institute and the State EMS Medical Director shall serve as nonvoting ex officio members.

(8) The panel shall elect a chairman from among its members.

(9) The EMS Board shall adopt regulations for the selection, appointment, and terms of the members of the panel, including providing for the staggering of terms.

(10) (i) The provider review panel shall review patient care and other allegations of misconduct against emergency medical services providers and provide recommendations to the EMS Board for further action as necessary.

(ii) The provider review panel shall perform any other duty or function that the EMS Board requires.

(f) (1) Subject to the rules, regulations, protocols, orders, and standards of the EMS Board and subject to medical direction, while providing emergency medical services:

(i) A cardiac rescue technician, an emergency medical [technician–B] **TECHNICIAN**, or [an emergency medical technician–P] **A PARAMEDIC** may:

1. Perform specified medical procedures as authorized by the EMS Board;
2. Administer specified medications or intravenous solutions; and
3. Provide emergency medical transport;

(ii) An emergency medical dispatcher may:

1. Perform medical interrogation in order to determine the type and level of response required at the scene of a medical emergency; and
2. Provide prearrival instructions including instructions in cardiopulmonary resuscitation; and

(iii) [A first] **AN EMERGENCY MEDICAL** responder:

1. May perform specified medical procedures as defined by the EMS Board; and
2. May not be the primary emergency medical services provider during emergency medical transport.

(2) Participation in emergency medical dispatch programs by jurisdictions is totally voluntary.

(g) Subject to the rules, regulations, protocols, orders, and standards of the EMS Board, [an EMT–P] A PARAMEDIC may administer influenza and hepatitis B immunizations and tuberculosis skin testing, in a nonemergency environment, to public safety personnel within the jurisdiction of the [EMT–P] PARAMEDIC, if the services are:

(1) Authorized by a written agreement between the provider's jurisdictional EMS operational program medical director and the county or city health department in whose jurisdiction the services are performed, which shall include provisions for documentation, referral and follow–up, and storage and inventory of medicine;

(2) Under the direction of the jurisdictional EMS operational program medical director; and

(3) Approved by the Institute.

(h) (1) Subject to the hearing provisions of subsection (i) of this section and as a result of any conduct of an emergency medical services provider or an applicant for a license or certificate under this section that is prohibited under the provisions of this section or any regulations adopted under this section, the EMS Board may:

(i) Reprimand or place an emergency medical services provider on probation;

(ii) Suspend or revoke the license or certificate of an emergency medical services provider;

(iii) Deny a license or certificate to an applicant; or

(iv) Refuse to renew an applicant's license or certificate.

(2) On the application of an individual whose license or certificate has been suspended or revoked, the EMS Board may reinstate a suspended or revoked license or certificate.

(3) (i) Unless the EMS Board agrees to accept the surrender of a license or certificate, a holder of a license or certificate may not surrender the license or certificate.

(ii) A license or certificate may not lapse by operation of law while the holder of the license or certificate is under investigation or while charges are pending against the holder of the license or certificate.

(4) The EMS Board may set conditions on its agreement with the holder of the license or certificate under investigation or against whom charges are pending to accept surrender of the license or certificate.

(i) (1) The EMS Board may take action under subsection (h) of this section only after:

(i) A review and recommendation by the provider review panel;  
and

(ii) After the individual against whom the action is contemplated has had an opportunity for a hearing in accordance with the provisions of Title 10, Subtitle 2 of the State Government Article.

(2) The EMS Board may not proceed with disciplinary cases concerning patient care except upon the affirmative recommendation of the provider review panel.

(3) The individual may be represented at the hearing by counsel.

(4) Any person aggrieved by a decision of the EMS Board may take any further appeal allowed under Title 10, Subtitle 2 of the State Government Article.

(j) (1) The EMS Board shall refer to the Board of Nursing any complaint about an emergency medical services provider who, in addition to being licensed or certified by the EMS Board, is licensed as a registered nurse or licensed practical nurse by the Board of Nursing.

(2) The Board of Nursing may investigate and discipline a registered nurse or licensed practical nurse for a violation of this section and a violation of Title 8 of the Health Occupations Article.

(3) The Board of Nursing shall conduct any hearing required by this section in accordance with § 8-317 of the Health Occupations Article.

(4) The EMS Board shall comply with any recommendation or order issued by the Board of Nursing regarding the issuance of a license or certificate by the EMS Board to an individual who is licensed as a registered nurse or licensed practical nurse.

(k) (1) The EMS Board may, over the signature of the chairman of the EMS Board, Executive Director of the Institute, chairman of the provider review panel, or State EMS Medical Director, issue subpoenas and administer oaths in connection with any investigation under this section and any hearings or proceedings before it.

(2) If, without lawful excuse, a person disobeys a subpoena of the EMS Board or an order by the EMS Board to take an oath or to testify or answer a question, a court of competent jurisdiction may punish the person for contempt.

(3) If, after due notice, the individual against whom an action is contemplated fails or refuses to appear, the EMS Board may hear and determine the matter.

(4) If the entry is necessary to carry out a duty under this section, any duly authorized agent or investigator of the EMS Board may enter at any reasonable hour a place of business of a licensed or certified emergency medical services provider or public premises.

(5) The EMS Board may issue a cease and desist order or obtain injunctive relief if a person provides emergency medical services without a license or certificate.

(1) (1) A person who violates any provision of this subsection is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$1,000 or imprisonment not exceeding 1 year or both.

(2) Unless licensed or certified to provide emergency medical services under this section, a person may not represent to the public that the person is authorized to provide emergency medical services in this State.

(3) Unless licensed or certified to provide emergency medical services under this section, a person may not use the terms “cardiac rescue technician”, “CRT”, “emergency medical dispatcher”, “EMD”, **“EMERGENCY MEDICAL RESPONDER”**, “emergency medical technician”, [“EMT–B”, “EMT–P”,] “paramedic”, or [“first responder” or] any other words, letters, or symbols with the intent to represent that the person is authorized to provide emergency medical services.

(m) (1) There is an EMS Board Provider Fund.

(2) Except as provided in paragraph (3) of this subsection, the EMS Board may set reasonable fees for the initial issuance of licenses or certificates and its other services.

(3) (i) The EMS Board may not charge an initial licensing fee, an initial certifying fee, a fee for the renewal of a license, a fee for the renewal of a certificate, a testing fee, or a retesting fee to an individual who is a member or employee of any governmental or volunteer fire or rescue company at the time of that individual's application.

(ii) The EMS Board shall pay all fees collected under the provisions of this section to the Comptroller of the State.

(iii) The Comptroller of the State shall distribute the fees to the EMS Board Provider Fund.

(4) The EMS Board Provider Fund shall be used exclusively to fund the actual documented direct and indirect costs of fulfilling the statutory and regulatory duties of the EMS Board as provided by the provisions of this section.

(5) (i) The EMS Board Provider Fund is a continuing, nonlapsing fund and is not subject to § 7–302 of the State Finance and Procurement Article.

(ii) Any unspent portion of the EMS Board Provider Fund may not be transferred or revert to the General Fund of the State but shall remain in the EMS Board Provider Fund to be used for the purposes specified in this section.

(n) (1) The EMS Board may delegate any portion of its authority under this section to the Executive Director of the Institute unless specifically precluded by statute.

(2) Notice of any delegation of authority made under this section shall be published in the Maryland Register.

(3) The EMS Board may not delegate its authority to promulgate and revise regulations, hear contested cases, or designate the provider review panel to the Executive Director of the Institute.

(4) The EMS Board may delegate to the Office of Administrative Hearings the authority to hear contested cases and issue recommendations.

SECTION 2. AND BE IT FURTHER ENACTED, That the State Emergency Medical Services Board (EMS Board) shall adopt regulations necessary to implement this Act on or before July 1, 2012.

SECTION 3. AND BE IT FURTHER ENACTED, That an emergency medical services provider who is licensed or certified by the EMS Board prior to July 1, 2012, shall be deemed licensed or certified under the provisions of this Act until the expiration of the license or certification.

SECTION 4. AND BE IT FURTHER ENACTED, That Sections 1 and 3 of this Act shall take effect July 1, 2012.

SECTION 5. AND BE IT FURTHER ENACTED, That, except as provided in Section 4 of this Act, this Act shall take effect July 1, 2011.

**Approved by the Governor, April 12, 2011.**

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**Chapter 114****(House Bill 217)**

AN ACT concerning

**Department of Health and Mental Hygiene – Mental Hygiene Administration  
– Transfers Between Facilities**

FOR the purpose of authorizing the Director of the Mental Hygiene Administration to transfer individuals from a public mental health facility to the Clifton T. Perkins Hospital Center under certain circumstances; requiring the Director to give certain individuals notice and an opportunity for a certain hearing under certain circumstances; providing that certain decisions of an administrative law judge are final; providing that the Board of Review of the Department of Health and Mental Hygiene does not have jurisdiction over certain decisions; authorizing the Director to transfer certain individuals between public mental health facilities under certain circumstances; defining a certain term; and generally relating to the transfer of individuals between Mental Hygiene Administration facilities.

BY repealing and reenacting, with amendments,  
Article – Health – General  
Section 10–807  
Annotated Code of Maryland  
(2009 Replacement Volume and 2010 Supplement)

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

**Article – Health – General**

10–807.

**(A) IN THIS SECTION, “PUBLIC FACILITY” MEANS A FACILITY UNDER § 10–406 OF THIS TITLE MAINTAINED UNDER THE DIRECTION OF THE ADMINISTRATION.**

**[(a)] (B) The Director may transfer an individual, WHO IS ADMITTED UNDER SUBTITLE 6 OF THIS TITLE OR COMMITTED UNDER TITLE 3 OF THE CRIMINAL PROCEDURE ARTICLE, from a public facility to [another public facility or, if a private facility agrees, to that private facility,] THE CLIFTON T. PERKINS HOSPITAL CENTER, if the Director finds that:**

(1) The individual either can receive better care or treatment in or would be more likely to benefit from care or treatment at [the other facility] **THE CLIFTON T. PERKINS HOSPITAL CENTER**; or

(2) The safety or welfare of other individuals would be furthered.

**(C) (1) PRIOR TO TRANSFERRING AN INDIVIDUAL FROM A PUBLIC FACILITY TO THE CLIFTON T. PERKINS HOSPITAL CENTER, THE DIRECTOR SHALL GIVE THE INDIVIDUAL NOTICE AND AN OPPORTUNITY FOR ~~HEARING AT A HEARING BEFORE~~ THE OFFICE OF ADMINISTRATIVE HEARINGS, UNLESS THE DIRECTOR FINDS THAT AN EMERGENCY REQUIRES THE IMMEDIATE TRANSFER OF THE INDIVIDUAL.**

**(2) IF THE DIRECTOR DETERMINES THAT AN EMERGENCY REQUIRES THE IMMEDIATE TRANSFER OF AN INDIVIDUAL, THE INDIVIDUAL MAY BE TRANSFERRED TO THE CLIFTON T. PERKINS HOSPITAL CENTER IF THE ADMINISTRATION:**

**(I) PROVIDES NOTICE TO THE INDIVIDUAL; AND**

**(II) SCHEDULES A POST TRANSFER HEARING BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS WITHIN ~~10 DAYS OF~~ CALENDAR DAYS AFTER THE TRANSFER.**

**(3) A HEARING REQUESTED BY AN INDIVIDUAL UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE CONVENED AT THE PUBLIC FACILITY WITHIN 30 CALENDAR DAYS AFTER THE INDIVIDUAL RECEIVED NOTICE OF THE TRANSFER.**

**(D) IF A HEARING IS REQUESTED BY THE INDIVIDUAL IN ACCORDANCE WITH SUBSECTION ~~(C)~~ (C)(1) OF THIS SECTION, THE HEARING SHALL BE UTILIZED TO DETERMINE WHETHER THE ADMINISTRATION HAS DEMONSTRATED BY PREPONDERANCE OF THE EVIDENCE THAT THE CRITERIA FOR TRANSFER HAVE BEEN MET.**

**(E) A DECISION OF AN ADMINISTRATIVE LAW JUDGE UNDER THIS SECTION SHALL BE THE FINAL DECISION OF THE DEPARTMENT FOR THE PURPOSE OF JUDICIAL REVIEW OF FINAL DECISIONS UNDER TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.**

**(F) THE BOARD OF REVIEW OF THE DEPARTMENT DOES NOT HAVE JURISDICTION TO REVIEW THE DETERMINATION OF AN ADMINISTRATIVE LAW JUDGE THAT IS MADE UNDER THIS SECTION.**



**[(b)] (G)** The Director may transfer any individual who is a resident of another state to a facility in that state if the Director finds that the transfer is feasible.

**[(c)] (H)** (1) Any finding that the Director makes under [subsection (a) or (b) of] this section shall be in writing and filed with the records of the individual involved.

(2) A copy of the finding and the notice to the facility to which the individual is being transferred shall be sent to the guardian or [next of kin] **OTHER LEGAL REPRESENTATIVE** of the individual.

**(I) THE DIRECTOR MAY TRANSFER AN INDIVIDUAL BETWEEN PUBLIC FACILITIES, OTHER THAN THE CLIFTON T. PERKINS HOSPITAL CENTER, WITHOUT THE CONSENT OF THE INDIVIDUAL IF THE DIRECTOR FINDS THAT ADMINISTRATIVE OR CLINICAL REASONS REQUIRE A TRANSFER OF THE INDIVIDUAL FROM THE FACILITY.**

**[(d)] (J)** (1) In effecting a transfer of an individual from a unit in a public facility to another unit in the facility or to another public facility, the transferring facility shall provide for the transfer of all the records necessary for continuing the care of the individual on or before the date of transfer to the facility to which the individual is being transferred.

(2) This subsection is not intended to preempt the requirements of § 10-625 of this title.

**[(e)] (K)** An individual may not be transported to or from any facility unless accompanied by:

(1) An ambulance attendant or other individual who is authorized by the facility and is of the same sex. However, the chief executive officer of the facility or that officer's designee may designate an ambulance attendant or other person of either sex to provide transportation to an individual, if deemed appropriate; or

(2) The parent, spouse, domestic partner, adult sibling, or adult offspring of the individual.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

**Approved by the Governor, April 12, 2011.**

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**Chapter 115****(House Bill 258)**

AN ACT concerning

**Garrett County – Tax Sales – Auctioneer’s Fees**

FOR the purpose of altering the auctioneer’s fees allowed as an expense and a lien on property to be sold at certain tax sales in Garrett County; making a certain technical correction; and generally relating to tax sales in Garrett County.

BY repealing and reenacting, with amendments,

Article – Tax – Property

Section 14–813(e) and (f)

Annotated Code of Maryland

(2007 Replacement Volume and 2010 Supplement)

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

**Article – Tax – Property**

14–813.

(e) (1) The following expenses relating to the sale shall be allowed, all of which are liens on the property to be sold:

(i) the expense of publication of all notices;

(ii) the cost of the county or municipal corporation surveyor’s description and plat, if necessary;

(iii) except as provided in items (vi) and (vii) of this paragraph, a fee to the attorney representing the county treasurer for services, that does not exceed \$15 for each property; except that in any county that has a paid full–time solicitor, counsel or attorney, the fee shall be collected and paid into the general funds of the county;

(iv) the auctioneer’s fee, as provided in paragraph (2) of this subsection;

(v) in Baltimore County, where provision has been made for the posting of the premises to be sold, a sum that does not exceed \$7.50;

(vi) in Somerset County, Wicomico County and Worcester County a fee to the attorney representing the county treasurer or director of finance,

that does not exceed \$35 for each property, to be approved by the county treasurer or director of finance and by the governing body;

(vii) in Baltimore City:

1. a fee of \$30 for each property to the attorney representing the director of finance, that is collected and paid into the General Fund of Baltimore City; and

2. a fee that does not exceed \$10 for the mailing of statements and notices;

(viii) in Montgomery County, instead of the fee allowed under item (iii) of this paragraph, a fee that does not exceed \$30 for each property for legal services relating to the sale, to be collected and paid into the general funds of the county; and

(ix) a reasonable fee that does not exceed \$150 for examinations of title before the mailing of statements and notices.

(2) The auctioneer's fee allowed in paragraph (1) of this subsection shall be:

(i) except in Baltimore City, Caroline County, Carroll County, Cecil County, Dorchester County, **GARRETT COUNTY**, Howard County, Kent County, Prince George's County, Queen Anne's County, Somerset County, Talbot County, Wicomico County, or Worcester County:

1. for any date when 1, 2, or 3 properties are sold, an amount not to exceed \$10; and

2. for any date when 4 or more properties are sold, \$3 for each property sold;

(ii) in Dorchester County, \$10 for each property sold, but in no event may the auctioneer's fee be less than \$50 a day or greater than \$200 a day;

(iii) in Kent County, an amount not exceeding \$7.50 for each property sold;

(iv) in Cecil County and Queen Anne's County, \$7.50 for each property sold;

(v) in **GARRETT COUNTY**, Somerset County, and Wicomico County, \$8 for each property sold;

(vi) in Worcester County, the greater of \$8 for each property sold or \$300, to be allocated pro rata among each property sold;

(vii) in Baltimore City:

1. for any date when 1, 2, or 3 properties are sold, an amount not to exceed \$10;

2. for any date when 4 or more properties are sold, \$3 for each property sold; and

3. in an electronic sale, an amount not to exceed \$10 for each property sold;

(viii) in Carroll County, the amount set by the Carroll County Commissioners; and

(ix) in Caroline County, Howard County, Prince George's County, and Talbot County, \$10 for each property sold.

(f) In Garrett County, instead of complying with (d)(1)(i) through (iv) of this section, the notice shall contain a statement that gives the year or years for which the taxes are due and the amount of the taxes, to whom the property is assessed, the district where the property is located, the quantity of land offered for sale, the name or number of the tract or lot of land, if the property has a name or number, and is assessed by that name or number and if there is record evidence of the property in Garrett County, a reference to the record liber and folio where the deed or conveyance for the property is recorded, the name of the grantor and the date of the deed or conveyance, or any other description as is sufficient legally to identify the property, but in no case is a description by metes and bounds, courses and distances required. The [county treasurer] **COLLECTOR IN GARRETT COUNTY** may employ an attorney to examine the title to the land to be advertised or sold for taxes, under this subtitle, to provide the information required for the notice and prepare the notice for publication, for which services a sum that does not exceed \$150 shall be added to the total charges due on the property.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2011.

**Approved by the Governor, April 12, 2011.**

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**Chapter 116**

**(House Bill 265)**

AN ACT concerning

**Developmental Disabilities Administration – Inspections of Licensees –  
Performance Evaluation of Surveyors**

FOR the purpose of requiring the Developmental Disabilities Administration or its agent to ~~ensure that surveyors who carry out inspections of sites or offices operated by a licensee interpret and apply licensing requirements consistently and uniformly; requiring the Administration or its agent to~~ evaluate periodically, for a certain purpose, the performance of certain surveyors for a certain purpose surveyors who carry out inspections of sites or offices operated by a licensee; and generally relating to inspections of licensees of the Developmental Disabilities Administration.

BY repealing and reenacting, with amendments,  
Article – Health – General  
Section 7–909  
Annotated Code of Maryland  
(2009 Replacement Volume and 2010 Supplement)

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

**Article – Health – General**

7–909.

(a) In this section, the word “licensee” means a person who is licensed by the Administration under this title to provide services.

(b) **(1)** The Administration or its agent shall inspect each site or office operated by a licensee at least once annually and at any other time that the Administration considers necessary.

**(2) THE ADMINISTRATION OR ITS AGENT SHALL:**

~~**(I) ENSURE THAT SURVEYORS WHO CARRY OUT INSPECTIONS UNDER THIS SUBSECTION INTERPRET AND APPLY LICENSING REQUIREMENTS CONSISTENTLY AND UNIFORMLY; AND**~~

~~**(II) EVALUATE**~~ **EVALUATE** PERIODICALLY THE PERFORMANCE OF SURVEYORS WHO CARRY OUT INSPECTIONS UNDER THIS SUBSECTION TO ENSURE THE CONSISTENT AND UNIFORM INTERPRETATION AND APPLICATION OF LICENSING REQUIREMENTS.

(c) The Administration shall keep a report of each inspection.

(d) The Administration shall bring any deficiencies to the attention of:

(1) The executive officer of the licensee; or

(2) In the case of an intermediate care facility–intellectual disability, the State Planning Council and the State–designated protection and advocacy agency.

(e) (1) The Administration, in conjunction with the Office of Health Care Quality, shall adopt regulations that establish a system of prioritization to respond to and investigate serious reportable incidents, as defined by the Administration, in the areas of abuse, neglect, serious injury, and medication errors that threaten the health, safety, and well–being of individuals receiving services funded by the Administration in State–operated and community programs licensed by the Administration.

(2) The Administration shall seek input from individuals with disabilities and their families, licensees, and advocacy organizations in developing the regulations, prior to publishing the regulations in the Maryland Register for public comment.

(3) The regulations shall define and address:

(i) The procedures and timelines that providers must follow when reporting serious reportable incidents and deaths to the Administration and the Office of Health Care Quality;

(ii) The Department’s protocol to determine the necessity to investigate a serious reportable incident that takes into account:

1. The severity of the incident;

2. The quality of the licensee’s internal investigation;

and

3. The number and frequency of serious reportable incidents reported by the licensee to the Department;

(iii) The specific roles and responsibilities of each governmental unit involved in any follow–up investigations that may occur due to a licensee’s report of a serious reportable incident or death;

(iv) Methods of investigations, including on–site investigations;

(v) Time lines for response to serious reportable incidents and deaths and investigation of serious reportable incidents and deaths;

(vi) Time lines for issuing specified reports, including corrective action plans, to the Administration, licensee, Mortality and Quality Review Committee, Medicaid Fraud Unit, individuals receiving services from the licensee involved in the incident and their guardians or family members, and others; and

(vii) Follow-up protocols for the Office of Health Care Quality and the Administration to ensure that corrective action has been implemented by the licensee.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

**Approved by the Governor, April 12, 2011.**

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## **Chapter 117**

**(House Bill 280)**

AN ACT concerning

### **Carroll County – Public Facilities Bonds**

FOR the purpose of authorizing and empowering the County Commissioners of Carroll County, from time to time, to borrow not more than \$16,000,000 in order to finance the construction, improvement, or development of certain public facilities in Carroll County, including water and sewer projects, to finance loans for fire or emergency-related equipment, buildings, and other facilities of volunteer fire departments in the County, and to effect such borrowing by the issuance and sale at public or private sale of its general obligation bonds in like par amount; empowering the County to fix and determine, by resolution, the form, tenor, interest rate or rates or method of determining the same, terms, conditions, maturities, and all other details incident to the issuance and sale of the bonds; empowering the County to issue refunding bonds for the purchase or redemption of bonds in advance of maturity; providing that such borrowing may be undertaken by the County in the form of installment purchase obligations executed and delivered by the County for the purpose of acquiring agricultural land and woodland preservation easements; empowering and directing the County to levy, impose, and collect, annually, ad valorem taxes in rate and amount sufficient to provide funds for the payment of the maturing principal of and interest on the bonds; exempting the bonds and refunding bonds and the interest thereon and any income derived therefrom from all State, County, municipal, and other taxation in the State of Maryland; providing that nothing in this Act shall prevent the County from authorizing the issuance and sale of bonds the interest on which is not excludable from gross income for federal

income tax purposes; and relating generally to the issuance and sale of such bonds.

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That, as used herein, the term “County” means the body politic and corporate of the State of Maryland known as the County Commissioners of Carroll County, and the term “construction, improvement, or development of public facilities” means the acquisition, alteration, construction, reconstruction, enlargement, equipping, expansion, extension, improvement, rehabilitation, renovation, upgrading, and repair of public buildings and facilities and public works projects, including, but not limited to, public works projects such as roads, bridges and storm drains, public school buildings and facilities, landfills, Carroll Community College buildings and facilities, public operational buildings and facilities such as buildings and facilities for County administrative use, public safety, health and social services, libraries, refuse disposal buildings and facilities, water and sewer infrastructure facilities, easements or similar or related rights in land that restrict the use of agricultural land or woodland to maintain the character of the land as agricultural land or woodland, and parks and recreation buildings and facilities, together with the costs of acquiring land or interests in land as well as any related architectural, financial, legal, planning, or engineering services.

SECTION 2. AND BE IT FURTHER ENACTED, That the County is hereby authorized to finance any part or all of the costs of the construction, improvements or development of public facilities described in Section 1 of this Act, to make loans to each and every volunteer fire department in the County upon such terms and conditions as may be determined by the County for the purpose of financing certain fire or emergency–related equipment, buildings, or other facilities of volunteer fire departments, and to borrow money and incur indebtedness for those purposes, at one time or from time to time, in an amount not exceeding, in the aggregate, \$16,000,000 and to evidence such borrowing by the issuance and sale upon its full faith and credit of general obligation bonds in like par amount, which may be issued at one time or from time to time, in one or more groups or series, as the County may determine.

SECTION 3. AND BE IT FURTHER ENACTED, That the bonds shall be issued in accordance with a resolution of the County, which shall describe generally the construction, improvement, or development of public facilities, including water and sewer projects, the fire or emergency–related equipment, buildings, or other facilities of volunteer fire departments in the County for which the proceeds of the bond sale are intended and the amount needed for those purposes. The County shall have and is hereby granted full and complete authority and discretion in the resolution to fix and determine with respect to the bonds of any issue: the designation, date of issue, denomination or denominations, form or forms, and tenor of the bonds which, without limitation, may be issued in registered form within the meaning of Section 30 of Article 31 of the Annotated Code of Maryland, as amended; the rate or rates of interest payable thereon, or the method of determining the same, which may include a variable rate; the date or dates and amount or amounts of maturity, which need not be in equal par amounts or in consecutive annual installments, provided only that no bond of any



issue shall mature later than 30 years from the date of its issue; the manner of selling the bonds, which may be at either public or private sale, for such price or prices as may be determined to be for the best interests of Carroll County; the manner of executing and sealing the bonds, which may be by facsimile; the terms and conditions of any loans made to volunteer fire departments; the terms and conditions, if any, under which bonds may be tendered for payment or purchase prior to their stated maturity; the terms or conditions, if any, under which bonds may or shall be redeemed prior to their stated maturity; the place or places of payment of the principal of and the interest on the bonds, which may be at any bank or trust company within or without the State of Maryland; covenants relating to compliance with applicable requirements of federal income tax law, including (without limitation) covenants regarding the payment of rebate or penalties in lieu of rebate; covenants relating to compliance with applicable requirements of federal or state securities laws; and generally all matters incident to the terms, conditions, issuance, sale, and delivery thereof.

The bonds may be made redeemable before maturity, at the option of the County, at such price or prices and under such terms and conditions as may be fixed by the County prior to the issuance of the bonds, either in the resolution or in subsequent resolutions. The bonds may be issued in registered form, and provision may be made for the registration of the principal only. In case any officer whose signature appears on any bond ceases to be such officer before the delivery thereof, such signature shall nevertheless be valid and sufficient for all purposes as if the officer had remained in office until such delivery. The bonds and the issuance and sale thereof shall be exempt from the provisions of Sections 9, 10, and 11 of Article 31 of the Annotated Code of Maryland, as amended.

The borrowing authorized by this Act may also be undertaken by the County in the form of installment purchase obligations executed and delivered by the County for the purpose of acquiring easements or similar or related rights in land that restrict the use of agricultural land or woodland to maintain the character of the land as agricultural or woodland. The form of installment purchase obligations, the manner of accomplishing the acquisition of easements, which may be the direct exchange of installment purchase obligations for easement, and all matters incident to the execution and delivery of the installment purchase obligations and acquisition of the easements by the County shall be determined in the resolution. Except where the provisions of this Act would be inapplicable to installment purchase obligations, the term "bonds" used in this Act shall include installment purchase obligations and matters pertaining to the bonds under this Act, such as the security for the payment of the bonds, the exemption of the bonds from State, County, municipal, or other taxation, and authorization to issue refunding bonds and the limitation on the aggregate principal amount of bonds authorized for issuance, shall be applicable to installment purchase obligations.

The County may enter into agreements with agents, banks, fiduciaries, insurers, or others for the purpose of enhancing the marketability of any security for the bonds and for the purpose of securing any tender option that may be granted to

holders of the bonds, all as may be determined and presented in the aforesaid resolution, which may (but need not) state as security for the performance by the County of any monetary obligations under such agreements the same security given by the County to bondholders for the performance by the County of its monetary obligations under the bonds.

If the County determines in the resolution to offer any of the bonds by solicitation of competitive bids at public sale, the resolution shall fix the terms and conditions of the public sale and shall adopt a form of notice of sale, which shall outline the terms and conditions, and a form of advertisement, which shall be published in one or more daily or weekly newspapers having a general circulation in the County and which may also be published in one or more journals having a circulation primarily among banks and investment bankers. At least one publication of the advertisement shall be made not less than 10 days before the sale of the bonds.

Upon delivery of any bonds to the purchaser or purchasers, payment therefor shall be made to the Comptroller of Carroll County or such other official of Carroll County as may be designated to receive such payment in a resolution passed by the County before such delivery.

SECTION 4. AND BE IT FURTHER ENACTED, That the net proceeds of the sale of bonds shall be used and applied exclusively and solely for the acquisition, construction, improvement, or development of public facilities, including water and sewer projects, to make loans to volunteer fire departments for the financing of fire or emergency-related equipment, buildings, or other facilities of volunteer fire departments in the County for which the bonds are sold. If the amounts borrowed shall prove inadequate to finance the projects described in the resolution, the County may issue additional bonds with the limitations hereof for the purpose of evidencing the borrowing of additional funds for such financing, provided the resolution authorizing the sale of additional bonds shall so recite, but if the net proceeds of the sale of any issue of bonds exceed the amount needed to finance the projects described in the resolution, the excess funds so borrowed and not expended shall be applied to the payment of the next principal maturity of the bonds or to the redemption of any part of the bonds which have been made redeemable or to the purchase and cancellation of bonds, unless the County shall adopt a resolution allocating the excess funds to the acquisition, construction, improvement, or development of other public facilities, including water and sewer projects, or to the making of loans for fire or emergency-related equipment, buildings, or other facilities of volunteer fire departments in the County, as defined and within the limits set forth in this Act.

SECTION 5. AND BE IT FURTHER ENACTED, That the bonds hereby authorized shall constitute, and they shall so recite, an irrevocable pledge of the full faith and credit and unlimited taxing power of the County to the payment of the maturing principal of and interest on the bonds as and when they become payable. In each and every fiscal year that any of the bonds are outstanding, the County shall levy or cause to be levied ad valorem taxes upon all the assessable property within the corporate limits of the County in rate and amount sufficient to provide for or assure

the payment, when due, of the principal of and interest on all the bonds maturing in each such fiscal year and, in the event the proceeds from the taxes so levied in any such fiscal year shall prove inadequate for such payment, additional taxes shall be levied in the succeeding fiscal year to make up any such deficiency. The County may apply to the payment of the principal of and interest on any bonds issued hereunder any funds received by it as loan repayments from volunteer fire departments and any funds received by it from the State of Maryland, the United States of America, any agency or instrumentality thereof, or from any other source, if such funds are granted for the purpose of assisting the County in financing the acquisition, construction, improvement, or development of the public facilities defined in this Act, including the water and sewer projects or the making of loans for the aforementioned fire or emergency-related equipment, buildings, or other facilities for volunteer fire departments in the County and, to the extent of any such funds received or receivable in any fiscal year, the taxes that are required to be levied may be reduced accordingly.

SECTION 6. AND BE IT FURTHER ENACTED, That the County is further authorized and empowered, at any time and from time to time, to issue its bonds in the manner herein above described for the purpose of refunding, by payment at maturity or upon purchase or redemption, any bonds issued hereunder. The validity of any such refunding bonds shall in no way be dependent upon or related to the validity or invalidity of the obligations so refunded. The powers herein granted with respect to the issuance of bonds shall be applicable to the issuance of refunding bonds. Such refunding bonds may be issued by the County for the purpose of providing it with funds to pay any of its outstanding bonds issued hereunder at maturity, for the purpose of providing it with funds to purchase in the open market any of its outstanding bonds issued hereunder, prior to the maturity thereof, or for the purpose of providing it with funds for the redemption prior to maturity of any outstanding bonds issued hereunder which are, by their terms, redeemable, for the purpose of providing it with funds to pay interest on any outstanding bonds issued hereunder prior to their payment at maturity of purchase or redemption in advance of maturity, or for the purpose of providing it with funds to pay any redemption or purchase premium in connection with the refunding of any of its outstanding bonds issued hereunder. The proceeds of the sale of any such refunding bonds shall be segregated and set apart by the County as a separate trust fund to be used solely for the purpose of paying the purchase or redemption prices of the bonds to be refunded.

SECTION 7. AND BE IT FURTHER ENACTED, That the County may, prior to the preparation of definitive bonds, issue interim certificates or temporary bonds, exchangeable for definitive bonds when such bonds have been executed and are available for such delivery, provided, however, that any such interim certificates or temporary bonds shall be issued in all respects subject to the restrictions and requirements set forth in this Act. The County may, by appropriate resolution, provide for the replacement of any bonds issued hereunder which shall have become mutilated or lost or destroyed upon such conditions and after receiving such indemnity as the County may require.

SECTION 8. AND BE IT FURTHER ENACTED, That any and all obligations issued pursuant to the authority of this Act, their transfer, the interest payable thereon, and any income derived therefrom in the hands of the holders thereof from time to time (including any profit made in the sale thereof) shall be and are hereby declared to be at all times exempt from State, County, municipal, or other taxation of every kind and nature whatsoever within the State of Maryland. Nothing in this Act shall prevent the County from authorizing the issuance and sale of bonds the interest on which is not excludable from gross income for federal income tax purposes.

SECTION 9. AND BE IT FURTHER ENACTED, That the authority to borrow money and issue bonds conferred on the County by this Act shall be deemed to provide an additional and alternative authority for borrowing money and shall be regarded as supplemental and additional to powers conferred upon the County by other laws and shall not be regarded as in derogation of any power now existing; and all Acts of the General Assembly of Maryland heretofore passed authorizing the County to borrow money are hereby continued to the extent that the powers contained in such Acts have not been exercised, and nothing contained in this Act may be construed to impair, in any way, the validity of any bonds that may have been issued by the County under the authority of any said Acts, and the validity of the bonds is hereby ratified, confirmed, and approved. This Act, being necessary for the welfare of the inhabitants of Carroll County, shall be liberally construed to effect the purposes hereof. All Acts and parts of Acts inconsistent with the provisions of this Act are hereby repealed to the extent of such inconsistency.

SECTION 10. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2011.

**Approved by the Governor, April 12, 2011.**

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## **Chapter 118**

**(House Bill 298)**

AN ACT concerning

### **Labor and Employment – Wage Payment and Collection – Void Agreements**

FOR the purpose of establishing that an agreement between an employer and an employee for the employee to work for less than a certain required wage is void; and generally relating to void agreements to work for less than a certain wage.

BY repealing and reenacting, with amendments,  
Article – Labor and Employment  
Section 3–502  
Annotated Code of Maryland

(2008 Replacement Volume and 2010 Supplement)

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

**Article – Labor and Employment**

3–502.

(a) (1) Each employer:

(i) shall set regular pay periods; and

(ii) except as provided in paragraph (2) of this subsection, shall pay each employee at least once in every 2 weeks or twice in each month.

(2) An employer may pay an administrative, executive, or professional employee less frequently than required under paragraph (1)(ii) of this subsection.

(b) If the regular payday of an employee is a nonworkday, an employer shall pay the employee on the preceding workday.

(c) Each employer shall pay a wage:

(1) in United States currency; or

(2) by a check that, on demand, is convertible at face value into United States currency.

(d) (1) In this subsection, “employer” includes a governmental unit.

(2) An employer may not print or cause to be printed an employee’s Social Security number on the employee’s wage payment check, an attachment to an employee’s wage payment check, a notice of direct deposit of an employee’s wage, or a notice of credit of an employee’s wage to a debit card or card account.

(e) This section does not prohibit the:

(1) direct deposit of the wage of an employee into a personal bank account of the employee in accordance with an authorization of the employee; or

(2) credit of the wage of an employee to a debit card or card account from which the employee is able to access the funds through withdrawal, purchase, or transfer if:

(i) authorized by the employee; and

(ii) any fees applicable to the debit card or card account are disclosed to the employee in writing in at least 12 point font.

**(F) AN AGREEMENT TO WORK FOR LESS THAN THE WAGE REQUIRED UNDER THIS SUBTITLE IS VOID.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

**Approved by the Governor, April 12, 2011.**

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## **Chapter 119**

### **(House Bill 349)**

AN ACT concerning

#### **Peace Orders and Protective Orders – Shielding of Records – Orders Issued Against Respondent**

FOR the purpose of limiting a condition under which the court is required to shield all court records relating to a peace order or protective order proceeding by requiring, as a prerequisite of shielding, the absence of a previously issued final peace order or protective order against the respondent or a pending interim or temporary peace order or protective order against the respondent; and generally relating to the shielding of certain court records relating to peace order and protective order proceedings.

BY repealing and reenacting, with amendments,  
Article – Courts and Judicial Proceedings  
Section 3–1510  
Annotated Code of Maryland  
(2006 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,  
Article – Family Law  
Section 4–512  
Annotated Code of Maryland  
(2006 Replacement Volume and 2010 Supplement)

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

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

3-1510.

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

(2) (i) "Court record" means an official record of a court about a proceeding that the clerk of a court or other court personnel keeps.

(ii) "Court record" includes:

1. An index, a docket entry, a petition, a memorandum, a transcription of proceedings, an electronic recording, an order, and a judgment; and

2. Any electronic information about a proceeding on the website maintained by the Maryland Judiciary.

(3) "Shield" means to remove information from public inspection in accordance with this section.

(4) "Shielding" means:

(i) With respect to a record kept in a courthouse, removing to a separate secure area to which persons who do not have a legitimate reason for access are denied access; and

(ii) With respect to electronic information about a proceeding on the website maintained by the Maryland Judiciary, removing the information from the public website.

(5) "Victim services provider" means a nonprofit organization that has been authorized by the Governor's Office of Crime Control and Prevention or the Department of Human Services to have access to records of shielded peace orders in order to assist victims of abuse.

(b) If a petition filed under this subtitle is denied or dismissed at the interim, temporary, or final peace order stage of a proceeding under this subtitle, the respondent may file a written request to shield all court records relating to the proceeding.

(c) A request for shielding under this section may not be filed within 3 years after the denial or dismissal of the petition unless the respondent files with the request a general waiver and release of all the respondent's tort claims related to the proceeding under this subtitle.

(d) (1) On the filing of a request for shielding under this section, the court shall schedule a hearing on the request.

(2) The court shall give notice of the hearing to the petitioner or the petitioner's counsel of record.

(3) Except as provided in paragraphs (4) and (5) of this subsection, after the hearing, the court shall order the shielding of all court records relating to the proceeding if the court finds:

(i) That the petition was denied or dismissed at the interim, temporary, or final peace order stage of the proceeding;

(ii) That a final peace order or protective order has not been previously issued **AGAINST THE RESPONDENT** in a proceeding between the petitioner and the respondent; and

(iii) That none of the following are pending at the time of the hearing:

1. An interim or temporary peace order or protective order issued **AGAINST THE RESPONDENT** in a proceeding between the petitioner and the respondent; or

2. A criminal charge against the respondent arising from an alleged act described in § 3–1503(a) of this subtitle against the petitioner.

(4) (i) If the petitioner appears at the shielding hearing and objects to the shielding, the court may, for good cause, deny the shielding.

(ii) In determining whether there is good cause to grant the request to shield court records, the court shall balance the privacy of the respondent and potential danger of adverse consequences to the respondent against the potential risk of future harm and danger to the petitioner and the community.

(5) Information about the proceeding may not be removed from the Domestic Violence Central Repository.

(e) (1) This section does not preclude the following persons from accessing a shielded record for a legitimate reason:

(i) A law enforcement officer;

(ii) An attorney who represents or has represented the petitioner or the respondent in a proceeding;

(iii) A State's Attorney;

(iv) An employee of a local Department of Social Services; or



(v) A victim services provider.

(2) (i) A person not listed in paragraph (1) of this subsection may subpoena, or file a motion for access to, a record shielded under this section.

(ii) If the court finds that the person has a legitimate reason for access, the court may grant the person access to the shielded record under the terms and conditions that the court determines.

(iii) In ruling on a motion under this paragraph, the court shall balance the person's need for access to the record with the respondent's right to privacy and the potential harm of unwarranted adverse consequences to the respondent that the disclosure may create.

(f) Within 60 days after entry of an order under subsection (d)(3) of this section, each custodian of court records that are subject to the order of shielding shall advise in writing the court and the respondent of compliance with the order.

### Article – Family Law

4–512.

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

(2) (i) “Court record” means an official record of a court about a proceeding that the clerk of a court or other court personnel keeps.

(ii) “Court record” includes:

1. an index, a docket entry, a petition, a memorandum, a transcription of proceedings, an electronic recording, an order, and a judgment; and

2. any electronic information about a proceeding on the website maintained by the Maryland Judiciary.

(3) “Shield” means to remove information from public inspection in accordance with this section.

(4) “Shielding” means:

(i) with respect to a record kept in a courthouse, removing to a separate secure area to which persons who do not have a legitimate reason for access are denied access; and

(ii) with respect to electronic information about a proceeding on the website maintained by the Maryland Judiciary, removing the information from the public website.

(5) “Victim services provider” means a nonprofit organization that has been authorized by the Governor’s Office of Crime Control and Prevention or the Department of Human Services to have access to records of shielded protective orders in order to assist victims of abuse.

(b) If a petition filed under this subtitle is denied or dismissed at the interim, temporary, or final protective order stage of a proceeding under this subtitle, the respondent may file a written request to shield all court records relating to the proceeding.

(c) A request for shielding under this section may not be filed within 3 years after the denial or dismissal of the petition, unless the respondent files with the request a general waiver and release of all the respondent’s tort claims related to the proceeding under this subtitle.

(d) (1) On the filing of a request for shielding under this section, the court shall schedule a hearing on the request.

(2) The court shall give notice of the hearing to the petitioner or the petitioner’s counsel of record.

(3) Except as provided in paragraphs (4) and (5) of this subsection, after the hearing, the court shall order the shielding of all court records relating to the proceeding if the court finds:

(i) that the petition was denied or dismissed at the interim, temporary, or final protective order stage of the proceeding;

(ii) that a final protective order or peace order has not been previously issued **AGAINST THE RESPONDENT** in a proceeding between the petitioner and the respondent; and

(iii) that none of the following are pending at the time of the hearing:

1. an interim or temporary protective order or peace order issued **AGAINST THE RESPONDENT** in a proceeding between the petitioner and the respondent; or

2. a criminal charge against the respondent arising from alleged abuse against the petitioner.

(4) (i) If the petitioner appears at the shielding hearing and objects to the shielding, the court may, for good cause, deny the shielding.

(ii) In determining whether there is good cause to grant the request to shield court records, the court shall balance the privacy of the respondent and potential danger of adverse consequences to the respondent against the potential risk of future harm and danger to the petitioner and the community.

(5) Information about the proceeding may not be removed from the Domestic Violence Central Repository.

(e) (1) This section does not preclude the following persons from accessing a shielded record for a legitimate reason:

(i) a law enforcement officer;

(ii) an attorney who represents or has represented the petitioner or the respondent in a proceeding;

(iii) a State's Attorney;

(iv) an employee of a local department; or

(v) a victim services provider.

(2) (i) A person not listed in paragraph (1) of this subsection may subpoena, or file a motion for access to, a record shielded under this section.

(ii) If the court finds that the person has a legitimate reason for access, the court may grant the person access to the shielded record under the terms and conditions that the court determines.

(iii) In ruling on a motion under this paragraph, the court shall balance the person's need for access to the record with the respondent's right to privacy and the potential harm of unwarranted adverse consequences to the respondent that the disclosure may create.

(f) Within 60 days after entry of an order under subsection (d)(3) of this section, each custodian of court records that are subject to the order of shielding shall advise in writing the court and the respondent of compliance with the order.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

**Approved by the Governor, April 12, 2011.**

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**Chapter 120****(House Bill 355)**

AN ACT concerning

**Natural Resources – Hunting – Junior Deer Hunt**

FOR the purpose of requiring the Department of Natural Resources to establish by regulation and by a certain date each year a junior deer hunt to occur on certain days during ~~the bow~~ a deer hunting season; prohibiting the regulations from authorizing the junior deer hunt to occur on certain Sundays in certain counties; authorizing certain persons who are under a certain age to participate in the junior deer hunt under certain circumstances; authorizing a person who participates in the junior deer hunt to use a firearm to hunt deer during the hunt; establishing a certain exception to the prohibition against Sunday deer hunting; and generally relating to the regulation of hunting.

BY repealing and reenacting, with amendments,  
Article – Natural Resources  
Section 10–405(a) and 10–410(a)  
Annotated Code of Maryland  
(2007 Replacement Volume and 2010 Supplement)

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

**Article – Natural Resources**

10–405.

(a) (1) Pursuant to § 10–205 of this title, the Department shall establish by regulation and publish by July 1 each year the open season to hunt forest and upland game birds and mammals.

(2) Except as provided under § 10–410 of this subtitle, the Department may not authorize hunting on a Sunday.

**(3) (I) 1. SUBJECT TO SUBSUBPARAGRAPH 2 OF THIS SUBPARAGRAPH, THE DEPARTMENT SHALL ESTABLISH BY REGULATION BY JULY 1 OF EACH YEAR A JUNIOR DEER HUNT TO OCCUR ON A SATURDAY AND SUNDAY ON THE SAME WEEKEND DURING ~~THE BOW~~ A DEER HUNTING SEASON.**

**2. THE REGULATIONS ADOPTED UNDER THIS SUBPARAGRAPH MAY NOT AUTHORIZE THE JUNIOR DEER HUNT TO OCCUR ON A**

**SUNDAY IN A COUNTY IN WHICH ~~BOW~~ DEER HUNTING IS NOT AUTHORIZED FOR THAT SUNDAY.**

**(II) A PERSON MAY PARTICIPATE IN THE JUNIOR DEER HUNT IF THE PERSON:**

- 1. IS 16 YEARS OF AGE OR YOUNGER;**
- 2. POSSESSES A VALID HUNTING LICENSE OR IS EXEMPT FROM HUNTING LICENSE REQUIREMENTS; AND**
- 3. IS ACCOMPANIED BY A PERSON WHO:**
  - A. IS AT LEAST 21 YEARS OF AGE;**
  - B. POSSESSES A VALID HUNTING LICENSE OR IS EXEMPT FROM HUNTING LICENSE REQUIREMENTS; AND**
  - C. IS NOT IN POSSESSION OF A FIREARM, A BOW, OR ANY OTHER HUNTING DEVICE.**

**(III) A PERSON WHO PARTICIPATES IN THE JUNIOR DEER HUNT MAY USE A FIREARM TO HUNT DEER ON THE DAYS OF THE HUNT.**

10-410.

(a) (1) Except as provided in paragraphs (2), (3), [and] (4), **AND (6)** of this subsection, a person may not hunt any game bird or mammal on Sundays.

(2) The following persons may hunt the specified game birds and mammals on Sundays:

(i) A person using State certified raptors to hunt game birds or mammals during open season;

(ii) An unarmed person participating in an organized fox chase to chase foxes;

(iii) Provided that the provisions of § 10-906(b)(3) of this title are met, a person:

1. Using a regulated shooting ground under § 10-906 of this title to hunt the following pen-reared game birds:

A. Pheasants;

- B. Bobwhite quail;
- C. Chukar partridge;
- D. Hungarian partridge;
- E. Tower released flighted mallard ducks; and
- F. Turkey on a regulated shooting ground that was permitted to release turkey before September 1, 1992; and

2. Having the written permission of the owner of the land or other person designated by the owner of the land, if the land is owned or leased by a person other than the person hunting on Sundays;

(iv) Subject to the provisions of § 10–411 of this subtitle, in Allegany, Calvert, Charles, Dorchester, Frederick, Garrett, St. Mary’s, Somerset, Talbot, Washington, Wicomico, and Worcester counties, a person hunting deer on private property with a bow and arrow or crossbow during open season on the last three Sundays in October and the second Sunday in November; and

(v) Except on Easter Sunday, in Allegany County and Garrett County, a person hunting turkey on the last Sunday in April and the first Sunday in May.

(3) Subject to the provisions of § 10–415 of this subtitle, in Calvert County, Charles County, and St. Mary’s County, a person may hunt deer on private property on:

(i) The first Sunday of the bow hunting season in November;  
and

(ii) Each Sunday in the deer firearms season.

(4) Provided that the provisions of § 10–415 of this subtitle are met and subject to paragraph (5) of this subsection, the Department may allow a person to hunt deer on private property on the first Sunday of:

(i) The bow hunting season in November; and

(ii) The deer firearms season.

(5) The Sunday deer hunting provisions under paragraph (4) of this subsection do not apply:

(i) In Baltimore, Carroll, Howard, and Prince George’s counties;  
and

(ii) In Baltimore City.

**(6) A PERSON WHO IS 16 YEARS OF AGE OR YOUNGER MAY HUNT DEER WITH A FIREARM ON A SUNDAY THROUGH PARTICIPATION IN THE JUNIOR DEER HUNT ESTABLISHED UNDER § 10-405(A) OF THIS SUBTITLE.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2011.

**Approved by the Governor, April 12, 2011.**

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## Chapter 121

(House Bill 376)

AN ACT concerning

**Allegany County – Alcoholic Beverages – Eligibility for Class B–BT (Buffet Theater) License**

FOR the purpose of altering in Allegany County the types of entertainment that an establishment may provide to its customers to be eligible for a Class B–BT (Buffet Theater) beer, light wine and liquor license to include live acoustic–style music and feature films; and generally relating to eligibility for a Class B–BT (Buffet Theater) beer, light wine and liquor license in Allegany County.

BY repealing and reenacting, with amendments,  
 Article 2B – Alcoholic Beverages  
 Section 6–201(b)(3)  
 Annotated Code of Maryland  
 (2005 Replacement Volume and 2010 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.

(b) (3) (i) The Board of License Commissioners may issue a special Class B–BT (Buffet Theater) on–sale beer, light wine and liquor license for the use of an establishment that:

1. Is operated as a nonprofit professional theater;

2. Provides **TO ITS CUSTOMERS** live Broadway–style musicals, comedy, [or] drama [to its customers], **LIVE ACOUSTIC–STYLE MUSIC, OR FEATURE FILMS**; and

3. Is open to the public by reservation.

(ii) The holder of a Class B–BT license may sell at retail beer and light wine by the drink or by the bottle and liquor by the drink only for on–premises consumption beginning 2 hours before the [live] performance, during the performance, and for 2 hours after the end of the performance on:

1. Monday through Saturday; and

2. Sunday no earlier than 1 p.m.

(iii) The license does not authorize the holder to sell alcoholic beverages:

1. For off–premises consumption by the drink or by the bottle; or

2. At any time except in conjunction with the buffet theater.

(iv) The annual fee for a Class B–BT license is \$350.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2011.

**Approved by the Governor, April 12, 2011.**

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## **Chapter 122**

**(House Bill 377)**

AN ACT concerning

### **Mental Hygiene Administration Facilities – Repeal of Provisions that Relate to Closed Facilities**

FOR the purpose of repealing certain provisions of law that relate to certain Mental Hygiene Administration facilities that have been closed; making stylistic changes; and generally relating to Mental Hygiene Administration facilities that have been closed.



BY repealing and reenacting, with amendments,  
 Article – Health – General  
 Section 10–406(a) and (c), 10–406.1, and 10–411  
 Annotated Code of Maryland  
 (2009 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, without amendments,  
 Article – Health – General  
 Section 10–406(b)  
 Annotated Code of Maryland  
 (2009 Replacement Volume and 2010 Supplement)

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

**Article – Health – General**

10–406.

(a) The following State facilities shall be maintained under the direction of the Administration:

(1) Clifton T. Perkins Hospital Center[.];

[(2) Crownsville Hospital Center.]

[(3) (2) Eastern Shore Hospital Center[.];

[(4) (3) Regional Institutes for Children and Adolescents – Baltimore[,], AND Rockville[,], and Southern Maryland.];

[(5) (4) Springfield Hospital Center[.];

[(6) (5) Spring Grove Hospital Center[.]; AND

[(7) Walter P. Carter Center.]

[(8) (6) Thomas B. Finan Hospital Center.

(b) As a facility is built or transferred to the Administration, the facility may be made a State facility.

[(c) (1) The Department shall provide for a Regional Institute for Children and Adolescents in Prince George's County by July 1, 1983.

(2) The Regional Institute is a residential center for severely emotionally disturbed children and adolescents.

(3) The Department shall provide residential and day treatment programs for children and adolescents from Prince George's County.

(i) The Department shall offer to contract the education program to the local educational agency.

(ii) If the local educational agency declines to contract, the Department may operate an education program directly or contract with another qualified provider.

(4) Until a separate program is established for each county, children from Charles, Calvert, and St. Mary's counties may be served by the Regional Institute in Prince George's County.

(5) The Department shall establish guidelines in cooperation with the local board of education for the operation of the Regional Institute for Children and Adolescents in Prince George's County.]

[(6) (i)] (C) (1) By January 1, 1985, the Department shall adopt rules and regulations for admission to all Regional Institutes for Children and Adolescents in cooperation with representatives from the advisory committees of the Regional Institutes for Children and Adolescents, the mental health advisory committees in each region, the local education agencies, and the Mental Health Association of Maryland.

[(ii)] (2) In determining these rules and regulations, the Department shall provide that no bona fide candidate for admission may be rejected solely because of residence outside the regular catchment area served by the institution.

[(iii)] (3) In determining these rules and regulations, the Department shall provide that candidates for admission who reside in the regular catchment area served by the institution shall be granted priority in admissions to the institution.

10-406.1.

(a) The Regional Institutes for Children and Adolescents in Baltimore[, AND Montgomery[, and Prince George's] counties shall be comparable:

(1) In programs by January 1, 1992; and

(2) In facilities by July 1, 1994.

(b) The facilities and programs of an institute may not be reduced to achieve comparability.

(c) In no event shall the level of State funding provided or number of positions authorized to any Regional Institute for Children and Adolescents be reduced in order to attain comparability.

10-411.

(a) (1) (i) Except for the Eastern Shore Hospital Center, [the Crownsville Hospital Center, the Regional Institute for Children and Adolescents in Prince George's County,] the Spring Grove Hospital Center, and the Clifton T. Perkins Hospital Center, each Board consists of 7 members appointed by the Governor.

[(ii) The Board for the Crownsville Hospital Center consists of 11 members appointed by the Governor.]

[(iii) (II) The Board for the Eastern Shore Hospital Center consists of 11 members appointed by the Governor.]

[(iv) The Board for the Regional Institute for Children and Adolescents in Prince George's County consists of 11 members appointed by the Governor.]

[(v) (III) The Board for the Spring Grove Hospital Center consists of 9 members appointed by the Governor.]

[(vi) (IV) The Board for the Clifton T. Perkins Hospital Center consists of 9 members appointed by the Governor.]

(2) The Board for each State facility shall reflect adequately the composition of the community that the State facility serves.

(3) Of the members of the Board for a State facility:

(i) At least 2 shall be parents or other relatives of residents or former residents of a State facility; and

(ii) Each of the others shall be individuals who:

1. Are known for their interest in civic and public affairs; and

2. Have expressed an interest in the care of individuals who have a mental disorder or generally in mental health endeavors.

(4) The Governor shall appoint the members from a list of qualified individuals submitted to the Governor by the Secretary.

(b) Each member of a Board shall be a citizen of this State.

(c) (1) The term of a member is 4 years.

(2) (i) Except for the Board for [the Regional Institute for Children and Adolescents in Prince George's County and the Board for] the Clifton T. Perkins Hospital Center, the terms of members are staggered as required for members of each Board on July 1, 1982. [For the Board for the Regional Institute for Children and Adolescents in Prince George's County, the terms of the members are staggered as required for the members on the Board on July 1, 1983.] For the Board for the Clifton T. Perkins Hospital Center, the terms of the members are staggered as required for the members on the Board on October 1, 1994.

(ii) Except for the Boards of the Eastern Shore Hospital Center, [the Crownsville Hospital Center, the Regional Institute for Children and Adolescents in Prince George's County,] the Spring Grove Hospital Center, and the Clifton T. Perkins Hospital Center, the terms of those members end as follows:

1. 1 in 1983;
2. 4 in 1984;
3. 1 in 1985; and
4. 1 in 1986.

[(iii) The terms of the members of the Board for the Crownsville Hospital Center end as follows:

1. 2 in 1987;
2. 5 in 1988;
3. 2 in 1989; and
4. 2 in 1990.]

[(iv) (III) The terms of the members of the Board for the Eastern Shore Hospital Center end as follows:

1. 2 in 1983;

2. 5 in 1984;
3. 2 in 1985; and
4. 2 in 1986.

[(v)] The terms of the members of the Board for the Regional Institute for Children and Adolescents in Prince George's County end as follows:

1. 2 in 1985;
2. 3 in 1986;
3. 3 in 1987; and
4. 3 in 1988.]

[(vi)] (IV) The terms of the members of the Board for the Spring Grove Hospital Center end as follows:

1. 1 in 1986;
2. 1 in 1987;
3. 4 in 1988; and
4. 3 in 1989.

[(vii)] (V) The terms of the members of the Board for the Clifton T. Perkins Hospital Center end as follows:

1. 1 in 1996;
2. 5 in 1997; and
3. 3 in 1998.

(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) (i) Except as provided in subparagraph (ii) of this paragraph, a member who serves 2 consecutive full 4-year terms may not be reappointed for 4 years after completion of those terms.

(ii) An initial member of a Board who serves 3 consecutive full 4-year terms may not be reappointed for 4 years after completion of those terms.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

**Approved by the Governor, April 12, 2011.**

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## Chapter 123

(House Bill 378)

AN ACT concerning

**State Board of Nursing – Medication Technician Graduates and Certified Medication Technicians**

FOR the purpose of extending the time period during which a medication technician graduate may practice without certification from the State Board of Nursing; authorizing certain medication technicians to practice for a certain time period while the State Board of Nursing processes a certain application; requiring the State Board of Nursing to provide a certain report to certain committees of the General Assembly on or before a certain date; making this Act an emergency measure; providing for the termination of this Act; and generally relating to the State Board of Nursing and medication technician graduates and certified medication technicians.

BY repealing and reenacting, with amendments,  
Article – Health Occupations  
Section 8–6A–07 and 8–6A–08(f)  
Annotated Code of Maryland  
(2009 Replacement Volume and 2010 Supplement)

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

### Article – Health Occupations

8–6A–07.

(a) Subject to subsection (g) of this section, the Board shall certify any applicant who meets the requirements of this subtitle.

(b) (1) The Board shall:

(i) Issue each new certified nursing assistant or medication technician a certificate number and registration certificate that indicates the initial certificate was issued by the Board; and

(ii) Electronically record each certificate in the Board's database and on the Board's website.

(2) Each certificate shall include:

(i) Any expiration date;

(ii) The type of certificate; and

(iii) Any specific category of nursing assistant.

(c) An individual who has met the requirements for a certified nursing assistant shall be certified with the title of "certified nursing assistant".

(d) An individual who routinely performs nursing tasks delegated by a registered nurse or licensed practical nurse for compensation and has also completed a Board-approved course in medication administration shall be certified with the title of "certified medicine aide".

(e) An individual who has met the requirements for a certified medication technician shall be certified with the title of "certified medication technician".

(f) The Board may issue a registration certificate to replace a lost, destroyed, or mutilated certificate, if the certificate holder pays the certificate replacement fee set by the Board.

(g) (1) The Board may issue a temporary practice certificate to an applicant who:

(i) Has met the appropriate certification requirements of this subtitle to the satisfaction of the Board;

(ii) Does not have a criminal record and has not been the subject of a health professional disciplinary action in this State or another jurisdiction; and

(iii) Does not have a criminal charge or a health professional disciplinary action pending in this State or another jurisdiction.

(2) Unless the Board suspends or revokes a temporary practice certificate, the temporary practice certificate expires 90 days after issuance.

(3) A temporary practice certificate may be extended up to an additional 90 days if the applicant is awaiting the completion of criminal history record information.

(h) A medication technician graduate may practice for no more than [90] 180 days from the date of completion of a medication technician training program without certification by the Board.

(i) (1) On receipt of the criminal history record information of an applicant for certification as a certified nursing assistant forwarded to the Board in accordance with § 8–303 of this title, in determining whether to grant a certificate, 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 whether the applicant poses a threat to the public health or safety.

(2) The Board may not issue a certificate if the criminal history record information required under § 8–303 of this title has not been received.

8–6A–08.

(f) (1) The Board may grant a 30–day extension, beyond a certificate’s expiration date, to a certificate holder so that the certificate holder may renew the certificate before it expires.

(2) The Board may grant two 90–day extensions beyond a certificate’s expiration date pending receipt of criminal history record information.

**(3) A MEDICATION TECHNICIAN WHO HAS APPLIED FOR RENEWAL AND TAKEN THE BOARD–APPROVED CLINICAL REFRESHER COURSE MAY PRACTICE FOR NO MORE THAN 180 DAYS FROM THE DATE OF COMPLETION OF THE BOARD–APPROVED CLINICAL REFRESHER COURSE WHILE THE BOARD PROCESSES THE RENEWAL APPLICATION.**

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before December 31, 2011, the State Board of Nursing shall 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 status of the online program for processing initial and renewal medication technician applications, including:

(i) the percentage of medication technicians using the online renewal process;

(ii) any known obstacles to a medication technician applicant's use of the online system; and

(iii) the number of days it takes to certify an initial or renewal application;

(2) the measures implemented to encourage the use of online applications; and

(3) an analysis of current staffing, including staff added since January 1, 2011, and projected staffing needs.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act ~~shall take effect October 1, 2011~~ is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a ye and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted. It shall remain effective for a period of 2 years from the date it is enacted and, at the end of the 2-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 12, 2011.**

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## **Chapter 124**

### **(House Bill 486)**

AN ACT concerning

#### **Education – School Buses – Inspections and Length of Operation**

FOR the purpose of authorizing certain school bus inspections to be valid in certain counties under certain circumstances; repealing the termination date for a provision of law that alters the length of time a school bus may be operated in Somerset County, Wicomico County, and Worcester County; and generally

relating to school bus inspections and the length of operation of school buses in certain counties.

BY repealing and reenacting, with amendments,  
Article – Education  
Section 7–804  
Annotated Code of Maryland  
(2008 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,  
Chapter 420 of the Acts of the General Assembly of 2003, as amended by  
Chapter 576 of the Acts of the General Assembly of 2006  
Section 2

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

### **Article – Education**

7–804.

(a) In this section, “school vehicle” has the meaning stated in § 11–154 of the Transportation Article.

(b) (1) Except as provided in paragraphs (2) and (3) of this subsection, unless it fails to meet the applicable school bus and motor vehicle safety standards, a school vehicle may be operated for 12 years.

(2) (i) In Caroline, Dorchester, Somerset, Talbot, Wicomico, and Worcester counties, unless it fails to meet the applicable school bus and motor vehicle safety standards, a school vehicle may be operated for 15 years.

(ii) A school vehicle operating under subparagraph (i) of this paragraph shall be maintained as provided in subsection (c) of this section.

(3) Any school vehicle in operation or accepted before July 1, 2004, or under contract to be purchased before July 1, 2004, that meets the specifications of the Department and of the Motor Vehicle Administration for transit style school vehicles may be operated for 15 years.

(c) Notwithstanding the 12–year limitation in subsection (b)(1) of this section, a school vehicle may be operated for additional years if:

(1) The school vehicle is maintained under a preventive maintenance plan approved by the Motor Vehicle Administration and the Automotive Safety Enforcement Division of the Department of State Police that includes an inspection at

the end of the 12th year and a minimum of 2 inspections by the Motor Vehicle Administration each year thereafter;

(2) Any structural repairs to the school vehicle necessitated by accident, metal fatigue, or any other cause are certified by an independent expert approved by the Motor Vehicle Administration to meet or exceed the manufacturer's original manufacturing standards;

(3) The school vehicle is equipped with:

(i) The body originally placed on the chassis by the manufacturer;

(ii) An 8 light warning system;

(iii) A left side stop arm;

(iv) A fire-retardant driver's seat;

(v) Fire-retardant barriers in the case of a school vehicle with a front engine; and

(vi) A fire-retardant rear seating area in the case of a school vehicle with a rear engine; and

(4) The State Superintendent grants approval.

**(D) IF A SCHOOL VEHICLE PASSES AN INSPECTION THAT IS REQUIRED UNDER SUBSECTION (C)(1) OF THIS SECTION:**

**(1) THE INSPECTION SHALL BE VALID IN THE COUNTY IN WHICH THE INSPECTION WAS COMPLETED; AND**

**(2) IF OWNERSHIP OF THE SCHOOL VEHICLE IS TRANSFERRED TO A PERSON WHO OPERATES THE SCHOOL VEHICLE IN A COUNTY IN WHICH SCHOOL VEHICLES ARE AUTHORIZED UNDER SUBSECTION (B)(2) OF THIS SECTION TO BE OPERATED FOR 15 YEARS, THE INSPECTION SHALL BE VALID IN THAT COUNTY FOR THE LENGTH OF TIME THAT THE INSPECTION WOULD HAVE BEEN VALID IN THE COUNTY WHERE THE INSPECTION WAS COMPLETED.**

**Chapter 420 of the Acts of 2003, as amended by Chapter 576 of the Acts of 2006**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2003. [It shall remain effective for a period of 8 years 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.]

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2011.

**Approved by the Governor, April 12, 2011.**

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## Chapter 125

(House Bill 499)

AN ACT concerning

### **Admissions and Amusement Tax – Exemption – Hot Air Balloons**

FOR the purpose of providing that the admissions and amusement tax may not be imposed by a county or municipal corporation on gross receipts derived from any charge for admission to or use of a ~~hot air balloon or tethered~~ nontethered hot air balloon; and generally relating to the admissions and amusement tax imposed by counties and municipal corporations.

BY repealing and reenacting, with amendments,  
Article – Tax – General  
Section 4–103(b)(3)  
Annotated Code of Maryland  
(2010 Replacement Volume)

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

#### **Article – Tax – General**

4–103.

(b) The admissions and amusement tax may not be imposed by a county or municipal corporation on gross receipts:

(3) derived from any charge for admission to or use of:

(i) a facility or equipment in connection with a bingo game that is operated in accordance with § 13–507 of the Criminal Law Article;

(ii) a bowling alley or lane; [or]

(iii) a charter fishing boat; OR

**(IV) A NONTETHERED HOT AIR BALLOON, ~~INCLUDING A TETHERED HOT AIR BALLOON;~~**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2011.

**Approved by the Governor, April 12, 2011.**

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## Chapter 126

### (House Bill 505)

AN ACT concerning

#### **St. Mary's County – Metropolitan Commission – Public Ethics Law**

FOR the purpose of defining each commissioner and employee of the St. Mary's County Metropolitan Commission as a "local official" for the purposes of the St. Mary's County Public Ethics Law; and generally relating to Public Ethics.

BY repealing and reenacting, without amendments,  
 Article – State Government  
 Section 15–803  
 Annotated Code of Maryland  
 (2009 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,  
 Article – State Government  
 Section 15–807  
 Annotated Code of Maryland  
 (2009 Replacement Volume and 2010 Supplement)

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

#### **Article – State Government**

15–803.

(a) Subject to § 15–209 of this title, each county and each municipal corporation shall enact provisions to govern the public ethics of local officials relating to:

- (1) conflicts of interest;
- (2) financial disclosure; and
- (3) lobbying.

(b) Each local ethics commission or appropriate entity shall certify to the Ethics Commission that the county or municipal corporation is in compliance with the requirements for elected local officials of this Part I on or before October 1 of each year.

15–807.

(a) In Baltimore City, for the purpose of the financial disclosure provisions enacted by the governing body of Baltimore City, “local official” includes Baltimore City health and housing inspectors who inspect for lead hazards.

(b) For the purpose of the financial disclosure provisions enacted by the governing body of Baltimore County, “local official” includes:

(1) the executive director and each member of the revenue authority;  
and

(2) except for a member of the Baltimore County Board of Education, each member of a board of a State agency that is wholly or partly funded by Baltimore County, regardless of whether the member is compensated.

(c) In Montgomery County, “local official” includes:

(1) each member and employee of the Montgomery County Revenue Authority;

(2) each commissioner and employee of the Montgomery County Housing Opportunities Commission; and

(3) county employees of the Montgomery County Department of Health and Human Services.

(d) In Prince George’s County, “local official” includes:

- (1) each member of the Board of License Commissioners;
- (2) the chief inspector and any other inspector of the Board of License Commissioners;
- (3) the administrator of the Board of License Commissioners; and

(4) the attorney to the Board of License Commissioners.

**(E) IN ST. MARY'S COUNTY, "LOCAL OFFICIAL" INCLUDES EACH COMMISSIONER AND EMPLOYEE OF THE ST. MARY'S COUNTY METROPOLITAN COMMISSION.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

**Approved by the Governor, April 12, 2011.**

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## Chapter 127

### (House Bill 509)

AN ACT concerning

#### Real Property – Mortgages – Enforcement

FOR the purpose of clarifying the authority of the Commissioner of Financial Regulation to enforce the provisions of certain laws relating to mortgages by exercising certain investigative and enforcement powers; authorizing the Commissioner to seek an injunction to prohibit a person who has engaged or is engaging in a violation of certain laws from engaging or continuing to engage in the violation; authorizing a court to enter certain orders or judgments; authorizing the Commissioner to recover certain cost in certain actions; authorizing the Commissioner to require a violator of certain laws to take certain affirmative actions to correct the violation; authorizing the Commissioner to investigate violations of certain laws and aid any other unit of State government that has regulatory jurisdiction over the business activities of a violator under certain circumstances; authorizing the Commissioner to cooperate with certain units of law enforcement in the investigation and prosecution of violations of certain laws; clarifying that a homeowner or other person may bring an action for damages under certain laws without having to exhaust administrative remedies under certain laws and regardless of the status of an administrative action or a criminal prosecution under certain laws; defining a certain term; making stylistic changes; making this Act an emergency measure; and generally relating to the enforcement of laws relating to mortgages.

BY repealing and reenacting, without amendments,  
 Article – Financial Institutions  
 Section 2–113 through 2–116  
 Annotated Code of Maryland  
 (2003 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,  
Article – Real Property  
Section ~~7–319 and 7–404~~, 7–320, 7–404, and 7–406  
Annotated Code of Maryland  
(2010 Replacement Volume and 2010 Supplement)

BY adding to  
Article – Real Property  
Section 7–319.1, 7–401(a–1), and 7–404.1  
Annotated Code of Maryland  
(2010 Replacement Volume and 2010 Supplement)

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

### **Article – Financial Institutions**

2–113.

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

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

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

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

(1) Any bank, trust company, savings bank, savings and loan association, or credit union incorporated or chartered under the laws of this State or the United States that maintains its principal office in this State;

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

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



(4) An affiliate of an institution described in item (1), (2), or (3) of this subsection.

2-114.

(a) The Commissioner may:

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

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

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

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

(3) Subject to the provisions of Title 10, Subtitle 6 of the State Government Article, publish information concerning a violation of a law, regulation, rule, or order over which the Commissioner has jurisdiction.

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

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

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

2-115.

(a) When the Commissioner determines that a person has engaged in an act or practice constituting a violation of a law, regulation, rule or order over which the Commissioner has jurisdiction, and that immediate action against the person is in the public interest, the Commissioner may in the Commissioner's discretion issue, without

a prior hearing, a summary order directing the person to cease and desist from engaging in the activity, provided that the summary cease and desist order gives the person:

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

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

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

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

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

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

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

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

(1) The seriousness of the violation;

(2) The good faith of the violator;

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

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

(5) The assets of the violator; and

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

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

2-116.

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

- (1) A temporary restraining order; or
- (2) A temporary or permanent injunction.

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

- (1) A temporary restraining order;
- (2) A temporary or permanent injunction;
- (3) A civil penalty up to a maximum amount of \$1,000 for a first violation and a maximum amount of \$5,000 for each subsequent violation;
- (4) A declaratory judgment;
- (5) An order preventing access to the violator's assets;
- (6) Rescission;
- (7) Restitution; and
- (8) Any other relief as the court deems just.

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

### **Article – Real Property**

7-319.

(a) The Attorney General [or the Commissioner] may seek an injunction to prohibit a person who has engaged or is engaging in a violation of this subtitle from engaging or continuing to engage in the violation.

- (b) The court may enter any order or judgment necessary to:
- (1) Prevent the use by a person of any prohibited practice;
  - (2) Restore to a person any money or real or personal property acquired from the person by means of any prohibited practice; or
  - (3) Appoint a receiver in case of willful violation of this [title] SUBTITLE.
- (c) In any action brought by the Attorney General [or the Commissioner] under this section, the Attorney General [or the Commissioner] is entitled to recover the costs of the action for the use of the State.
- (d) A violation of this subtitle is an unfair or deceptive trade practice within the meaning of Title 13 of the Commercial Law Article and is subject to the enforcement and penalty provisions contained in Title 13 of the Commercial Law Article.

**7-319.1.**

**(A) THE COMMISSIONER MAY ENFORCE THE PROVISIONS OF THIS SUBTITLE BY EXERCISING ANY OF THE POWERS PROVIDED UNDER §§ 2-113 THROUGH 2-116 OF THE FINANCIAL INSTITUTIONS ARTICLE.**

**(B) (1) THE COMMISSIONER MAY SEEK AN INJUNCTION TO PROHIBIT A PERSON WHO HAS ENGAGED OR IS ENGAGING IN A VIOLATION OF THIS SUBTITLE FROM ENGAGING OR CONTINUING TO ENGAGE IN THE VIOLATION.**

~~(C)~~ **(2) THE COURT MAY ENTER ANY ORDER OR JUDGMENT NECESSARY TO:**

~~(1)~~ **(I) PREVENT THE USE BY A PERSON OF ANY PROHIBITED PRACTICE;**

~~(2)~~ **(II) RESTORE TO A PERSON ANY MONEY OR REAL OR PERSONAL PROPERTY ACQUIRED FROM THE PERSON BY MEANS OF ANY PROHIBITED PRACTICE; OR**

~~(3)~~ **(III) APPOINT A RECEIVER IN CASE OF WILLFUL VIOLATION OF THIS SUBTITLE.**

**(3) IN ANY ACTION BROUGHT BY THE COMMISSIONER UNDER THIS SUBSECTION, THE COMMISSIONER IS ENTITLED TO RECOVER THE COSTS OF THE ACTION FOR THE USE OF THE STATE.**

~~(D)~~ (C) THE COMMISSIONER MAY ENFORCE THE PROVISIONS OF THIS SUBTITLE BY REQUIRING A VIOLATOR TO TAKE AFFIRMATIVE ACTION TO CORRECT THE VIOLATION INCLUDING THE RESTITUTION OF MONEY OR PROPERTY TO ANY PERSON AGGRIEVED BY THE VIOLATION.

~~(E)~~ (D) THE COMMISSIONER MAY:

(1) INVESTIGATE VIOLATIONS OF THIS SUBTITLE; AND

(2) AID ANY OTHER UNIT OF STATE GOVERNMENT THAT HAS REGULATORY JURISDICTION OVER THE BUSINESS ACTIVITIES OF THE VIOLATOR.

~~(F)~~ (E) THE COMMISSIONER MAY COOPERATE IN THE INVESTIGATION AND PROSECUTION OF ANY VIOLATION OF THIS SUBTITLE WITH THE OFFICE OF THE ATTORNEY GENERAL, THE STATE'S ATTORNEY, OR ANY OTHER UNIT OF LAW ENFORCEMENT.

~~(G) IN ANY ACTION BROUGHT BY THE COMMISSIONER UNDER THIS SECTION, THE COMMISSIONER IS ENTITLED TO RECOVER THE COSTS OF THE ACTION FOR THE USE OF THE STATE.~~

7-320.

(a) (1) In addition to any action by the Attorney General or the Commissioner authorized under this subtitle and any other action otherwise authorized by law, a homeowner may bring an action for damages incurred as the result of a practice prohibited by this subtitle.

(2) A HOMEOWNER MAY BRING AN ACTION FOR DAMAGES UNDER THIS SECTION:

(i) WITHOUT HAVING TO EXHAUST ADMINISTRATIVE REMEDIES UNDER THIS SUBTITLE; AND

(ii) REGARDLESS OF THE STATUS OF AN ADMINISTRATIVE ACTION OR A CRIMINAL PROSECUTION, IF ANY, UNDER THIS SUBTITLE.

(b) A homeowner who brings an action under this section and who is awarded damages may also seek, and the court may award, reasonable attorney's fees.

(c) If the court finds that the defendant willfully or knowingly violated this subtitle, the court may award damages equal to three times the amount of actual damages.

7-401.

**(A-1) “COMMISSIONER” MEANS THE COMMISSIONER OF FINANCIAL REGULATION IN THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION.**

7-404.

(a) The Attorney General [or the Commissioner of Financial Regulation] may seek an injunction to prohibit a person who has engaged or is engaging in a violation of this subtitle from engaging or continuing to engage in the violation.

(b) The court may enter any order or judgment necessary to:

(1) Prevent the use by a person of any prohibited practice;

(2) Restore to a person any money or real or personal property acquired from the person by means of any prohibited practice; or

(3) Appoint a receiver in the case of a willful violation of this subtitle.

(c) In any action brought by the Attorney General [or Commissioner] under this section, the Attorney General [or Commissioner] is entitled to recover the costs of the action for the use of the State.

**7-404.1.**

**(A) THE COMMISSIONER MAY ENFORCE THE PROVISIONS OF THIS SUBTITLE:**

~~(1) BY EXERCISING ANY OF THE POWERS PROVIDED UNDER §§ 2-113 THROUGH 2-116 OF THE FINANCIAL INSTITUTIONS ARTICLE; OR~~

~~(2) BY REQUIRING A VIOLATOR TO TAKE AFFIRMATIVE ACTION TO CORRECT THE VIOLATION INCLUDING THE RESTITUTION OF MONEY OR PROPERTY TO ANY PERSON AGGRIEVED BY THE VIOLATION.~~

**(B) (1) THE COMMISSIONER MAY SEEK AN INJUNCTION TO PROHIBIT A PERSON WHO HAS ENGAGED OR IS ENGAGING IN A VIOLATION OF THIS SUBTITLE FROM ENGAGING OR CONTINUING TO ENGAGE IN THE VIOLATION.**

**(2) THE COURT MAY ENTER ANY ORDER OR JUDGMENT NECESSARY TO:**

(I) PREVENT THE USE BY A PERSON OF ANY PROHIBITED PRACTICE;

(II) RESTORE TO A PERSON ANY MONEY OR REAL OR PERSONAL PROPERTY ACQUIRED FROM THE PERSON BY MEANS OF ANY PROHIBITED PRACTICE; OR

(III) APPOINT A RECEIVER IN CASE OF WILLFUL VIOLATION OF THIS SUBTITLE.

(3) IN ANY ACTION BROUGHT BY THE COMMISSIONER UNDER THIS SUBSECTION, THE COMMISSIONER IS ENTITLED TO RECOVER THE COSTS OF THE ACTION FOR THE USE OF THE STATE.

(C) THE COMMISSIONER MAY ENFORCE THE PROVISIONS OF THIS SUBTITLE BY REQUIRING A VIOLATOR TO TAKE AFFIRMATIVE ACTION TO CORRECT THE VIOLATION INCLUDING THE RESTITUTION OF MONEY OR PROPERTY TO ANY PERSON AGGRIEVED BY THE VIOLATION.

~~(C)~~ (D) THE COMMISSIONER MAY:

(1) INVESTIGATE VIOLATIONS OF THIS SUBTITLE; AND

(2) AID ANY OTHER UNIT OF STATE GOVERNMENT THAT HAS REGULATORY JURISDICTION OVER THE BUSINESS ACTIVITIES OF THE VIOLATOR.

~~(D)~~ (E) THE COMMISSIONER MAY COOPERATE IN THE INVESTIGATION AND PROSECUTION OF ANY VIOLATION OF THIS SUBTITLE WITH THE OFFICE OF THE ATTORNEY GENERAL, THE STATE'S ATTORNEY, OR ANY OTHER UNIT OF LAW ENFORCEMENT.

~~(E) IN ANY ACTION BROUGHT BY THE COMMISSIONER UNDER THIS SECTION, THE COMMISSIONER IS ENTITLED TO RECOVER THE COSTS OF THE ACTION FOR THE USE OF THE STATE.~~

~~(F) THE COURT MAY ENTER ANY ORDER OR JUDGMENT NECESSARY TO:~~

~~(1) PREVENT THE USE BY A PERSON OF ANY PROHIBITED PRACTICE;~~

~~(2) RESTORE TO A PERSON ANY MONEY OR REAL OR PERSONAL PROPERTY ACQUIRED FROM THE PERSON BY MEANS OF ANY PROHIBITED PRACTICE; OR~~

~~(3) APPOINT A RECEIVER IN CASE OF WILLFUL VIOLATION OF THIS SUBTITLE.~~

7-406.

(a) (1) In addition to any action authorized under this subtitle and any other action otherwise authorized by law, a person may bring an action for damages incurred as the result of a violation of this subtitle.

(2) A PERSON MAY BRING AN ACTION FOR DAMAGES UNDER THIS SECTION:

(I) WITHOUT HAVING TO EXHAUST ADMINISTRATIVE REMEDIES UNDER THIS SUBTITLE; AND

(II) REGARDLESS OF THE STATUS OF AN ADMINISTRATIVE ACTION OR A CRIMINAL PROSECUTION, IF ANY, UNDER THIS SUBTITLE.

(b) A person who brings an action under this section and who is awarded damages may also seek, and the court may award, reasonable attorney's fees.

(c) If the court finds that the defendant violated this subtitle, the court may award damages equal to three times the amount of actual damages.

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

Approved by the Governor, April 12, 2011.

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**Chapter 128**

**(House Bill 522)**

AN ACT concerning

**St. Mary's County – Correctional Officers' Bill of Rights**

FOR the purpose of adding St. Mary's County to certain provisions of law relating to the Cecil County Correctional Officers' Bill of Rights; altering the definition of "correctional officer" to exclude a correctional officer who is in probationary



status on the officer's initial entry into the correctional agency, subject to a certain exception; and generally relating to the Correctional Officers' Bill of Rights.

BY repealing and reenacting, with amendments,  
Article – Correctional Services  
Section 11–1001(b) and 11–1002  
Annotated Code of Maryland  
(2008 Replacement Volume and 2010 Supplement)

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

**Article – Correctional Services**

11–1001.

(b) (1) “Correctional officer” has the meaning stated in § 8–201 of this article.

(2) **“CORRECTIONAL OFFICER” DOES NOT INCLUDE AN OFFICER WHO IS IN PROBATIONARY STATUS ON INITIAL ENTRY INTO THE CORRECTIONAL AGENCY EXCEPT IF AN ALLEGATION OF BRUTALITY IN THE EXECUTION OF THE OFFICER’S DUTIES IS MADE AGAINST THE OFFICER.**

11–1002.

This subtitle applies only in Cecil County AND ST. MARY’S COUNTY.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

**Approved by the Governor, April 12, 2011.**

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**Chapter 129**

**(House Bill 523)**

AN ACT concerning

**Courts – Fee for the Special Admission of an Out-of-State Attorney – Janet L. Hoffman Loan Assistance Repayment Program**

FOR the purpose of requiring the State Court Administrator to assess a certain fee for the special admission of an out-of-state attorney and to pay a certain portion of the fee into the Janet L. Hoffman Loan Assistance Repayment Program; requiring certain funds for the Program to be allocated to certain individuals; providing that funds for the Program include money paid to the Program from the assessment of a certain fee; and generally relating to funding for the Janet L. Hoffman Loan Assistance Repayment Program with fees paid for the special admission of out-of-state attorneys.

BY repealing and reenacting, without amendments,  
Article – Business Occupations and Professions  
Section 10–215  
Annotated Code of Maryland  
(2010 Replacement Volume)

BY repealing and reenacting, with amendments,  
Article – Courts and Judicial Proceedings  
Section 7–202  
Annotated Code of Maryland  
(2006 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, without amendments,  
Article – Education  
Section 18–1502  
Annotated Code of Maryland  
(2008 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,  
Article – Education  
Section 18–1504  
Annotated Code of Maryland  
(2008 Replacement Volume and 2010 Supplement)

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

### **Article – Business Occupations and Professions**

10–215.

(a) Subject to subsections (b) and (c) of this section, on a motion filed as required by rules adopted by the Court of Appeals, a court may grant special admission to practice law in a particular case to an individual who is:

- (1) admitted to the bar of another state; and
- (2) employed by a party in the case before:

- (i) a court or other unit of the State government; or
  - (ii) a unit of a political subdivision of the State.
- (b) A special admission to practice law may be granted only:
  - (1) by the court hearing the case for which an individual requests the special admission; or
  - (2) if the case is before a unit other than a court, by:
    - (i) the circuit court for the county where the unit has its principal office; or
    - (ii) any circuit court to which the case may be appealed.
- (c) An individual may practice law under this section only in connection with the case for which the special admission is granted.
- (d) An individual who practices law under this section is subject to disciplinary proceedings as the Maryland Rules provide.

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

7–202.

- (a)
  - (1)
    - (i) The State Court Administrator shall determine the amount of all court costs and charges for the circuit courts of the counties with the approval of the Board of Public Works.
    - (ii) The fees and charges shall be uniform throughout the State.
  - (2) The Comptroller of the State shall require clerks of court to collect all fees required to be collected by law.
- (b) The clerk may not charge the State, any county, municipality, or Baltimore City any fee provided by this subtitle, unless the State, county, municipality, or Baltimore City first gives its consent.
- (c) The clerk is entitled to a reasonable fee for performing any other service that is not enumerated in this subtitle or in §§ 3–601 through 3–603 of the Real Property Article.
- (d) The State Court Administrator, as part of the Administrator's determination of the amount of court costs and charges in civil cases, shall assess a surcharge that:

(1) May not be more than \$55 per case; and

(2) Shall be deposited into the Maryland Legal Services Corporation Fund established under § 11–402 of the Human Services Article.

**(E) THE STATE COURT ADMINISTRATOR SHALL:**

**(1) ASSESS A \$100 FEE FOR THE SPECIAL ADMISSION OF AN OUT-OF-STATE ATTORNEY UNDER § 10–215 OF THE BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE; AND**

**(2) PAY \$75 OF THE FEE TO THE JANET L. HOFFMAN LOAN ASSISTANCE REPAYMENT PROGRAM ESTABLISHED UNDER § 18–1502 OF THE EDUCATION ARTICLE.**

**[(e)] (F)** If a party in a proceeding feels aggrieved by any fee permitted under this subtitle or by §§ 3–601 through 3–603 of the Real Property Article, the party may request a judge of that circuit court to determine the reasonableness of the fee.

**Article – Education**

18–1502.

(a) There is a program of loan assistance repayment known as the Janet L. Hoffman Loan Assistance Repayment Program in the State.

(b) The Office of Student Financial Assistance shall assist in the repayment of the amount of any higher education loan owed by an individual who:

(1) (i) Receives a graduate, professional, or undergraduate degree from:

1. A college or university in the State of Maryland; or
2. A school of law; or

(ii) Receives a Resident Teacher Certificate (RTC) from the Department after completing an alternative teaching preparation program approved by the State Superintendent;

(2) Obtains eligible employment;

(3) Receives an income that is less than the maximum eligible total income levels established by the Office, including any additional sources of income; and

(4) Satisfies any other criteria established by the Office.

(c) An applicant for assistance in the repayment of a commercial loan shall demonstrate to the Office that the commercial loan was used for tuition, educational expenses, or living expenses for graduate or undergraduate study.

(d) Assistance in the repayment of a loan from an entity set forth in § 18-1501(c)(2) of this subtitle shall require the approval of the Office.

18-1504.

**(A) FUNDS FOR THE JANET L. HOFFMAN LOAN ASSISTANCE REPAYMENT PROGRAM DESCRIBED IN SUBSECTION (B)(2) OF THIS SECTION SHALL BE ALLOCATED BY THE COMMISSION TO AN INDIVIDUAL WHO:**

**(1) HAS RECEIVED A GRADUATE DEGREE FROM A SCHOOL OF LAW; AND**

**(2) HAS SUBMITTED AN APPLICATION FOR THE JANET L. HOFFMAN LOAN ASSISTANCE REPAYMENT PROGRAM THAT THE COMMISSION DISAPPROVED DUE TO INSUFFICIENT FUNDS.**

~~(a)~~ **(B)** Funds for the Janet L. Hoffman Loan Assistance Repayment Program shall [be]:

**(1) BE provided on an annual basis in the State budget; AND**

**(2) INCLUDE MONEY PAID TO THE PROGRAM FROM THE FEE CHARGED FOR A SPECIAL ADMISSION OF AN OUT-OF-STATE ATTORNEY UNDER § 7-202(E) OF THE COURTS ARTICLE.**

~~(b)~~ **(C)** If a federal matching grant loan program furnishes professional services in an eligible field of employment to low-income or underserved residents of the State, the Office may apply not more than 50 percent of the funds provided in the State budget for the Janet L. Hoffman Loan Assistance Repayment Program to the State's participation in the federal program.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

**Approved by the Governor, April 12, 2011.**

**Chapter 130****(House Bill 558)**

AN ACT concerning

**Property Tax Credit – Habitat for Humanity**

FOR the purpose of altering certain authority for the Mayor and City Council of Baltimore City or the governing body of a county or municipal corporation to grant, by law, a property tax credit against the county or municipal corporation property tax imposed on certain real property owned by Habitat for Humanity; providing for the application of this Act; and generally relating to authorization for a property tax credit for certain real property owned by Habitat for Humanity.

BY repealing and reenacting, with amendments,

Article – Tax – Property

Section 9–252

Annotated Code of Maryland

(2007 Replacement Volume and 2010 Supplement)

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

**Article – Tax – Property**

9–252.

(a) The Mayor and City Council of Baltimore City or the governing body of a county or municipal corporation may grant, by law, a property tax credit under this section against the county or municipal corporation property tax that is imposed on real property that is:

(1) owned by Habitat for Humanity with the intention of relinquishing ownership in the [immediate] **NEAR** future;

(2) used [exclusively] for the [purpose] **PURPOSES** of **DEVELOPMENT**, rehabilitation, and transfer to a private owner; and

(3) not occupied by administrative or warehouse buildings owned by Habitat for Humanity.

(b) If the Mayor and City Council of Baltimore City or the governing body of a county or municipal corporation grants a property tax credit under this section, Habitat for Humanity shall submit an annual written report to the Mayor and City

Council of Baltimore City or the governing body of a county or municipal corporation granting the tax credit documenting:

(1) all of Habitat for Humanity's real property holdings in the jurisdiction granting the tax credit; and

(2) all transactions involving Habitat for Humanity's real property holdings in the jurisdiction granting the tax credit.

(c) The Mayor and City Council of Baltimore City or the governing body of a county or municipal corporation may, by law:

(1) set the amount, terms, scope, and duration of a credit granted under subsection (a) of this section; and

(2) adopt any other provision necessary to administer a credit granted under subsection (a) of this section.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2011, and shall be applicable to all taxable years beginning after June 30, 2011.

**Approved by the Governor, April 12, 2011.**

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## **Chapter 131**

**(House Bill 581)**

AN ACT concerning

### **Family Law – Displaced Homemakers Program – Evaluation and Report**

FOR the purpose of making it discretionary, rather than mandatory, for the Secretary of Human Resources to evaluate periodically the programs of a certain multipurpose service center for displaced homemakers and to report annually to the General Assembly on the center and its programs.

BY repealing and reenacting, with amendments,

Article – Family Law

Section 4–612

Annotated Code of Maryland

(2006 Replacement Volume and 2010 Supplement)

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

**Article – Family Law**

4–612.

(a) The Secretary [shall] **MAY**:

(1) evaluate periodically the effectiveness of the job training, employment placement, and service programs of the center; and

(2) include in the Secretary’s annual report to the General Assembly a report on the center and its programs.

(b) The evaluation and report shall include:

(1) the number of displaced homemakers who participate in job training programs;

(2) the number of displaced homemakers who are placed in employment;

(3) follow-up information on displaced homemakers who participate in job training programs or who are placed in employment;

(4) the number of displaced homemakers who are served by the service programs; and

(5) the cost effectiveness of the programs.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

**Approved by the Governor, April 12, 2011.**

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**Chapter 132****(House Bill 598)**

AN ACT concerning

**Injured Workers’ Insurance Fund – Employee Compensation**

FOR the purpose of providing that employees of the Injured Worker’s Insurance Fund are not subject to certain laws, regulations, or executive orders governing State employee compensation; ~~clarifying that certain employees are not in the State~~



~~Personnel Management System~~; repealing a requirement that the Board for the Fund set compensation for its employees in accordance with the State pay plan; and generally relating to compensation of employees of the Injured Workers' Insurance Fund.

BY repealing and reenacting, with amendments,  
 Article – Labor and Employment  
 Section 10–113  
 Annotated Code of Maryland  
 (2008 Replacement Volume and 2010 Supplement)

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

### Article – Labor and Employment

10–113.

(a) The Board:

- (1) shall appoint a President of the Fund;
- (2) shall appoint or employ attorneys to advise and represent the Fund in all legal matters and, where necessary, to sue or defend suits in the name of the Fund; and
- (3) may employ other staff.

(b) (1) Except as provided in paragraph (2) of this subsection, employees of the Fund are ~~[special appointments]~~ ~~NOT IN THE STATE PERSONAL MANAGEMENT SYSTEM.~~

(2) A classified employee of the Fund hired before July 1, 1990 in a nonprofessional or nontechnical position shall remain a member of the classified service or its equivalent in the State Personnel Management System as long as the employee remains in a nonprofessional or nontechnical position with the Fund.

(c) (1) ~~[Except as otherwise provided by law, the]~~ **THE** Board shall set compensation for its employees.

(2) ~~[To the extent practicable, the Board shall set the compensation in accordance with the State pay plan.]~~ **EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, AN EMPLOYEE OF THE FUND IS NOT SUBJECT TO ANY LAW, REGULATION, OR EXECUTIVE ORDER GOVERNING STATE EMPLOYEE COMPENSATION, INCLUDING FURLOUGHS, SALARY REDUCTIONS, OR ANY OTHER GENERAL FUND COST SAVINGS MEASURE.**

(d) (1) This subsection does not apply to the layoff of an employee because of lack of work.

(2) [A special appointment] AN employee of the Fund may not be permanently removed unless:

(i) written charges are filed;

(ii) the employee has an opportunity for a hearing in accordance with Title 10, Subtitle 2 of the State Government Article; and

(iii) there is cause for removal.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2011.

**Approved by the Governor, April 12, 2011.**

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## Chapter 133

### (House Bill 601)

AN ACT concerning

#### **Sustainable Communities Tax Credit Program – Eligibility**

FOR the purpose of altering the Sustainable Communities Tax Credit Program to allow the Director of the Maryland Historical Trust to accept a commercial rehabilitation tax credit application for which the proposed rehabilitation work has begun if the rehabilitation work ~~is~~ has been approved under the federal historic tax credit; and generally relating to the Sustainable Communities Tax Credit Program.

BY repealing and reenacting, with amendments,  
Article – State Finance and Procurement  
Section 5A–303(b)(4)  
Annotated Code of Maryland  
(2009 Replacement Volume and 2010 Supplement)

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

#### **Article – State Finance and Procurement**

5A-303.

(b) (4) (I) For commercial rehabilitations, the Director may not accept an application for approval of plans of proposed rehabilitation if:

[(i)] 1. any substantial part of the proposed rehabilitation work has begun; or

[(ii)] 2. the applicant for a commercial rehabilitation has previously submitted three or more applications for commercial rehabilitations with total proposed rehabilitations exceeding \$500,000 in that year.

**(II) FOR COMMERCIAL REHABILITATIONS, THE DIRECTOR MAY ACCEPT AN APPLICATION FOR APPROVAL OF PLANS OF A PROPOSED REHABILITATION FOR WHICH A SUBSTANTIAL PART OF THE PROPOSED REHABILITATION WORK HAS BEGUN IF THE REHABILITATION WORK ~~IS~~ HAS BEEN APPROVED UNDER THE FEDERAL HISTORIC TAX CREDIT.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2011.

Approved by the Governor, April 12, 2011.

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## Chapter 134

(House Bill 602)

AN ACT concerning

**Environment – Recycling ~~Pilot Program at Transit Stations – Transit Stations Study~~**

FOR the purpose of requiring the ~~Office of Recycling in the Department of the Environment, in consultation with the Department of Transportation, to establish and administer a certain recycling pilot program at certain transit stations in the State; providing for the termination of this Act~~ Maryland Transit Administration and the State Department of Transportation, in consultation with the Washington Metropolitan Area Transit Authority, jointly to study and make recommendations relating to the establishment of a certain recycling program at transit stations; requiring the recommendations to include certain information; requiring the recommendations to be reported to the President of the Senate, the Speaker of the House, and certain committees of the General Assembly by a certain date; defining a certain term; and generally relating to

~~the Transit Station Recycling Pilot Program~~ a study relating to recycling at transit stations.

BY repealing and reenacting, without amendments,  
 Article – Transportation  
 Section 7–101(o)  
 Annotated Code of Maryland  
 (2008 Replacement Volume and 2010 Supplement)

~~BY repealing and reenacting, without amendments,  
 Article – Environment  
 Section 9–1702(a)  
 Annotated Code of Maryland  
 (2007 Replacement Volume and 2010 Supplement)~~

~~BY repealing and reenacting, with amendments,  
 Article – Environment  
 Section 9–1702(d)  
 Annotated Code of Maryland  
 (2007 Replacement Volume and 2010 Supplement)~~

~~BY adding to  
 Article – Environment  
 Section 9–1733 to be under the new part “Part V. Transit Station Recycling  
 Pilot Program”  
 Annotated Code of Maryland  
 (2007 Replacement Volume and 2010 Supplement)~~

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

### **Article – Transportation**

7–101.

(o) (1) “Transit station” means any facility, the primary function of which relates to the boarding and alighting of passengers from transit vehicles.

(2) “Transit station” includes platforms, shelters, passenger waiting facilities, parking areas, access roadways, and other real property used to facilitate passenger access to transit service or railroad service.

### ~~Article – Environment~~

~~9–1702.~~

~~(a) There is an Office of Recycling created within the Department.~~

~~(d) The Office shall:~~

~~(1) Assist the counties in developing an acceptable recycling plan required under § 9-1703 of this subtitle and § 9-505 of this title, including technical assistance to the local governments;~~

~~(2) Coordinate the efforts of the State to facilitate the implementation of the recycling goals at the county level;~~

~~(3) Review all recycling plans submitted as part of a county plan as required under § 9-505 of this title and advise the Secretary on the adequacy of the recycling plan; [and]~~

~~(4) Administer the Statewide Electronics Recycling Program under Part IV of this subtitle; AND~~

~~(5) ADMINISTER THE TRANSIT STATION RECYCLING PILOT PROGRAM UNDER PART V OF THIS SUBTITLE.~~

~~9-1731. RESERVED.~~

~~9-1732. RESERVED.~~

~~PART V. TRANSIT STATION RECYCLING PILOT PROGRAM.~~

~~9-1733.~~

~~(A) IN THIS SECTION, "TRANSIT STATION" HAS THE MEANING STATED IN § 7-101 OF THE TRANSPORTATION ARTICLE.~~

~~(B) THE OFFICE OF RECYCLING, IN CONSULTATION WITH THE DEPARTMENT OF TRANSPORTATION, SHALL ESTABLISH A PILOT PROGRAM THAT REQUIRES THE PLACEMENT OF COLLECTION BINS FOR RECYCLING ADJACENT TO COLLECTION BINS FOR GARBAGE AT TRANSIT STATIONS IN THE STATE.~~

~~(C) THE PILOT PROGRAM ADOPTED UNDER SUBSECTION (B) OF THIS SECTION SHALL BE IMPLEMENTED AT TRANSIT STATIONS:~~

~~(1) LOCATED IN COUNTIES WITH:~~

~~(i) A POPULATION GREATER THAN 150,000; AND~~

~~(ii) A CURBSIDE RECYCLING PROGRAM; AND~~

~~(2) IN LOCATIONS IN WHICH THE OFFICE OF RECYCLING HAS DETERMINED THAT RECYCLING IS PRACTICABLE AND ECONOMICALLY FEASIBLE.~~

SECTION 2. AND BE IT FURTHER ENACTED, ~~That this Act shall take effect October 1, 2011. It shall remain effective for a period of 5 years and, at the end of September 30, 2016, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.~~ That:

(a) In this section, “transit station” has the meaning stated in § 7–101 of the Transportation Article.

(b) (1) The Maryland Transit Administration and the State Department of Transportation, in consultation with the Washington Metropolitan Area Transit Authority, shall jointly study and make recommendations relating to the establishment of a program to place collection bins for recycling adjacent to collection bins for garbage at transit stations in the State.

(2) The recommendations in paragraph (1) of this subsection shall identify the transit stations where recycling would be the most practicable and economically feasible.

(c) On or before December 1, 2011, the Maryland Transit Administration, the State Department of Transportation, and the Washington Metropolitan Area Transit Authority shall jointly report their recommendations under the study in subsection (b) of this section to the President of the Senate, the Speaker of the House, the Senate Education, Health, and Environmental Affairs Committee, and the House Environmental Matters Committee, in accordance with § 2–1246 of the State Government Article.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2011.

**Approved by the Governor, April 12, 2011.**

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## Chapter 135

(House Bill 630)

AN ACT concerning

**Building Standards – High-Performance Homes**

FOR the purpose of ~~providing that~~ requiring the Department of Housing and Community Development, ~~through certain measures, shall~~ to encourage the construction of new residential structures that are high-performance homes; defining a certain term; and generally relating to green building standards for homes.

BY adding to

Article – Public Safety

Section ~~12-502(d)~~ 12-509

Annotated Code of Maryland

(2003 Volume and 2010 Supplement)

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

**Article – Public Safety**

~~12-502.~~ 12-509.

~~(D)~~ (A) ~~(1)~~ (1) IN THIS ~~SUBSECTION~~ SECTION, “HIGH-PERFORMANCE HOME” MEANS A NEW RESIDENTIAL STRUCTURE THAT MEETS OR EXCEEDS THE CURRENT VERSION OF:

~~(1)~~ (1) THE ~~BRONZE~~ SILVER RATING OF THE INTERNATIONAL CODE COUNCIL’S 700 NATIONAL GREEN BUILDING STANDARDS; OR

~~(2)~~ (2) THE SILVER RATING OF THE U.S. GREEN BUILDING COUNCIL’S LEED (LEADERSHIP IN ENERGY AND ENVIRONMENTAL DESIGN) FOR HOMES RATING SYSTEM.

~~(2)~~ (B) ~~NOTWITHSTANDING THE PROVISIONS OF SUBSECTIONS (A), (B), AND (C) OF THIS SECTION AND IN ADDITION TO THE OTHER PROVISIONS OF THIS SUBTITLE RELATING TO BUILDING PERFORMANCE STANDARDS, THE~~ THE DEPARTMENT SHALL ENCOURAGE, ~~THROUGH REGULATION, POLICY, OR LEGISLATION,~~ THE CONSTRUCTION OF NEW RESIDENTIAL STRUCTURES IN THE STATE THAT ARE HIGH-PERFORMANCE HOMES.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

Approved by the Governor, April 12, 2011.

**Chapter 136****(House Bill 634)**

AN ACT concerning

**State Retirement and Pension System – Reemployment Earnings Offset –  
Retiree Health Care Premiums**

FOR the purpose of limiting a certain reemployment earnings offset for certain reemployed retirees of the State Retirement and Pension System to a certain amount under certain circumstances; requiring the Board of Trustees of the State Retirement and Pension System to recover a certain portion of certain retirement income from certain retirees of the State Retirement and Pension System under certain circumstances; providing for the effective date of certain provisions of this Act; providing for the termination of certain provisions of this Act; and generally relating to the reemployment earnings offset for reemployed retirees of the State Retirement and Pension System.

BY repealing and reenacting, without amendments,  
Article – State Personnel and Pensions  
Section 22–406(c)(1), 23–407(c)(1), 24–405(a), and 25–403(a)  
Annotated Code of Maryland  
(2009 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,  
Article – State Personnel and Pensions  
Section 22–406(c)(2), 23–407(c)(2), 24–405(b), and 25–403(b)  
Annotated Code of Maryland  
(2009 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, without amendments,  
Article – State Personnel and Pensions  
Section 24–405(a)  
Annotated Code of Maryland  
(2009 Replacement Volume and 2010 Supplement)  
(As enacted by Chapter 644 of the Acts of the General Assembly of 2009)

BY repealing and reenacting, with amendments,  
Article – State Personnel and Pensions  
Section 24–405(b)  
Annotated Code of Maryland  
(2009 Replacement Volume and 2010 Supplement)  
(As enacted by Chapter 644 of the Acts of the General Assembly of 2009)

BY repealing and reenacting, with amendments,  
Article – State Personnel and Pensions



Section 27-406(d)  
Annotated Code of Maryland  
(2009 Replacement Volume and 2010 Supplement)  
(As enacted by Chapter 688 of the Acts of the General Assembly of 2010)

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

**Article – State Personnel and Pensions**

22-406.

(c) (1) Except as provided in § 22-407 of this subtitle, the Board of Trustees shall reduce the allowance of an individual who accepts employment as provided under subsection (b) of this section if:

(i) the individual's current employer is a participating employer other than the State and is the same participating employer that employed the individual at the time of the individual's last separation from employment with a participating employer before the individual commenced receiving a service retirement allowance or vested allowance;

(ii) the individual's current employer is any unit of State government and the individual's employer at the time of the individual's last separation from employment with the State before the individual commenced receiving a service retirement allowance or vested allowance was also a unit of State government; or

(iii) the individual becomes reemployed within 12 months of receiving an early service retirement allowance under § 22-402 of this subtitle.

(2) (i) Except as provided in subparagraph (ii) of this paragraph **AND SUBJECT TO SUBPARAGRAPH (III) OF THIS PARAGRAPH**, the reduction required under paragraph (1) of this subsection shall equal:

1. the amount by which the sum of the individual's initial annual basic allowance and the individual's annual compensation exceeds the average final compensation used to compute the basic allowance; or

2. for a retiree who retired under the Workforce Reduction Act (Chapter 353 of the Acts of 1996), the amount by which the sum of the retiree's annual compensation and the retiree's annual basic allowance at the time of retirement, including the incentive provided by the Workforce Reduction Act, exceeds the average final compensation used to compute the basic allowance.

(ii) 1. This subparagraph applies to a retiree of the Teachers' Retirement System who as faculty received a 10-month salary and retired directly from:

- A. the University System of Maryland;
- B. Morgan State University;
- C. St. Mary's College; or
- D. a community college established or operating under Title 16 of the Education Article.

2. The reduction required under paragraph (1) of this subsection shall equal the amount by which the sum of the retiree's initial annual basic allowance and the retiree's annual compensation, as calculated in subparagraph 3 of this subparagraph, exceeds the average final compensation of the retiree used to compute the basic allowance.

3. The calculation of the retiree's annual compensation in subparagraph 2 of this subparagraph does not include any of the following earnings the retiree received during the previous calendar year from the employer with whom the retiree is reemployed:

- A. bonuses;
- B. overtime;
- C. summer school salaries;
- D. adult education salary;
- E. additional temporary payments from special research projects;
- F. honorariums; and
- G. vehicle stipends.

**(iii) 1. ANY REDUCTION TAKEN TO A RETIREE'S ALLOWANCE UNDER THIS SUBSECTION MAY NOT EXCEED AN AMOUNT THAT WOULD REDUCE THE RETIREE'S ALLOWANCE TO LESS THAN WHAT IS REQUIRED TO BE DEDUCTED FOR:**

**A. IF THE RETIREE RETIRED FROM ANY UNIT OF STATE GOVERNMENT, THE RETIREE'S MONTHLY STATE-APPROVED MEDICAL INSURANCE PREMIUMS; OR**

**B. IF THE RETIREE RETIRED FROM A PARTICIPATING EMPLOYER OTHER THAN THE STATE, THE APPROVED MONTHLY MEDICAL INSURANCE PREMIUMS REQUIRED BY THE PARTICIPATING EMPLOYER THAT EMPLOYED THE RETIREE AT THE TIME OF THE RETIREE'S RETIREMENT.**

**2. IF A REDUCTION FOR A CALENDAR YEAR TAKEN UNDER SUBSUBPARAGRAPH 1 OF THIS SUBPARAGRAPH IS LESS THAN THE REDUCTION REQUIRED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE BOARD OF TRUSTEES SHALL RECOVER FROM THE RETIREE AN AMOUNT EQUAL TO THE REDUCTION REQUIRED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH LESS THE REDUCTION TAKEN UNDER SUBSUBPARAGRAPH 1 OF THIS SUBPARAGRAPH.**

23-407.

(c) (1) Except as provided in § 23-408 of this subtitle, the Board of Trustees shall reduce the allowance of an individual who accepts employment as provided under subsection (b) of this section if:

(i) the individual's current employer is a participating employer other than the State and is the same participating employer that employed the individual at the time of the individual's last separation from employment with a participating employer before the individual commenced receiving a service retirement allowance or vested allowance;

(ii) the individual's current employer is any unit of State government and the individual's employer at the time of the individual's last separation from employment with the State before the individual commenced receiving a service retirement allowance or vested allowance was also a unit of State government; or

(iii) the individual becomes reemployed within 12 months of receiving an early service retirement allowance or an early vested allowance computed under § 23-402 of this subtitle.

(2) (i) Except as provided in subparagraph (ii) of this paragraph **AND SUBJECT TO SUBPARAGRAPH (III) OF THIS PARAGRAPH**, the reduction required under paragraph (1) of this subsection shall equal:

1. the amount by which the sum of the individual's initial annual basic allowance and the individual's annual compensation exceeds the average final compensation used to compute the basic allowance; or

2. for a retiree who retired under the Workforce Reduction Act (Chapter 353 of the Acts of 1996), the amount by which the sum of the retiree's annual compensation and the retiree's annual basic allowance at the time of retirement, including the incentive provided by the Workforce Reduction Act, exceeds the average final compensation used to compute the basic allowance.

(ii) 1. This subparagraph applies to a retiree of the Teachers' Pension System who as faculty receiving a 10-month salary, retired directly from:

- A. the University System of Maryland;
- B. Morgan State University;
- C. St. Mary's College; or
- D. a community college established or operating under Title 16 of the Education Article.

2. The reduction required under paragraph (1) of this subsection shall equal the amount by which the sum of the retiree's initial annual basic allowance and the retiree's annual compensation, as calculated in subparagraph 3 of this subparagraph, exceeds the average final compensation of the retiree used to compute the basic allowance.

3. The calculation of the retiree's annual compensation in subparagraph 2 of this subparagraph does not include any of the following earnings the retiree received during the previous calendar year from the employer with whom the retiree is reemployed:

- A. bonuses;
- B. overtime;
- C. summer school salaries;
- D. adult education salary;
- E. additional temporary payments from special research projects;
- F. honorariums; and
- G. vehicle stipends.

(III) 1. ANY REDUCTION TAKEN TO A RETIREE'S ALLOWANCE UNDER THIS SUBSECTION MAY NOT EXCEED AN AMOUNT THAT WOULD REDUCE THE RETIREE'S ALLOWANCE TO LESS THAN WHAT IS REQUIRED TO BE DEDUCTED FOR:

A. IF THE RETIREE RETIRED FROM ANY UNIT OF STATE GOVERNMENT, THE RETIREE'S MONTHLY STATE-APPROVED MEDICAL INSURANCE PREMIUMS; OR

B. IF THE RETIREE RETIRED FROM A PARTICIPATING EMPLOYER OTHER THAN THE STATE, THE APPROVED MONTHLY MEDICAL INSURANCE PREMIUMS REQUIRED BY THE PARTICIPATING EMPLOYER THAT EMPLOYED THE RETIREE AT THE TIME OF THE RETIREE'S RETIREMENT.

2. IF A REDUCTION FOR A CALENDAR YEAR TAKEN UNDER SUBSUBPARAGRAPH 1 OF THIS SUBPARAGRAPH IS LESS THAN THE REDUCTION REQUIRED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE BOARD OF TRUSTEES SHALL RECOVER FROM THE RETIREE AN AMOUNT EQUAL TO THE REDUCTION REQUIRED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH LESS THE REDUCTION TAKEN UNDER SUBSUBPARAGRAPH 1 OF THIS SUBPARAGRAPH.

25-403.

(a) Except as provided in subsection (h) of this section, an individual who is receiving a service retirement allowance or vested allowance may accept employment with a participating employer on a permanent, temporary, or contractual basis, if the individual immediately notifies the Board of Trustees:

- (1) of the individual's intention to accept the employment; and
- (2) of the compensation that the individual will receive.

(b) (1) The Board of Trustees shall reduce the allowance of an individual who accepts employment as provided under subsection (a) of this section if the individual's current employer is any unit of State government and the individual's employer at the time of the individual's last separation from employment with the State before the individual commenced receiving a service retirement allowance or vested allowance was also a unit of State government.

(2) (I) [The] SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE reduction under paragraph (1) of this subsection shall equal the amount by which the sum of the individual's initial annual basic allowance and the individual's annual compensation exceeds the average final compensation used to compute the basic allowance.

(II) 1. ANY REDUCTION TAKEN TO A RETIREE'S ALLOWANCE UNDER THIS SUBSECTION MAY NOT EXCEED AN AMOUNT THAT WOULD REDUCE THE RETIREE'S ALLOWANCE TO LESS THAN WHAT IS REQUIRED TO BE DEDUCTED FOR:

A. IF THE RETIREE RETIRED FROM ANY UNIT OF STATE GOVERNMENT, THE RETIREE'S MONTHLY STATE-APPROVED MEDICAL INSURANCE PREMIUMS; OR

B. IF THE RETIREE RETIRED FROM A PARTICIPATING EMPLOYER OTHER THAN THE STATE, THE APPROVED MONTHLY MEDICAL INSURANCE PREMIUMS REQUIRED BY THE PARTICIPATING EMPLOYER THAT EMPLOYED THE RETIREE AT THE TIME OF THE RETIREE'S RETIREMENT.

2. IF A REDUCTION FOR A CALENDAR YEAR TAKEN UNDER SUBSUBPARAGRAPH 1 OF THIS SUBPARAGRAPH IS LESS THAN THE REDUCTION REQUIRED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE BOARD OF TRUSTEES SHALL RECOVER FROM THE RETIREE AN AMOUNT EQUAL TO THE REDUCTION REQUIRED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH LESS THE REDUCTION TAKEN UNDER SUBSUBPARAGRAPH 1 OF THIS SUBPARAGRAPH.

(3) The reduction under this subsection does not apply to:

(i) an individual who has been retired for 9 years, beginning on January 1, after the date the individual retires;

(ii) an individual whose average final compensation was less than \$25,000 and who is reemployed on a permanent, temporary, or contractual basis;

(iii) an individual who is serving in an elected position as an official of a participating governmental unit or as a constitutional officer for a county that is a participating governmental unit; or

(iv) a retiree of the Correctional Officers' Retirement System who is reemployed on a contractual basis for not more than 4 years by the Division of Corrections, the Division of Pretrial Detention and Services, or the Patuxent Institution in the Department of Public Safety and Correctional Services as a correctional officer in a correctional facility defined in § 1-101 of the Correctional Services Article.

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

**Article – State Personnel and Pensions**

24–405.

(a) Except as provided in § 24–405.1 of this subtitle and subject to subsections (b), (c), and (d) of this section, an individual who is receiving a service retirement allowance or vested allowance may accept employment with a participating employer on a temporary or contractual basis, if:

- (1) the employment is not in a regularly allocated position; and
- (2) the individual immediately notifies the Board of Trustees:
  - (i) of the individual's intention to accept the employment; and
  - (ii) of the compensation that the individual will receive.

(b) (1) The Board of Trustees shall reduce the allowance of an individual who accepts employment as provided under subsection (a) of this section if:

- (i) the individual's current employer is any unit of State government; and
- (ii) the individual's employer at the time of the individual's last separation from employment with the State before the individual commenced receiving a service retirement allowance or vested allowance was also a unit of State government.

(2) **(I) [The] SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE** reduction under paragraph (1) of this subsection shall equal the amount by which the sum of the individual's initial annual basic allowance and the individual's annual compensation exceeds the average final compensation used to compute the basic allowance.

**(II) 1. ANY REDUCTION TAKEN TO A RETIREE'S ALLOWANCE UNDER THIS SUBSECTION MAY NOT EXCEED AN AMOUNT THAT WOULD REDUCE THE RETIREE'S ALLOWANCE TO LESS THAN WHAT IS REQUIRED TO BE DEDUCTED FOR THE RETIREE'S MONTHLY STATE-APPROVED MEDICAL INSURANCE PREMIUMS.**

**2. IF A REDUCTION FOR A CALENDAR YEAR TAKEN UNDER SUBSUBPARAGRAPH 1 OF THIS SUBPARAGRAPH IS LESS THAN THE REDUCTION REQUIRED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE BOARD OF TRUSTEES SHALL RECOVER FROM THE RETIREE AN AMOUNT EQUAL TO THE REDUCTION REQUIRED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH**

LESS THE REDUCTION TAKEN UNDER SUBSUBPARAGRAPH 1 OF THIS SUBPARAGRAPH.

(3) The reduction under paragraph (1) of this subsection does not apply to:

(i) an individual who has been retired for 9 years, beginning on January 1, after the date the individual retires;

(ii) an individual who participates in the Deferred Retirement Option Program established under § 24–401.1 of this subtitle; or

(iii) a retiree of the State Police Retirement System who is reemployed by the Department of State Police on a contractual basis as a police employee, as defined in § 2–101 of the Public Safety Article, at a rank of trooper first class.

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

#### Article – State Personnel and Pensions

24–405.

(a) Except as provided in § 24–405.1 of this subtitle and subject to subsections (b) and (c) of this section, an individual who is receiving a service retirement allowance or vested allowance may accept employment with a participating employer on a temporary basis, if:

(1) the employment is not in a regularly allocated position; and

(2) the individual immediately notifies the Board of Trustees:

(i) of the individual’s intention to accept the employment; and

(ii) of the compensation that the individual will receive.

(b) (1) This subsection does not apply to:

(i) an individual who has been retired for 9 years, beginning on January 1, after the date the individual retires; or

(ii) an individual who participates in the Deferred Retirement Option Program established under § 24–401.1 of this subtitle.

(2) **(I) [The] SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE** Board of Trustees shall reduce an individual’s allowance by the



amount that the sum of the individual's initial annual basic allowance and the individual's annual compensation exceeds the average final compensation used to compute the basic allowance.

**(II) 1. ANY REDUCTION TAKEN TO A RETIREE'S ALLOWANCE UNDER THIS SUBSECTION MAY NOT EXCEED AN AMOUNT THAT WOULD REDUCE THE RETIREE'S ALLOWANCE TO LESS THAN WHAT IS REQUIRED TO BE DEDUCTED FOR THE RETIREE'S MONTHLY STATE-APPROVED MEDICAL INSURANCE PREMIUMS.**

**2. IF A REDUCTION FOR A CALENDAR YEAR TAKEN UNDER SUBSUBPARAGRAPH 1 OF THIS SUBPARAGRAPH IS LESS THAN THE REDUCTION REQUIRED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE BOARD OF TRUSTEES SHALL RECOVER FROM THE RETIREE AN AMOUNT EQUAL TO THE REDUCTION REQUIRED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH LESS THE REDUCTION TAKEN UNDER SUBSUBPARAGRAPH 1 OF THIS SUBPARAGRAPH.**

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

**Article – State Personnel and Pensions**

27-406.

**(d) (1) [If] SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, IF** a retiree accepts employment as allowed by subsection (a) of this section and is subsequently awarded retirement benefits because of that employment, the Board of Trustees shall reduce the retiree's benefits under this subtitle by the amount of the retirement benefits resulting from the subsequent employment if the retiree's current employer is any unit of State government and the retiree's employer at the time of the retiree's last separation from employment with the State before the retiree commenced receiving a service retirement allowance was also a unit of State government.

**(2) (I) ANY REDUCTION TAKEN TO A RETIREE'S ALLOWANCE UNDER THIS SUBSECTION MAY NOT EXCEED AN AMOUNT THAT WOULD REDUCE THE RETIREE'S ALLOWANCE TO LESS THAN WHAT IS REQUIRED TO BE DEDUCTED FOR THE RETIREE'S MONTHLY STATE-APPROVED MEDICAL INSURANCE PREMIUMS.**

**(II) IF A REDUCTION FOR A CALENDAR YEAR TAKEN UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH IS LESS THAN THE REDUCTION REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE BOARD OF TRUSTEES SHALL RECOVER FROM THE RETIREE AN AMOUNT EQUAL TO THE**

**REDUCTION REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION LESS THE REDUCTION TAKEN UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH.**

SECTION 5. AND BE IT FURTHER ENACTED, That Section 3 of this Act shall take effect on the taking effect of the termination provision specified in Chapter 644, § 3 of the Acts of the General Assembly of 2009. If that termination provision takes effect, Section 2 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 6. 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 688, § 2 of the Acts of the General Assembly of 2010. This Act may not be interpreted to have any effect on that termination provision.

SECTION 7. AND BE IT FURTHER ENACTED, That, subject to the provisions of Sections 5 and 6 of this Act, this Act shall take effect July 1, 2011.

**Approved by the Governor, April 12, 2011.**

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**Chapter 137**

**(House Bill 674)**

AN ACT concerning

**Education – Human Trafficking – Awareness, Training, and Distribution of Materials**

FOR the purpose of requiring the State Department of Education, in collaboration with the Department of Health and Mental Hygiene, to provide awareness and training for certain individuals on human trafficking; requiring the Department of Health and Mental Hygiene, in consultation with certain experts, to provide to the State Department of Education certain information and materials on human trafficking; and generally relating to awareness, training, and distribution of materials on human trafficking.

BY adding to

Article – Education

Section 7–432

Annotated Code of Maryland

(2008 Replacement Volume and 2010 Supplement)

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

**Article – Education****7-432.**

(A) THE DEPARTMENT, IN COLLABORATION WITH THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE, SHALL PROVIDE AWARENESS AND TRAINING FOR DIRECTORS OF STUDENT SERVICES IN LOCAL EDUCATION AGENCIES ON HUMAN TRAFFICKING, INCLUDING STRATEGIES FOR THE PREVENTION OF TRAFFICKING OF CHILDREN.

(B) THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE, IN CONSULTATION WITH EXPERTS IN THE FIELD OF HUMAN TRAFFICKING PREVENTION, SHALL PROVIDE TO THE DEPARTMENT:

(1) RESOURCE INFORMATION ON HUMAN TRAFFICKING, INCLUDING STRATEGIES FOR PREVENTION OF TRAFFICKING OF CHILDREN, TO BE DISTRIBUTED TO LOCAL SCHOOL SUPERVISORS OF HEALTH, COUNSELING, AND PSYCHOLOGY; AND

(2) MATERIALS FOR DISTRIBUTION THAT DESCRIBE LOCAL, STATE, AND NATIONAL RESOURCES TO WHICH STUDENTS, PARENTS, COUNSELORS, AND SCHOOL PERSONNEL CAN REFER FOR INFORMATION ON HUMAN TRAFFICKING, INCLUDING STRATEGIES FOR PREVENTION OF TRAFFICKING OF CHILDREN.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2011.

**Approved by the Governor, April 12, 2011.**

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**Chapter 138****(House Bill 679)**

AN ACT concerning

**Real Property – Condominiums – Amendment to Bylaws to Require Unit Insurance Coverage**

FOR the purpose of authorizing the council of unit owners of a condominium to amend the bylaws of the condominium, by a certain majority, to require all unit owners to maintain condominium unit owner insurance policies on their units; authorizing the bylaws of a condominium to require each unit owner to

maintain a condominium unit owner insurance policy on the unit; requiring certain bylaws to require each unit owner to provide evidence of certain insurance coverage to the council of unit owners annually; and generally relating to condominiums and insurance coverage.

BY repealing and reenacting, without amendments,  
Article – Real Property  
Section 11–104(a) and (c)  
Annotated Code of Maryland  
(2010 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,  
Article – Real Property  
Section 11–104(e)(2)  
Annotated Code of Maryland  
(2010 Replacement Volume and 2010 Supplement)

BY adding to  
Article – Real Property  
Section 11–114.2  
Annotated Code of Maryland  
(2010 Replacement Volume and 2010 Supplement)

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

### **Article – Real Property**

11–104.

(a) The administration of every condominium shall be governed by bylaws which shall be recorded with the declaration. If the council of unit owners is incorporated, these bylaws shall be the bylaws of that corporation.

(c) The bylaws also may contain any other provision regarding the management and operation of the condominium including any restriction on or requirement respecting the use and maintenance of the units and the common elements.

(e) (2) (I) [Unless] **EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, UNLESS** a higher percentage is required in the bylaws, the bylaws may be amended by the affirmative vote of unit owners having at least 66 2/3 percent of the votes in the council of unit owners.

**(II) THE BYLAWS MAY BE AMENDED BY THE AFFIRMATIVE VOTE OF UNIT OWNERS HAVING AT LEAST 51% OF THE VOTES IN THE COUNCIL**

OF UNIT OWNERS FOR THE PURPOSE OF REQUIRING ALL UNIT OWNERS TO MAINTAIN CONDOMINIUM UNIT OWNER INSURANCE POLICIES ON THEIR UNITS.

**11-114.2.**

**(A) THE BYLAWS OF A CONDOMINIUM MAY REQUIRE EACH UNIT OWNER TO MAINTAIN A CONDOMINIUM UNIT OWNER INSURANCE POLICY ON THE UNIT.**

**(B) BYLAWS THAT REQUIRE EACH UNIT OWNER TO MAINTAIN UNIT OWNER INSURANCE ALSO SHALL REQUIRE EACH UNIT OWNER TO PROVIDE EVIDENCE OF THE INSURANCE COVERAGE TO THE COUNCIL OF UNIT OWNERS ANNUALLY.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

**Approved by the Governor, April 12, 2011.**

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**Chapter 139**

**(House Bill 700)**

AN ACT concerning

**Howard County – Hotel Rental Tax Rate**

**Ho. Co. 6-11**

FOR the purpose of altering the maximum sales or use tax rate that Howard County is authorized to impose on certain room rentals in the county; requiring the county to distribute certain revenue attributable to a certain tax rate imposed by the county to certain entities; and generally relating to the Howard County sales or use tax on room rentals for sleeping accommodations for transients.

BY repealing and reenacting, without amendments,  
 The Public Local Laws of Howard County  
 Section 20.400(a)  
 Article 14 – Public Local Laws of Maryland  
 (1977 Edition and August 2008 Supplement, as amended)

BY repealing and reenacting, with amendments,  
 The Public Local Laws of Howard County  
 Section 20.400(b)  
 Article 14 – Public Local Laws of Maryland

(1977 Edition and August 2008 Supplement, as amended)

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

**Article 14 – Howard County**

**SUBTITLE 4. ROOM RENTAL TAX**

20.400.

(a) Howard County may impose, by law, and collect a sales or use tax on room rentals in the county for sleeping accommodations for transients.

(b) **(1)** The rate of the tax authorized under this section may not exceed **[5] 7** percent.

**(2) SUBJECT TO THE ANNUAL COUNTY BUDGET AND APPROPRIATION PROCESS, THE COUNTY SHALL DISTRIBUTE ANY REVENUE ATTRIBUTABLE TO A TAX RATE GREATER THAN 5 PERCENT IMPOSED BY THE COUNTY UNDER THIS SUBSECTION AS FOLLOWS:**

**(I) TWO-THIRDS TO THE HOWARD COUNTY TOURISM COUNCIL; AND**

**(II) ONE-THIRD TO THE HOWARD COUNTY ECONOMIC DEVELOPMENT AUTHORITY.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2011.

**Approved by the Governor, April 12, 2011.**

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**Chapter 140**

**(House Bill 751)**

AN ACT concerning

**Agriculture – Jane Lawton Farm-to-School Program – Reporting**

FOR the purpose of requiring each local educational agency participating in the Jane Lawton Farm-to-School Program to report by a certain date each year to the Department of Agriculture the types and amounts of farm products purchased

from farms in the State; and generally relating to reporting requirements for the Jane Lawton Farm-to-School Program.

BY repealing and reenacting, with amendments,  
Article – Agriculture  
Section 10–1601  
Annotated Code of Maryland  
(2007 Replacement Volume and 2010 Supplement)

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

### **Article – Agriculture**

10–1601.

- (a) (1) In this section the following words have the meanings indicated.
- (2) “Farm product” means any agricultural, horticultural, vegetable, fruit product, whether raw, canned, frozen, dried, pickled, or otherwise processed, livestock, meats, marine food products, poultry, eggs, dairy products, nuts, honey, and every edible product of farm, orchard, garden, or water.
- (3) “Program” means the Jane Lawton Farm-to-School Program.
- (b) There is a Jane Lawton Farm-to-School Program in the Department.
- (c) The Program is established for the purpose of:
- (1) Promoting the sale of farm products grown in the State to Maryland schools in consultation with the State Department of Education;
- (2) Soliciting farmers to sell their farm products to Maryland schools;
- (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 in which the farmers want to sell;
- (4) Facilitating purchases from farmers by interested Maryland schools in consultation with the State Department of Education and in compliance with applicable procurement requirements; and
- (5) Providing outreach and guidance to farmers concerning the value of and procedure for selling their farm products to interested Maryland schools.

(d) (1) The Program, in partnership with the State Department of Education and in consultation with school food service directors and interested farming organizations, shall establish promotional events that promote State agriculture and farm products to children through school meal and classroom programs.

(2) At least one promotional event shall:

(i) Last for a period of 1 week;

(ii) Be known as “Maryland Homegrown School Lunch Week”;

(iii) Promote State agriculture and farm products to children through school meal and classroom programs; and

(iv) Arrange for interaction between students and farmers through promotional activities that may include field trips to farms and in-school presentations by farmers.

**(E) ON OR BEFORE JANUARY 1 OF EACH YEAR, EACH LOCAL EDUCATIONAL AGENCY PARTICIPATING IN THE PROGRAM SHALL REPORT TO THE DEPARTMENT THE TYPES AND AMOUNTS OF FARM PRODUCTS PURCHASED FROM FARMS IN THE STATE.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

**Approved by the Governor, April 12, 2011.**

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## **Chapter 141**

**(House Bill 789)**

AN ACT concerning

### **Driver’s License Applications – Cosigner for Minors – Department of Social Services**

FOR the purpose of requiring a driver’s license application of a minor who is committed to the custody or guardianship of a local department of social services to be signed by the director of the department or the director’s designee; and generally relating to driver’s license applications of minors.

BY repealing and reenacting, with amendments,  
Article – Transportation



Section 16-107  
Annotated Code of Maryland  
(2009 Replacement Volume and 2010 Supplement)

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

**Article – Transportation**

16-107.

(a) The application of a minor for a license shall be cosigned by:

(1) A parent or guardian of the applicant; [or]

(2) If the applicant has no parent or guardian or is married, an adult employer of the applicant or any other responsible adult; **OR**

**(3) IF THE APPLICANT IS COMMITTED TO THE CUSTODY OR GUARDIANSHIP OF A LOCAL DEPARTMENT OF SOCIAL SERVICES, THE DIRECTOR OF THE DEPARTMENT OR THE DIRECTOR'S DESIGNEE.**

(b) The individual cosigning the application of a minor shall:

(1) (i) Provide the cosigner's mailing address to the Administration; and

(ii) Within 30 days of any change in the mailing address occurring while the applicant or licensee is a minor, notify the Administration of the change; and

(2) Certify that the statements made in the application are true to the best of the cosigner's knowledge, information, and belief.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

**Approved by the Governor, April 12, 2011.**

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**Chapter 142**

**(House Bill 831)**

AN ACT concerning

**Agriculture – Invasive Plants – Prevention and Control**

FOR the purpose of establishing the Invasive Plants Advisory Committee in the Department of Agriculture; providing for the membership and charge of the Committee; providing for the terms of the members; requiring the Committee to elect a chair, a vice chair, and a secretary of the Committee; requiring the Department to provide staff for the Committee; prohibiting a member from receiving certain compensation, but authorizing a member to receive certain reimbursement; requiring the Secretary of Agriculture to adopt certain regulations by a certain date; prohibiting certain activities involving certain invasive plants under certain circumstances; requiring a person to receive certain approval from the Secretary before engaging in certain activities involving certain invasive plants; ~~requiring~~ authorizing the Secretary to take certain action upon finding certain invasive plants; requiring a person to dispose of certain invasive plants in a certain manner; requiring the Secretary to take certain action if certain invasive plants are not disposed of properly; requiring the ~~State's Attorney~~ Attorney General to institute certain proceedings for certain purposes; requiring the Secretary to issue stop sale orders of certain invasive plants under certain circumstances; authorizing the Secretary to bring an action for injunction under certain circumstances; establishing certain penalties for certain violations under this Act; defining certain terms; and generally relating to the prevention and control of invasive plants.

BY adding to

Article – Agriculture

Section 9.5–101 through 9.5–306 to be under the new title “Title 9.5. Invasive Plants Prevention and Control”

Annotated Code of Maryland

(2007 Replacement Volume and 2010 Supplement)

Preamble

WHEREAS, Certain invasive plants that have been introduced into the State are affecting the health and ecological functioning of plant and animal communities in natural areas such as wildlands, parks, forests, lakes and rivers, and managed areas such as farms and backyards; and

WHEREAS, Invasive plants can cause ecological damage in numerous ways, including outcompeting native species for resources, reducing biological diversity, disrupting food webs, degrading food and shelter for native animals, altering flooding and fire impacts, and modifying nutrient cycling; and

WHEREAS, Some invasive plants have major economic consequences, including reducing, degrading, or relocating valuable species, compromising farm production and food security, and increasing costs of control or management on public and private lands; and

WHEREAS, Certain invasive plants that contain toxins and allergens may cause a negative impact to human health; and

WHEREAS, Many plants that are invasive to the State and elsewhere in the Mid-Atlantic region were introduced through ornamental horticultural commerce before their invasive habits were realized; and

WHEREAS, Other invasive plants have been inadvertently introduced through regular commercial shipping activities; and

WHEREAS, Reducing the potential for invasive plants to negatively affect native species and their function is beneficial to the citizens of the State; now, therefore,

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

### **Article – Agriculture**

#### **TITLE 9.5. INVASIVE PLANTS PREVENTION AND CONTROL.**

##### **SUBTITLE 1. DEFINITIONS.**

#### **9.5–101.**

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

(B) “COMMITTEE” MEANS THE INVASIVE PLANTS ADVISORY COMMITTEE.

(C) “INVASIVE PLANT” MEANS A TERRESTRIAL PLANT SPECIES THAT:

(1) DID NOT EVOLVE IN THE STATE; AND

(2) IF INTRODUCED WITHIN THE STATE, WILL CAUSE OR IS LIKELY TO CAUSE, AS DETERMINED BY THE SECRETARY:

(I) ECONOMIC HARM;

(II) ECOLOGICAL HARM;

(III) ENVIRONMENTAL HARM; OR

(IV) HARM TO HUMAN HEALTH.

(D) “LANDSCAPING SERVICES” INCLUDES SERVICES FOR ORNAMENTAL HORTICULTURAL DESIGN, MAINTENANCE, AND INSTALLATION OF LIVING PLANTS.

(E) “TIER 1 INVASIVE PLANT” INCLUDES INVASIVE PLANT SPECIES THAT CAUSE OR ARE LIKELY TO CAUSE SEVERE HARM WITHIN THE STATE.

(F) “TIER 2 INVASIVE PLANT” INCLUDES INVASIVE PLANT SPECIES THAT CAUSE OR ARE LIKELY TO CAUSE SUBSTANTIAL NEGATIVE IMPACT WITHIN THE STATE.

#### SUBTITLE 2. INVASIVE PLANTS ADVISORY COMMITTEE.

##### 9.5–201.

THERE IS AN INVASIVE PLANTS ADVISORY COMMITTEE IN THE DEPARTMENT.

##### 9.5–202.

(A) THE COMMITTEE CONSISTS OF THE FOLLOWING MEMBERS:

(1) AS EX OFFICIO MEMBERS:

(I) THE SECRETARY, OR THE SECRETARY’S DESIGNEE;

(II) THE SECRETARY OF NATURAL RESOURCES, OR THE SECRETARY’S DESIGNEE;

(III) THE SECRETARY OF TRANSPORTATION, OR THE SECRETARY’S DESIGNEE;

(IV) THE SECRETARY OF THE ENVIRONMENT, OR THE SECRETARY’S DESIGNEE; AND

(V) THE DEAN OF THE COLLEGE OF AGRICULTURE AND NATURAL RESOURCES AT THE UNIVERSITY OF MARYLAND, COLLEGE PARK, OR THE DEAN’S DESIGNEE; AND

(2) APPOINTED BY THE SECRETARY:

(I) IN CONSULTATION WITH THE SECRETARY OF NATURAL RESOURCES:

1. ONE INDIVIDUAL FROM A LANDSCAPING INDUSTRY THAT IS REGULATED BY THE DEPARTMENT;

2. ONE INDIVIDUAL FROM A PLANT WHOLESALE INDUSTRY OR A PLANT RETAIL INDUSTRY THAT IS REGULATED BY THE DEPARTMENT; AND

3. ONE INDIVIDUAL FROM A NONGOVERNMENTAL ENVIRONMENTAL ADVOCACY ORGANIZATION;

(II) TWO INDIVIDUALS WITH EXPERIENCE WITH INVASIVE PLANTS, AGRICULTURE, HORTICULTURE, GARDENING, CONSERVATION, OR OTHER RELEVANT EXPERIENCE; AND

(III) ONE CONSUMER MEMBER.

(B) (1) THE TERM OF AN APPOINTED MEMBER IS 3 YEARS AND BEGINS ON JANUARY 1.

(2) AN APPOINTED MEMBER MAY NOT SERVE MORE THAN TWO CONSECUTIVE TERMS.

(C) AN APPOINTED MEMBER SHALL SERVE AT THE PLEASURE OF THE SECRETARY.

#### 9.5-203.

FROM AMONG ITS MEMBERS THE COMMITTEE SHALL ELECT ANNUALLY A CHAIR, A VICE CHAIR, AND A SECRETARY.

#### 9.5-204.

(A) (1) UNTIL THE SECRETARY ADOPTS REGULATIONS IN ACCORDANCE WITH SUBTITLE 3 OF THIS TITLE, THE COMMITTEE SHALL MEET AT LEAST QUARTERLY.

(2) AFTER THE SECRETARY HAS ADOPTED REGULATIONS IN ACCORDANCE WITH SUBTITLE 3 OF THIS TITLE, THE COMMITTEE SHALL MEET AS NEEDED.

(B) A MEMBER OF THE COMMITTEE:

(1) MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE COMMITTEE; BUT

(2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

(C) THE DEPARTMENT SHALL PROVIDE STAFF FOR THE COMMITTEE.

9.5–205.

THE COMMITTEE SHALL:

(1) ADVISE THE SECRETARY REGARDING REGULATIONS NECESSARY TO CARRY OUT THE PROVISIONS OF THIS TITLE; AND

(2) (I) CONDUCT AN ANNUAL REVIEW OF THE RISK ASSESSMENT PROTOCOL ADOPTED UNDER § 9.5–301 OF THIS TITLE; AND

(II) REPORT TO THE SECRETARY REGARDING ANY PROPOSED CHANGES TO THE RISK ASSESSMENT PROTOCOL.

### SUBTITLE 3. REGULATION OF INVASIVE PLANTS.

9.5–301.

(A) THE SECRETARY, WITH THE ADVICE OF THE COMMITTEE, SHALL:

(1) ON OR BEFORE OCTOBER 1, 2012, ADOPT REGULATIONS THAT:

(I) ESTABLISH A SCIENCE–BASED RISK ASSESSMENT PROTOCOL FOR INVASIVE PLANTS THAT:

1. WILL SERVE AS A BASIS FOR CREATING A TWO–TIERED REGULATORY APPROACH FOR CONTROLLING INVASIVE PLANTS IN THE STATE; AND

2. CONSIDERS THE HARM, AS DETERMINED BY THE SECRETARY, THAT INVASIVE PLANTS CAUSE IN THE STATE, INCLUDING:

A. ECONOMIC HARM;

B. ECOLOGICAL HARM;

C. ENVIRONMENTAL HARM; AND

**D. HARM TO HUMAN HEALTH;**

**(II) GOVERN ADMINISTRATIVE ORDERS THAT THE SECRETARY MAY ISSUE TO ENFORCE THIS SUBTITLE; AND**

**(III) ESTABLISH A PROCEDURE FOR THE APPROVAL REQUIRED UNDER § 9.5-302 OF THIS SUBTITLE FOR ACTIVITIES INVOLVING TIER 1 INVASIVE PLANTS.**

**(2) ON OR BEFORE OCTOBER 1, 2013, ADOPT REGULATIONS THAT:**

**(I) ESTABLISH A LIST OF TIER 1 PLANTS AND TIER 2 PLANTS IN ACCORDANCE WITH THE RISK ASSESSMENT PROTOCOL ADOPTED UNDER PARAGRAPH (1) OF THIS SUBSECTION;**

**(II) ESTABLISH A PROCEDURE FOR CLASSIFICATION OR DECLASSIFICATION OF AN INVASIVE PLANT AS A TIER 1 INVASIVE PLANT OR A TIER 2 INVASIVE PLANT;**

**(III) PHASE IN THE IMPLEMENTATION OF THE REQUIREMENTS OF THIS SUBTITLE WITH CONSIDERATION OF THE ECONOMIC IMPACT OF THESE REQUIREMENTS ON NURSERIES, LANDSCAPERS, PLANT WHOLESALERS, PLANT RETAILERS, AND ANY OTHER INDUSTRY;**

**(IV) ESTABLISH A PROCEDURE FOR THE DISPOSAL OF TIER 1 PLANTS;**

**(V) DESIGNATE THE FORMAT, SIZE, AND CONTENT OF THE SIGN REQUIRED UNDER § 9.5-302(B)(1) OF THIS SUBTITLE; AND**

**(VI) PROVIDE FOR THE DISTRIBUTION OF A LIST OF TIER 2 INVASIVE PLANTS TO LICENSED NURSERIES, PLANT DEALERS, AND PLANT BROKERS ON AN ANNUAL BASIS.**

**9.5-302.**

**(A) (1) THIS SUBSECTION DOES NOT APPLY TO THE TRANSFER, LEASE, SALE, OR PURCHASE OF REAL PROPERTY ON WHICH AN INVASIVE PLANT IS LOCATED.**

**(2) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION AND IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE SECRETARY, A PERSON MAY NOT PROPAGATE, IMPORT, TRANSFER, SELL,**

PURCHASE, TRANSPORT, OR INTRODUCE ANY LIVING PART OF A TIER 1 INVASIVE PLANT IN THE STATE.

~~(3) WITH RESPECT TO A TIER 1 INVASIVE PLANT, A PERSON SHALL RECEIVE APPROVAL FROM THE SECRETARY BEFORE~~ A PERSON MAY CONDUCT AN ACTIVITY PROHIBITED UNDER PARAGRAPH (2) OF THIS SUBSECTION IF:

(I) THE PERSON RECEIVES APPROVAL FROM THE SECRETARY BEFORE CONDUCTING THE ACTIVITY; AND

(II) THE ACTIVITY IS FOR THE PURPOSE OF:

~~(I)~~ 1. DISPOSING OF THE INVASIVE PLANT;

~~(II)~~ 2. CONTROLLING THE INVASIVE PLANT;

~~(III)~~ 3. USING THE INVASIVE PLANT FOR RESEARCH OR EDUCATIONAL PURPOSES; OR

~~(IV)~~ 4. EXPORTING THE INVASIVE PLANT OUT OF THE STATE.

(B) IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE SECRETARY, A PERSON MAY NOT:

(1) SELL OR OFFER FOR SALE AT A RETAIL OUTLET A TIER 2 INVASIVE PLANT UNLESS THE RETAIL OUTLET POSTS IN A CONSPICUOUS MANNER IN PROXIMITY TO ALL TIER 2 PLANT DISPLAYS, A SIGN IDENTIFYING THE PLANTS AS TIER 2 PLANTS; OR

(2) PROVIDE LANDSCAPING SERVICES TO PLANT OR SUPPLY FOR PLANTING A TIER 2 INVASIVE PLANT UNLESS THE PERSON PROVIDES TO ITS CUSTOMER A LIST OF TIER 2 INVASIVE PLANTS.

### 9.5-303.

(A) ON FINDING A TIER 1 PLANT IN VIOLATION OF § 9.5-302(A)(2) OF THIS SUBTITLE, THE SECRETARY ~~SHALL~~ MAY:

(1) ISSUE A WRITTEN CONDEMNATION SEIZURE ORDER;

(2) MARK OR TAG THE PLANT IN A CONSPICUOUS MANNER; AND



(3) PROVIDE WRITTEN NOTICE TO THE OWNER, TENANT, OR PERSON IN CHARGE OF THE PREMISES.

(B) (1) ON NOTICE FROM THE SECRETARY, A PERSON SHALL DISPOSE OF A TIER 1 PLANT IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE SECRETARY.

(2) IF A TIER 1 PLANT IS NOT DISPOSED OF IN ACCORDANCE WITH PARAGRAPH (1) OF THIS SUBSECTION, THE SECRETARY SHALL:

(I) DESTROY THE PLANT;

(II) PREPARE A STATEMENT OF FACTS AND A STATEMENT OF THE EXPENSE OF DESTRUCTION; AND

(III) PROVIDE COPIES OF THE STATEMENTS TO THE ~~STATE'S ATTORNEY OF THE COUNTY IN WHICH THE OWNER OF THE PROPERTY RESIDES~~ ATTORNEY GENERAL.

(C) (1) THE ~~STATE'S ATTORNEY~~ ATTORNEY GENERAL SHALL INSTITUTE THE APPROPRIATE PROCEEDING TO COLLECT THE EXPENSES DUE TO THE SECRETARY.

(2) A COPY OF THE STATEMENTS PREPARED UNDER SUBSECTION (B)(2) OF THIS SECTION IS SUFFICIENT EVIDENCE TO PROVE A CLAIM UNDER THIS SUBSECTION.

#### 9.5-304.

(A) IF THE SECRETARY FINDS THAT A TIER 2 PLANT DOES NOT MEET THE SIGNAGE REQUIREMENT UNDER § 9.5-302(B)(1) OF THIS SUBTITLE, THE SECRETARY SHALL:

(1) ISSUE A STOP SALE ORDER; AND

(2) MARK OR TAG THE PLANT IN A CONSPICUOUS MANNER.

(B) THE SECRETARY SHALL GIVE WRITTEN NOTICE OF A FINDING MADE UNDER SUBSECTION (A) OF THIS SECTION TO THE OWNER, TENANT, OR PERSON IN CHARGE OF THE PREMISES.

(C) A STOP SALE ORDER ISSUED UNDER THIS SECTION SHALL REMAIN IN EFFECT UNTIL THE REQUIRED SIGNAGE IS POSTED.

**9.5–305.**

**(A) THE SECRETARY MAY BRING AN ACTION FOR AN INJUNCTION AGAINST A PERSON TO:**

- (1) ENFORCE THIS SUBTITLE;**
- (2) ENFORCE AN ORDER OF THE SECRETARY UNDER THIS SUBTITLE; OR**
- (3) PREVENT OR RESTRAIN A VIOLATION OF THIS SUBTITLE.**

**(B) IN AN ACTION FOR AN INJUNCTION BROUGHT UNDER THIS SECTION, THE SECRETARY DOES NOT HAVE TO ALLEGE OR PROVE THAT:**

- (1) AN ADEQUATE REMEDY AT LAW DOES NOT EXIST; OR**
- (2) SUBSTANTIAL OR IRREPARABLE DAMAGE WOULD RESULT FROM THE CONTINUED VIOLATIONS.**

**(C) AN INJUNCTION INSTITUTED UNDER THIS SECTION SHALL BE ISSUED WITHOUT BOND.**

**9.5–306.**

**(A) A PERSON THAT VIOLATES THIS SUBTITLE IS SUBJECT TO THE PENALTIES AND FINES SET FORTH IN TITLE 12 OF THIS ARTICLE.**

**(B) (1) INSTEAD OF OR IN ADDITION TO ANY OTHER PENALTY AUTHORIZED UNDER THIS ARTICLE, THE SECRETARY MAY IMPOSE A CIVIL PENALTY NOT EXCEEDING \$500 FOR EACH VIOLATION ON A PERSON THAT VIOLATES:**

- (i) THIS SUBTITLE; OR**
  - (ii) ANY ORDER ISSUED BY THE SECRETARY UNDER THIS SUBTITLE.**
- (2) PENALTIES COLLECTED BY THE SECRETARY UNDER THIS SUBSECTION SHALL BE PAID INTO THE GENERAL FUND OF THE STATE.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

**Approved by the Governor, April 12, 2011.**

**Chapter 143****(House Bill 849)**

AN ACT concerning

**Public Safety – Smoke Detectors and Smoke Alarms**

FOR the purpose of clarifying that a person may sell or install smoke detectors, smoke alarms, and specialized smoke alarms for the deaf and hard of hearing only in accordance with the State Fire Prevention Code; repealing a requirement that each manufacturer that commercially sells or offers for sale a smoke detection system obtain approval of each model of smoke detector from the State Fire Marshal; repealing a certain application fee; and generally relating to smoke detectors, smoke alarms, and smoke detection systems.

BY repealing and reenacting, with amendments,  
Article – Public Safety  
Section 9–105  
Annotated Code of Maryland  
(2003 Volume and 2010 Supplement)

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

**Article – Public Safety**

9–105.

[(a)] A person may sell or install a smoke detection system, **SMOKE DETECTOR, SMOKE ALARM**, or specialized smoke detectors **OR SMOKE ALARMS** for the deaf and **HARD OF** hearing [impaired] only in accordance with the State Fire Prevention Code.

[(b) (1) Each manufacturer commercially selling or offering for sale smoke detection systems in the State shall obtain approval of each model of smoke detector from the State Fire Marshal.

(2) An application for approval of each model of smoke detector shall be:

(i) submitted in the manner required by the State Fire Marshal; and

- (ii) accompanied by a fee of \$25.]

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

**Approved by the Governor, April 12, 2011.**

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## Chapter 144

### (House Bill 876)

AN ACT concerning

#### **Family Law – Single Parent Services – Repeal**

FOR the purpose of repealing provisions of law requiring the Secretary of Human Resources to establish a single parent services program in each local department of social services; repealing related provisions of law; and generally relating to single parent services.

BY repealing

Article – Family Law

Section 6–101 through 6–103 and the title “Title 6. Single Parents”

Annotated Code of Maryland

(2006 Replacement Volume and 2010 Supplement)

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

#### **Article – Family Law**

#### **[Title 6. Single Parents.]**

[6–101.

- (a) In this title the following words have the meanings indicated.
- (b) Repealed.
- (c) “Single parent services” means:
  - (1) counseling 1 or both parents;
  - (2) making the parents aware of the need for prenatal care;

- (3) helping in a decision about placement for adoption and exploring the involvement of the noncustodial parent;
- (4) helping parents prepare for employment and training;
- (5) making a referral to a health care provider;
- (6) counseling and making a referral for counseling for child rearing problems;
- (7) helping make adequate living arrangements; and
- (8) examining any aspect of maternal health, child health, and family planning.]

[6-102.

The General Assembly declares that:

- (1) single parents should have access to a comprehensive range of services to enable them to make suitable plans for the care of their children and themselves;
- (2) youths under the age of 18 years who are pregnant or who are parents of a child for whom they are unprepared to provide adequate care and protection are of special concern;
- (3) this State has a continuing interest in preventing the problems associated with teenage pregnancy;
- (4) to the end of preventing the problems associated with teenage pregnancy, single young people who are at risk of parenthood should have access to appropriate counseling and health services; and
- (5) if the family of a single parent is unavailable, unwilling, or unable to provide financial, material, and emotional support to a single parent, then this State must provide timely services that will:
  - (i) be an effective alternative to costly long term foster care;
  - (ii) prevent the neglect or abuse of a child of the single parent.]

[6-103.

(a) With the advice of the Secretary of Health and Mental Hygiene, the Secretary of Human Resources shall establish in each local department a single parent services program to carry out the policies set forth in § 6–102 of this title.

(b) The single parent services provided under this program shall be available to any single youth who is:

- (1) pregnant;
- (2) at risk of parenthood; or
- (3) the parent of a child under the age of 3 years.

(c) The Department of Human Resources shall:

- (1) adopt rules, regulations, and guidelines for the program in each local department;
- (2) continuously monitor and evaluate the effectiveness of the single parent services program;
- (3) to the extent possible, use grants from federal, State, and other public and private sources to fund the single parent services program;
- (4) to the extent possible, coordinate delivery of education, health care, mental health care, employment services, and child day care services to single parents by public and private agencies; and
- (5) provide funds for training persons needed to provide adequate services.]

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

**Approved by the Governor, April 12, 2011.**

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## **Chapter 145**

**(House Bill 877)**

AN ACT concerning

**Sustainable Communities, Designated Neighborhoods, and Priority Funding Areas – Miscellaneous Corrections**

FOR the purpose of replacing certain obsolete references to “designated neighborhoods” with references to “sustainable communities”; ~~altering a certain definition of “State priority funding area” to exclude certain areas~~; excluding certain areas from consideration as priority funding areas under certain provisions of law; providing that certain areas that were designated as priority funding areas on or before a certain date shall retain that designation; altering certain definitions; clarifying language; and generally relating to sustainable communities, designated neighborhoods, and priority funding areas.

BY repealing and reenacting, without amendments,  
Article – Economic Development  
Section 6–301(a)  
Annotated Code of Maryland  
(2008 Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,  
Article – Economic Development  
Section 6–301(e) and (f)  
Annotated Code of Maryland  
(2008 Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,  
Article – Housing and Community Development  
Section 4–217(d), 4–1501(e), 4–1503, and 6–405(d)  
Annotated Code of Maryland  
(2006 Volume and 2010 Supplement)

BY repealing and reenacting, without amendments,  
Article – Housing and Community Development  
Section 4–1501(a)  
Annotated Code of Maryland  
(2006 Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,  
Article – State Finance and Procurement  
Section 5–7B–02  
Annotated Code of Maryland  
(2009 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,  
Article – Tax – Property  
Section 9–228(d)  
Annotated Code of Maryland  
(2007 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,  
Article – Transportation

Section 8–630(c)  
Annotated Code of Maryland  
(2008 Replacement Volume and 2010 Supplement)

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

**Article – Economic Development**

6–301.

- (a) In this subtitle the following words have the meanings indicated.
- (e) “Revitalization area” means:
- (1) an enterprise zone designated by the Secretary under § 5–704 of this article;
  - (2) an enterprise zone designated by the United States government under 42 U.S.C. §§ 11501 through 11505;
  - (3) an empowerment zone or enterprise community designated by the United States government under 26 U.S.C. §§ 1391 through 1397F; or
  - (4) a [designated neighborhood] **SUSTAINABLE COMMUNITY**, as defined in § 6–301 of the Housing and Community Development Article.
- (f) “State priority funding area” means:
- (1) a municipal corporation;
  - (2) Baltimore City;
  - ~~[(3) a ~~designated neighborhood~~ **SUSTAINABLE COMMUNITY**, as defined in § 6–301 of the Housing and Community Development Article;]~~
  - ~~[(4)] (3)~~ an enterprise zone designated by the Secretary under § 5–704 of this article;
  - ~~[(5)] (4)~~ an enterprise zone designated by the United States government under 42 U.S.C. §§ 11501 through 11505;
  - ~~[(6)] (5)~~ those areas of the State located between Interstate Highway 495 and the District of Columbia;



~~[(7)] (6)~~ those areas of the State located between Interstate Highway 695 and Baltimore City;

~~[(8)] (7)~~ no more than one area in a county designated by the county as a priority funding area under § 5-7B-03(c) of the State Finance and Procurement Article; and

~~[(9)] (8)~~ that portion of the Port Land Use Development Zone, as defined in § 6-501 of the Transportation Article, that has been designated as an area appropriate for growth in a county comprehensive master plan.

### Article – Housing and Community Development

4-217.

(d) (1) The Administration shall administer community development projects that:

(i) are in [designated neighborhoods] **SUSTAINABLE COMMUNITIES** approved under § 6-305 of this article; and

(ii) provide employees with financial assistance in the form of grants to buy homes near their workplaces.

(2) A community development project administered under this subsection is not subject to the provisions of subsection (b)(1) of this section that require part of the housing to be occupied by families of limited income.

(3) The community development projects administered under this subsection shall be known as the “Live Near Your Work” program.

(4) The Secretary shall adopt regulations to implement the “Live Near Your Work” program established under this subsection.

(5) (i) In fiscal year 2007 and fiscal year 2008, the Governor may include in the State budget \$250,000 for the “Live Near Your Work” program established under this subsection.

(ii) In fiscal year 2009 and every fiscal year thereafter, the Governor may include in the State budget no less than \$250,000 and no more than \$500,000 for the “Live Near Your Work” program established under this subsection.

4-1501.

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

(e) “Office or other commercial space conversion” means the conversion to rental housing of a building that:

(1) is in a [designated neighborhood established under § 6–304] **SUSTAINABLE COMMUNITY AS DEFINED IN § 6–301** of this article;

(2) was built more than 30 years before an application is submitted to the Department to finance the conversion;

(3) consists of at least two floors at or above ground level; and

(4) was last used as office or other commercial space.

4–1503.

(a) In this section, “lot consolidation” means acquisition of real property adjacent to, and to be included in, a project.

(b) The purposes of the Program are to:

(1) increase the supply of decent, safe, and sanitary rental housing for occupancy by families of lower income;

(2) provide financial assistance for acquisition, construction, or rehabilitation of rental housing, including demolition and lot consolidation so that families of lower income can afford the rental housing;

(3) encourage political subdivisions to provide assistance in producing rental housing that families of lower income can afford; and

(4) revitalize [designated neighborhoods] **SUSTAINABLE COMMUNITIES, AS DEFINED IN § 6–301 OF THIS ARTICLE**, through office or other commercial space conversion.

6–405.

(d) In approving or disapproving a proposal and in determining the maximum amount of contributions eligible for tax credits under § 6–404 of this subtitle, the Department:

(1) shall consider:

(i) the need for the project in relation to the need for other proposed projects;

(ii) the anticipated benefit to the priority funding area;

- (iii) the capacity of the applicant to raise money for the project;
  - (iv) the readiness of the applicant to proceed with the project;
  - (v) the ability of the applicant to complete the project as proposed;
  - (vi) the geographic distribution of projects; and
  - (vii) any other relevant factors;
- (2) may give preference to a proposal that benefits a [designated neighborhood] **SUSTAINABLE COMMUNITY** under § 6–305 of this title;
- (3) may request data and assistance from other units of the State; and
- (4) shall apportion among all approved projects the limit imposed by subsection (c)(3) of this section.

### **Article – State Finance and Procurement**

#### 5–7B–02.

The following areas shall be considered priority funding areas under this subtitle:

- (1) a municipal corporation, including Baltimore City, except that:
  - (i) those areas annexed by a municipal corporation after January 1, 1997 but before October 1, 2006 shall satisfy requirements relating to density and service by water and sewer set forth in § 5–7B–03 of this subtitle; and
  - (ii) those areas annexed by a municipal corporation after September 30, 2006, shall satisfy all of the requirements set forth in § 5–7B–03 of this subtitle;
- [(2) a designated neighborhood, as defined in § 6–301 of the Housing and Community Development Article;]
- [(3)] **(2)** an enterprise zone as designated under Title 5, Subtitle 7 of the Economic Development Article, or by the United States government;
- [(4)] **(3)** a certified heritage area as defined in §§ 13–1101 and 13–1111 of the Financial Institutions Article that is located within a locally designated growth area;

[(5)] (4) those areas of the State located between Interstate Highway 495 and the District of Columbia;

[(6)] (5) those areas of the State located between Interstate Highway 695 and Baltimore City; and

[(7)] (6) an area designated by the governing body of a county or municipal corporation under § 5–7B–03 of this subtitle.

### **Article – Tax – Property**

9–228.

(d) The Mayor and City Council of Baltimore City or the governing body of a county or municipal corporation may designate an area within the county or municipal corporation as an area eligible for the tax credit under this section if the area is eligible for designation as a [designated neighborhood] **SUSTAINABLE COMMUNITY** under the Neighborhood Business Development Program created under Title 6, Subtitle 3 of the Housing and Community Development Article.

### **Article – Transportation**

8–630.

(c) (1) If sidewalks or bicycle pathways are constructed or reconstructed as part of a roadway construction or reconstruction project, the Administration shall fund the sidewalk or bicycle pathway construction or reconstruction as a part of the cost of the roadway project.

(2) Except as provided in paragraphs (3) and (4) of this subsection, if sidewalks or bicycle pathways are constructed or reconstructed in response to a request from a local government and the adjacent roadway is not being concurrently constructed or reconstructed, the cost to construct or reconstruct the sidewalk or bicycle pathway shall be shared equally between the State and local governments.

(3) If sidewalks or bicycle pathways within a [designated neighborhood] **SUSTAINABLE COMMUNITY** as defined in § 6–301 of the Housing and Community Development Article are constructed or reconstructed in response to a request from a local government and the adjacent roadway is not being concurrently constructed or reconstructed, the cost to construct or reconstruct the sidewalk or bicycle pathway may be funded entirely by the State.

(4) (i) This paragraph does not apply to a priority funding area that is a [designated neighborhood] **SUSTAINABLE COMMUNITY** as defined in § 6–301 of the Housing and Community Development Article.

(ii) If sidewalks or bicycle pathways within an area designated as a priority funding area under § 5-7B-02 of the State Finance and Procurement Article are constructed or reconstructed in response to a request from a local government and the adjacent roadway is not being concurrently constructed or reconstructed, and if the Administration determines that construction would not occur under this section due to insufficient contribution of funds by the local government, the cost to construct or reconstruct the sidewalk or bicycle pathway shall be shared between the State and local government as follows:

1. 75 percent of the cost shall be funded by the State;
- and
2. 25 percent of the cost shall be funded by the local government.

(iii) If sidewalks or bicycle pathways within an area designated as a priority funding area under § 5-7B-02 of the State Finance and Procurement Article are constructed or reconstructed based on a determination by the Administration that a substantial public safety risk or significant impediment to pedestrian access exists and the adjacent roadway is not being concurrently constructed or reconstructed, then:

1. The Administration shall categorize the sidewalk or bicycle pathway construction project as “system preservation” and give corresponding funding priority to the project; and
2. The cost to construct or reconstruct the sidewalk or bicycle pathway may be funded entirely by the State.

(5) If sidewalks or bicycle pathways are being constructed or reconstructed in response to a request from a local government and the adjacent roadway is not being concurrently constructed or reconstructed, the local government shall:

- (i) Provide public notice and opportunities for community involvement prior to the construction of a sidewalk or bicycle pathway project; and
- (ii) Secure any necessary right-of-way that may be needed beyond the right-of-way already owned by the State.

(6) (i) Except as provided in subparagraph (ii) of this paragraph, after sidewalks and bicycle pathways are constructed under this section, they shall be maintained and repaired by the political subdivision in which they are located.

(ii) Subject to approval and the availability of funds, the Administration promptly shall reimburse a political subdivision for the preapproved and documented costs incurred in reconstructing a segment of a sidewalk or bicycle

pathway that has deteriorated to the extent that repair is not practical or desirable for public safety.

SECTION 2. AND BE IT FURTHER ENACTED, That, notwithstanding any other provision of law, a “designated neighborhood” that was designated as a Priority Funding Area under ~~§ 5-7B-02(3)~~ § 5-7B-02(2) of the State Finance and Procurement Article on or before January 1, 2010, shall retain its designation as a Priority Funding Area.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2011.

**Approved by the Governor, April 12, 2011.**

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## Chapter 146

(House Bill 890)

AN ACT concerning

### Land Preservation – Land Draining to a Reservoir

FOR the purpose of requiring ~~the Maryland Agricultural Land Preservation Foundation to prioritize certain grants relating to the preservation of land that drains into a reservoir in the State~~ a local governing body to consider whether certain land drains into a reservoir in the State in prioritizing certain applications to sell certain easements under the Maryland Agricultural Land Preservation Program; adding to the list of land conservation priorities that the Secretary of Natural Resources is required to consider in allocating the State’s share of funds under Program Open Space; and generally relating to the priorities for land preservation and conservation under the Maryland Agricultural Land Preservation Program and Program Open Space.

~~BY repealing and reenacting, without amendments,  
Article – Agriculture  
Section ~~2-505(a)~~  
Annotated Code of Maryland  
(2007 Replacement Volume and 2010 Supplement)~~

BY repealing and reenacting, with amendments,  
Article – Agriculture  
Section ~~2-505(e)~~ 2-508  
Annotated Code of Maryland  
(2007 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, without amendments,  
 Article – Natural Resources  
 Section 5–903(a)  
 Annotated Code of Maryland  
 (2005 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,  
 Article – Natural Resources  
 Section 5–903(h)  
 Annotated Code of Maryland  
 (2005 Replacement Volume and 2010 Supplement)

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

### **Article – Agriculture**

~~2–505.~~

~~(a) The Maryland Agricultural Land Preservation Fund is created and continued for the purposes specified in this subtitle.~~

~~(e) (1) The Comptroller of the Treasury may not disburse any money from the Maryland Agricultural Land Preservation Fund other than:~~

~~(i) For costs associated with the staffing and administration of the Maryland Agricultural Land Preservation Foundation;~~

~~(ii) For reasonable expenses incurred by the members of the board of trustees of the Maryland Agricultural Land Preservation Foundation in the performance of official duties; and~~

~~(iii) For consideration in the purchase of agricultural land preservation easements beginning with fiscal year 1979 and each fiscal year thereafter.~~

~~(2) The Maryland Agricultural Land Preservation Foundation may provide grants to the Maryland Agricultural and Resource Based Industry Development Corporation, subject to conditions jointly agreed upon by the Foundation and the Corporation, to facilitate:~~

~~(i) An installment purchase agreement program; or~~

~~(ii) The funding of the Next Generation Farmland Acquisition Program.~~

~~(3) The Maryland Agricultural Land Preservation Foundation may provide grants to counties to facilitate:~~

~~(i) The Critical Farms Program, as provided in § 2-517 of this subtitle, subject to conditions jointly agreed upon by the Foundation and the county;~~

~~(ii) The purchase of easements under a county installment purchase agreement program approved by the Foundation, as provided in § 2-510.1 of this subtitle; and~~

~~(iii) The payment of the principal of and interest on bonds issued by a county for the sole purpose of purchasing agricultural land preservation easements that meet the requirements of this subtitle, subject to conditions jointly agreed upon by the Foundation and the county.~~

~~(4) Grants provided by the Maryland Agricultural Land Preservation Foundation may not be:~~

~~(i) Used to fund county land preservation programs; or~~

~~(ii) Pledged to secure county issued bonds.~~

~~**(5) THE MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION SHALL PRIORITIZE GRANTS UNDER THIS SUBSECTION THAT PRESERVE LAND THAT DRAINS INTO A RESERVOIR IN THE STATE.**~~

2-508.

(a) (1) For purposes of this subtitle the following words have the meanings indicated.

(2) “Total amount to be allotted” means the amount, as certified by the Comptroller, which remains in the Maryland Agricultural Land Preservation Fund at the beginning of the fiscal year after payment of all expenses of the Foundation and the board of trustees during the previous fiscal year as specified in § 2-505(c)(1) and (2) of this subtitle, and after subtraction of funds committed for payment as consideration for easements purchased during previous fiscal years, and after subtraction of any money remaining in the Fund as a result of a transfer of local Program Open Space funds made pursuant to § 5-903 of the Natural Resources Article.

(3) “General purchases of easements” means purchases of agricultural land preservation easements under this subtitle in which the governing body of the county in which the land is located is not required to make a contribution to the Maryland Agricultural Land Preservation Fund.



(4) “Matching purchases of easements” means purchases of agricultural land preservation easements under this subtitle in which the governing body of the county in which the land is located is required to make a contribution to the Maryland Agricultural Land Preservation Fund of an amount equal to at least 40 percent of the value of the easement for each such purchase.

(5) “Allotted purchases” means general or matching purchases made pursuant to offers to buy tendered by the Foundation on or before January 31 of any fiscal year.

(6) “County” means any county containing productive agricultural land which is being actively farmed and which meets the criteria for land for which easements may be purchased.

(7) “Eligible county” means a county as defined in paragraph (6) of this subsection which has secured approval from the Foundation for a local agricultural land preservation program.

(b) Beginning with fiscal year 1979, and in each fiscal year thereafter, the Foundation shall determine the maximum amount which may be expended for allotted purchases of easements on land located within each county. The maximum amount which may be expended for allotted purchases of easements in any county in any fiscal year shall be:

(1) An amount, to be used for general allotted purchases, equal to one twenty-third of one half of the total amount to be allotted; and

(2) An amount, to be used for matching allotted purchases, which shall be computed for each eligible county by dividing one half of the total amount to be allotted equally among those counties having an approved program. The maximum amount available from the Foundation for the Foundation’s share in matching allotted purchases may not exceed \$2,000,000 in any county in any fiscal year.

(c) If the Foundation receives acceptances of offers to buy in insufficient numbers to expend the total amount to be allotted for allotted purchases, the Foundation, to the extent feasible, shall tender additional offers to buy in sufficient numbers to expend the total amount to be allotted. Any such additional offers to buy shall be tendered:

(1) To landowners who have applied to sell easements on land which was otherwise acceptable, but who had not received an offer to buy solely because of limitations on the amount of money to be spent for allotted purchases;

(2) To applicants on a statewide basis as provided by the priority ranking system established under § 2-510(e) of this subtitle; and

(3) Only after the expiration of the period allowed for acceptance of offers to buy under allotted general and matching purchases.

**(D) IN PRIORITIZING AN APPLICATION TO SELL AN EASEMENT, A LOCAL GOVERNING BODY SHALL CONSIDER WHETHER THE LAND DRAINS INTO A RESERVOIR IN THE STATE.**

### Article – Natural Resources

5–903.

(a) (1) Of the funds distributed to Program Open Space under § 13–209 of the Tax – Property Article, up to \$3,000,000 may be transferred by an appropriation in the State budget, or by an amendment to the State budget under Title 7, Subtitle 2 of the State Finance and Procurement Article, to the Maryland Heritage Areas Authority Financing Fund established under Title 13, Subtitle 11 of the Financial Institutions Article to be used for the purposes provided in that subtitle.

(2) (i) 1. Of the remaining funds not appropriated under paragraph (1) of this subsection:

A. One half of the funds shall be used for recreation and open space purposes by the Department and the Historic St. Mary’s City Commission; and

B. 20% of the funds or \$21,000,000, whichever is greater, shall be appropriated to the Forest and Park Service in the Department to operate State forests and parks.

2. Except as otherwise provided in this section, any funds the General Assembly appropriates to the State under this subsection shall be used only for land acquisition projects.

(ii) At least \$1,500,000 of the State’s share of funds available under subparagraph (i)1A of this paragraph for this program shall be utilized to make grants to Baltimore City for projects which meet park purposes. The grants shall be in addition to any funds Baltimore City is eligible to receive under subsection (b) of this section, and may be used for acquisition or development. In order for Baltimore City to be eligible for a State grant, the Department shall review projects or land to be acquired within Baltimore City, and upon the Department’s recommendation, the Board of Public Works may approve projects and land including the cost. Title to the land shall be in the name of the Mayor and City Council of Baltimore City. The State is not responsible for costs involved in the development or maintenance of the land.

(iii) 1. A portion of the State’s share of funds available under subparagraph (i)1A of this paragraph for this program not to exceed \$8,000,000 for

each fiscal year may be transferred by an appropriation in the State budget to the Rural Legacy Program under Subtitle 9A of this title.

2. In each fiscal year, up to \$2 million of the funds transferred under this subparagraph to the Rural Legacy Program may be used to purchase zero coupon bonds for easements.

3. Sums allocated to the Rural Legacy Program may not revert to the General Fund of the State.

(iv) The Department may acquire real property under subparagraph (i)1A of this paragraph based on an offer by the State that is less than the lowest approved appraisal for the property.

(v) For each of fiscal years 2010 and 2011, \$1,217,000 of the State's share of funds available under subparagraph (i)1A of this paragraph may be appropriated in the budgets of the Department, the Department of General Services, and the Department of Planning for expenses necessary to administer this Program.

(h) In allocating the State's share of funds under this section, the Secretary shall consider the following land conservation priorities, notwithstanding other priorities specified in this title:

(1) Conserving working landscapes, as defined in § 5–101 of this title;  
[and]

(2) Protecting and restoring forests from threats, including catastrophic wildfires, hurricanes, windstorms, snow or ice storms, flooding, drought, invasive species, insect or disease outbreak, and development; AND

**(3) CONSERVING LAND THAT DRAINS INTO A RESERVOIR IN THE STATE.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

**Approved by the Governor, April 12, 2011.**

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## Chapter 147

**(House Bill 900)**

AN ACT concerning

**Carroll County – Fortune Telling Ban – Repeal**

FOR the purpose of repealing a provision that prohibits a person from demanding or accepting payment or gratuity to forecast or foretell, or pretend to forecast or foretell, the future of another person by certain methods in Carroll County; repealing a certain penalty; and generally relating to the repeal of the ban on fortune telling in Carroll County.

BY repealing

The Public Local Laws of Carroll County

Section 4–103

Article 7 – Public Local Laws of Maryland

(2004 Edition and July 1, 2010 Supplement, as amended)

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

### **Article 7 – Carroll County**

[4–103.

(a) In Carroll County, a person may not demand or accept payment or a gratuity to forecast or foretell, or pretend to forecast or foretell, the future of another person by:

- (1) Reading a card;
- (2) Reading the palm of a hand; or
- (3) Any other scheme, practice, or device.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment in the Carroll County Detention Center not exceeding 6 months or a fine not exceeding \$100 or both.]

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

**Approved by the Governor, April 12, 2011.**

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**Chapter 148**

**(House Bill 944)**

AN ACT concerning

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

FOR the purpose of requiring a person who is exempt from certain mortgage lender licensing requirements and who employs a licensed mortgage loan originator to register with the Nationwide Mortgage Licensing System and Registry; repealing certain obsolete provisions of law relating to mortgage lender licensing requirements for certain sole proprietors; requiring an applicant for a mortgage lender license and a licensed mortgage lender to provide fingerprints for submission to certain governmental agencies or entities for certain criminal history background checks; altering the circumstances under which a mortgage lender license applicant or licensee may be required to provide certain information to the Nationwide Mortgage Licensing System and Registry; authorizing the Commissioner of Financial Regulation to request from certain agencies certain records, information, and receipts relating to criminal history records or background checks of mortgage lender and mortgage loan originator license applicants and licensees; requiring certain mortgage lender license applicants and licensees to pay certain processing or other fees related to a criminal history records check or criminal history background check; altering the circumstances under which a mortgage loan originator license must remain in nonactive status; authorizing a mortgage loan originator license to be issued to an individual who is not employed by a licensed mortgage lender or a person exempt from licensing as a mortgage lender under certain circumstances; authorizing a mortgage loan originator license to be issued to an individual who is employed by a person exempt from licensing as a mortgage lender under certain circumstances; altering the circumstances under which a mortgage loan originator license may be issued to an individual who is employed by a mortgage lender; repealing a certain obsolete provision of law exempting a mortgage lender licensee from a requirement to maintain an office in the State; repealing certain provisions of law relating to interim mortgage loan originator licenses and provisional approval of an application for a mortgage loan originator license; defining a certain term; making certain stylistic and conforming changes; and generally relating to the regulation of mortgage lenders and mortgage loan originators.

BY adding to

Article – Financial Institutions  
Section 11–505(g) and 11–603(d)  
Annotated Code of Maryland  
(2003 Replacement Volume and 2010 Supplement)

BY repealing

Article – Financial Institutions  
Section 11–506(c), 11–603(e), and 11–605.1  
Annotated Code of Maryland  
(2003 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,

## Article – Financial Institutions

Section ~~11-506(d)~~ 11-506(b) and (d), 11-506.1, 11-603(c) and (d), 11-604, and 11-607

Annotated Code of Maryland

(2003 Replacement Volume and 2010 Supplement)

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

**Article – Financial Institutions**

11-505.

**(G) A PERSON EXEMPT FROM LICENSING UNDER THIS SUBTITLE WHO EMPLOYS A MORTGAGE LOAN ORIGINATOR LICENSED UNDER SUBTITLE 6 OF THIS TITLE SHALL BE REGISTERED WITH THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY.**

11-506.

(b) (1) [Except as provided in subsection (c) of this section, to] TO qualify for a license, the applicant shall satisfy the Commissioner that the applicant has at least 3 years of experience in the mortgage lending business.

(2) If the applicant is a sole proprietor, the applicant shall have the required experience.

(3) If the applicant is a joint venture, or general or limited partnership, at least one of the coventurers or general partners shall have the required experience.

(4) If the applicant is a business entity of any other kind, type, or classification, at least one of the principal officers or members shall have the required experience.

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

(i) The applicant:

1. Is a licensed insurance producer in good standing under § 10-103 of the Insurance Article; and

2. Holds an appointment as an insurance producer for an insurer that controls, is controlled by, or is under common control with a financial institution described in § 11-502(b)(1) of this subtitle;

(ii) The applicant agrees to limit the applicant's activities to brokering mortgage loans made by the single financial institution identified under item (i)2 of this paragraph;

(iii) The financial institution and affiliated insurer with which the applicant holds a current appointment are identified in the applicant's application;

(iv) The Commissioner approves the selection of the financial institution based on the following criteria:

1. The financial institution is in good standing with its primary State or federal regulator; and

2. The financial institution is in material compliance with applicable State or federal law;

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

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

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

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

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

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

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

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

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

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

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

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

(v) Make mortgage loans.

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

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

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

1. An appraisal;

2. A credit report; or

3. Processing an application.]

**[(d)] (C)** (1) Except as provided in paragraph (2) of this subsection, the Commissioner may deny an application for a license to any person who has been officially reprimanded or has committed any act that would be a ground for suspension or revocation of a license under this subtitle.

(2) The Commissioner shall deny an application for a license filed by:

(i) An individual who has been convicted within the last 10 years of a felony involving fraud, theft, or forgery; and

(ii) An entity that has a director, officer, partner, member, or owner of 10 percent or more of the entity who has been convicted within the last 10 years of a felony involving fraud, theft, or forgery.



11-506.1.

**(A) IN THIS SECTION, "CENTRAL REPOSITORY" MEANS THE CRIMINAL JUSTICE INFORMATION SYSTEM CENTRAL REPOSITORY OF THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES.**

**[(a)] (B)** This section [shall] **DOES** not apply to any corporation the securities of which are exempt from registration under § 11-601(8) or (12) of the Corporations and Associations Article.

**[(b)] (C)** In connection with an initial application and at any other time the Commissioner requests, each applicant or licensee shall provide fingerprints for **[use]:**

**(1) USE** by the [Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services] **CENTRAL REPOSITORY** to conduct **STATE** criminal history records checks; **AND**

**(2) SUBMISSION TO THE FEDERAL BUREAU OF INVESTIGATION, AND ANY OTHER GOVERNMENTAL AGENCY OR ENTITY AUTHORIZED TO RECEIVE THIS INFORMATION, FOR A STATE, NATIONAL, OR INTERNATIONAL CRIMINAL HISTORY BACKGROUND CHECK.**

**[(c)] (D)** In addition to the requirement under subsection **[(b)] (C)** of this section, **IF THE COMMISSIONER REQUIRES** in connection with an initial application, and at any other time the Commissioner requests, an applicant or licensee shall provide to the Nationwide Mortgage Licensing System and Registry information concerning the applicant's identity, including:

**(1)** Fingerprints for submission to the Federal Bureau of Investigation, and any other governmental agency or entity authorized to receive this information, for a state, national, or international criminal history background check; and

**(2)** Personal history and experience in a form prescribed by the Nationwide Mortgage Licensing System and Registry, including the submission of authorization for the Nationwide Mortgage Licensing System and Registry and the Commissioner to obtain:

**(i)** An independent credit report from a consumer reporting agency described in the federal Fair Credit Reporting Act, 15 U.S.C. § 1681a(p); and

**(ii)** Information related to any administrative, civil, or criminal findings by any governmental jurisdiction.

**(E) THE COMMISSIONER MAY REQUEST FROM THE CENTRAL REPOSITORY, THE FEDERAL BUREAU OF INVESTIGATION, OR THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY, AS APPLICABLE, FOR EACH APPLICANT OR LICENSEE WHO IS REQUIRED TO PROVIDE FINGERPRINTS UNDER SUBSECTION (C) OR (D) OF THIS SECTION:**

**(1) (I) THE STATE, NATIONAL, OR INTERNATIONAL CRIMINAL HISTORY RECORDS OF THE APPLICANT OR LICENSEE; AND**

**(II) A PRINTED STATEMENT LISTING ANY CONVICTION OR OTHER DISPOSITION OF, AND ANY PLEA OF GUILTY OR NOLO CONTENDERE TO, ANY CRIMINAL CHARGE;**

**(2) (I) AN UPDATE OF THE INITIAL CRIMINAL HISTORY RECORDS CHECK OR CRIMINAL HISTORY BACKGROUND CHECK OF THE APPLICANT OR LICENSEE; AND**

**(II) A REVISED STATEMENT LISTING ANY CONVICTION OR OTHER DISPOSITION OF, AND ANY PLEA OF GUILTY OR NOLO CONTENDERE TO, ANY CRIMINAL CHARGE OCCURRING AFTER THE DATE OF THE INITIAL CRIMINAL HISTORY RECORDS CHECK OR CRIMINAL HISTORY BACKGROUND CHECK; AND**

**(3) AN ACKNOWLEDGED RECEIPT OF THE APPLICATION FOR A CRIMINAL HISTORY RECORDS CHECK OR CRIMINAL HISTORY BACKGROUND CHECK OF THE APPLICANT OR LICENSEE.**

**(F) AN APPLICANT OR LICENSEE WHO IS REQUIRED TO PROVIDE FINGERPRINTS UNDER SUBSECTION (C) OR (D) OF THIS SECTION SHALL PAY ANY PROCESSING OR OTHER FEES REQUIRED BY THE CENTRAL REPOSITORY, THE FEDERAL BUREAU OF INVESTIGATION, AND THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY.**

**[(d)] (G)** To implement this subtitle, the Commissioner may use the Nationwide Mortgage Licensing System and Registry as a channeling agent to request information from and distribute information to the Department of Justice, any other governmental agency with subject matter jurisdiction, and any other state licensing entity that has loan originators registered with the Nationwide Mortgage Licensing System and Registry.

11-603.

(c) (1) The Commissioner shall include on each license:

(i) The name of the licensee;

(ii) The name of the licensee's employer; and

(iii) The unique identifier of the licensee if the licensee has been issued a unique identifier.

(2) An individual may not act as a mortgage loan originator under a name or for an employer that is different from the name and employer that appear on the license unless the licensee:

(i) Notifies the Commissioner in writing in advance of a change in the licensee's name or the licensee's employer;

(ii) Pays to the Commissioner a license amendment fee set by the Commissioner for each notice provided under this paragraph;

(iii) Returns to the Commissioner the licensee's license, or an affidavit stating that the license has been lost or destroyed; and

(iv) In the case of a new employer, submits to the Commissioner a notarized statement from the licensee's new employer that the licensee is an employee of the new employer.

(3) If a licensee ceases to be employed by a licensed mortgage lender or by a person exempt from licensing as a mortgage lender, the licensee shall notify the Commissioner within 10 business days, and the license shall be placed into nonactive status.

(4) During the time that a license is in nonactive status, it is a violation of this subtitle for the licensee to engage in any activity for which a license is required under this subtitle.

(5) The license shall remain in nonactive status until[:

(i) The] **THE** licensee:

[1.] **(I)** Notifies the Commissioner in writing that the licensee has obtained employment with a licensed mortgage lender or with a person exempt from licensing as a mortgage lender; and

[2.] **(II)** Has complied with the requirements set forth in paragraph (2) of this subsection[; or

(ii) The license expires or is revoked].

**(D) A LICENSE MAY BE ISSUED UNDER THIS SUBTITLE TO AN INDIVIDUAL WHO IS NOT EMPLOYED BY A LICENSED MORTGAGE LENDER OR A PERSON EXEMPT FROM LICENSING AS A MORTGAGE LENDER PROVIDED THE LICENSE IS PLACED INTO AND REMAINS IN NONACTIVE STATUS UNTIL THE LICENSEE:**

**(1) NOTIFIES THE COMMISSIONER IN WRITING THAT THE LICENSEE HAS OBTAINED EMPLOYMENT WITH A LICENSED MORTGAGE LENDER OR WITH A PERSON EXEMPT FROM LICENSING AS A MORTGAGE LENDER; AND**

**(2) HAS COMPLIED WITH THE REQUIREMENTS SET FORTH IN SUBSECTION (C)(2) OF THIS SECTION.**

**[(d)] (E) A license may be issued under this subtitle to an individual who is employed by a mortgage lender, OR A PERSON EXEMPT FROM LICENSING AS A MORTGAGE LENDER, that has its principal office located outside the State if the mortgage lender OR THE PERSON EXEMPT FROM LICENSING AS A MORTGAGE LENDER maintains[:**

**(1) A] A resident agent within the State[; and**

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

**[(e) Notwithstanding subsection (d)(2) of this section, a mortgage lender is not required to maintain an office in this State if the laws of the state in which its principal office is located authorize a mortgage lender from this State to engage in mortgage lending without maintaining an office in that state.]**

11-604.

**(A) IN THIS SECTION, “CENTRAL REPOSITORY” MEANS THE CRIMINAL JUSTICE INFORMATION SYSTEM CENTRAL REPOSITORY OF THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES.**

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

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

**[(b)] (C) With each application, the applicant shall pay to the Commissioner:**

- (1) A nonrefundable investigation fee set by the Commissioner; and
- (2) A license fee set by the Commissioner.

**[(c)] (D)** In addition to the license fee required under subsection **[(b)(2)] (C)(2)** of this section, an applicant for an initial license shall pay to the Nationwide Mortgage Licensing System and Registry any fees that the Nationwide Mortgage Licensing System and Registry imposes in connection with the application.

**[(d)] (E)** In connection with an initial application for a license under this section and at any other time the Commissioner requests, an applicant or licensee shall provide to the Nationwide Mortgage Licensing System and Registry information concerning the applicant's identity, including:

- (1) Fingerprints for submission to the Federal Bureau of Investigation, and any other governmental agency or entity authorized to receive this information for a state, national, or international criminal history background check; and

- (2) Personal history and experience in a form prescribed by the Nationwide Mortgage Licensing System and Registry, including the submission of authorization for the Nationwide Mortgage Licensing System and Registry and the Commissioner to obtain:

- (i) An independent credit report from a consumer reporting agency described in the federal Fair Credit Reporting Act, 15 U.S.C. § 1681a(p); and

- (ii) Information related to any administrative, civil, or criminal findings by any governmental jurisdiction.

**[(e)] (F)** To implement this subtitle, the Commissioner may use the Nationwide Mortgage Licensing System and Registry as a channeling agent to request information from and distribute information to the Department of Justice, any other governmental agency with subject matter jurisdiction, and any other state licensing entity that has loan originators registered with the Nationwide Mortgage Licensing System and Registry.

**[(f)] (G)** In addition to the requirement under subsection **[(d)](E)** of this section, in connection with an initial application for a license under this section, and at any other time that the Commissioner requests, an applicant or licensee shall provide fingerprints for use by the **[Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services] CENTRAL REPOSITORY** to conduct criminal history records checks.

**[(g)] (H)** An applicant or licensee **WHO IS** required to provide fingerprints under **SUBSECTION (E) OR (G) OF** this section shall pay any processing or other fees required by the **CENTRAL REPOSITORY, THE** Federal Bureau of Investigation, **AND**

the Nationwide Mortgage Licensing System and Registry[, and the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services].

**(I) THE COMMISSIONER MAY REQUEST FROM THE CENTRAL REPOSITORY, THE FEDERAL BUREAU OF INVESTIGATION, OR THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY, AS APPLICABLE, FOR EACH APPLICANT OR LICENSEE WHO IS REQUIRED TO PROVIDE FINGERPRINTS UNDER SUBSECTION (E) OR (G) OF THIS SECTION:**

**(1) (I) THE STATE, NATIONAL, OR INTERNATIONAL CRIMINAL HISTORY RECORDS OF THE APPLICANT OR LICENSEE; AND**

**(II) A PRINTED STATEMENT LISTING ANY CONVICTION OR OTHER DISPOSITION OF, AND ANY PLEA OF GUILTY OR NOLO CONTENDERE TO, ANY CRIMINAL CHARGE;**

**(2) (I) AN UPDATE OF THE INITIAL CRIMINAL HISTORY RECORDS CHECK OR CRIMINAL HISTORY BACKGROUND CHECK OF THE APPLICANT OR LICENSEE; AND**

**(II) A REVISED STATEMENT LISTING ANY CONVICTION OR OTHER DISPOSITION OF, AND ANY PLEA OF GUILTY OR NOLO CONTENDERE TO, ANY CRIMINAL CHARGE OCCURRING AFTER THE DATE OF THE INITIAL CRIMINAL HISTORY RECORDS CHECK OR CRIMINAL HISTORY BACKGROUND CHECK; AND**

**(3) AN ACKNOWLEDGED RECEIPT OF THE APPLICATION FOR A CRIMINAL HISTORY RECORDS CHECK OR CRIMINAL HISTORY BACKGROUND CHECK OF THE APPLICANT OR LICENSEE.**

[11-605.1.

(a) Subject to subsections (b) through (g) of this section, the Commissioner may issue an interim mortgage loan originator license to an individual who provides to the Commissioner written proof, satisfactory to the Commissioner, that the individual:

(1) Is employed by a person who:

(i) Is a licensed mortgage lender, or is exempt from licensing, under Subtitle 5 of this title;

(ii) Makes mortgage loans; and

(iii) Is not a mortgage broker; or

(2) As of July 1, 2009, and the date of application for an interim license, owns a 25 percent or more interest in a mortgage lender.

(b) The Commissioner may accept applications for initial interim mortgage loan originator licenses through July 31, 2009.

(c) The term of an interim mortgage loan originator license shall:

(1) Begin on the date the license is issued; and

(2) Expire on December 31, 2010.

(d) An applicant for an interim mortgage loan originator license shall meet the qualifications for licensure as required by this subtitle, except that the applicant or interim licensee may comply with the following on or before July 31, 2010:

(1) The fingerprinting and criminal history report requirement under § 11-604 of this subtitle;

(2) The surety bond coverage requirement under § 11-619 of this subtitle;

(3) The prelicensing education requirement under § 11-606 of this subtitle; and

(4) The prelicensing testing requirement under § 11-606.1 of this subtitle.

(e) (1) This subsection does not apply to an individual described in subsection (a)(2) of this section.

(2) Subject to paragraph (3) of this subsection, an individual holding an interim mortgage loan originator license:

(i) May engage only in transactions in which the individual's employer makes a mortgage loan; and

(ii) May not engage in transactions in which the individual's employer acts as a mortgage broker, as defined in § 11-501 of this title.

(3) The restrictions on an individual's activities under paragraph (1) of this subsection shall terminate on the individual's compliance with:

(i) The fingerprinting and criminal history report requirement under § 11-604 of this subtitle;

(ii) The surety bond coverage requirement under § 11–619 of this subtitle;

(iii) The prelicensing education requirement under § 11–606 of this subtitle; and

(iv) The prelicensing testing requirement under § 11–606.1 of this subtitle.

(f) With each application for an interim mortgage loan originator license, the applicant shall pay to the Commissioner:

(1) The nonrefundable investigation fee required under § 11–604(b)(1) of this subtitle;

(2) 150 percent of the licensing fee required under § 11–604(b)(2) of this subtitle; and

(3) Any fees imposed by the Nationwide Mortgage Licensing System and Registry under § 11–604(c) of this subtitle.

(g) In addition to any other information required to be placed on a license under this subtitle, the Commissioner shall print the words “interim mortgage loan originator license” on each license issued under this section.]

11–607.

(a) When an applicant for a license files the application and pays the fees required by § 11–604 of this subtitle, the Commissioner shall conduct an investigation to determine if the applicant meets the requirements of § 11–605 of this subtitle.

(b) The Commissioner shall issue a license to an applicant who meets the requirements of § 11–605 of this subtitle.

[(c) If the Commissioner has not notified the applicant in writing that the applicant’s application is incomplete or has been denied within 30 days after the Commissioner receives the completed application, the application shall be considered provisionally approved.]

[(d)] (C) If the Commissioner notifies an applicant that the application is incomplete:

(1) The Commissioner’s notice shall itemize the steps which the applicant must take to complete the application; and



(2) The application shall not be [considered provisionally] approved until [30 days] after the applicant supplies or completes all items and steps identified in the Commissioner's notice.

[(e) Whether or not an application has been provisionally approved, the Commissioner may deny an application:]

**(D) THE COMMISSIONER MAY DENY AN APPLICATION:**

(1) If the applicant fails to qualify for a license under this subtitle; or

(2) For any reason that a license may be revoked or suspended under this subtitle or a mortgage lender license may be suspended or revoked under § 11-517 of this title.

[(f)] **(E)** The Commissioner shall approve or deny an application within 60 days after the Commissioner receives a completed application.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

**Approved by the Governor, April 12, 2011.**

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**Chapter 149**

**(House Bill 966)**

AN ACT concerning

**Natural Resources – Restricted Waters for Shellfish Harvesting – ~~Method of Testing~~**

FOR the purpose of requiring the Department of the Environment ~~to use a certain test to detect Escherichia coli (E. coli)~~, in determining whether to restrict, or lift any restrictions on, an area for the catching or storing of shellfish to use certain tests for certain purposes; requiring the Department, on or before a certain date, to reconsider the designation of certain restricted waters in accordance with certain testing requirements; and generally relating to methods of testing to determine restricted waters for shellfish harvesting.

BY repealing and reenacting, with amendments,  
 Article – Natural Resources  
 Section 4-742  
 Annotated Code of Maryland

(2005 Replacement Volume and 2010 Supplement)

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

**Article – Natural Resources**

4–742.

(a) (1) If the Department of the Environment determines by appropriate investigation that any area of waters of the State devoted to the production or storage of shellfish is polluted so that shellfish produced or stored in the area are a hazard to public health, it shall restrict the area for the catching or storing of shellfish.

(2) If the Department of the Environment finds it necessary to restrict an area of water for the taking and storing of shellfish because of the proximity of the area to the point of discharge of a sewage treatment plant or a point of overflow of a sewage pumping station, the Department of the Environment may increase or decrease the size of a restricted area in relation to the operational effectiveness of the sewage treatment plant or sewage pumping station.

~~(3) THE DEPARTMENT OF THE ENVIRONMENT SHALL USE THE MOST RELIABLE AVAILABLE TEST TO DETECT ESCHERICHIA COLI (E. COLI) IN~~  
IN DETERMINING WHETHER TO RESTRICT, OR LIFT ANY RESTRICTIONS ON, AN AREA FOR THE CATCHING OR STORING OF SHELLFISH, THE DEPARTMENT OF THE ENVIRONMENT SHALL USE THE MOST RELIABLE AVAILABLE TESTS TO:

(I) DETERMINE WHETHER A SHELLFISH PRODUCTION AREA POSES A RISK TO CONSUMER HEALTH; AND

(II) RULE OUT CONTAMINANTS THAT DO NOT POSE A RISK TO CONSUMER HEALTH, INCLUDING BACTERIA FROM VEGETATION.

(b) (1) The action of the Department of the Environment to restrict an area of water becomes effective immediately upon giving formal notice of the action to the Department. Notice also shall be given the appropriate governing body and the committee of oystermen of any county affected by the restriction.

(2) The Natural Resources Police Force shall patrol the area to warn watermen until public notice is given in newspapers of general circulation in each of the counties whose watermen work the restricted area normally. No arrests may be made until the next workday following the day the notice appeared unless the watermen fail to heed a warning of the officers.

(3) (i) If the Department of the Environment closes any area to the catching of shellfish under this section, in addition to the notice required in paragraph

(1) of this subsection, the Department of Natural Resources shall mark the area so that the area can be seen from the water.

(ii) The Department of Natural Resources shall adopt rules and regulations to provide for the marking in a plain and visibly obvious fashion of any area that is closed to the catching of shellfish because of pollution. Even in the absence of such marking devices, a person may not catch shellfish in a restricted area as designated by the Department of the Environment if notice has been given to the appropriate governing body and the committee of watermen of any county affected by the restriction.

(c) (1) After establishing a restriction, the Department of the Environment shall test the water in the restricted area or inspect the source of pollution of the water at least twice monthly, or more frequently if requested by the appropriate governing body of any county affected by the restriction. A copy of the report of analysis of every test and inspection shall be filed promptly with the appropriate governing body of every county affected by the restriction.

(2) Updated charts of the Chesapeake Bay and its tributaries showing all polluted areas shall be filed promptly with the appropriate governing body and oystermen's committee of every tidewater county. Copies of these charts shall be filed also with the Fisheries Administration and the Natural Resources Police.

(d) Whenever samples of water and shellfish of a restricted area indicate that the shellfish and water again comply with standards for harvesting shellfish, the restrictions promptly shall be lifted.

(e) The Secretary of the Department of the Environment may delegate authority to impose restrictions, or remove restrictions no longer required. These actions, however, shall be reported and consented to by the Secretary.

(f) Each violation of this section constitutes a separate offense punishable as provided by the provisions of this title.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) On or before December 31, 2011, in accordance with the testing requirements established in § 4-742 of the Natural Resources Article, as enacted by Section 1 of this Act, the Department of the Environment shall reconsider the designation of waters of the State that are currently restricted from shellfish harvesting.

(b) When reconsidering the designation of waters of the State under subsection (a) of this section, the Department of the Environment shall prioritize the reconsideration of areas where there are existing or pending shellfish leases or aquaculture permits.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ June 1, 2011.

**Approved by the Governor, April 12, 2011.**

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## Chapter 150

### (House Bill 1016)

AN ACT concerning

#### Calvert County – Public Facilities Bonds

FOR the purpose of authorizing and empowering the County Commissioners of Calvert County, from time to time, to borrow not more than ~~\$20,855,000~~ \$12,325,000 to finance the construction, improvement, or development of certain public facilities in Calvert County, as herein defined, and to effect such borrowing by the issuance and sale at public or private sale of its general obligation bonds in like par amount; empowering the County to fix and determine, by resolution, the form, tenor, interest rate or rates or method of determining the same, terms, conditions, maturities, and all other details incident to the issuance and sale of the bonds; empowering the County to issue refunding bonds for the purchase or redemption of bonds in advance of maturity; empowering and directing the County to levy, impose, and collect, annually, ad valorem taxes in rate and amount sufficient to provide funds for the payment of the maturing principal of and interest on the bonds; exempting the bonds and refunding bonds and the interest thereon and any income derived therefrom from all State, county, municipal, and other taxation in the State of Maryland; providing that nothing in this Act shall prevent the County from authorizing the issuance and sale of bonds the interest on which is not excludable from gross income for federal income tax purposes; and generally relating to the issuance and sale of such bonds.

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That, as used herein, the term “County” means the body politic and corporate of the State of Maryland known as the County Commissioners of Calvert County, and the term “construction, improvement, or development of public facilities” means the acquisition, alteration, construction, reconstruction, enlargement, equipping, expansion, extension, improvement, rehabilitation, renovation, upgrading, and repair of public buildings and facilities, and issuance costs together with the costs of acquiring land or interests in land as well as any related architectural, financial, legal, planning, or engineering services.

SECTION 2. AND BE IT FURTHER ENACTED, That the County is hereby authorized to finance any part or all of the costs of the public facilities described in

Section 1 of this Act, and to borrow money and incur indebtedness for that purpose, at one time or from time to time, in an amount not exceeding, in the aggregate, \$12,325,000 and to evidence such borrowing by the issuance and sale upon its full faith and credit of general obligation bonds in like par amount, which may be issued at one time or from time to time, in one or more groups or series, as the County may determine.

SECTION 3. AND BE IT FURTHER ENACTED, That the bonds shall be issued in accordance with a resolution of the County, which shall describe generally the construction, improvement, or development of public facilities for which the proceeds of the bond sale are intended and the amount needed for those purposes. The County shall have and is hereby granted full and complete authority and discretion in the resolution to fix and determine with respect to the bonds of any issue: the designation, date of issue, denomination or denominations, form or forms, and tenor of the bonds which, without limitation, may be issued in registered form within the meaning of Section 30 of Article 31 of the Annotated Code of Maryland, as amended; the rate or rates of interest payable thereon, or the method of determining the same, which may include a variable rate; the date or dates and amount or amounts of maturity, which need not be in equal par amounts or in consecutive annual installments, provided only that no bond of any issue shall mature later than 30 years from the date of its issue; the manner of selling the bonds, which may be at either public or private sale, for such price or prices as may be determined to be for the best interests of Calvert County; the manner of executing and sealing the bonds, which may be by facsimile; the terms and conditions, if any, under which bonds may be tendered for payment or purchase prior to their stated maturity; the terms or conditions, if any, under which bonds may or shall be redeemed prior to their stated maturity; the place or places of payment of the principal of and the interest on the bonds, which may be at any bank or trust company within or without the State of Maryland; covenants relating to compliance with applicable requirements of federal income tax law, including (without limitation) covenants regarding the payment of rebate or penalties in lieu of rebate; covenants relating to compliance with applicable requirements of federal or state securities laws; and generally all matters incident to the terms, conditions, issuance, sale, and delivery thereof.

The bonds may be made redeemable before maturity, at the option of the County, at such price or prices and under such terms and conditions as may be fixed by the County prior to the issuance of the bonds, either in the resolution or in a bond order pursuant to the bond resolution. The bonds may be issued in registered form and provision may be made for the registration of the principal only. In case any officer whose signature appears on any bond ceases to be such officer before the delivery thereof, such signature shall nevertheless be valid and sufficient for all purposes as if he had remained in office until such delivery. The bonds and the issuance and sale thereof shall be exempt from the provisions of Sections 9, 10, and 11 of Article 31 of the Annotated Code of Maryland, as amended.

The County may enter into agreements with agents, banks, fiduciaries, insurers, or others for the purpose of enhancing the marketability of any security for

the bonds and for the purpose of securing any tender option that may be granted to holders of the bonds, all as may be determined and presented in the aforesaid resolution, which may (but need not) state as security for the performance by the County of any monetary obligations under such agreements the same security given by the County to bondholders for the performance by the County of its monetary obligations under the bonds.

If the County determines in the resolution to offer any of the bonds by solicitation of competitive bids at public sale, the resolution shall fix the terms and conditions of the public sale and shall adopt a form of notice of sale, which shall outline the terms and conditions, and a form of advertisement, which shall be published in one or more daily or weekly newspapers having a general circulation in the County and which may also be published in one or more journals having a circulation primarily among banks and investment bankers. At least one publication of the advertisement shall be made not less than 10 days before the sale of the bonds.

Upon delivery of any bonds to the purchaser or purchasers, payment therefor shall be made to the Treasurer of Calvert County or such other official of Calvert County as may be designated to receive such payment in a resolution passed by the County before such delivery.

SECTION 4. AND BE IT FURTHER ENACTED, That the net proceeds of the sale of bonds shall be used and applied exclusively and solely for the acquisition, construction, improvement, or development of public facilities for which the bonds are sold. If the amounts borrowed shall prove inadequate to finance the projects described in the resolution, the County may issue additional bonds with the limitations hereof for the purpose of evidencing the borrowing of additional funds for such financing, provided the resolution authorizing the sale of additional bonds shall so recite, but if the net proceeds of the sale of any issue of bonds exceed the amount needed to finance the projects described in the resolution, the excess funds so borrowed and not expended shall be applied to the payment of the next principal maturity of the bonds or to the redemption of any part of the bonds which have been made redeemable or to the purchase and cancellation of bonds, unless the County shall adopt a resolution allocating the excess funds to the acquisition, construction, improvement, or development of other public facilities, as defined and within the limits set forth in this Act.

SECTION 5. AND BE IT FURTHER ENACTED, That the bonds hereby authorized shall constitute, and they shall so recite, an irrevocable pledge of the full faith and credit and unlimited taxing power of the County to the payment of the maturing principal of and interest on the bonds as and when they become payable. In each and every fiscal year that any of the bonds are outstanding, the County shall levy or cause to be levied ad valorem taxes upon all the assessable property within the corporate limits of the County in rate and amount sufficient to provide for or assure the payment, when due, of the principal of and interest on all the bonds maturing in each such fiscal year and, in the event the proceeds from the taxes so levied in any such fiscal year shall prove inadequate for such payment, additional taxes shall be

levied in the succeeding fiscal year to make up any such deficiency. The County may apply to the payment of the principal of and interest on any bonds issued hereunder any funds received by it from the State of Maryland, the United States of America, any agency or instrumentality thereof, or from any other source, if such funds are granted for the purpose of assisting the County in financing the acquisition, construction, improvement, or development of the public facilities defined in this Act and, to the extent of any such funds received or receivable in any fiscal year, the taxes that are required to be levied may be reduced accordingly.

SECTION 6. AND BE IT FURTHER ENACTED, That the County is further authorized and empowered, at any time and from time to time, to issue its bonds in the manner hereinabove described for the purpose of refunding, by payment at maturity or upon purchase or redemption, any bonds issued hereunder. The validity of any such refunding bonds shall in no way be dependent upon or related to the validity or invalidity of the obligations so refunded. The powers herein granted with respect to the issuance of bonds shall be applicable to the issuance of refunding bonds. Such refunding bonds may be issued by the County in such an amount as shall be necessary for the purpose of providing it with funds to pay any of its outstanding bonds issued hereunder at maturity, for the purpose of providing it with funds to purchase in the open market any of its outstanding bonds issued hereunder, prior to the maturity thereof, or for the purpose of providing it with funds for the redemption prior to maturity of any outstanding bonds issued hereunder which are, by their terms, redeemable, for the purpose of providing it with funds to pay interest on any outstanding bonds issued hereunder prior to their payment at maturity of purchase or redemption in advance of maturity, or for the purpose of providing it with funds to pay any redemption or purchase premium in connection with the refunding of any of its outstanding bonds issued hereunder. The proceeds of the sale of any such refunding bonds shall be segregated and set apart by the County as a separate trust fund to be used solely for the purpose of paying the purchase or redemption prices of the bonds to be refunded.

SECTION 7. AND BE IT FURTHER ENACTED, That the County may, prior to the preparation of definitive bonds, issue interim certificates or temporary bonds, exchangeable for definitive bonds when such bonds have been executed and are available for such delivery, provided, however, that any such interim certificates or temporary bonds shall be issued in all respects subject to the restrictions and requirements set forth in this Act. The County may, by appropriate resolution, provide for the replacement of any bonds issued hereunder which shall have become mutilated or lost or destroyed upon such conditions and after receiving such indemnity as the County may require.

SECTION 8. AND BE IT FURTHER ENACTED, That any and all obligations issued pursuant to the authority of this Act, their transfer, the interest payable thereon, and any income derived therefrom in the hands of the holders thereof from time to time (including any profit made in the sale thereof) shall be and are hereby declared to be at all times exempt from State, county, municipal, or other taxation of every kind and nature whatsoever within the State of Maryland. Nothing in this Act

shall prevent the County from authorizing the issuance and sale of bonds the interest on which is not excludable from gross income for federal income tax purposes.

SECTION 9. AND BE IT FURTHER ENACTED, That the authority to borrow money and issue bonds conferred on the County by this Act shall be deemed to provide an additional and alternative authority for borrowing money and shall be regarded as supplemental and additional to powers conferred upon the County by other laws and shall not be regarded as in derogation of any power now existing; and all Acts of the General Assembly of Maryland heretofore passed authorizing the County to borrow money are hereby continued to the extent that the powers contained in such Acts have not been exercised, and nothing contained in this Act may be construed to impair, in any way, the validity of any bonds that may have been issued by the County under the authority of any said Acts, and the validity of the bonds is hereby ratified, confirmed, and approved. This Act, being necessary for the welfare of the inhabitants of Calvert County, shall be liberally construed to effect the purposes hereof. All Acts and parts of Acts inconsistent with the provisions of this Act are hereby repealed to the extent of such inconsistency.

SECTION 10. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2011.

**Approved by the Governor, April 12, 2011.**

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## **Chapter 151**

### **(House Bill 1030)**

AN ACT concerning

#### **Cecil County – Alcoholic Beverages – Licensed Establishments – Sunday Sales Hours**

FOR the purpose of altering the hours during which certain licensees in Cecil County may sell certain alcoholic beverages on Sunday; exempting certain holders of certain classes of beer, wine and liquor licenses from certain restrictions on hours of sale and from paying a certain license fee under certain circumstances; authorizing certain licensees to conduct certain sales of certain alcoholic beverages between certain hours on certain days; authorizing certain licensees to permit the use and consumption of alcoholic beverages between certain hours on certain days; making stylistic changes; and generally relating to the hours of operation for certain licensed establishments in Cecil County.

BY repealing and reenacting, with amendments,



Article 2B – Alcoholic Beverages  
 Section 11–403(b)(1) and (2)(vii) and 11–508  
 Annotated Code of Maryland  
 (2005 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, without amendments,  
 Article 2B – Alcoholic Beverages  
 Section 11–403(b)(2)(i) and (ii)  
 Annotated Code of Maryland  
 (2005 Replacement Volume and 2010 Supplement)

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

**Article 2B – Alcoholic Beverages**

11–403.

(b) (1) **(I)** In the jurisdictions in which this subsection is applicable, it is unlawful for anyone to sell or for any licensed dealer to deliver, give away or otherwise dispose of any alcoholic beverages on Sunday.

**(II)** Any person selling or any licensed dealer delivering, giving away or otherwise disposing of such beverages in such jurisdictions on Sundays is guilty of a misdemeanor and shall be fined not more than \$50 for the first offense and not more than \$100, or imprisoned in the county jail for not more than 30 days, or both for each succeeding offense.

(2) (i) This subsection is applicable to Caroline, Cecil, Dorchester, except as provided in subparagraph (xi) of this paragraph, Garrett, except as provided in paragraph (5) of this subsection, Harford, Kent, Queen Anne's, except as provided in subparagraph (v) of this paragraph, Somerset, Talbot, and Worcester (except as otherwise provided) counties.

(ii) It does not apply to or affect special Class C licenses issued under the provisions of this article.

(vii) Notwithstanding the other provisions of this section and § 11–508 of this title, in Cecil County it is lawful for Class C (on–sale) (clubs) beer, beer and light wine, or beer, wine and liquor licensees to permit the use and consumption of alcoholic beverages between the hours of 8 a.m. [and 11 p.m.] on Sunday **AND 2 A.M. THE FOLLOWING DAY**, and it is lawful for all classes of alcoholic beverage license holders to sell alcoholic beverages between 12 midnight and 2 a.m. on Sundays.

11–508.

(a) (1) **(I) THIS PARAGRAPH DOES NOT APPLY TO A CLASS EF LICENSE ISSUED UNDER § 6-201 OF THIS ARTICLE.**

**(II)** In Cecil County, notwithstanding any other provisions of this subtitle, the hours during which sales of any alcoholic beverages may be made under any class of license issued under this article on any day, Monday through Saturday, are from 6 a.m. [daily] to 2 a.m. [on] the following day.

**(III)** It is unlawful for any person to sell or for any person to consume any alcoholic beverages on any premises licensed under this article between the hours of 2 a.m. and 6 a.m. on any day of the week or at any time on Sunday between 2 a.m. and 8 a.m. ~~It is lawful for Class C “on-sale” (clubs) beer, beer and light wine, or beer, wine and liquor licensees in Cecil County to permit the sale and consumption of alcoholic beverages between the hours of 8 a.m. and 11 p.m. on Sundays and as provided in § 11-402(i) of this article.~~

(2) Subject to paragraph (3) of this subsection, it is lawful for a licensee in Cecil County to sell alcoholic beverages authorized by its license on Sunday during the following hours:

(i) For a Class A, **B, BLX, OR C** license, between 8 a.m. and [11 p.m.] **2 A.M. THE FOLLOWING DAY; AND**

(ii) ~~For a Class B license or a Class BLX beer, wine and liquor license, between 8 a.m. and 11 p.m.; and~~

~~(iii)~~ For a Class D license, between 1 p.m. and [10 p.m.] **2 A.M. THE FOLLOWING DAY.**

(3) (i) Except for a holder of a Class BLX, **EF, OR C** beer, wine and liquor license, a licensee who seeks to sell alcoholic beverages within the times allowed under paragraph (2) of this subsection must first pay an additional license fee of \$500.

(ii) “On-sales” may be conducted within the times allowed under paragraph (2) of this subsection **AND § 6-201 OF THIS ARTICLE** only by a licensee who is:

1. A restaurant, as defined under subsection (b) of this section; [or]

2. A holder of a Class BLX beer, wine and liquor license;

**3. A HOLDER OF A CLASS C LICENSE; OR**

**4. A HOLDER OF A CLASS EF LICENSE.**

(b) For the purpose of subsection (a) of this section, "restaurant" means a business establishment for the accommodation of the public:

(1) That is fully equipped with a proper and adequate dining room and with sufficient facilities for preparing and serving meals;

(2) That has been approved by the Board of License Commissioners of Cecil County; and

(3) Wherein the average annual receipts from the sale of food comprise at least 25% of the average receipts of the business.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

**Approved by the Governor, April 12, 2011.**

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## Chapter 152

### (House Bill 1047)

AN ACT concerning

#### **Rental Housing – Tenant Victim of Domestic Violence or Sexual Assault – Lease Payment Obligation**

FOR the purpose of altering the liability under a residential lease if a tenant victim of domestic violence or sexual assault terminates the lease and vacates the premises; authorizing the tenant victim to terminate future liability under the lease except for a certain period of time after providing notice of an intent to vacate; establishing that this Act does not terminate or in any way impact the liability under the residential lease for the tenant who is the respondent in a certain cause of action resulting in a protective order or peace order for the victim tenant or victim legal occupant; making a clarifying change; and generally relating to the lease payment obligation of a tenant victim of domestic violence or sexual assault.

BY repealing and reenacting, with amendments,  
Article – Real Property  
Section 8–5A–02, 8–5A–03, and 8–5A–04  
Annotated Code of Maryland  
(2010 Replacement Volume and 2010 Supplement)

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

**Article – Real Property**

8–5A–02.

(a) Subject to the requirements of [subsection (b)] **SUBSECTIONS (B) AND (C)** of this section, a tenant may terminate **THE TENANT’S FUTURE LIABILITY UNDER** a residential lease if the tenant or legal occupant is:

- (1) A victim of domestic violence; or
- (2) A victim of sexual assault.

(b) If a tenant or legal occupant is a victim of domestic violence or a victim of sexual assault, the tenant may provide to the landlord the written notice required under § 8–5A–03 or § 8–5A–04 of this subtitle and, if the written notice is provided, the tenant shall have 30 days to vacate the leased premises from the date of providing the written notice.

(c) A tenant who vacates leased premises under this section is responsible for rent **ONLY** for the 30 days following the tenant providing notice of an intent to vacate.

(d) If a tenant does not vacate the leased premises within 30 days of providing to the landlord the written notice required under § 8–5A–03 or § 8–5A–04 of this subtitle, the landlord is, at the landlord’s option and with written notice to the tenant, entitled to:

- (1) All legal remedies against a tenant holding over available under § 8–402 of this title; or
- (2) Deem the tenant’s notice of an intent to vacate to have been rescinded and the terms of the original lease to be in full force and effect.

**(E) THE TERMINATION OF A TENANT’S FUTURE LIABILITY UNDER A RESIDENTIAL LEASE UNDER THIS SECTION DOES NOT TERMINATE OR IN ANY OTHER WAY IMPACT THE FUTURE LIABILITY OF A TENANT WHO IS THE RESPONDENT IN THE ACTION THAT RESULTS IN:**

**(1) A PROTECTIVE ORDER ISSUED FOR THE BENEFIT OF THE VICTIM TENANT OR VICTIM LEGAL OCCUPANT UNDER § 4–506 OF THE FAMILY LAW ARTICLE; OR**

**(2) A PEACE ORDER ISSUED FOR THE BENEFIT OF THE VICTIM TENANT OR VICTIM LEGAL OCCUPANT FOR WHICH THE UNDERLYING ACT WAS SEXUAL ASSAULT UNDER § 3-1505 OF THE COURTS ARTICLE.**

8-5A-03.

(a) If a tenant or legal occupant is a victim of domestic violence, the tenant may terminate [a] **THE TENANT'S FUTURE LIABILITY UNDER A RESIDENTIAL** lease under § 8-5A-02 of this subtitle if the tenant provides the landlord with written notice by first-class mail or hand delivery of an intent to vacate the premises and notice of the tenant's or legal occupant's status as a victim of domestic violence.

(b) The notice provided under subsection (a) of this section shall include a copy of a protective order issued for the benefit of the tenant or legal occupant under § 4-506 of the Family Law Article.

8-5A-04.

(a) If a tenant or legal occupant is a victim of sexual assault, the tenant may terminate **THE TENANT'S FUTURE LIABILITY UNDER** a residential lease under § 8-5A-02 of this subtitle if the tenant provides the landlord with written notice by first-class mail or hand delivery of an intent to vacate the leased premises, including the tenant's or legal occupant's status as a victim of sexual assault.

(b) The notice provided under subsection (a) of this section shall include:

(1) A copy of a protective order issued for the benefit of the tenant or legal occupant under § 4-506 of the Family Law Article; or

(2) A copy of a peace order issued for the benefit of the tenant or legal occupant for which the underlying act was sexual assault under § 3-1505 of the Courts Article.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

**Approved by the Governor, April 12, 2011.**

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## **Chapter 153**

**(House Bill 1049)**

AN ACT concerning

**Real Estate Brokers – Intracompany Agents**

FOR the purpose of authorizing a designee of a real estate broker to designate two members of a team as intracompany agents for the seller and the buyer in the same transaction under certain circumstances; prohibiting the broker's designee from being a member of the real estate team under certain circumstances; and generally relating to intracompany agents providing real estate brokerage services.

BY repealing and reenacting, with amendments,  
Article – Business Occupations and Professions  
Section 17–546  
Annotated Code of Maryland  
(2010 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**

17–546.

**(A)** A real estate broker **OR A DESIGNEE OF THE REAL ESTATE BROKER** may designate two members of a team as intracompany agents for the seller and the buyer in the same transaction if the parties have first been advised in writing that the licensees are part of the same team and the team could have a financial interest in the outcome of the transaction.

**(B) IF A BROKER'S DESIGNEE DESIGNATES INTRACOMPANY AGENTS UNDER SUBSECTION (A) OF THIS SECTION, THE BROKER'S DESIGNEE MAY NOT BE A MEMBER OF THE REAL ESTATE TEAM.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

**Approved by the Governor, April 12, 2011.**

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**Chapter 154**

**(House Bill 1082)**

AN ACT concerning

**Homeowner's Insurance – Model Information – People's Insurance Counsel**

FOR the purpose of requiring ~~that the People's Insurance Counsel Division shall have access to certain information in certain insurer filings concerning rates, issuance, and renewal of homeowner's insurance~~ certain insurers to make arrangements for the vendor of a certain risk planning model to explain to the People's Insurance Counsel the data used in the model and the manner in which the output is obtained; requiring the ~~Division~~ People's Insurance Counsel to maintain the confidentiality of certain information; and generally relating to homeowner's insurance, risk planning models, and the People's Insurance Counsel ~~Division~~.

BY repealing and reenacting, with amendments,  
 Article – Insurance  
 Section 19–211  
 Annotated Code of Maryland  
 (2006 Replacement Volume and 2010 Supplement)

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

#### Article – Insurance

19–211.

(a) (1) If an insurer uses a catastrophic risk planning model or other model in setting homeowner's insurance rates or refusing to issue or renew homeowner's insurance because of the geographic location of the risk, the insurer shall:

(i) file with the Commissioner a description of the specific model used in setting the rate or refusing to issue or renew homeowner's insurance because of the geographic location of the risk; and

(ii) make arrangements for the vendor of the model to explain to the Commissioner AND THE PEOPLE'S INSURANCE COUNSEL the data used in the model and the manner in which the output is obtained.

(2) If at any time an insurer changes the catastrophic risk planning model or other model upon which it is relying, the insurer shall notify the Commissioner of the change and comply with paragraph (1) of this subsection.

(b) ~~IF THE PEOPLE'S INSURANCE COUNSEL DIVISION DETERMINES THAT THE INTERESTS OF INSURANCE CONSUMERS ARE AFFECTED BY AN INSURER FILING THAT USES A CATASTROPHIC RISK PLANNING MODEL OR OTHER MODEL, THE DIVISION SHALL HAVE FULL ACCESS TO FILINGS MADE UNDER SUBSECTION (A) OF THIS SECTION.~~

~~(c)~~ (1) The information filed under subsection (a) of this section is proprietary and confidential commercial information under § 10–617(d) of the State Government Article.

(2) ~~THE PEOPLE’S INSURANCE COUNSEL DIVISION SHALL MAINTAIN THE CONFIDENTIALITY OF ANY PROPRIETARY AND CONFIDENTIAL COMMERCIAL INFORMATION TO WHICH THE DIVISION PEOPLE’S INSURANCE COUNSEL OBTAINS ACCESS UNDER SUBSECTION (B)~~ (A) OF THIS SECTION.

~~(c)~~ (D) The Commissioner may adopt regulations to implement the provisions of this section.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2011.

Approved by the Governor, April 12, 2011.

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## Chapter 155

(House Bill 1085)

AN ACT concerning

~~Life or Health~~ **Disability Insurance Policies and Annuity Contracts –  
Discretionary Clauses – Prohibition**

FOR the purpose of prohibiting the use of certain clauses in ~~certain life or health~~ disability insurance policies or annuity contracts; ~~providing that certain clauses in certain insurance policies or annuity contracts are void and unenforceable~~; defining a certain term; providing for the application of this Act; and generally relating to ~~life or health~~ disability insurance policies and annuity contracts.

~~BY adding to~~

~~Article – Health – General~~

~~Section 19–706(kkkk)~~

~~Annotated Code of Maryland~~

~~(2009 Replacement Volume and 2010 Supplement)~~

BY adding to

Article – Insurance

Section 12–211

Annotated Code of Maryland

(2003 Replacement Volume and 2010 Supplement)



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

~~Article – Health – General~~

~~19-706.~~

~~(KKKK) THE PROVISIONS OF § 12-211 OF THE INSURANCE ARTICLE APPLY TO HEALTH MAINTENANCE ORGANIZATIONS.~~

Article – Insurance

12-211.

(A) IN THIS SECTION, “CARRIER” MEANS:

- (1) AN INSURER; OR
- (2) A NONPROFIT HEALTH SERVICE PLAN; ~~OR~~
- ~~(3) A HEALTH MAINTENANCE ORGANIZATION.~~

(B) ~~A LIFE INSURANCE OR HEALTH~~ DISABILITY INSURANCE POLICY OR ANNUITY CONTRACT MAY NOT BE SOLD, DELIVERED, OR ISSUED FOR DELIVERY IN THE STATE BY A CARRIER IF THE POLICY ~~OR CONTRACT~~ CONTAINS A CLAUSE THAT PURPORTS TO RESERVE SOLE DISCRETION TO THE CARRIER TO INTERPRET THE TERMS OF THE POLICY ~~OR CONTRACT~~ OR TO PROVIDE STANDARDS OF INTERPRETATION OR REVIEW THAT ARE INCONSISTENT WITH THE LAWS OF THE STATE.

~~(C) A CLAUSE IN A LIFE INSURANCE OR HEALTH INSURANCE POLICY OR ANNUITY CONTRACT THAT PURPORTS TO RESERVE DISCRETION TO THE CARRIER TO INTERPRET THE TERMS OF THE POLICY OR CONTRACT OR TO PROVIDE STANDARDS OF INTERPRETATION OR REVIEW IS VOID AND UNENFORCEABLE.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to disability insurance policies sold, delivered, issued for delivery, or renewed in the State on or after October 1, 2011.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

Approved by the Governor, April 12, 2011.

**Chapter 156****(House Bill 1109)**

AN ACT concerning

**Real Property – Rescission of Sales Contracts – Return of Deposits**

FOR the purpose of requiring the return of a deposit held by a real estate broker to a purchaser who rescinds a contract to purchase a residential dwelling, a cooperative interest, a condominium unit, or a lot in a homeowners association to comply with a certain law governing the maintenance and disposition of trust money by a real estate broker under certain circumstances; making ~~clarifying~~ conforming changes; and generally relating to the return of a deposit on rescission of a real property sales contract.

BY repealing and reenacting, without amendments,  
Article – Business Occupations and Professions  
Section 17–505  
Annotated Code of Maryland  
(2010 Replacement Volume)

BY repealing and reenacting, without amendments,  
Article – Corporations and Associations  
Section 5–6B–03(a), (b), and (c)  
Annotated Code of Maryland  
(2007 Replacement Volume and 2010 Supplement)

BY adding to  
Article – Corporations and Associations  
Section 5–6B–03(c–1)  
Annotated Code of Maryland  
(2007 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,  
Article – Real Property  
Section 10–702(h), 11–126(e), and 11–135(f)  
Annotated Code of Maryland  
(2010 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, without amendments,  
Article – Real Property  
Section 11B–108(a), (b), and (c)  
Annotated Code of Maryland  
(2010 Replacement Volume and 2010 Supplement)

BY adding to

Article – Real Property

Section 11B–108(c–1)

Annotated Code of Maryland

(2010 Replacement Volume and 2010 Supplement)

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

**Article – Business Occupations and Professions**

17–505.

(a) A real estate broker shall maintain trust money in an account authorized under this Part I of this subtitle until:

(1) the real estate transaction for which the trust money was entrusted is consummated or terminated;

(2) the real estate broker receives proper written instructions from the owner and beneficial owner directing withdrawal or other disposition of the trust money;

(3) on an interpleader filed by the real estate broker, a court orders a different disposition; or

(4) the owner or beneficial owner of the trust money fails to complete the real estate transaction for which the trust money was entrusted and the real estate broker, in the real estate broker's sole discretion, decides to distribute the trust money in accordance with subsection (b) of this section.

(b) (1) Prior to distributing the trust money under subsection (a)(4) of this section, the real estate broker shall notify both the owner and the beneficial owner that the real estate broker intends to distribute the trust money to the person who, in the good faith opinion of the real estate broker, is entitled to receive the trust money in accordance with the terms of the real estate contract which established the trust.

(2) The notice required under this subsection shall:

(i) be in writing;

(ii) state whether the trust money will be paid to the owner or beneficial owner; and

(iii) disclose to the owner and the beneficial owner that:

1. either party may prevent distribution of the trust money under subsection (a)(4) of this section by submitting a protest within 30 days from the date the notice was delivered or mailed by the real estate broker; and

2. if neither party submits a protest within 30 days from the date the notice was delivered or mailed by the real estate broker, the trust money will be distributed in accordance with the real estate broker's notice.

(3) The notice required under this subsection shall be:

(i) hand delivered to both the owner and beneficial owner; or

(ii) sent by certified mail, return receipt requested, and regular mail to both the owner and beneficial owner.

(4) (i) An owner or beneficial owner may protest the distribution of the trust money.

(ii) An owner or beneficial owner shall submit the protest to the real estate broker holding the trust money within 30 days from the date the notice required in paragraph (1) of this subsection was delivered or mailed by the real estate broker.

(iii) A protest shall be in writing and either:

1. hand delivered; or

2. sent by certified mail, return receipt requested, and regular mail.

(5) (i) If a written protest is received by the real estate broker, the real estate broker shall distribute the trust money in accordance with subsection (a)(1), (2), or (3) of this section.

(ii) If no written protest is received by the real estate broker holding the trust money, the real estate broker shall distribute the trust money in accordance with the terms of the notice as required in this section.

(c) When the duty of the real estate broker to maintain trust money in an account terminates, the real estate broker promptly shall account for all trust money.

(d) A real estate broker may invest trust money:

(1) as the owner and beneficial owner of the trust money instruct in writing; or

(2) as the real estate broker, owner, and beneficial owner of the trust money agree in writing.

(e) A real estate broker may not be liable to an owner or beneficial owner of the trust money for:

(1) a good faith decision to distribute the trust money under subsection (a)(4) of this section; or

(2) a decision not to distribute the trust money under subsection (a)(4) of this section.

(f) An agreement under which a real estate broker is entrusted with the trust money shall contain a statement that the real estate broker may distribute the trust money in accordance with subsection (b) of this section if the owner or beneficial owner of the trust money fails to complete the real estate transaction for which the trust money was entrusted.

### **Article – Corporations and Associations**

5-6B-03.

(a) Within 15 days after a contract is signed or a public offering statement is received, whichever occurs later, the initial purchaser may rescind, in writing, the contract without any liability on the initial purchaser's part, and shall thereupon be entitled to the prompt return of the deposit made on account of the contract.

(b) (1) After a contract is signed and before the issuance of a membership certificate, the developer must deliver to the initial purchaser a copy of any amendments, supplements, or modifications to the public offering statement.

(2) The initial purchaser may rescind, in writing, the contract within 5 days after receiving any of the aforesaid items which are material in nature, without any liability on the initial purchaser's part, and shall be entitled to the return of any deposit made on account of the contract.

(c) If the developer fails to comply with the requirements of this section, the initial purchaser before the issuance of a membership certificate may rescind, in writing, the contract, without liability on the initial purchaser's part and shall thereupon be entitled to the prompt return of any deposits made on account of the contract.

**(C-1) IF ANY DEPOSITS ARE HELD IN TRUST BY A LICENSED REAL ESTATE BROKER, THE RETURN OF THE DEPOSITS TO AN INITIAL PURCHASER UNDER SUBSECTION (A), (B), OR (C) OF THIS SECTION SHALL COMPLY WITH THE**

**PROCEDURES SET FORTH IN § 17-505 OF THE BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE.**

**Article – Real Property**

10-702.

(h) (1) A purchaser who does not receive the disclosure or disclaimer statement on or before entering into the contract of sale has the unconditional right, upon written notice to the vendor or vendor's agent:

(i) To rescind the contract of sale at any time before the receipt of the disclosure or disclaimer statement or within 5 days following receipt of the disclosure or disclaimer statement; and

(ii) To the immediate return of any deposits made on account of the contract.

(2) A purchaser's right to rescind the contract of sale under this subsection terminates if not exercised:

(i) Before making a written application to a lender for a mortgage loan, if the lender discloses in writing at or before the time application is made that the right to rescind terminates on submission of the application; or

(ii) Within 5 days following receipt of a written disclosure from a lender who has received the purchaser's application for a mortgage loan, if the lender's disclosure states that the purchaser's right to rescind terminates at the end of that 5-day period.

**(3) THE RETURN OF ANY DEPOSITS HELD IN TRUST BY A LICENSED REAL ESTATE BROKER TO A PURCHASER UNDER THIS SUBSECTION SHALL COMPLY WITH THE PROCEDURES SET FORTH IN § 17-505 OF THE BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE.**

11-126.

~~(e) (1) Any purchaser may RESCIND IN WRITING THE CONTRACT OF SALE WITHOUT STATING ANY REASON AND WITHOUT ANY LIABILITY ON THE PURCHASER'S PART AND SHALL BE ENTITLED TO THE RETURN OF ANY DEPOSITS MADE ON ACCOUNT OF THE CONTRACT at any time;~~

~~[(1)] (1) [within] WITHIN 15 days following receipt of all of the information required under subsection (b) of this section or the signing of the contract, whichever is later; and~~

~~[(2)] (II) [within] WITHIN 5 days following receipt of the information required under subsection (d) of this section[, rescind in writing the contract of sale without stating any reason and without any liability on his part, and he shall be entitled to the return of any deposits made on account of the contract].~~

(e) (1) Any purchaser may at any time [(1)](I) within 15 days following receipt of all of the information required under subsection (b) of this section or the signing of the contract, whichever is later; and [(2)](II) within 5 days following receipt of the information required under subsection (d) of this section, rescind in writing the contract of sale without stating any reason and without any liability on his part, and he shall be entitled to the return of any deposits made on account of the contract.

**(2) THE RETURN OF ANY DEPOSITS HELD IN TRUST BY A LICENSED REAL ESTATE BROKER TO A PURCHASER UNDER THIS SUBSECTION SHALL COMPLY WITH THE PROCEDURES SET FORTH IN § 17-505 OF THE BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE.**

11-135.

(f) (1) Any purchaser may at any time within 7 days following receipt of all of the information required under subsection (a) or (b) of this section, whichever is applicable, rescind in writing the contract of sale without stating any reason and without any liability on his part.

(2) The purchaser, upon rescission, is entitled to the return of any deposits made on account of the contract.

**(3) IF ANY DEPOSITS ARE HELD IN TRUST BY A LICENSED REAL ESTATE BROKER, THE RETURN OF THE DEPOSITS TO A PURCHASER UNDER THIS SUBSECTION SHALL COMPLY WITH THE PROCEDURES SET FORTH IN § 17-505 OF THE BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE.**

11B-108.

(a) A person who enters into a contract as a purchaser but who has not received all of the disclosures required by § 11B-105, § 11B-106, or § 11B-107 of this title, as applicable, shall, prior to settlement, be entitled to cancel the contract and to the immediate return of deposits made on account of the contract.

(b) (1) Any purchaser who has not received all of the disclosures required under § 11B-105 or § 11B-106 of this title, as applicable, 5 calendar days or more before the contract was entered into, within 5 calendar days following receipt by the purchaser of the disclosures required by § 11B-105(a) and (b) or § 11B-106(a) and (b) of this title, as applicable, may cancel in writing the contract without stating a reason and without liability on the part of the purchaser.

(2) The purchaser shall be entitled to the return of any deposits made on account of the contract, except that the vendor shall be entitled to retain the cost of reproducing the information specified in § 11B–105(b), § 11B–106(b), or § 11B–107(b) of this title, as applicable, or \$100, whichever amount is less, if the disclosures are not returned to the vendor at the time the contract is cancelled.

(c) Any purchaser may within 3 calendar days following receipt by the purchaser of a change in mandatory fees and payments exceeding 10 percent of the amount previously stated to exist or any other substantial and material amendment to the disclosures required by § 11B–105 or § 11B–106 of this title, as applicable, which adversely affects the purchaser, cancel in writing the contract without stating a reason and without liability on the part of the purchaser, and the purchaser shall be entitled to the return of deposits made on account of the contract.

**(C–1) IF ANY DEPOSITS ARE HELD IN TRUST BY A LICENSED REAL ESTATE BROKER, THE RETURN OF THE DEPOSITS TO A PURCHASER UNDER SUBSECTION (A), (B), OR (C) OF THIS SECTION SHALL COMPLY WITH THE PROCEDURES SET FORTH IN § 17–505 OF THE BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

**Approved by the Governor, April 12, 2011.**

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## Chapter 157

### (House Bill 1118)

AN ACT concerning

#### **Children in Need of Assistance – Hearings – Written Findings**

FOR the purpose of requiring the juvenile court, in certain child in need of assistance hearings, to send certain written findings to certain individuals and agencies if the court finds that certain reasonable efforts were made but that a certain condition exists; and generally relating to children in need of assistance.

BY repealing and reenacting, with amendments,  
Article – Courts and Judicial Proceedings  
Section 3–816.1  
Annotated Code of Maryland  
(2006 Replacement Volume and 2010 Supplement)



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

**Article – Courts and Judicial Proceedings**

3–816.1.

(a) The provisions of this section apply to a hearing conducted in accordance with § 3–815, § 3–817, § 3–819, or § 3–823 of this subtitle or a review hearing conducted in accordance with § 5–326 of the Family Law Article in which a child is placed under an order of guardianship, commitment, or shelter care.

(b) (1) In a hearing conducted in accordance with § 3–815, § 3–817, § 3–819, or § 3–823 of this subtitle, the court shall make a finding whether the local department made reasonable efforts to prevent placement of the child into the local department's custody.

(2) In a review hearing conducted in accordance with § 3–823 of this subtitle or § 5–326 of the Family Law Article, the court shall make a finding whether a local department made reasonable efforts to:

(i) Finalize the permanency plan in effect for the child; and

(ii) Meet the needs of the child, including the child's health, education, safety, and preparation for independence.

(3) In a hearing conducted in accordance with § 3–815, § 3–817, or § 3–819 of this subtitle, before determining whether a child with a developmental disability or a mental illness is a child in need of assistance, the court shall make a finding whether the local department made reasonable efforts to prevent placement of the child into the local department's custody by determining whether the local department could have placed the child in accordance with a voluntary placement agreement under § 5–525(b)(1)(i) or (iii) of the Family Law Article.

(4) The court shall require a local department to provide evidence of its efforts before the court makes a finding required under this subsection.

(5) The court's finding under this subsection shall assess the efforts made since the last adjudication of reasonable efforts and may not rely on findings from prior hearings.

(c) In making its findings in accordance with subsection (b) of this section, the court shall consider:

(1) The extent to which a local department has complied with the law, regulations, state or federal court orders, or a stipulated agreement accepted by the court regarding the provision of services to a child in an out-of-home placement;

(2) Whether a local department has ensured that:

(i) A caseworker is promptly assigned to and actively responsible for the case at all times;

(ii) The identity of the caseworker has been promptly communicated to the court and the parties; and

(iii) The caseworker is knowledgeable about the case and has received on a timely basis all pertinent files and other information after receiving the assignment from the local department;

(3) For a hearing under § 3–823 of this subtitle, whether a local department has provided appropriate services that facilitate the achievement of a permanency plan for the child, including consideration of in–State and out–of–state placement options;

(4) Whether the child’s placement has been stable and in the least restrictive setting appropriate, available, and accessible for the child during the period since the most recent hearing held by the court;

(5) Whether a local department notified the court and all parties before any change of placement for the child, or, if emergency conditions made a change necessary, as soon as possible after the change of placement;

(6) On receipt of a report of maltreatment of a child occurring while the child is in the custody of a local department, whether the local department provided the appropriate parties, including the child’s attorney, a report or notice of a report of the suspected maltreatment of the child and of the disposition of the investigation within the time required by regulation and court order; and

(7) Whether a local department has provided appropriate and timely services to help maintain the child in the child’s existing placement, including all services and benefits available in accordance with State law, regulations, state and federal court orders, stipulated agreements, or professional standards regarding the provision of services to children in out–of–home placements.

(d) In making a finding in accordance with subsection (b) of this section, a court may not consider a potential loss of federal funding for placement of a child that may result from a determination that reasonable efforts were not made.

(e) A court shall make the findings required under subsection (b) of this section in writing if it finds that reasonable efforts are being made for a child, but also finds that at least one of the following conditions exists:

(1) A local department did not comply with law, regulations, court orders, or agreements described in subsection (c)(1) of this section;

(2) A local department did not ensure continuity of casework as described in subsection (c)(2) of this section;

(3) A local department did not provide the services described in subsection (c)(3) of this section;

(4) During the period since the most recent court hearing, the child has not been placed in a stable placement or in the least restrictive setting appropriate, available, and accessible for the child;

(5) A local department failed to provide reports or notices of reports in a timely manner as described in subsection (c)(5) or (6) of this section; or

(6) A local department has not provided the services described in subsection (c)(7) of this section.

(f) If the court finds that reasonable efforts for a child were not made in accordance with subsection (b) of this section or finds that reasonable efforts were [not] made **BUT THAT ONE OF THE CONDITIONS DESCRIBED IN SUBSECTION (E) OF THIS SECTION EXISTS**, the court promptly shall send its written findings to:

(1) The director of the local department;

(2) The Social Services Administration;

(3) The State Citizens Review Board for Children established under § 5-535 of the Family Law Article;

(4) If applicable, the local citizens review panel established under § 5-539.2 of the Family Law Article; and

(5) Any individual or agency identified by a local department or the court as responsible for monitoring the care and services provided to children in the legal custody or guardianship of the local department on a systemic basis.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

**Approved by the Governor, April 12, 2011.**

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**Chapter 158****(House Bill 1193)**

AN ACT concerning

**Volunteer Company Assistance Fund – Reporting Requirements – Military Department**

FOR the purpose of altering a certain definition to require the Military Department, instead of the Department of Budget and Management, to receive and review certain information from the Maryland State Firemen’s Association and provide a certain annual report to certain committees of the General Assembly; and generally relating to the certain reports on the Volunteer Company Assistance Fund.

BY repealing and reenacting, with amendments,  
Article – Public Safety  
Section 8–201  
Annotated Code of Maryland  
(2003 Volume and 2010 Supplement)

BY repealing and reenacting, without amendments,  
Article – Public Safety  
Section 8–206  
Annotated Code of Maryland  
(2003 Volume and 2010 Supplement)

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

**Article – Public Safety**

8–201.

- (a) In this subtitle the following words have the meanings indicated.
- (b) “Association” means the Maryland State Firemen’s Association.
- (c) “Department” means the **MILITARY** Department [of Budget and Management].
- (d) “Fund” means the Volunteer Company Assistance Fund.
- (e) “Volunteer company” means a volunteer ambulance, fire, or rescue company:

- (1) located in the State; or
- (2) located outside the State if the company:
  - (i) has been a member of the Association for at least the past 10 years; and
  - (ii) has a first due response area in the State.

8-206.

(a) On or before August 30 of each fiscal year, the Association shall submit to the Department, the Legislative Auditor, and to the Board of Public Works an annual report that includes:

- (1) the number and total amount of grants and the number and total amount of loans made in the previous fiscal year;
- (2) for each grant or loan made:
  - (i) the volunteer company that received the grant or loan;
  - (ii) the amount of the grant or loan; and
  - (iii) the specific purpose of making the grant or loan;
- (3) for each volunteer company that received a grant or loan:
  - (i) the financial statement of the volunteer company for the previous fiscal year or the year in which the grant or loan was received, whichever is available; and
  - (ii) documentation of the volunteer company's actual expenditures from the grant or loan;
- (4) for each loan made, the terms of the loan, including origination date, loan term, payment terms, payment amount, payments made to date, outstanding balance, and loan status; and
- (5) summary listings of grants and loans made during the previous fiscal year and outstanding loans, by county.

(b) The Department shall:

- (1) review the documentation submitted in accordance with subsection (a) of this section on an annual basis to determine if each grant or loan was spent in

accordance with this subtitle and the request approved by the Board of Public Works; and

(2) report the findings to the Senate Budget and Taxation Committee and the House Appropriations Committee on an annual basis.

(c) The Legislative Auditor may:

(1) review the documentation submitted in accordance with subsection (a) of this section to determine if each grant or loan was spent in accordance with this subtitle and the requests approved by the Board of Public Works; and

(2) report the findings to the Department and, subject to § 2–1246 of the State Government Article, to the Joint Audit Committee of the General Assembly.

(d) The Comptroller may audit the financial affairs of the Association to ensure compliance with this subtitle.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2011.

**Approved by the Governor, April 12, 2011.**

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## Chapter 159

**(House Bill 1208)**

AN ACT concerning

### **Higher Education – Exemption from Tuition for Foster Care Recipients – Eligibility Age**

FOR the purpose of altering the age before which foster care recipients must be enrolled at public institutions of higher education to be exempt from paying certain tuition; altering the age before which foster care recipients must be enrolled as candidates for certain degrees to not be required to pay the difference between the amount of certain scholarships or grants and the amount of certain tuition; and generally relating to the age of foster care recipients to be eligible for exemptions from paying tuition.

BY repealing and reenacting, with amendments,

Article – Education

Section 15–106.1

Annotated Code of Maryland

(2008 Replacement Volume and 2010 Supplement)

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

**Article – Education**

15–106.1.

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

(2) (i) “Foster care recipient” means an individual who:

1. Was placed in an out-of-home placement by the Maryland Department of Human Resources; and

2. A. Resided in an out-of-home placement in the State at the time the individual graduated from high school or successfully completed a general equivalency development examination (GED); or

B. Resided in an out-of-home placement in the State on the individual’s 13th birthday and was adopted out of an out-of-home placement after the individual’s 13th birthday.

(ii) “Foster care recipient” includes a younger sibling of an individual described in subparagraph (i) of this paragraph if the younger sibling is concurrently adopted out of an out-of-home placement by the same adoptive family.

(3) “Out-of-home placement” has the meaning stated in § 5–501 of the Family Law Article.

(4) (i) “Tuition” means the charges imposed by a public institution of higher education for enrollment at the institution.

(ii) “Tuition” includes charges for registration and all fees required as a condition of enrollment.

(b) (1) Except as provided in paragraph (2) of this subsection, a foster care recipient is exempt from paying tuition at a public institution of higher education if:

(i) The foster care recipient is enrolled at the institution on or before the date that the foster care recipient reaches the age of [21] **25** years;

(ii) The foster care recipient is enrolled as a candidate for an associate’s degree or a bachelor’s degree; and

(iii) The foster care recipient has filed for federal and State financial aid by March 1 each year.

(2) If a foster care recipient receives a scholarship or grant for postsecondary study and is enrolled before the recipient's [21st] **25TH** birthday as a candidate for an associate's degree or bachelor's degree at a public institution of higher education, the foster care recipient may not be required to pay the difference between the amount of the scholarship or grant and the amount of the tuition.

(3) A foster care recipient who is exempt from tuition under this section continues to be exempt until the earlier of:

(i) 5 years after first enrolling as a candidate for an associate's degree or a bachelor's degree at a public institution of higher education in the State; or

(ii) The date that the foster care recipient is awarded a bachelor's degree.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2011.

**Approved by the Governor, April 12, 2011.**

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## **Chapter 160**

### **(House Bill 1212)**

AN ACT concerning

#### **St. Mary's County Metropolitan Commission**

FOR the purpose of repealing a certain requirement that a new position with the St. Mary's County Metropolitan Commission be subject to prior approval of the County Commissioners of St. Mary's County; authorizing the Commission to appoint, discharge at pleasure, and fix the compensation of a General Counsel; prohibiting the Director from serving concurrently as the Director and as General Counsel to the Commission; requiring the Commission to adopt or approve, with the prior approval of the County Commissioners certain plans and a certain capital budget; requiring the County Commissioners to amend annually the St. Mary's County water and sewer plan by incorporating into it a certain capital improvement plan of the Commission; and generally relating to the St. Mary's County Metropolitan Commission.

BY repealing and reenacting, with amendments,  
The Public Local Laws of St. Mary's County  
Section 113-1C  
Article 19 – Public Local Laws of Maryland



(2007 Edition and June 2010 Supplement, as amended)

BY adding to

The Public Local Laws of St. Mary's County

Section 113-30

Article 19 – Public Local Laws of Maryland

(2007 Edition and June 2010 Supplement, as amended)

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

**Article 19 – St. Mary's County**

113-1.

C. The Commission shall elect one (1) of its members as Chairman and one (1) of its members as Vice Chairman, who shall serve in the absence or disability of the Chairman. The Commission shall appoint, discharge at pleasure and fix the compensation of a Director, a Secretary, a Treasurer, a Chief Engineer and engineering, legal, clerical and other personnel and help which the Commission deems necessary to carry out the provisions of this chapter. [The creation of any new position by the Commission is subject to the prior approval of the Board of County Commissioners of St. Mary's County.] **THE COMMISSION MAY APPOINT, DISCHARGE AT PLEASURE AND FIX THE COMPENSATION OF A GENERAL COUNSEL. THE DIRECTOR MAY NOT SERVE CONCURRENTLY AS THE DIRECTOR AND AS GENERAL COUNSEL TO THE COMMISSION.**

113-30.

**NOTWITHSTANDING ANY PROVISION OF THIS CHAPTER:**

**A. THE COMMISSION SHALL ADOPT OR APPROVE, WITH THE PRIOR APPROVAL OF THE COUNTY COMMISSIONERS, FACILITIES PLANS, A 5-YEAR CAPITAL IMPROVEMENT PLAN, AND AN ANNUAL CAPITAL BUDGET; AND**

**B. THE COUNTY COMMISSIONERS SHALL AMEND ANNUALLY THE ST. MARY'S COUNTY WATER AND SEWER PLAN BY INCORPORATING INTO IT THE COMMISSION'S 5-YEAR CAPITAL IMPROVEMENT PLAN.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

**Approved by the Governor, April 12, 2011.**

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**Chapter 161****(House Bill 1233)**

AN ACT concerning

**Income Tax – Withholding Statements – Electronic Submission**

FOR the purpose of altering the number of statements that certain payors of amounts subject to income tax withholding must be required to submit for purposes of a requirement that certain statements be submitted electronically; repealing an obsolete provision; and generally relating to a requirement to submit certain statements in a certain manner.

BY repealing and reenacting, with amendments,  
Article – Tax – General  
Section 10–911  
Annotated Code of Maryland  
(2010 Replacement Volume)

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

**Article – Tax – General**

10–911.

(a) Each employer or payor required under § 10–906 of this subtitle to withhold income tax for an employee or a person who receives a payment subject to withholding shall prepare a statement that shows for the previous calendar year:

- (1) the name of the employer or payor;
- (2) the name of the employee or person who receives the payment subject to withholding;
- (3) the total amount that the employer paid to the employee as wages or the total amount that the payor has paid to the person;
- (4) the total amount of tips that the employee reported;
- (5) the total amount of income tax that has been withheld under this subtitle;
- (6) any amount by which income tax required to be withheld on tips exceeds the other net wages paid to the employee; and

(7) any other information that the Comptroller requires by regulation.

(b) An employer or payor of a payment subject to withholding shall:

(1) provide 2 copies of the statement required under subsection (a) of this section to the employee or person who receives a payment subject to withholding on or before January 31 of each year; and

(2) submit 1 copy of the statement to the Comptroller on or before February 28 of each year.

(c) (1) Except as provided in paragraph (2) of this subsection, an employer or payor shall submit statements required under subsection (a) of this section on magnetic media or in other machine-readable or electronic format that the Comptroller requires by regulation, if:

(i) the total number of statements of that statement type that the employer or payor is required to submit equals or exceeds[:

1. 150 for calendar year 2006; or

2. 100 for a calendar year beginning after December 31, 2006] **25**; or

(ii) a lower threshold applies for federal income tax purposes.

(2) The Comptroller:

(i) shall adopt regulations to provide a process for an employer or payor that is required to submit statements on magnetic media or in other machine-readable or electronic format under paragraph (1) of this subsection to request a waiver from the requirement; and

(ii) may waive the requirement that an employer or payor submit statements on magnetic media or in other machine-readable or electronic format under paragraph (1) of this subsection if the Comptroller determines that the requirement will result in undue hardship to the employer or payor.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

**Approved by the Governor, April 12, 2011.**

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**Chapter 162****(House Bill 1253)**

AN ACT concerning

**Commission on African American History and Culture – Members and Duties**

FOR the purpose of altering the number of members of the Commission on African American History and Culture; altering the duties of the Commission; specifying the terms of certain members of the Commission; and generally relating to the Commission on African American History and Culture.

BY repealing and reenacting, with amendments,  
Article – State Government  
Section 9.5–403 and 9.5–407  
Annotated Code of Maryland  
(2009 Replacement Volume and 2010 Supplement)

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

**Article – State Government**

9.5–403.

(a) The Commission consists of [nine] **21** members appointed by the Governor with the advice and consent of the Senate.

(b) The members shall:

- (1) represent the entire community of the State;
- (2) know about African American culture and history;
- (3) be sensitive to the problems of minority communities; and
- (4) be connected with agencies working to integrate minority history and culture into the history of the State and American culture.

(c) (1) The term of a member is 4 years.

(2) The terms of the members are staggered as required by the terms provided for members of the Commission on October 1, 2005, **AND OCTOBER 1, 2011**.

(3) 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.

(d) (1) Except as provided in paragraph (2) of this subsection, a member may be reappointed.

(2) A member who has served two consecutive four-year terms may not be reappointed until at least one year has elapsed after the end of the previous term.

(e) The Governor may remove a member for incompetence or misconduct.

9.5-407.

The Commission shall:

(1) initiate, direct, and coordinate projects that further the understanding of African American history and culture;

(2) [survey historic buildings, sites, artifacts, archives, and repositories, and publish and disseminate the results;

(3) plan, coordinate, and implement the State's annual official observance of the Martin Luther King, Jr., holiday;

(4) receive and administer any available federal, **STATE**, or private money to plan and execute [commemorative and] **PROJECTS OR** educational activities [in connection with the observance of the Martin Luther King, Jr., holiday] **THAT FURTHER THE UNDERSTANDING OF AFRICAN AMERICAN HISTORY AND CULTURE;**

[(5)] (3) operate the Banneker-Douglass Museum in Annapolis to house and display photographs, objects, oral history tapes, artifacts, and other materials of African American historic and cultural significance;

[(6)] (4) locate, preserve, and disseminate to the public information about significant buildings and sites relating to African American history and culture; and

[(7)] (5) publish an annual report and any other material that the Commission considers necessary.

SECTION 2. AND BE IT FURTHER ENACTED, That the terms of the members initially serving on the Commission on African American History and Culture in positions added to the Commission under Section 1 of this Act shall expire as follows:

(1) four members in 2013;

- (2) four members in 2014; and
- (3) four members in 2015.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

**Approved by the Governor, April 12, 2011.**

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## Chapter 163

### (House Bill 1310)

AN ACT concerning

#### **Tax Supported Debt – Energy Performance Contracts**

FOR the purpose of providing that tax supported debt does not include certain capital leases used to finance energy performance contracts; excluding certain capital leases from the requirement that the Treasurer capitalize certain capital lease payments; restating the authority of the Treasurer to finance certain energy performance contracts as capital leases; requiring that certain capital lease payments or certain contractor payments may not exceed certain energy savings; and generally relating to capital leases used to finance energy performance contracts.

BY repealing and reenacting, with amendments,  
Article – State Finance and Procurement  
Section 8–104, 8–405, and 12–301  
Annotated Code of Maryland  
(2009 Replacement Volume and 2010 Supplement)

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

#### **Article – State Finance and Procurement**

8–104.

- (a) In this Part II of this subtitle the following words have the meanings indicated.
- (b) “Committee” means the Capital Debt Affordability Committee.
- (c) (1) “Tax supported debt” means:

(i) State debt; and

(ii) other forms of debt, including State agency capital leases supported in whole or part by State tax revenues and debt of the Department of Transportation, the Maryland Stadium Authority, and other units of State government which, in the opinion of the Committee, are supported directly or indirectly by State tax revenues.

(2) "Tax supported debt" includes debt issued by the Department of Transportation under Title 3, Subtitle 6 of the Transportation Article or by the Maryland Transportation Authority under Title 4, Subtitle 3 of the Transportation Article that is secured by a pledge of future federal aid from any source.

**(3) "TAX SUPPORTED DEBT" DOES NOT INCLUDE CAPITAL LEASES USED TO FINANCE ENERGY PERFORMANCE CONTRACTS ENTERED INTO UNDER § 12-301 OF THIS ARTICLE, IF, AS DETERMINED BY THE COMMITTEE, ENERGY SAVINGS THAT ARE GUARANTEED BY THE CONTRACTOR:**

**(I) EQUAL OR EXCEED THE CAPITAL LEASE PAYMENTS ON AN ANNUAL BASIS; AND**

**(II) ARE MONITORED IN ACCORDANCE WITH REPORTING REQUIREMENTS ADOPTED BY THE COMMITTEE.**

8-405.

(a) [The] **EXCEPT FOR CAPITAL LEASES USED TO FINANCE ENERGY PERFORMANCE CONTRACTS EXCLUDED FROM TAX SUPPORTED DEBT UNDER § 8-104 OF THIS TITLE, THE** Treasurer shall, at a reasonable market rate, capitalize the payments on a capital lease authorized under this subtitle on an annual basis for each fiscal year the lease is in effect.

(b) The greater of the amount determined for a given fiscal year under subsection (a) of this section or the amount of any purchase value at the termination of a capital lease authorized under this subtitle shall be included in the tax supported debt considered by the Capital Debt Affordability Committee in its annual estimate for that fiscal year under Subtitle 1 of this title.

12-301.

(a) (1) Before issuing a request for proposals for an energy performance contract, a primary procurement unit shall consult with the Maryland Energy Administration.

(2) The Maryland Energy Administration shall review the proposed request to ensure that it meets with the State energy standards, preserves the State's flexibility to investigate and use economically justifiable new technologies, and is in

conformance with the unit's energy conservation plan that has been developed in accordance with § 4–806 of this article.

(b) (1) Notwithstanding any other provision of law and subject to the approval and control of the Board of Public Works, a primary procurement unit of State government is authorized to enter into energy performance contracts of up to 15 years duration.

(2) **THE TREASURER MAY ENTER INTO A CAPITAL LEASE TO FINANCE ENERGY PERFORMANCE CONTRACTS AS PROVIDED IN TITLE 8, SUBTITLE 4 OF THIS ARTICLE.**

(3) The payments and the total contract amount due under an energy performance contract **OR, IN THE CASE OF A CAPITAL LEASE USED TO FINANCE ENERGY PERFORMANCE CONTRACTS, THE CAPITAL LEASE PAYMENTS**, may not exceed the actual energy savings realized as a result of the contract's performance.

~~(3)~~(4) (i) Before approval of an energy performance contract, the Board:

1. shall ensure that the projected annual energy savings attributable to the project will exceed the projected annual **CAPITAL LEASE PAYMENTS OR** payments to the contractor under the contract; and

2. based on the review of the Maryland Energy Administration, shall determine whether the proposed energy technology is appropriate for the time period provided in the contract.

(ii) The Board may:

1. authorize the use of incentive contracts, including contracts that guarantee energy savings performance; and

2. require prospective contractors to furnish appropriate guarantees to ensure that projected savings are realized.

(iii) Any guarantees required under subparagraph (ii) of this paragraph may include a requirement that the contractor furnish a bond or other assurance to the State in an appropriate amount to guarantee projected performance and that the bond or other assurance be structured so that a failure to meet guaranteed performance savings will forfeit a portion of the bond or other assurance to match the shortfall in energy savings.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2011.

**Approved by the Governor, April 12, 2011.**