

Laws
of the
State of Maryland

At the Session of the General Assembly Begun and Held in the
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VOLUME VI

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For further information concerning this document contact:

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Chapter 573**(Senate Bill 765)**

AN ACT concerning

**Public Utilities—Consumer Relations— Public Service Commission – Study
on Tenant Payment of Landlord Utility Bills**

FOR the purpose of ~~authorizing certain tenants to prevent the termination of certain utility service by paying the amount due on a monthly bill; authorizing certain tenants to restore certain utility service by paying the amount due on a monthly bill and other applicable charges; authorizing certain tenants to pay for certain other charges; specifying that certain tenants may not incur liability by taking certain action; authorizing certain utility service providers to require certain tenants to pay for past due utility bills, subject to an exception; specifying the method by which a utility service provider may calculate charges for past due utility bills; authorizing certain tenants to deduct the amount of payments made on a landlord's utility bill from rent due to the landlord; requiring a utility service provider to provide certain tenants with copies of future utility bills under certain circumstances; specifying that a tenant's failure to make certain payments authorizes a utility service provider to terminate service under certain circumstances; requiring a utility service provider to provide certain notice to certain tenants within a certain period of time before terminating service; prohibiting the waiver of certain rights; requiring a certain complaint for failure to pay rent to account for payments made by a tenant on a utility bill under certain circumstances; defining certain terms; and generally relating to payment of a utility bill by a tenant~~ requiring the Public Service Commission to convene a workgroup to study and make recommendations on developing a mechanism to allow certain tenants to pay for utilities when a certain landlord defaults; providing for the composition of the workgroup; requiring the workgroup to examine certain issues in conducting a certain study; requiring the Commission to report to certain committees of the General Assembly on or before a certain date; and generally relating to a study on developing a mechanism to allow residential tenants to pay for utilities when a landlord responsible for paying the utilities defaults.

BY adding to

~~Article—Public Utilities~~~~Section 7-309~~~~Annotated Code of Maryland~~~~(2010 Replacement Volume and 2011 Supplement)~~

BY repealing and reenacting, with amendments,

~~Article—Real Property~~~~Section 8-401(b)(1)(iii) and (c)(2)(iii)2.D.~~~~Annotated Code of Maryland~~

~~(2010 Replacement Volume and 2011 Supplement)~~

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

~~Article – Public Utilities~~

~~7-300.~~

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

~~(2) “AFFECTED DWELLING UNIT” MEANS A RESIDENTIAL DWELLING UNIT, AS DEFINED IN § 7-303 OF THIS SUBTITLE, WHERE THE UTILITY SERVICE:~~

~~(I) IS THE SUBJECT OF THREATENED OR ACTUAL TERMINATION;~~

~~(II) IS DELIVERED THROUGH A SEPARATELY METERED DWELLING UNIT; OR~~

~~(III) IF THE PROPERTY RECEIVING UTILITY SERVICE CONTAINS FOUR OR FEWER DWELLING UNITS, IS DELIVERED TO THE PROPERTY THROUGH A MASTER METER.~~

~~(3) “LANDLORD” MEANS AN OWNER OF AN AFFECTED DWELLING UNIT WHO RENTS THE AFFECTED DWELLING UNIT TO A TENANT AND OBTAINS UTILITY SERVICE FROM A UTILITY SERVICE PROVIDER.~~

~~(4) “TENANT” MEANS AN OCCUPANT OF AN AFFECTED DWELLING UNIT WHO RENTS THE AFFECTED DWELLING UNIT FROM A LANDLORD WHO IS THE CUSTOMER OF A UTILITY SERVICE PROVIDER.~~

~~(5) “UTILITY SERVICE” MEANS:~~

~~(I) GAS, ELECTRIC, OR WATER SERVICE PROVIDED BY A PUBLIC SERVICE COMPANY TO AN AFFECTED DWELLING UNIT; OR~~

~~(II) WATER SERVICE PROVIDED BY A COMMISSION, MUNICIPAL CORPORATION, OR OTHER GOVERNMENTAL UNIT TO AN AFFECTED DWELLING UNIT.~~

~~(6) “UTILITY SERVICE PROVIDER” MEANS:~~

~~(I) A PUBLIC SERVICE COMPANY THAT PROVIDES GAS, ELECTRIC, OR WATER SERVICE; OR~~

~~(II) A COMMISSION, A MUNICIPAL CORPORATION, OR ANY OTHER GOVERNMENTAL UNIT THAT PROVIDES WATER SERVICE.~~

~~(B) (1) A TENANT MAY:~~

~~(I) PREVENT THE TERMINATION OF UTILITY SERVICE ON A UTILITY ACCOUNT BY PAYING THE AMOUNT DUE FOR THE MOST RECENT BILLING CYCLE;~~

~~(II) HAVE UTILITY SERVICE RESTORED TO THE ACCOUNT BY PAYING THE AMOUNT DUE FOR THE MOST RECENT BILLING CYCLE AND THE AMOUNT OF ANY APPLICABLE TERMINATION OR RECONNECTION CHARGES;~~

~~(III) PAY AN AMOUNT THAT IS NOT YET DUE FOR UTILITY SERVICE; AND~~

~~(IV) PAY A CHARGE, AS CALCULATED UNDER SUBSECTION (C) OF THIS SECTION, FOR PAST DUE UTILITY BILLS.~~

~~(2) A TENANT MAY NOT INCUR LIABILITY FOR PREVIOUS OR FUTURE UTILITY CHARGES DUE ON THE ACCOUNT BY TAKING AN ACTION UNDER PARAGRAPH (1) OF THIS SUBSECTION.~~

~~(C) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A UTILITY SERVICE PROVIDER, IN ITS DISCRETION, MAY INCLUDE ON A BILL FOR THE FOLLOWING 24 MONTHS A CHARGE FOR PAST DUE UTILITY BILLS AS CALCULATED UNDER THIS SUBSECTION.~~

~~(2) A UTILITY SERVICE PROVIDER MAY NOT CHARGE A TENANT WHO RECEIVES RENTAL ASSISTANCE FROM A PUBLIC HOUSING AUTHORITY OR ANOTHER GOVERNMENTAL UNIT FOR PAST DUE UTILITY BILLS.~~

~~(3) A MONTHLY CHARGE FOR PAST DUE UTILITY BILLS ON THE UTILITY ACCOUNT SHALL BE CALCULATED BY:~~

~~(I) ADDING THE AMOUNT DUE FOR THE MOST CURRENT BILLING CYCLE AND THE AMOUNT OF THE SECURITY DEPOSIT PAID TO THE UTILITY SERVICE PROVIDER WITH RESPECT TO THE ACCOUNT;~~

~~(II) SUBTRACTING THE AMOUNT OF ITEM (I) OF THIS PARAGRAPH FROM THE SUM OF ALL PAST DUE UTILITY BILLS ON THE ACCOUNT; AND~~

~~(III) DIVIDING THE AMOUNT OF ITEM (II) OF THIS PARAGRAPH BY THE NUMBER OF BILLING CYCLES THAT THE UTILITY COMPANY HAS IN A 24-MONTH PERIOD.~~

~~(D) IF AN ORAL OR A WRITTEN LEASE REQUIRES A LANDLORD TO PAY A UTILITY BILL AND A TENANT PAYS A PORTION OF THE UTILITY BILL, THE TENANT MAY DEDUCT THE AMOUNT OF THE PAYMENTS FROM RENT DUE TO THE LANDLORD.~~

~~(E) (1) A UTILITY SERVICE PROVIDER THAT RECEIVES A PAYMENT FROM A TENANT SHALL MAIL TO THE TENANT COPIES OF ALL FUTURE UTILITY BILLS FOR UTILITY SERVICE PROVIDED WHILE THE TENANT RESIDES IN THE AFFECTED DWELLING UNIT.~~

~~(2) IF A TENANT FAILS TO MAKE A FUTURE PAYMENT ON THE LANDLORD'S ACCOUNT WHEN IT IS DUE, THE UTILITY SERVICE PROVIDER MAY TERMINATE SERVICE IN ACCORDANCE WITH EXISTING LAWS AND REGULATIONS.~~

~~(3) (I) AT LEAST 14 DAYS BEFORE TERMINATING UTILITY SERVICE TO AN AFFECTED DWELLING UNIT, A UTILITY SERVICE PROVIDER SHALL SEND A NOTICE BY FIRST CLASS MAIL TO THE AFFECTED DWELLING UNIT.~~

~~(II) THE UTILITY SERVICE PROVIDER SHALL ADDRESS THE NOTICE TO THE NAMED TENANT, IF THE UTILITY SERVICE PROVIDER KNOWS THE TENANT'S NAME, OR TO "ALL OCCUPANTS" IF THE UTILITY SERVICE PROVIDER DOES NOT KNOW THE TENANT'S NAME.~~

~~(III) THE OUTSIDE OF THE ENVELOPE CONTAINING THE WRITTEN NOTICE SHALL STATE, ON THE ADDRESS SIDE, IN BOLD, CAPITALIZED LETTERS IN AT LEAST 12-POINT TYPE, THE FOLLOWING: "IMPORTANT NOTICE TO TENANTS: UTILITY SHUT-OFF PENDING".~~

~~(IV) THE NOTICE SHALL STATE:~~

~~1. THE NAME OF THE CUSTOMER WHOSE SERVICE IS TO BE TERMINATED;~~

~~2. THE EARLIEST DATE WHEN SERVICE WILL BE TERMINATED;~~

~~3. THE TOTAL AMOUNT DUE AND UNPAID FOR THE UTILITY SERVICE;~~

~~4. THE AMOUNT DUE FOR THE MOST CURRENT BILLING CYCLE;~~

~~5. THE OFFICE ADDRESS AND TELEPHONE NUMBER OF A PERSON AT THE UTILITY SERVICE PROVIDER WHOM THE TENANT MAY CONTACT TO OBTAIN FURTHER INFORMATION;~~

~~6. THE RIGHTS AND RESPONSIBILITIES OF A TENANT UNDER SUBSECTIONS (B) AND (D) OF THIS SECTION;~~

~~7. THAT A UTILITY SERVICE PROVIDER IS AUTHORIZED TO REQUIRE A TENANT WHO IS NOT RECEIVING RENTAL ASSISTANCE FROM A PUBLIC HOUSING AUTHORITY OR ANY OTHER GOVERNMENTAL UNIT TO MAKE PAYMENTS FOR PAST DUE UTILITY BILLS;~~

~~8. THE DOLLAR AMOUNT OF THE PAYMENT DUE FOR PAST UTILITY BILLS AND THE BASIS FOR ITS CALCULATION; AND~~

~~9. THAT A UTILITY SERVICE PROVIDER THAT RECEIVES A PAYMENT FROM A TENANT SHALL MAIL TO THE TENANT COPIES OF ALL FUTURE UTILITY BILLS FOR UTILITY SERVICE PROVIDED TO THE AFFECTED DWELLING UNIT.~~

~~(F) A TENANT'S RIGHTS UNDER THIS SECTION MAY NOT BE WAIVED IN ANY LEASE.~~

~~Article — Real Property~~

~~§ 401.~~

~~(b) (1) Whenever any landlord shall desire to repossess any premises to which the landlord is entitled under the provisions of subsection (a) of this section, the landlord or the landlord's duly qualified agent or attorney shall file the landlord's written complaint under oath or affirmation, in the District Court of the county wherein the property is situated:~~

~~(iii) Stating the amount of rent and any late fees due and unpaid, LESS THE AMOUNT OF ANY UTILITY BILLS PAID BY A TENANT UNDER § 7-309 OF THE PUBLIC UTILITIES ARTICLE;~~

~~(e) (2) (iii) 2. The determination of rent and late fees shall include the following:~~

~~D. Credit for payments of rent [and], late fees, AND UTILITY BILLS PAID UNDER § 7-309 OF THE PUBLIC UTILITIES ARTICLE made by the tenant after the complaint was filed.~~

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

(a) The Public Service Commission shall convene a workgroup to study and make recommendations on how to develop a mechanism to allow tenants in residential properties to pay for their utilities when the landlord responsible for utility payments defaults on that responsibility.

(b) The workgroup shall include:

(1) the Office of People’s Counsel;

(2) the Public Justice Center;

(3) Energy Advocates;

(4) the Legal Aid Bureau;

(5) representatives from each gas and electric utility company operating in the State;

(6) representatives from private and public water utility companies and municipalities;

(7) representatives from a landlord association or a property owners association; and

(8) other interested stakeholders.

(c) In conducting the study, the workgroup shall examine:

(1) how to ensure proper notice is given to an occupant of a residential property when utility termination due to nonpayment is pending;

(2) what mechanism would be most effective in allowing a tenant to pay for utility usage when a landlord defaults on the landlord’s responsibility to pay;

(3) how to protect a utility company’s rights to pursue bad debt;

(4) how to protect a tenant's right to pursue breach of contract remedies;

(5) how similar efforts in other states have worked;

(6) how to eliminate the opportunity for fraud in the payment for utility usage by a tenant when a landlord defaults on the landlord's responsibility to pay; and

(7) any other matters the workgroup identifies as pertinent to the respective interests of the tenants, utilities, and landlords.

(d) On or before December 1, 2012, the Public Service Commission shall report its findings and recommendations to the Senate Finance Committee and the House Economic Matters Committee, in accordance with § 2-1246 of the State Government Article.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ June 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 574

(House Bill 1269)

AN ACT concerning

~~Public Utilities – Consumer Relations – Public Service Commission – Study~~
on Tenant Payment of Landlord Utility Bills

FOR the purpose of ~~authorizing certain tenants to prevent the termination of certain utility service by paying the amount due on a monthly bill; authorizing certain tenants to restore certain utility service by paying the amount due on a monthly bill and other applicable charges; authorizing certain tenants to pay for certain other charges; specifying that certain tenants may not incur liability by taking certain action; authorizing certain utility service providers to require certain tenants to pay for past due utility bills, subject to an exception; specifying the method by which a utility service provider may calculate charges for past due utility bills; authorizing certain tenants to deduct the amount of payments made on a landlord's utility bill from rent due to the landlord; requiring a utility service provider to provide certain tenants with copies of future utility bills under certain circumstances; specifying that a tenant's failure to make certain payments authorizes a utility service provider to terminate service under certain circumstances; requiring a utility service provider to provide certain~~

~~notice to certain tenants within a certain period of time before terminating service; prohibiting the waiver of certain rights; requiring a certain complaint for failure to pay rent to account for payments made by a tenant on a utility bill under certain circumstances; defining certain terms; and generally relating to payment of a utility bill by a tenant requiring the Public Service Commission to convene a workgroup to study and make recommendations on developing a mechanism to allow certain tenants to pay for utilities when a certain landlord defaults; providing for the composition of the workgroup; requiring the workgroup to examine certain issues in conducting a certain study; requiring the Commission to report to certain committees of the General Assembly on or before a certain date; and generally relating to a study on developing a mechanism to allow residential tenants to pay for utilities when a landlord responsible for paying the utilities defaults.~~

~~BY adding to~~

~~Article – Public Utilities~~

~~Section 7-309~~

~~Annotated Code of Maryland~~

~~(2010 Replacement Volume and 2011 Supplement)~~

~~BY repealing and reenacting, with amendments,~~

~~Article – Real Property~~

~~Section 8-401(b)(1)(iii) and (c)(2)(iii)2.D.~~

~~Annotated Code of Maryland~~

~~(2010 Replacement Volume and 2011 Supplement)~~

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

~~Article – Public Utilities~~

~~7-309.~~

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

~~(2) “AFFECTED DWELLING UNIT” MEANS A RESIDENTIAL DWELLING UNIT, AS DEFINED IN § 7-303 OF THIS SUBTITLE, WHERE THE UTILITY SERVICE:~~

~~(I) IS THE SUBJECT OF THREATENED OR ACTUAL TERMINATION;~~

~~(II) IS DELIVERED THROUGH A SEPARATELY METERED DWELLING UNIT; OR~~

~~(III) IF THE PROPERTY RECEIVING UTILITY SERVICE CONTAINS FOUR OR FEWER DWELLING UNITS, IS DELIVERED TO THE PROPERTY THROUGH A MASTER METER.~~

~~(3) "LANDLORD" MEANS AN OWNER OF AN AFFECTED DWELLING UNIT WHO RENTS THE AFFECTED DWELLING UNIT TO A TENANT AND OBTAINS UTILITY SERVICE FROM A UTILITY SERVICE PROVIDER.~~

~~(4) "TENANT" MEANS AN OCCUPANT OF AN AFFECTED DWELLING UNIT WHO RENTS THE AFFECTED DWELLING UNIT FROM A LANDLORD WHO IS THE CUSTOMER OF A UTILITY SERVICE PROVIDER.~~

~~(5) "UTILITY SERVICE" MEANS:~~

~~(I) GAS, ELECTRIC, OR WATER SERVICE PROVIDED BY A PUBLIC SERVICE COMPANY TO AN AFFECTED DWELLING UNIT; OR~~

~~(II) WATER SERVICE PROVIDED BY A COMMISSION, MUNICIPAL CORPORATION, OR OTHER GOVERNMENTAL UNIT TO AN AFFECTED DWELLING UNIT.~~

~~(6) "UTILITY SERVICE PROVIDER" MEANS:~~

~~(I) A PUBLIC SERVICE COMPANY THAT PROVIDES GAS, ELECTRIC, OR WATER SERVICE; OR~~

~~(II) A COMMISSION, A MUNICIPAL CORPORATION, OR ANY OTHER GOVERNMENTAL UNIT THAT PROVIDES WATER SERVICE.~~

~~(B) (1) A TENANT MAY:~~

~~(I) PREVENT THE TERMINATION OF UTILITY SERVICE ON A UTILITY ACCOUNT BY PAYING THE AMOUNT DUE FOR THE MOST RECENT BILLING CYCLE;~~

~~(II) HAVE UTILITY SERVICE RESTORED TO THE ACCOUNT BY PAYING THE AMOUNT DUE FOR THE MOST RECENT BILLING CYCLE AND THE AMOUNT OF ANY APPLICABLE TERMINATION OR RECONNECTION CHARGES;~~

~~(III) PAY AN AMOUNT THAT IS NOT YET DUE FOR UTILITY SERVICE; AND~~

~~(IV) PAY A CHARGE, AS CALCULATED UNDER SUBSECTION (C) OF THIS SECTION, FOR PAST DUE UTILITY BILLS.~~

~~(2) A TENANT MAY NOT INCUR LIABILITY FOR PREVIOUS OR FUTURE UTILITY CHARGES DUE ON THE ACCOUNT BY TAKING AN ACTION UNDER PARAGRAPH (1) OF THIS SUBSECTION.~~

~~(C) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A UTILITY SERVICE PROVIDER, IN ITS DISCRETION, MAY INCLUDE ON A BILL FOR THE FOLLOWING 24 MONTHS A CHARGE FOR PAST DUE UTILITY BILLS AS CALCULATED UNDER THIS SUBSECTION.~~

~~(2) A UTILITY SERVICE PROVIDER MAY NOT CHARGE A TENANT WHO RECEIVES RENTAL ASSISTANCE FROM A PUBLIC HOUSING AUTHORITY OR ANOTHER GOVERNMENTAL UNIT FOR PAST DUE UTILITY BILLS.~~

~~(3) A MONTHLY CHARGE FOR PAST DUE UTILITY BILLS ON THE UTILITY ACCOUNT SHALL BE CALCULATED BY:~~

~~(I) ADDING THE AMOUNT DUE FOR THE MOST CURRENT BILLING CYCLE AND THE AMOUNT OF THE SECURITY DEPOSIT PAID TO THE UTILITY SERVICE PROVIDER WITH RESPECT TO THE ACCOUNT;~~

~~(II) SUBTRACTING THE AMOUNT OF ITEM (I) OF THIS PARAGRAPH FROM THE SUM OF ALL PAST DUE UTILITY BILLS ON THE ACCOUNT; AND~~

~~(III) DIVIDING THE AMOUNT OF ITEM (II) OF THIS PARAGRAPH BY THE NUMBER OF BILLING CYCLES THAT THE UTILITY COMPANY HAS IN A 24 MONTH PERIOD.~~

~~(D) IF AN ORAL OR A WRITTEN LEASE REQUIRES A LANDLORD TO PAY A UTILITY BILL AND A TENANT PAYS A PORTION OF THE UTILITY BILL, THE TENANT MAY DEDUCT THE AMOUNT OF THE PAYMENTS FROM RENT DUE TO THE LANDLORD.~~

~~(E) (1) A UTILITY SERVICE PROVIDER THAT RECEIVES A PAYMENT FROM A TENANT SHALL MAIL TO THE TENANT COPIES OF ALL FUTURE UTILITY BILLS FOR UTILITY SERVICE PROVIDED WHILE THE TENANT RESIDES IN THE AFFECTED DWELLING UNIT.~~

~~(2) IF A TENANT FAILS TO MAKE A FUTURE PAYMENT ON THE LANDLORD'S ACCOUNT WHEN IT IS DUE, THE UTILITY SERVICE PROVIDER MAY TERMINATE SERVICE IN ACCORDANCE WITH EXISTING LAWS AND REGULATIONS.~~

~~(3) (i) AT LEAST 14 DAYS BEFORE TERMINATING UTILITY SERVICE TO AN AFFECTED DWELLING UNIT, A UTILITY SERVICE PROVIDER SHALL SEND A NOTICE BY FIRST CLASS MAIL TO THE AFFECTED DWELLING UNIT.~~

~~(ii) THE UTILITY SERVICE PROVIDER SHALL ADDRESS THE NOTICE TO THE NAMED TENANT, IF THE UTILITY SERVICE PROVIDER KNOWS THE TENANT'S NAME, OR TO "ALL OCCUPANTS" IF THE UTILITY SERVICE PROVIDER DOES NOT KNOW THE TENANT'S NAME.~~

~~(iii) THE OUTSIDE OF THE ENVELOPE CONTAINING THE WRITTEN NOTICE SHALL STATE, ON THE ADDRESS SIDE, IN BOLD, CAPITALIZED LETTERS IN AT LEAST 12 POINT TYPE, THE FOLLOWING: "IMPORTANT NOTICE TO TENANTS: UTILITY SHUT OFF PENDING".~~

~~(iv) THE NOTICE SHALL STATE:~~

~~1. THE NAME OF THE CUSTOMER WHOSE SERVICE IS TO BE TERMINATED;~~

~~2. THE EARLIEST DATE WHEN SERVICE WILL BE TERMINATED;~~

~~3. THE TOTAL AMOUNT DUE AND UNPAID FOR THE UTILITY SERVICE;~~

~~4. THE AMOUNT DUE FOR THE MOST CURRENT BILLING CYCLE;~~

~~5. THE OFFICE ADDRESS AND TELEPHONE NUMBER OF A PERSON AT THE UTILITY SERVICE PROVIDER WHOM THE TENANT MAY CONTACT TO OBTAIN FURTHER INFORMATION;~~

~~6. THE RIGHTS AND RESPONSIBILITIES OF A TENANT UNDER SUBSECTIONS (b) AND (d) OF THIS SECTION;~~

~~7. THAT A UTILITY SERVICE PROVIDER IS AUTHORIZED TO REQUIRE A TENANT WHO IS NOT RECEIVING RENTAL ASSISTANCE FROM A PUBLIC HOUSING AUTHORITY OR ANY OTHER GOVERNMENTAL UNIT TO MAKE PAYMENTS FOR PAST DUE UTILITY BILLS;~~

~~8. THE DOLLAR AMOUNT OF THE PAYMENT DUE FOR PAST UTILITY BILLS AND THE BASIS FOR ITS CALCULATION; AND~~

~~9. THAT A UTILITY SERVICE PROVIDER THAT RECEIVES A PAYMENT FROM A TENANT SHALL MAIL TO THE TENANT COPIES OF ALL FUTURE UTILITY BILLS FOR UTILITY SERVICE PROVIDED TO THE AFFECTED DWELLING UNIT.~~

~~(F) A TENANT'S RIGHTS UNDER THIS SECTION MAY NOT BE WAIVED IN ANY LEASE.~~

~~Article – Real Property~~

~~§ 401.~~

~~(b) (1) Whenever any landlord shall desire to repossess any premises to which the landlord is entitled under the provisions of subsection (a) of this section, the landlord or the landlord's duly qualified agent or attorney shall file the landlord's written complaint under oath or affirmation, in the District Court of the county wherein the property is situated:~~

~~(iii) Stating the amount of rent and any late fees due and unpaid, LESS THE AMOUNT OF ANY UTILITY BILLS PAID BY A TENANT UNDER § 7-309 OF THE PUBLIC UTILITIES ARTICLE;~~

~~(e) (2) (iii) 2. The determination of rent and late fees shall include the following:~~

~~D. Credit for payments of rent [and], late fees, AND UTILITY BILLS PAID UNDER § 7-309 OF THE PUBLIC UTILITIES ARTICLE made by the tenant after the complaint was filed.~~

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

(a) The Public Service Commission shall convene a workgroup to study and make recommendations on how to develop a mechanism to allow tenants in residential properties to pay for their utilities when the landlord responsible for utility payments defaults on that responsibility.

(b) The workgroup shall include:

- (1) the Office of People's Counsel;
- (2) the Public Justice Center;
- (3) Energy Advocates;
- (4) the Legal Aid Bureau;

(5) representatives from each gas and electric utility company operating in the State;

(6) representatives from private and public water utility companies and municipalities; ~~and~~

(7) representatives from a landlord association or a property owners association; and

(8) other interested stakeholders.

(c) In conducting the study, the workgroup shall examine:

(1) how to ensure proper notice is given to an occupant of a residential property when utility termination due to nonpayment is pending;

(2) what mechanism would be most effective in allowing a tenant to pay for utility usage when a landlord defaults on the landlord's responsibility to pay;

(3) how to protect a utility company's rights to pursue bad debt;

(4) how to protect a tenant's right to pursue breach of contract remedies;

(5) how similar efforts in other states have worked;

(6) how to ~~minimize~~ eliminate the opportunity for fraud in the payment for utility usage by a tenant when a landlord defaults on the landlord's responsibility to pay; and

(7) any other matters the workgroup identifies as pertinent to the respective interests of the tenants, utilities, and landlords.

(d) On or before December 1, 2012, the Public Service Commission shall report its findings and recommendations to the Senate Finance Committee and the House Economic Matters Committee, in accordance with § 2-1246 of the State Government Article.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ June 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 575**(Senate Bill 778)**

AN ACT concerning

**Commercial Law – Rental-Purchase Agreements ~~Best Practices Act~~ –
Disclosures**

FOR the purpose of ~~requiring certain annual percentage rates to be disclosed in a rental purchase agreement; prohibiting certain items from being included in a rental purchase agreement; altering the circumstances under which a consumer may reinstate a rental purchase agreement; requiring a reduction in certain payments under certain circumstances; requiring a certain lessor to maintain certain records for a certain period of time; establishing a certain maximum price that may be charged to a consumer under certain circumstances; establishing a certain maximum total amount paid by a certain consumer over a certain period of time; requiring a lessor to provide a written receipt and a written statement to a consumer under certain circumstances; requiring a certain written receipt to contain certain information; requiring a certain percentage rate to be stated on certain advertisements; authorizing certain attorney's fees and court costs for a certain violation; providing that a certain violation is an unfair or deceptive trade practice under the Maryland Consumer Protection Act; providing that a rental purchase agreement is void under certain circumstances; providing for certain penalties if the agreement is void; prohibiting a lessor from bringing a certain court action unless a certain notice is given to the consumer; requiring a rental purchase agreement to be written in a certain manner; altering a certain form used to satisfy certain disclosure requirements; requiring a bill or invoice sent to a consumer to contain certain information; authorizing the Attorney General's Office to adopt and enforce certain regulations and bring a certain civil action; requiring the Attorney General's Office to place certain items on its Web site to include a certain sample rental-purchase agreement; altering a certain short title; defining certain terms; altering certain definitions; and generally relating to rental-purchase agreements best practices.~~

BY repealing and reenacting, with amendments,

Article – Commercial Law

~~Section 12-1101, 12-1104 through 12-1107, and 12-1109 through 12-1112~~
Section 12-1107

Annotated Code of Maryland

(2005 Replacement Volume and 2011 Supplement)

~~BY repealing and reenacting, without amendments,~~~~Article – Commercial Law~~~~Section 12-1102, 12-1103, and 12-1108~~~~Annotated Code of Maryland~~

~~(2005 Replacement Volume and 2011 Supplement)~~

BY adding to

Article – Commercial Law

Section 12-1106.1, 12-1110.1, and 12-1111.1, ~~and 12-1111.2~~

Annotated Code of Maryland

(2005 Replacement Volume and 2011 Supplement)

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

Article – Commercial Law

~~12-1101.~~

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

~~(b) (1) “Advertisement” means a commercial message in any medium that aids, promotes, or assists, directly or indirectly, a rental purchase agreement.~~

~~(2) “Advertisement” does not include in-store merchandising ads.~~

~~(c) “APPLIANCE” MEANS ANY REFRIGERATOR, FREEZER, RANGE, COOKTOP, OVEN, WASHER, DRYER, DISHWASHER, AIR CONDITIONER, AIR PURIFIER, COMPUTER PROCESSOR, PRINTER, COMPUTER MONITOR, OR OTHER SIMILAR MACHINE USED IN A HOUSEHOLD.~~

~~(d) “BALLOON PAYMENT” MEANS ANY PAYMENT GREATER THAN THE REGULAR MONTHLY PAYMENT.~~

~~[(e)] (E) “Cash price” means the price at which the lessor would have sold rental property covered by a rental purchase agreement to the consumer unconditionally for cash on the date of consummation.~~

~~[(d)] (F) “Consumer” means an individual who rents OR ATTEMPTS TO RENT personal property under a rental purchase agreement primarily for personal, family, or household purposes.~~

~~[(e)] (G) “Consummation” means the time at which a consumer enters into a rental purchase agreement.~~

~~(h) (1) “ELECTRONIC DEVICE” MEANS:~~

~~(i) A TELEVISION, RADIO, CAMERA, VIDEO GAME, COMPUTER PROCESSOR, VIDEO MONITOR, PRINTER, OR PERIPHERAL DEVICE DESIGNED PRIMARILY FOR USE WITH A COMPUTER; OR~~

~~(H) A DEVICE USED FOR THE RECORDING, STORAGE, COPYING, PRINTING, TRANSMISSION, DISPLAY, OR PLAYBACK OF ANY SOUND OR IMAGE.~~

~~(2) "ELECTRONIC DEVICE" DOES NOT INCLUDE AN APPLIANCE.~~

~~[(f)] (I) "Lessor" means a person who regularly provides the use of personal property through rental purchase agreements to consumers and to whom rental payments are initially payable on the face of a rental purchase agreement.~~

~~(J) "LESSOR'S COST" MEANS THE ACTUAL COST, INCLUDING FREIGHT CHARGES, OF THE RENTAL PROPERTY TO THE LESSOR FROM A WHOLESALER, DISTRIBUTOR, SUPPLIER, OR MANUFACTURER AND NET OF ANY DISCOUNTS, REBATES, AND INCENTIVES.~~

~~[(g)] (K) "Rental property" means personal property that is the subject of a rental purchase agreement.~~

~~[(h)] (L) "Rental purchase agreement" means an agreement that:~~

~~(1) Is for the use of personal property by an individual primarily for personal, family, or household purposes;~~

~~(2) [Is for an initial period of 4 months or less;~~

~~(3)] Is automatically renewable for a weekly or monthly period with each rental payment after the initial period; and~~

~~[(4)] (3) Allows but does not obligate the consumer to become the owner of the property.~~

~~12-1102.~~

~~(a) A rental purchase agreement that complies with this subtitle may not be deemed to be:~~

~~(1) A "retail sale", as defined in § 12-601(s) of this title;~~

~~(2) An "installment sale agreement", as defined in § 12-601(m) of this title; or~~

~~(3) A "security interest", as defined in § 1-201(37) of this article.~~

~~(b) This subtitle does not apply to:~~

~~(1) A rental purchase agreement made primarily for business, commercial, or agricultural purposes, or made with governmental agencies, instrumentalities, or organizations;~~

~~(2) A rental of a safe deposit box;~~

~~(3) A lease or bailment of personal property that:~~

~~(i) Is incidental to the rental of real property; and~~

~~(ii) Provides that the consumer has no option to purchase the rented real property; or~~

~~(4) A lease of an automobile.~~

~~12-1103.~~

~~(a) (1) A lessor shall disclose to a consumer the information required under this subtitle.~~

~~(2) In a transaction involving more than 1 lessor, only 1 lessor need make the disclosures required under this subtitle, but all lessors shall be bound by the disclosures made.~~

~~(b) A lessor shall make the disclosures required under this subtitle before consummation of the rental purchase agreement.~~

~~(c) A lessor shall:~~

~~(1) Make the disclosures required under this subtitle in a written form that is simple and understandable and is written or typed in a size not less than 10 point type;~~

~~(2) Make the disclosures required under this subtitle on the face of the rental purchase agreement above the consumer's signature line; and~~

~~(3) Deliver a copy of the rental purchase agreement to the consumer.~~

~~(d) If a disclosure becomes inaccurate as a result of any act, occurrence, or agreement by the consumer after delivery of the rental property, the resulting inaccuracy is not a violation of this subtitle.~~

~~12-1104.~~

~~(a) The lessor shall disclose in each rental purchase agreement, as applicable:~~

- ~~(1) The total number, total amount, and timing of all rental payments necessary to acquire ownership of the rental property;~~
- ~~(2) A statement that the consumer will not own the rental property until the consumer has paid the total of payments necessary to acquire ownership;~~
- ~~(3) A brief description of the rental property sufficient to identify the rental property to the consumer and the lessor, including an identification number and a statement indicating whether the rental property is new or used;~~
- ~~(4) (i) A statement of the cash price of the rental property; or~~
 - ~~(ii) If a single rental purchase agreement involves a lease of 2 or more items of rental property as a set, a statement of the aggregate cash price of all items;~~
- ~~(5) The total of initial payments paid or required to be paid at or before consummation of the rental purchase agreement or delivery of the rental property, whichever is later;~~
- ~~(6) A statement that the total of rental payments does not include other charges, such as reinstatement fees, damage fees, or pickup fees;~~
- ~~(7) A statement that the consumer has the right to exercise an early purchase option and the price, formula, or method for determining the early purchase option price;~~
- ~~(8) A statement that the consumer must pay the early purchase option price for the rental property if, and when, the rental property is lost, stolen, damaged, or destroyed;~~
- ~~(9) (i) A statement identifying the lessor as the party responsible for maintaining or servicing the rental property while it is being rented;~~
 - ~~(ii) A description of that responsibility; and~~
 - ~~(iii) A statement that if any part of a manufacturer's express warranty covers the rental property at the time the consumer acquires ownership of the rental property, it shall be transferred to the consumer, if allowed by the terms of the warranty;~~
- ~~(10) The date of consummation and the identities of the lessor and consumer;~~
- ~~(11) A statement that the consumer may terminate the rental purchase agreement without penalty by voluntarily surrendering or returning the rental~~

~~property in good repair, normal wear and tear excepted, upon expiration of any rental term and payment of any past due rental payments;~~

~~(12) Notice of the consumer's right to reinstate an agreement as provided in § 12-1106 of this subtitle; [and]~~

~~(13) Any other charges, including reinstatement fees, damage fees, and pickup fees; AND~~

~~(14) THE EFFECTIVE ANNUAL PERCENTAGE RATE (APR) OF EACH ITEM OR THE SET OF ITEMS LEASED.~~

~~(b) A lessor shall place on property which is to be leased as a part of a rental purchase agreement and is displayed in the lessor's place of business a tag which shall indicate:~~

~~(1) The number and amount of individual renewal payments necessary to purchase the property;~~

~~(2) The total amount necessary to purchase the property; and~~

~~(3) Whether the property is new or used.~~

~~12-1105.~~

~~A rental purchase agreement may not contain:~~

~~(1) A confession of judgment;~~

~~(2) A negotiable instrument;~~

~~(3) A security interest or any other claim of a property interest in any goods except the rental property delivered by the lessor pursuant to the rental purchase agreement;~~

~~(4) A wage assignment;~~

~~(5) A waiver by the consumer of claims or defenses; [or]~~

~~(6) A provision authorizing the lessor or a person acting on the lessor's behalf to enter upon the consumer's premises or to commit any breach of the peace in the repossession of rental property;~~

~~(7) AN INTEREST RATE THAT EXCEEDS 6%;~~

~~(8) A REQUIREMENT THAT THE LESSOR HAVE INSURANCE;~~

- ~~(9) A PENALTY OR CHARGE FOR EARLY PURCHASE;~~
- ~~(10) A BALLOON PAYMENT TOTALING MORE THAN THREE REGULAR MONTHLY PAYMENTS;~~
- ~~(11) A SECURITY DEPOSIT;~~
- ~~(12) MORE THAN ONE LATE CHARGE OR REINSTATEMENT FEE DURING A PERIOD OF DELINQUENCY;~~
- ~~(13) A LATE CHARGE OR REINSTATEMENT FEE UNLESS A CONSUMER HAS BEEN DELINQUENT FOR MORE THAN 5 DAYS;~~
- ~~(14) A MANDATORY ARBITRATION CLAUSE;~~
- ~~(15) ANY INFORMATION THAT IS NOT REQUIRED BY LAW;~~
- ~~(16) A TIME PERIOD LESS THAN 3 DAYS AFTER SIGNING THE RENTAL PURCHASE AGREEMENT FOR THE CONSUMER TO RESCIND THE RENTAL PURCHASE AGREEMENT; OR~~
- ~~(17) A CHARGE OR PENALTY FOR A LESSOR WHO RESCINDS THE RENTAL PURCHASE AGREEMENT BEFORE TAKING POSSESSION OF THE PROPERTY SUBJECT TO THE RENTAL PURCHASE AGREEMENT.~~

~~12-1106.~~

~~(a) A consumer who fails to make a timely rental payment may reinstate the rental purchase agreement, without losing any rights or options that exist under the rental purchase agreement, if within [5] 60 days of the renewal date, for a consumer who renews on a monthly basis, or within [2] 21 days of the renewal date, for a consumer who renews on a weekly basis, BUT IN NO CASE LESS THAN 90 DAYS FOR A CONSUMER WHO HAS PAID AT LEAST 51% OF THE TOTAL PAYMENTS NECESSARY TO ACQUIRE OWNERSHIP OF THE RENTAL PROPERTY, IF the consumer pays:~~

- ~~(1) All past due rental charges;~~
- ~~(2) If the rental property has been picked up or repossessed, the reasonable costs of pickup and redelivery; and~~
- ~~(3) Any applicable reinstatement fee, which may not exceed \$5.~~

~~(b) A consumer who has paid less than [two thirds] 51% of the total of payments necessary to acquire ownership of the rental property and who has returned or voluntarily surrendered the rental property without judicial process during the applicable reinstatement period under subsection (a) of this section or who has made the property available for pickup at the request of the lessor, whichever occurs last, may reinstate the rental purchase agreement prior to a date not less than 21 days after the date of the return of the rental property.~~

~~(e) A consumer who has paid [two thirds] 51% or more of the total of payments necessary to acquire ownership of the rental property and who has returned or voluntarily surrendered the rental property without judicial process during the applicable period set forth in subsection (a) of this section or who has made the property available for pickup at the request of the lessor, whichever occurs last, may reinstate the rental purchase agreement prior to a date not less than [45] 90 days after the date of the return of the rental property.~~

~~(d) Nothing in this section shall prevent a lessor from repossessing the property during the reinstatement period, but a repossession may not affect the consumer's right to reinstate. After reinstatement, the lessor shall provide the consumer with the same rental property or a substitute property of comparable quality and condition.~~

~~(e) (1) A lessor may repossess property under a rental purchase agreement if the consumer is in default of:~~

~~(i) Any sum due under the agreement; or~~

~~(ii) The performance of any promise the breach of which is expressly made a ground for repossessing the property.~~

~~(2) A lessor may repossess property only by legal process or self help without the use of force. Nothing in this section authorizes a violation of criminal law.~~

~~(3) At the time of repossession of the property, the lessor shall deliver to the consumer a written notice which states the right of the buyer to reinstate the rental purchase agreement, the last date by which the consumer may reinstate the agreement, and the amount payable for reinstatement.~~

~~(4) [The] A consumer WHO HAS PAID LESS THAN 51% OF THE TOTAL PAYMENTS NECESSARY TO ACQUIRE OWNERSHIP OF THE RENTAL PROPERTY may reinstate the rental purchase agreement within [15] 21 days after the date of repossession by paying ONLY THE FOLLOWING:~~

~~(i) All past due rental charges, SUBJECT TO INTEREST AND PENALTIES NOT TO EXCEED 6% OF THE ARREARAGE;~~

- ~~(ii) The reasonable costs of pickup and redelivery; and~~
- ~~(iii) A reinstatement fee of \$5.~~

~~(5) SUBJECT TO SUBSECTION (F) OF THIS SECTION, A CONSUMER WHO PAID MORE THAN 51% OF THE VALUE OF THE TOTAL PAYMENTS NECESSARY TO ACQUIRE OWNERSHIP OF THE RENTAL PROPERTY MAY REINSTATE THE RENTAL PURCHASE AGREEMENT WITHIN 90 DAYS AFTER THE REPOSSESSION BY PAYING:~~

~~(i) ALL PAST DUE RENTAL CHARGES, SUBJECT TO INTEREST AND PENALTIES NOT TO EXCEED 6% OF THE ARREARAGE;~~

~~(ii) THE REASONABLE COSTS OF PICKUP AND REDELIVERY, WHICH IN NO CASE MAY EXCEED 6% OF THE ARREARAGE; AND~~

~~(iii) A REINSTATEMENT FEE OF \$5.~~

~~(F) (1) A CONSUMER WHO HAS SIGNED A RENTAL PURCHASE AGREEMENT AND EXPERIENCES AN INTERRUPTION OF INCOME OR REDUCTION OF 25% OR MORE SHALL HAVE THE AMOUNT OF EACH PAYMENT REDUCED.~~

~~(2) THE INCOME INTERRUPTION OR REDUCTION UNDER PARAGRAPH (1) OF THIS SUBSECTION MUST BE DUE TO:~~

- ~~(i) INVOLUNTARY JOB LOSS;~~
- ~~(ii) INVOLUNTARY REDUCED EMPLOYMENT;~~
- ~~(iii) ILLNESS;~~
- ~~(iv) PREGNANCY; OR~~
- ~~(v) DISABILITY.~~

~~(3) TO QUALIFY FOR A PAYMENT REDUCTION UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE CONSUMER SHALL HAVE:~~

~~(i) PAID 51% OR MORE OF THE VALUE OF THE TOTAL PAYMENTS NECESSARY TO ACQUIRE OWNERSHIP OF THE RENTAL PROPERTY; AND~~

~~(ii) PROVIDED TO THE LESSOR SOME EVIDENCE OF THE AMOUNT AND CAUSE OF THE INTERRUPTION OR REDUCTION IN INCOME.~~

~~(4) THE LESSOR SHALL REDUCE THE AMOUNT OF EACH RENTAL PAYMENT TO EQUAL THE LESSER OF:~~

~~(I) THE PERCENTAGE REDUCTION IN THE CONSUMER'S INCOME; OR~~

~~(II) 50%.~~

12-1106.1.

~~(A) A LESSOR SHALL MAINTAIN A COPY OF THE RENTAL-PURCHASE AGREEMENT FOR 4 3 YEARS AFTER THE FINAL PAYMENT ON A RENTAL-PURCHASE AGREEMENT, ~~THE FOLLOWING:~~~~

~~(1) RECORDS THAT ESTABLISH THE LESSOR'S COST FOR EACH ITEM OF PROPERTY SUBJECT TO THE RENTAL-PURCHASE AGREEMENT;~~

~~(2) A COPY OF THE RENTAL-PURCHASE AGREEMENT; AND~~

~~(3) THE RECORDS ON WHICH THE CASH PRICE IS BASED.~~

~~(B) THE MAXIMUM CASH PRICE CHARGED TO A CONSUMER MAY NOT EXCEED:~~

~~(1) 1.56% OF THE LESSOR'S COST FOR APPLIANCES OR ELECTRONICS; OR~~

~~(2) 1.67% OF THE LESSOR'S COST FOR ANY ITEM THAT IS NOT AN APPLIANCE OR ELECTRONIC DEVICE.~~

~~(C) THE MAXIMUM TOTAL MONEY PAID OVER THE LIFE OF THE RENTAL-PURCHASE AGREEMENT MAY NOT EXCEED TWO TIMES THE MAXIMUM CASH PRICE.~~

12-1107.

(A) A lessor shall provide the consumer with a written receipt for each payment under a rental-purchase agreement made ~~in person~~ by cash ~~for~~, money order, OR, IF THE PAYMENT IS MADE IN ANY OTHER FORM, ON REQUEST ANY PAYMENT METHOD THAT DOES NOT PROVIDE EVIDENCE OF PAYMENT.

(B) THE WRITTEN RECEIPT SHALL CONTAIN THE:

(1) TOTAL AMOUNT PAID;

(2) TOTAL AMOUNT DUE THAT WEEK OR MONTH; AND

(3) TOTAL REMAINING RENTAL PAYMENTS NECESSARY TO ACQUIRE OWNERSHIP OF THE ITEM.

(C) THE LESSOR SHALL PROVIDE THE CONSUMER WITH A WRITTEN STATEMENT OF ACCOUNT WITHIN 3 DAYS AFTER THE CONSUMER'S REQUEST.

~~12-1108.~~

~~(a) When a rental purchase agreement is satisfied and replaced by a new rental purchase agreement between the lessor and consumer, the lessor and consumer shall negotiate a new rental purchase agreement requiring new disclosures.~~

~~(b) The following do not require the negotiation of a new rental purchase agreement:~~

~~(1) The addition or return of rental property under a multiple item agreement or the substitution of the rental property, if in either case the average payment allocable to a payment period is not changed by more than 25 percent;~~

~~(2) A deferral or extension of 1 or more rental payments, or portions of a rental payment;~~

~~(3) A reduction in charges in the rental purchase agreement; or~~

~~(4) A rental purchase agreement involved in a court proceeding.~~

~~12-1109.~~

~~(a) An advertisement for a rental purchase agreement that refers to or states the dollar amount of any payment and the right to acquire ownership for any 1 specific item shall clearly and conspicuously state, as applicable:~~

~~(1) That the transaction advertised is a rental purchase agreement;~~

~~(2) The total cost and the number of payments necessary to acquire ownership; [and]~~

~~(3) That the consumer acquires no ownership right if the total amount necessary to acquire ownership is not paid; AND~~

~~(4) THE EFFECTIVE ANNUAL PERCENTAGE RATE (APR) OF THE RENTAL PURCHASE AGREEMENT.~~

~~(b) Any owner, employee, or agent of any medium in which an advertisement appears or through which it is disseminated may not be liable for violations under this section.~~

~~(c) The requirements under subsection (a) of this section do not apply to an advertisement that:~~

~~(1) Does not refer to or state the amount of any payment; or~~

~~(2) Is published in the yellow pages of a telephone directory or in any similar directory of business.~~

~~12-1110.~~

~~(a) A person who willfully and intentionally OR NEGLIGENTLY violates any provision of this subtitle is guilty of a misdemeanor and on conviction is subject to a fine not to exceed \$500 per violation.~~

~~(b) For a violation of a provision of this subtitle, a consumer under a rental purchase agreement may recover from the lessor committing the violation, or may set off by way of a counterclaim in an action brought by the lessor or its assignee, an amount equal to:~~

~~(1) Actual damages; [and]~~

~~(2) \$500 plus reasonable attorney's fees and court costs FOR A NEGLIGENT VIOLATION; AND~~

~~(3) \$1,000 PLUS REASONABLE ATTORNEY'S FEES AND COURT COSTS FOR A WILLFUL AND INTENTIONAL VIOLATION.~~

~~(c) A lessor or its assignee may not be held liable under this subtitle if the lessor or its assignee proves by a preponderance of the evidence:~~

~~(1) That the violation was unintentional and resulted from a bona fide error, notwithstanding the maintenance of procedures reasonably adopted to avoid that type of error; and~~

~~(2) That the lessor or its assignee corrected the error and refunded any money excessively charged due to the error, within 30 days after discovering or receiving notice of the error.~~

~~(D) A WILLFUL AND INTENTIONAL VIOLATION OF THIS SUBTITLE IS AN UNFAIR OR DECEPTIVE TRADE PRACTICE UNDER TITLE 13, SUBTITLE 3 OF THIS ARTICLE.~~

~~(E) (1) THE RENTAL PURCHASE AGREEMENT IS VOID IF A LESSOR WILLFULLY AND INTENTIONALLY DISCLOSES A CASH PRICE OR TOTAL OF PAYMENTS THAT EXCEEDS THE AMOUNT PERMITTED UNDER THIS SUBTITLE.~~

~~(2) IF THE RENTAL PURCHASE AGREEMENT IS VOIDED UNDER PARAGRAPH (1) OF THIS SUBSECTION:~~

~~(I) THE CONSUMER SHALL RETAIN THE MERCHANDISE WITHOUT OBLIGATION TO THE LESSOR; AND~~

~~(II) THE LESSOR SHALL REFUND TO THE CONSUMER ALL AMOUNTS PAID, INCLUDING ANY FEES, DELIVERY CHARGES, AND PENALTIES.~~

12-1110.1.

(A) A LESSOR MAY NOT BRING A COURT ACTION TO RECOVER PROPERTY SUBJECT TO A RENTAL-PURCHASE AGREEMENT UNTIL 15 DAYS AFTER THE CONSUMER HAS ~~RECEIVED ACTUAL~~ BEEN SENT NOTICE OF A DEFAULT.

(B) NOTICE OF DEFAULT SENT BY CERTIFIED MAIL TO THE CONSUMER'S LAST KNOWN ADDRESS CONSTITUTES ~~ACTUAL~~ NOTICE.

~~(C) ANY PERSON AT THE LAST KNOWN ADDRESS OF THE CONSUMER MAY SIGN FOR THE NOTICE.~~

~~(D) THE NOTICE SHALL INCLUDE ANY AMOUNT THE CONSUMER MUST PAY TO REINSTATE THE RENTAL-PURCHASE AGREEMENT, IF APPLICABLE.~~

~~(E) THE AMOUNT STATED IN THE NOTICE SHALL CONSTITUTE SATISFACTION OF THE RENTAL PURCHASE AGREEMENT IF THE AMOUNT IS PAID WITHIN 7 DAYS AFTER RECEIVING THE NOTICE.~~

~~(F) THE NOTICE OF DEFAULT ALSO MUST INCLUDE ANY LEGAL RIGHTS THAT ARE REQUIRED BY THE ATTORNEY GENERAL TO BE DISCLOSED.~~

~~(G) THE NOTICE REQUIRED BY THIS SECTION IS NOT A SUBSTITUTE FOR ANY ADDITIONAL SERVICE OF PROCESS REQUIRED BY LAW.~~

~~12-1111.~~

~~(A) A RENTAL PURCHASE AGREEMENT SHALL BE WRITTEN IN PLAIN ENGLISH AND IN THE FORM OF OTHER LANGUAGE USED BY THE LESSOR IN ADVERTISEMENTS RELATED TO RENTAL PURCHASE AGREEMENTS.~~

~~(B) The following is an example of a form which shall be used to satisfy the disclosure requirements of §§ 12-1103(c) and 12-1104 of this subtitle:~~

~~THE EFFECTIVE ANNUAL PERCENTAGE RATE (APR) OF THIS TRANSACTION~~
~~=====~~
~~0%~~

~~WARNING: DO NOT SIGN THIS AGREEMENT BEFORE YOU HAVE READ IT OR IF IT CONTAINS BLANK SPACES.~~

~~"Rental Purchase Agreement~~

~~1. Lessor(s): Lessee(s):~~
~~Name _____ Name _____~~
~~Address _____ Address _____~~
~~Telephone no. _____ Telephone no. _____~~

~~2. Description of Rental Property:~~

| Item | Quantity | Identification Number | Condition |
|-----------------|---------------------|----------------------------------|-----------------------|
| _____ | _____ | _____ | New _____ |
| _____ | _____ | _____ | Used _____ |

~~Cash Price: _____~~

~~3. Total Initial Payment:~~
~~Rental Payment: \$ _____~~
~~Delivery Charge: \$ _____~~
~~Tax: \$ _____~~
~~Other (specify): \$ _____~~
~~Total: \$ _____~~

~~4. Rental Payments: =~~
~~Total Weekly Rental Payments: _____ (includes tax)~~
~~Total Monthly Rental Payment: _____ (includes tax)~~

~~5. Other Charges: =~~
~~In Home Pick-up Fee: \$ _____~~
~~Reinstatement Fee: \$ _____~~
~~Other (specify): \$ _____~~

~~6. Total Cost To Acquire Ownership:~~
~~If you renew this rental agreement each week/month, for _____~~
~~weeks/months, you will pay a total of \$ _____ to own the rental property.~~
~~This amount includes your total initial payment but does not include other~~

~~charges such as damage, reinstatement or pick-up fees for which you may be liable.~~

~~THE EFFECTIVE ANNUAL PERCENTAGE RATE (APR) OF THIS TRANSACTION IS _____%.~~

~~7. No Ownership Until Total Paid:~~

~~You will not acquire ownership of the rental property until you pay the total rental payments necessary to acquire ownership, or unless you exercise an early purchase option.~~

~~8. Early Purchase Option:~~

~~You may purchase the rental property at any time after your first rental payment.~~

~~(Describe formula or method here)~~

~~9. Maintenance:~~

~~We (lessor) are responsible for maintaining the rental property in good working condition while it is being rented. We will provide all necessary service, repair or replacement (specify if in home or in store) if you notify us by phone or mail that service is needed. We will not be responsible for repairs done by anyone other than us.~~

~~10. Warranty:~~

~~If allowed by the manufacturer, the manufacturer's express warranty covering the rental property rented under this agreement will be transferred to you if, and at the time, you acquire ownership of the rental property.~~

~~11. Damages:~~

~~You (lessee) are entirely responsible for loss, damages, theft or destruction of the rental property while it is in your possession. Your liability for such damage will not exceed the early purchase option price of the rental property as of the date it is lost, stolen, damaged or destroyed.~~

~~12. Termination:~~

~~You (lessee) may terminate this agreement without penalty at the end of any weekly or monthly term by returning the rental property to us in good condition. You will be liable for any unpaid rental payments due upon the date of return.~~

~~13. Reinstatement:~~

~~If you (lessee) fail to make a timely payment, you may reinstate the agreement without penalty, if:~~

- ~~1) You pay all past due rental charges and a reinstatement fee within ~~[2]~~ **21** days (weekly renters) or ~~[5]~~ **60** days (monthly renters) of your renewal date; or~~
- ~~2) You return or voluntarily surrender the rental property within 2 days (weekly renters) or 5 days (monthly renters) of your renewal date. If you choose to reinstate the agreement after returning the rental property, you will have up to 21 days (or longer depending on how long you have rented the rental property) to pay all past due rental charges, a reinstatement fee and a reasonable redelivery fee if we deliver the rental property.~~

~~I have read the above disclosures before signing this rental purchase agreement.~~

~~Lessee(s): _____
_____”~~

~~Date: _____~~

~~12-1111.1.~~

~~EACH BILL OR INVOICE SENT TO A CONSUMER MUST CONTAIN THE:~~

- ~~(1) TOTAL AMOUNT PAID;~~
- ~~(2) TOTAL BALANCE DUE THAT MONTH;~~
- ~~(3) TOTAL OUTSTANDING BALANCE;~~
- ~~(4) EFFECTIVE ANNUAL PERCENTAGE RATE (APR) OF THE TOTAL OUTSTANDING BALANCE; AND~~
- ~~(5) AMOUNT OF INTEREST SAVED BY PAYING DOWN THE TOTAL OUTSTANDING BALANCE IN 6 MONTHS AND IN 1 YEAR.~~

~~12-1111.2.~~ 12-1111.1.

~~(A) THE ATTORNEY GENERAL MAY ADOPT AND ENFORCE REGULATIONS TO CARRY OUT THIS SUBTITLE.~~

~~(B) THE ATTORNEY GENERAL'S WEB SITE SHALL INCLUDE THE SAMPLE FORMS AND RENTAL-PURCHASE AGREEMENTS FOR THE CONVENIENCE OF LESSORS AGREEMENT IN § 12-1111 OF THIS SUBTITLE.~~

~~(C) THE ATTORNEY GENERAL MAY BRING A CIVIL ACTION TO RESTRAIN A LESSOR OR A PERSON ACTING ON BEHALF OF THE ATTORNEY GENERAL FROM:~~

- ~~(1) MAKING OR ENFORCING UNCONSCIONABLE TERMS OR PROVISIONS IN A RENTAL PURCHASE AGREEMENT;~~
- ~~(2) ENGAGING IN FRAUDULENT OR UNCONSCIONABLE CONDUCT TO INDUCE A CONSUMER TO ENTER INTO A RENTAL PURCHASE AGREEMENT OR RELATED TRANSACTION; OR~~
- ~~(3) ENGAGING IN FRAUDULENT OR UNCONSCIONABLE CONDUCT IN THE COLLECTION OF PAYMENTS ARISING FROM A RENTAL PURCHASE AGREEMENT.~~

~~12-1112.~~

~~This subtitle may be cited as the Maryland Rental Purchase Agreement BEST PRACTICES Act.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 576

(House Bill 997)

AN ACT concerning

Commercial Law – Rental–Purchase Agreements ~~Best Practices Act~~ – Disclosures

FOR the purpose of ~~requiring certain annual percentage rates to be disclosed in a rental purchase agreement; prohibiting certain items from being included in a rental purchase agreement; altering the circumstances under which a consumer may reinstate a rental purchase agreement; requiring a reduction in certain payments under certain circumstances; requiring a certain lessor to maintain certain records for a certain period of time; establishing a certain maximum price that may be charged to a consumer under certain circumstances; establishing a certain maximum total amount paid by a certain consumer over a certain period of time; requiring a lessor to provide a written receipt and a written statement to a consumer under certain circumstances; requiring a certain written receipt to contain certain information; requiring a certain percentage rate to be stated on certain advertisements; authorizing certain attorney's fees and court costs for a certain violation; providing that a certain violation is an unfair or deceptive trade practice under the Maryland Consumer Protection Act; providing that a rental purchase agreement is void under certain circumstances; providing for certain penalties if the agreement is void; prohibiting a lessor from bringing a certain court action unless a certain notice is given to the consumer; requiring a rental purchase agreement to be written in a certain manner; altering a certain form used to satisfy certain disclosure requirements; requiring a bill or invoice sent to a consumer to contain certain information; authorizing the Attorney General's Office to adopt and enforce certain regulations and bring a certain civil action; requiring the Attorney General's Office to place certain items on its Web site to include a certain sample rental–purchase agreement; requiring certain information to be disclosed by the lessor; altering a certain short title; defining certain terms; altering certain definitions; and generally relating to rental–purchase agreements best practices.~~

BY repealing and reenacting, with amendments,
Article – Commercial Law

~~Section 12-1101, 12-1104 through 12-1107, and 12-1109 through 12-1112~~
~~Section 12-1107 and 12-1112~~
 Annotated Code of Maryland
 (2005 Replacement Volume and 2011 Supplement)

~~BY repealing and reenacting, without amendments,~~
~~Article – Commercial Law~~
~~Section 12-1102, 12-1103, and 12-1108~~
~~Annotated Code of Maryland~~
~~(2005 Replacement Volume and 2011 Supplement)~~

BY adding to
 Article – Commercial Law
 Section 12-1106.1, 12-1110.1, and 12-1111.1, ~~and 12-1111.2~~
 Annotated Code of Maryland
 (2005 Replacement Volume and 2011 Supplement)

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

Article – Commercial Law

~~12-1101.~~

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

~~(b) (1) “Advertisement” means a commercial message in any medium that aids, promotes, or assists, directly or indirectly, a rental purchase agreement.~~

~~(2) “Advertisement” does not include in-store merchandising ads.~~

~~(c) “APPLIANCE” MEANS ANY REFRIGERATOR, FREEZER, RANGE, COOKTOP, OVEN, WASHER, DRYER, DISHWASHER, AIR CONDITIONER, AIR PURIFIER, COMPUTER PROCESSOR, PRINTER, COMPUTER MONITOR, OR OTHER SIMILAR MACHINE USED IN A HOUSEHOLD.~~

~~(d) “BALLOON PAYMENT” MEANS ANY PAYMENT GREATER THAN THE REGULAR MONTHLY PAYMENT.~~

~~[(e)] (E) “Cash price” means the price at which the lessor would have sold rental property covered by a rental purchase agreement to the consumer unconditionally for cash on the date of consummation.~~

~~[(d)] (F) “Consumer” means an individual who rents OR ATTEMPTS TO RENT personal property under a rental purchase agreement primarily for personal, family, or household purposes.~~

~~[(e)] (G)~~ “Consummation” means the time at which a consumer enters into a rental purchase agreement.

~~(H) (1)~~ ~~“ELECTRONIC DEVICE” MEANS:~~

~~(I) A TELEVISION, RADIO, CAMERA, VIDEO GAME, COMPUTER PROCESSOR, VIDEO MONITOR, PRINTER, OR PERIPHERAL DEVICE DESIGNED PRIMARILY FOR USE WITH A COMPUTER; OR~~

~~(II) A DEVICE USED FOR THE RECORDING, STORAGE, COPYING, PRINTING, TRANSMISSION, DISPLAY, OR PLAYBACK OF ANY SOUND OR IMAGE.~~

~~(2) “ELECTRONIC DEVICE” DOES NOT INCLUDE AN APPLIANCE.~~

~~[(f)] (I)~~ “Lessor” means a person who regularly provides the use of personal property through rental purchase agreements to consumers and to whom rental payments are initially payable on the face of a rental purchase agreement.

~~(J) “LESSOR’S COST” MEANS THE ACTUAL COST, INCLUDING FREIGHT CHARGES, OF THE RENTAL PROPERTY TO THE LESSOR FROM A WHOLESALER, DISTRIBUTOR, SUPPLIER, OR MANUFACTURER AND NET OF ANY DISCOUNTS, REBATES, AND INCENTIVES.~~

~~[(g)] (K)~~ “Rental property” means personal property that is the subject of a rental purchase agreement.

~~[(h)] (L)~~ “Rental purchase agreement” means an agreement that:

~~(1) Is for the use of personal property by an individual primarily for personal, family, or household purposes;~~

~~(2) [Is for an initial period of 4 months or less;~~

~~(3) Is automatically renewable for a weekly or monthly period with each rental payment after the initial period; and~~

~~[(4)] (3)~~ Allows but does not obligate the consumer to become the owner of the property.

~~12-1102.~~

~~(a) A rental purchase agreement that complies with this subtitle may not be deemed to be:~~

- ~~(1) A “retail sale”, as defined in § 12-601(s) of this title;~~
 - ~~(2) An “installment sale agreement”, as defined in § 12-601(m) of this title; or~~
 - ~~(3) A “security interest”, as defined in § 1-201(37) of this article.~~
- ~~(b) This subtitle does not apply to:~~
- ~~(1) A rental purchase agreement made primarily for business, commercial, or agricultural purposes, or made with governmental agencies, instrumentalities, or organizations;~~
 - ~~(2) A rental of a safe deposit box;~~
 - ~~(3) A lease or bailment of personal property that:
 - ~~(i) Is incidental to the rental of real property; and~~
 - ~~(ii) Provides that the consumer has no option to purchase the rented real property; or~~~~
 - ~~(4) A lease of an automobile.~~

~~12-1103.~~

- ~~(a) (1) A lessor shall disclose to a consumer the information required under this subtitle.~~
- ~~(2) In a transaction involving more than 1 lessor, only 1 lessor need make the disclosures required under this subtitle, but all lessors shall be bound by the disclosures made.~~
- ~~(b) A lessor shall make the disclosures required under this subtitle before consummation of the rental purchase agreement.~~
- ~~(c) A lessor shall:~~
- ~~(1) Make the disclosures required under this subtitle in a written form that is simple and understandable and is written or typed in a size not less than 10 point type;~~
 - ~~(2) Make the disclosures required under this subtitle on the face of the rental purchase agreement above the consumer's signature line; and~~
 - ~~(3) Deliver a copy of the rental purchase agreement to the consumer.~~

~~(d) If a disclosure becomes inaccurate as a result of any act, occurrence, or agreement by the consumer after delivery of the rental property, the resulting inaccuracy is not a violation of this subtitle.~~

~~12-1104.~~

~~(a) The lessor shall disclose in each rental purchase agreement, as applicable:~~

~~(1) The total number, total amount, and timing of all rental payments necessary to acquire ownership of the rental property;~~

~~(2) A statement that the consumer will not own the rental property until the consumer has paid the total of payments necessary to acquire ownership;~~

~~(3) A brief description of the rental property sufficient to identify the rental property to the consumer and the lessor, including an identification number and a statement indicating whether the rental property is new or used;~~

~~(4) (i) A statement of the cash price of the rental property; or~~

~~(ii) If a single rental purchase agreement involves a lease of 2 or more items of rental property as a set, a statement of the aggregate cash price of all items;~~

~~(5) The total of initial payments paid or required to be paid at or before consummation of the rental purchase agreement or delivery of the rental property, whichever is later;~~

~~(6) A statement that the total of rental payments does not include other charges, such as reinstatement fees, damage fees, or pickup fees;~~

~~(7) A statement that the consumer has the right to exercise an early purchase option and the price, formula, or method for determining the early purchase option price;~~

~~(8) A statement that the consumer must pay the early purchase option price for the rental property if, and when, the rental property is lost, stolen, damaged, or destroyed;~~

~~(9) (i) A statement identifying the lessor as the party responsible for maintaining or servicing the rental property while it is being rented;~~

~~(ii) A description of that responsibility; and~~

~~(iii) A statement that if any part of a manufacturer's express warranty covers the rental property at the time the consumer acquires ownership of the rental property, it shall be transferred to the consumer, if allowed by the terms of the warranty;~~

~~(10) The date of consummation and the identities of the lessor and consumer;~~

~~(11) A statement that the consumer may terminate the rental purchase agreement without penalty by voluntarily surrendering or returning the rental property in good repair, normal wear and tear excepted, upon expiration of any rental term and payment of any past due rental payments;~~

~~(12) Notice of the consumer's right to reinstate an agreement as provided in § 12-1106 of this subtitle; [and]~~

~~(13) Any other charges, including reinstatement fees, damage fees, and pickup fees; AND~~

~~(14) THE EFFECTIVE ANNUAL PERCENTAGE RATE (APR) OF EACH ITEM OR THE SET OF ITEMS LEASED.~~

~~(b) A lessor shall place on property which is to be leased as a part of a rental purchase agreement and is displayed in the lessor's place of business a tag which shall indicate:~~

~~(1) The number and amount of individual renewal payments necessary to purchase the property;~~

~~(2) The total amount necessary to purchase the property; and~~

~~(3) Whether the property is new or used.~~

~~12-1105.~~

~~A rental purchase agreement may not contain:~~

~~(1) A confession of judgment;~~

~~(2) A negotiable instrument;~~

~~(3) A security interest or any other claim of a property interest in any goods except the rental property delivered by the lessor pursuant to the rental purchase agreement;~~

~~(4) A wage assignment;~~

- ~~(5) A waiver by the consumer of claims or defenses; [or]~~
- ~~(6) A provision authorizing the lessor or a person acting on the lessor's behalf to enter upon the consumer's premises or to commit any breach of the peace in the repossession of rental property;~~
- ~~(7) AN INTEREST RATE THAT EXCEEDS 6%;~~
- ~~(8) A REQUIREMENT THAT THE LESSOR HAVE INSURANCE;~~
- ~~(9) A PENALTY OR CHARGE FOR EARLY PURCHASE;~~
- ~~(10) A BALLOON PAYMENT TOTALING MORE THAN THREE REGULAR MONTHLY PAYMENTS;~~
- ~~(11) A SECURITY DEPOSIT;~~
- ~~(12) MORE THAN ONE LATE CHARGE OR REINSTATEMENT FEE DURING A PERIOD OF DELINQUENCY;~~
- ~~(13) A LATE CHARGE OR REINSTATEMENT FEE UNLESS A CONSUMER HAS BEEN DELINQUENT FOR MORE THAN 5 DAYS;~~
- ~~(14) A MANDATORY ARBITRATION CLAUSE;~~
- ~~(15) ANY INFORMATION THAT IS NOT REQUIRED BY LAW;~~
- ~~(16) A TIME PERIOD LESS THAN 3 DAYS AFTER SIGNING THE RENTAL PURCHASE AGREEMENT FOR THE CONSUMER TO RESCIND THE RENTAL PURCHASE AGREEMENT; OR~~
- ~~(17) A CHARGE OR PENALTY FOR A LESSOR WHO RESCINDS THE RENTAL PURCHASE AGREEMENT BEFORE TAKING POSSESSION OF THE PROPERTY SUBJECT TO THE RENTAL PURCHASE AGREEMENT.~~

~~12-1106.~~

~~(a) A consumer who fails to make a timely rental payment may reinstate the rental purchase agreement, without losing any rights or options that exist under the rental purchase agreement, if within [5] 60 days of the renewal date, for a consumer who renews on a monthly basis, or within [2] 21 days of the renewal date, for a consumer who renews on a weekly basis, BUT IN NO CASE LESS THAN 90 DAYS FOR A CONSUMER WHO HAS PAID AT LEAST 51% OF THE TOTAL PAYMENTS NECESSARY TO ACQUIRE OWNERSHIP OF THE RENTAL PROPERTY, IF the consumer pays:~~

~~(1) All past due rental charges;~~

~~(2) If the rental property has been picked up or repossessed, the reasonable costs of pickup and redelivery; and~~

~~(3) Any applicable reinstatement fee, which may not exceed \$5.~~

~~(b) A consumer who has paid less than [two thirds] 51% of the total of payments necessary to acquire ownership of the rental property and who has returned or voluntarily surrendered the rental property without judicial process during the applicable reinstatement period under subsection (a) of this section or who has made the property available for pickup at the request of the lessor, whichever occurs last, may reinstate the rental purchase agreement prior to a date not less than 21 days after the date of the return of the rental property.~~

~~(c) A consumer who has paid [two thirds] 51% or more of the total of payments necessary to acquire ownership of the rental property and who has returned or voluntarily surrendered the rental property without judicial process during the applicable period set forth in subsection (a) of this section or who has made the property available for pickup at the request of the lessor, whichever occurs last, may reinstate the rental purchase agreement prior to a date not less than [45] 90 days after the date of the return of the rental property.~~

~~(d) Nothing in this section shall prevent a lessor from repossessing the property during the reinstatement period, but a repossession may not affect the consumer's right to reinstate. After reinstatement, the lessor shall provide the consumer with the same rental property or a substitute property of comparable quality and condition.~~

~~(e) (1) A lessor may repossess property under a rental purchase agreement if the consumer is in default of:~~

~~(i) Any sum due under the agreement; or~~

~~(ii) The performance of any promise the breach of which is expressly made a ground for repossessing the property.~~

~~(2) A lessor may repossess property only by legal process or self-help without the use of force. Nothing in this section authorizes a violation of criminal law.~~

~~(3) At the time of repossession of the property, the lessor shall deliver to the consumer a written notice which states the right of the buyer to reinstate the rental purchase agreement, the last date by which the consumer may reinstate the agreement, and the amount payable for reinstatement.~~

~~(4) [The] A consumer WHO HAS PAID LESS THAN 51% OF THE TOTAL PAYMENTS NECESSARY TO ACQUIRE OWNERSHIP OF THE RENTAL PROPERTY may reinstate the rental purchase agreement within [15] 21 days after the date of repossession by paying ONLY THE FOLLOWING:~~

~~(i) All past due rental charges, SUBJECT TO INTEREST AND PENALTIES NOT TO EXCEED 6% OF THE ARREARAGE;~~

~~(ii) The reasonable costs of pickup and redelivery; and~~

~~(iii) A reinstatement fee of \$5.~~

~~(5) SUBJECT TO SUBSECTION (F) OF THIS SECTION, A CONSUMER WHO PAID MORE THAN 51% OF THE VALUE OF THE TOTAL PAYMENTS NECESSARY TO ACQUIRE OWNERSHIP OF THE RENTAL PROPERTY MAY REINSTATE THE RENTAL PURCHASE AGREEMENT WITHIN 90 DAYS AFTER THE REPOSSESSION BY PAYING:~~

~~(i) ALL PAST DUE RENTAL CHARGES, SUBJECT TO INTEREST AND PENALTIES NOT TO EXCEED 6% OF THE ARREARAGE;~~

~~(ii) THE REASONABLE COSTS OF PICKUP AND REDELIVERY, WHICH IN NO CASE MAY EXCEED 6% OF THE ARREARAGE; AND~~

~~(iii) A REINSTATEMENT FEE OF \$5.~~

~~(F) (1) A CONSUMER WHO HAS SIGNED A RENTAL PURCHASE AGREEMENT AND EXPERIENCES AN INTERRUPTION OF INCOME OR REDUCTION OF 25% OR MORE SHALL HAVE THE AMOUNT OF EACH PAYMENT REDUCED.~~

~~(2) THE INCOME INTERRUPTION OR REDUCTION UNDER PARAGRAPH (1) OF THIS SUBSECTION MUST BE DUE TO:~~

~~(i) INVOLUNTARY JOB LOSS;~~

~~(ii) INVOLUNTARY REDUCED EMPLOYMENT;~~

~~(iii) ILLNESS;~~

~~(iv) PREGNANCY; OR~~

~~(v) DISABILITY.~~

~~(3) TO QUALIFY FOR A PAYMENT REDUCTION UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE CONSUMER SHALL HAVE:~~

~~(I) PAID 51% OR MORE OF THE VALUE OF THE TOTAL PAYMENTS NECESSARY TO ACQUIRE OWNERSHIP OF THE RENTAL PROPERTY; AND~~

~~(II) PROVIDED TO THE LESSOR SOME EVIDENCE OF THE AMOUNT AND CAUSE OF THE INTERRUPTION OR REDUCTION IN INCOME.~~

~~(4) THE LESSOR SHALL REDUCE THE AMOUNT OF EACH RENTAL PAYMENT TO EQUAL THE LESSER OF:~~

~~(I) THE PERCENTAGE REDUCTION IN THE CONSUMER'S INCOME; OR~~

~~(II) 50%.~~

12-1106.1.

~~(A) A LESSOR SHALL MAINTAIN A COPY OF THE RENTAL-PURCHASE AGREEMENT FOR 4 3 YEARS AFTER THE FINAL PAYMENT ON A RENTAL-PURCHASE AGREEMENT, THE FOLLOWING:~~

~~(1) RECORDS THAT ESTABLISH THE LESSOR'S COST FOR EACH ITEM OF PROPERTY SUBJECT TO THE RENTAL-PURCHASE AGREEMENT;~~

~~(2) A COPY OF THE RENTAL-PURCHASE AGREEMENT; AND~~

~~(3) THE RECORDS ON WHICH THE CASH PRICE IS BASED.~~

~~(B) THE MAXIMUM CASH PRICE CHARGED TO A CONSUMER MAY NOT EXCEED:~~

~~(1) 1.56% OF THE LESSOR'S COST FOR APPLIANCES OR ELECTRONICS; OR~~

~~(2) 1.67% OF THE LESSOR'S COST FOR ANY ITEM THAT IS NOT AN APPLIANCE OR ELECTRONIC DEVICE.~~

~~(C) THE MAXIMUM TOTAL MONEY PAID OVER THE LIFE OF THE RENTAL-PURCHASE AGREEMENT MAY NOT EXCEED TWO TIMES THE MAXIMUM CASH PRICE.~~

12-1107.

(A) A lessor shall provide the consumer with a written receipt for each payment under a rental-purchase agreement made ~~in person~~ by cash ~~for~~, money order, OR, IF THE PAYMENT IS MADE IN ANY OTHER FORM, ON REQUEST ANY PAYMENT METHOD THAT DOES NOT PROVIDE EVIDENCE OF PAYMENT.

(B) THE WRITTEN RECEIPT SHALL CONTAIN THE:

(1) TOTAL AMOUNT PAID;

(2) TOTAL AMOUNT DUE THAT WEEK OR MONTH; AND

(3) TOTAL REMAINING RENTAL PAYMENTS NECESSARY TO ACQUIRE OWNERSHIP OF THE ITEM.

(C) THE LESSOR SHALL PROVIDE THE CONSUMER WITH A WRITTEN STATEMENT OF ACCOUNT WITHIN 3 DAYS AFTER THE CONSUMER'S REQUEST.

~~12-1108.~~

~~(a) When a rental purchase agreement is satisfied and replaced by a new rental purchase agreement between the lessor and consumer, the lessor and consumer shall negotiate a new rental purchase agreement requiring new disclosures.~~

~~(b) The following do not require the negotiation of a new rental purchase agreement:~~

~~(1) The addition or return of rental property under a multiple item agreement or the substitution of the rental property, if in either case the average payment allocable to a payment period is not changed by more than 25 percent;~~

~~(2) A deferral or extension of 1 or more rental payments, or portions of a rental payment;~~

~~(3) A reduction in charges in the rental purchase agreement; or~~

~~(4) A rental purchase agreement involved in a court proceeding.~~

~~12-1109.~~

~~(a) An advertisement for a rental purchase agreement that refers to or states the dollar amount of any payment and the right to acquire ownership for any 1 specific item shall clearly and conspicuously state, as applicable:~~

~~(1) That the transaction advertised is a rental purchase agreement;~~

~~(2) The total cost and the number of payments necessary to acquire ownership; [and]~~

~~(3) That the consumer acquires no ownership right if the total amount necessary to acquire ownership is not paid; AND~~

~~(4) THE EFFECTIVE ANNUAL PERCENTAGE RATE (APR) OF THE RENTAL PURCHASE AGREEMENT.~~

~~(b) Any owner, employee, or agent of any medium in which an advertisement appears or through which it is disseminated may not be liable for violations under this section.~~

~~(c) The requirements under subsection (a) of this section do not apply to an advertisement that:~~

~~(1) Does not refer to or state the amount of any payment; or~~

~~(2) Is published in the yellow pages of a telephone directory or in any similar directory of business.~~

~~12-1110.~~

~~(a) A person who willfully and intentionally OR NEGLIGENTLY violates any provision of this subtitle is guilty of a misdemeanor and on conviction is subject to a fine not to exceed \$500 per violation.~~

~~(b) For a violation of a provision of this subtitle, a consumer under a rental purchase agreement may recover from the lessor committing the violation, or may set off by way of a counterclaim in an action brought by the lessor or its assignee, an amount equal to:~~

~~(1) Actual damages; [and]~~

~~(2) \$500 plus reasonable attorney's fees and court costs FOR A NEGLIGENT VIOLATION; AND~~

~~(3) \$1,000 PLUS REASONABLE ATTORNEY'S FEES AND COURT COSTS FOR A WILLFUL AND INTENTIONAL VIOLATION.~~

~~(c) A lessor or its assignee may not be held liable under this subtitle if the lessor or its assignee proves by a preponderance of the evidence:~~

~~(1) That the violation was unintentional and resulted from a bona fide error, notwithstanding the maintenance of procedures reasonably adopted to avoid that type of error; and~~

~~(2) That the lessor or its assignee corrected the error and refunded any money excessively charged due to the error, within 30 days after discovering or receiving notice of the error.~~

~~(D) A WILLFUL AND INTENTIONAL VIOLATION OF THIS SUBTITLE IS AN UNFAIR OR DECEPTIVE TRADE PRACTICE UNDER TITLE 13, SUBTITLE 3 OF THIS ARTICLE.~~

~~(E) (1) THE RENTAL PURCHASE AGREEMENT IS VOID IF A LESSOR WILLFULLY AND INTENTIONALLY DISCLOSES A CASH PRICE OR TOTAL OF PAYMENTS THAT EXCEEDS THE AMOUNT PERMITTED UNDER THIS SUBTITLE.~~

~~(2) IF THE RENTAL PURCHASE AGREEMENT IS VOIDED UNDER PARAGRAPH (1) OF THIS SUBSECTION:~~

~~(I) THE CONSUMER SHALL RETAIN THE MERCHANDISE WITHOUT OBLIGATION TO THE LESSOR; AND~~

~~(II) THE LESSOR SHALL REFUND TO THE CONSUMER ALL AMOUNTS PAID, INCLUDING ANY FEES, DELIVERY CHARGES, AND PENALTIES.~~

12-1110.1.

(A) A LESSOR MAY NOT BRING A COURT ACTION TO RECOVER PROPERTY SUBJECT TO A RENTAL-PURCHASE AGREEMENT UNTIL 15 DAYS AFTER THE CONSUMER HAS ~~RECEIVED ACTUAL~~ BEEN SENT NOTICE OF A DEFAULT.

(B) NOTICE OF DEFAULT SENT BY CERTIFIED MAIL TO THE CONSUMER'S LAST KNOWN ADDRESS CONSTITUTES ~~ACTUAL~~ NOTICE.

~~(C) ANY PERSON AT THE LAST KNOWN ADDRESS OF THE CONSUMER MAY SIGN FOR THE NOTICE.~~

~~(D) THE NOTICE SHALL INCLUDE ANY AMOUNT THE CONSUMER MUST PAY TO REINSTATE THE RENTAL-PURCHASE AGREEMENT, IF APPLICABLE.~~

~~(E) THE AMOUNT STATED IN THE NOTICE SHALL CONSTITUTE SATISFACTION OF THE RENTAL PURCHASE AGREEMENT IF THE AMOUNT IS PAID WITHIN 7 DAYS AFTER RECEIVING THE NOTICE.~~

~~(F) THE NOTICE OF DEFAULT ALSO MUST INCLUDE ANY LEGAL RIGHTS THAT ARE REQUIRED BY THE ATTORNEY GENERAL TO BE DISCLOSED.~~

~~(C) THE NOTICE REQUIRED BY THIS SECTION IS NOT A SUBSTITUTE FOR ANY ADDITIONAL SERVICE OF PROCESS REQUIRED BY LAW.~~

~~12-1111.~~

~~(A) A RENTAL PURCHASE AGREEMENT SHALL BE WRITTEN IN PLAIN ENGLISH AND IN THE FORM OF OTHER LANGUAGE USED BY THE LESSOR IN ADVERTISEMENTS RELATED TO RENTAL PURCHASE AGREEMENTS.~~

~~(B) The following is an example of a form which shall be used to satisfy the disclosure requirements of §§ 12-1103(c) and 12-1104 of this subtitle:~~

~~THE EFFECTIVE ANNUAL PERCENTAGE RATE (APR) OF THIS TRANSACTION~~
~~=====~~~~%~~

~~WARNING: DO NOT SIGN THIS AGREEMENT BEFORE YOU HAVE READ IT OR IF IT CONTAINS BLANK SPACES.~~

~~"Rental Purchase Agreement~~

~~1. Lessor(s): Lessee(s):~~
~~Name _____ Name _____~~
~~Address _____ Address _____~~
~~Telephone no. _____ Telephone no. _____~~

~~2. Description of Rental Property:~~

| Item | Quantity | Identification Number | Condition |
|------------------|---------------------|----------------------------------|-----------------------|
| _____ | _____ | _____ | New _____ |
| _____ | _____ | _____ | Used _____ |

~~Cash Price: _____~~

~~3. Total Initial Payment:~~
~~Rental Payment: \$ _____~~
~~Delivery Charge: \$ _____~~
~~Tax: \$ _____~~
~~Other (specify): \$ _____~~
~~Total: \$ _____~~

~~4. Rental Payments:~~
~~Total Weekly Rental _____ (includes tax)~~
~~Payments: _____ (includes tax)~~
~~Total Monthly Rental _____~~
~~Payment: _____~~

~~5. Other Charges:~~

~~In Home Pick-up Fee: \$=====~~
~~Reinstatement Fee: \$=====~~
~~Other (specify): \$=====~~

~~6. Total Cost To Acquire Ownership:~~

~~If you renew this rental agreement each week/month, for ===== weeks/months, you will pay a total of \$===== to own the rental property. This amount includes your total initial payment but does not include other charges such as damage, reinstatement or pick-up fees for which you may be liable.~~

~~THE EFFECTIVE ANNUAL PERCENTAGE RATE (APR) OF THIS TRANSACTION IS =====%~~

~~7. No Ownership Until Total Paid:~~

~~You will not acquire ownership of the rental property until you pay the total rental payments necessary to acquire ownership, or unless you exercise an early purchase option.~~

~~8. Early Purchase Option:~~

~~You may purchase the rental property at any time after your first rental payment.~~

~~(Describe formula or method here)~~

~~9. Maintenance:~~

~~We (lessor) are responsible for maintaining the rental property in good working condition while it is being rented. We will provide all necessary service, repair or replacement (specify if in home or in store) if you notify us by phone or mail that service is needed. We will not be responsible for repairs done by anyone other than us.~~

~~10. Warranty:~~

~~If allowed by the manufacturer, the manufacturer's express warranty covering the rental property rented under this agreement will be transferred to you if, and at the time, you acquire ownership of the rental property.~~

~~11. Damages:~~

~~You (lessee) are entirely responsible for loss, damages, theft or destruction of the rental property while it is in your possession. Your liability for such damage will not exceed the early purchase option price of the rental property as of the date it is lost, stolen, damaged or destroyed.~~

~~12. Termination:~~

~~You (lessee) may terminate this agreement without penalty at the end of any weekly or monthly term by returning the rental property to us in good condition. You will be liable for any unpaid rental payments due upon the date of return.~~

~~13. Reinstatement:~~

~~If you (lessee) fail to make a timely payment, you may reinstate the agreement without penalty, if:~~

- ~~1) You pay all past due rental charges and a reinstatement fee within [2] 21 days (weekly renters) or [5] 60 days (monthly renters) of your renewal date; or~~
- ~~2) You return or voluntarily surrender the rental property within 2 days (weekly renters) or 5 days (monthly renters) of your renewal date. If you choose to reinstate the agreement after returning the rental property, you will have up to~~

~~21 days (or longer depending on how long you have rented the rental property) to pay all past due rental charges, a reinstatement fee and a reasonable redelivery fee if we deliver the rental property.~~

~~I have read the above disclosures before signing this rental purchase agreement.~~

~~Lessee(s): _____~~

~~Date: _____~~

~~_____”~~

12-1111.1.

~~**EACH BILL OR INVOICE SENT TO A CONSUMER MUST CONTAIN THE:**~~

- ~~(1) TOTAL AMOUNT PAID;~~
- ~~(2) TOTAL BALANCE DUE THAT MONTH;~~
- ~~(3) TOTAL OUTSTANDING BALANCE;~~
- ~~(4) EFFECTIVE ANNUAL PERCENTAGE RATE (APR) OF THE TOTAL OUTSTANDING BALANCE; AND~~
- ~~(5) AMOUNT OF INTEREST SAVED BY PAYING DOWN THE TOTAL OUTSTANDING BALANCE IN 6 MONTHS AND IN 1 YEAR.~~

~~**12-1111.2.**~~

~~(A) THE ATTORNEY GENERAL MAY ADOPT AND ENFORCE REGULATIONS TO CARRY OUT THIS SUBTITLE.~~

~~(B) THE ATTORNEY GENERAL'S WEB SITE SHALL INCLUDE THE SAMPLE FORMS AND RENTAL-PURCHASE AGREEMENTS FOR THE CONVENIENCE OF LESSORS AGREEMENT IN § 12-1111 OF THIS SUBTITLE.~~

~~(C) THE ATTORNEY GENERAL MAY BRING A CIVIL ACTION TO RESTRAIN A LESSOR OR A PERSON ACTING ON BEHALF OF THE ATTORNEY GENERAL FROM:~~

~~(1) MAKING OR ENFORCING UNCONSCIONABLE TERMS OR PROVISIONS IN A RENTAL-PURCHASE AGREEMENT;~~

~~(2) ENGAGING IN FRAUDULENT OR UNCONSCIONABLE CONDUCT TO INDUCE A CONSUMER TO ENTER INTO A RENTAL-PURCHASE AGREEMENT OR RELATED TRANSACTION; OR~~

~~(3) ENGAGING IN FRAUDULENT OR UNCONSCIONABLE CONDUCT IN THE COLLECTION OF PAYMENTS ARISING FROM A RENTAL PURCHASE AGREEMENT.~~

~~(B) THE SAMPLE RENTAL PURCHASE AGREEMENT SHALL INCLUDE A DISCLOSURE THAT REQUIRES THE LESSOR TO STATE:~~

~~(1) THE CASH PRICE OF THE ITEM IF PAID IN FULL AT THE TIME OF PURCHASE;~~

~~(2) THE PAYMENT SCHEDULE FOR EITHER THE ITEM OR GROUP OF ITEMS IN THE TRANSACTION; AND~~

~~(3) THE TOTAL PURCHASE PRICE IF THE PAYMENT SCHEDULE ESTABLISHED IN ITEM (2) OF THIS SUBSECTION IS COMPLETED ACCORDING TO THE SCHEDULE.~~

~~12-1112.~~

~~This subtitle may be cited as the Maryland Rental Purchase Agreement BEST PRACTICES Act.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 577

(Senate Bill 779)

AN ACT concerning

State Retirement and Pension System – Study of Asset Management

FOR the purpose of requiring the Governor's Office of Minority Affairs to conduct a study of the Maryland State Retirement and Pension System and all funds managed by the Board of Trustees for the State Retirement and Pension System to determine the capacity to select minority fund managers across all asset classes and to determine methods that best assure the recruitment and selection of minority companies for fund-to-fund management or direct management by the Investment Division of the State Retirement Agency; requiring the Governor's Office of Minority Affairs to submit a report of its findings and recommendations by a certain date; providing for the termination

of this Act; and generally relating to the management of the assets of the State Retirement and Pension System.

BY repealing and reenacting, without amendments,
Article – State Personnel and Pensions
Section 21–116(d)
Annotated Code of Maryland
(2009 Replacement Volume and 2011 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

21–116.

(d) (1) (i) Consistent with minority business purchasing standards applicable to units of State government under the State Finance and Procurement Article and consistent with the fiduciary duties of the Board of Trustees, the Board of Trustees shall direct the Investment Committee to attempt to use to the greatest extent feasible minority business enterprises to provide brokerage and investment management services to the Board.

(ii) For purposes of this subsection, brokerage and investment management services shall include services relating to all allocated asset classes.

(2) (i) To assist it in achieving the goal described under paragraph (1) of this subsection, the Investment Committee shall undertake measures to remove any barriers that limit full participation by minority business enterprises in brokerage and investment management services opportunities afforded under this title.

(ii) The measures undertaken by the Investment Committee shall include the use of a wide variety of media, including the State Retirement Agency's website, to provide notice to a broad and varied range of potential providers about the brokerage and investment management services opportunities afforded by the State Retirement Agency.

(3) In consultation with the Governor's Office of Minority Affairs and the Investment Committee, the Board of Trustees shall develop guidelines to assist the Investment Committee in identifying and evaluating qualified minority business enterprises in order to help the State Retirement Agency achieve the objective for greater use of minority business enterprises for brokerage and investment management services.

(4) On or before September 1 each year, the Investment Committee shall submit a report to the Board of Trustees, the Governor's Office of Minority

Affairs and, subject to § 2–1246 of the State Government Article, the General Assembly on:

(i) the identity of the minority business enterprise brokerage and investment management services firms used by the Investment Committee in the immediately preceding fiscal year;

(ii) the percentage and dollar value of the assets that are under the control of the Investment Committee that are under the investment control of minority business enterprise brokerage and investment management services firms; and

(iii) the measures the Investment Committee undertook in the immediately preceding fiscal year in accordance with paragraph (2)(ii) of this subsection.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) The Governor's Office of Minority Affairs shall conduct a study of the Maryland State Retirement and Pension System and all funds managed by the Board of Trustees for the State Retirement and Pension System to:

(1) determine the capacity to select minority fund managers across all asset classes, consistent with the fiduciary responsibilities of the Investment Division of the State Retirement Agency; and

(2) determine methods that best assure the recruitment and selection of minority companies for fund-to-fund management, or direct management by the Investment Division of the State Retirement Agency, that are consistent with the fiduciary responsibilities of the Investment Division of the State Retirement Agency.

(b) On or before December 1, 2012, the Governor's Office of Minority Affairs shall submit a report of its findings and recommendations to the Governor, the Board of Trustees, and subject to § 2–1246 of the State Government Article, the General Assembly.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012. It shall remain effective for a period of 1 year and, at the end of June 30, 2013, 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, May 22, 2012.

Chapter 578**(House Bill 916)**

AN ACT concerning

State Retirement and Pension System – Study of Asset Management

FOR the purpose of requiring the Governor's Office of Minority Affairs to conduct a study of the Maryland State Retirement and Pension System and all funds managed by the Board of Trustees for the State Retirement and Pension System to determine the capacity to select minority fund managers across all asset classes and to determine methods that best assure the recruitment and selection of minority companies for fund-to-fund management or direct management by the Investment Division of the State Retirement Agency; requiring the Governor's Office of Minority Affairs to submit a report of its findings and recommendations by a certain date; providing for the termination of this Act; and generally relating to the management of the assets of the State Retirement and Pension System.

BY repealing and reenacting, without amendments,
Article – State Personnel and Pensions
Section 21–116(d)
Annotated Code of Maryland
(2009 Replacement Volume and 2011 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

21–116.

(d) (1) (i) Consistent with minority business purchasing standards applicable to units of State government under the State Finance and Procurement Article and consistent with the fiduciary duties of the Board of Trustees, the Board of Trustees shall direct the Investment Committee to attempt to use to the greatest extent feasible minority business enterprises to provide brokerage and investment management services to the Board.

(ii) For purposes of this subsection, brokerage and investment management services shall include services relating to all allocated asset classes.

(2) (i) To assist it in achieving the goal described under paragraph (1) of this subsection, the Investment Committee shall undertake measures to remove any barriers that limit full participation by minority business enterprises in brokerage and investment management services opportunities afforded under this title.

(ii) The measures undertaken by the Investment Committee shall include the use of a wide variety of media, including the State Retirement Agency's website, to provide notice to a broad and varied range of potential providers about the brokerage and investment management services opportunities afforded by the State Retirement Agency.

(3) In consultation with the Governor's Office of Minority Affairs and the Investment Committee, the Board of Trustees shall develop guidelines to assist the Investment Committee in identifying and evaluating qualified minority business enterprises in order to help the State Retirement Agency achieve the objective for greater use of minority business enterprises for brokerage and investment management services.

(4) On or before September 1 each year, the Investment Committee shall submit a report to the Board of Trustees, the Governor's Office of Minority Affairs and, subject to § 2-1246 of the State Government Article, the General Assembly on:

(i) the identity of the minority business enterprise brokerage and investment management services firms used by the Investment Committee in the immediately preceding fiscal year;

(ii) the percentage and dollar value of the assets that are under the control of the Investment Committee that are under the investment control of minority business enterprise brokerage and investment management services firms; and

(iii) the measures the Investment Committee undertook in the immediately preceding fiscal year in accordance with paragraph (2)(ii) of this subsection.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) The Governor's Office of Minority Affairs shall conduct a study of the Maryland State Retirement and Pension System and all funds managed by the Board of Trustees for the State Retirement and Pension System to:

(1) determine the capacity to select minority fund managers across all asset classes, consistent with the fiduciary responsibilities of the Investment Division of the State Retirement Agency; and

(2) determine methods that best assure the recruitment and selection of minority companies for fund-to-fund management, or direct management by the Investment Division of the State Retirement Agency, that are consistent with the fiduciary responsibilities of the Investment Division of the State Retirement Agency.

(b) On or before December 1, 2012, the Governor's Office of Minority Affairs shall submit a report of its findings and recommendations to the Governor, the Board of Trustees, and subject to § 2-1246 of the State Government Article, the General Assembly.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012. It shall remain effective for a period of 1 year and, at the end of June 30, 2013, 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, May 22, 2012.

Chapter 579

(Senate Bill 781)

AN ACT concerning

Health Insurance – Coverage for Services Delivered Through Telemedicine Services

FOR the purpose of requiring certain insurers, nonprofit health service plans, and health maintenance organizations to provide ~~the same~~ coverage for health care services delivered ~~in person or~~ through ~~a~~ telemedicine ~~service~~ in a certain manner; prohibiting certain insurers, nonprofit health service plans, and health maintenance organizations from excluding a health care service from coverage solely because it is delivered by ~~a~~ telemedicine ~~service~~ and not in another manner; requiring certain insurers, nonprofit health service plans, and health maintenance organizations to reimburse health care providers for certain services ~~on a certain basis~~ under certain circumstances; authorizing the imposition of a deductible, copayment, coinsurance amount, or annual dollar maximum, ~~or lifetime dollar maximum under certain circumstances~~ for certain services; prohibiting the imposition of a lifetime dollar maximum for certain services; authorizing certain insurers, nonprofit health service plans, and health maintenance organizations to undertake certain utilization review under certain circumstances; prohibiting a health insurance policy or contract from distinguishing between patients in rural or urban locations in providing certain coverage; providing that a certain decision constitutes a certain adverse decision under certain circumstances; ~~requiring the Maryland Medical Assistance Program to provide certain reimbursement under certain circumstances~~; making certain provisions of this Act applicable to health maintenance organizations; ~~providing that the health benefit options that the Secretary of Budget and Management includes in the State Employee and Retiree Health and Welfare Benefits Program may not discriminate in a certain manner and~~

~~shall provide certain coverage~~; requiring the Department of Public Safety and Correctional Services to make a certain study and report to the General Assembly on or before a certain date; requiring the Department of Health and Mental Hygiene to conduct a certain review, make a certain determination, conduct a certain analysis, and report to certain committees of the General Assembly on or before a certain date concerning telemedicine and the Maryland Medical Assistance population; defining a certain term; providing for the application of this Act; and generally relating to coverage for telemedicine ~~services~~ under health insurance.

BY adding to

Article – Insurance
Section 15–139
Annotated Code of Maryland
(2011 Replacement Volume)

~~BY repealing and reenacting, with amendments,~~

~~Article – Health – General
Section 15–105.2
Annotated Code of Maryland
(2009 Replacement Volume and 2011 Supplement)~~

BY adding to

Article – Health – General
Section 19–706(l)lll)
Annotated Code of Maryland
(2009 Replacement Volume and 2011 Supplement)

~~BY adding to~~

~~Article – State Personnel and Pensions
Section 2–518
Annotated Code of Maryland
(2009 Replacement Volume and 2011 Supplement)~~

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

Article – Insurance

15–139.

(A) (1) IN THIS SECTION, “TELEMEDICINE ~~SERVICE~~” MEANS, AS IT RELATES TO THE DELIVERY OF HEALTH CARE SERVICES, THE USE OF INTERACTIVE AUDIO, VIDEO, OR OTHER TELECOMMUNICATIONS OR ELECTRONIC TECHNOLOGY BY A LICENSED HEALTH CARE PROVIDER TO DELIVER A HEALTH CARE SERVICE WITHIN THE SCOPE OF PRACTICE OF THE

HEALTH CARE PROVIDER AT A SITE OTHER THAN THE SITE AT WHICH THE PATIENT IS LOCATED.

(2) ~~“TELEMEDICINE SERVICE”~~ DOES NOT INCLUDE:

(I) AN AUDIO-ONLY TELEPHONE CONVERSATION BETWEEN A HEALTH CARE PROVIDER AND A PATIENT;

(II) AN ELECTRONIC MAIL MESSAGE BETWEEN A HEALTH CARE PROVIDER AND A PATIENT; OR

(III) A FACSIMILE TRANSMISSION BETWEEN A HEALTH CARE PROVIDER AND A PATIENT.

(B) THIS SECTION APPLIES TO:

(1) INSURERS AND NONPROFIT HEALTH SERVICE PLANS THAT PROVIDE HOSPITAL, MEDICAL, OR SURGICAL BENEFITS TO INDIVIDUALS OR GROUPS ON AN EXPENSE-INCURRED BASIS UNDER HEALTH INSURANCE POLICIES OR CONTRACTS THAT ARE ISSUED OR DELIVERED IN THE STATE; AND

(2) HEALTH MAINTENANCE ORGANIZATIONS THAT PROVIDE HOSPITAL, MEDICAL, OR SURGICAL BENEFITS TO INDIVIDUALS OR GROUPS UNDER CONTRACTS THAT ARE ISSUED OR DELIVERED IN THE STATE.

(C) AN ENTITY SUBJECT TO THIS SECTION:

(1) SHALL PROVIDE ~~THE SAME~~ COVERAGE UNDER A HEALTH INSURANCE POLICY OR CONTRACT FOR HEALTH CARE SERVICES APPROPRIATELY DELIVERED IN PERSON OR THROUGH ~~A~~ TELEMEDICINE ~~SERVICE~~; AND

(2) MAY NOT EXCLUDE FROM COVERAGE A HEALTH CARE SERVICE SOLELY BECAUSE IT IS PROVIDED THROUGH ~~A~~ TELEMEDICINE ~~SERVICE~~ AND IS NOT PROVIDED THROUGH AN IN-PERSON CONSULTATION OR CONTACT BETWEEN A HEALTH CARE PROVIDER AND A PATIENT.

(D) AN ENTITY SUBJECT TO THIS SECTION:

(1) SHALL REIMBURSE A HEALTH CARE PROVIDER FOR THE DIAGNOSIS, CONSULTATION, AND TREATMENT OF AN INSURED PATIENT FOR A HEALTH CARE SERVICE COVERED UNDER A HEALTH INSURANCE POLICY OR CONTRACT ~~ON THE SAME BASIS REGARDLESS OF WHETHER THE HEALTH CARE SERVICE IS DELIVERED THROUGH AN IN-PERSON CONSULTATION OR THROUGH~~

~~A TELEMEDICINE SERVICE THAT CAN BE APPROPRIATELY PROVIDED THROUGH TELEMEDICINE;~~

(2) IS NOT REQUIRED TO:

(I) REIMBURSE A HEALTH CARE PROVIDER FOR A HEALTH CARE SERVICE DELIVERED IN PERSON OR THROUGH ~~A TELEMEDICINE SERVICE~~ THAT IS NOT A COVERED BENEFIT UNDER THE HEALTH INSURANCE POLICY OR CONTRACT; OR

(II) REIMBURSE A HEALTH CARE PROVIDER WHO IS NOT A COVERED PROVIDER UNDER THE HEALTH INSURANCE POLICY OR CONTRACT; AND

(3) (I) MAY IMPOSE A DEDUCTIBLE, COPAYMENT, OR COINSURANCE AMOUNT, ANNUAL DOLLAR MAXIMUM, OR LIFETIME DOLLAR MAXIMUM ON BENEFITS FOR HEALTH CARE SERVICES THAT ARE DELIVERED EITHER THROUGH AN IN-PERSON CONSULTATION OR ~~A THROUGH TELEMEDICINE SERVICE IF THE LIMITATIONS ARE APPLIED EQUALLY AND IN THE AGGREGATE TO THE DELIVERY OF ALL COVERED HEALTH CARE SERVICES;~~

(II) MAY IMPOSE AN ANNUAL DOLLAR MAXIMUM AS PERMITTED BY FEDERAL LAW; AND

(III) MAY NOT IMPOSE A LIFETIME DOLLAR MAXIMUM.

(E) ~~(1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, AN~~ AN ENTITY SUBJECT TO THIS SECTION MAY UNDERTAKE UTILIZATION REVIEW, INCLUDING PREAUTHORIZATION, TO DETERMINE THE APPROPRIATENESS OF ANY HEALTH CARE SERVICE WHETHER THE SERVICE IS DELIVERED THROUGH AN IN-PERSON CONSULTATION OR ~~A THROUGH TELEMEDICINE SERVICE~~ IF THE APPROPRIATENESS OF THE HEALTH CARE SERVICE IS DETERMINED IN THE SAME MANNER.

~~(2) A UTILIZATION REVIEW UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY NOT REQUIRE PREAUTHORIZATION OF A TELEMEDICINE SERVICE.~~

(F) A HEALTH INSURANCE POLICY OR CONTRACT MAY NOT DISTINGUISH BETWEEN PATIENTS IN RURAL OR URBAN LOCATIONS IN PROVIDING COVERAGE UNDER THE POLICY OR CONTRACT FOR HEALTH CARE SERVICES DELIVERED ~~BY A~~ THROUGH TELEMEDICINE SERVICE.

(G) A DECISION BY AN ENTITY SUBJECT TO THIS SECTION NOT TO PROVIDE COVERAGE FOR A TELEMEDICINE SERVICE IN ACCORDANCE WITH THIS SECTION CONSTITUTES AN ADVERSE DECISION, AS DEFINED IN § 15-10A-01 OF THIS TITLE, IF THE DECISION IS BASED ON A FINDING THAT THE TELEMEDICINE SERVICE IS NOT MEDICALLY NECESSARY, APPROPRIATE, OR EFFICIENT.

Article - Health - General

~~15-105.2.~~

~~(A) The Program shall reimburse health care providers in accordance with the requirements of Title 19, Subtitle 1, Part IV of this article.~~

~~(B) UNLESS OTHERWISE SPECIFICALLY PROHIBITED OR LIMITED BY FEDERAL OR STATE LAW, THE PROGRAM SHALL REIMBURSE A HEALTH CARE PROVIDER FOR A HEALTH CARE SERVICE DELIVERED BY A TELEMEDICINE SERVICE, AS DEFINED IN § 15-139 OF THE INSURANCE ARTICLE, IN THE SAME MANNER AS THE SAME HEALTH CARE SERVICE IS REIMBURSED WHEN DELIVERED IN PERSON.~~

19-706.

(LLLL) THE PROVISIONS OF § 15-139 OF THE INSURANCE ARTICLE APPLY TO HEALTH MAINTENANCE ORGANIZATIONS.

~~Article - State Personnel and Pensions~~

~~2-518.~~

~~THE HEALTH INSURANCE BENEFIT OPTIONS THAT THE SECRETARY INCLUDES IN THE PROGRAM:~~

~~(1) MAY NOT DISCRIMINATE AGAINST THE DELIVERY OF HEALTH CARE SERVICES BY A TELEMEDICINE SERVICE, AS DEFINED IN § 15-139 OF THE INSURANCE ARTICLE; AND~~

~~(2) SHALL PROVIDE THE SAME COVERAGE FOR HEALTH CARE SERVICES DELIVERED EITHER IN PERSON OR THROUGH A TELEMEDICINE SERVICE, AS DEFINED IN § 15-139 OF THE INSURANCE ARTICLE.~~

SECTION 2. AND BE IT FURTHER ENACTED, That the Department of Public Safety and Correctional Services shall study the use of telemedicine to identify opportunities to reduce the costs of delivering health care services to inmates incarcerated in a State or local correctional facility, such as reducing the cost of secure

transportation. On or before December 1, 2012, the Department shall report to the General Assembly, in accordance with § 2–1246 of the State Government Article, on its study and include a plan for implementing the use of telemedicine to deliver health care services to inmates.

SECTION 3. AND BE IT FURTHER ENACTED, That the Department of Health and Mental Hygiene shall:

(1) conduct a review of the current literature and evidence regarding the different types of telemedicine, and conduct a review of other payers' and other State Medicaid agencies' telemedicine policies and procedures;

(2) include in its review the evidence regarding the appropriate use of telemedicine in delivering mental health services;

(3) based on its review, determine which types of patients would be suitable for which types of telemedicine and conduct a fiscal impact analysis that estimates the potential effect of Medicaid coverage of telemedicine on utilization, price, substitution, and effects on other services; and

(4) on or before December 1, 2012, 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 the findings of its review and any recommendations on the provision of telemedicine for the Maryland Medical Assistance Program population, including:

(i) any cost-neutral coverage of telemedicine that can be implemented in fiscal year 2013; and

(ii) any recommended coverage of telemedicine that would require additional funding to implement in fiscal year 2014.

SECTION ~~3~~ 4. AND BE IT FURTHER ENACTED, That this Act shall apply to all policies, contracts, and health benefit plans issued, delivered, or renewed in the State on or after October 1, 2012.

SECTION ~~4~~ 5. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 22, 2012.

AN ACT concerning

Health Insurance – Coverage for Services Delivered Through Telemedicine Services

FOR the purpose of requiring certain insurers, nonprofit health service plans, and health maintenance organizations to provide ~~the same~~ coverage for health care services delivered ~~in person or~~ through a telemedicine service in a certain manner; prohibiting certain insurers, nonprofit health service plans, and health maintenance organizations from excluding a health care service from coverage solely because it is delivered by a telemedicine service and not in another manner; requiring certain insurers, nonprofit health service plans, and health maintenance organizations to reimburse health care providers for certain services ~~on a certain basis~~ under certain circumstances; authorizing the imposition of a deductible, copayment, coinsurance amount, or annual dollar maximum, or lifetime dollar maximum under certain circumstances for certain services; prohibiting the imposition of a lifetime dollar maximum for certain services; authorizing certain insurers, nonprofit health service plans, and health maintenance organizations to undertake certain utilization review under certain circumstances; prohibiting a health insurance policy or contract from distinguishing between patients in rural or urban locations in providing certain coverage; providing that a certain decision constitutes a certain adverse decision under certain circumstances; ~~requiring the Maryland Medical Assistance Program to provide certain reimbursement under certain circumstances~~; making certain provisions of this Act applicable to health maintenance organizations; ~~providing that the health benefit options that the Secretary of Budget and Management includes in the State Employee and Retiree Health and Welfare Benefits Program may not discriminate in a certain manner and shall provide certain coverage~~; requiring the Department of Public Safety and Correctional Services to make a certain study and report to the General Assembly on or before a certain date; requiring the Department of Health and Mental Hygiene to conduct a certain review, make a certain determination, conduct a certain analysis, and report to certain committees of the General Assembly on or before a certain date concerning telemedicine and the Maryland Medical Assistance population; defining a certain term; providing for the application of this Act; and generally relating to coverage for telemedicine services under health insurance.

BY adding to

Article – Insurance

Section 15–139

Annotated Code of Maryland

(2011 Replacement Volume)

~~BY repealing and reenacting, with amendments,~~

~~Article – Health – General~~

~~Section 15-105.2
Annotated Code of Maryland
(2009 Replacement Volume and 2011 Supplement)~~

BY adding to
Article – Health – General
Section 19-706(Illl)
Annotated Code of Maryland
(2009 Replacement Volume and 2011 Supplement)

~~BY adding to
Article – State Personnel and Pensions
Section 2-518
Annotated Code of Maryland
(2009 Replacement Volume and 2011 Supplement)~~

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

Article – Insurance

15-139.

(A) (1) IN THIS SECTION, “TELEMEDICINE ~~SERVICE~~” MEANS, AS IT RELATES TO THE DELIVERY OF HEALTH CARE SERVICES, THE USE OF INTERACTIVE AUDIO, VIDEO, OR OTHER TELECOMMUNICATIONS OR ELECTRONIC TECHNOLOGY BY A LICENSED HEALTH CARE PROVIDER TO DELIVER A HEALTH CARE SERVICE WITHIN THE SCOPE OF PRACTICE OF THE HEALTH CARE PROVIDER AT A SITE OTHER THAN THE SITE AT WHICH THE PATIENT IS LOCATED.

(2) “TELEMEDICINE ~~SERVICE~~” DOES NOT INCLUDE:

(I) AN AUDIO-ONLY TELEPHONE CONVERSATION BETWEEN A HEALTH CARE PROVIDER AND A PATIENT;

(II) AN ELECTRONIC MAIL MESSAGE BETWEEN A HEALTH CARE PROVIDER AND A PATIENT; OR

(III) A FACSIMILE TRANSMISSION BETWEEN A HEALTH CARE PROVIDER AND A PATIENT.

(B) THIS SECTION APPLIES TO:

(1) INSURERS AND NONPROFIT HEALTH SERVICE PLANS THAT PROVIDE HOSPITAL, MEDICAL, OR SURGICAL BENEFITS TO INDIVIDUALS OR GROUPS ON AN EXPENSE-INCURRED BASIS UNDER HEALTH INSURANCE POLICIES OR CONTRACTS THAT ARE ISSUED OR DELIVERED IN THE STATE; AND

(2) HEALTH MAINTENANCE ORGANIZATIONS THAT PROVIDE HOSPITAL, MEDICAL, OR SURGICAL BENEFITS TO INDIVIDUALS OR GROUPS UNDER CONTRACTS THAT ARE ISSUED OR DELIVERED IN THE STATE.

(C) AN ENTITY SUBJECT TO THIS SECTION:

(1) SHALL PROVIDE ~~THE SAME~~ COVERAGE UNDER A HEALTH INSURANCE POLICY OR CONTRACT FOR HEALTH CARE SERVICES APPROPRIATELY DELIVERED IN PERSON OR THROUGH A TELEMEDICINE SERVICE; AND

(2) MAY NOT EXCLUDE FROM COVERAGE A HEALTH CARE SERVICE SOLELY BECAUSE IT IS PROVIDED THROUGH ~~A TELEMEDICINE SERVICE~~ AND IS NOT PROVIDED THROUGH AN IN-PERSON CONSULTATION OR CONTACT BETWEEN A HEALTH CARE PROVIDER AND A PATIENT.

(D) AN ENTITY SUBJECT TO THIS SECTION:

(1) SHALL REIMBURSE A HEALTH CARE PROVIDER FOR THE DIAGNOSIS, CONSULTATION, AND TREATMENT OF AN INSURED PATIENT FOR A HEALTH CARE SERVICE COVERED UNDER A HEALTH INSURANCE POLICY OR CONTRACT ~~ON THE SAME BASIS REGARDLESS OF WHETHER THE HEALTH CARE SERVICE IS DELIVERED THROUGH AN IN-PERSON CONSULTATION OR THROUGH A TELEMEDICINE SERVICE~~ THAT CAN BE APPROPRIATELY PROVIDED THROUGH TELEMEDICINE;

(2) IS NOT REQUIRED TO:

(I) REIMBURSE A HEALTH CARE PROVIDER FOR A HEALTH CARE SERVICE DELIVERED IN PERSON OR THROUGH ~~A TELEMEDICINE SERVICE~~ THAT IS NOT A COVERED BENEFIT UNDER THE HEALTH INSURANCE POLICY OR CONTRACT; OR

(II) REIMBURSE A HEALTH CARE PROVIDER WHO IS NOT A COVERED PROVIDER UNDER THE HEALTH INSURANCE POLICY OR CONTRACT; AND

(3) (I) MAY IMPOSE A DEDUCTIBLE, COPAYMENT, OR COINSURANCE AMOUNT, ~~ANNUAL DOLLAR MAXIMUM, OR LIFETIME DOLLAR~~

~~MAXIMUM ON BENEFITS FOR HEALTH CARE SERVICES THAT ARE DELIVERED EITHER THROUGH AN IN-PERSON CONSULTATION OR A THROUGH TELEMEDICINE SERVICE IF THE LIMITATIONS ARE APPLIED EQUALLY AND IN THE AGGREGATE TO THE DELIVERY OF ALL COVERED HEALTH CARE SERVICES;~~

(II) MAY IMPOSE AN ANNUAL DOLLAR MAXIMUM AS PERMITTED BY FEDERAL LAW; AND

(III) MAY NOT IMPOSE A LIFETIME DOLLAR MAXIMUM.

(E) ~~(1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, AN~~ AN ENTITY SUBJECT TO THIS SECTION MAY UNDERTAKE UTILIZATION REVIEW, INCLUDING PREAUTHORIZATION, TO DETERMINE THE APPROPRIATENESS OF ANY HEALTH CARE SERVICE WHETHER THE SERVICE IS DELIVERED THROUGH AN IN-PERSON CONSULTATION OR ~~A THROUGH TELEMEDICINE SERVICE~~ IF THE APPROPRIATENESS OF THE HEALTH CARE SERVICE IS DETERMINED IN THE SAME MANNER.

~~(2) A UTILIZATION REVIEW UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY NOT REQUIRE PREAUTHORIZATION OF A TELEMEDICINE SERVICE.~~

(F) A HEALTH INSURANCE POLICY OR CONTRACT MAY NOT DISTINGUISH BETWEEN PATIENTS IN RURAL OR URBAN LOCATIONS IN PROVIDING COVERAGE UNDER THE POLICY OR CONTRACT FOR HEALTH CARE SERVICES DELIVERED ~~BY A~~ THROUGH TELEMEDICINE SERVICE.

(G) A DECISION BY AN ENTITY SUBJECT TO THIS SECTION NOT TO PROVIDE COVERAGE FOR ~~A TELEMEDICINE SERVICE~~ IN ACCORDANCE WITH THIS SECTION CONSTITUTES AN ADVERSE DECISION, AS DEFINED IN § 15-10A-01 OF THIS TITLE, IF THE DECISION IS BASED ON A FINDING THAT ~~THE TELEMEDICINE SERVICE~~ IS NOT MEDICALLY NECESSARY, APPROPRIATE, OR EFFICIENT.

Article – Health – General

~~15-105.2.~~

~~(A) The Program shall reimburse health care providers in accordance with the requirements of Title 19, Subtitle 1, Part IV of this article.~~

~~(B) UNLESS OTHERWISE SPECIFICALLY PROHIBITED OR LIMITED BY FEDERAL OR STATE LAW, THE PROGRAM SHALL REIMBURSE A HEALTH CARE PROVIDER FOR A HEALTH CARE SERVICE DELIVERED BY A TELEMEDICINE~~

~~SERVICE, AS DEFINED IN § 15-139 OF THE INSURANCE ARTICLE, IN THE SAME MANNER AS THE SAME HEALTH CARE SERVICE IS REIMBURSED WHEN DELIVERED IN PERSON.~~

19-706.

(LLLL) THE PROVISIONS OF § 15-139 OF THE INSURANCE ARTICLE APPLY TO HEALTH MAINTENANCE ORGANIZATIONS.

~~Article—State Personnel and Pensions~~

~~2-518.~~

~~THE HEALTH INSURANCE BENEFIT OPTIONS THAT THE SECRETARY INCLUDES IN THE PROGRAM:~~

~~(1) MAY NOT DISCRIMINATE AGAINST THE DELIVERY OF HEALTH CARE SERVICES BY A TELEMEDICINE SERVICE, AS DEFINED IN § 15-139 OF THE INSURANCE ARTICLE; AND~~

~~(2) SHALL PROVIDE THE SAME COVERAGE FOR HEALTH CARE SERVICES DELIVERED EITHER IN PERSON OR THROUGH A TELEMEDICINE SERVICE, AS DEFINED IN § 15-139 OF THE INSURANCE ARTICLE.~~

SECTION 2. AND BE IT FURTHER ENACTED, That the Department of Public Safety and Correctional Services shall study the use of telemedicine to identify opportunities to reduce the costs of delivering health care services to inmates incarcerated in a State or local correctional facility, such as reducing the cost of secure transportation. On or before December 1, 2012, the Department shall report to the General Assembly, in accordance with § 2-1246 of the State Government Article, on its study and include a plan for implementing the use of telemedicine to deliver health care services to inmates.

SECTION 3. AND BE IT FURTHER ENACTED, That the Department of Health and Mental Hygiene shall:

(1) conduct a review of the current literature and evidence regarding the different types of telemedicine, and conduct a review of other payers' and other State Medicaid agencies' telemedicine policies and procedures;

(2) include in its review the evidence regarding the appropriate use of telemedicine in delivering mental health services;

(3) based on its review, determine which types of patients would be suitable for which types of telemedicine and conduct a fiscal impact analysis that

estimates the potential effect of Medicaid coverage of telemedicine on utilization, price, substitution, and effects on other services; and

(4) on or before December 1, 2012, 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 the findings of its review and any recommendations on the provision of telemedicine for the Maryland Medical Assistance Program population, including:

(i) any cost-neutral coverage of telemedicine that can be implemented in fiscal year 2013; and

(ii) any recommended coverage of telemedicine that would require additional funding to implement in fiscal year 2014.

SECTION ~~3~~ 4. AND BE IT FURTHER ENACTED, That this Act shall apply to all policies, contracts, and health benefit plans issued, delivered, or renewed in the State on or after October 1, 2012.

SECTION ~~4~~ 5. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 581

(Senate Bill 783)

AN ACT concerning

State Personnel – Collective Bargaining – Applicability

FOR the purpose of providing certain collective bargaining rights to certain State employees; specifying the responsibilities of the State Labor Relations Board in administering and enforcing certain provisions of law relating to the collective bargaining rights of certain State employees; requiring the State Labor Relations Board at the request of a certain exclusive representative to ~~create~~ determine certain bargaining units for certain State employees, accrete certain State employees into certain bargaining units, and hold a self-determination election for certain accreted employees; and generally relating to the collective bargaining rights of State employees.

BY repealing and reenacting, with amendments,

Article – State Personnel and Pensions
Section 3–101(b), 3–102, and 3–205
Annotated Code of Maryland
(2009 Replacement Volume and 2011 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

3–101.

(b) “Board” means:

(1) with regard to any matter relating to employees of any of the units of State government described in § 3–102(a)(1)(i) through (iv) **AND (VI) THROUGH (IX)** of this subtitle and employees described in § 3–102(a)(2) of this subtitle, the State Labor Relations Board; and

(2) with regard to any matter relating to employees of any State institution of higher education described in § 3–102(a)(1)(v) of this subtitle, the State Higher Education Labor Relations Board.

3–102.

(a) Except as provided in this title or as otherwise provided by law, this title applies to:

(1) all employees of:

(i) the principal departments within the Executive Branch of State government;

(ii) the Maryland Insurance Administration;

(iii) the State Department of Assessments and Taxation;

(iv) the State Lottery Agency; [and]

(v) the University System of Maryland, Morgan State University, St. Mary’s College of Maryland, and Baltimore City Community College; [and]

(VI) THE COMPTROLLER;

(VII) THE MARYLAND TRANSPORTATION AUTHORITY WHO ARE NOT POLICE OFFICERS;

(VIII) THE STATE RETIREMENT AGENCY; AND

(IX) THE STATE DEPARTMENT OF EDUCATION; AND

(2) all full-time Maryland Transportation Authority police officers at the rank of first sergeant and below.

(b) This title does not apply to:

(1) employees of the Maryland Transit Administration, as that term is defined in § 7-601(a)(2) of the Transportation Article;

(2) an employee who is elected to the position by popular vote;

(3) an employee in a position by election or appointment that is provided for by the Maryland Constitution;

(4) an employee who is:

(i) a special appointment in the State Personnel Management System; or

(ii) 1. directly appointed by the Governor by an appointment that is not provided for by the Maryland Constitution;

2. appointed by or on the staff of the Governor or Lieutenant Governor; or

3. assigned to the Government House or the Governor's Office;

(5) an employee assigned to the Board or with access to records of the Board;

(6) an employee in:

(i) the executive service of the State Personnel Management System; or

(ii) a unit of the Executive Branch with an independent personnel system who is:

1. the chief administrator of the unit or a comparable position that is not excluded under item (3) of this subsection as a constitutional or elected office; or
 2. a deputy or assistant administrator of the unit or a comparable position;
- (7) (i) a temporary or contractual employee in the State Personnel Management System; or
- (ii) a contractual, temporary, or emergency employee in a unit of the Executive Branch with an independent personnel system;
- (8) an employee who is entitled to participate in collective bargaining under another law;
- (9) an employee of the University System of Maryland, Morgan State University, St. Mary's College of Maryland, or Baltimore City Community College who is:
- (i) a chief administrator or in a comparable position;
 - (ii) a deputy, associate, or assistant administrator or in a comparable position;
 - (iii) a member of the faculty, including a faculty librarian;
 - (iv) a student employee, including a teaching assistant or a comparable position, fellow, or post doctoral intern;
 - (v) a contingent, contractual, temporary, or emergency employee;
 - (vi) a contingent, contractual, or temporary employee whose position is funded through a research or service grant or contract, or through clinical revenues; or
 - (vii) an employee whose regular place of employment is outside the State of Maryland;
- (10) an employee whose participation in a labor organization would be contrary to the State's ethics laws;
- (11) any supervisory, managerial, or confidential employee of a unit of State government listed in subsection (a)(1)(i) through (iv) **AND (VI) THROUGH (IX)** of this section, as defined in regulations adopted by the Secretary;

(12) any supervisory, managerial, or confidential employee of a State institution of higher education listed in subsection (a)(1)(v) of this section, as defined in regulations adopted by the governing board of the institution; or

(13) any employee described in subsection (a)(2) of this section who is a supervisory, managerial, or confidential employee, as defined in regulations adopted by the Secretary.

3–205.

(a) The Board is responsible for administering and enforcing provisions of this title relating to employees described in § 3–102(a)(1)(i) through (iv) **AND (VI) THROUGH (IX)** and (2) of this title.

(b) In addition to any other powers or duties provided for elsewhere in this title, the Board may:

(1) (i) establish guidelines for creating new bargaining units that include a consideration of:

1. the effect of overfragmentation on the employer;
2. the administrative structures of the State employer;
3. the recommendations of the parties;
4. the recommendations of the Executive Director;
5. the desires of the employees involved;
6. the communities of interest of the employees involved;

and

7. the wages, hours, and other working conditions of the employees;

(ii) establish standards for determining an appropriate bargaining unit; and

(iii) investigate and resolve disputes about appropriate bargaining units;

(2) establish procedures for, supervise the conduct of, and resolve disputes about elections for exclusive representatives; and

(3) investigate and take appropriate action in response to complaints of unfair labor practices and lockouts.

(C) (1) THE BOARD ~~SHALL~~ MAY NOT DESIGNATE A UNIQUE BARGAINING UNIT FOR EACH OF THE UNITS OF GOVERNMENT IDENTIFIED IN § 3-102(A)(1)(VI) THROUGH (IX) OF THIS TITLE.

(2) AT THE REQUEST OF THE EXCLUSIVE REPRESENTATIVE, THE BOARD SHALL:

(I) DETERMINE THE APPROPRIATE EXISTING BARGAINING UNIT INTO WHICH TO ASSIGN EACH EMPLOYEE IN THE UNITS OF GOVERNMENT IDENTIFIED IN § 3-102(A)(1)(VI) THROUGH (IX) OF THIS TITLE; AND

(II) ACCRETE ALL POSITIONS TO APPROPRIATE EXISTING BARGAINING UNITS.

(3) (I) NOTWITHSTANDING SUBTITLE 4 OF THIS TITLE, AT THE REQUEST OF THE EXCLUSIVE REPRESENTATIVE, THE BOARD SHALL CONDUCT A SELF-DETERMINATION ELECTION FOR EACH BARGAINING UNIT REPRESENTATIVE FOR THE ACCRETED EMPLOYEES IN UNITS OF GOVERNMENT IDENTIFIED IN § 3-102(A)(1)(VI) THROUGH (IX) OF THIS TITLE.

(II) ALL ELECTIONS SHALL BE CONDUCTED BY SECRET BALLOT.

(III) FOR EACH ELECTION, THE BOARD SHALL PLACE THE FOLLOWING CHOICES ON THE BALLOT:

1. THE NAME OF THE INCUMBENT EXCLUSIVE REPRESENTATIVE; AND

2. A PROVISION FOR "NO EXCLUSIVE REPRESENTATIVE".

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 582

(House Bill 537)

AN ACT concerning

State Personnel – Collective Bargaining – Applicability

FOR the purpose of providing certain collective bargaining rights to certain State employees; specifying the responsibilities of the State Labor Relations Board in administering and enforcing certain provisions of law relating to the collective bargaining rights of certain State employees; requiring the State Labor Relations Board at the request of a certain exclusive representative to ~~create~~ determine certain bargaining units for certain State employees, accrete certain State employees into certain bargaining units, and hold a self-determination election for certain accreted employees; and generally relating to the collective bargaining rights of State employees.

BY repealing and reenacting, with amendments,
Article – State Personnel and Pensions
Section 3–101(b), 3–102, and 3–205
Annotated Code of Maryland
(2009 Replacement Volume and 2011 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

3–101.

(b) “Board” means:

(1) with regard to any matter relating to employees of any of the units of State government described in § 3–102(a)(1)(i) through (iv) **AND (VI) THROUGH (IX)** of this subtitle and employees described in § 3–102(a)(2) of this subtitle, the State Labor Relations Board; and

(2) with regard to any matter relating to employees of any State institution of higher education described in § 3–102(a)(1)(v) of this subtitle, the State Higher Education Labor Relations Board.

3–102.

(a) Except as provided in this title or as otherwise provided by law, this title applies to:

(1) all employees of:

(i) the principal departments within the Executive Branch of State government;

- (ii) the Maryland Insurance Administration;
- (iii) the State Department of Assessments and Taxation;
- (iv) the State Lottery Agency; [and]

(v) the University System of Maryland, Morgan State University, St. Mary's College of Maryland, and Baltimore City Community College; [and]

(VI) THE COMPTROLLER;

(VII) THE MARYLAND TRANSPORTATION AUTHORITY WHO ARE NOT POLICE OFFICERS;

(VIII) THE STATE RETIREMENT AGENCY; AND

(IX) THE STATE DEPARTMENT OF EDUCATION; AND

(2) all full-time Maryland Transportation Authority police officers at the rank of first sergeant and below.

(b) This title does not apply to:

(1) employees of the Maryland Transit Administration, as that term is defined in § 7-601(a)(2) of the Transportation Article;

(2) an employee who is elected to the position by popular vote;

(3) an employee in a position by election or appointment that is provided for by the Maryland Constitution;

(4) an employee who is:

(i) a special appointment in the State Personnel Management System; or

(ii) 1. directly appointed by the Governor by an appointment that is not provided for by the Maryland Constitution;

2. appointed by or on the staff of the Governor or Lieutenant Governor; or

3. assigned to the Government House or the Governor's Office;

- Board;
- (5) an employee assigned to the Board or with access to records of the Board;
- (6) an employee in:
- (i) the executive service of the State Personnel Management System; or
- (ii) a unit of the Executive Branch with an independent personnel system who is:
1. the chief administrator of the unit or a comparable position that is not excluded under item (3) of this subsection as a constitutional or elected office; or
2. a deputy or assistant administrator of the unit or a comparable position;
- (7) (i) a temporary or contractual employee in the State Personnel Management System; or
- (ii) a contractual, temporary, or emergency employee in a unit of the Executive Branch with an independent personnel system;
- (8) an employee who is entitled to participate in collective bargaining under another law;
- (9) an employee of the University System of Maryland, Morgan State University, St. Mary's College of Maryland, or Baltimore City Community College who is:
- (i) a chief administrator or in a comparable position;
- (ii) a deputy, associate, or assistant administrator or in a comparable position;
- (iii) a member of the faculty, including a faculty librarian;
- (iv) a student employee, including a teaching assistant or a comparable position, fellow, or post doctoral intern;
- (v) a contingent, contractual, temporary, or emergency employee;
- (vi) a contingent, contractual, or temporary employee whose position is funded through a research or service grant or contract, or through clinical revenues; or

(vii) an employee whose regular place of employment is outside the State of Maryland;

(10) an employee whose participation in a labor organization would be contrary to the State's ethics laws;

(11) any supervisory, managerial, or confidential employee of a unit of State government listed in subsection (a)(1)(i) through (iv) **AND (VI) THROUGH (IX)** of this section, as defined in regulations adopted by the Secretary;

(12) any supervisory, managerial, or confidential employee of a State institution of higher education listed in subsection (a)(1)(v) of this section, as defined in regulations adopted by the governing board of the institution; or

(13) any employee described in subsection (a)(2) of this section who is a supervisory, managerial, or confidential employee, as defined in regulations adopted by the Secretary.

3-205.

(a) The Board is responsible for administering and enforcing provisions of this title relating to employees described in § 3-102(a)(1)(i) through (iv) **AND (VI) THROUGH (IX)** and (2) of this title.

(b) In addition to any other powers or duties provided for elsewhere in this title, the Board may:

(1) (i) establish guidelines for creating new bargaining units that include a consideration of:

1. the effect of overfragmentation on the employer;
2. the administrative structures of the State employer;
3. the recommendations of the parties;
4. the recommendations of the Executive Director;
5. the desires of the employees involved;
6. the communities of interest of the employees involved;

and

7. the wages, hours, and other working conditions of the employees;

(ii) establish standards for determining an appropriate bargaining unit; and

(iii) investigate and resolve disputes about appropriate bargaining units;

(2) establish procedures for, supervise the conduct of, and resolve disputes about elections for exclusive representatives; and

(3) investigate and take appropriate action in response to complaints of unfair labor practices and lockouts.

(C) (1) THE BOARD ~~SHALL~~ MAY NOT DESIGNATE A UNIQUE BARGAINING UNIT FOR EACH OF THE UNITS OF GOVERNMENT IDENTIFIED IN § 3-102(A)(1)(VI) THROUGH (IX) OF THIS TITLE.

(2) AT THE REQUEST OF THE EXCLUSIVE REPRESENTATIVE, THE BOARD SHALL:

(I) DETERMINE THE APPROPRIATE EXISTING BARGAINING UNIT INTO WHICH TO ASSIGN EACH EMPLOYEE IN THE UNITS OF GOVERNMENT IDENTIFIED IN § 3-102(A)(1)(VI) THROUGH (IX) OF THIS TITLE; AND

(II) ACCRETE ALL POSITIONS TO APPROPRIATE EXISTING BARGAINING UNITS.

(3) (I) NOTWITHSTANDING SUBTITLE 4 OF THIS TITLE, AT THE REQUEST OF THE EXCLUSIVE REPRESENTATIVE, THE BOARD SHALL CONDUCT A SELF-DETERMINATION ELECTION FOR EACH BARGAINING UNIT REPRESENTATIVE FOR THE ACCRETED EMPLOYEES IN UNITS OF GOVERNMENT IDENTIFIED IN § 3-102(A)(1)(VI) THROUGH (IX) OF THIS TITLE.

(II) ALL ELECTIONS SHALL BE CONDUCTED BY SECRET BALLOT.

(III) FOR EACH ELECTION, THE BOARD SHALL PLACE THE FOLLOWING CHOICES ON THE BALLOT:

1. THE NAME OF THE INCUMBENT EXCLUSIVE REPRESENTATIVE; AND

2. A PROVISION FOR “NO EXCLUSIVE REPRESENTATIVE”.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 583

(Senate Bill 791)

AN ACT concerning

Renewable Energy Portfolio Standard – Solar Energy and Solar Water Heating Systems

FOR the purpose of altering the minimum required percentage of Tier 1 renewable energy that must be derived from solar energy in the State's renewable energy portfolio standard in certain years; authorizing the Public Service Commission, in consultation with the Maryland Energy Administration, to identify an equivalent certification for measurement for energy generated by certain solar water heating systems for certain purposes; authorizing the Commission, in consultation with the Administration, to approve an equivalent certification body to set certain standards; providing for the application of this Act; and generally relating to solar energy.

BY repealing and reenacting, with amendments,

Article – Public Utilities

Section 7–703 and 7–704(g)

Annotated Code of Maryland

(2010 Replacement Volume and 2011 Supplement)

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

Article – Public Utilities

7–703.

(a) (1) (i) The Commission shall implement a renewable energy portfolio standard that, except as provided under paragraph (2) of this subsection, applies to all retail electricity sales in the State by electricity suppliers.

(ii) If the standard becomes applicable to electricity sold to a customer after the start of a calendar year, the standard does not apply to electricity sold to the customer during that portion of the year before the standard became applicable.

(2) A renewable energy portfolio standard may not apply to electricity sales at retail by any electricity supplier:

(i) in excess of 300,000,000 kilowatt–hours of industrial process load to a single customer in a year;

(ii) to residential customers in a region of the State in which electricity prices for residential customers are subject to a freeze or cap contained in a settlement agreement entered into under § 7–505 of this title until the freeze or cap has expired; or

(iii) to a customer served by an electric cooperative under an electricity supplier purchase agreement that existed on October 1, 2004, until the expiration of the agreement.

(b) The renewable energy portfolio standard shall be as follows:

(1) in 2006, 1% from Tier 1 renewable sources and 2.5% from Tier 2 renewable sources;

(2) in 2007, 1% from Tier 1 renewable sources and 2.5% from Tier 2 renewable sources;

(3) in 2008, 2.005% from Tier 1 renewable sources, including at least 0.005% derived from solar energy, and 2.5% from Tier 2 renewable sources;

(4) in 2009, 2.01% from Tier 1 renewable sources, including at least 0.01% derived from solar energy, and 2.5% from Tier 2 renewable sources;

(5) in 2010, 3.025% from Tier 1 renewable sources, including at least 0.025% derived from solar energy, and 2.5% from Tier 2 renewable sources;

(6) in 2011, 5.0% from Tier 1 renewable sources, including at least 0.05% derived from solar energy, and 2.5% from Tier 2 renewable sources;

(7) in 2012, 6.5% from Tier 1 renewable sources, including at least 0.1% derived from solar energy, and 2.5% from Tier 2 renewable sources;

(8) in 2013, 8.2% from Tier 1 renewable sources, including at least [0.2%] **0.25%** derived from solar energy, and 2.5% from Tier 2 renewable sources;

(9) in 2014, 10.3% from Tier 1 renewable sources, including at least [0.3%] **0.35%** derived from solar energy, and 2.5% from Tier 2 renewable sources;

(10) in 2015, 10.5% from Tier 1 renewable sources, including at least [0.4%] **0.5%** derived from solar energy, and 2.5% from Tier 2 renewable sources;

(11) in 2016, 12.7% from Tier 1 renewable sources, including at least [0.5%] **0.7%** derived from solar energy, and 2.5% from Tier 2 renewable sources;

(12) in 2017, 13.1% from Tier 1 renewable sources, including at least [0.55%] **0.95%** derived from solar energy, and 2.5% from Tier 2 renewable sources;

(13) in 2018, 15.8% from Tier 1 renewable sources, including at least [0.9%] **1.40%** derived from solar energy, and 2.5% from Tier 2 renewable sources;

(14) in 2019, 17.4% from Tier 1 renewable sources, including at least [1.2%] **1.75%** derived from solar energy, and 0% from Tier 2 renewable sources;

(15) in 2020, 18% from Tier 1 renewable sources, including at least [1.5%] **2.0%** derived from solar energy, and 0% from Tier 2 renewable sources;

(16) in 2021, 18.7% from Tier 1 renewable sources, including at least [1.85%] **2.0%** derived from solar energy, and 0% from Tier 2 renewable sources; and

(17) in 2022 and later, 20% from Tier 1 renewable sources, including at least 2% derived from solar energy, and 0% from Tier 2 renewable sources.

(c) Before calculating the number of credits required to meet the percentages established under subsection (b) of this section, an electricity supplier shall exclude from its total retail electricity sales all retail electricity sales described in subsection (a)(2) of this section.

(d) Subject to subsections (a) and (c) of this section, an electricity supplier shall meet the renewable energy portfolio standard by accumulating the equivalent amount of renewable energy credits that equal the percentages required under this section.

7-704.

(g) (1) Energy from a solar water heating system is eligible for inclusion in meeting the renewable energy portfolio standard.

(2) A person that owns and operates a solar water heating system shall receive a renewable energy credit equal to the amount of energy, converted from BTUs to kilowatt-hours, that is generated by the system that is used by the person for water heating.

(3) The total amount of energy generated and consumed for a nonresidential or commercial solar water heating system shall be measured by an on-site meter that meets the required performance standards of the International Organization of Legal Metrology.

(4) The total amount of energy generated and consumed by a residential solar water heating system shall be:

(i) measured by a meter that meets the required standards of the International Organization of Legal Metrology; or

(ii) 1. measured by the Solar Ratings and Certification Corporation's OG-300 thermal performance rating for the system **OR AN EQUIVALENT CERTIFICATION THAT THE COMMISSION APPROVES IN CONSULTATION WITH THE ADMINISTRATION**; and

2. certified to the OG-300 standard of the Solar Ratings and Certification Corporation **OR AN EQUIVALENT CERTIFICATION BODY THAT THE COMMISSION APPROVES IN CONSULTATION WITH THE ADMINISTRATION**.

(5) A residential solar water heating system shall be installed in accordance with applicable State and local plumbing codes.

(6) A residential solar water heating system may not produce more than five solar renewable energy credits in any 1 year.

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 contract existing before the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 584

(House Bill 1187)

AN ACT concerning

Renewable Energy Portfolio Standard – Solar Energy and Solar Water Heating Systems

FOR the purpose of altering the minimum required percentage of Tier 1 renewable energy that must be derived from solar energy in the State's renewable energy portfolio standard in certain years; authorizing the Public Service Commission,

in consultation with the Maryland Energy Administration, to identify an equivalent certification for measurement for energy generated by certain solar water heating systems for certain purposes; authorizing the Commission, in consultation with the Administration, to approve an equivalent certification body to set certain standards; providing for the application of this Act; and generally relating to solar energy.

BY repealing and reenacting, with amendments,

Article – Public Utilities

Section 7–703 and 7–704(g)

Annotated Code of Maryland

(2010 Replacement Volume and 2011 Supplement)

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

Article – Public Utilities

7–703.

(a) (1) (i) The Commission shall implement a renewable energy portfolio standard that, except as provided under paragraph (2) of this subsection, applies to all retail electricity sales in the State by electricity suppliers.

(ii) If the standard becomes applicable to electricity sold to a customer after the start of a calendar year, the standard does not apply to electricity sold to the customer during that portion of the year before the standard became applicable.

(2) A renewable energy portfolio standard may not apply to electricity sales at retail by any electricity supplier:

(i) in excess of 300,000,000 kilowatt–hours of industrial process load to a single customer in a year;

(ii) to residential customers in a region of the State in which electricity prices for residential customers are subject to a freeze or cap contained in a settlement agreement entered into under § 7–505 of this title until the freeze or cap has expired; or

(iii) to a customer served by an electric cooperative under an electricity supplier purchase agreement that existed on October 1, 2004, until the expiration of the agreement.

(b) The renewable energy portfolio standard shall be as follows:

- (1) in 2006, 1% from Tier 1 renewable sources and 2.5% from Tier 2 renewable sources;
- (2) in 2007, 1% from Tier 1 renewable sources and 2.5% from Tier 2 renewable sources;
- (3) in 2008, 2.005% from Tier 1 renewable sources, including at least 0.005% derived from solar energy, and 2.5% from Tier 2 renewable sources;
- (4) in 2009, 2.01% from Tier 1 renewable sources, including at least 0.01% derived from solar energy, and 2.5% from Tier 2 renewable sources;
- (5) in 2010, 3.025% from Tier 1 renewable sources, including at least 0.025% derived from solar energy, and 2.5% from Tier 2 renewable sources;
- (6) in 2011, 5.0% from Tier 1 renewable sources, including at least 0.05% derived from solar energy, and 2.5% from Tier 2 renewable sources;
- (7) in 2012, 6.5% from Tier 1 renewable sources, including at least 0.1% derived from solar energy, and 2.5% from Tier 2 renewable sources;
- (8) in 2013, 8.2% from Tier 1 renewable sources, including at least [0.2%] **0.25%** derived from solar energy, and 2.5% from Tier 2 renewable sources;
- (9) in 2014, 10.3% from Tier 1 renewable sources, including at least [0.3%] **0.35%** derived from solar energy, and 2.5% from Tier 2 renewable sources;
- (10) in 2015, 10.5% from Tier 1 renewable sources, including at least [0.4%] **0.5%** derived from solar energy, and 2.5% from Tier 2 renewable sources;
- (11) in 2016, 12.7% from Tier 1 renewable sources, including at least [0.5%] **0.7%** derived from solar energy, and 2.5% from Tier 2 renewable sources;
- (12) in 2017, 13.1% from Tier 1 renewable sources, including at least [0.55%] ~~1.0%~~ **0.95%** derived from solar energy, and 2.5% from Tier 2 renewable sources;
- (13) in 2018, 15.8% from Tier 1 renewable sources, including at least [0.9%] ~~1.35%~~ **1.4%** derived from solar energy, and 2.5% from Tier 2 renewable sources;
- (14) in 2019, 17.4% from Tier 1 renewable sources, including at least [1.2%] **1.75%** derived from solar energy, and 0% from Tier 2 renewable sources;
- (15) in 2020, 18% from Tier 1 renewable sources, including at least [1.5%] **2.0%** derived from solar energy, and 0% from Tier 2 renewable sources;

(16) in 2021, 18.7% from Tier 1 renewable sources, including at least [1.85%] **2.0%** derived from solar energy, and 0% from Tier 2 renewable sources; and

(17) in 2022 and later, 20% from Tier 1 renewable sources, including at least 2% derived from solar energy, and 0% from Tier 2 renewable sources.

(c) Before calculating the number of credits required to meet the percentages established under subsection (b) of this section, an electricity supplier shall exclude from its total retail electricity sales all retail electricity sales described in subsection (a)(2) of this section.

(d) Subject to subsections (a) and (c) of this section, an electricity supplier shall meet the renewable energy portfolio standard by accumulating the equivalent amount of renewable energy credits that equal the percentages required under this section.

7-704.

(g) (1) Energy from a solar water heating system is eligible for inclusion in meeting the renewable energy portfolio standard.

(2) A person that owns and operates a solar water heating system shall receive a renewable energy credit equal to the amount of energy, converted from BTUs to kilowatt-hours, that is generated by the system that is used by the person for water heating.

(3) The total amount of energy generated and consumed for a nonresidential or commercial solar water heating system shall be measured by an on-site meter that meets the required performance standards of the International Organization of Legal Metrology.

(4) The total amount of energy generated and consumed by a residential solar water heating system shall be:

(i) measured by a meter that meets the required standards of the International Organization of Legal Metrology; or

(ii) 1. measured by the Solar Ratings and Certification Corporation's OG-300 thermal performance rating for the system **OR AN EQUIVALENT CERTIFICATION THAT THE COMMISSION APPROVES IN CONSULTATION WITH THE ADMINISTRATION;** and

2. certified to the OG-300 standard of the Solar Ratings and Certification Corporation **OR AN EQUIVALENT CERTIFICATION BODY THAT THE COMMISSION APPROVES IN CONSULTATION WITH THE ADMINISTRATION.**

(5) A residential solar water heating system shall be installed in accordance with applicable State and local plumbing codes.

(6) A residential solar water heating system may not produce more than five solar renewable energy credits in any 1 year.

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 contract existing before the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 585

(Senate Bill 792)

AN ACT concerning

~~State Procurement – Banking Services Preference~~ **Linked Deposit Program
for Small Businesses – Lend Local Act of 2012**

FOR the purpose of ~~requiring the State Treasurer, when deciding whether to designate or make an agreement with a financial institution to provide certain banking services to the State or an agency of the State, to consider whether the financial institution is operating in the State with certain total assets and commits to make loans to small businesses in the State in an aggregate amount of at least a certain percentage of certain incremental funds; and generally relating to the procurement of banking services by the State~~ establishing a Linked Deposit Program for Small Businesses in the Department of Housing and Community Development for a certain purpose; specifying that certain loans qualify under the Program; requiring the Department of Housing and Community Development to confirm with the Department of General Services that certain loans are made to certain businesses; requiring the Department of Housing and Community Development to establish certain procedures for a certain notification; requiring the Department of Housing and Community Development to receive loan applications from small businesses and forward loan applications to lenders; requiring the Department of Housing and Community Development to require small businesses to notify the Department of Housing and Community Development concerning final loan disposition; requiring the Department of Housing and Community Development to report

annually to the Governor, the Treasurer, and the General Assembly on the overall performance of the Program; authorizing the Treasurer to establish the Program for investment of deposits in certain financial institutions; authorizing the Treasurer to make certain interest bearing deposits; authorizing the Treasurer to accept a rate that is a certain percent below current market rates or a certain index; authorizing the Treasurer to use up to a certain amount to make certain interest bearing deposits; requiring the Treasurer to reduce a certain loan amount on a certain notification; prohibiting a certain small business from being considered unqualified for certain purposes under certain circumstances; providing that a certain loan is not a debt of the State or a pledge of the credit of the State; providing that the Treasurer and the State are not liable to certain financial institutions for certain payments of a loan assisted by a linked deposit; authorizing the Treasurer and the Department of Housing and Community Development to adopt certain regulations; requiring the Treasurer to meet with representatives from the Maryland banking industry and certain related stakeholders for certain purposes; requiring the Treasurer to report to the General Assembly on or before a certain date; and generally relating to the establishment of a Linked Deposit Program for Small Businesses.

~~BY repealing and reenacting, without amendments,
Article – State Finance and Procurement
Section 6–201(a), (b), (c), and (f)
Annotated Code of Maryland
(2009 Replacement Volume and 2011 Supplement)~~

~~BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 6–203
Annotated Code of Maryland
(2009 Replacement Volume and 2011 Supplement)~~

BY adding to
Article – State Finance and Procurement
Section 6–212
Annotated Code of Maryland
(2009 Replacement Volume and 2011 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

~~6–201.~~

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

~~(b) “Banking institution” means an institution that is incorporated under the laws of the State as a State bank, trust company, or savings bank.~~

~~(c) “Financial institution” means:~~

~~(1) any banking institution;~~

~~(2) any national banking association;~~

~~(3) an institution that is incorporated under the laws of any other state as a bank; and~~

~~(4) an institution that is incorporated under the laws of this State or of the United States as a savings and loan association.~~

~~(f) “National banking association” means an institution that is incorporated under federal law as a bank.~~

~~6-203.~~

~~(a) The Treasurer shall give 15% of the weight of the decision to the standards established in this section in deciding whether to:~~

~~(1) designate a financial institution as a depository for State money under § 6-205 of this subtitle; and~~

~~(2) make an agreement with a financial institution for a banking service under § 6-220 of this subtitle.~~

~~(b) (1) The Treasurer shall consider whether the financial institution received a rating of “needs improvement” or “substantial noncompliance” in its most recent examination under the federal Community Reinvestment Act of 1977, P.L. Number 95-128.~~

~~(2) If a financial institution operates in a state other than Maryland, the Treasurer shall consider Maryland-specific information that is provided within the assessment area section of the Community Reinvestment Act report.~~

~~(c) (1) The Treasurer shall consider whether, during the previous 5 years, a court in Maryland has found, in a final adjudication, that a financial institution has violated any antidiscrimination statute or regulation.~~

~~(2) The Treasurer may consider whether, during the previous 5 years, a court outside Maryland has found, in a final adjudication, that a financial institution has violated any antidiscrimination statute or regulation.~~

~~(3) The Treasurer may determine how to assess a violation under paragraph (1) or (2) of this subsection if the violation was committed by:~~

- ~~(i) an affiliate of the financial institution; or~~
- ~~(ii) an entity acquired by the financial institution.~~

~~(d) The Treasurer shall consider whether the financial institution has demonstrated that during the previous 5 years, the financial institution has:~~

~~(1) successfully made loans in Maryland through State or federal lending programs designed to assist small and minority owned businesses;~~

~~(2) had an active outreach program to assist small and minority owned businesses through which the financial institution has made efforts in Maryland; and~~

~~(3) established strategic partnerships in Maryland with entities whose mission is to provide technical assistance to small and minority owned businesses.~~

~~(E) THE TREASURER SHALL CONSIDER WHETHER THE FINANCIAL INSTITUTION:~~

~~(1) IS OPERATING IN THE STATE WITH TOTAL ASSETS OF LESS THAN \$5,000,000,000; AND~~

~~(2) COMMITS TO MAKE LOANS TO SMALL BUSINESSES IN THE STATE IN AN AGGREGATE AMOUNT OF AT LEAST 200% OF THE INCREMENTAL FUNDS THAT ARE DEPOSITED BY THE TREASURER.~~

6-212.

(A) (1) THERE IS A LINKED DEPOSIT PROGRAM FOR SMALL BUSINESSES IN THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT.

(2) THE PURPOSE OF THE LINKED DEPOSIT PROGRAM FOR SMALL BUSINESSES IS TO STIMULATE OPPORTUNITIES FOR SMALL BUSINESSES TO HAVE ACCESS TO CREDIT BY ASSISTING THESE BUSINESSES IN OBTAINING LOANS AT LOWER THAN MARKET INTEREST RATES.

(B) A LOAN QUALIFIES UNDER THE LINKED DEPOSIT PROGRAM FOR SMALL BUSINESSES IF THE LOAN:

(1) SATISFIES THE LENDING CRITERIA OF THE FINANCIAL INSTITUTION;

(2) HAS A TERM NOT EXCEEDING 10 YEARS;

(3) IS MADE TO A SMALL BUSINESS QUALIFIED UNDER TITLE 14, SUBTITLE 5 OF THIS ARTICLE;

(4) HAS AN INTEREST RATE THAT IS 2 PERCENTAGE POINTS BELOW THE INTEREST RATE THE FINANCIAL INSTITUTION WOULD CHARGE FOR A LOAN FOR A SIMILAR PURPOSE AND A SIMILAR TERM; AND

(5) HAS POINTS OR FEES CHARGED AT LOAN CLOSING NOT EXCEEDING 1 PERCENT OF THE LOAN AMOUNT.

(C) THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT SHALL:

(1) CONFIRM WITH THE DEPARTMENT OF GENERAL SERVICES THAT EACH LOAN UNDER THE LINKED DEPOSIT PROGRAM FOR SMALL BUSINESSES IS MADE TO A BUSINESS THAT QUALIFIES AS A SMALL BUSINESS;

(2) ESTABLISH PROCEDURES FOR NOTIFICATION BY THE DEPARTMENT OF GENERAL SERVICES IF A BUSINESS THAT HAS AN OUTSTANDING BALANCE OF A LOAN UNDER THE LINKED DEPOSIT PROGRAM FOR SMALL BUSINESSES NO LONGER QUALIFIES AS A SMALL BUSINESS;

(3) REQUIRE SMALL BUSINESSES AND LENDERS TO NOTIFY THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT CONCERNING FINAL LOAN DISPOSITION; AND

(4) REPORT ANNUALLY TO THE GOVERNOR, THE TREASURER, AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON OVERALL PERFORMANCE OF THE LINKED DEPOSIT PROGRAM FOR SMALL BUSINESSES.

(D) THE TREASURER MAY ESTABLISH THE LINKED DEPOSIT PROGRAM FOR SMALL BUSINESSES FOR INVESTMENT OF DEPOSITS IN ANY FINANCIAL INSTITUTION THAT:

(1) THE TREASURER HAS DESIGNATED AS A DEPOSITORY FOR STATE MONEY; AND

(2) MAKES A LOAN IN ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION.

(E) (1) THE TREASURER MAY MAKE ONE OR MORE INTEREST BEARING DEPOSITS THAT ARE EQUAL TO:

(I) THE AMOUNT OF THE LOAN MADE BY THE FINANCIAL INSTITUTION IN ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION; OR

(II) THE AGGREGATE AMOUNT OF TWO OR MORE LOANS MADE BY ONE OR MORE FINANCIAL INSTITUTIONS IN ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION.

(2) IN MAKING AN INTEREST BEARING DEPOSIT UNDER THIS SUBSECTION, THE TREASURER MAY ACCEPT A RATE THAT IS 2 PERCENTAGE POINTS BELOW CURRENT MARKET RATES OR AN INDEX SELECTED BY THE TREASURER.

(3) THE TREASURER MAY USE UP TO \$50,000,000 TO MAKE INTEREST BEARING DEPOSITS IN AN AMOUNT EQUIVALENT TO THE AMOUNT FINANCIAL INSTITUTIONS LOAN TO QUALIFIED SMALL BUSINESSES.

(F) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, ON NOTIFICATION BY THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT THAT A SMALL BUSINESS PARTICIPATING IN THE LINKED DEPOSIT PROGRAM FOR SMALL BUSINESSES NO LONGER QUALIFIES AS A SMALL BUSINESS UNDER TITLE 14, SUBTITLE 5 OF THIS ARTICLE, THE TREASURER SHALL REDUCE THE AMOUNT OF THE INTEREST BEARING DEPOSIT WITH THE PARTICIPATING FINANCIAL INSTITUTION BY THE OUTSTANDING BALANCE OF THE LOAN MADE UNDER THIS SECTION TO THE SMALL BUSINESS THAT NO LONGER QUALIFIES UNDER TITLE 14, SUBTITLE 5 OF THIS ARTICLE.

(2) A SMALL BUSINESS THAT LOSES ITS QUALIFICATION DUE TO REVENUE OR EMPLOYEE GROWTH MAY NOT BE CONSIDERED UNQUALIFIED FOR PURPOSES OF PARAGRAPH (1) OF THIS SUBSECTION.

(G) (1) A LOAN ASSISTED BY A LINKED DEPOSIT IS NOT A DEBT OF THE STATE OR A PLEDGE OF THE CREDIT OF THE STATE.

(2) THE TREASURER AND THE STATE ARE NOT LIABLE TO ANY FINANCIAL INSTITUTION FOR PAYMENT OF THE PRINCIPAL OR INTEREST ON A LOAN ASSISTED BY A LINKED DEPOSIT.

(H) THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT AND THE TREASURER MAY ADOPT REGULATIONS TO CARRY OUT THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) The State Treasurer shall meet with representatives from the Maryland banking industry and any related stakeholders and identify:

(1) impediments to participating in the procurement process for the selection of designated State depositories, including State agency and linked-deposit programs; and

(2) any possible solutions to any impediments identified under item (1) of this subsection.

(b) On or before December 31, 2012, the Treasurer shall report to the General Assembly, in accordance with § 2-1246 of the State Government Article, on the results of the meetings with representatives from the Maryland banking industry and any related stakeholders to the General Assembly.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 586

(House Bill 571)

AN ACT concerning

State Procurement – Banking Services Preference Linked Deposit Program for Small Businesses – Lend Local Act of 2012

FOR the purpose of ~~requiring the State Treasurer, when deciding whether to designate or make an agreement with a financial institution to provide certain banking services to the State or an agency of the State, to consider whether the financial institution is operating in the State with certain total assets and commits to make loans to small businesses in the State in an aggregate amount of at least a certain percentage of certain incremental funds; and generally relating to the procurement of banking services by the State establishing a Linked Deposit Program for Small Businesses in the Department of Housing and Community Development for a certain purpose; specifying that certain loans qualify under the Program; requiring the Department of Housing and Community Development to confirm with the Department of General Services~~

that certain loans are made to certain businesses; requiring the Department of Housing and Community Development to establish certain procedures for a certain notification; requiring the Department of Housing and Community Development to receive loan applications from small businesses and forward loan applications to lenders; requiring the Department of Housing and Community Development to require small businesses to notify the Department of Housing and Community Development concerning final loan disposition; requiring the Department of Housing and Community Development to report annually to the Governor, the Treasurer, and the General Assembly on the overall performance of the Program; authorizing the Treasurer to establish the Program for investment of deposits in certain financial institutions; authorizing the Treasurer to make certain interest bearing deposits; authorizing the Treasurer to accept a rate that is a certain percent below current market rates or a certain index; authorizing the Treasurer to use up to a certain amount to make certain interest bearing deposits; requiring the Treasurer to reduce a certain loan amount on a certain notification; prohibiting a certain small business from being considered unqualified for certain purposes under certain circumstances; providing that a certain loan is not a debt of the State or a pledge of the credit of the State; providing that the Treasurer and the State are not liable to certain financial institutions for certain payments of a loan assisted by a linked deposit; authorizing the Treasurer and the Department of Housing and Community Development to adopt certain regulations; requiring the Treasurer to meet with representatives from the Maryland banking industry and certain related stakeholders for certain purposes; requiring the Treasurer to report to the General Assembly on or before a certain date; and generally relating to the establishment of a Linked Deposit Program for Small Businesses.

~~BY repealing and reenacting, without amendments,
Article – State Finance and Procurement
Section 6-201(a), (b), (c), and (f)
Annotated Code of Maryland
(2009 Replacement Volume and 2011 Supplement)~~

~~BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 6-203
Annotated Code of Maryland
(2009 Replacement Volume and 2011 Supplement)~~

BY adding to
Article – State Finance and Procurement
Section 6-212
Annotated Code of Maryland
(2009 Replacement Volume and 2011 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

~~6-201.~~

- ~~(a) In this subtitle the following words have the meanings indicated.~~
- ~~(b) “Banking institution” means an institution that is incorporated under the laws of the State as a State bank, trust company, or savings bank.~~
- ~~(c) “Financial institution” means:~~
- ~~(1) any banking institution;~~
 - ~~(2) any national banking association;~~
 - ~~(3) an institution that is incorporated under the laws of any other state as a bank; and~~
 - ~~(4) an institution that is incorporated under the laws of this State or of the United States as a savings and loan association.~~
- ~~(f) “National banking association” means an institution that is incorporated under federal law as a bank.~~

~~6-203.~~

- ~~(a) The Treasurer shall give 15% of the weight of the decision to the standards established in this section in deciding whether to:~~
- ~~(1) designate a financial institution as a depository for State money under § 6-205 of this subtitle; and~~
 - ~~(2) make an agreement with a financial institution for a banking service under § 6-220 of this subtitle.~~
- ~~(b) (1) The Treasurer shall consider whether the financial institution received a rating of “needs improvement” or “substantial noncompliance” in its most recent examination under the federal Community Reinvestment Act of 1977, P.L. Number 95-128.~~
- ~~(2) If a financial institution operates in a state other than Maryland, the Treasurer shall consider Maryland-specific information that is provided within the assessment area section of the Community Reinvestment Act report.~~

~~(e) (1) The Treasurer shall consider whether, during the previous 5 years, a court in Maryland has found, in a final adjudication, that a financial institution has violated any antidiscrimination statute or regulation.~~

~~(2) The Treasurer may consider whether, during the previous 5 years, a court outside Maryland has found, in a final adjudication, that a financial institution has violated any antidiscrimination statute or regulation.~~

~~(3) The Treasurer may determine how to assess a violation under paragraph (1) or (2) of this subsection if the violation was committed by:~~

~~(i) an affiliate of the financial institution; or~~

~~(ii) an entity acquired by the financial institution.~~

~~(d) The Treasurer shall consider whether the financial institution has demonstrated that during the previous 5 years, the financial institution has:~~

~~(1) successfully made loans in Maryland through State or federal lending programs designed to assist small and minority owned businesses;~~

~~(2) had an active outreach program to assist small and minority owned businesses through which the financial institution has made efforts in Maryland; and~~

~~(3) established strategic partnerships in Maryland with entities whose mission is to provide technical assistance to small and minority owned businesses.~~

~~(E) THE TREASURER SHALL CONSIDER WHETHER THE FINANCIAL INSTITUTION:~~

~~(1) IS OPERATING IN THE STATE WITH TOTAL ASSETS OF LESS THAN \$5,000,000,000; AND~~

~~(2) COMMITS TO MAKE LOANS TO SMALL BUSINESSES IN THE STATE IN AN AGGREGATE AMOUNT OF AT LEAST 200% OF THE INCREMENTAL FUNDS THAT ARE DEPOSITED BY THE TREASURER.~~

6-212.

(A) (1) THERE IS A LINKED DEPOSIT PROGRAM FOR SMALL BUSINESSES IN THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT.

(2) THE PURPOSE OF THE LINKED DEPOSIT PROGRAM FOR SMALL BUSINESSES IS TO STIMULATE OPPORTUNITIES FOR SMALL BUSINESSES

TO HAVE ACCESS TO CREDIT BY ASSISTING THESE BUSINESSES IN OBTAINING LOANS AT LOWER THAN MARKET INTEREST RATES.

(B) A LOAN QUALIFIES UNDER THE LINKED DEPOSIT PROGRAM FOR SMALL BUSINESSES IF THE LOAN:

(1) SATISFIES THE LENDING CRITERIA OF THE FINANCIAL INSTITUTION;

(2) HAS A TERM NOT EXCEEDING 10 YEARS;

(3) IS MADE TO A SMALL BUSINESS QUALIFIED UNDER TITLE 14, SUBTITLE 5 OF THIS ARTICLE;

(4) HAS AN INTEREST RATE THAT IS 2 PERCENTAGE POINTS BELOW THE INTEREST RATE THE FINANCIAL INSTITUTION WOULD CHARGE FOR A LOAN FOR A SIMILAR PURPOSE AND A SIMILAR TERM; AND

(5) HAS POINTS OR FEES CHARGED AT LOAN CLOSING NOT EXCEEDING 1 PERCENT OF THE LOAN AMOUNT.

(C) THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT SHALL:

(1) CONFIRM WITH THE DEPARTMENT OF GENERAL SERVICES THAT EACH LOAN UNDER THE LINKED DEPOSIT PROGRAM FOR SMALL BUSINESSES IS MADE TO A BUSINESS THAT QUALIFIES AS A SMALL BUSINESS;

(2) ESTABLISH PROCEDURES FOR NOTIFICATION BY THE DEPARTMENT OF GENERAL SERVICES IF A BUSINESS THAT HAS AN OUTSTANDING BALANCE OF A LOAN UNDER THE LINKED DEPOSIT PROGRAM FOR SMALL BUSINESSES NO LONGER QUALIFIES AS A SMALL BUSINESS;

(3) REQUIRE SMALL BUSINESSES AND LENDERS TO NOTIFY THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT CONCERNING FINAL LOAN DISPOSITION; AND

(4) REPORT ANNUALLY TO THE GOVERNOR, THE TREASURER, AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON OVERALL PERFORMANCE OF THE LINKED DEPOSIT PROGRAM FOR SMALL BUSINESSES.

(D) THE TREASURER MAY ESTABLISH THE LINKED DEPOSIT PROGRAM FOR SMALL BUSINESSES FOR INVESTMENT OF DEPOSITS IN ANY FINANCIAL INSTITUTION THAT:

(1) THE TREASURER HAS DESIGNATED AS A DEPOSITORY FOR STATE MONEY; AND

(2) MAKES A LOAN IN ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION.

(E) (1) THE TREASURER MAY MAKE ONE OR MORE INTEREST BEARING DEPOSITS THAT ARE EQUAL TO:

(I) THE AMOUNT OF THE LOAN MADE BY THE FINANCIAL INSTITUTION IN ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION; OR

(II) THE AGGREGATE AMOUNT OF TWO OR MORE LOANS MADE BY ONE OR MORE FINANCIAL INSTITUTIONS IN ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION.

(2) IN MAKING AN INTEREST BEARING DEPOSIT UNDER THIS SUBSECTION, THE TREASURER MAY ACCEPT A RATE THAT IS 2 PERCENTAGE POINTS BELOW CURRENT MARKET RATES OR AN INDEX SELECTED BY THE TREASURER.

(3) THE TREASURER MAY USE UP TO \$50,000,000 TO MAKE INTEREST BEARING DEPOSITS IN AN AMOUNT EQUIVALENT TO THE AMOUNT FINANCIAL INSTITUTIONS LOAN TO QUALIFIED SMALL BUSINESSES.

(F) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, ON NOTIFICATION BY THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT THAT A SMALL BUSINESS PARTICIPATING IN THE LINKED DEPOSIT PROGRAM FOR SMALL BUSINESSES NO LONGER QUALIFIES AS A SMALL BUSINESS UNDER TITLE 14, SUBTITLE 5 OF THIS ARTICLE, THE TREASURER SHALL REDUCE THE AMOUNT OF THE INTEREST BEARING DEPOSIT WITH THE PARTICIPATING FINANCIAL INSTITUTION BY THE OUTSTANDING BALANCE OF THE LOAN MADE UNDER THIS SECTION TO THE SMALL BUSINESS THAT NO LONGER QUALIFIES UNDER TITLE 14, SUBTITLE 5 OF THIS ARTICLE.

(2) A SMALL BUSINESS THAT LOSES ITS QUALIFICATION DUE TO REVENUE OR EMPLOYEE GROWTH MAY NOT BE CONSIDERED UNQUALIFIED FOR PURPOSES OF PARAGRAPH (1) OF THIS SUBSECTION.

(G) (1) A LOAN ASSISTED BY A LINKED DEPOSIT IS NOT A DEBT OF THE STATE OR A PLEDGE OF THE CREDIT OF THE STATE.

(2) THE TREASURER AND THE STATE ARE NOT LIABLE TO ANY FINANCIAL INSTITUTION FOR PAYMENT OF THE PRINCIPAL OR INTEREST ON A LOAN ASSISTED BY A LINKED DEPOSIT.

(H) THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT AND THE TREASURER MAY ADOPT REGULATIONS TO CARRY OUT THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) The State Treasurer shall meet with representatives from the Maryland banking industry and any related stakeholders and identify:

(1) impediments to participating in the procurement process for the selection of designated State depositories, including State agency and linked–deposit programs; and

(2) any possible solutions to any impediments identified under item (1) of this subsection.

(b) On or before December 31, 2012, the Treasurer shall report to the General Assembly, in accordance with § 2–1246 of the State Government Article, on the results of the meetings with representatives from the Maryland banking industry and any related stakeholders to the General Assembly.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 587

(Senate Bill 807)

AN ACT concerning

**Income Tax – Subtraction Modification – Land Acquisition for
~~Transportation-Related Projects~~ Department of Transportation**

FOR the purpose of allowing a subtraction modification under the Maryland income tax for *the amount of a gain resulting from* a payment by the ~~State Highway Administration~~ Maryland Department of Transportation for the acquisition of a

portion of an individual's property on which the individual's principal residence is located ~~for use in certain transportation projects; limiting the subtraction modification to a certain amount;~~ providing for the application of this Act; and generally relating to an income tax subtraction modification for gain resulting from certain payments by the ~~State Highway Administration~~ Maryland Department of Transportation.

BY repealing and reenacting, without amendments,
 Article – Tax – General
 Section 10–207(a)
 Annotated Code of Maryland
 (2010 Replacement Volume and 2011 Supplement)

BY adding to
 Article – Tax – General
 Section 10–207(y)
 Annotated Code of Maryland
 (2010 Replacement Volume and 2011 Supplement)

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

Article – Tax – General

10–207.

(a) To the extent included in federal adjusted gross income, the amounts under this section are subtracted from the federal adjusted gross income of a resident to determine Maryland adjusted gross income.

(Y) (1) ~~THE~~ IN THIS SUBSECTION, “PRINCIPAL RESIDENCE” HAS THE MEANING STATED IN § 121 OF THE INTERNAL REVENUE CODE.

(2) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, THE SUBTRACTION UNDER SUBSECTION (A) OF THIS SECTION INCLUDES THE AMOUNT OF A GAIN RESULTING FROM A PAYMENT FROM THE ~~STATE HIGHWAY ADMINISTRATION~~ MARYLAND DEPARTMENT OF TRANSPORTATION TO AN INDIVIDUAL FOR THE ACQUISITION OF A PORTION OF THE INDIVIDUAL'S PROPERTY ON WHICH THE INDIVIDUAL'S PRINCIPAL RESIDENCE IS LOCATED FOR USE IN A TRANSPORTATION-RELATED PROJECT.

(3) THE AMOUNT SUBTRACTED UNDER THIS SUBSECTION MAY NOT EXCEED THE AMOUNT THAT MAY BE EXCLUDED FROM INCOME ON THE CONDEMNATION OF AN INDIVIDUAL'S PRINCIPAL RESIDENCE UNDER § 121 OF THE INTERNAL REVENUE CODE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012, and shall be applicable to all taxable years beginning after December 31, 2011.

Approved by the Governor, May 22, 2012.

Chapter 588

(Senate Bill 811)

AN ACT concerning

Insurance – Fraud Violations – Fines and Administrative Penalties

FOR the purpose of requiring the Fraud Division of the Maryland Insurance Administration to investigate certain allegations and to impose certain penalties under certain circumstances; providing that a certain fine imposed for certain insurance fraud violations is mandatory and not subject to suspension; authorizing the Maryland Insurance Commissioner to impose an administrative penalty, not exceeding a certain amount, for certain insurance fraud violations under certain circumstances; authorizing the Commissioner, for certain insurance fraud violations, to order restitution to certain insurers or self-insured employers of certain proceeds paid; requiring the Commissioner to consider certain factors in determining the amount of a certain administrative penalty; providing that the Commissioner may bring a civil action for the nonpayment of a certain administrative penalty under certain circumstances; providing for the effect of this Act; and generally relating to the authority of the Maryland Insurance Commissioner to impose fines and administrative penalties and order restitution for insurance fraud violations.

BY repealing and reenacting, with amendments,
Article – Insurance
Section 2–405 and 27–408
Annotated Code of Maryland
(2011 Replacement Volume)

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

Article – Insurance

2–405.

The Fraud Division:

(1) has the authority to investigate each person suspected of engaging in insurance fraud;

(2) if appropriate after an investigation:

(i) shall refer suspected cases of insurance fraud to the Office of the Attorney General or appropriate local State's Attorney to prosecute the person criminally for insurance fraud;

(ii) shall notify the appropriate professional licensing board or disciplinary body of evidence of insurance fraud that involves professionals;

(iii) shall notify the appropriate professional licensing board of evidence of gross overutilization of health care services;

(iv) shall notify the Workers' Compensation Commission of suspected cases of insurance fraud referred to the Office of the Attorney General or appropriate local State's Attorney under subparagraph (i) of this paragraph that involve the payment of compensation, fees, or expenses under the Workers' Compensation Law; and

(v) shall assist local and State law enforcement agencies in the prosecution of automobile theft;

(3) shall compile and abstract information that includes the number of confirmed acts of insurance fraud and the type of acts of insurance fraud;

(4) in exercising its authority under this subtitle, shall cooperate with the Department of State Police, Office of the Attorney General, local State's Attorney in the jurisdiction in which the alleged acts of insurance fraud took place, and appropriate federal and local law enforcement authorities;

(5) shall operate or provide for a toll-free insurance fraud hot line to receive and record information about alleged acts of insurance fraud; [and]

(6) in cooperation with the Office of the Attorney General and Department of State Police, shall conduct public outreach and awareness programs on the costs of insurance fraud to the public; AND

(7) SHALL INVESTIGATE ALLEGATIONS OF CIVIL FRAUD AND, IF APPROPRIATE AFTER INVESTIGATION, IMPOSE ADMINISTRATIVE PENALTIES AND ORDER RESTITUTION IN ACCORDANCE WITH § 27-408 OF THIS ARTICLE.

(a) (1) A person that violates § 27–407 of this subtitle, or another provision of this subtitle in which the claim or act that is the subject of the fraud has a value of \$300 or more is guilty of a felony and on conviction, for each violation, is subject to:

(i) liability for restoring to the victim the property taken or the value of the property taken; and

(ii) 1. for a violation of any provision of § 27–403 of this subtitle, a fine, the maximum of which is the greater of three times the value of the claim or act that is the subject of the fraud and \$10,000 and the minimum of which is \$500, or imprisonment not exceeding 15 years or both; and

2. for a violation of any provision of § 27–404, § 27–405, § 27–406, § 27–407, or § 27–407.1 of this subtitle, a fine not exceeding \$10,000 or imprisonment not exceeding 15 years or both.

(2) A person that violates a provision of this subtitle in which the claim or act that is the subject of the fraud has a value of less than \$300 is guilty of a misdemeanor and on conviction, for each violation, is subject to:

(i) liability for restoring to the victim the property taken or the value of the property taken; and

(ii) 1. for a violation of any provision of § 27–403 of this subtitle, a fine, the maximum of which is the greater of three times the value of the claim or act that is the subject of the fraud and \$10,000 and the minimum of which is \$500, or imprisonment not exceeding 18 months or both; and

2. for a violation of any provision of § 27–404, § 27–405, § 27–406, § 27–407, or § 27–407.1 of this subtitle, a fine not exceeding \$10,000 or imprisonment not exceeding 18 months or both.

(b) (1) The penalties imposed under this section may be imposed separately from and consecutively to or concurrently with a sentence for another offense based on the act that constitutes a violation of this subtitle.

(2) Each act of solicitation under § 27–407 of this subtitle constitutes a separate violation for purposes of the penalties imposed under this section.

(3) Notwithstanding any other provision of law, a fine imposed under [this] **SUBSECTION (A) OF THIS** section is mandatory and not subject to suspension.

(C) (1) IN ADDITION TO ANY CRIMINAL PENALTIES THAT MAY BE IMPOSED UNDER THIS SECTION, ON A SHOWING BY A ~~PREPONDERANCE OF~~

CLEAR AND CONVINCING EVIDENCE THAT A VIOLATION OF THIS SUBTITLE HAS OCCURRED, THE COMMISSIONER MAY:

(I) IMPOSE AN ADMINISTRATIVE PENALTY NOT EXCEEDING \$25,000 FOR EACH ACT OF INSURANCE FRAUD; AND

(II) ORDER RESTITUTION TO AN INSURER OR SELF-INSURED EMPLOYER OF ANY INSURANCE PROCEEDS PAID RELATING TO A FRAUDULENT INSURANCE CLAIM.

(2) IN DETERMINING THE AMOUNT OF AN ADMINISTRATIVE PENALTY, THE COMMISSIONER SHALL CONSIDER:

(I) THE NATURE, CIRCUMSTANCES, EXTENT, GRAVITY, AND NUMBER OF VIOLATIONS;

(II) THE DEGREE OF CULPABILITY OF THE VIOLATOR;

(III) PRIOR OFFENSES AND REPEATED VIOLATIONS OF THE VIOLATOR; AND

(IV) ANY OTHER MATTER THAT THE COMMISSIONER CONSIDERS APPROPRIATE AND RELEVANT.

(3) IF AN ADMINISTRATIVE PENALTY IS NOT PAID AFTER ALL RIGHTS OF APPEAL HAVE BEEN WAIVED OR EXHAUSTED, THE COMMISSIONER MAY BRING A CIVIL ACTION IN A COURT OF COMPETENT JURISDICTION TO COLLECT THE ADMINISTRATIVE PENALTY, INCLUDING EXPENSES AND LITIGATION COSTS, REASONABLE ATTORNEY'S FEES, AND INTEREST.

(D) THIS SECTION DOES NOT AFFECT AN INSURER'S RIGHT TO TAKE ANY INDEPENDENT ACTION TO SEEK RECOVERY AGAINST A PERSON THAT VIOLATES THIS SUBTITLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 589

(House Bill 1094)

AN ACT concerning

Insurance – Fraud Violations – Fines and Administrative Penalties

FOR the purpose of requiring the Fraud Division of the Maryland Insurance Administration to investigate certain allegations and to impose certain penalties under certain circumstances; providing that a certain fine imposed for certain insurance fraud violations is mandatory and not subject to suspension; authorizing the Maryland Insurance Commissioner to impose an administrative penalty, not exceeding a certain amount, for certain insurance fraud violations under certain circumstances; authorizing the Commissioner, for certain insurance fraud violations, to order restitution to certain insurers or self-insured employers of certain proceeds paid; requiring the Commissioner to consider certain factors in determining the amount of a certain administrative penalty; providing that the Commissioner may bring a civil action for the nonpayment of a certain administrative penalty under certain circumstances; providing for the construction of this Act; and generally relating to the authority of the Maryland Insurance Commissioner to impose fines and administrative penalties and order restitution for insurance fraud violations.

BY repealing and reenacting, with amendments,

Article – Insurance

Section 2–405 and 27–408

Annotated Code of Maryland

(2011 Replacement Volume)

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

Article – Insurance

2–405.

The Fraud Division:

(1) has the authority to investigate each person suspected of engaging in insurance fraud;

(2) if appropriate after an investigation:

(i) shall refer suspected cases of insurance fraud to the Office of the Attorney General or appropriate local State’s Attorney to prosecute the person criminally for insurance fraud;

(ii) shall notify the appropriate professional licensing board or disciplinary body of evidence of insurance fraud that involves professionals;

(iii) shall notify the appropriate professional licensing board of evidence of gross overutilization of health care services;

(iv) shall notify the Workers' Compensation Commission of suspected cases of insurance fraud referred to the Office of the Attorney General or appropriate local State's Attorney under subparagraph (i) of this paragraph that involve the payment of compensation, fees, or expenses under the Workers' Compensation Law; and

(v) shall assist local and State law enforcement agencies in the prosecution of automobile theft;

(3) shall compile and abstract information that includes the number of confirmed acts of insurance fraud and the type of acts of insurance fraud;

(4) in exercising its authority under this subtitle, shall cooperate with the Department of State Police, Office of the Attorney General, local State's Attorney in the jurisdiction in which the alleged acts of insurance fraud took place, and appropriate federal and local law enforcement authorities;

(5) shall operate or provide for a toll-free insurance fraud hot line to receive and record information about alleged acts of insurance fraud; [and]

(6) in cooperation with the Office of the Attorney General and Department of State Police, shall conduct public outreach and awareness programs on the costs of insurance fraud to the public; AND

(7) SHALL INVESTIGATE ALLEGATIONS OF CIVIL FRAUD AND, IF APPROPRIATE AFTER INVESTIGATION, IMPOSE ADMINISTRATIVE PENALTIES AND ORDER RESTITUTION IN ACCORDANCE WITH § 27-408 OF THIS ARTICLE.

27-408.

(a) (1) A person that violates § 27-407 of this subtitle, or another provision of this subtitle in which the claim or act that is the subject of the fraud has a value of \$300 or more is guilty of a felony and on conviction, for each violation, is subject to:

(i) liability for restoring to the victim the property taken or the value of the property taken; and

(ii) 1. for a violation of any provision of § 27-403 of this subtitle, a fine, the maximum of which is the greater of three times the value of the claim or act that is the subject of the fraud and \$10,000 and the minimum of which is \$500, or imprisonment not exceeding 15 years or both; and

2. for a violation of any provision of § 27–404, § 27–405, § 27–406, § 27–407, or § 27–407.1 of this subtitle, a fine not exceeding \$10,000 or imprisonment not exceeding 15 years or both.

(2) A person that violates a provision of this subtitle in which the claim or act that is the subject of the fraud has a value of less than \$300 is guilty of a misdemeanor and on conviction, for each violation, is subject to:

(i) liability for restoring to the victim the property taken or the value of the property taken; and

(ii) 1. for a violation of any provision of § 27–403 of this subtitle, a fine, the maximum of which is the greater of three times the value of the claim or act that is the subject of the fraud and \$10,000 and the minimum of which is \$500, or imprisonment not exceeding 18 months or both; and

2. for a violation of any provision of § 27–404, § 27–405, § 27–406, § 27–407, or § 27–407.1 of this subtitle, a fine not exceeding \$10,000 or imprisonment not exceeding 18 months or both.

(b) (1) The penalties imposed under this section may be imposed separately from and consecutively to or concurrently with a sentence for another offense based on the act that constitutes a violation of this subtitle.

(2) Each act of solicitation under § 27–407 of this subtitle constitutes a separate violation for purposes of the penalties imposed under this section.

(3) Notwithstanding any other provision of law, a fine imposed under **[this] SUBSECTION (A) OF THIS** section is mandatory and not subject to suspension.

(C) (1) IN ADDITION TO ANY CRIMINAL PENALTIES THAT MAY BE IMPOSED UNDER THIS SECTION, ON A SHOWING BY ~~A PREPONDERANCE OF CLEAR AND CONVINCING~~ EVIDENCE THAT A VIOLATION OF THIS SUBTITLE HAS OCCURRED, THE COMMISSIONER MAY:

(I) IMPOSE AN ADMINISTRATIVE PENALTY NOT EXCEEDING \$25,000 FOR EACH ACT OF INSURANCE FRAUD; AND

(II) ORDER RESTITUTION TO AN INSURER OR SELF-INSURED EMPLOYER OF ANY INSURANCE PROCEEDS PAID RELATING TO A FRAUDULENT INSURANCE CLAIM.

(2) IN DETERMINING THE AMOUNT OF AN ADMINISTRATIVE PENALTY, THE COMMISSIONER SHALL CONSIDER:

(I) THE NATURE, CIRCUMSTANCES, EXTENT, GRAVITY, AND NUMBER OF VIOLATIONS;

(II) THE DEGREE OF CULPABILITY OF THE VIOLATOR;

(III) PRIOR OFFENSES AND REPEATED VIOLATIONS OF THE VIOLATOR; AND

(IV) ANY OTHER MATTER THAT THE COMMISSIONER CONSIDERS APPROPRIATE AND RELEVANT.

(3) IF AN ADMINISTRATIVE PENALTY IS NOT PAID AFTER ALL RIGHTS OF APPEAL HAVE BEEN WAIVED OR EXHAUSTED, THE COMMISSIONER MAY BRING A CIVIL ACTION IN A COURT OF COMPETENT JURISDICTION TO COLLECT THE ADMINISTRATIVE PENALTY, INCLUDING EXPENSES AND LITIGATION COSTS, REASONABLE ATTORNEY'S FEES, AND INTEREST.

(D) THIS SECTION DOES NOT AFFECT AN INSURER'S RIGHT TO TAKE ANY INDEPENDENT ACTION TO SEEK RECOVERY AGAINST A PERSON THAT VIOLATES THIS SUBTITLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 590

(Senate Bill 812)

AN ACT concerning

Insurance – Suspected Fraud – ~~Reporting Requirement~~ Liability for Reporting or for Furnishing or Receiving Information

FOR the purpose of altering the list of persons ~~that are required to report suspected insurance fraud to certain persons and entities in a certain manner under certain circumstances; authorizing the withholding of certain information provided by certain persons~~ to whom a person may report suspected insurance fraud and not be subject to civil liability; providing that a person is not subject to civil liability for furnishing or receiving information relating to suspected, anticipated, or completed fraudulent insurance acts under certain circumstances; ~~making stylistic changes~~; and generally relating to required reporting of suspected insurance fraud.

BY repealing and reenacting, with amendments,
 Article – Insurance
 Section 27–802
 Annotated Code of Maryland
 (2011 Replacement Volume)

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

Article – Insurance

27–802.

(a) ~~THIS SECTION APPLIES TO:~~

(1) ~~[(An)]~~ authorized ~~[(insurer, its)]~~ ~~INSURERS AND THEIR~~ employees~~[(,)]~~;

~~(2)~~ fund producers~~[(,)]~~ ~~AND~~ insurance producers~~[(, a)]~~;

~~(3)~~ viatical settlement ~~[(provider, or a)]~~ ~~PROVIDERS;~~

~~(4)~~ viatical settlement ~~[(broker who in good faith has cause to believe that insurance fraud has been or is being committed shall report the suspected insurance fraud in writing to the Commissioner, the Fraud Division, or the appropriate federal, State, or local law enforcement authorities.)]~~ ~~BROKERS;~~

~~[(2)]~~ ~~(5)~~ ~~[(An)]~~ independent insurance ~~[(producer shall meet the reporting requirement of this subsection by reporting the suspected insurance fraud in writing to the Fraud Division.)]~~ ~~PRODUCERS;~~

~~[(3)]~~ ~~(6)~~ ~~[(A)]~~ registered premium finance ~~[(company shall meet the requirement of this subsection by reporting suspected insurance fraud in writing to the Fraud Division.)]~~ ~~COMPANIES AND THEIR EMPLOYEES;~~

~~(7)~~ ~~THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS AND ITS EMPLOYEES;~~

~~(8)~~ ~~ORGANIZATIONS ESTABLISHED TO DETECT AND PREVENT FRAUDULENT INSURANCE ACTS AND THE AGENTS, EMPLOYEES, AND DESIGNEES OF THE ORGANIZATIONS; AND~~

~~(9) PROVIDERS OF A RECOGNIZED COMPREHENSIVE DATABASE SYSTEM APPROVED BY THE COMMISSIONER TO MONITOR ACTIVITIES INVOLVING INSURANCE FRAUD AND THE EMPLOYEES OF THE PROVIDERS.~~

~~(B) IF A PERSON SUBJECT TO THIS SECTION HAS CAUSE TO BELIEVE IN GOOD FAITH THAT INSURANCE FRAUD HAS BEEN OR IS BEING COMMITTED, THE PERSON SHALL REPORT THE SUSPECTED INSURANCE FRAUD IN WRITING TO THE COMMISSIONER, THE FRAUD DIVISION, OR THE APPROPRIATE FEDERAL, STATE, OR LOCAL LAW ENFORCEMENT AUTHORITY.~~

~~[(b)] (C)~~ In addition to any protection provided under § 10-618 of the State Government Article, any information, documentation, or other evidence provided under this section ~~[(b)]~~ by an insurer, its employees, fund producers, or insurance producers, a viatical settlement provider, a viatical settlement broker, an independent insurance producer, or a registered premium finance company~~[(b)]~~ to the Commissioner, the Fraud Division, or a federal, State, or local law enforcement authority in connection with an investigation of suspected insurance fraud is not subject to public inspection for as long as the Commissioner, Fraud Division, or law enforcement authority considers the withholding to be necessary to complete an investigation of the suspected fraud or to protect the person investigated from unwarranted injury.

~~[(c)] (D)~~ A person is not subject to civil liability for a cause of action by virtue of reporting suspected insurance fraud, OR FURNISHING OR RECEIVING INFORMATION RELATING TO SUSPECTED, ANTICIPATED, OR COMPLETED FRAUDULENT INSURANCE ACTS, if:

(1) the report was made OR THE INFORMATION WAS FURNISHED TO OR RECEIVED FROM:

(I) the Commissioner, Fraud Division, or an appropriate federal, State, or local law enforcement authority;

(II) THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS OR ITS AGENT, EMPLOYEE, OR DESIGNEE;

(III) A NOT-FOR-PROFIT ORGANIZATION ESTABLISHED TO DETECT AND PREVENT FRAUDULENT INSURANCE ACTS OR ITS AGENT, EMPLOYEE, OR DESIGNEE;

(IV) A PERSON THAT CONTRACTS TO PROVIDE SPECIAL INVESTIGATIVE UNIT SERVICES TO AN INSURER; OR

(V) A PROVIDER OF A RECOGNIZED COMPREHENSIVE DATABASE SYSTEM THAT THE COMMISSIONER APPROVES TO MONITOR

ACTIVITIES INVOLVING INSURANCE FRAUD OR AN EMPLOYEE OF THE PROVIDER; and

(2) the person that reported the suspected insurance fraud, OR FURNISHED OR RECEIVED THE INFORMATION, acted in good faith when making the report OR FURNISHING OR RECEIVING THE INFORMATION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 591

(House Bill 1097)

AN ACT concerning

Insurance – Suspected Fraud – ~~Reporting Requirement~~ Liability for Reporting or for Furnishing or Receiving Information

FOR the purpose of altering the list of persons ~~that are required to report suspected insurance fraud to certain persons and entities in a certain manner under certain circumstances; authorizing the withholding of certain information provided by certain persons~~ to whom a person may report suspected insurance fraud and not be subject to civil liability; providing that a person is not subject to civil liability for furnishing or receiving information relating to suspected, anticipated, or completed fraudulent insurance acts under certain circumstances; ~~making stylistic changes~~; and generally relating to required reporting of suspected insurance fraud.

BY repealing and reenacting, with amendments,

Article – Insurance

Section 27–802

Annotated Code of Maryland

(2011 Replacement Volume)

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

Article – Insurance

27–802.

(a) ~~THIS SECTION APPLIES TO:~~

(1) ~~{An}~~ authorized ~~{insurer, its}~~ ~~INSURERS AND THEIR~~ employees~~};~~

~~(2)~~ fund producers~~};~~ ~~AND~~ insurance producers~~{, a}~~};

~~(3)~~ viatical settlement ~~{provider, or a}~~ ~~PROVIDERS;~~

~~(4)~~ viatical settlement ~~{broker who in good faith has cause to believe that insurance fraud has been or is being committed shall report the suspected insurance fraud in writing to the Commissioner, the Fraud Division, or the appropriate federal, State, or local law enforcement authorities.}~~ ~~BROKERS;~~

~~{(2)}~~ ~~(5)~~ ~~{An}~~ independent insurance ~~{producer shall meet the reporting requirement of this subsection by reporting the suspected insurance fraud in writing to the Fraud Division.}~~ ~~PRODUCERS;~~

~~{(3)}~~ ~~(6)~~ ~~{A}~~ registered premium finance ~~{company shall meet the requirement of this subsection by reporting suspected insurance fraud in writing to the Fraud Division.}~~ ~~COMPANIES AND THEIR EMPLOYEES;~~

~~(7)~~ ~~THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS AND ITS EMPLOYEES;~~

~~(8)~~ ~~ORGANIZATIONS ESTABLISHED TO DETECT AND PREVENT FRAUDULENT INSURANCE ACTS AND THE AGENTS, EMPLOYEES, AND DESIGNEES OF THE ORGANIZATIONS; AND~~

~~(9)~~ ~~PROVIDERS OF A RECOGNIZED COMPREHENSIVE DATABASE SYSTEM APPROVED BY THE COMMISSIONER TO MONITOR ACTIVITIES INVOLVING INSURANCE FRAUD AND THE EMPLOYEES OF THE PROVIDERS.~~

~~(b)~~ ~~IF A PERSON SUBJECT TO THIS SECTION HAS CAUSE TO BELIEVE IN GOOD FAITH THAT INSURANCE FRAUD HAS BEEN OR IS BEING COMMITTED, THE PERSON SHALL REPORT THE SUSPECTED INSURANCE FRAUD IN WRITING TO THE COMMISSIONER, THE FRAUD DIVISION, OR THE APPROPRIATE FEDERAL, STATE, OR LOCAL LAW ENFORCEMENT AUTHORITY.~~

~~{(b)}~~ ~~(c)~~ In addition to any protection provided under § 10-618 of the State Government Article, any information, documentation, or other evidence provided under this section ~~{by an insurer, its employees, fund producers, or insurance producers, a viatical settlement provider, a viatical settlement broker, an independent insurance producer, or a registered premium finance company}~~ to the Commissioner, the Fraud Division, or a federal, State, or local law enforcement authority in

connection with an investigation of suspected insurance fraud is not subject to public inspection for as long as the Commissioner, Fraud Division, or law enforcement authority considers the withholding to be necessary to complete an investigation of the suspected fraud or to protect the person investigated from unwarranted injury.

~~[(c)] (D)~~ A person is not subject to civil liability for a cause of action by virtue of reporting suspected insurance fraud, OR FURNISHING OR RECEIVING INFORMATION RELATING TO SUSPECTED, ANTICIPATED, OR COMPLETED FRAUDULENT INSURANCE ACTS, if:

(1) the report was made, OR THE INFORMATION WAS FURNISHED TO OR RECEIVED FROM:

(I) the Commissioner, Fraud Division, or an appropriate federal, State, or local law enforcement authority;

(II) THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS OR ITS AGENT, EMPLOYEE, OR DESIGNEE;

(III) A NOT-FOR-PROFIT ORGANIZATION ESTABLISHED TO DETECT AND PREVENT FRAUDULENT INSURANCE ACTS OR ITS AGENT, EMPLOYEE, OR DESIGNEE;

(IV) A PERSON THAT CONTRACTS TO PROVIDE SPECIAL INVESTIGATIVE UNIT SERVICES TO AN INSURER; OR

(V) A PROVIDER OF A RECOGNIZED COMPREHENSIVE DATABASE SYSTEM THAT THE COMMISSIONER APPROVES TO MONITOR ACTIVITIES INVOLVING INSURANCE FRAUD OR AN EMPLOYEE OF THE PROVIDER; and

(2) the person that reported the suspected insurance fraud, OR FURNISHED OR RECEIVED THE INFORMATION, acted in good faith when making the report OR FURNISHING OR RECEIVING THE INFORMATION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 592

(Senate Bill 820)

AN ACT concerning

Transportation – Toll, Fee, or Other Charge Increases – ~~Notice and Public Comment~~ Required Procedures

FOR the purpose of requiring ~~certain staff of the Maryland Transportation Authority to provide, by a certain date, public notice regarding a proposal to increase certain tolls, fees, or other charges; requiring the Authority to make the proposal available to the public in a certain manner; requiring the Authority to receive comments from the public at the meeting at which the Authority votes to implement the proposal~~ provide an opportunity for public review and comment on a proposal to increase tolls, fees, mileage rate ranges, pricing periods, toll zones, or other charges on any part of certain transportation facilities projects in a certain manner before the Authority adopts the proposal; requiring the Authority to provide to the public certain information and studies in a certain manner; requiring the Authority to provide the public with an opportunity to submit certain written comments for a certain period of time; requiring the Authority to provide to the public in a certain manner a summary and analysis of certain public comments; requiring the Authority, before voting on a certain proposal, to provide certain information to the public in a certain manner and to each member of the Authority, provide an opportunity for public review and comment on the recommendation of the Authority, provide certain information on its official Web site, and provide to certain members of the Authority and to the public in a certain manner a certain summary and analysis of certain public comments; requiring the Authority, at a certain meeting, to provide the public a reasonable amount of time to comment on a certain recommendation before the Authority votes on the recommendation; providing that the Authority is not required to provide a certain opportunity for public comment under a certain circumstance; requiring the Authority to adopt certain temporary adjustments to certain tolls, fees, mileage rate ranges, pricing periods, toll zones, or other charges on certain transportation facilities under certain circumstances; establishing certain limitations and certain procedural requirements for certain temporary adjustments; and generally relating to ~~notice and public comments regarding a proposal to increase certain tolls, fees, or other charges by the Maryland Transportation Authority and required procedures regarding proposals to increase tolls, fees, or other charges.~~

BY repealing and reenacting, without amendments,
Article – Transportation
Section 4–101(h)
Annotated Code of Maryland
(2008 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,
Article – Transportation
Section 4–312

Annotated Code of Maryland
(2008 Replacement Volume and 2011 Supplement)

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

Article – Transportation

4–101.

(h) “Transportation facilities project” includes:

(1) The Susquehanna River Bridge, the Harry W. Nice Memorial Potomac River Bridge, the William Preston Lane, Jr. Memorial Chesapeake Bay Bridge and parallel Chesapeake Bay Bridge, the Baltimore Harbor Tunnel, the Fort McHenry Tunnel, the Francis Scott Key Bridge, and the John F. Kennedy Memorial Highway, together with their appurtenant causeways, approaches, interchanges, entrance plazas, toll stations, and service facilities;

(2) A vehicle parking facility located in a priority funding area as defined in § 5–7B–02 of the State Finance and Procurement Article;

(3) Any other project for transportation facilities that the Authority authorizes to be acquired or constructed; and

(4) Any additions, improvements, or enlargements to any of these projects, whenever authorized.

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 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.

(2) As to all or any part of any transportation facilities project, the Authority may:

(i) Fix, revise, charge, and collect rentals, rates, fees, tolls, and other charges and revenues for its use or for its services; and

(ii) Contract with any person who desires its use for any purpose and fix the terms, conditions, rentals, rates, fees, tolls, or other charges or revenues for this use.

~~(3) (i) AT LEAST 90 DAYS BEFORE A VOTE BY THE AUTHORITY TO IMPLEMENT A PROPOSAL TO INCREASE TOLLS, FEES, OR OTHER CHARGES ON ANY PART OF A TRANSPORTATION FACILITIES PROJECT, THE EXECUTIVE SECRETARY OF THE AUTHORITY OR OTHER APPROPRIATE STAFF DESIGNATED BY THE CHAIR OF THE AUTHORITY SHALL PROVIDE NOTICE OF THE PROPOSAL TO THE PUBLIC.~~

~~(ii) THE AUTHORITY SHALL:~~

~~1. MAKE THE PROPOSAL AVAILABLE TO THE PUBLIC ON THE OFFICIAL WEB SITE OF THE AUTHORITY; AND~~

~~2. DISPLAY THE PROPOSAL IN AT LEAST 12 POINT FONT IN A POSITION THAT IS CLEARLY VISIBLE IN THE WINDOW OF THE WEB SITE AS THE WEB SITE LOADS.~~

~~(iii) THE AUTHORITY SHALL RECEIVE COMMENTS FROM THE PUBLIC ON THE PROPOSAL AT THE MEETING AT WHICH THE AUTHORITY VOTES TO IMPLEMENT THE PROPOSAL~~

(i) BEFORE THE AUTHORITY ADOPTS AN INCREASE IN TOLLS, FEES, OR OTHER CHARGES ON ANY PART OF A FIXED TOLL TRANSPORTATION FACILITIES PROJECT OR ADOPTS AN INCREASE IN MILEAGE RATE RANGES, PRICING PERIODS, TOLL ZONES, FEES, OR OTHER CHARGES ON A VARIABLY PRICED TOLL TRANSPORTATION FACILITIES PROJECT, THE AUTHORITY SHALL PROVIDE AN OPPORTUNITY FOR PUBLIC REVIEW AND COMMENT ON THE PROPOSED INCREASE AT ONE OR MORE MEETINGS HELD AT A TIME AND PLACE OF CONVENIENCE TO THE PUBLIC IN EACH COUNTY IN WHICH THE INCREASE IS PROPOSED TO BE IMPLEMENTED.

(ii) AT LEAST 10 WORKING DAYS BEFORE THE START OF THE FIRST MEETING UNDER SUBPARAGRAPH (i) OF THIS PARAGRAPH, THE AUTHORITY SHALL PROVIDE TO THE PUBLIC ON THE AUTHORITY'S OFFICIAL WEB SITE THE PROPOSED INCREASE IN TOLLS, FEES, MILEAGE RATE RANGES, PRICING PERIODS, TOLLS ZONES, OR OTHER CHARGES AND INFORMATION AND STUDIES USED IN ITS ANALYSIS TO JUSTIFY THE PROPOSED INCREASE.

(iii) FOR A PERIOD OF AT LEAST 10 WORKING DAYS AFTER THE LAST SCHEDULED MEETING FOR PUBLIC REVIEW AND COMMENT UNDER SUBPARAGRAPH (i) OF THIS PARAGRAPH, THE AUTHORITY SHALL PROVIDE THE PUBLIC WITH AN OPPORTUNITY TO SUBMIT ADDITIONAL WRITTEN COMMENTS ON THE PROPOSAL.

(IV) WITHIN 10 DAYS AFTER THE CLOSE OF THE WRITTEN COMMENT PERIOD UNDER SUBPARAGRAPH (III) OF THIS PARAGRAPH, THE AUTHORITY SHALL PROVIDE TO THE PUBLIC ON ITS OFFICIAL WEB SITE AND TO THE MEMBERS OF THE AUTHORITY A SUMMARY AND ANALYSIS OF THE COMMENTS RECEIVED FROM THE PUBLIC ON THE PROPOSAL.

(4) BEFORE THE AUTHORITY VOTES ON ANY PROPOSAL TO INCREASE TOLLS, FEES, OR OTHER CHARGES ON ANY PART OF A FIXED TOLL TRANSPORTATION FACILITIES PROJECT OR VOTES ON AN INCREASE IN MILEAGE RATE RANGES, PRICING PERIODS, TOLL ZONES, FEES, OR OTHER CHARGES ON ANY PART OF A VARIABLY PRICED TOLL TRANSPORTATION FACILITIES PROJECT, THE AUTHORITY SHALL:

(i) PROVIDE IN WRITING TO ALL OF THE MEMBERS OF THE AUTHORITY AND, ON REQUEST, TO THE PUBLIC ANY RECOMMENDATION OF THE AUTHORITY REGARDING THE PROPOSAL;

(ii) FOR A PERIOD OF AT LEAST 10 WORKING DAYS AFTER MAKING ANY RECOMMENDATION ON THE PROPOSAL, PROVIDE AN OPPORTUNITY FOR PUBLIC REVIEW AND WRITTEN COMMENT ON THE RECOMMENDATION;

(iii) PROVIDE TO THE PUBLIC ON ITS OFFICIAL WEB SITE:

1. ANY RECOMMENDATION OF THE AUTHORITY REGARDING THE PROPOSAL; AND

2. THE TIME, PLACE, AND DATE OF THE MEETING AT WHICH THE AUTHORITY WILL VOTE ON THE PROPOSAL; AND

(iv) PROVIDE TO EACH MEMBER OF THE AUTHORITY AND PROVIDE TO THE PUBLIC ON ITS OFFICIAL WEB SITE A SUMMARY AND ANALYSIS OF ANY PUBLIC COMMENTS RECEIVED UNDER ITEM (II) OF THIS PARAGRAPH BY THE AUTHORITY REGARDING THE AUTHORITY'S RECOMMENDATION.

(5) (i) AT ANY MEETING IN WHICH A RECOMMENDATION TO INCREASE TOLLS, FEES, OR OTHER CHARGES ON A FIXED TOLL TRANSPORTATION FACILITIES PROJECT OR A RECOMMENDATION TO INCREASE MILEAGE RATE RANGES, PRICING PERIODS, TOLL ZONES, FEES, OR OTHER CHARGES ON A VARIABLY PRICED TRANSPORTATION FACILITIES PROJECT IS SCHEDULED FOR CONSIDERATION, THE AUTHORITY SHALL PROVIDE THE PUBLIC A REASONABLE AMOUNT OF TIME TO COMMENT ON THE RECOMMENDATION BEFORE THE AUTHORITY VOTES ON THE RECOMMENDATION.

(II) IF THE AUTHORITY AMENDS ITS RECOMMENDATION AFTER RECEIVING PUBLIC COMMENT AT THE MEETING UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH AND THEN VOTES ON THE AMENDED RECOMMENDATION AT THAT MEETING, THE AUTHORITY IS NOT REQUIRED TO PROVIDE AN ADDITIONAL OPPORTUNITY FOR PUBLIC COMMENT UNDER PARAGRAPH (4) OF THIS SUBSECTION.

(6) (I) IF THE AUTHORITY DETERMINES THAT IT MUST INCREASE TOLLS, FEES, MILEAGE RATE RANGES, PRICING PERIODS, TOLLS ZONES, OR OTHER CHARGES WITHIN A TIME PERIOD OR IN A MANNER THAT WILL NOT PERMIT COMPLIANCE WITH PARAGRAPHS (3) AND (4) OF THIS SUBSECTION TO REMAIN IN COMPLIANCE WITH THE PROVISIONS OF ANY TRUST AGREEMENT, ESCROW DEPOSIT AGREEMENT, OR RESOLUTION THAT PROVIDES FOR THE PAYMENT OF BONDS ISSUED BY THE AUTHORITY, OR TO ENSURE THAT UNFORESEEN CIRCUMSTANCES DO NOT ADVERSELY AFFECT THE CONTINUITY OF OPERATIONS AT ONE OR MORE TRANSPORTATION FACILITIES PROJECTS, THE AUTHORITY SHALL DETERMINE THAT AN EMERGENCY STATUS EXISTS.

(II) IF THE AUTHORITY DETERMINES THAT AN EMERGENCY STATUS EXISTS UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE AUTHORITY SHALL ADOPT TEMPORARY ADJUSTMENTS TO TOLLS, FEES, MILEAGE RATE RANGES, PRICING PERIODS, TOLL ZONES, OR OTHER CHARGES THAT SHALL TAKE EFFECT IMMEDIATELY ON ADOPTION BY THE AUTHORITY OR ON THE EFFECTIVE DATE ESTABLISHED BY THE AUTHORITY.

(III) IF THE AUTHORITY ADOPTS ANY TEMPORARY ADJUSTMENTS TO TOLLS, FEES, MILEAGE RATE RANGES, PRICING PERIODS, TOLL ZONES, OR OTHER CHARGES UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE AUTHORITY SHALL:

1. PROVIDE NOTICE TO THE PUBLIC ON THE AUTHORITY'S OFFICIAL WEB SITE OF ANY TEMPORARY ADJUSTMENT ADOPTED UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH; AND

2. COMMENCE THE PUBLIC NOTICE AND COMMENT PROCEDURES UNDER PARAGRAPHS (3) AND (4) OF THIS SUBSECTION IMMEDIATELY.

(IV) AN EMERGENCY STATUS DETERMINATION MAY NOT EXCEED 180 DAYS AND MAY BE SUBJECT TO ONE OR MORE ADDITIONAL CONDITIONS IMPOSED BY THE AUTHORITY.

(V) WHEN THE EMERGENCY STATUS EXPIRES, THE TEMPORARY ADJUSTMENTS ADOPTED UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH SHALL END.

(b) The rentals, rates, fees, tolls, and other charges and revenues designated as security for any bonds issued under this subtitle shall be fixed and adjusted from time to time, either with respect to a particular transportation facilities project or in respect of the aggregate of the charges and revenues from other transportation facilities projects under the control of the Authority, as may be specified by law or in any applicable resolution or trust agreement, so as to provide funds that, together with any other available revenues, are sufficient as long as the bonds are outstanding and unpaid to:

(1) Pay the costs of maintaining, repairing, and operating the transportation facilities project or projects financed in whole or in part by one or more series of outstanding and unpaid bonds, to the extent that payment is not otherwise provided;

(2) Pay the principal of and the interest on these bonds as they become due and payable;

(3) Create reasonable reserves that are anticipated will be needed for these purposes; and

(4) Provide funds for paying the cost of replacements, renewals, and improvements.

(c) (1) Except as otherwise provided in this subsection, the rentals, rates, fees, tolls, and other charges and revenues are not subject to supervision or regulation by any instrumentality, agency, or unit of this State or any of its political subdivisions.

(2) This subtitle does not permit the exercise of any power or the undertaking of any activity that would conflict with the provisions and limitations of the federal Urban Mass Transportation Act of 1964.

(3) Tolls for the use of the bridge carrying the John F. Kennedy Memorial Highway over the Susquehanna River may not be less than the comparable tolls charged for the use of the Susquehanna River Bridge.

(4) Prior to fixing or revising tolls on any part of any transportation facilities project, the Authority shall provide, in accordance with § 2-1246 of the State Government Article, to the Senate Budget and Taxation Committee, Senate Finance Committee, House Appropriations Committee, and House Ways and Means Committee information on the proposed toll charges, including:

(i) The annual revenues generated by the toll charges;

- (ii) The proposed use of the revenues; and
- (iii) The proposed commuter discount rates.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 593

(Senate Bill 841)

AN ACT concerning

State Board of Dental Examiners – Licenses – Examination Requirements for Dentists and Dental Hygienists

FOR the purpose of requiring certain limited licensees to pass a certain examination before the State Board of Dental Examiners is authorized to issue a certain license; clarifying that the Board or its designee will give a certain examination; altering certain examination requirements that certain dentists licensed in certain states are required to satisfy to be granted a certain license in this State; altering certain examination requirements that certain dental hygienists licensed in certain states are required to satisfy to be granted a certain license in this State; defining certain terms; and generally relating to the State Board of Dental Examiners, licenses, and examination requirements for dentists and dental hygienists.

BY repealing and reenacting, with amendments,
Article – Health Occupations
Section 4–303.1(d) and 4–306
Annotated Code of Maryland
(2009 Replacement Volume and 2011 Supplement)

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

Article – Health Occupations

4–303.1.

(d) The Board may issue a general license to a limited licensee who was granted a waiver under this section if the limited licensee:

- (1) Successfully completes at least a 2–year contractual obligation to provide pediatric dental care in accordance with subsection (b)(1)(iv) of this section;
- (2) Submits an application for a general license to practice dentistry on a form provided by the Board;
- (3) Passes the [written and clinical examinations of the North East Regional Board] **ADLEX AS DEFINED IN § 4–306(A)(3) OF THIS SUBTITLE;**
- (4) Passes the Maryland Dental Jurisprudence Examination **GIVEN BY THE BOARD OR ITS DESIGNEE;**
- (5) Passes the National Board Examinations;
- (6) Demonstrates oral English competency by scoring 220 or better for overall comprehension and 2.0 or better for pronunciation, grammar, and fluency on the test of spoken English administered by the Educational Testing Service; and
- (7) Is found to be of good moral character.

4–306.

- (a) (1) In this section the following words have the meanings indicated.
 - [(2) “NERB” means the North East Regional Board of Dental Examiners, Inc.
 - (3) “Passed a regional board” means an applicant earned a score of 75% in each discipline, clinical skill, procedure, or knowledge area that is tested on the NERB examination using the internal weighting and scoring methods the NERB uses to score the NERB’s examination of dentistry or dental hygiene, respectively.
 - (4) “Regional board” means an examination offered by any of the following dental examination organizations:
 - (i) The Central Regional Dental Testing Service;
 - (ii) The North East Regional Board of Dental Examiners, Inc.;
 - (iii) The Southern Regional Testing Agency, Inc.; and
 - (iv) The Western Regional Examining Board, Inc.]
 - (2) **“ADEX” MEANS THE AMERICAN BOARD OF DENTAL EXAMINERS, INC., OR ITS SUCCESSOR ORGANIZATION.**

(3) (I) **“ADLEX” MEANS THE AMERICAN DENTAL LICENSING EXAMINATION DESIGNED AND DEVELOPED BY ADEX, OR ITS SUCCESSOR EXAMINATION.**

(II) **“ADLEX” INCLUDES A WRITTEN COMPONENT AND A CLINICAL COMPONENT.**

(4) (I) **“ADHLEX” MEANS THE AMERICAN DENTAL HYGIENE LICENSING EXAMINATION DESIGNED AND DEVELOPED BY ADEX, OR ITS SUCCESSOR EXAMINATION.**

(II) **“ADHLEX” INCLUDES A WRITTEN COMPONENT AND A CLINICAL COMPONENT.**

(b) (1) [(i)] A dentist licensed in any other state [who has passed a regional board] shall be [granted] **ISSUED** a license in this State if the applicant [passes the following examinations given by or designated by the Board:

1. A comprehensive examination on applied clinical diagnosis and treatment planning; and

2. A law examination.]:

(I) 1. **HAS PASSED THE ADLEX; AND**

2. **HAS PASSED THE MARYLAND DENTAL JURISPRUDENCE EXAMINATION GIVEN BY THE BOARD OR ITS DESIGNEE; OR**

(ii) [A dentist licensed in any other state who has not passed a regional board shall be granted a license in this State if:]

1. For the 5 preceding years [the dentist], has been actively engaged in practicing dentistry for at least 850 hours on average per year; [and]

2. [The applicant passes the following examinations given by or designated by the Board:] **HAS PASSED AN EXAMINATION WITH A CLINICAL COMPONENT AS A REQUIREMENT FOR LICENSURE IN ANOTHER STATE;**

[A.] 3. [A] **HAS PASSED** A comprehensive **WRITTEN** examination on applied clinical diagnosis and treatment planning **ADMINISTERED BY ADEX;** and

[B. A law examination.]

4. HAS PASSED THE MARYLAND DENTAL JURISPRUDENCE EXAMINATION GIVEN BY THE BOARD OR ITS DESIGNEE.

(2) [(i)] A dental hygienist licensed in any other state [who has passed a regional board] shall be [granted] **ISSUED** a license in this State if the applicant [passes an examination given by the Board.]:

(I) 1. HAS PASSED THE ADHLEX; AND

2. HAS PASSED THE MARYLAND DENTAL HYGIENE JURISPRUDENCE EXAMINATION GIVEN BY THE BOARD OR ITS DESIGNEE; OR

(ii) [A dental hygienist licensed in any other state who has not passed a regional board shall be granted a license in this State if:]

1. For the 3 preceding years [the dental hygienist], has been actively engaged in practicing dental hygiene for at least 150 hours on average per year; [and]

2. [The applicant passes an examination given by or designated by the Board] **HAS PASSED AN EXAMINATION WITH A CLINICAL COMPONENT AS A REQUIREMENT FOR LICENSURE IN ANOTHER STATE;**

3. HAS PASSED A COMPREHENSIVE WRITTEN EXAMINATION ON APPLIED CLINICAL DIAGNOSIS AND TREATMENT PLANNING ADMINISTERED BY ADEX; AND

4. HAS PASSED THE MARYLAND DENTAL HYGIENE JURISPRUDENCE EXAMINATION GIVEN BY THE BOARD OR ITS DESIGNEE.

(c) (1) The Board may adopt regulations for the content and administration of examinations and any other regulations necessary to provide for the licensure of individuals who apply for a license to practice dentistry under [subsection (a)] **SUBSECTION (B)(1)** of this section.

(2) The Board may adopt regulations for the content and administration of examinations and any other regulations necessary to provide for the licensure of individuals who apply for a license to practice dental hygiene under [subsection (a)] **SUBSECTION (B)(2)** of this section.

(d) An applicant for a general license to practice dentistry under this section shall:

- (1) Pay the application fee required by § 4–304 of this subtitle; and
- (2) Provide adequate evidence that the applicant:

- (i) Meets the qualifications otherwise required by this title for a general license to practice dentistry;

- (ii) Holds a license to practice dentistry in another state [which was granted after the applicant, in that or any other state, passed a regional board, or an examination other than a regional board that is similar to the examination for which the applicant is seeking waiver];

(III) HAS SATISFIED THE EXAMINATION REQUIREMENTS PROVIDED IN SUBSECTION (B)(1) OF THIS SECTION;

- ~~[(iii)]~~(IV) Is not being investigated by a disciplinary authority of another state, does not have charges pending against the applicant's license, and has not been disciplined by a disciplinary or licensing authority of any other state or country, or been convicted or disciplined by a court of any state or country for an act that would be grounds for disciplinary action under § 4–315 of this subtitle; and

- ~~[(iv)]~~(V) Has not previously failed an examination for licensure as a dentist in this State.

(e) An applicant for a general license to practice dental hygiene under this section shall:

- (1) Pay the application fee required by § 4–304 of this subtitle; and
- (2) Provide adequate evidence that the applicant:

- (i) Meets the qualifications otherwise required by this title for a general license to practice dental hygiene;

- (ii) Holds a license to practice dental hygiene in another state [which was granted after the applicant, in that or any other state, passed a regional board, or an examination other than a regional board that is similar to the examination for which the applicant is seeking waiver];

(III) HAS SATISFIED THE EXAMINATION REQUIREMENTS PROVIDED IN SUBSECTION (B)(2) OF THIS SECTION;

- ~~[(iii)]~~(IV) Is not being investigated by a disciplinary authority of another state, does not have charges pending against the applicant's license, and has not been disciplined by a disciplinary or licensing authority of any other state or

country, or been convicted or disciplined by a court of any state or country for an act that would be grounds for disciplinary action under § 4–315 of this subtitle; and

~~(iv)~~(v) Has not previously failed an examination for licensure as a dental hygienist in this State.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 594

(House Bill 754)

AN ACT concerning

State Board of Dental Examiners – Licenses – Examination Requirements for Dentists and Dental Hygienists

FOR the purpose of requiring certain limited licensees to pass a certain examination before the State Board of Dental Examiners is authorized to issue a certain license; clarifying that the Board or its designee will give a certain examination; altering certain examination requirements that certain dentists licensed in certain states are required to satisfy to be granted a certain license in this State; altering certain examination requirements that certain dental hygienists licensed in certain states are required to satisfy to be granted a certain license in this State; defining certain terms; and generally relating to the State Board of Dental Examiners, licenses, and examination requirements for dentists and dental hygienists.

BY repealing and reenacting, with amendments,

Article – Health Occupations

Section 4–303.1(d) and 4–306

Annotated Code of Maryland

(2009 Replacement Volume and 2011 Supplement)

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

Article – Health Occupations

4–303.1.

(d) The Board may issue a general license to a limited licensee who was granted a waiver under this section if the limited licensee:

(1) Successfully completes at least a 2-year contractual obligation to provide pediatric dental care in accordance with subsection (b)(1)(iv) of this section;

(2) Submits an application for a general license to practice dentistry on a form provided by the Board;

(3) Passes the [written and clinical examinations of the North East Regional Board] **ADLEX AS DEFINED IN § 4-306(A)(3) OF THIS SUBTITLE;**

(4) Passes the Maryland Dental Jurisprudence Examination **GIVEN BY THE BOARD OR ITS DESIGNEE;**

(5) Passes the National Board Examinations;

(6) Demonstrates oral English competency by scoring 220 or better for overall comprehension and 2.0 or better for pronunciation, grammar, and fluency on the test of spoken English administered by the Educational Testing Service; and

(7) Is found to be of good moral character.

4-306.

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

[(2) “NERB” means the North East Regional Board of Dental Examiners, Inc.

(3) “Passed a regional board” means an applicant earned a score of 75% in each discipline, clinical skill, procedure, or knowledge area that is tested on the NERB examination using the internal weighting and scoring methods the NERB uses to score the NERB’s examination of dentistry or dental hygiene, respectively.

(4) “Regional board” means an examination offered by any of the following dental examination organizations:

(i) The Central Regional Dental Testing Service;

(ii) The North East Regional Board of Dental Examiners, Inc.;

(iii) The Southern Regional Testing Agency, Inc.; and

(iv) The Western Regional Examining Board, Inc.]

(2) **“ADEX” MEANS THE AMERICAN BOARD OF DENTAL EXAMINERS, INC., OR ITS SUCCESSOR ORGANIZATION.**

(3) (I) **“ADLEX” MEANS THE AMERICAN DENTAL LICENSING EXAMINATION DESIGNED AND DEVELOPED BY ADEX, OR ITS SUCCESSOR EXAMINATION.**

(II) **“ADLEX” INCLUDES A WRITTEN COMPONENT AND A CLINICAL COMPONENT.**

(4) (I) **“ADHLEX” MEANS THE AMERICAN DENTAL HYGIENE LICENSING EXAMINATION DESIGNED AND DEVELOPED BY ADEX, OR ITS SUCCESSOR EXAMINATION.**

(II) **“ADHLEX” INCLUDES A WRITTEN COMPONENT AND A CLINICAL COMPONENT.**

(b) (1) [(i)] A dentist licensed in any other state [who has passed a regional board] shall be [granted] **ISSUED** a license in this State if the applicant [passes the following examinations given by or designated by the Board:

1. A comprehensive examination on applied clinical diagnosis and treatment planning; and

2. A law examination.];

(I) 1. **HAS PASSED THE ADLEX; AND**

2. **HAS PASSED THE MARYLAND DENTAL JURISPRUDENCE EXAMINATION GIVEN BY THE BOARD OR ITS DESIGNEE; OR**

(ii) [A dentist licensed in any other state who has not passed a regional board shall be granted a license in this State if:]

1. For the 5 preceding years [the dentist], has been actively engaged in practicing dentistry for at least 850 hours on average per year; [and]

2. [The applicant passes the following examinations given by or designated by the Board:] **HAS PASSED AN EXAMINATION WITH A CLINICAL COMPONENT AS A REQUIREMENT FOR LICENSURE IN ANOTHER STATE;**

[A.] 3. [A] HAS PASSED A comprehensive WRITTEN examination on applied clinical diagnosis and treatment planning ADMINISTERED BY ADEX; and

[B. A law examination.]

4. HAS PASSED THE MARYLAND DENTAL JURISPRUDENCE EXAMINATION GIVEN BY THE BOARD OR ITS DESIGNEE.

(2) [(i)] A dental hygienist licensed in any other state [who has passed a regional board] shall be [granted] ISSUED a license in this State if the applicant [passes an examination given by the Board.]:

(i) 1. HAS PASSED THE ADHLEX; AND

2. HAS PASSED THE MARYLAND DENTAL HYGIENE JURISPRUDENCE EXAMINATION GIVEN BY THE BOARD OR ITS DESIGNEE; OR

(ii) [A dental hygienist licensed in any other state who has not passed a regional board shall be granted a license in this State if:]

1. For the 3 preceding years [the dental hygienist], has been actively engaged in practicing dental hygiene for at least 150 hours on average per year; [and]

2. [The applicant passes an examination given by or designated by the Board] HAS PASSED AN EXAMINATION WITH A CLINICAL COMPONENT AS A REQUIREMENT FOR LICENSURE IN ANOTHER STATE;

3. HAS PASSED A COMPREHENSIVE WRITTEN EXAMINATION ON APPLIED CLINICAL DIAGNOSIS AND TREATMENT PLANNING ADMINISTERED BY ADEX; AND

4. HAS PASSED THE MARYLAND DENTAL HYGIENE JURISPRUDENCE EXAMINATION GIVEN BY THE BOARD OR ITS DESIGNEE.

(c) (1) The Board may adopt regulations for the content and administration of examinations and any other regulations necessary to provide for the licensure of individuals who apply for a license to practice dentistry under [subsection (a)] SUBSECTION (B)(1) of this section.

(2) The Board may adopt regulations for the content and administration of examinations and any other regulations necessary to provide for the

licensure of individuals who apply for a license to practice dental hygiene under [subsection (a)] **SUBSECTION (B)(2)** of this section.

(d) An applicant for a general license to practice dentistry under this section shall:

(1) Pay the application fee required by § 4–304 of this subtitle; and

(2) Provide adequate evidence that the applicant:

(i) Meets the qualifications otherwise required by this title for a general license to practice dentistry;

(ii) Holds a license to practice dentistry in another state [which was granted after the applicant, in that or any other state, passed a regional board, or an examination other than a regional board that is similar to the examination for which the applicant is seeking waiver];

(III) HAS SATISFIED THE EXAMINATION REQUIREMENTS PROVIDED IN SUBSECTION (B)(1) OF THIS SECTION;

[(iii)](IV) Is not being investigated by a disciplinary authority of another state, does not have charges pending against the applicant's license, and has not been disciplined by a disciplinary or licensing authority of any other state or country, or been convicted or disciplined by a court of any state or country for an act that would be grounds for disciplinary action under § 4–315 of this subtitle; and

[(iv)](V) Has not previously failed an examination for licensure as a dentist in this State.

(e) An applicant for a general license to practice dental hygiene under this section shall:

(1) Pay the application fee required by § 4–304 of this subtitle; and

(2) Provide adequate evidence that the applicant:

(i) Meets the qualifications otherwise required by this title for a general license to practice dental hygiene;

(ii) Holds a license to practice dental hygiene in another state [which was granted after the applicant, in that or any other state, passed a regional board, or an examination other than a regional board that is similar to the examination for which the applicant is seeking waiver];

(III) HAS SATISFIED THE EXAMINATION REQUIREMENTS PROVIDED IN SUBSECTION (B)(2) OF THIS SECTION;

[(iii)](IV) Is not being investigated by a disciplinary authority of another state, does not have charges pending against the applicant's license, and has not been disciplined by a disciplinary or licensing authority of any other state or country, or been convicted or disciplined by a court of any state or country for an act that would be grounds for disciplinary action under § 4-315 of this subtitle; and

[(iv)](V) Has not previously failed an examination for licensure as a dental hygienist in this State.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 595

(Senate Bill 843)

AN ACT concerning

Institutions of Postsecondary Education – Fully Online Distance Education Programs – Registration

FOR the purpose of requiring certain institutions of postsecondary education that enroll certain students in certain online distance education programs to register with the Maryland Higher Education Commission before commencing or continuing to operate, do business, or function in the State within a certain period of time under certain circumstances; prohibiting certain institutions from commencing or continuing to operate, doing business, or functioning in the State; requiring the Commission to give certain institutions certain notice under certain circumstances within a certain period of time; authorizing certain institutions to request a certain hearing under certain circumstances; requiring the Commission to render a certain decision within a certain period of time; providing certain institutions a certain right to judicial review; providing for a certain exception from the requirement for registration; requiring certain institutions to be accredited, submit certain information to the Commission, notify the Commission of certain changes, comply with certain principles of good practice, make public and publish certain information on the institution's Web site, comply with a certain refund policy and procedures, and be subject to certain complaint investigation; requiring the Commission to establish certain refund policies and procedures; requiring the payment of certain fees to be used for certain purposes; requiring the Commission to make public and post on its

Web site the names of certain institutions under certain circumstances; requiring the Commission to submit certain reports to the Governor and the General Assembly; authorizing the Commission to require certain institutions to furnish certain bonds or other financial guarantees under certain circumstances; authorizing the Commission to create a certain guaranty fund; providing for the use of a certain fund; authorizing certain students to make certain claims against a certain fund under certain circumstances; requiring certain institutions to pay a certain fee into a certain fund subject to a certain ~~exceptions~~ exception; prohibiting the Commission from issuing a certain registration and requiring the Commission to revoke a certain registration under certain circumstances; authorizing the Commission to impose a certain penalty on certain institutions under certain circumstances; requiring the Commission to deposit certain monetary penalties into a certain fund; subjecting certain institutions to revocation of registration under certain circumstances; prohibiting certain institutions from enrolling certain students under certain circumstances; authorizing certain students to complete certain online distance education programs under certain circumstances; ~~providing that certain persons are guilty of a misdemeanor and subject to certain fines and imprisonment for a certain period of time under certain circumstances~~ providing that an institution shall be subject to a certain fine if it fails to register with the Commission under certain circumstances; requiring certain institutions to submit certain data to the Maryland Longitudinal Data System; providing for the construction of this Act; defining certain terms; and generally relating to institutions of postsecondary education that offer fully online distance education programs in the State.

BY repealing and reenacting, with amendments,
Article – Education
Section 11–202, 11–203, 11–204, and 24–707
Annotated Code of Maryland
(2008 Replacement Volume and 2011 Supplement)

BY adding to
Article – Education
Section 11–202.2
Annotated Code of Maryland
(2008 Replacement Volume and 2011 Supplement)

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

Article – Education

11–202.

(a) (1) Except as provided in § 11–202.1 of this subtitle, an institution of postsecondary education may not commence or continue to operate, do business, or function without a certificate of approval from the Commission.

(2) **EXCEPT AS PROVIDED IN § 11–202.2 OF THIS SUBTITLE, AN INSTITUTION OF POSTSECONDARY EDUCATION THAT ENROLLS MARYLAND STUDENTS IN A FULLY ONLINE DISTANCE EDUCATION PROGRAM IN THE STATE MAY NOT COMMENCE OR CONTINUE TO OPERATE, DO BUSINESS, OR FUNCTION WITHOUT REGISTERING WITH THE COMMISSION WITHIN 6 MONTHS OF ENROLLING THE FIRST MARYLAND STUDENT.**

(3) **EXCEPT AS PROVIDED IN § 11–202.1 OF THIS SUBTITLE, BUT NOTWITHSTANDING ANY OTHER PROVISION OF LAW, AN INSTITUTION THAT IS NOT ACCREDITED BY AN ACCREDITING BODY RECOGNIZED AND APPROVED BY THE UNITED STATES DEPARTMENT OF EDUCATION MAY NOT COMMENCE OR CONTINUE TO OPERATE, DO BUSINESS, OR FUNCTION IN THE STATE.**

(b) The Commission shall issue a certificate of approval to an institution of postsecondary education if it finds that:

(1) The facilities, conditions of entrance and scholarship, and educational qualifications and standards are adequate and appropriate for:

(i) The purposes of the institution; and

(ii) The programs, training, and courses to be offered by the institution; and

(2) The proposed programs to be offered by the institution meet the educational needs of the State.

(c) (1) If the Commission believes that an institution of postsecondary education that applies for a certificate of approval ~~OR REGISTRATION~~ does not meet the conditions or standards necessary for the issuance of the certificate ~~OR REGISTRATION~~, the Commission shall give the institution written notice of the specific deficiencies.

(2) **(I)** Within 20 days of receipt of a notice of deficiencies, the institution may request a hearing before the Commission, ~~and within.~~

(II) WITHIN 60 days of receipt of the request the Commission shall hold a hearing to determine if the certificate of approval ~~OR REGISTRATION~~ should be issued.

(3) If, within 6 months from the date on which the application for certification ~~OR REGISTRATION~~ was submitted to the Commission, the institution has ~~NOT~~ received ~~[neither]~~ a certificate of approval under subsection (b) of this section ~~OR~~ ~~A REGISTRATION UNDER § 11-202.2 OF THIS SUBTITLE~~ ~~[nor]~~ ~~AND HAS NOT RECEIVED NOR~~ written notice of deficiencies under this subsection, the institution may request within 20 days a hearing before the Commission to determine if the certificate of approval ~~OR REGISTRATION~~ should be issued.

(C-1) (1) IF THE COMMISSION BELIEVES THAT AN INSTITUTION OF POSTSECONDARY EDUCATION THAT IS REQUIRED TO REGISTER UNDER § 11-202.2 OF THIS SUBTITLE DOES NOT MEET THE CONDITIONS OR STANDARDS NECESSARY FOR THE ISSUANCE OF THE REGISTRATION, THE COMMISSION SHALL GIVE THE INSTITUTION WRITTEN NOTICE OF THE SPECIFIC DEFICIENCIES WITHIN 6 MONTHS AFTER RECEIPT OF AN APPLICATION FOR REGISTRATION.

(2) (I) WITHIN 20 DAYS AFTER RECEIPT OF A NOTICE OF DEFICIENCIES, THE INSTITUTION MAY REQUEST A HEARING BEFORE THE COMMISSION.

(II) WITHIN 60 DAYS AFTER RECEIPT OF THE REQUEST FOR A HEARING UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE COMMISSION SHALL HOLD A HEARING TO DETERMINE IF THE REGISTRATION SHOULD BE ISSUED.

(3) (I) IF, AFTER 6 MONTHS FROM THE DATE ON WHICH THE APPLICATION FOR REGISTRATION WAS SUBMITTED TO THE COMMISSION, THE INSTITUTION HAS RECEIVED NEITHER A REGISTRATION NOR WRITTEN NOTICE OF DEFICIENCIES UNDER THIS SUBSECTION, THE INSTITUTION MAY REQUEST A HEARING WITHIN 20 DAYS BEFORE THE COMMISSION.

(II) WITHIN 60 DAYS AFTER RECEIPT OF THE REQUEST FOR A HEARING UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE COMMISSION SHALL HOLD A HEARING TO DETERMINE IF THE REGISTRATION SHOULD BE ISSUED.

(4) AFTER A HEARING HELD UNDER THIS SUBSECTION, THE COMMISSION SHALL RENDER A DECISION WITHIN 30 DAYS.

(d) (1) Any institution of postsecondary education that is denied a certificate of approval ~~OR REGISTRATION~~ by the Commission after a hearing granted under subsection (c) of this section **OR THAT IS DENIED A REGISTRATION AFTER A HEARING GRANTED UNDER SUBSECTION (C-1) OF THIS SECTION** has the right to judicial review provided by Title 10, Subtitle 2 of the State Government Article.

(2) The decision of the Commission shall be presumed correct, and the institution has the burden of proving otherwise.

(3) The Commission shall be a party to the proceeding.

11-202.2.

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

(2) "DISTANCE EDUCATION" MEANS COURSE WORK TAUGHT BY AN INSTITUTION OF POSTSECONDARY EDUCATION THROUGH ELECTRONIC DISTRIBUTION OF INSTRUCTION TO A SITE OTHER THAN THE PRINCIPAL LOCATION OF THE INSTITUTION AND ADVERTISED OR DESCRIBED AS LEADING TO THE FORMAL AWARD OF A CERTIFICATE OR DEGREE.

(3) "FULLY ONLINE DISTANCE EDUCATION PROGRAM IN THE STATE" MEANS A PROGRAM IN WHICH:

(I) 100% OF THE PROGRAM IS OFFERED THROUGH ELECTRONIC DISTRIBUTION OF INSTRUCTION TO ONE OR MORE SITES OTHER THAN THE PRINCIPAL LOCATION OF AN INSTITUTION; OR

(II) 51% OR MORE OF THE PROGRAM IS OFFERED THROUGH ELECTRONIC DISTRIBUTION OF INSTRUCTION TO ONE OR MORE SITES OTHER THAN THE PRINCIPAL LOCATION OF AN INSTITUTION AND ~~NO PORTION OF THE PROGRAM IS OFFERED AT A LOCATION IN THE STATE~~ THE COMMISSION HAS DETERMINED THAT THE PORTION OF THE PROGRAM OFFERED AT A LOCATION IN THE STATE, IF ANY, DOES NOT REQUIRE A CERTIFICATE OF APPROVAL FOR THE INSTITUTION TO OPERATE, DO BUSINESS, OR FUNCTION IN THE STATE.

(B) (1) EXCEPT AS PROVIDED IN ~~PARAGRAPH (2)~~ PARAGRAPHS (2) AND (3) OF THIS SUBSECTION, AN INSTITUTION OF POSTSECONDARY EDUCATION THAT ENROLLS MARYLAND STUDENTS IN A FULLY ONLINE DISTANCE EDUCATION PROGRAM IN THE STATE SHALL FILE AN APPLICATION TO REGISTER WITH THE COMMISSION WITHIN ~~6~~ 3 MONTHS OF ENROLLMENT.

(2) THIS SECTION DOES NOT APPLY TO AN INSTITUTION OF POSTSECONDARY EDUCATION THAT ENROLLS MARYLAND STUDENTS IN A FULLY ONLINE DISTANCE EDUCATION PROGRAM IN THE STATE THAT HAS BEEN APPROVED OR RECEIVED A FAVORABLE RECOMMENDATION BY THE COMMISSION UNDER § 11-206 OR § 11-206.1 OF THIS SUBTITLE.

(3) (I) NOTWITHSTANDING THE REQUIREMENTS OF § 11-202(C-1) OF THIS SUBTITLE, AN INSTITUTION THAT HAS ENROLLED MARYLAND STUDENTS BEFORE OBTAINING REGISTRATION UNDER THIS SECTION MAY CONTINUE TO OPERATE WITHOUT A REGISTRATION WHILE THE COMMISSION CONSIDERS THE INSTITUTION'S APPLICATION, CONDUCTS A HEARING CONCERNING THE INSTITUTION'S APPLICATION, OR PARTICIPATES IN JUDICIAL REVIEW REGARDING AN INSTITUTION'S APPLICATION.

(II) AN INSTITUTION THAT CONTINUES TO OPERATE WITHOUT A REGISTRATION UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL FURNISH A PERFORMANCE BOND OR OTHER FORM OF FINANCIAL GUARANTEE TO THE STATE IN AN AMOUNT SET BY REGULATION THAT IS IN ADDITION TO AND SEPARATE FROM A PERFORMANCE BOND OR OTHER FORM OF FINANCIAL GUARANTEE REQUIRED UNDER § 11-203 OF THIS SUBTITLE.

(C) EACH INSTITUTION REQUIRED TO REGISTER UNDER SUBSECTION (B) OF THIS SECTION SHALL:

(1) BE ACCREDITED BY AN ACCREDITING BODY RECOGNIZED AND APPROVED BY THE UNITED STATES DEPARTMENT OF EDUCATION;

(2) SUBMIT TO THE COMMISSION:

(I) EVERY 2 YEARS, A FINANCIAL STATEMENT REVIEWED BY AN INDEPENDENT ACCOUNTANT RETAINED BY THE INSTITUTION;

(II) AN AFFIDAVIT FROM THE PRESIDENT OR CHIEF EXECUTIVE OFFICER OF THE INSTITUTION AFFIRMING:

1. THAT THE INSTITUTION HAS NOT FILED FOR BANKRUPTCY PROTECTION UNDER TITLE 11 OF THE UNITED STATES CODE DURING ITS EXISTENCE; AND

2. THE WILLINGNESS OF THE PRESIDENT OR THE CHIEF EXECUTIVE OFFICER TO ABIDE BY THE PROVISIONS OF THIS SECTION;

(III) PROOF OF GOOD BUSINESS STANDING IN THE STATE IN WHICH THE CENTRAL ADMINISTRATION OF THE INSTITUTION IS INCORPORATED; AND

(IV) PROOF OF GOOD ACADEMIC STANDING SUBMITTED BY:

1. THE REGULATORY HIGHER EDUCATION ENTITY IN THE STATE IN WHICH THE CENTRAL ADMINISTRATION OF THE INSTITUTION IS LOCATED; OR

2. IF THE STATE IN WHICH THE INSTITUTION IS LOCATED DOES NOT HAVE A REGULATORY HIGHER EDUCATION ENTITY, THE ACCREDITING BODY THAT ACCREDITED THE INSTITUTION;

(3) PROMPTLY NOTIFY THE COMMISSION OF A CHANGE IN OWNERSHIP OR A CHANGE IN MAJORITY CONTROL;

(4) COMPLY WITH THE PRINCIPLES OF GOOD PRACTICE FOR DISTANCE EDUCATION ESTABLISHED BY THE COMMISSION THROUGH REGULATION;

(5) MAKE PUBLIC AND POST ON THE INSTITUTION'S WEB SITE:

(I) WHETHER THE INSTITUTION IS REGISTERED IN MARYLAND; AND

(II) THE PROCESS BY WHICH TO MAKE COMPLAINTS AGAINST THE INSTITUTION;

(6) COMPLY WITH THE REFUND POLICY AND PROCEDURES ESTABLISHED BY THE COMMISSION; AND

(7) BE SUBJECT TO COMPLAINT INVESTIGATION BY THE OFFICE OF THE ATTORNEY GENERAL OR THE COMMISSION OR BOTH.

(D) THE REFUND POLICY AND PROCEDURES ESTABLISHED BY THE COMMISSION SHALL ALLOW FOR:

(1) (I) AT LEAST 2 WEEKS OF REQUIRED ORIENTATION OR PREENROLLMENT INSTRUCTION IN A FULLY ONLINE DISTANCE EDUCATION PROGRAM IN THE STATE AT NO CHARGE FOR A STUDENT WHO HAS COMPLETED LESS THAN 24 CREDITS OF COLLEGE-LEVEL LEARNING FROM AN ACCREDITED INSTITUTION; AND

(II) A PRORATED REFUND METHODOLOGY THAT PROVIDES A REFUND TO ANY STUDENT NOT COVERED BY ITEM (I) OF THIS PARAGRAPH WHO HAS COMPLETED 60% OR LESS OF A COURSE, TERM, OR PROGRAM WITHIN THE APPLICABLE BILLING PERIOD; OR

(2) A PRORATED REFUND METHODOLOGY THAT ~~ACCOUNTS FOR THE PORTION OF THE COURSE NOT COMPLETED~~ PROVIDES A REFUND TO ANY STUDENT WHO HAS COMPLETED 60% OR LESS OF A COURSE, TERM, OR PROGRAM WITHIN THE APPLICABLE BILLING PERIOD.

(E) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE COMMISSION SHALL REQUIRE THE PAYMENT OF A FEE SET BY REGULATION, AS A CONDITION OF REGISTRATION.

(2) THE FEES CHARGED SHALL BE:

(I) A FIXED AMOUNT FOR ALL INSTITUTIONS REGARDLESS OF TYPE, LOCATION, OR STUDENT ENROLLMENT; AND

(II) ~~SET~~ SET TO COVER THE APPROXIMATE COST OF IMPLEMENTING A SYSTEM OF REGISTRATION.

(F) THE COMMISSION SHALL MAKE PUBLIC AND POST ON ITS WEB SITE:

(1) A LIST OF REGISTERED INSTITUTIONS OF POSTSECONDARY EDUCATION THAT OFFER FULLY ONLINE DISTANCE EDUCATION PROGRAMS IN THE STATE; AND

(2) IF THE COMMISSION DENIES OR REVOKES THE REGISTRATION OF AN INSTITUTION, THE NAME OF THE DENIED OR REVOKED INSTITUTION.

(G) ON OR BEFORE DECEMBER 1 EACH YEAR, THE COMMISSION SHALL REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY:

(1) THE NUMBER OF INSTITUTIONS OF POSTSECONDARY EDUCATION THAT APPLY FOR REGISTRATION UNDER THIS SECTION;

(2) THE TYPE AND SIZE OF THE INSTITUTIONS THAT APPLY;

(3) THE NUMBER OF INSTITUTIONS APPROVED FOR REGISTRATION;

(4) THE NUMBER OF INSTITUTIONS DENIED REGISTRATION; AND

(5) THE NUMBER OF MARYLAND STUDENTS ENROLLED IN INSTITUTIONS REQUIRED TO REGISTER UNDER THIS SECTION.

(a) The Commission may require any institution of postsecondary education that is required to obtain a certificate of approval **OR REQUIRED TO REGISTER UNDER § 11-202.2 OF THIS SUBTITLE** to furnish a performance bond or other form of financial guarantee *FOR EITHER THE CERTIFICATE OF APPROVAL OR THE REGISTRATION* to the State conditioned that the institution will:

(1) Perform faithfully all agreements or contracts it makes with its students; and

(2) Comply with this article.

(b) Subject to subsection (d)(3)(ii)2 of this section, any bond or guarantee required under this section shall be in the form and amount the Secretary requires.

(c) (1) The total liability of a surety on a bond or guarantee under this section may not exceed the amount of the bond or guarantee.

(2) If the total amount of claims filed against a bond or guarantee exceeds the amount of the bond or guarantee, the surety shall pay the amount of the bond or guarantee to the Secretary for distribution to the claimants.

(d) (1) By rule and regulation, the Commission may create and provide for the operation of [two] **THREE** separate guaranty funds for:

(i) For-profit institutions of higher education; [and]

(ii) Private career schools; **AND**

(III) INSTITUTIONS OF POSTSECONDARY EDUCATION THAT ARE REQUIRED TO REGISTER UNDER § 11-202.2 OF THIS SUBTITLE.

(2) (i) The private career school fund shall be used:

1. To reimburse any student at a private career school who is entitled to a refund of tuition and fees because the institution has failed to perform faithfully any agreement or contract with the student or failed to comply with any provision of this article; or

2. For any other function directly related to the original purpose of the fund deemed appropriate by the Secretary.

(ii) The for-profit institution of higher education fund shall be used to reimburse any student at a for-profit institution of higher education who is entitled to a refund of tuition and fees because the institution has failed to perform

faithfully any agreement or contract with the student or failed to comply with any provision of this article.

(iii) 1. THE FUND FOR INSTITUTIONS OF POSTSECONDARY EDUCATION THAT ARE REQUIRED TO REGISTER UNDER § 11-202.2 OF THIS SUBTITLE SHALL BE USED TO REIMBURSE ANY STUDENT AT ANY OF THESE INSTITUTIONS WHO IS ENTITLED TO A REFUND OF TUITION AND FEES BECAUSE THE INSTITUTION HAS FAILED TO PERFORM FAITHFULLY ANY AGREEMENT OR CONTRACT WITH THE STUDENT OR FAILED TO COMPLY WITH ANY PROVISION OF THIS ARTICLE.

~~2. THE COMMISSION MAY REDUCE THE CONTRIBUTION OF OR EXEMPT AN INSTITUTION FROM THE REQUIREMENT TO CONTRIBUTE TO THE FUND AFTER A PERIOD OF TIME SET BY REGULATION DURING WHICH NO CLAIM AGAINST THE FUND HAS BEEN SUSTAINED ON BEHALF OF A STUDENT PARTICIPATING IN A FULLY ONLINE DISTANCE EDUCATION PROGRAM OFFERED IN THE STATE BY THE INSTITUTION.~~

2. A. AFTER 3 YEARS OF CLAIMS HISTORY DURING WHICH NO CLAIM AGAINST THE FUND HAS BEEN SUSTAINED ON BEHALF OF A STUDENT PARTICIPATING IN A FULLY ONLINE DISTANCE EDUCATION PROGRAM OFFERED IN THE STATE BY AN INSTITUTION REGISTERED UNDER § 11-202.2 OF THIS SUBTITLE, THE COMMISSION SHALL EXEMPT THAT INSTITUTION FROM THE REQUIREMENT TO CONTRIBUTE TO THE FUND.

B. NOTWITHSTANDING SUBSUBSUBPARAGRAPH A OF THIS SUBSUBPARAGRAPH, AN INSTITUTION SHALL BE REQUIRED TO CONTRIBUTE TO THE FUND FOLLOWING A CLAIM AGAINST THE FUND BEING SUSTAINED ON BEHALF OF A STUDENT PARTICIPATING IN A FULLY ONLINE DISTANCE EDUCATION PROGRAM OFFERED IN THE STATE BY THE INSTITUTION.

3. NOTWITHSTANDING SUBSUBPARAGRAPH 2 OF THIS SUBPARAGRAPH, A STUDENT WHO TAKES COURSES FROM AN INSTITUTION EXEMPTED FROM CONTRIBUTION TO THE FUND UNDER SUBSUBPARAGRAPH 2 OF THIS SUBPARAGRAPH MAY MAKE A CLAIM AGAINST THE FUND IN ACCORDANCE WITH SUBSUBPARAGRAPH 1 OF THIS SUBPARAGRAPH.

[(iii)] (iv) 1. The funds shall be continuing, nonlapsing funds, not subject to § 7-302 of the State Finance and Procurement Article.

2. Any unspent portions of the funds may not be transferred or revert to the General Fund of the State, but shall remain in the funds to be used for the purposes specified in this subsection.

3. No other State money may be used to support the funds.

[(iv)] (V) The Commission shall be subrogated to and may enforce the claim of any student to the extent of any actual or authorized reimbursement from the funds.

(3) (i) Each for-profit institution of higher education or private career school that is required to obtain a certificate of approval **AND, SUBJECT TO PARAGRAPH (2)(III)2 OF THIS SUBSECTION, EACH INSTITUTION OF POSTSECONDARY EDUCATION REQUIRED TO REGISTER UNDER § 11-202.2 OF THIS SUBTITLE** shall pay an annual fee into the appropriate fund.

(ii) 1. Subject to subparagraph 2 of this subparagraph, the Commission shall determine the amount of the fee based on the probable amount of money needed for the funds for each fiscal year. If the moneys in the guaranty funds are insufficient to satisfy duly authorized claims, the participating institutions may be reassessed and shall pay the additional amounts required.

2. The amount of the annual fee charged to a for-profit institution of higher education may not exceed 0.0025 of all gross tuition, or \$30,000, whichever is less.

(iii) The Commission may not issue a certificate of approval **OR REGISTRATION** to, and shall revoke any certificate of approval **OR REGISTRATION** previously issued to, an institution that fails to pay any annual fee or reassessment.

(iv) The Commission shall deposit into the appropriate fund any penalty assessed against a for-profit institution of higher education, **INSTITUTION OF POSTSECONDARY EDUCATION REQUIRED TO REGISTER UNDER § 11-202.2 OF THIS SUBTITLE**, or private career school, respectively, under the terms of § 11-204 of this subtitle.

(4) (i) The funds shall be maintained by the State Comptroller who may deposit the assets of the funds in any manner that is consistent with the purposes of the funds.

(ii) All interest or other return on fund investments shall be credited to the funds.

(5) The Commission, through the Attorney General, may enforce any claim to which the Commission has been subrogated under this subsection.

(E) ON OR BEFORE DECEMBER 1 EACH YEAR, THE COMMISSION SHALL REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY, REGARDING:

(1) THE NUMBER OF CLAIMS MADE AGAINST EACH GUARANTY FUND ESTABLISHED UNDER THIS SECTION;

(2) THE TYPE, SIZE, AND PROGRAM OF THE INSTITUTIONS AGAINST WHICH THE CLAIMS ARE MADE;

(3) THE NUMBER OF CLAIMS THAT ARE APPROVED AND THE ASSOCIATED PAYOUTS FROM THE FUNDS; AND

(4) THE NUMBER OF CLAIMS THAT ARE DENIED.

11-204.

(a) If the Commission believes that an institution of postsecondary education does not meet the conditions or standards on which its certificate of approval, **REGISTRATION**, or any other approval issued by the Commission or Secretary, was based, the Commission shall give the institution written notice specifying the deficiencies believed to exist.

(b) (1) The notice shall specify the alleged deficiencies, and direct the institution to correct them within a period of not less than 30 days.

(2) If the institution requests a hearing, the Commission shall hold a hearing on the matter within 60 days of receipt of the request, subject to the requirement that any request for a hearing must be received by the Commission within 20 days of the institution's receipt of the notice of deficiencies.

(3) Subject to subsection (f) of this section, action on the notice of deficiencies shall be stayed until a determination is made after the hearing.

(4) Notwithstanding § 11-206(b)(3) of this subtitle, at the discretion of the Secretary, action on any approval request by an institution issued a notice of deficiencies may be stayed until a determination is made after the hearing.

(c) (1) If a hearing is not requested within the specified time period, or if the notice of deficiencies is upheld in whole or in part after a hearing, the Commission may reprimand the institution or suspend or revoke the institution's certificate of approval or any other approval issued by the Commission or Secretary.

(2) (i) Instead of or in addition to reprimanding a for-profit institution of higher education, **INSTITUTION OF POSTSECONDARY EDUCATION REQUIRED TO REGISTER UNDER § 11-202.2 OF THIS SUBTITLE**, or private career school, or suspending or revoking any approval issued to a for-profit institution of higher education or private career school **OR REGISTRATION ISSUED TO AN INSTITUTION OF POSTSECONDARY EDUCATION UNDER § 11-202.2 OF THIS**

SUBTITLE, the Commission may impose a penalty of up to \$5,000 for each violation as specified in regulations adopted by the Commission.

(ii) In accordance with the provisions of this section, the Commission shall deposit any penalty assessed against a for-profit institution of higher education, **INSTITUTION OF POSTSECONDARY EDUCATION REQUIRED TO REGISTER UNDER § 11-202.2 OF THIS SUBTITLE**, or private career school into the **RESPECTIVE** guaranty fund [for for-profit institutions of higher education or for private career schools] if such funds exist. Otherwise, all penalties shall be deposited into the General Fund of the State.

(D) (1) IN ADDITION TO ANY OTHER SANCTION IMPOSED UNDER THIS SECTION, AN INSTITUTION OF POSTSECONDARY EDUCATION THAT IS REQUIRED TO REGISTER UNDER § 11-202.2 OF THIS SUBTITLE THAT WILLFULLY AND KNOWINGLY VIOLATES THE PROVISIONS OF THIS SUBTITLE SHALL BE:

(I) SUBJECT TO REVOCATION OF REGISTRATION; AND

(II) PROHIBITED FROM ENROLLING MARYLAND STUDENTS IN FULLY ONLINE DISTANCE EDUCATION PROGRAMS IN THE STATE.

(2) MARYLAND STUDENTS WHO ATTEND AN INSTITUTION PROHIBITED FROM ENROLLING MARYLAND STUDENTS UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION SHALL BE ALLOWED TO COMPLETE A FULLY ONLINE DISTANCE EDUCATION PROGRAM IN THE STATE THAT IS IN PROGRESS.

(3) IF AN INSTITUTION IS REQUIRED TO REGISTER UNDER § 11-202.2 OF THIS SUBTITLE AND THE INSTITUTION DOES NOT REGISTER WITH THE COMMISSION WITHIN 6 MONTHS OF ENROLLING ITS FIRST MARYLAND STUDENT OR THE INSTITUTION ENROLLS ADDITIONAL MARYLAND STUDENTS IN VIOLATION OF THIS SECTION, ~~THE PERSON WHO SUBMITS THE AFFIDAVIT REQUIRED UNDER § 11-202.2(C)(2)(II) OF THIS SUBTITLE IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$10,000 OR IMPRISONMENT NOT EXCEEDING 1 YEAR OR BOTH~~ THE INSTITUTION SHALL BE SUBJECT TO A FINE NOT EXCEEDING \$20,000.

[(d)] (E) In imposing any sanctions under this section, the Commission shall consider:

- (1) The seriousness of the deficiency;
- (2) The harm caused by the deficiency;
- (3) The good faith of the institution and any corrective actions taken;

- (4) Any history of previous deficiencies; and
- (5) Other pertinent circumstances.

[(e)] (F) (1) An institution that is aggrieved by an order of the Commission has the right to judicial review provided by Title 10, Subtitle 2 of the State Government Article.

(2) The decision of the Commission shall be presumed correct and the institution has the burden of proving otherwise.

- (3) The Commission shall be a party to the proceeding.

[(f)] (G) (1) The Secretary may at any time following written notice of the deficiencies and prior to the Commission's final decision seek an injunction or other judicial remedy in accordance with § 11–107 of this title, if the Secretary determines that the public interest requires enforcement of the provisions of this article or any applicable regulations.

(2) If a court grants relief prior to a hearing that was requested on a timely basis, the Commission shall schedule a hearing in regard to the notice of deficiencies within 2 weeks of the issuance of the court's order, unless the institution requests a delay.

24–707.

(a) Local education agencies, community colleges, public senior higher education institutions, and State agencies shall:

(1) Make every effort to comply with the data requirements and implementation schedule for the Maryland Longitudinal Data System as set forth by the Governing Board; and

(2) Transfer **[student] STUDENT-LEVEL AND TRANSCRIPT-LEVEL** data and workforce data to the Maryland Longitudinal Data System in accordance with the data security and safeguarding plan developed under § 24–704(g)(6) of this subtitle.

(b) Private secondary schools may transfer student data and workforce data to the Maryland Longitudinal Data System in accordance with the data security and safeguarding plan developed under § 24–704(g)(6) of this subtitle.

(c) For-profit and private nonprofit institutions of higher education, **AND INSTITUTIONS OF POSTSECONDARY EDUCATION THAT ARE REQUIRED TO REGISTER UNDER § 11–202.2 OF THIS ARTICLE** shall transfer student-level ~~AND TRANSCRIPT-LEVEL~~ enrollment data, degree data, and financial aid data for all

Maryland residents to the Maryland Longitudinal Data System in accordance with the data security and safeguarding plan developed under § 24–704(g)(6) of this subtitle.

SECTION 2. AND BE IT FURTHER ENACTED, That nothing in this Act may be construed to affect the ongoing interpretation of § 11–202 of the Education Article and whether instruction through correspondence, noninteractive learning, credit for prior learning, cooperative education activities, practica, internships, externships, apprenticeships, portfolio review, departmental examinations, or challenge examinations requires a certificate of approval to operate, do business, or function in this State.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 596

(House Bill 1223)

AN ACT concerning

Institutions of Postsecondary Education – Fully Online Distance Education Programs – Registration

FOR the purpose of requiring certain institutions of postsecondary education that enroll certain students in certain online distance education programs to register with the Maryland Higher Education Commission before commencing or continuing to operate, do business, or function in the State within a certain period of time under certain circumstances; prohibiting certain institutions from commencing or continuing to operate, doing business, or functioning in the State; requiring the Commission to give certain institutions certain notice under certain circumstances within a certain period of time; authorizing certain institutions to request a certain hearing under certain circumstances; requiring the Commission to render a certain decision within a certain period of time; providing certain institutions a certain right to judicial review; providing for a certain exception from the requirement for registration; requiring certain institutions to be accredited, submit certain information to the Commission, notify the Commission of certain changes, comply with certain principles of good practice, make public and publish certain information on the institution's Web site, comply with a certain refund policy and procedures, and be subject to certain complaint investigation; requiring the Commission to establish certain refund policies and procedures; requiring the payment of certain fees to be used for certain purposes; requiring the Commission to make public and post on its Web site the names of certain institutions under certain circumstances;

requiring the Commission to submit certain reports to the Governor and the General Assembly; authorizing the Commission to require certain institutions to furnish certain bonds or other financial guarantees under certain circumstances; authorizing the Commission to create a certain guaranty fund; providing for the use of a certain fund; authorizing certain students to make certain claims against a certain fund under certain circumstances; requiring certain institutions to pay a certain fee into a certain fund subject to a certain ~~exceptions~~ exception; prohibiting the Commission from issuing a certain registration and requiring the Commission to revoke a certain registration under certain circumstances; authorizing the Commission to impose a certain penalty on certain institutions under certain circumstances; requiring the Commission to deposit certain monetary penalties into a certain fund; subjecting certain institutions to revocation of registration under certain circumstances; prohibiting certain institutions from enrolling certain students under certain circumstances; authorizing certain students to complete certain online distance education programs under certain circumstances; ~~providing that certain persons are guilty of a misdemeanor and subject to certain fines and imprisonment for a certain period of time under certain circumstances~~ providing that an institution shall be subject to a certain fine if it fails to register with the Commission under certain circumstances; requiring certain institutions to submit certain data to the Maryland Longitudinal Data System; providing for the construction of this Act; defining certain terms; and generally relating to institutions of postsecondary education that offer fully online distance education programs in the State.

BY repealing and reenacting, with amendments,

Article – Education

Section 11–202, 11–203, 11–204, and 24–707

Annotated Code of Maryland

(2008 Replacement Volume and 2011 Supplement)

BY adding to

Article – Education

Section 11–202.2

Annotated Code of Maryland

(2008 Replacement Volume and 2011 Supplement)

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

Article – Education

11–202.

(a) **(1)** Except as provided in § 11–202.1 of this subtitle, an institution of postsecondary education may not commence or continue to operate, do business, or function without a certificate of approval from the Commission.

(2) EXCEPT AS PROVIDED IN § 11-202.2 OF THIS SUBTITLE, AN INSTITUTION OF POSTSECONDARY EDUCATION THAT ENROLLS MARYLAND STUDENTS IN A FULLY ONLINE DISTANCE EDUCATION PROGRAM IN THE STATE MAY NOT COMMENCE OR CONTINUE TO OPERATE, DO BUSINESS, OR FUNCTION WITHOUT REGISTERING WITH THE COMMISSION WITHIN 6 MONTHS OF ENROLLING THE FIRST MARYLAND STUDENT.

(3) EXCEPT AS PROVIDED IN § 11-202.1 OF THIS SUBTITLE, BUT NOTWITHSTANDING ANY OTHER PROVISION OF LAW, AN INSTITUTION THAT IS NOT ACCREDITED BY AN ACCREDITING BODY RECOGNIZED AND APPROVED BY THE UNITED STATES DEPARTMENT OF EDUCATION MAY NOT COMMENCE OR CONTINUE TO OPERATE, DO BUSINESS, OR FUNCTION IN THE STATE.

(b) The Commission shall issue a certificate of approval to an institution of postsecondary education if it finds that:

(1) The facilities, conditions of entrance and scholarship, and educational qualifications and standards are adequate and appropriate for:

(i) The purposes of the institution; and

(ii) The programs, training, and courses to be offered by the institution; and

(2) The proposed programs to be offered by the institution meet the educational needs of the State.

(c) (1) If the Commission believes that an institution of postsecondary education that applies for a certificate of approval ~~OR REGISTRATION~~ does not meet the conditions or standards necessary for the issuance of the certificate ~~OR REGISTRATION~~, the Commission shall give the institution written notice of the specific deficiencies.

(2) (I) Within 20 days of receipt of a notice of deficiencies, the institution may request a hearing before the Commission, ~~and within~~.

(II) WITHIN 60 days of receipt of the request the Commission shall hold a hearing to determine if the certificate of approval ~~OR REGISTRATION~~ should be issued.

(3) If, within 6 months from the date on which the application for certification ~~OR REGISTRATION~~ was submitted to the Commission, the institution has ~~NOT~~ received ~~[neither]~~ a certificate of approval under subsection (b) of this section ~~OR A REGISTRATION UNDER § 11-202.2 OF THIS SUBTITLE [nor] AND HAS NOT~~

~~RECEIVED~~ nor written notice of deficiencies under this subsection, the institution may request within 20 days a hearing before the Commission to determine if the certificate of approval ~~OR REGISTRATION~~ should be issued.

(C-1) (1) IF THE COMMISSION BELIEVES THAT AN INSTITUTION OF POSTSECONDARY EDUCATION THAT IS REQUIRED TO REGISTER UNDER § 11-202.2 OF THIS SUBTITLE DOES NOT MEET THE CONDITIONS OR STANDARDS NECESSARY FOR THE ISSUANCE OF THE REGISTRATION, THE COMMISSION SHALL GIVE THE INSTITUTION WRITTEN NOTICE OF THE SPECIFIC DEFICIENCIES WITHIN 6 MONTHS AFTER RECEIPT OF AN APPLICATION FOR REGISTRATION.

(2) (I) WITHIN 20 DAYS AFTER RECEIPT OF A NOTICE OF DEFICIENCIES, THE INSTITUTION MAY REQUEST A HEARING BEFORE THE COMMISSION.

(II) WITHIN 60 DAYS AFTER RECEIPT OF THE REQUEST FOR A HEARING UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE COMMISSION SHALL HOLD A HEARING TO DETERMINE IF THE REGISTRATION SHOULD BE ISSUED.

(3) (I) IF, AFTER 6 MONTHS FROM THE DATE ON WHICH THE APPLICATION FOR REGISTRATION WAS SUBMITTED TO THE COMMISSION, THE INSTITUTION HAS RECEIVED NEITHER A REGISTRATION NOR WRITTEN NOTICE OF DEFICIENCIES UNDER THIS SUBSECTION, THE INSTITUTION MAY REQUEST A HEARING WITHIN 20 DAYS BEFORE THE COMMISSION.

(II) WITHIN 60 DAYS AFTER RECEIPT OF THE REQUEST FOR A HEARING UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE COMMISSION SHALL HOLD A HEARING TO DETERMINE IF THE REGISTRATION SHOULD BE ISSUED.

(4) AFTER A HEARING HELD UNDER THIS SUBSECTION, THE COMMISSION SHALL RENDER A DECISION WITHIN 30 DAYS.

(d) (1) Any institution of postsecondary education that is denied a certificate of approval ~~OR REGISTRATION~~ by the Commission after a hearing granted under subsection (c) of this section OR THAT IS DENIED A REGISTRATION AFTER A HEARING GRANTED UNDER SUBSECTION (C-1) OF THIS SECTION has the right to judicial review provided by Title 10, Subtitle 2 of the State Government Article.

(2) The decision of the Commission shall be presumed correct, and the institution has the burden of proving otherwise.

- (3) The Commission shall be a party to the proceeding.

11-202.2.

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

(2) "DISTANCE EDUCATION" MEANS COURSE WORK TAUGHT BY AN INSTITUTION OF POSTSECONDARY EDUCATION THROUGH ELECTRONIC DISTRIBUTION OF INSTRUCTION TO A SITE OTHER THAN THE PRINCIPAL LOCATION OF THE INSTITUTION AND ADVERTISED OR DESCRIBED AS LEADING TO THE FORMAL AWARD OF A CERTIFICATE OR DEGREE.

(3) "FULLY ONLINE DISTANCE EDUCATION PROGRAM IN THE STATE" MEANS A PROGRAM IN WHICH:

(I) 100% OF THE PROGRAM IS OFFERED THROUGH ELECTRONIC DISTRIBUTION OF INSTRUCTION TO ONE OR MORE SITES OTHER THAN THE PRINCIPAL LOCATION OF AN INSTITUTION; OR

(II) 51% OR MORE OF THE PROGRAM IS OFFERED THROUGH ELECTRONIC DISTRIBUTION OF INSTRUCTION TO ONE OR MORE SITES OTHER THAN THE PRINCIPAL LOCATION OF AN INSTITUTION AND ~~NO PORTION OF THE PROGRAM IS OFFERED AT A LOCATION IN THE STATE~~ THE COMMISSION HAS DETERMINED THAT THE PORTION OF THE PROGRAM OFFERED AT A LOCATION IN THE STATE, IF ANY, DOES NOT REQUIRE A CERTIFICATE OF APPROVAL FOR THE INSTITUTION TO OPERATE, DO BUSINESS, OR FUNCTION IN THE STATE.

(B) (1) EXCEPT AS PROVIDED IN ~~PARAGRAPH (2)~~ PARAGRAPHS (2) AND (3) OF THIS SUBSECTION, AN INSTITUTION OF POSTSECONDARY EDUCATION THAT ENROLLS MARYLAND STUDENTS IN A FULLY ONLINE DISTANCE EDUCATION PROGRAM IN THE STATE SHALL FILE AN APPLICATION TO REGISTER WITH THE COMMISSION WITHIN 3 MONTHS OF ENROLLMENT.

(2) THIS SECTION DOES NOT APPLY TO AN INSTITUTION OF POSTSECONDARY EDUCATION THAT ENROLLS MARYLAND STUDENTS IN A FULLY ONLINE DISTANCE EDUCATION PROGRAM IN THE STATE THAT HAS BEEN APPROVED OR RECEIVED A FAVORABLE RECOMMENDATION BY THE COMMISSION UNDER § 11-206 OR § 11-206.1 OF THIS SUBTITLE.

(3) (I) NOTWITHSTANDING THE REQUIREMENTS OF § 11-202(C-1) OF THIS SUBTITLE, AN INSTITUTION THAT HAS ENROLLED MARYLAND STUDENTS BEFORE OBTAINING REGISTRATION UNDER THIS SECTION MAY CONTINUE TO OPERATE WITHOUT A REGISTRATION WHILE THE

COMMISSION CONSIDERS THE INSTITUTION'S APPLICATION, CONDUCTS A HEARING CONCERNING THE INSTITUTION'S APPLICATION, OR PARTICIPATES IN JUDICIAL REVIEW REGARDING AN INSTITUTION'S APPLICATION.

(II) AN INSTITUTION THAT CONTINUES TO OPERATE WITHOUT A REGISTRATION UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL FURNISH A PERFORMANCE BOND OR OTHER FORM OF FINANCIAL GUARANTEE TO THE STATE IN AN AMOUNT SET BY REGULATION THAT IS IN ADDITION TO AND SEPARATE FROM A PERFORMANCE BOND OR OTHER FORM OF FINANCIAL GUARANTEE REQUIRED UNDER § 11-203 OF THIS SUBTITLE.

(C) EACH INSTITUTION REQUIRED TO REGISTER UNDER SUBSECTION (B) OF THIS SECTION SHALL:

(1) BE ACCREDITED BY AN ACCREDITING BODY RECOGNIZED AND APPROVED BY THE UNITED STATES DEPARTMENT OF EDUCATION;

(2) SUBMIT TO THE COMMISSION:

(I) EVERY 2 YEARS, A FINANCIAL STATEMENT REVIEWED BY AN INDEPENDENT ACCOUNTANT RETAINED BY THE INSTITUTION;

(II) AN AFFIDAVIT FROM THE PRESIDENT OR CHIEF EXECUTIVE OFFICER OF THE INSTITUTION AFFIRMING:

1. THAT THE INSTITUTION HAS NOT FILED FOR BANKRUPTCY PROTECTION UNDER TITLE 11 OF THE UNITED STATES CODE DURING ITS EXISTENCE; AND

2. THE WILLINGNESS OF THE PRESIDENT OR THE CHIEF EXECUTIVE OFFICER TO ABIDE BY THE PROVISIONS OF THIS SECTION;

(III) PROOF OF GOOD BUSINESS STANDING IN THE STATE IN WHICH THE CENTRAL ADMINISTRATION OF THE INSTITUTION IS INCORPORATED; AND

(IV) PROOF OF GOOD ACADEMIC STANDING SUBMITTED BY:

1. THE REGULATORY HIGHER EDUCATION ENTITY IN THE STATE IN WHICH THE CENTRAL ADMINISTRATION OF THE INSTITUTION IS LOCATED; OR

2. IF THE STATE IN WHICH THE INSTITUTION IS LOCATED DOES NOT HAVE A REGULATORY HIGHER EDUCATION ENTITY, THE ACCREDITING BODY THAT ACCREDITED THE INSTITUTION;

(3) PROMPTLY NOTIFY THE COMMISSION OF A CHANGE IN OWNERSHIP OR A CHANGE IN MAJORITY CONTROL;

(4) COMPLY WITH THE PRINCIPLES OF GOOD PRACTICE FOR DISTANCE EDUCATION ESTABLISHED BY THE COMMISSION THROUGH REGULATION;

(5) MAKE PUBLIC AND POST ON THE INSTITUTION'S WEB SITE:

(I) WHETHER THE INSTITUTION IS REGISTERED IN MARYLAND; AND

(II) THE PROCESS BY WHICH TO MAKE COMPLAINTS AGAINST THE INSTITUTION;

(6) COMPLY WITH THE REFUND POLICY AND PROCEDURES ESTABLISHED BY THE COMMISSION; AND

(7) BE SUBJECT TO COMPLAINT INVESTIGATION BY THE OFFICE OF THE ATTORNEY GENERAL OR THE COMMISSION OR BOTH.

(D) THE REFUND POLICY AND PROCEDURES ESTABLISHED BY THE COMMISSION SHALL ALLOW FOR:

(1) (I) AT LEAST 2 WEEKS OF REQUIRED ORIENTATION OR PREENROLLMENT INSTRUCTION IN A FULLY ONLINE DISTANCE EDUCATION PROGRAM IN THE STATE AT NO CHARGE FOR A STUDENT WHO HAS COMPLETED LESS THAN 24 CREDITS OF COLLEGE-LEVEL LEARNING FROM AN ACCREDITED INSTITUTION; AND

(II) A PRORATED REFUND METHODOLOGY THAT PROVIDES A REFUND TO ANY STUDENT NOT COVERED BY ITEM (I) OF THIS PARAGRAPH WHO HAS COMPLETED 60% OR LESS OF A COURSE, TERM, OR PROGRAM WITHIN THE APPLICABLE BILLING PERIOD; OR

(2) A PRORATED REFUND METHODOLOGY THAT ~~ACCOUNTS FOR THE PORTION OF THE COURSE NOT COMPLETED~~ PROVIDES A REFUND TO ANY STUDENT WHO HAS COMPLETED 60% OR LESS OF A COURSE, TERM, OR PROGRAM WITHIN THE APPLICABLE BILLING PERIOD.

(E) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE COMMISSION SHALL REQUIRE THE PAYMENT OF A FEE SET BY REGULATION, AS A CONDITION OF REGISTRATION.

(2) THE FEES CHARGED SHALL BE:

(I) A FIXED AMOUNT FOR ALL INSTITUTIONS REGARDLESS OF TYPE, LOCATION, OR STUDENT ENROLLMENT; AND

(II) ~~SET~~ SET TO COVER THE APPROXIMATE COST OF IMPLEMENTING A SYSTEM OF REGISTRATION.

(F) THE COMMISSION SHALL MAKE PUBLIC AND POST ON ITS WEB SITE:

(1) A LIST OF REGISTERED INSTITUTIONS OF POSTSECONDARY EDUCATION THAT OFFER FULLY ONLINE DISTANCE EDUCATION PROGRAMS IN THE STATE; AND

(2) IF THE COMMISSION DENIES OR REVOKES THE REGISTRATION OF AN INSTITUTION, THE NAME OF THE DENIED OR REVOKED INSTITUTION.

(G) ON OR BEFORE DECEMBER 1 EACH YEAR, THE COMMISSION SHALL REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY:

(1) THE NUMBER OF INSTITUTIONS OF POSTSECONDARY EDUCATION THAT APPLY FOR REGISTRATION UNDER THIS SECTION;

(2) THE TYPE AND SIZE OF THE INSTITUTIONS THAT APPLY;

(3) THE NUMBER OF INSTITUTIONS APPROVED FOR REGISTRATION;

(4) THE NUMBER OF INSTITUTIONS DENIED REGISTRATION; AND

(5) THE NUMBER OF MARYLAND STUDENTS ENROLLED IN INSTITUTIONS REQUIRED TO REGISTER UNDER THIS SECTION.

11-203.

(a) The Commission may require any institution of postsecondary education that is required to obtain a certificate of approval **OR REQUIRED TO REGISTER UNDER § 11-202.2 OF THIS SUBTITLE** to furnish a performance bond or other form

of financial guarantee FOR EITHER THE CERTIFICATE OF APPROVAL OR THE REGISTRATION to the State conditioned that the institution will:

(1) Perform faithfully all agreements or contracts it makes with its students; and

(2) Comply with this article.

(b) Subject to subsection (d)(3)(ii)2 of this section, any bond or guarantee required under this section shall be in the form and amount the Secretary requires.

(c) (1) The total liability of a surety on a bond or guarantee under this section may not exceed the amount of the bond or guarantee.

(2) If the total amount of claims filed against a bond or guarantee exceeds the amount of the bond or guarantee, the surety shall pay the amount of the bond or guarantee to the Secretary for distribution to the claimants.

(d) (1) By rule and regulation, the Commission may create and provide for the operation of [two] **THREE** separate guaranty funds for:

(i) For-profit institutions of higher education; [and]

(ii) Private career schools; **AND**

(III) INSTITUTIONS OF POSTSECONDARY EDUCATION THAT ARE REQUIRED TO REGISTER UNDER § 11-202.2 OF THIS SUBTITLE.

(2) (i) The private career school fund shall be used:

1. To reimburse any student at a private career school who is entitled to a refund of tuition and fees because the institution has failed to perform faithfully any agreement or contract with the student or failed to comply with any provision of this article; or

2. For any other function directly related to the original purpose of the fund deemed appropriate by the Secretary.

(ii) The for-profit institution of higher education fund shall be used to reimburse any student at a for-profit institution of higher education who is entitled to a refund of tuition and fees because the institution has failed to perform faithfully any agreement or contract with the student or failed to comply with any provision of this article.

(III) 1. THE FUND FOR INSTITUTIONS OF POSTSECONDARY EDUCATION THAT ARE REQUIRED TO REGISTER UNDER §

11-202.2 OF THIS SUBTITLE SHALL BE USED TO REIMBURSE ANY STUDENT AT ANY OF THESE INSTITUTIONS WHO IS ENTITLED TO A REFUND OF TUITION AND FEES BECAUSE THE INSTITUTION HAS FAILED TO PERFORM FAITHFULLY ANY AGREEMENT OR CONTRACT WITH THE STUDENT OR FAILED TO COMPLY WITH ANY PROVISION OF THIS ARTICLE.

~~2. THE COMMISSION MAY REDUCE THE CONTRIBUTION OF OR EXEMPT AN INSTITUTION FROM THE REQUIREMENT TO CONTRIBUTE TO THE FUND AFTER A PERIOD OF TIME SET BY REGULATION DURING WHICH NO CLAIM AGAINST THE FUND HAS BEEN SUSTAINED ON BEHALF OF A STUDENT PARTICIPATING IN A FULLY ONLINE DISTANCE EDUCATION PROGRAM OFFERED IN THE STATE BY THE INSTITUTION.~~

2. A. AFTER 3 YEARS OF CLAIMS HISTORY DURING WHICH NO CLAIM AGAINST THE FUND HAS BEEN SUSTAINED ON BEHALF OF A STUDENT PARTICIPATING IN A FULLY ONLINE DISTANCE EDUCATION PROGRAM OFFERED IN THE STATE BY AN INSTITUTION REGISTERED UNDER § 11-202.2 OF THIS SUBTITLE, THE COMMISSION SHALL EXEMPT THAT INSTITUTION FROM THE REQUIREMENT TO CONTRIBUTE TO THE FUND.

B. NOTWITHSTANDING SUBSUBPARAGRAPH A OF THIS SUBSUBPARAGRAPH, AN INSTITUTION SHALL BE REQUIRED TO CONTRIBUTE TO THE FUND FOLLOWING A CLAIM AGAINST THE FUND BEING SUSTAINED ON BEHALF OF A STUDENT PARTICIPATING IN A FULLY ONLINE DISTANCE EDUCATION PROGRAM OFFERED IN THE STATE BY THE INSTITUTION.

3. NOTWITHSTANDING SUBSUBPARAGRAPH 2 OF THIS SUBPARAGRAPH, A STUDENT WHO TAKES COURSES FROM AN INSTITUTION EXEMPTED FROM CONTRIBUTION TO THE FUND UNDER SUBSUBPARAGRAPH 2 OF THIS SUBPARAGRAPH MAY MAKE A CLAIM AGAINST THE FUND IN ACCORDANCE WITH SUBSUBPARAGRAPH 1 OF THIS SUBPARAGRAPH.

[(iii)] (IV) 1. The funds shall be continuing, nonlapsing funds, not subject to § 7-302 of the State Finance and Procurement Article.

2. Any unspent portions of the funds may not be transferred or revert to the General Fund of the State, but shall remain in the funds to be used for the purposes specified in this subsection.

3. No other State money may be used to support the funds.

~~[(iv)]~~ (v) The Commission shall be subrogated to and may enforce the claim of any student to the extent of any actual or authorized reimbursement from the funds.

(3) (i) Each for-profit institution of higher education or private career school that is required to obtain a certificate of approval **AND, SUBJECT TO PARAGRAPH (2)(III)2 OF THIS SUBSECTION, EACH INSTITUTION OF POSTSECONDARY EDUCATION REQUIRED TO REGISTER UNDER § 11-202.2 OF THIS SUBTITLE** shall pay an annual fee into the appropriate fund.

(ii) 1. Subject to subparagraph 2 of this subparagraph, the Commission shall determine the amount of the fee based on the probable amount of money needed for the funds for each fiscal year. If the moneys in the guaranty funds are insufficient to satisfy duly authorized claims, the participating institutions may be reassessed and shall pay the additional amounts required.

2. The amount of the annual fee charged to a for-profit institution of higher education may not exceed 0.0025 of all gross tuition, or \$30,000, whichever is less.

(iii) The Commission may not issue a certificate of approval **OR REGISTRATION** to, and shall revoke any certificate of approval **OR REGISTRATION** previously issued to, an institution that fails to pay any annual fee or reassessment.

(iv) The Commission shall deposit into the appropriate fund any penalty assessed against a for-profit institution of higher education, **INSTITUTION OF POSTSECONDARY EDUCATION REQUIRED TO REGISTER UNDER § 11-202.2 OF THIS SUBTITLE**, or private career school, respectively, under the terms of § 11-204 of this subtitle.

(4) (i) The funds shall be maintained by the State Comptroller who may deposit the assets of the funds in any manner that is consistent with the purposes of the funds.

(ii) All interest or other return on fund investments shall be credited to the funds.

(5) The Commission, through the Attorney General, may enforce any claim to which the Commission has been subrogated under this subsection.

(E) ON OR BEFORE DECEMBER 1 EACH YEAR, THE COMMISSION SHALL REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY, REGARDING:

(1) THE NUMBER OF CLAIMS MADE AGAINST EACH GUARANTY FUND ESTABLISHED UNDER THIS SECTION;

(2) THE TYPE, SIZE, AND PROGRAM OF THE INSTITUTIONS AGAINST WHICH THE CLAIMS ARE MADE;

(3) THE NUMBER OF CLAIMS THAT ARE APPROVED AND THE ASSOCIATED PAYOUTS FROM THE FUNDS; AND

(4) THE NUMBER OF CLAIMS THAT ARE DENIED.

11–204.

(a) If the Commission believes that an institution of postsecondary education does not meet the conditions or standards on which its certificate of approval, **REGISTRATION**, or any other approval issued by the Commission or Secretary, was based, the Commission shall give the institution written notice specifying the deficiencies believed to exist.

(b) (1) The notice shall specify the alleged deficiencies, and direct the institution to correct them within a period of not less than 30 days.

(2) If the institution requests a hearing, the Commission shall hold a hearing on the matter within 60 days of receipt of the request, subject to the requirement that any request for a hearing must be received by the Commission within 20 days of the institution's receipt of the notice of deficiencies.

(3) Subject to subsection (f) of this section, action on the notice of deficiencies shall be stayed until a determination is made after the hearing.

(4) Notwithstanding § 11–206(b)(3) of this subtitle, at the discretion of the Secretary, action on any approval request by an institution issued a notice of deficiencies may be stayed until a determination is made after the hearing.

(c) (1) If a hearing is not requested within the specified time period, or if the notice of deficiencies is upheld in whole or in part after a hearing, the Commission may reprimand the institution or suspend or revoke the institution's certificate of approval or any other approval issued by the Commission or Secretary.

(2) (i) Instead of or in addition to reprimanding a for-profit institution of higher education, **INSTITUTION OF POSTSECONDARY EDUCATION REQUIRED TO REGISTER UNDER § 11–202.2 OF THIS SUBTITLE**, or private career school, or suspending or revoking any approval issued to a for-profit institution of higher education or private career school **OR REGISTRATION ISSUED TO AN INSTITUTION OF POSTSECONDARY EDUCATION UNDER § 11–202.2 OF THIS SUBTITLE**, the Commission may impose a penalty of up to \$5,000 for each violation as specified in regulations adopted by the Commission.

(ii) In accordance with the provisions of this section, the Commission shall deposit any penalty assessed against a for-profit institution of higher education, **INSTITUTION OF POSTSECONDARY EDUCATION REQUIRED TO REGISTER UNDER § 11-202.2 OF THIS SUBTITLE**, or private career school into the **RESPECTIVE** guaranty fund [for for-profit institutions of higher education or for private career schools] if such funds exist. Otherwise, all penalties shall be deposited into the General Fund of the State.

(D) (1) IN ADDITION TO ANY OTHER SANCTION IMPOSED UNDER THIS SECTION, AN INSTITUTION OF POSTSECONDARY EDUCATION THAT IS REQUIRED TO REGISTER UNDER § 11-202.2 OF THIS SUBTITLE THAT WILLFULLY AND KNOWINGLY VIOLATES THE PROVISIONS OF THIS SUBTITLE SHALL BE:

(I) SUBJECT TO REVOCATION OF REGISTRATION; AND

(II) PROHIBITED FROM ENROLLING MARYLAND STUDENTS IN FULLY ONLINE DISTANCE EDUCATION PROGRAMS IN THE STATE.

(2) MARYLAND STUDENTS WHO ATTEND AN INSTITUTION PROHIBITED FROM ENROLLING MARYLAND STUDENTS UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION SHALL BE ALLOWED TO COMPLETE A FULLY ONLINE DISTANCE EDUCATION PROGRAM IN THE STATE THAT IS IN PROGRESS.

(3) IF AN INSTITUTION IS REQUIRED TO REGISTER UNDER § 11-202.2 OF THIS SUBTITLE AND THE INSTITUTION DOES NOT REGISTER WITH THE COMMISSION WITHIN 6 MONTHS OF ENROLLING ITS FIRST MARYLAND STUDENT OR THE INSTITUTION ENROLLS ADDITIONAL MARYLAND STUDENTS IN VIOLATION OF THIS SECTION, ~~THE PERSON WHO SUBMITS THE AFFIDAVIT REQUIRED UNDER § 11-202.2(C)(2)(II) OF THIS SUBTITLE IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$10,000 OR IMPRISONMENT NOT EXCEEDING 1 YEAR OR BOTH~~ THE INSTITUTION SHALL BE SUBJECT TO A FINE NOT EXCEEDING \$20,000.

[(d)] (E) In imposing any sanctions under this section, the Commission shall consider:

- (1) The seriousness of the deficiency;
- (2) The harm caused by the deficiency;
- (3) The good faith of the institution and any corrective actions taken;
- (4) Any history of previous deficiencies; and
- (5) Other pertinent circumstances.

[(e)] (F) (1) An institution that is aggrieved by an order of the Commission has the right to judicial review provided by Title 10, Subtitle 2 of the State Government Article.

(2) The decision of the Commission shall be presumed correct and the institution has the burden of proving otherwise.

(3) The Commission shall be a party to the proceeding.

[(f)] (G) (1) The Secretary may at any time following written notice of the deficiencies and prior to the Commission's final decision seek an injunction or other judicial remedy in accordance with § 11–107 of this title, if the Secretary determines that the public interest requires enforcement of the provisions of this article or any applicable regulations.

(2) If a court grants relief prior to a hearing that was requested on a timely basis, the Commission shall schedule a hearing in regard to the notice of deficiencies within 2 weeks of the issuance of the court's order, unless the institution requests a delay.

24–707.

(a) Local education agencies, community colleges, public senior higher education institutions, and State agencies shall:

(1) Make every effort to comply with the data requirements and implementation schedule for the Maryland Longitudinal Data System as set forth by the Governing Board; and

(2) Transfer **[student] STUDENT-LEVEL AND TRANSCRIPT-LEVEL** data and workforce data to the Maryland Longitudinal Data System in accordance with the data security and safeguarding plan developed under § 24–704(g)(6) of this subtitle.

(b) Private secondary schools may transfer student data and workforce data to the Maryland Longitudinal Data System in accordance with the data security and safeguarding plan developed under § 24–704(g)(6) of this subtitle.

(c) For-profit and private nonprofit institutions of higher education, **AND INSTITUTIONS OF POSTSECONDARY EDUCATION THAT ARE REQUIRED TO REGISTER UNDER § 11–202.2 OF THIS ARTICLE** shall transfer student-level ~~AND TRANSCRIPT-LEVEL~~ enrollment data, degree data, and financial aid data for all Maryland residents to the Maryland Longitudinal Data System in accordance with the data security and safeguarding plan developed under § 24–704(g)(6) of this subtitle.

SECTION 2. AND BE IT FURTHER ENACTED, That nothing in this Act may be construed to affect the ongoing interpretation of § 11-202 of the Education Article and whether instruction through correspondence, noninteractive learning, credit for prior learning, cooperative education activities, practica, internships, externships, apprenticeships, portfolio review, departmental examinations, or challenge examinations requires a certificate of approval to operate, do business, or function in this State.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 597

(Senate Bill 852)

AN ACT concerning

Sales and Use Tax – Alcoholic Beverages – Calculation of Tax

FOR the purpose of ~~altering the definition of “taxable price” under the sales and use tax to include a mandatory gratuity charge or service charge in the nature of a tip for serving certain items to a group containing at least a certain number of individuals;~~ altering the sales and use tax rate for a mandatory gratuity charge or service charge in the nature of a tip under certain circumstances; modifying the calculation of the sales and use tax rate applicable to charges for labor, materials, or property used in connection with the sale of an alcoholic beverage; and generally relating to the sales and use tax and alcoholic beverages.

~~BY repealing and reenacting, without amendments,
Article – Tax – General
Section 11-101(l)(1)
Annotated Code of Maryland
(2010 Replacement Volume and 2011 Supplement)~~

BY adding to
Article – Tax – General
Section ~~11-101(l)(5)~~ and 11-104(h)
Annotated Code of Maryland
(2010 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,
Article – Tax – General
Section 11-104(g)

Annotated Code of Maryland
(2010 Replacement Volume and 2011 Supplement)

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

Article – Tax – General

~~11-101.~~

~~(1) (1) “Taxable price” means the value, in money, of the consideration of any kind that is paid, delivered, payable, or deliverable by a buyer to a vendor in the consummation and complete performance of a sale without deduction for any expense or cost, including the cost of:~~

~~(i) any labor or service rendered;~~

~~(ii) any material used; or~~

~~(iii) any property sold.~~

~~(5) “TAXABLE PRICE” INCLUDES A MANDATORY GRATUITY CHARGE OR SERVICE CHARGE IN THE NATURE OF A TIP FOR SERVING FOOD OR ANY TYPE OF BEVERAGE TO A GROUP OF 11 OR MORE INDIVIDUALS.~~

11-104.

(g) The sales and use tax rate for the sale of an alcoholic beverage, as defined in § 5-101 of this article, is:

(1) 9% of the [taxable price of] CHARGE FOR the alcoholic beverage;

AND

(2) 6% OF A CHARGE THAT IS MADE IN CONNECTION WITH THE SALE OF AN ALCOHOLIC BEVERAGE AND IS STATED AS A SEPARATE ITEM OF THE CONSIDERATION AND MADE KNOWN TO THE BUYER AT THE TIME OF SALE FOR:

(I) ANY LABOR OR SERVICE RENDERED;

(II) ANY MATERIAL USED; OR

(III) ANY PROPERTY SOLD.

(H) THE SALES AND USE TAX RATE FOR A MANDATORY GRATUITY OR SERVICE CHARGE IN THE NATURE OF A TIP FOR SERVING FOOD OR ANY TYPE OF BEVERAGE TO A GROUP OF ~~11 OR MORE~~ MORE THAN 10 INDIVIDUALS IS 6%.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 598

(House Bill 918)

AN ACT concerning

Sales and Use Tax – Alcoholic Beverages – Calculation of Tax

FOR the purpose of ~~altering the definition of “taxable price” under the sales and use tax to include a mandatory gratuity charge or service charge in the nature of a tip for serving certain items to a group containing at least a certain number of individuals;~~ altering the sales and use tax rate for a mandatory gratuity charge or service charge in the nature of a tip under certain circumstances; modifying the calculation of the sales and use tax rate applicable to charges for labor, materials, or property used in connection with the sale of an alcoholic beverage; and generally relating to the sales and use tax and alcoholic beverages.

~~BY repealing and reenacting, without amendments,
Article – Tax – General
Section 11-101(1)(1)
Annotated Code of Maryland
(2010 Replacement Volume and 2011 Supplement)~~

BY adding to
Article – Tax – General
Section ~~11-101(1)(5)~~ and 11-104(h)
Annotated Code of Maryland
(2010 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,
Article – Tax – General
Section 11-104(g)
Annotated Code of Maryland
(2010 Replacement Volume and 2011 Supplement)

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

Article – Tax – General

~~11-101.~~

~~(1) (1) "Taxable price" means the value, in money, of the consideration of any kind that is paid, delivered, payable, or deliverable by a buyer to a vendor in the consummation and complete performance of a sale without deduction for any expense or cost, including the cost of:~~

~~(i) any labor or service rendered;~~

~~(ii) any material used; or~~

~~(iii) any property sold.~~

~~(5) "TAXABLE PRICE" INCLUDES A MANDATORY GRATUITY CHARGE OR SERVICE CHARGE IN THE NATURE OF A TIP FOR SERVING FOOD OR ANY TYPE OF BEVERAGE TO A GROUP OF 11 OR MORE INDIVIDUALS.~~

11-104.

(g) The sales and use tax rate for the sale of an alcoholic beverage, as defined in § 5-101 of this article, is:

(1) 9% of the [taxable price of] **CHARGE FOR** the alcoholic beverage;

AND

(2) **6% OF A CHARGE THAT IS MADE IN CONNECTION WITH THE SALE OF AN ALCOHOLIC BEVERAGE AND IS STATED AS A SEPARATE ITEM OF THE CONSIDERATION AND MADE KNOWN TO THE BUYER AT THE TIME OF SALE FOR:**

(I) ANY LABOR OR SERVICE RENDERED;

(II) ANY MATERIAL USED; OR

(III) ANY PROPERTY SOLD.

(H) THE SALES AND USE TAX RATE FOR A MANDATORY GRATUITY OR SERVICE CHARGE IN THE NATURE OF A TIP FOR SERVING FOOD OR ANY TYPE OF BEVERAGE TO A GROUP OF ~~11 OR MORE~~ MORE THAN 10 INDIVIDUALS IS 6%.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 599**(Senate Bill 855)**

AN ACT concerning

Corporations and Associations – Limited Liability Act – Revisions

FOR the purpose of establishing that certain statutory provisions relating to limited liability companies apply unless otherwise agreed on in the limited liability company's articles of organization, in the operating agreement, or by unanimous consent; repealing the requirement that the purposes for which a limited liability company is formed be set forth in the articles of organization; altering the requirements for a certain resident agent; authorizing the conversion of a partnership to a limited liability company to be abandoned by a certain vote or agreement; repealing provisions relating to a member's authority regarding abandoning the business; authorizing an operating agreement to contain procedures related to meetings and voting; prohibiting a member from taking certain actions without the consent of certain members holding at least a certain amount of the interest in profits of a limited liability company; prohibiting a member from taking certain actions without the unanimous consent of the members; authorizing a meeting of the members to be called by written request of certain members holding a certain amount of the interests in the profits of a limited liability company; authorizing members of a limited liability company to participate in a meeting by certain means of communication if certain requirements are met; authorizing electronic transmission of certain required notices, consents, or communications; authorizing a member to use certain means to authorize a certain person to act as a proxy; providing that a certain proxy is revocable under certain circumstances; clarifying certain standards governing the right to inspect and copy certain records; authorizing a limited liability company to keep certain information confidential for a certain time period, unless a certain agreement is executed; requiring a demand for certain protected information to be in writing and state the purpose of the demand; clarifying that only a certain economic interest may be assigned; clarifying that a certain assignment of an economic interest does not include the exercise of certain noneconomic interests; providing that assignment of all of a certain economic interest in a limited liability company forfeits certain noneconomic interests; providing that the pledge or grant of a security interest, lien, or encumbrance in or against a member's economic interest does not affect a member's noneconomic interest; authorizing a member to withdraw from a limited liability company prior to the dissolution and winding up of the limited liability company by giving a certain notice; authorizing the operating agreement to provide that a member may not withdraw or place certain limits on the ability of a member to withdraw; providing that assignment of all of a certain economic interest in a limited liability company causes a person to no longer be a member of the limited

liability company; providing that a charging order applies to a certain economic interest of a certain debtor and only requires the limited liability company to pay to a certain creditor certain distributions; providing that a certain noneconomic interest of a certain debtor is not subject to a charging order; altering the circumstances under which a foreclosure of certain economic interests may be ordered; authorizing certain members to consent to the redemption of an economic interest with certain property before a foreclosure; repealing the requirement of unanimous consent for abandoning a certain proposed merger; providing that abandonment of a proposed merger requires the consent of certain members; making certain technical, stylistic, clarifying, and conforming changes; defining certain terms; and generally relating to limited liability companies.

BY repealing and reenacting, with amendments,

Article – Corporations and Associations

Section 1–101(t), 4A–101, 4A–102, 4A–203, 4A–204, 4A–209, 4A–210(a) and (c), 4A–211, 4A–401 through 4A–403, 4A–405, 4A–406, 4A–502 through 4A–505, 4A–601 through 4A–601.1, 4A–607, 4A–701, 4A–702, 4A–704 through 4A–706, 4A–709(c), 4A–801, 4A–902, 4A–904, 4A–906, 4A–918, 4A–1103, and 4A–1104

Annotated Code of Maryland

(2007 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, without amendments,

Article – Corporations and Associations

Section 4A–802

Annotated Code of Maryland

(2007 Replacement Volume and 2011 Supplement)

BY adding to

Article – Corporations and Associations

Section 4A–403.1 and 4A–403.2

Annotated Code of Maryland

(2007 Replacement Volume and 2011 Supplement)

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

Article – Corporations and Associations

1–101.

(t) “Resident agent” means an individual residing in this State or a Maryland corporation **OR LIMITED LIABILITY COMPANY** whose name, address, and designation as a resident agent are filed or recorded with the Department in accordance with the provisions of this article.

4A-101.

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

(b) “Articles of organization” means the articles of organization filed with the Department [for the purpose of forming a limited liability company] as specified in § 4A-204 of this title and includes all amendments and restatements of them.

(c) “Authorized person” means any person, whether or not a member, who is authorized by the articles of organization, by an operating agreement, or [otherwise,] **BY UNANIMOUS CONSENT OF THE MEMBERS AND ANY OTHER PERSON WHOSE CONSENT IS REQUIRED BY THE OPERATING AGREEMENT**, to execute or file a document required or permitted to be executed or filed on behalf of a limited liability company or foreign limited liability company under this title, or to otherwise act as an agent of the limited liability company.

(d) “Bankrupt” means [bankrupt] **A DEBTOR** under the federal Bankruptcy Code as amended or [insolvent] **A DEBTOR** under any state insolvency act.

(e) “Capital contribution” means anything of value that a person contributes as capital to the limited liability company in that person’s capacity as a member, including cash, property, services rendered or a promissory note or other binding obligation to contribute cash or property or to perform services.

(f) “Capital [interest] **CONTRIBUTION VALUE**” means the fair market value, as of the date contributed, of a member’s capital contribution, whether or not returned to the member.

(g) “Corporation” means a Maryland corporation or a foreign corporation.

(h) “Court” includes every court having jurisdiction in the case.

(I) “ECONOMIC INTEREST” MEANS A MEMBER’S SHARE OF THE PROFITS AND LOSSES OF A LIMITED LIABILITY COMPANY AND THE RIGHT TO RECEIVE DISTRIBUTIONS FROM A LIMITED LIABILITY COMPANY.

[i] **(J)** “Foreign limited liability company” means a limited liability company formed under the laws of a state other than [the] **THIS State [of Maryland]**.

[j] “Interest” means a member’s share of the profits and losses of the limited liability company and the right to receive distributions from the limited liability company.]

(k) “Limited liability company” or “domestic limited liability company” means a permitted form of unincorporated business organization which is organized and existing under this title.

(l) “Limited partnership” means a Maryland limited partnership or foreign limited partnership as defined in § 10–101 of this article.

(m) [(1)] “Member” means a person [with an interest in] **WHO HAS BEEN ADMITTED AS A MEMBER OF** a limited liability company [with the rights and obligations specified] under **§ 4A–601 OF** this title[.

(2) “Member” includes a person who has been admitted] **OR** as a member of a [limited liability company organized in the State or a] foreign limited liability company, **AND WHO HAS NOT CEASED TO BE A MEMBER.**

(N) “MEMBERSHIP INTEREST” MEANS A MEMBER’S ECONOMIC INTEREST AND NONECONOMIC INTEREST IN A LIMITED LIABILITY COMPANY.

(O) “NONECONOMIC INTEREST” MEANS ALL OF THE RIGHTS OF A MEMBER IN A LIMITED LIABILITY COMPANY OTHER THAN THE MEMBER’S ECONOMIC INTEREST, INCLUDING, UNLESS OTHERWISE AGREED, THE MEMBER’S RIGHT TO:

(1) INSPECT THE BOOKS AND RECORDS OF THE LIMITED LIABILITY COMPANY;

(2) PARTICIPATE IN THE MANAGEMENT OF AND VOTE ON MATTERS COMING BEFORE THE LIMITED LIABILITY COMPANY; AND

(3) ACT AS AN AGENT OF THE LIMITED LIABILITY COMPANY.

[(n)] **(P)** “Operating agreement” means the agreement **OF THE MEMBERS** and any amendments thereto, [of the members] as to the affairs of a limited liability company and the conduct of its business.

[(o)] **(Q)** “Partnership” means a partnership formed under the laws of this State, any other state, or under the laws of a foreign country.

[(p)] **(R)** (1) “Professional service” has the meaning stated in § 5–101 of this article.

(2) “Professional service” includes a service provided by:

(i) An architect;

(ii) An attorney;

(iii) A certified public accountant;

- (iv) A chiropractor;
- (v) A dentist;
- (vi) An osteopath;
- (vii) A physician;
- (viii) A podiatrist;
- (ix) A professional engineer;
- (x) A psychologist;
- (xi) A licensed real estate broker, licensed associate real estate broker, or licensed real estate salesperson; or
- (xii) A veterinarian.

[(q)] (S) "State" means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

(T) "UNLESS OTHERWISE AGREED" MEANS UNLESS OTHERWISE STATED:

- (1) IN THE ARTICLES OF ORGANIZATION;**
- (2) IN THE OPERATING AGREEMENT; OR**
- (3) BY UNANIMOUS CONSENT OF THE MEMBERS AND ANY OTHER PERSON WHOSE CONSENT IS REQUIRED BY THE OPERATING AGREEMENT.**

4A-102.

(a) Unless otherwise provided **IN THIS TITLE**, the policy of this title is to give the maximum effect to the principles of freedom of contract and to the enforceability of operating agreements.

(b) A provision of this title that may be changed by the terms of an operating agreement also may be changed by the terms of the articles of organization.

4A-203.

Unless otherwise provided by law or [its articles of organization] **UNLESS OTHERWISE AGREED**, a limited liability company has the general powers, whether or not set forth in its articles of organization **OR OPERATING AGREEMENT**, to:

- (1) Have perpetual existence, although existence may be limited to a specified period of time if the limitation is set forth in its articles of organization;
- (2) Sue, be sued, complain, and defend in all courts;
- (3) Transact its business, carry on its operations, and have and exercise the powers granted by this article in any state and in any foreign country;
- (4) Make contracts and guarantees, incur liabilities, and borrow money;
- (5) Sell, lease, exchange, transfer, convey, mortgage, pledge, and otherwise dispose of any of its assets;
- (6) Acquire by purchase or in any other manner, take, receive, own, hold, improve, and otherwise deal with any interest in real or personal property, wherever located;
- (7) Issue notes, bonds, and other obligations and secure any of them by mortgage or deed of trust or security interest of any or all of its assets;
- (8) Purchase, take, receive, subscribe for or otherwise acquire, own, hold, vote, use, employ, sell, mortgage, loan, pledge, or otherwise dispose of and otherwise use and deal in and with stock or other interests in and obligations of other corporations, associations, general or limited partnerships, limited liability companies, foreign limited liability companies, business trusts, and individuals;
- (9) Invest its surplus funds, lend money in any manner which may be appropriate to enable it to carry on the operations or fulfill the purposes [set forth in its articles of organization] **OF THE LIMITED LIABILITY COMPANY**, and take and hold real property and personal property as security for the payment of funds so loaned or invested;
- (10) Render professional services within or without this State;
- (11) Elect or appoint agents and define their duties and fix their compensation;
- (12) Sell, convey, mortgage, pledge, lease, exchange, transfer, and otherwise dispose of all or any part of its property and assets;

(13) Be a promoter, stockholder, partner, member, associate, or agent of any corporation, partnership, limited liability company, foreign limited liability company, joint venture, trust, or other enterprise;

(14) Indemnify and hold harmless any member, agent, or employee from and against any and all claims and demands, except in the case of action or failure to act by the member, agent, or employee which constitutes willful misconduct or recklessness, and subject to the standards and restrictions, if any, set forth in the articles of organization or operating agreement;

(15) Make and alter operating agreements, not inconsistent with its articles of organization or with the laws of [the] **THIS** State, for the administration and regulation of the affairs of the limited liability company;

(16) Cease its activities and dissolve; and

(17) Do every other act not inconsistent with law which is appropriate to promote and attain the purposes [set forth in its articles of organization] **OF THE LIMITED LIABILITY COMPANY.**

4A-204.

(a) The articles of organization shall set forth:

(1) The name of the limited liability company;

(2) [The purpose for which the limited liability company is formed;

(3)] The address of its principal office in this State and the name and address of its resident agent; and

~~[(4)]~~ **(3)** Any other provision, not inconsistent with law, which the members elect to set out in the articles, including, but not limited to, a statement that the authority of members to act for the limited liability company solely by virtue of their being members is limited.

(b) It is not necessary to set out in the articles of organization any of the powers enumerated in this title.

(c) An amendment to the articles of organization shall be:

(1) In writing;

(2) [Approved] **UNLESS OTHERWISE AGREED, APPROVED** by unanimous consent of the members;

- (3) Executed under the provisions of § 4A–206 of this subtitle; and
- (4) Filed for record with the Department.

4A–209.

(a) The exclusive right to use a specified name for a domestic or foreign limited liability company may be reserved by:

- (1) A person who intends to organize a domestic limited liability company;
- (2) A domestic limited liability company that proposes to change its name;
- (3) A foreign limited liability company that intends to register to do business in [the] **THIS** State [of Maryland]; or
- (4) A foreign limited liability company registered to do business in [the] **THIS** State [of Maryland] that proposes to change its name.

(b) (1) A person may reserve a specified name by filing a signed application with the Department.

(2) If the Department finds that the name is available for use by a limited liability company, the Department shall reserve the name for 30 days for the exclusive use of the applicant.

(c) The exclusive right to use a reserved name may be transferred to another person by filing with the Department a notice of the transfer which specifies the name and address of the transferee and is signed by the applicant for whom the name was reserved.

4A–210.

(a) Each limited liability company shall have:

- (1) A principal office in [the] **THIS** State; and
- (2) [At least 1] **A** resident agent [who shall be:
 - (i) A citizen of the State who resides in the State;
 - (ii) A Maryland corporation; or
 - (iii) A Maryland limited liability company].

(c) (1) A resident agent who changes addresses in [the] **THIS** State may notify the Department of the change by filing for record with the Department a statement of the change signed by or on behalf of the resident agent.

(2) The statement shall include:

(i) The name of the limited liability company for which the change is effective;

(ii) The old and new addresses of the resident agent; and

(iii) The date on which the change is effective.

(3) If the old and new addresses of the resident agent are the same as the old and new addresses of the principal office of the limited liability company, the statement may include a change of address of the principal office if:

(i) The resident agent notifies the limited liability company in writing; and

(ii) The statement recites that notice has been sent.

(4) The change of address of the resident agent or principal office is effective when the Department accepts the statement for record.

4A-211.

(a) A partnership may convert to a limited liability company by filing articles of organization that meet the requirements of § 4A-204 of this subtitle and include the following:

(1) The name of the former general partnership or limited partnership; and

(2) The date of formation of the partnership and place of filing of the initial statement of partnership, if any, or certificate of limited partnership of the former general partnership or limited partnership.

(b) **(1)** The terms and conditions of a conversion of a general or limited partnership to a limited liability company shall be approved by the partners in the manner provided in the partnership's partnership agreement for amendments to the partnership agreement or, if no such provision is made in a partnership agreement, by unanimous agreement of the partners.

(2) A CONVERSION MAY BE ABANDONED BY:

(I) A VOTE OF THE PARTNERS IN THE MANNER PROVIDED IN THE PARTNERSHIP'S PARTNERSHIP AGREEMENT FOR AMENDMENTS TO THE PARTNERSHIP AGREEMENT; OR

(II) UNANIMOUS AGREEMENT OF THE PARTNERS, IF NO SUCH PROVISION IS MADE IN THE PARTNERSHIP AGREEMENT.

(c) (1) A general partner of a limited partnership or a partner of a general partnership who becomes a member of a limited liability company as a result of the conversion remains liable as a general partner of a limited partnership or a partner of a general partnership for any obligation or liability of the partnership incurred or arising before the conversion takes effect, to the extent that the partner or general partner would have been obligated or liable if the conversion had not occurred.

(2) The partner's or general partner's liability for all obligations or liabilities of the limited liability company incurred or arising after the conversion takes effect is that of a member of a limited liability company, as provided in this title.

4A-401.

(a) (1) Except as provided in paragraph (3) of this subsection or in the operating agreement, each member is an agent of the limited liability company for the purpose of its business.

(2) Except as provided in paragraph (3) of this subsection, the act of each member, including the execution in the name of the limited liability company of any instrument, for apparently carrying on in the usual way the business of the limited liability company of which the person is a member, binds the limited liability company, unless:

(i) The member so acting has in fact no authority to act for the limited liability company in the particular matter; and

(ii) The person with whom the member is dealing has actual knowledge of the fact that the member has no such authority.

(3) If the articles of organization contain a statement that the authority of members to act for the limited liability company solely by virtue of their being members is limited:

(i) No member of the limited liability company is an agent of the limited liability company solely by virtue of being a member, and no member has authority to act for the limited liability company solely by virtue of being a member; and

(ii) Each person dealing with a member is presumed to have knowledge that the member has no authority to act for the limited liability company solely by virtue of being a member.

(b) Notwithstanding a [provision] STATEMENT in the articles of organization or THE operating agreement that the authority of a member to act for the limited liability company solely by virtue of being a member is limited, a person dealing with a member may establish:

(1) That the member is an agent of the limited liability company; or

(2) That the limited liability company should be estopped from denying that the member was its agent.

(c) Unless the act of a member is authorized by the limited liability company, the act of a member that is not apparently for the carrying on of the business of the limited liability company in the usual way does not bind the limited liability company.

[(d) Unless the members unanimously consent or unless all other members have abandoned the business, no member has authority to:

(1) Assign the property of the limited liability company in trust for creditors or on the assignee's promise to pay the debts of the limited liability company;

(2) Dispose of the goodwill of the business; or

(3) Do any other act which would make it impossible to carry on the ordinary business of the limited liability company.]

4A-402.

(a) Except for the requirement set forth in § 4A-404 of this subtitle that certain consents be in writing, members may enter into an operating agreement to regulate or establish any aspect of the affairs of the limited liability company or the relations of its members, including provisions establishing:

(1) The manner in which the business and affairs of the limited liability company shall be managed, controlled, and operated, which may include the granting of exclusive authority to manage, control, and operate the limited liability company to persons who are not members;

(2) The manner in which the members will share the assets and earnings of the limited liability company;

(3) The rights of the members to assign all or a portion of their [interests in the limited liability company] **MEMBERSHIP INTEREST**;

(4) The circumstances in which [any assignee of a member's interest] **A PERSON** may be admitted as a member of the limited liability company;

(5) (i) The right to have and a procedure for having a member's **MEMBERSHIP** interest [in the limited liability company] evidenced by a certificate issued by the limited liability company, which may be issued in bearer form only if specifically allowed by the operating agreement;

(ii) The procedure for assignment, pledge, or transfer of any **MEMBERSHIP** interest represented by the certificate; and

(iii) Any other provisions dealing with the certificate;

(6) The method by which the operating agreement may from time to time be amended, which may include a requirement that an amendment be approved:

(i) By a person who is not a party to the operating agreement or who is not a member of the limited liability company; or

(ii) On the satisfaction of other conditions specified in the operating agreement; [and]

(7) The rights of any person, including a person who is not a party to the operating agreement or who is not a member of the limited liability company, to the extent set forth in the operating agreement; **OR**

(8) PROCEDURES RELATING TO:

(I) NOTICE OF THE TIME, PLACE, OR PURPOSE OF ANY MEETING AT WHICH ANY MATTER IS TO BE VOTED ON BY MEMBERS;

(II) WAIVER OF NOTICE OF MEETINGS;

(III) ACTION BY CONSENT WITHOUT A MEETING;

(IV) THE ESTABLISHMENT OF A RECORD DATE;

(V) QUORUM REQUIREMENTS;

(VI) VOTING IN PERSON OR BY PROXY;

(VII) VOTING RIGHTS OF VARIOUS CLASSES OF MEMBERS; OR

(VIII) ANY OTHER MATTER WITH RESPECT TO THE EXERCISE OF VOTING RIGHTS BY MEMBERS.

(b) (1) The initial operating agreement shall be agreed to by all persons who are then members.

(2) Unless the articles of organization specifically require otherwise, the operating agreement need not be in writing.

(c) (1) If the operating agreement does not provide for the method by which the operating agreement may be amended, then all of the members must agree to any amendment of the operating agreement.

(2) To the extent that an operating agreement provides for the manner in which the operating agreement may be amended, the operating agreement may be amended only in that manner, provided that the approval of a person may be waived by the person and that conditions may be waived by a person for whose benefit the conditions were intended.

(3) (i) Except as provided in subparagraph (ii) of this paragraph, or unless [the operating agreement specifically requires] otherwise **AGREED**, an amendment to an operating agreement is not required to be in writing.

(ii) An amendment to an operating agreement must be evidenced by a writing signed by an authorized person of the limited liability company if:

1. The amendment was adopted without the unanimous consent of the members; or

2. An **ECONOMIC** interest in the limited liability company has been assigned to a person who has not been admitted as a member.

(4) A copy of any written amendment to the operating agreement shall be delivered to each member who did not consent to the amendment and to each assignee who has not been admitted as a member.

(d) (1) A court may enforce an operating agreement by injunction or by granting such other relief which the court in its discretion determines to be fair and appropriate in the circumstances.

(2) As an alternative to injunctive or other equitable relief, when the provisions of § 4A-903 of this title are applicable, the court may order dissolution of the limited liability company.

(3) An operating agreement of a limited liability company with one member is not unenforceable on the grounds that there is only one person who is party to the operating agreement.

(4) A limited liability company:

(i) Is not required to execute its operating agreement; and

(ii) Is bound by its operating agreement, regardless of whether the limited liability company has executed the operating agreement.

(5) An operating agreement that is duly adopted or amended is binding on each person who is or becomes a member of the limited liability company and each person who is or becomes an assignee of a member of the limited liability company, regardless of whether the person has executed the operating agreement or amendment.

4A-403.

(A) [Unless] THE PROVISIONS OF THIS SECTION APPLY UNLESS otherwise provided in this title or [in the operating agreement] UNLESS OTHERWISE AGREED[:].

(B) (1) Members shall vote in proportion to their respective interests in profits of the limited liability company[; and], AS DETERMINED UNDER § 4A-503 OF THIS TITLE.

(2) Decisions concerning the affairs of the limited liability company shall require the consent of members holding at least a majority of the interests in profits of the limited liability company AS DETERMINED UNDER §4A-503 OF THIS TITLE.

(C) (1) A MEETING OF THE MEMBERS MAY BE CALLED BY THE WRITTEN REQUEST OF MEMBERS HOLDING AT LEAST 25% OF THE INTERESTS IN PROFITS OF THE LIMITED LIABILITY COMPANY AS DETERMINED UNDER § 4A-503 OF THIS TITLE.

(2) (I) MEMBERS OF A LIMITED LIABILITY COMPANY MAY PARTICIPATE IN A MEETING BY MEANS OF CONFERENCE TELEPHONE OR OTHER COMMUNICATIONS EQUIPMENT OR BY MEANS OF REMOTE COMMUNICATION, IF ALL PERSONS PARTICIPATING IN THE MEETING:

1. CAN EITHER HEAR OR READ THE PROCEEDINGS OF THE MEETING SUBSTANTIALLY CONCURRENT WITH THE PROCEEDINGS; AND

2. HAVE THE OPPORTUNITY TO PARTICIPATE IN THE MEETING AND VOTE ON MATTERS SUBMITTED TO THE MEMBERS.

(II) PARTICIPATION IN A MEETING BY THE MEANS AUTHORIZED BY SUBPARAGRAPH (I) OF THIS PARAGRAPH CONSTITUTES PRESENCE IN PERSON AT THE MEETING.

(D) (1) A MEMBER MAY NOT TAKE ANY OF THE FOLLOWING ACTIONS WITHOUT THE CONSENT OF MEMBERS HOLDING AT LEAST TWO-THIRDS OF THE INTEREST IN PROFITS OF THE LIMITED LIABILITY COMPANY AS DETERMINED UNDER § 4A-503 OF THIS TITLE:

(I) DISPOSE OF ALL OR SUBSTANTIALLY ALL OF THE BUSINESS OR PROPERTY OF THE LIMITED LIABILITY COMPANY; OR

(II) APPROVE A MERGER AS PROVIDED IN § 4A-702 OF THIS TITLE.

(2) A MEMBER MAY NOT TAKE ANY OF THE FOLLOWING ACTIONS WITHOUT THE UNANIMOUS CONSENT OF THE MEMBERS:

(I) INSTITUTE A VOLUNTARY PROCEEDING UNDER THE FEDERAL BANKRUPTCY CODE;

(II) ASSIGN THE PROPERTY OF THE LIMITED LIABILITY COMPANY IN TRUST FOR CREDITORS OR ON THE ASSIGNEE'S PROMISE TO PAY THE DEBTS OF THE LIMITED LIABILITY COMPANY;

(III) ALTER THE ALLOCATION OF PROFIT OR LOSS TO MEMBERS OF THE LIMITED LIABILITY COMPANY;

(IV) ALTER THE ALLOCATION OF OR THE MANNER OF COMPUTING DISTRIBUTIONS PAYABLE TO MEMBERS OF THE LIMITED LIABILITY COMPANY; OR

(V) DO ANY OTHER ACT THAT WOULD MAKE IT IMPOSSIBLE TO CARRY ON THE ORDINARY BUSINESS OF THE LIMITED LIABILITY COMPANY.

4A-403.1.

ANY NOTICE, CONSENT, OR OTHER COMMUNICATION REQUIRED OR AUTHORIZED BY THIS TITLE MAY BE DELIVERED BY ELECTRONIC TRANSMISSION.

4A-403.2.

(A) (1) A MEMBER MAY AUTHORIZE ANOTHER PERSON TO ACT AS PROXY FOR THE MEMBER AS PROVIDED IN THIS SECTION.

(2) (I) A MEMBER MAY SIGN A WRITING AUTHORIZING ANOTHER PERSON TO ACT AS PROXY.

(II) SIGNING MAY BE ACCOMPLISHED BY THE MEMBER OR THE MEMBER'S AUTHORIZED AGENT SIGNING THE WRITING OR CAUSING THE MEMBER'S SIGNATURE TO BE AFFIXED TO THE WRITING BY ANY REASONABLE MEANS, INCLUDING FACSIMILE SIGNATURE.

(3) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, A MEMBER MAY AUTHORIZE ANOTHER PERSON TO ACT AS PROXY BY TRANSMITTING, OR AUTHORIZING THE TRANSMISSION OF, AN AUTHORIZATION FOR THE PERSON TO ACT AS PROXY TO:

- 1. THE PERSON AUTHORIZED TO ACT AS PROXY; OR**
- 2. ANY OTHER PERSON AUTHORIZED TO RECEIVE THE PROXY AUTHORIZATION ON BEHALF OF THE PERSON AUTHORIZED TO ACT AS THE PROXY, INCLUDING A PROXY SOLICITATION FIRM OR PROXY SUPPORT SERVICE ORGANIZATION.**

(II) THE AUTHORIZATION MAY BE TRANSMITTED BY A TELEGRAM, CABLEGRAM, DATAGRAM, ELECTRONIC MAIL, OR ANY OTHER ELECTRONIC OR TELEPHONIC MEANS.

(4) A COPY, FACSIMILE TELECOMMUNICATION, OR OTHER RELIABLE REPRODUCTION OF THE WRITING OR TRANSMISSION AUTHORIZED UNDER PARAGRAPHS (2) AND (3) OF THIS SUBSECTION MAY BE SUBSTITUTED FOR THE ORIGINAL WRITING OR TRANSMISSION FOR ANY PURPOSE FOR WHICH THE ORIGINAL WRITING OR TRANSMISSION COULD BE USED.

(B) (1) A PROXY IS REVOCABLE BY A MEMBER AT ANY TIME WITHOUT CONDITION OR QUALIFICATION UNLESS:

- (I) THE PROXY STATES THAT IT IS IRREVOCABLE; AND**
- (II) THE PROXY IS COUPLED WITH AN INTEREST.**

(2) A PROXY MAY BE MADE IRREVOCABLE FOR AS LONG AS IT IS COUPLED WITH AN INTEREST.

(3) AN INTEREST WITH WHICH A PROXY MAY BE COUPLED INCLUDES AN INTEREST IN THE MEMBERSHIP INTEREST TO BE VOTED UNDER THE PROXY OR ANOTHER GENERAL INTEREST IN THE LIMITED LIABILITY COMPANY OR ITS ASSETS OR LIABILITIES.

4A-405.

[Except as provided in the operating agreement] **UNLESS OTHERWISE AGREED**, a member may lend money to and transact other business with the limited liability company and[, subject to other applicable law,] has the same rights and obligations with respect to the transaction as a person who is not a member.

4A-406.

(a) A member may inspect and copy, in person or by agent, from time to time on reasonable written demand, **FOR ANY PURPOSE REASONABLY RELATED TO THE MEMBER'S MEMBERSHIP INTEREST:**

(1) True and full information regarding the state of the business and financial condition of the limited liability company;

(2) A copy of the [certificate] **ARTICLES** of organization and operating agreement and all amendments to the [certificate] **ARTICLES OF ORGANIZATION** and operating agreement;

(3) A current list of the names and last known business, residence, or mailing addresses of all members; and

(4) Other information regarding the affairs of the limited liability company as is just and reasonable for any purpose reasonably related to the member's **MEMBERSHIP** interest [as a member].

(b) Any member may inspect and copy, in person or by agent, a copy of the limited liability company's federal, [State,] **STATE**, or local income tax returns.

(c) The rights to inspect and copy records of a limited liability company may be subject to reasonable standards that may be set forth in the articles of organization or the operating agreement, **INCLUDING STANDARDS GOVERNING WHAT INFORMATION AND DOCUMENTS ARE TO BE FURNISHED, AT WHAT TIME AND LOCATION, AND AT WHOSE EXPENSE.**

(D) UNLESS A MEMBER SEEKING INFORMATION EXECUTES A CONFIDENTIALITY OR NONDISCLOSURE AGREEMENT REASONABLY ACCEPTABLE TO THE LIMITED LIABILITY COMPANY RESTRICTING THE USE AND DISCLOSURE OF THE INFORMATION, A LIMITED LIABILITY COMPANY SHALL HAVE THE RIGHT TO KEEP CONFIDENTIAL FROM MEMBERS, FOR A REASONABLE PERIOD OF TIME:

(1) ANY INFORMATION THAT THE LIMITED LIABILITY COMPANY REASONABLY BELIEVES TO BE IN THE NATURE OF TRADE SECRETS;

(2) INFORMATION THE DISCLOSURE OF WHICH THE LIMITED LIABILITY COMPANY IN GOOD FAITH BELIEVES:

(i) IS NOT IN THE BEST INTEREST OF THE LIMITED LIABILITY COMPANY; OR

(ii) COULD DAMAGE THE LIMITED LIABILITY COMPANY OR ITS BUSINESS; OR

(3) INFORMATION THE LIMITED LIABILITY COMPANY IS REQUIRED BY LAW OR BY AGREEMENT WITH A THIRD PARTY TO KEEP CONFIDENTIAL.

(E) ANY DEMAND BY A MEMBER UNDER THIS SECTION SHALL BE IN WRITING AND SHALL STATE THE PURPOSE OF THE DEMAND.

4A-502.

(a) (1) [Except as provided in the operating agreement] UNLESS OTHERWISE AGREED, a member is obligated to the limited liability company to perform any promises set forth in the articles of organization or operating agreement to contribute cash or property or to perform services, even if the member is unable to perform because of death, disability, or other reason.

(2) If a member does not make the required contribution of property or services, the member is obligated, at the option of the limited liability company, to contribute cash equal to the value of that portion of the capital contribution that has not been made.

(b) (1) The obligation of a member to make a capital contribution or return money or other property paid or distributed in violation of this title may be compromised only:

(i) In compliance with the operating agreement; or

(ii) If the operating agreement does not so provide, with the unanimous consent of the members.

(2) Any compromise does not affect the rights, if any, of any creditor of a limited liability company to enforce the obligation or to require the obligation to be enforced.

(c) (1) An operating agreement may provide that a member who fails to make any capital contribution or other payment that the member is required to make shall be subject to specified remedies for, or specified consequences of, the failure.

(2) The remedy or consequence may take the form of:

(i) Reduction of the defaulting member's **MEMBERSHIP** interest in the limited liability company;

(ii) Subordination of the defaulting member's **MEMBERSHIP** interest in the limited liability company to that of the nondefaulting members;

(iii) A forced sale of the defaulting member's **MEMBERSHIP** interest in the limited liability company;

(iv) Forfeiture of the defaulting member's **MEMBERSHIP** interest in the limited liability company;

(v) A loan by the nondefaulting members of the amount necessary to meet the commitment;

(vi) A determination of the value of the member's **MEMBERSHIP** interest in the limited liability company by appraisal or by formula and redemption and sale of the defaulting member's **MEMBERSHIP** interest in the limited liability company at that value; or

(vii) Any other remedy or consequences.

4A-503.

[Except as otherwise provided in the operating agreement] **UNLESS OTHERWISE AGREED:**

(1) The profits and losses of a limited liability company shall be allocated among the members in proportion to their respective capital [interests] **CONTRIBUTION VALUES**; and

(2) Distributions by the limited liability company shall be made to the members in proportion to their right to share in the profits of the limited liability company.

4A-504.

Unless otherwise [provided in the operating agreement] **AGREED**, a member, regardless of the nature of the member's contribution, has no right to demand and receive any distribution from a limited liability company in a form other than cash.

4A-505.

[A] UNLESS OTHERWISE AGREED, A member of a limited liability company who becomes entitled to receive a distribution has the status of, and is entitled to all remedies available to, a creditor of the limited liability company with respect to the distribution.

4A-601.

(a) A person becomes a member of a limited liability company at:

(1) The time the limited liability company is formed;

(2) A later time specified in the operating agreement; or

(3) The time specified in § 4A-902(b)(1) of this title **RELATING TO CONTINUATION OF THE LIMITED LIABILITY COMPANY AFTER THERE ARE NO REMAINING MEMBERS.**

(b) After the formation of a limited liability company, a person may be admitted as a member:

(1) In the case of a person acquiring a membership interest directly from the limited liability company, upon compliance with the operating agreement or, if the operating agreement does not so provide, upon the unanimous consent of the members;

(2) In the case of an assignee of **[an] THE ECONOMIC** interest of a member, only as provided in § 4A-604 of this subtitle; or

(3) In the case of a personal representative or successor to the last remaining member who is not an assignee of the last remaining member, as provided in § 4A-902(b)(1) of this title.

(c) Unless otherwise [provided in the articles of organization or the operating agreement of a limited liability company] **AGREED**, a person may be

admitted as a member of a limited liability company and may be the sole member of a limited liability company without:

- (1) Making a **CAPITAL** contribution to the limited liability company;
- (2) Being obligated to make a **CAPITAL** contribution to the limited liability company; or
- (3) Acquiring an **ECONOMIC** interest in the limited liability company.

4A-602.

[The] **A MEMBERSHIP** interest [of a member] in a limited liability company is personal property.

4A-603.

(a) **UNLESS OTHERWISE AGREED:**

(1) [Unless otherwise provided in the operating agreement, an interest in a limited liability company is assignable in whole or in part] **ONLY AN ECONOMIC INTEREST IN A LIMITED LIABILITY COMPANY MAY BE ASSIGNED[.]; AND**

(2) **AN ECONOMIC INTEREST IS WHOLLY OR PARTLY ASSIGNABLE.**

(b) An assignment of an **ECONOMIC** interest in a limited liability company does not:

(1) Dissolve the limited liability company; or

(2) [Unless the operating agreement provides otherwise, entitle] **ENTITLE** the assignee to:

(i) Become a member; or

(ii) Exercise any rights of a member, **INCLUDING THE NONECONOMIC INTEREST OF THE ASSIGNOR.**

(c) [Unless otherwise provided in the operating agreement, an assignment entitles the assignee to receive, to the extent assigned, only the assignor's share of profits, losses, and distributions.

(d) Unless otherwise provided in the operating agreement, if] **IF** an assignee of an **ECONOMIC** interest in a limited liability company becomes a member of the

limited liability company, the assignor is not released from the assignor's liability under § 4A-502 of this title to the limited liability company.

[(e)] (D) [Unless otherwise provided in the operating agreement, on] **ON** assignment [under this section] of all of a member's **ECONOMIC** interest in a limited liability company, the member ceases to be a member of the limited liability company and [to have the power to exercise any right or power of a member] **FORFEITS THE MEMBER'S NONECONOMIC INTEREST IN THE LIMITED LIABILITY COMPANY.**

[(f)] (E) [Unless otherwise provided in the operating agreement, the] **THE** pledge or grant of a security interest, lien, or other encumbrance in or against all or a part of [an] **THE ECONOMIC** interest of a member [may] **DOES** not cause the member to cease to be a member or [to have the power to exercise any right or power of a member] **AFFECT THE MEMBER'S NONECONOMIC INTEREST IN THE LIMITED LIABILITY COMPANY.**

4A-604.

(a) An assignee of an **ECONOMIC** interest in a limited liability company may become a member of the limited liability company under any of the following circumstances:

- (1) In accordance with the terms of the operating agreement providing for the admission of a member;
- (2) By the unanimous consent of the members; or
- (3) If there are no remaining members of the limited liability company at the time the assignee obtains the **ECONOMIC** interest, on terms that the assignee may determine in accordance with § 4A-902(b)(1) of this title.

(b) An assignee who becomes a member:

- (1) Has, to the extent assigned, the rights and powers, and is subject to the restrictions and liabilities, of a member under the operating agreement and this title; and
- (2) Is liable for any obligations of his assignor to make capital contributions.

4A-605.

(A) **[A] UNLESS OTHERWISE AGREED, A** member may withdraw **FROM A LIMITED LIABILITY COMPANY PRIOR TO THE DISSOLUTION AND WINDING UP OF THE LIMITED LIABILITY COMPANY** by giving not less than 6 months' prior written

notice to the other members at their respective addresses as shown on the books AND RECORDS of the limited liability company[, unless:].

(B) [(1)] The operating agreement [provides] **MAY PROVIDE** that [the member does not have the right or power] **A MEMBER MAY NOT WITHDRAW OR OTHERWISE PLACE LIMITS ON THE ABILITY OF A MEMBER** to withdraw[; or

(2) The operating agreement specifies another time for or other conditions of withdrawal].

4A-606.

[A] **UNLESS OTHERWISE AGREED, A** person ceases to be a member of a limited liability company upon the occurrence of any of the following events:

(1) The person withdraws from the limited liability company as [provided in] **AUTHORIZED BY § 4A-605** of this subtitle;

(2) The person is removed as a member in accordance with the operating agreement;

(3) [Unless otherwise provided in the operating agreement or with the consent of all other members, the] **THE** person:

(i) Makes an assignment for the benefit of creditors;

(ii) [Files a voluntary petition in bankruptcy] **INSTITUTES A VOLUNTARY PROCEEDING WITH RESPECT TO THE PERSON UNDER THE FEDERAL BANKRUPTCY CODE;**

(iii) Is adjudged bankrupt or insolvent or has entered against the person an order for relief in any bankruptcy or insolvency proceeding;

(iv) Files a petition or answer seeking for that person any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any statute, law, or regulation;

(v) Seeks, consents to, or acquiesces in the appointment of a trustee for, receiver for, or liquidation of the member or of all or any substantial part of the person's properties; or

(vi) Files an answer or other pleading admitting or failing to contest the material allegations of a petition filed against the person in any proceeding described in this subsection;

(4) [Unless otherwise provided in the operating agreement, or with the consent of all other members, the] **THE** continuation of any proceeding against the person seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any statute, law, or regulation, for 120 days after the commencement thereof, or the appointment of a trustee, receiver, or liquidator for the members or all or any substantial part of the person's properties without the person's agreement or acquiescence, which appointment is not vacated or stayed for 120 days or, if the appointment is stayed, for 120 days after the expiration of the stay during which period the appointment is not vacated;

(5) [Unless otherwise provided in the operating agreement, in] **IN** the case of a member who is an individual, the individual's:

(i) Death; or

(ii) Adjudication by a court of competent jurisdiction as incompetent to manage the individual's person or property;

(6) [Unless otherwise provided in the operating agreement, in] **IN** the case of a member who is acting as a member by virtue of being a trustee of a trust, the termination of the trust;

(7) [Unless otherwise provided in the operating agreement, in] **IN** the case of a member that is a partnership or another limited liability company, the dissolution and commencement of winding up of the partnership or limited liability company;

(8) [Unless otherwise provided in the operating agreement, in] **IN** the case of a member that is a corporation, the dissolution of the corporation or the revocation of its charter; [or]

(9) [Unless otherwise provided in the operating agreement, in] **IN** the case of a member that is an estate, the distribution by the fiduciary of the estate's entire **ECONOMIC** interest in the limited liability company; **OR**

(10) ON ASSIGNMENT OF ALL OF A PERSON'S ECONOMIC INTEREST IN THE LIMITED LIABILITY COMPANY AS PROVIDED IN § 4A-603(D) OF THIS SUBTITLE.

4A-606.1.

(a) Unless [the operating agreement provides otherwise, if] **OTHERWISE AGREED, IF A PERSON CEASES TO BE A MEMBER OF A LIMITED LIABILITY COMPANY UNDER § 4A-606 OF THIS SUBTITLE, AND** the limited liability company is not dissolved [after a member ceases to be a member under § 4A-606 of this subtitle:

(1) Within] **AS A RESULT, THEN, WITHIN** a reasonable time after [a] **THE** person [has] ceased to be a member, the limited liability company may elect to pay [to that] **THE** person or [that] **THE** person's successor in interest, in complete liquidation of the person's **MEMBERSHIP** interest, the fair value of [that] **THE** person's **ECONOMIC** interest in the limited liability company as of the date the person ceased to be a member, based upon the person's right to share in distributions from the limited liability company]; and

(2) Unless otherwise agreed, the members of the limited liability company continuing the business following the withdrawal of a member will be deemed to have entered into an operating agreement under § 4A-402 of this title containing the same terms and conditions as those contained in the operating agreement in effect immediately prior to the withdrawal, except that the members bound by the operating agreement shall be only those members who have not withdrawn].

(b) If a [member] **PERSON** ceases to be a member **OF A LIMITED LIABILITY COMPANY** under § 4A-606 of this subtitle and the limited liability company elects not to completely liquidate [that] **THE** person's **MEMBERSHIP** interest **UNDER § 4A-606.1(A) OF THIS SUBTITLE**, [the] **THAT** person will be deemed to be an assignee of the **UNREDEEMED ECONOMIC** interest under §§ 4A-603 and 4A-604 of this subtitle.

4A-607.

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

(2) "Creditor" means a person for whom a court may issue an attachment under Title 3, Subtitle 3 of the Courts Article.

(3) "Debtor" means a person whose property or credits are subject to attachment under Title 3, Subtitle 3 of the Courts Article.

(b) (1) On application by a creditor of a debtor holding an **ECONOMIC** interest in a limited liability company, a court having jurisdiction may charge the **ECONOMIC** interest of the debtor **IN THE LIMITED LIABILITY COMPANY FOR THE UNSATISFIED AMOUNT OF THE DEBT**.

(2) The court may appoint a receiver for the distributions due or to become due to the debtor with respect to the limited liability company and make all other orders, directions, accounts, and inquiries that the debtor would have been entitled to make or that the circumstances of the case may require.

(c) (1) A charging order constitutes a lien on the **ECONOMIC** interest of the debtor in the limited liability company **AND REQUIRES THE LIMITED LIABILITY COMPANY TO PAY OVER TO THE CREDITOR ONLY ANY DISTRIBUTIONS THAT WOULD OTHERWISE BE PAYABLE TO THE DEBTOR WHOSE ECONOMIC INTEREST IS CHARGED.**

(2) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, THE NONECONOMIC INTEREST OF A DEBTOR WHOSE ECONOMIC INTEREST IS SUBJECT TO A CHARGING ORDER IS UNAFFECTED AND IS RETAINED BY THE DEBTOR.

[(2)] (3) (i) [The] UNLESS OTHERWISE AGREED, ON A SHOWING THAT THE DISTRIBUTIONS UNDER A CHARGING ORDER WILL NOT PAY THE AMOUNT OWED TO THE CREDITOR WITHIN A REASONABLE TIME, THE court may order foreclosure of the ECONOMIC interest subject to the charging order [at any time] AND ORDER THE SALE OF THE ECONOMIC INTEREST OF THE DEBTOR.

(ii) The purchaser **OF THE ECONOMIC INTEREST OF THE DEBTOR** at the foreclosure sale **[has only the rights of] IS** an assignee as provided in §§ 4A–603 and 4A–604 of this subtitle.

(d) Before a foreclosure under this section, an **ECONOMIC** interest charged may be redeemed with property:

(1) Other than property of the limited liability company, by the debtor;

(2) Other than property of the limited liability company, by one or more of the members other than the debtor; or

(3) Of the limited liability company, **WITH THE CONSENT OF THE MEMBERS AS PROVIDED IN THE OPERATING AGREEMENT OR, IF THE OPERATING AGREEMENT DOES NOT SO PROVIDE,** with the consent of all of the members whose **ECONOMIC** interests are not so charged.

(e) This title does not deprive a debtor of a right under exemption laws with respect to the **ECONOMIC** interest of the debtor in the limited liability company.

(f) This section provides the exclusive remedy by which a creditor **[or a person holding an interest in a limited liability company] OF A MEMBER** may attach the **MEMBERSHIP** interest **[or otherwise affect the rights of a member in the limited liability company] OF THE MEMBER OR OTHERWISE SATISFY THE OUTSTANDING DEBT OF THE MEMBER OUT OF THE MEMBERSHIP INTEREST OF THE MEMBER.**

(a) Unless [the operating agreement provides] otherwise **AGREED**, a domestic limited liability company may merge into one or more:

- (1) Domestic limited liability companies;
- (2) Foreign limited liability companies;
- (3) Partnerships;
- (4) Limited partnerships;
- (5) Corporations having capital stock; or
- (6) Business trusts having transferable units of beneficial interest.

(b) One or more domestic limited liability companies, foreign limited liability companies, partnerships, limited partnerships, corporations having capital stock, or business trusts having transferable units of beneficial interest may merge into a domestic limited liability company.

4A-702.

(a) The proposed merger shall be approved in the manner provided by this section.

(b) A corporation shall approve the merger under the provisions of § 3-105 of this article.

(c) A business trust shall approve the merger under the provisions of § 8-501.1 **OR § 12-602** of this article.

(d) A partnership shall approve the merger under the provisions of § 9A-902 of this article.

(e) A limited partnership shall approve the merger under the provisions of § 10-208 of this article.

(f) Unless otherwise [provided in the operating agreement] **AGREED**, a domestic limited liability company shall approve the merger by the consent of the members holding at least two-thirds of the [interests] **INTEREST** in profits of the limited liability company **AS DETERMINED UNDER § 4A-503 OF THIS SUBTITLE**.

(g) A foreign limited liability company party to the merger shall have the merger advised, authorized, and approved in the manner and by the vote required by the laws of the place where it is organized.

4A-704.

(a) Unless the articles of merger preclude the right to abandon the merger, a proposed merger may be abandoned before the effective date of the articles by:

(1) [Unanimous consent] **CONSENT** of the members of a limited liability company party to the article **REQUIRED TO APPROVE THE MERGER UNDER § 4A-702 OF THIS SUBTITLE, OR A LESSER VOTE AS MAY BE PROVIDED FOR IN THE OPERATING AGREEMENT OF THE LIMITED LIABILITY COMPANY;**

(2) A majority of the partners of a partnership;

(3) A majority vote of the general partners and a majority in interest of the limited partners, as defined in § 10-208 of this article, of any limited partnership party to the articles;

(4) A majority vote of the entire board of directors of a corporation party to the articles; and

(5) A majority vote of the entire board of trustees of a business trust party to the articles.

(b) If the articles of merger have been filed with the Department, notice of the abandonment shall be given promptly to the Department.

(c) (1) If the proposed merger is abandoned as provided in this section, no legal liability arises under the articles of merger.

(2) An abandonment does not prejudice the rights of any person under any other contract made by a limited liability company, partnership, limited partnership, **AND** corporation or business trust party to the proposed articles of merger in connection with the proposed merger.

4A-705.

(a) **[A] UNLESS OTHERWISE AGREED, A** member of a limited liability company objecting to a merger of the limited liability company has the same rights with respect to the member's **MEMBERSHIP** interest in the limited liability company as a stockholder of a Maryland corporation who objects **TO A MERGER OF THE CORPORATION** has with respect to the stockholder's stock under Title 3, Subtitle 2 of this article.

(b) The procedures under Title 3, Subtitle 2 of this article shall be applicable to the extent practicable.

4A-706.

- (a) The Department shall prepare certificates of merger that specify:
- (1) The name of each party to the articles of merger;
 - (2) The name of the successor and the location of its principal office in [the] **THIS** State or, if it has none, its principal place of business; and
 - (3) The time the articles of merger are accepted for record by the Department.
- (b) In addition to any other provision of law with respect to recording, the Department shall send one certificate each to the clerk of the circuit court for each county where the articles of merger show that a merging limited liability company, partnership, limited partnership, corporation, or business trust other than the successor owns an interest in land.
- (c) On receipt of the certificate of merger, the clerk promptly shall record it with the land records.

4A-709.

- (c) The **MEMBERSHIP** interest of each member of a limited liability company party to the articles of merger that are to be converted or exchanged under the terms of the articles of merger cease to exist, subject to the rights of an objecting member under § 4A-705 of this subtitle.

4A-801.

- (a) A [member] **PERSON DESCRIBED IN § 4A-802 OF THIS TITLE** may bring a derivative action to enforce a right of a limited liability company to recover a judgment in its favor to the same extent that a stockholder may bring an action for a derivative suit under the corporation law of Maryland.
- (b) An action under this subtitle may be brought if members with authority to bring the action have refused to bring the action or if an effort to cause those members to bring the action is not likely to succeed.
- (c) If it appears that the plaintiff does not fairly and adequately represent the interests of the members in enforcing the right of the limited liability company, the derivative action may not be maintained.

4A-802.

The plaintiff in a derivative action shall:

- (1) Be a member at the time the action is brought; and

(2) (i) Have been a member at the time of the transaction of which the plaintiff complains; or

(ii) Had membership status devolve upon the plaintiff by operation of law from a person who was a member at the time of the transaction.

4A-902.

(a) A limited liability company is dissolved and shall commence the winding up of its affairs on the first to occur of the following:

(1) At the time or on the happening of the events specified in the articles of organization or the operating agreement;

(2) At the time specified by the unanimous consent of the members;

(3) At the time of the entry of a decree of judicial dissolution under § 4A-903 of this subtitle; or

(4) [Except as] **UNLESS** otherwise [provided in the operating agreement] **AGREED** or as provided in subsection (b) of this section, at the time the limited liability company has had no members for a period of 90 consecutive days.

(b) A limited liability company may not be dissolved or required to wind up its affairs if within 90 days after there are no remaining members of the limited liability company or within the period of time provided in the operating agreement:

(1) The last remaining member's personal representative, successor, or assignee agrees in writing to continue the limited liability company and to be admitted as a member or to appoint a designee as a member to be effective as of the time the last remaining member ceased to be a member; or

(2) A member is admitted to the limited liability company in the manner set forth in the operating agreement to be effective as of the time the last remaining member ceased to be a member under a provision in the operating agreement that provides for the admission of a member after there are no remaining members.

(c) An operating agreement may provide that the last remaining member's personal representative, successor, or assignee shall be obligated to agree in writing to continue the limited liability company and to be admitted as a member or to appoint a designee as a member to be effective as of the time the last remaining member ceased to be a member.

(d) [Except as] **UNLESS** otherwise [provided in the operating agreement] **AGREED** and subject to the provisions of subsection (b) of this section, the termination

of a person's membership may not cause a limited liability company to be dissolved or to wind up its affairs and the limited liability company shall continue in existence following the termination of a person's membership.

4A-904.

(a) Unless otherwise [provided in the articles of organization or the operating agreement] **AGREED**, the remaining members of a limited liability company may wind up the affairs of the limited liability company.

(b) Notwithstanding the provisions of subsection (a) of this section, the circuit court of the county in which the principal office of the limited liability company is located, on cause shown after dissolution, may wind up the limited liability company's affairs on application of any member.

4A-906.

On the winding up and termination of a limited liability company, the assets shall be distributed as follows:

(1) To creditors, including members who are creditors, to the extent permitted by law, in satisfaction of the liabilities of the limited liability company; and

(2) Unless otherwise [provided by the operating agreement] **AGREED**, to the members in proportion to their respective capital [interests,] **CONTRIBUTION VALUES**, after the capital [interests] **CONTRIBUTION VALUES** are adjusted by:

(i) Adding to the members' capital [interests] **CONTRIBUTION VALUES** their respective shares of the profits of the limited liability company; and

(ii) Deducting from the members' capital [interests] **CONTRIBUTION VALUES** their respective shares of the losses of the limited liability company and all distributions previously received by the members.

4A-918.

Except in a proceeding by [the] **THIS** State or any of its political subdivisions, the acceptance of articles of reinstatement for record by the Department is conclusive evidence of:

(1) The payment of all fees, taxes, unemployment insurance contributions, and reimbursement payments required to be paid;

(2) The filing of all reports required to be filed; and

(3) The reinstatement of the right to do business in Maryland of the limited liability company.

4A-1103.

(a) A limited liability company may elect to be a benefit limited liability company under this subtitle by including in its articles of organization a statement that the limited liability company is a benefit limited liability company.

(b) The name of a domestic benefit limited liability company or a foreign benefit limited liability company authorized to transact business in [the] **THIS** State must comply with Title 1, Subtitle 5 of this article.

4A-1104.

Clear reference to the fact that a limited liability company is a benefit limited liability company shall appear prominently:

(1) At the head of the articles of organization or an amendment to the articles of organization in which the election to be a benefit limited liability company is made;

(2) At the head of each subsequent articles of organization of the benefit limited liability company; and

(3) On each certificate representing outstanding **MEMBERSHIP** interests in the benefit limited liability company.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 600

(House Bill 777)

AN ACT concerning

Corporations and Associations – Limited Liability Act – Revisions

FOR the purpose of establishing that certain statutory provisions relating to limited liability companies apply unless otherwise agreed on in the limited liability company's articles of organization, in the operating agreement, or by unanimous consent; repealing the requirement that the purposes for which a limited

liability company is formed be set forth in the articles of organization; altering the requirements for a certain resident agent; authorizing the conversion of a partnership to a limited liability company to be abandoned by a certain vote or agreement; repealing provisions relating to a member's authority regarding abandoning the business; authorizing an operating agreement to contain procedures related to meetings and voting; prohibiting a member from taking certain actions without the consent of certain members holding at least a certain amount of the interest in profits of a limited liability company; prohibiting a member from taking certain actions without the unanimous consent of the members; authorizing a meeting of the members to be called by written request of certain members holding a certain amount of the interests in the profits of a limited liability company; authorizing members of a limited liability company to participate in a meeting by certain means of communication if certain requirements are met; authorizing electronic transmission of certain required notices, consents, or communications; authorizing a member to use certain means to authorize a certain person to act as a proxy; providing that a certain proxy is revocable under certain circumstances; clarifying certain standards governing the right to inspect and copy certain records; authorizing a limited liability company to keep certain information confidential for a certain time period, unless a certain agreement is executed; requiring a demand for certain protected information to be in writing and state the purpose of the demand; clarifying that only a certain economic interest may be assigned; clarifying that a certain assignment of an economic interest does not include the exercise of certain noneconomic interests; providing that assignment of all of a certain economic interest in a limited liability company forfeits certain noneconomic interests; providing that the pledge or grant of a security interest, lien, or encumbrance in or against a member's economic interest does not affect a member's noneconomic interest; authorizing a member to withdraw from a limited liability company prior to the dissolution and winding up of the limited liability company by giving a certain notice; authorizing the operating agreement to provide that a member may not withdraw or place certain limits on the ability of a member to withdraw; providing that assignment of all of a certain economic interest in a limited liability company causes a person to no longer be a member of the limited liability company; providing that a charging order applies to a certain economic interest of a certain debtor and only requires the limited liability company to pay to a certain creditor certain distributions; providing that a certain noneconomic interest of a certain debtor is not subject to a charging order; altering the circumstances under which a foreclosure of certain economic interests may be ordered; authorizing certain members to consent to the redemption of an economic interest with certain property before a foreclosure; repealing the requirement of unanimous consent for abandoning a certain proposed merger; providing that abandonment of a proposed merger requires the consent of certain members; making certain technical, stylistic, clarifying, and conforming changes; defining certain terms; and generally relating to limited liability companies.

BY repealing and reenacting, with amendments,

Article – Corporations and Associations

Section 1–101(t), 4A–101, 4A–102, 4A–203, 4A–204, 4A–209, 4A–210(a) and (c),
4A–211, 4A–401 through 4A–403, 4A–405, 4A–406, 4A–502 through
4A–505, 4A–601 through 4A–601.1, 4A–607, 4A–701, 4A–702, 4A–704
through 4A–706, 4A–709(c), 4A–801, 4A–902, 4A–904, 4A–906, 4A–918,
4A–1103, and 4A–1104

Annotated Code of Maryland

(2007 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, without amendments,

Article – Corporations and Associations

Section 4A–802

Annotated Code of Maryland

(2007 Replacement Volume and 2011 Supplement)

BY adding to

Article – Corporations and Associations

Section 4A–403.1 and 4A–403.2

Annotated Code of Maryland

(2007 Replacement Volume and 2011 Supplement)

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

Article – Corporations and Associations

1–101.

(t) “Resident agent” means an individual residing in this State or a Maryland corporation **OR LIMITED LIABILITY COMPANY** whose name, address, and designation as a resident agent are filed or recorded with the Department in accordance with the provisions of this article.

4A–101.

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

(b) “Articles of organization” means the articles of organization filed with the Department [for the purpose of forming a limited liability company] as specified in § 4A–204 of this title and includes all amendments and restatements of them.

(c) “Authorized person” means any person, whether or not a member, who is authorized by the articles of organization, by an operating agreement, or [otherwise,] **BY UNANIMOUS CONSENT OF THE MEMBERS AND ANY OTHER PERSON WHOSE CONSENT IS REQUIRED BY THE OPERATING AGREEMENT**, to execute or file a

document required or permitted to be executed or filed on behalf of a limited liability company or foreign limited liability company under this title, or to otherwise act as an agent of the limited liability company.

(d) “Bankrupt” means [bankrupt] **A DEBTOR** under the federal Bankruptcy Code as amended or [insolvent] **A DEBTOR** under any state insolvency act.

(e) “Capital contribution” means anything of value that a person contributes as capital to the limited liability company in that person’s capacity as a member, including cash, property, services rendered or a promissory note or other binding obligation to contribute cash or property or to perform services.

(f) “Capital [interest] **CONTRIBUTION VALUE**” means the fair market value, as of the date contributed, of a member’s capital contribution, whether or not returned to the member.

(g) “Corporation” means a Maryland corporation or a foreign corporation.

(h) “Court” includes every court having jurisdiction in the case.

(I) “ECONOMIC INTEREST” MEANS A MEMBER’S SHARE OF THE PROFITS AND LOSSES OF A LIMITED LIABILITY COMPANY AND THE RIGHT TO RECEIVE DISTRIBUTIONS FROM A LIMITED LIABILITY COMPANY.

[(i)] (J) “Foreign limited liability company” means a limited liability company formed under the laws of a state other than [the] **THIS State [of Maryland]**.

[(j) “Interest” means a member’s share of the profits and losses of the limited liability company and the right to receive distributions from the limited liability company.]

(k) “Limited liability company” or “domestic limited liability company” means a permitted form of unincorporated business organization which is organized and existing under this title.

(l) “Limited partnership” means a Maryland limited partnership or foreign limited partnership as defined in § 10–101 of this article.

(m) **[(1)]** “Member” means a person [with an interest in] **WHO HAS BEEN ADMITTED AS A MEMBER OF** a limited liability company [with the rights and obligations specified] under **§ 4A–601 OF** this title[.

(2) “Member” includes a person who has been admitted] **OR** as a member of a [limited liability company organized in the State or a] foreign limited liability company, **AND WHO HAS NOT CEASED TO BE A MEMBER.**

(N) “MEMBERSHIP INTEREST” MEANS A MEMBER’S ECONOMIC INTEREST AND NONECONOMIC INTEREST IN A LIMITED LIABILITY COMPANY.

(O) “NONECONOMIC INTEREST” MEANS ALL OF THE RIGHTS OF A MEMBER IN A LIMITED LIABILITY COMPANY OTHER THAN THE MEMBER’S ECONOMIC INTEREST, INCLUDING, UNLESS OTHERWISE AGREED, THE MEMBER’S RIGHT TO:

(1) INSPECT THE BOOKS AND RECORDS OF THE LIMITED LIABILITY COMPANY;

(2) PARTICIPATE IN THE MANAGEMENT OF AND VOTE ON MATTERS COMING BEFORE THE LIMITED LIABILITY COMPANY; AND

(3) ACT AS AN AGENT OF THE LIMITED LIABILITY COMPANY.

[(n)] (P) “Operating agreement” means the agreement **OF THE MEMBERS** and any amendments thereto, **[of the members]** as to the affairs of a limited liability company and the conduct of its business.

[(o)] (Q) “Partnership” means a partnership formed under the laws of this State, any other state, or under the laws of a foreign country.

[(p)] (R) (1) “Professional service” has the meaning stated in § 5–101 of this article.

(2) “Professional service” includes a service provided by:

- (i) An architect;
- (ii) An attorney;
- (iii) A certified public accountant;
- (iv) A chiropractor;
- (v) A dentist;
- (vi) An osteopath;
- (vii) A physician;
- (viii) A podiatrist;
- (ix) A professional engineer;

(x) A psychologist;

(xi) A licensed real estate broker, licensed associate real estate broker, or licensed real estate salesperson; or

(xii) A veterinarian.

[(q)] (S) "State" means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

(T) **"UNLESS OTHERWISE AGREED" MEANS UNLESS OTHERWISE STATED:**

(1) **IN THE ARTICLES OF ORGANIZATION;**

(2) **IN THE OPERATING AGREEMENT; OR**

(3) **BY UNANIMOUS CONSENT OF THE MEMBERS AND ANY OTHER PERSON WHOSE CONSENT IS REQUIRED BY THE OPERATING AGREEMENT.**

4A-102.

(a) Unless otherwise provided **IN THIS TITLE**, the policy of this title is to give the maximum effect to the principles of freedom of contract and to the enforceability of operating agreements.

(b) A provision of this title that may be changed by the terms of an operating agreement also may be changed by the terms of the articles of organization.

4A-203.

Unless otherwise provided by law or [its articles of organization] **UNLESS OTHERWISE AGREED**, a limited liability company has the general powers, whether or not set forth in its articles of organization **OR OPERATING AGREEMENT**, to:

(1) Have perpetual existence, although existence may be limited to a specified period of time if the limitation is set forth in its articles of organization;

(2) Sue, be sued, complain, and defend in all courts;

(3) Transact its business, carry on its operations, and have and exercise the powers granted by this article in any state and in any foreign country;

(4) Make contracts and guarantees, incur liabilities, and borrow money;

(5) Sell, lease, exchange, transfer, convey, mortgage, pledge, and otherwise dispose of any of its assets;

(6) Acquire by purchase or in any other manner, take, receive, own, hold, improve, and otherwise deal with any interest in real or personal property, wherever located;

(7) Issue notes, bonds, and other obligations and secure any of them by mortgage or deed of trust or security interest of any or all of its assets;

(8) Purchase, take, receive, subscribe for or otherwise acquire, own, hold, vote, use, employ, sell, mortgage, loan, pledge, or otherwise dispose of and otherwise use and deal in and with stock or other interests in and obligations of other corporations, associations, general or limited partnerships, limited liability companies, foreign limited liability companies, business trusts, and individuals;

(9) Invest its surplus funds, lend money in any manner which may be appropriate to enable it to carry on the operations or fulfill the purposes [set forth in its articles of organization] **OF THE LIMITED LIABILITY COMPANY**, and take and hold real property and personal property as security for the payment of funds so loaned or invested;

(10) Render professional services within or without this State;

(11) Elect or appoint agents and define their duties and fix their compensation;

(12) Sell, convey, mortgage, pledge, lease, exchange, transfer, and otherwise dispose of all or any part of its property and assets;

(13) Be a promoter, stockholder, partner, member, associate, or agent of any corporation, partnership, limited liability company, foreign limited liability company, joint venture, trust, or other enterprise;

(14) Indemnify and hold harmless any member, agent, or employee from and against any and all claims and demands, except in the case of action or failure to act by the member, agent, or employee which constitutes willful misconduct or recklessness, and subject to the standards and restrictions, if any, set forth in the articles of organization or operating agreement;

(15) Make and alter operating agreements, not inconsistent with its articles of organization or with the laws of [the] **THIS** State, for the administration and regulation of the affairs of the limited liability company;

(16) Cease its activities and dissolve; and

(17) Do every other act not inconsistent with law which is appropriate to promote and attain the purposes [set forth in its articles of organization] **OF THE LIMITED LIABILITY COMPANY.**

4A-204.

(a) The articles of organization shall set forth:

(1) The name of the limited liability company;

(2) [The purpose for which the limited liability company is formed;

(3)] The address of its principal office in this State and the name and address of its resident agent; and

[(4)] **(3)** Any other provision, not inconsistent with law, which the members elect to set out in the articles, including, but not limited to, a statement that the authority of members to act for the limited liability company solely by virtue of their being members is limited.

(b) It is not necessary to set out in the articles of organization any of the powers enumerated in this title.

(c) An amendment to the articles of organization shall be:

(1) In writing;

(2) [Approved] **UNLESS OTHERWISE AGREED, APPROVED** by unanimous consent of the members;

(3) Executed under the provisions of § 4A-206 of this subtitle; and

(4) Filed for record with the Department.

4A-209.

(a) The exclusive right to use a specified name for a domestic or foreign limited liability company may be reserved by:

(1) A person who intends to organize a domestic limited liability company;

(2) A domestic limited liability company that proposes to change its name;

(3) A foreign limited liability company that intends to register to do business in [the] **THIS** State [of Maryland]; or

(4) A foreign limited liability company registered to do business in [the] **THIS** State [of Maryland] that proposes to change its name.

(b) (1) A person may reserve a specified name by filing a signed application with the Department.

(2) If the Department finds that the name is available for use by a limited liability company, the Department shall reserve the name for 30 days for the exclusive use of the applicant.

(c) The exclusive right to use a reserved name may be transferred to another person by filing with the Department a notice of the transfer which specifies the name and address of the transferee and is signed by the applicant for whom the name was reserved.

4A-210.

(a) Each limited liability company shall have:

(1) A principal office in [the] **THIS** State; and

(2) [At least 1] **A** resident agent [who shall be:

(i) A citizen of the State who resides in the State;

(ii) A Maryland corporation; or

(iii) A Maryland limited liability company].

(c) (1) A resident agent who changes addresses in [the] **THIS** State may notify the Department of the change by filing for record with the Department a statement of the change signed by or on behalf of the resident agent.

(2) The statement shall include:

(i) The name of the limited liability company for which the change is effective;

(ii) The old and new addresses of the resident agent; and

(iii) The date on which the change is effective.

(3) If the old and new addresses of the resident agent are the same as the old and new addresses of the principal office of the limited liability company, the statement may include a change of address of the principal office if:

(i) The resident agent notifies the limited liability company in writing; and

(ii) The statement recites that notice has been sent.

(4) The change of address of the resident agent or principal office is effective when the Department accepts the statement for record.

4A-211.

(a) A partnership may convert to a limited liability company by filing articles of organization that meet the requirements of § 4A-204 of this subtitle and include the following:

(1) The name of the former general partnership or limited partnership; and

(2) The date of formation of the partnership and place of filing of the initial statement of partnership, if any, or certificate of limited partnership of the former general partnership or limited partnership.

(b) **(1)** The terms and conditions of a conversion of a general or limited partnership to a limited liability company shall be approved by the partners in the manner provided in the partnership's partnership agreement for amendments to the partnership agreement or, if no such provision is made in a partnership agreement, by unanimous agreement of the partners.

(2) A CONVERSION MAY BE ABANDONED BY:

(I) A VOTE OF THE PARTNERS IN THE MANNER PROVIDED IN THE PARTNERSHIP'S PARTNERSHIP AGREEMENT FOR AMENDMENTS TO THE PARTNERSHIP AGREEMENT; OR

(II) UNANIMOUS AGREEMENT OF THE PARTNERS, IF NO SUCH PROVISION IS MADE IN THE PARTNERSHIP AGREEMENT.

(c) (1) A general partner of a limited partnership or a partner of a general partnership who becomes a member of a limited liability company as a result of the conversion remains liable as a general partner of a limited partnership or a partner of a general partnership for any obligation or liability of the partnership incurred or arising before the conversion takes effect, to the extent that the partner or general partner would have been obligated or liable if the conversion had not occurred.

(2) The partner's or general partner's liability for all obligations or liabilities of the limited liability company incurred or arising after the conversion takes effect is that of a member of a limited liability company, as provided in this title.

4A-401.

(a) (1) Except as provided in paragraph (3) of this subsection or in the operating agreement, each member is an agent of the limited liability company for the purpose of its business.

(2) Except as provided in paragraph (3) of this subsection, the act of each member, including the execution in the name of the limited liability company of any instrument, for apparently carrying on in the usual way the business of the limited liability company of which the person is a member, binds the limited liability company, unless:

(i) The member so acting has in fact no authority to act for the limited liability company in the particular matter; and

(ii) The person with whom the member is dealing has actual knowledge of the fact that the member has no such authority.

(3) If the articles of organization contain a statement that the authority of members to act for the limited liability company solely by virtue of their being members is limited:

(i) No member of the limited liability company is an agent of the limited liability company solely by virtue of being a member, and no member has authority to act for the limited liability company solely by virtue of being a member; and

(ii) Each person dealing with a member is presumed to have knowledge that the member has no authority to act for the limited liability company solely by virtue of being a member.

(b) Notwithstanding a [provision] **STATEMENT** in the articles of organization or **THE** operating agreement that the authority of a member to act for the limited liability company solely by virtue of being a member is limited, a person dealing with a member may establish:

(1) That the member is an agent of the limited liability company; or

(2) That the limited liability company should be estopped from denying that the member was its agent.

(c) Unless the act of a member is authorized by the limited liability company, the act of a member that is not apparently for the carrying on of the business of the limited liability company in the usual way does not bind the limited liability company.

[(d) Unless the members unanimously consent or unless all other members have abandoned the business, no member has authority to:

(1) Assign the property of the limited liability company in trust for creditors or on the assignee's promise to pay the debts of the limited liability company;

(2) Dispose of the goodwill of the business; or

(3) Do any other act which would make it impossible to carry on the ordinary business of the limited liability company.]

4A-402.

(a) Except for the requirement set forth in § 4A-404 of this subtitle that certain consents be in writing, members may enter into an operating agreement to regulate or establish any aspect of the affairs of the limited liability company or the relations of its members, including provisions establishing:

(1) The manner in which the business and affairs of the limited liability company shall be managed, controlled, and operated, which may include the granting of exclusive authority to manage, control, and operate the limited liability company to persons who are not members;

(2) The manner in which the members will share the assets and earnings of the limited liability company;

(3) The rights of the members to assign all or a portion of their [interests in the limited liability company] **MEMBERSHIP INTEREST**;

(4) The circumstances in which [any assignee of a member's interest] **A PERSON** may be admitted as a member of the limited liability company;

(5) (i) The right to have and a procedure for having a member's **MEMBERSHIP** interest [in the limited liability company] evidenced by a certificate issued by the limited liability company, which may be issued in bearer form only if specifically allowed by the operating agreement;

(ii) The procedure for assignment, pledge, or transfer of any **MEMBERSHIP** interest represented by the certificate; and

(iii) Any other provisions dealing with the certificate;

(6) The method by which the operating agreement may from time to time be amended, which may include a requirement that an amendment be approved:

(i) By a person who is not a party to the operating agreement or who is not a member of the limited liability company; or

(ii) On the satisfaction of other conditions specified in the operating agreement; [and]

(7) The rights of any person, including a person who is not a party to the operating agreement or who is not a member of the limited liability company, to the extent set forth in the operating agreement; **OR**

(8) PROCEDURES RELATING TO:

(I) NOTICE OF THE TIME, PLACE, OR PURPOSE OF ANY MEETING AT WHICH ANY MATTER IS TO BE VOTED ON BY MEMBERS;

(II) WAIVER OF NOTICE OF MEETINGS;

(III) ACTION BY CONSENT WITHOUT A MEETING;

(IV) THE ESTABLISHMENT OF A RECORD DATE;

(V) QUORUM REQUIREMENTS;

(VI) VOTING IN PERSON OR BY PROXY;

(VII) VOTING RIGHTS OF VARIOUS CLASSES OF MEMBERS; OR

(VIII) ANY OTHER MATTER WITH RESPECT TO THE EXERCISE OF VOTING RIGHTS BY MEMBERS.

(b) (1) The initial operating agreement shall be agreed to by all persons who are then members.

(2) Unless the articles of organization specifically require otherwise, the operating agreement need not be in writing.

(c) (1) If the operating agreement does not provide for the method by which the operating agreement may be amended, then all of the members must agree to any amendment of the operating agreement.

(2) To the extent that an operating agreement provides for the manner in which the operating agreement may be amended, the operating agreement may be amended only in that manner, provided that the approval of a person may be waived by the person and that conditions may be waived by a person for whose benefit the conditions were intended.

(3) (i) Except as provided in subparagraph (ii) of this paragraph, or unless [the operating agreement specifically requires] otherwise **AGREED**, an amendment to an operating agreement is not required to be in writing.

(ii) An amendment to an operating agreement must be evidenced by a writing signed by an authorized person of the limited liability company if:

1. The amendment was adopted without the unanimous consent of the members; or

2. An **ECONOMIC** interest in the limited liability company has been assigned to a person who has not been admitted as a member.

(4) A copy of any written amendment to the operating agreement shall be delivered to each member who did not consent to the amendment and to each assignee who has not been admitted as a member.

(d) (1) A court may enforce an operating agreement by injunction or by granting such other relief which the court in its discretion determines to be fair and appropriate in the circumstances.

(2) As an alternative to injunctive or other equitable relief, when the provisions of § 4A-903 of this title are applicable, the court may order dissolution of the limited liability company.

(3) An operating agreement of a limited liability company with one member is not unenforceable on the grounds that there is only one person who is party to the operating agreement.

(4) A limited liability company:

(i) Is not required to execute its operating agreement; and

(ii) Is bound by its operating agreement, regardless of whether the limited liability company has executed the operating agreement.

(5) An operating agreement that is duly adopted or amended is binding on each person who is or becomes a member of the limited liability company and each person who is or becomes an assignee of a member of the limited liability

company, regardless of whether the person has executed the operating agreement or amendment.

4A-403.

(A) [Unless] THE PROVISIONS OF THIS SECTION APPLY UNLESS otherwise provided in this title or [in the operating agreement] UNLESS OTHERWISE AGREED[:].

(B) (1) Members shall vote in proportion to their respective interests in profits of the limited liability company[; and], AS DETERMINED UNDER § 4A-503 OF THIS TITLE.

(2) Decisions concerning the affairs of the limited liability company shall require the consent of members holding at least a majority of the interests in profits of the limited liability company AS DETERMINED UNDER § 4A-503 OF THIS TITLE.

(C) (1) A MEETING OF THE MEMBERS MAY BE CALLED BY THE WRITTEN REQUEST OF MEMBERS HOLDING AT LEAST 25% OF THE INTERESTS IN PROFITS OF THE LIMITED LIABILITY COMPANY AS DETERMINED UNDER § 4A-503 OF THIS TITLE.

(2) (I) MEMBERS OF A LIMITED LIABILITY COMPANY MAY PARTICIPATE IN A MEETING BY MEANS OF CONFERENCE TELEPHONE OR OTHER COMMUNICATIONS EQUIPMENT OR BY MEANS OF REMOTE COMMUNICATION, IF ALL PERSONS PARTICIPATING IN THE MEETING:

1. CAN EITHER HEAR OR READ THE PROCEEDINGS OF THE MEETING SUBSTANTIALLY CONCURRENT WITH THE PROCEEDINGS; AND

2. HAVE THE OPPORTUNITY TO PARTICIPATE IN THE MEETING AND VOTE ON MATTERS SUBMITTED TO THE MEMBERS.

(II) PARTICIPATION IN A MEETING BY THE MEANS AUTHORIZED BY SUBPARAGRAPH (I) OF THIS PARAGRAPH CONSTITUTES PRESENCE IN PERSON AT THE MEETING.

(D) (1) A MEMBER MAY NOT TAKE ANY OF THE FOLLOWING ACTIONS WITHOUT THE CONSENT OF MEMBERS HOLDING AT LEAST TWO-THIRDS OF THE INTEREST IN PROFITS OF THE LIMITED LIABILITY COMPANY AS DETERMINED UNDER § 4A-503 OF THIS TITLE:

(I) DISPOSE OF ALL OR SUBSTANTIALLY ALL OF THE BUSINESS OR PROPERTY OF THE LIMITED LIABILITY COMPANY; OR

(II) APPROVE A MERGER AS PROVIDED IN § 4A-702 OF THIS TITLE.

(2) A MEMBER MAY NOT TAKE ANY OF THE FOLLOWING ACTIONS WITHOUT THE UNANIMOUS CONSENT OF THE MEMBERS:

(I) INSTITUTE A VOLUNTARY PROCEEDING UNDER THE FEDERAL BANKRUPTCY CODE;

(II) ASSIGN THE PROPERTY OF THE LIMITED LIABILITY COMPANY IN TRUST FOR CREDITORS OR ON THE ASSIGNEE'S PROMISE TO PAY THE DEBTS OF THE LIMITED LIABILITY COMPANY;

(III) ALTER THE ALLOCATION OF PROFIT OR LOSS TO MEMBERS OF THE LIMITED LIABILITY COMPANY;

(IV) ALTER THE ALLOCATION OF OR THE MANNER OF COMPUTING DISTRIBUTIONS PAYABLE TO MEMBERS OF THE LIMITED LIABILITY COMPANY; OR

(V) DO ANY OTHER ACT THAT WOULD MAKE IT IMPOSSIBLE TO CARRY ON THE ORDINARY BUSINESS OF THE LIMITED LIABILITY COMPANY.

4A-403.1.

ANY NOTICE, CONSENT, OR OTHER COMMUNICATION REQUIRED OR AUTHORIZED BY THIS TITLE MAY BE DELIVERED BY ELECTRONIC TRANSMISSION.

4A-403.2.

(A) (1) A MEMBER MAY AUTHORIZE ANOTHER PERSON TO ACT AS PROXY FOR THE MEMBER AS PROVIDED IN THIS SECTION.

(2) (I) A MEMBER MAY SIGN A WRITING AUTHORIZING ANOTHER PERSON TO ACT AS PROXY.

(II) SIGNING MAY BE ACCOMPLISHED BY THE MEMBER OR THE MEMBER'S AUTHORIZED AGENT SIGNING THE WRITING OR CAUSING THE

MEMBER'S SIGNATURE TO BE AFFIXED TO THE WRITING BY ANY REASONABLE MEANS, INCLUDING FACSIMILE SIGNATURE.

(3) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, A MEMBER MAY AUTHORIZE ANOTHER PERSON TO ACT AS PROXY BY TRANSMITTING, OR AUTHORIZING THE TRANSMISSION OF, AN AUTHORIZATION FOR THE PERSON TO ACT AS PROXY TO:

1. THE PERSON AUTHORIZED TO ACT AS PROXY; OR
2. ANY OTHER PERSON AUTHORIZED TO RECEIVE THE PROXY AUTHORIZATION ON BEHALF OF THE PERSON AUTHORIZED TO ACT AS THE PROXY, INCLUDING A PROXY SOLICITATION FIRM OR PROXY SUPPORT SERVICE ORGANIZATION.

(II) THE AUTHORIZATION MAY BE TRANSMITTED BY A TELEGRAM, CABLEGRAM, DATAGRAM, ELECTRONIC MAIL, OR ANY OTHER ELECTRONIC OR TELEPHONIC MEANS.

(4) A COPY, FACSIMILE TELECOMMUNICATION, OR OTHER RELIABLE REPRODUCTION OF THE WRITING OR TRANSMISSION AUTHORIZED UNDER PARAGRAPHS (2) AND (3) OF THIS SUBSECTION MAY BE SUBSTITUTED FOR THE ORIGINAL WRITING OR TRANSMISSION FOR ANY PURPOSE FOR WHICH THE ORIGINAL WRITING OR TRANSMISSION COULD BE USED.

(B) (1) A PROXY IS REVOCABLE BY A MEMBER AT ANY TIME WITHOUT CONDITION OR QUALIFICATION UNLESS:

- (I) THE PROXY STATES THAT IT IS IRREVOCABLE; AND
 - (II) THE PROXY IS COUPLED WITH AN INTEREST
- (2) A PROXY MAY BE MADE IRREVOCABLE FOR AS LONG AS IT IS COUPLED WITH AN INTEREST.
- (3) AN INTEREST WITH WHICH A PROXY MAY BE COUPLED INCLUDES AN INTEREST IN THE MEMBERSHIP INTEREST TO BE VOTED UNDER THE PROXY OR ANOTHER GENERAL INTEREST IN THE LIMITED LIABILITY COMPANY OR ITS ASSETS OR LIABILITIES.

[Except as provided in the operating agreement] **UNLESS OTHERWISE AGREED**, a member may lend money to and transact other business with the limited liability company and[, subject to other applicable law,] has the same rights and obligations with respect to the transaction as a person who is not a member.

4A-406.

(a) A member may inspect and copy, in person or by agent, from time to time on reasonable written demand, **FOR ANY PURPOSE REASONABLY RELATED TO THE MEMBER'S MEMBERSHIP INTEREST**:

(1) True and full information regarding the state of the business and financial condition of the limited liability company;

(2) A copy of the [certificate] **ARTICLES** of organization and operating agreement and all amendments to the [certificate] **ARTICLES OF ORGANIZATION** and operating agreement;

(3) A current list of the names and last known business, residence, or mailing addresses of all members; and

(4) Other information regarding the affairs of the limited liability company as is just and reasonable for any purpose reasonably related to the member's **MEMBERSHIP** interest [as a member].

(b) Any member may inspect and copy, in person or by agent, a copy of the limited liability company's federal, [State,] **STATE**, or local income tax returns.

(c) The rights to inspect and copy records of a limited liability company may be subject to reasonable standards that may be set forth in the articles of organization or the operating agreement, **INCLUDING STANDARDS GOVERNING WHAT INFORMATION AND DOCUMENTS ARE TO BE FURNISHED, AT WHAT TIME AND LOCATION, AND AT WHOSE EXPENSE.**

(D) UNLESS A MEMBER SEEKING INFORMATION EXECUTES A CONFIDENTIALITY OR NONDISCLOSURE AGREEMENT REASONABLY ACCEPTABLE TO THE LIMITED LIABILITY COMPANY RESTRICTING THE USE AND DISCLOSURE OF THE INFORMATION, A LIMITED LIABILITY COMPANY SHALL HAVE THE RIGHT TO KEEP CONFIDENTIAL FROM MEMBERS, FOR A REASONABLE PERIOD OF TIME:

(1) ANY INFORMATION THAT THE LIMITED LIABILITY COMPANY REASONABLY BELIEVES TO BE IN THE NATURE OF TRADE SECRETS;

(2) INFORMATION THE DISCLOSURE OF WHICH THE LIMITED LIABILITY IN GOOD FAITH BELIEVES:

(I) IS NOT IN THE BEST INTEREST OF THE LIMITED LIABILITY COMPANY; OR

(II) COULD DAMAGE THE LIMITED LIABILITY COMPANY OR ITS BUSINESS; OR

(3) INFORMATION THE LIMITED LIABILITY COMPANY IS REQUIRED BY LAW OR BY AGREEMENT WITH A THIRD PARTY TO KEEP CONFIDENTIAL.

(E) ANY DEMAND BY A MEMBER UNDER THIS SECTION SHALL BE IN WRITING AND SHALL STATE THE PURPOSE OF THE DEMAND.

4A-502.

(a) (1) [Except as provided in the operating agreement] **UNLESS OTHERWISE AGREED**, a member is obligated to the limited liability company to perform any promises set forth in the articles of organization or operating agreement to contribute cash or property or to perform services, even if the member is unable to perform because of death, disability, or other reason.

(2) If a member does not make the required contribution of property or services, the member is obligated, at the option of the limited liability company, to contribute cash equal to the value of that portion of the capital contribution that has not been made.

(b) (1) The obligation of a member to make a capital contribution or return money or other property paid or distributed in violation of this title may be compromised only:

(i) In compliance with the operating agreement; or

(ii) If the operating agreement does not so provide, with the unanimous consent of the members.

(2) Any compromise does not affect the rights, if any, of any creditor of a limited liability company to enforce the obligation or to require the obligation to be enforced.

(c) (1) An operating agreement may provide that a member who fails to make any capital contribution or other payment that the member is required to make shall be subject to specified remedies for, or specified consequences of, the failure.

(2) The remedy or consequence may take the form of:

- (i) Reduction of the defaulting member's **MEMBERSHIP** interest in the limited liability company;
- (ii) Subordination of the defaulting member's **MEMBERSHIP** interest in the limited liability company to that of the nondefaulting members;
- (iii) A forced sale of the defaulting member's **MEMBERSHIP** interest in the limited liability company;
- (iv) Forfeiture of the defaulting member's **MEMBERSHIP** interest in the limited liability company;
- (v) A loan by the nondefaulting members of the amount necessary to meet the commitment;
- (vi) A determination of the value of the member's **MEMBERSHIP** interest in the limited liability company by appraisal or by formula and redemption and sale of the defaulting member's **MEMBERSHIP** interest in the limited liability company at that value; or
- (vii) Any other remedy or consequences.

4A-503.

[Except as otherwise provided in the operating agreement] **UNLESS OTHERWISE AGREED:**

- (1) The profits and losses of a limited liability company shall be allocated among the members in proportion to their respective capital [interests] **CONTRIBUTION VALUES**; and
- (2) Distributions by the limited liability company shall be made to the members in proportion to their right to share in the profits of the limited liability company.

4A-504.

Unless otherwise [provided in the operating agreement] **AGREED**, a member, regardless of the nature of the member's contribution, has no right to demand and receive any distribution from a limited liability company in a form other than cash.

4A-505.

[A] **UNLESS OTHERWISE AGREED**, A member of a limited liability company who becomes entitled to receive a distribution has the status of, and is entitled to all

remedies available to, a creditor of the limited liability company with respect to the distribution.

4A-601.

(a) A person becomes a member of a limited liability company at:

(1) The time the limited liability company is formed;

(2) A later time specified in the operating agreement; or

(3) The time specified in § 4A-902(b)(1) of this title **RELATING TO CONTINUATION OF THE LIMITED LIABILITY COMPANY AFTER THERE ARE NO REMAINING MEMBERS.**

(b) After the formation of a limited liability company, a person may be admitted as a member:

(1) In the case of a person acquiring a membership interest directly from the limited liability company, upon compliance with the operating agreement or, if the operating agreement does not so provide, upon the unanimous consent of the members;

(2) In the case of an assignee of **[an] THE ECONOMIC** interest of a member, only as provided in § 4A-604 of this subtitle; or

(3) In the case of a personal representative or successor to the last remaining member who is not an assignee of the last remaining member, as provided in § 4A-902(b)(1) of this title.

(c) Unless otherwise **[provided in the articles of organization or the operating agreement of a limited liability company] AGREED**, a person may be admitted as a member of a limited liability company and may be the sole member of a limited liability company without:

(1) Making a **CAPITAL** contribution to the limited liability company;

(2) Being obligated to make a **CAPITAL** contribution to the limited liability company; or

(3) Acquiring an **ECONOMIC** interest in the limited liability company.

4A-602.

[The] A MEMBERSHIP interest **[of a member]** in a limited liability company is personal property.

4A-603.

(a) **UNLESS OTHERWISE AGREED:**

(1) [Unless otherwise provided in the operating agreement, an interest in a limited liability company is assignable in whole or in part] **ONLY AN ECONOMIC INTEREST IN A LIMITED LIABILITY COMPANY MAY BE ASSIGNED[.]; AND**

(2) **AN ECONOMIC INTEREST IS WHOLLY OR PARTLY ASSIGNABLE.**

(b) An assignment of an **ECONOMIC** interest in a limited liability company does not:

(1) Dissolve the limited liability company; or

(2) [Unless the operating agreement provides otherwise, entitle] **ENTITLE** the assignee to:

(i) Become a member; or

(ii) Exercise any rights of a member, **INCLUDING THE NONECONOMIC INTEREST OF THE ASSIGNOR.**

(c) [Unless otherwise provided in the operating agreement, an assignment entitles the assignee to receive, to the extent assigned, only the assignor's share of profits, losses, and distributions.

(d) Unless otherwise provided in the operating agreement, if] **IF** an assignee of an **ECONOMIC** interest in a limited liability company becomes a member of the limited liability company, the assignor is not released from the assignor's liability under § 4A-502 of this title to the limited liability company.

[(e)] **(D)** [Unless otherwise provided in the operating agreement, on] **ON** assignment [under this section] of all of a member's **ECONOMIC** interest in a limited liability company, the member ceases to be a member of the limited liability company and [to have the power to exercise any right or power of a member] **FORFEITS THE MEMBER'S NONECONOMIC INTEREST IN THE LIMITED LIABILITY COMPANY.**

[(f)] **(E)** [Unless otherwise provided in the operating agreement, the] **THE** pledge or grant of a security interest, lien, or other encumbrance in or against all or a part of [an] **THE ECONOMIC** interest of a member [may] **DOES** not cause the member to cease to be a member or [to have the power to exercise any right or power of a member] **AFFECT THE MEMBER'S NONECONOMIC INTEREST IN THE LIMITED LIABILITY COMPANY.**

4A-604.

(a) An assignee of an **ECONOMIC** interest in a limited liability company may become a member of the limited liability company under any of the following circumstances:

(1) In accordance with the terms of the operating agreement providing for the admission of a member;

(2) By the unanimous consent of the members; or

(3) If there are no remaining members of the limited liability company at the time the assignee obtains the **ECONOMIC** interest, on terms that the assignee may determine in accordance with § 4A-902(b)(1) of this title.

(b) An assignee who becomes a member:

(1) Has, to the extent assigned, the rights and powers, and is subject to the restrictions and liabilities, of a member under the operating agreement and this title; and

(2) Is liable for any obligations of his assignor to make capital contributions.

4A-605.

(A) [A] UNLESS OTHERWISE AGREED, A member may withdraw FROM A LIMITED LIABILITY COMPANY PRIOR TO THE DISSOLUTION AND WINDING UP OF THE LIMITED LIABILITY COMPANY by giving not less than 6 months' prior written notice to the other members at their respective addresses as shown on the books AND RECORDS of the limited liability company[, unless:].

(B) [(1)] The operating agreement [provides] MAY PROVIDE that [the member does not have the right or power] A MEMBER MAY NOT WITHDRAW OR OTHERWISE PLACE LIMITS ON THE ABILITY OF A MEMBER to withdraw[; or

(2) The operating agreement specifies another time for or other conditions of withdrawal].

4A-606.

[A] UNLESS OTHERWISE AGREED, A person ceases to be a member of a limited liability company upon the occurrence of any of the following events:

(1) The person withdraws from the limited liability company as [provided in] **AUTHORIZED BY § 4A-605** of this subtitle;

(2) The person is removed as a member in accordance with the operating agreement;

(3) [Unless otherwise provided in the operating agreement or with the consent of all other members, the] **THE** person:

(i) Makes an assignment for the benefit of creditors;

(ii) [Files a voluntary petition in bankruptcy] **INSTITUTES A VOLUNTARY PROCEEDING WITH RESPECT TO THE PERSON UNDER THE FEDERAL BANKRUPTCY CODE**;

(iii) Is adjudged bankrupt or insolvent or has entered against the person an order for relief in any bankruptcy or insolvency proceeding;

(iv) Files a petition or answer seeking for that person any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any statute, law, or regulation;

(v) Seeks, consents to, or acquiesces in the appointment of a trustee for, receiver for, or liquidation of the member or of all or any substantial part of the person's properties; or

(vi) Files an answer or other pleading admitting or failing to contest the material allegations of a petition filed against the person in any proceeding described in this subsection;

(4) [Unless otherwise provided in the operating agreement, or with the consent of all other members, the] **THE** continuation of any proceeding against the person seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any statute, law, or regulation, for 120 days after the commencement thereof, or the appointment of a trustee, receiver, or liquidator for the members or all or any substantial part of the person's properties without the person's agreement or acquiescence, which appointment is not vacated or stayed for 120 days or, if the appointment is stayed, for 120 days after the expiration of the stay during which period the appointment is not vacated;

(5) [Unless otherwise provided in the operating agreement, in] **IN** the case of a member who is an individual, the individual's:

(i) Death; or

(ii) Adjudication by a court of competent jurisdiction as incompetent to manage the individual's person or property;

(6) [Unless otherwise provided in the operating agreement, in] **IN** the case of a member who is acting as a member by virtue of being a trustee of a trust, the termination of the trust;

(7) [Unless otherwise provided in the operating agreement, in] **IN** the case of a member that is a partnership or another limited liability company, the dissolution and commencement of winding up of the partnership or limited liability company;

(8) [Unless otherwise provided in the operating agreement, in] **IN** the case of a member that is a corporation, the dissolution of the corporation or the revocation of its charter; [or]

(9) [Unless otherwise provided in the operating agreement, in] **IN** the case of a member that is an estate, the distribution by the fiduciary of the estate's entire **ECONOMIC** interest in the limited liability company; **OR**

(10) ON ASSIGNMENT OF ALL OF A PERSON'S ECONOMIC INTEREST IN THE LIMITED LIABILITY COMPANY AS PROVIDED IN § 4A-603(D) OF THIS SUBTITLE.

4A-606.1.

(a) Unless [the operating agreement provides otherwise, if] **OTHERWISE AGREED, IF A PERSON CEASES TO BE A MEMBER OF A LIMITED LIABILITY COMPANY UNDER § 4A-606 OF THIS SUBTITLE, AND** the limited liability company is not dissolved [after a member ceases to be a member under § 4A-606 of this subtitle:

(1) Within] **AS A RESULT, THEN, WITHIN** a reasonable time after [a] **THE** person [has] ceased to be a member, the limited liability company may elect to pay [to that] **THE** person or [that] **THE** person's successor in interest, in complete liquidation of the person's **MEMBERSHIP** interest, the fair value of [that] **THE** person's **ECONOMIC** interest in the limited liability company as of the date the person ceased to be a member, based upon the person's right to share in distributions from the limited liability company]; and

(2) Unless otherwise agreed, the members of the limited liability company continuing the business following the withdrawal of a member will be deemed to have entered into an operating agreement under § 4A-402 of this title containing the same terms and conditions as those contained in the operating agreement in effect immediately prior to the withdrawal, except that the members

bound by the operating agreement shall be only those members who have not withdrawn].

(b) If a [member] **PERSON** ceases to be a member **OF A LIMITED LIABILITY COMPANY** under § 4A-606 of this subtitle and the limited liability company elects not to completely liquidate [that] **THE** person's **MEMBERSHIP** interest **UNDER § 4A-606.1(A) OF THIS SUBTITLE**, [the] **THAT** person will be deemed to be an assignee of the **UNREDEEMED ECONOMIC** interest under §§ 4A-603 and 4A-604 of this subtitle.

4A-607.

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

(2) "Creditor" means a person for whom a court may issue an attachment under Title 3, Subtitle 3 of the Courts Article.

(3) "Debtor" means a person whose property or credits are subject to attachment under Title 3, Subtitle 3 of the Courts Article.

(b) (1) On application by a creditor of a debtor holding an **ECONOMIC** interest in a limited liability company, a court having jurisdiction may charge the **ECONOMIC** interest of the debtor **IN THE LIMITED LIABILITY COMPANY FOR THE UNSATISFIED AMOUNT OF THE DEBT**.

(2) The court may appoint a receiver for the distributions due or to become due to the debtor with respect to the limited liability company and make all other orders, directions, accounts, and inquiries that the debtor would have been entitled to make or that the circumstances of the case may require.

(c) (1) A charging order constitutes a lien on the **ECONOMIC** interest of the debtor in the limited liability company **AND REQUIRES THE LIMITED LIABILITY COMPANY TO PAY OVER TO THE CREDITOR ONLY ANY DISTRIBUTIONS THAT WOULD OTHERWISE BE PAYABLE TO THE DEBTOR WHOSE ECONOMIC INTEREST IS CHARGED**.

(2) **SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, THE NONECONOMIC INTEREST OF A DEBTOR WHOSE ECONOMIC INTEREST IS SUBJECT TO A CHARGING ORDER IS UNAFFECTED AND IS RETAINED BY THE DEBTOR.**

[~~(2)~~ (3) (i) [The] **UNLESS OTHERWISE AGREED, ON A SHOWING THAT THE DISTRIBUTIONS UNDER A CHARGING ORDER WILL NOT PAY THE AMOUNT OWED TO THE CREDITOR WITHIN A REASONABLE TIME, THE** court

may order foreclosure of the **ECONOMIC** interest subject to the charging order [at any time] **AND ORDER THE SALE OF THE ECONOMIC INTEREST OF THE DEBTOR.**

(ii) The purchaser **OF THE ECONOMIC INTEREST OF THE DEBTOR** at the foreclosure sale [has only the rights of] **IS** an assignee as provided in §§ 4A–603 and 4A–604 of this subtitle.

(d) Before a foreclosure under this section, an **ECONOMIC** interest charged may be redeemed with property:

(1) Other than property of the limited liability company, by the debtor;

(2) Other than property of the limited liability company, by one or more of the members other than the debtor; or

(3) Of the limited liability company, **WITH THE CONSENT OF THE MEMBERS AS PROVIDED IN THE OPERATING AGREEMENT OR, IF THE OPERATING AGREEMENT DOES NOT SO PROVIDE,** with the consent of all of the members whose **ECONOMIC** interests are not so charged.

(e) This title does not deprive a debtor of a right under exemption laws with respect to the **ECONOMIC** interest of the debtor in the limited liability company.

(f) This section provides the exclusive remedy by which a creditor [or a person holding an interest in a limited liability company] **OF A MEMBER** may attach the **MEMBERSHIP** interest [or otherwise affect the rights of a member in the limited liability company] **OF THE MEMBER OR OTHERWISE SATISFY THE OUTSTANDING DEBT OF THE MEMBER OUT OF THE MEMBERSHIP INTEREST OF THE MEMBER.**

4A–701.

(a) Unless [the operating agreement provides] otherwise **AGREED,** a domestic limited liability company may merge into one or more:

(1) Domestic limited liability companies;

(2) Foreign limited liability companies;

(3) Partnerships;

(4) Limited partnerships;

(5) Corporations having capital stock; or

(6) Business trusts having transferable units of beneficial interest.

(b) One or more domestic limited liability companies, foreign limited liability companies, partnerships, limited partnerships, corporations having capital stock, or business trusts having transferable units of beneficial interest may merge into a domestic limited liability company.

4A-702.

(a) The proposed merger shall be approved in the manner provided by this section.

(b) A corporation shall approve the merger under the provisions of § 3-105 of this article.

(c) A business trust shall approve the merger under the provisions of § 8-501.1 **OR § 12-602** of this article.

(d) A partnership shall approve the merger under the provisions of § 9A-902 of this article.

(e) A limited partnership shall approve the merger under the provisions of § 10-208 of this article.

(f) Unless otherwise [provided in the operating agreement] **AGREED**, a domestic limited liability company shall approve the merger by the consent of the members holding at least two-thirds of the [interests] **INTEREST** in profits of the limited liability company **AS DETERMINED UNDER § 4A-503 OF THIS SUBTITLE**.

(g) A foreign limited liability company party to the merger shall have the merger advised, authorized, and approved in the manner and by the vote required by the laws of the place where it is organized.

4A-704.

(a) Unless the articles of merger preclude the right to abandon the merger, a proposed merger may be abandoned before the effective date of the articles by:

(1) [Unanimous consent] **CONSENT** of the members of a limited liability company party to the article **REQUIRED TO APPROVE THE MERGER UNDER § 4A-702 OF THIS SUBTITLE, OR A LESSER VOTE AS MAY BE PROVIDED FOR IN THE OPERATING AGREEMENT OF THE LIMITED LIABILITY COMPANY**;

(2) A majority of the partners of a partnership;

(3) A majority vote of the general partners and a majority in interest of the limited partners, as defined in § 10-208 of this article, of any limited partnership party to the articles;

(4) A majority vote of the entire board of directors of a corporation party to the articles; and

(5) A majority vote of the entire board of trustees of a business trust party to the articles.

(b) If the articles of merger have been filed with the Department, notice of the abandonment shall be given promptly to the Department.

(c) (1) If the proposed merger is abandoned as provided in this section, no legal liability arises under the articles of merger.

(2) An abandonment does not prejudice the rights of any person under any other contract made by a limited liability company, partnership, limited partnership, **AND** corporation or business trust party to the proposed articles of merger in connection with the proposed merger.

4A-705.

(a) **[A] UNLESS OTHERWISE AGREED, A** member of a limited liability company objecting to a merger of the limited liability company has the same rights with respect to the member's **MEMBERSHIP** interest in the limited liability company as a stockholder of a Maryland corporation who objects **TO A MERGER OF THE CORPORATION** has with respect to the stockholder's stock under Title 3, Subtitle 2 of this article.

(b) The procedures under Title 3, Subtitle 2 of this article shall be applicable to the extent practicable.

4A-706.

(a) The Department shall prepare certificates of merger that specify:

(1) The name of each party to the articles of merger;

(2) The name of the successor and the location of its principal office in **[the] THIS** State or, if it has none, its principal place of business; and

(3) The time the articles of merger are accepted for record by the Department.

(b) In addition to any other provision of law with respect to recording, the Department shall send one certificate each to the clerk of the circuit court for each county where the articles of merger show that a merging limited liability company,

partnership, limited partnership, corporation, or business trust other than the successor owns an interest in land.

(c) On receipt of the certificate of merger, the clerk promptly shall record it with the land records.

4A-709.

(c) The **MEMBERSHIP** interest of each member of a limited liability company party to the articles of merger that are to be converted or exchanged under the terms of the articles of merger cease to exist, subject to the rights of an objecting member under § 4A-705 of this subtitle.

4A-801.

(a) A [member] **PERSON DESCRIBED IN § 4A-802 OF THIS TITLE** may bring a derivative action to enforce a right of a limited liability company to recover a judgment in its favor to the same extent that a stockholder may bring an action for a derivative suit under the corporation law of Maryland.

(b) An action under this subtitle may be brought if members with authority to bring the action have refused to bring the action or if an effort to cause those members to bring the action is not likely to succeed.

(c) If it appears that the plaintiff does not fairly and adequately represent the interests of the members in enforcing the right of the limited liability company, the derivative action may not be maintained.

4A-802.

The plaintiff in a derivative action shall:

(1) Be a member at the time the action is brought; and

(2) (i) Have been a member at the time of the transaction of which the plaintiff complains; or

(ii) Had membership status devolve upon the plaintiff by operation of law from a person who was a member at the time of the transaction.

4A-902.

(a) A limited liability company is dissolved and shall commence the winding up of its affairs on the first to occur of the following:

(1) At the time or on the happening of the events specified in the articles of organization or the operating agreement;

(2) At the time specified by the unanimous consent of the members;

(3) At the time of the entry of a decree of judicial dissolution under § 4A–903 of this subtitle; or

(4) [Except as] **UNLESS** otherwise [provided in the operating agreement] **AGREED** or as provided in subsection (b) of this section, at the time the limited liability company has had no members for a period of 90 consecutive days.

(b) A limited liability company may not be dissolved or required to wind up its affairs if within 90 days after there are no remaining members of the limited liability company or within the period of time provided in the operating agreement:

(1) The last remaining member's personal representative, successor, or assignee agrees in writing to continue the limited liability company and to be admitted as a member or to appoint a designee as a member to be effective as of the time the last remaining member ceased to be a member; or

(2) A member is admitted to the limited liability company in the manner set forth in the operating agreement to be effective as of the time the last remaining member ceased to be a member under a provision in the operating agreement that provides for the admission of a member after there are no remaining members.

(c) An operating agreement may provide that the last remaining member's personal representative, successor, or assignee shall be obligated to agree in writing to continue the limited liability company and to be admitted as a member or to appoint a designee as a member to be effective as of the time the last remaining member ceased to be a member.

(d) [Except as] **UNLESS** otherwise [provided in the operating agreement] **AGREED** and subject to the provisions of subsection (b) of this section, the termination of a person's membership may not cause a limited liability company to be dissolved or to wind up its affairs and the limited liability company shall continue in existence following the termination of a person's membership.

4A–904.

(a) Unless otherwise [provided in the articles of organization or the operating agreement] **AGREED**, the remaining members of a limited liability company may wind up the affairs of the limited liability company.

(b) Notwithstanding the provisions of subsection (a) of this section, the circuit court of the county in which the principal office of the limited liability company

is located, on cause shown after dissolution, may wind up the limited liability company's affairs on application of any member.

4A-906.

On the winding up and termination of a limited liability company, the assets shall be distributed as follows:

(1) To creditors, including members who are creditors, to the extent permitted by law, in satisfaction of the liabilities of the limited liability company; and

(2) Unless otherwise [provided by the operating agreement] **AGREED**, to the members in proportion to their respective capital [interests.] **CONTRIBUTION VALUES**, after the capital [interests] **CONTRIBUTION VALUES** are adjusted by:

(i) Adding to the members' capital [interests] **CONTRIBUTION VALUES** their respective shares of the profits of the limited liability company; and

(ii) Deducting from the members' capital [interests] **CONTRIBUTION VALUES** their respective shares of the losses of the limited liability company and all distributions previously received by the members.

4A-918.

Except in a proceeding by [the] **THIS** State or any of its political subdivisions, the acceptance of articles of reinstatement for record by the Department is conclusive evidence of:

(1) The payment of all fees, taxes, unemployment insurance contributions, and reimbursement payments required to be paid;

(2) The filing of all reports required to be filed; and

(3) The reinstatement of the right to do business in Maryland of the limited liability company.

4A-1103.

(a) A limited liability company may elect to be a benefit limited liability company under this subtitle by including in its articles of organization a statement that the limited liability company is a benefit limited liability company.

(b) The name of a domestic benefit limited liability company or a foreign benefit limited liability company authorized to transact business in [the] **THIS** State must comply with Title 1, Subtitle 5 of this article.

4A-1104.

Clear reference to the fact that a limited liability company is a benefit limited liability company shall appear prominently:

(1) At the head of the articles of organization or an amendment to the articles of organization in which the election to be a benefit limited liability company is made;

(2) At the head of each subsequent articles of organization of the benefit limited liability company; and

(3) On each certificate representing outstanding **MEMBERSHIP** interests in the benefit limited liability company.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 601

(Senate Bill 861)

AN ACT concerning

Portable Electronics Insurance

FOR the purpose of repealing a certain limitation on the authority of a vendor of portable electronics insurance to sell coverage under a policy of portable electronics insurance; altering the circumstances under which a vendor that collects premiums for portable electronics insurance need not keep the premiums in a segregated account; providing an exception under certain circumstances to a certain requirement to itemize premiums and charges and requiring a vendor to provide certain notice to a customer relating to those circumstances; ~~authorizing an employee or authorized representative of a vendor to receive certain compensation under certain circumstances;~~ altering certain information that must be submitted to the Maryland Insurance Commissioner in an application for a limited lines license to sell portable electronics insurance; requiring an applicant to provide certain information about certain individuals under certain circumstances; requiring a certain supervising entity to maintain a certain registry; requiring the registry to be open for inspection and examination after a certain period of time under certain circumstances; clarifying that, if a customer cancels coverage, any unearned premiums will be refunded to the person paying the premium; providing for a

certain supplemental education program under certain circumstances; ~~authorizing the Commissioner to impose a certain penalty under certain circumstances~~; altering the methods by which certain required notice may be sent to covered customers and vendors under certain circumstances; defining certain terms; altering a certain definition; providing for the application of this Act; and generally relating to portable electronics insurance.

BY repealing and reenacting, without amendments,

Article – Insurance
Section 10–130 and 10–707
Annotated Code of Maryland
(2011 Replacement Volume)

BY repealing and reenacting, with amendments,

Article – Insurance
Section 10–701, 10–703 through ~~10–707~~ 10–706, and 19–903
Annotated Code of Maryland
(2011 Replacement Volume)

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

Article – Insurance

10–130.

(a) Except as otherwise provided in §§ 10–102 and 10–119 of this subtitle, a commission, fee, reward, rebate, or other consideration for selling, soliciting, or negotiating insurance may not be paid, directly or indirectly, to a person other than a licensed insurance producer.

(b) Except as otherwise provided in this article, for life insurance or health insurance this section does not prohibit payment to or receipt by a person who formerly held a license and, if the person acted on behalf of an insurer, an appointment of:

(1) commissions on renewal premiums on existing policies; or

(2) other deferred commissions.

(c) Unless the payment would violate § 27–209 or § 27–212 of this article, an insurer or insurance producer may pay or assign commissions, service fees, or other valuable consideration to an insurance agency or to persons who do not sell, solicit, or negotiate insurance in the State.

10–701.

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

(b) “Covered customer” means a customer who elects to purchase coverage under a policy of portable electronics insurance issued to a vendor.

(c) “Customer” means a person who purchases or leases portable electronics or purchases service related to the use of portable electronics.

(D) “LOCATION” MEANS:

(1) A PHYSICAL LOCATION IN THE STATE; OR

(2) A WEB SITE, CALL CENTER SITE, OR SIMILAR LOCATION WHERE COVERAGE UNDER A POLICY OF PORTABLE ELECTRONICS INSURANCE IS OFFERED OR SOLD TO RESIDENTS OF THE STATE.

[(d)] (E) (1) “Portable electronics” means:

(i) [handsets, pagers, personal digital assistants, portable computers, cellular telephones, batteries, and other devices or accessories used to originate or receive communications signals or services] AN ELECTRONIC DEVICE, INCLUDING ITS ACCESSORIES, THAT:

1. IS EASILY OR CONVENIENTLY TRANSPORTED BY HAND BY AN INDIVIDUAL; AND

2. IS USED FOR COMMUNICATION, VIEWING, LISTENING, RECORDING, GAMING, COMPUTING, OR GLOBAL POSITIONING; and

(ii) any other electronic device that is portable in nature that the Commissioner approves.

(2) “PORTABLE ELECTRONICS” INCLUDES:

(I) CELLULAR OR SATELLITE PHONES;

(II) PAGERS;

(III) PERSONAL GLOBAL POSITIONING SATELLITE UNITS;

(IV) PORTABLE COMPUTERS;

(V) PORTABLE AUDIO LISTENING, VIDEO VIEWING, OR RECORDING DEVICES;

- (VI) DIGITAL CAMERAS;
- (VII) VIDEO CAMCORDERS;
- (VIII) PORTABLE GAMING SYSTEMS;
- (IX) DOCKING STATIONS; AND
- (X) AUTOMATIC ANSWERING DEVICES.

[(2)] (3) “Portable electronics” does not include telecommunications switching equipment, transmission wires, cell site transceiver equipment, or other equipment and systems used by telecommunications companies to provide telecommunications service to consumers.

[(e)] (F) (1) “Portable electronics insurance” means insurance that provides coverage for the repair or replacement of portable electronics, including coverage against one or more of the following causes of loss:

- (i) loss by disappearance;
- (ii) theft;
- (iii) mechanical failure;
- (iv) malfunction;
- (v) damage; and
- (vi) any other applicable peril, as approved by the

Commissioner.

(2) “Portable electronics insurance” does not include:

(i) a service contract governed by Title 14, Subtitle 4 of the Commercial Law Article that does not include coverage for loss by disappearance or theft;

(ii) a policy of insurance covering a seller’s or a manufacturer’s obligations under a warranty; or

(iii) a homeowner’s, renter’s, private passenger automobile, or similar policy that covers loss or theft of portable electronics.

[(f)] (G) “Portable electronics transaction” means:

(1) the sale or lease of portable electronics by a vendor to a customer;
or

(2) the sale of service related to the use of portable electronics by a vendor to a customer.

(H) “SUPERVISING ENTITY” MEANS A BUSINESS ENTITY THAT IS:

(1) AN AUTHORIZED INSURER; OR

(2) A LICENSED INSURANCE PRODUCER THAT IS APPOINTED BY AN INSURER TO SUPERVISE THE ADMINISTRATION OF A PORTABLE ELECTRONICS INSURANCE PROGRAM.

[(g)] (I) “Vendor” means a person in the business of leasing, selling, or providing portable electronics, or selling or providing service related to the use of portable electronics, to customers in the State.

10–703.

(a) A vendor shall hold a limited lines license to sell coverage under a policy of portable electronics insurance [in connection with, and incidental to, a portable electronics transaction with a customer] before the vendor or the employees of or authorized representatives of the vendor may sell or offer to sell coverage under a policy of portable electronics insurance to a customer.

(b) A limited lines license issued under this subtitle shall also authorize any salaried or hourly employee or authorized representative of the vendor to sell coverage under a policy of portable electronics insurance to a customer [in connection with, and incidental to, a portable electronics transaction] only if the employee or authorized representative is:

(1) trained under § 10–705 of this subtitle to act on behalf of the vendor; and

(2) acting under the supervision of the vendor.

(c) The acts of an employee or authorized representative offering to sell or selling coverage under a policy of portable electronics insurance shall be deemed the acts of the vendor for the purposes of this subtitle.

(d) (1) A vendor may bill and collect premiums from covered customers for coverage under a policy of portable electronics insurance.

(2) A vendor that bills and collects premiums under this section is not required to maintain the premiums collected in a segregated account if:

(i) the vendor's appointing insurer agrees in writing that segregation of funds is not required; [and]

(ii) the vendor remits the funds collected to the appointing insurer or that insurer's appointed insurance producer within 60 days after receipt; AND

(III) THE FUNDS RECEIVED BY THE VENDOR FROM A COVERED CUSTOMER FOR THE SALE OF PORTABLE ELECTRONICS INSURANCE ARE HELD IN TRUST BY THE VENDOR IN A FIDUCIARY CAPACITY FOR THE BENEFIT OF THE VENDOR'S APPOINTING INSURER.

(3) **(I)** [The] **EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH,** THE premiums for coverage under a policy of portable electronics insurance shall be separately itemized from the charges for the purchase or lease of the portable electronics.

(II) IF PORTABLE ELECTRONICS INSURANCE COVERAGE IS INCLUDED IN THE PRICE OF THE PURCHASE OR LEASE OF PORTABLE ELECTRONICS OR RELATED SERVICES, THE VENDOR SHALL PROVIDE CLEAR AND CONSPICUOUS WRITTEN NOTICE TO THE CUSTOMER THAT THE PORTABLE ELECTRONICS INSURANCE COVERAGE IS INCLUDED WITH THE PORTABLE ELECTRONICS OR RELATED SERVICES.

(e) (1) ~~Except as provided in paragraph (2) of this subsection, a vendor and the employees or authorized representatives of the vendor may not receive compensation for the sale of coverage under a policy of portable electronics insurance.~~

~~(2)~~ **(H)** A vendor may receive compensation for billing and collection services under a policy of portable electronics insurance.

~~**(H) AN EMPLOYEE OR AUTHORIZED REPRESENTATIVE OF A VENDOR MAY RECEIVE COMPENSATION FOR ACTIVITIES IN CONNECTION WITH THE SALE OF PORTABLE ELECTRONICS INSURANCE IF THE COMPENSATION:**~~

~~**1. IS INCIDENTAL TO THE EMPLOYEE'S OR AUTHORIZED REPRESENTATIVE'S OVERALL COMPENSATION; AND**~~

~~**2. DOES NOT EXCEED \$10 FOR EACH CUSTOMER WHO PURCHASES PORTABLE ELECTRONICS INSURANCE.**~~

~~(3)~~ **(2)** Nothing in this subsection shall affect the ability of a A vendor or an authorized representative of the vendor ~~to~~ MAY compensate the employees of the

vendor or of the authorized representative in a manner that does not depend on the sale of portable electronics insurance.

10–704.

(a) The Commissioner shall issue to a vendor a limited lines license authorizing the vendor to sell or offer to sell coverage under a policy of portable electronics insurance to a customer [in connection with, and incidental to, a portable electronics transaction] if the vendor:

(1) meets the requirements of § 10–705 of this subtitle;

(2) pays the fees for insurance producers required under § 2–112 of this article that are applicable to an insurance producer license; and

(3) submits to the Commissioner [any additional information or documentation that the Commissioner requires, including any information or documentation needed to determine the professional competence, good character, and trustworthiness of the vendor] **A SWORN APPLICATION FOR A LIMITED LINES LICENSE UNDER THIS SUBTITLE ON THE FORM REQUIRED BY THE COMMISSIONER.**

(B) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A VENDOR SHALL PROVIDE THE NAME, RESIDENCE ADDRESS, AND ANY OTHER INFORMATION REQUIRED BY THE COMMISSIONER FOR AN OFFICER OR EMPLOYEE OF THE VENDOR WHO IS DESIGNATED BY THE VENDOR AS THE PERSON RESPONSIBLE FOR THE VENDOR’S COMPLIANCE WITH THE REQUIREMENTS OF THIS SUBTITLE.

(2) IF THE VENDOR DERIVED MORE THE 25% OF ITS TOTAL REVENUE IN THE PRECEDING YEAR FROM THE SALE OF PORTABLE ELECTRONICS INSURANCE, THE VENDOR SHALL PROVIDE THE INFORMATION REQUIRED IN PARAGRAPH (1) OF THIS SUBSECTION FOR ALL OFFICERS, DIRECTORS, AND SHAREHOLDERS OF RECORD UNDER THE FEDERAL SECURITIES LAW.

(C) (1) THE SUPERVISING ENTITY SHALL MAINTAIN A REGISTRY OF ALL VENDOR LOCATIONS THAT ARE AUTHORIZED TO SELL OR OFFER PORTABLE ELECTRONICS INSURANCE COVERAGE IN THE STATE.

(2) ON REQUEST BY THE COMMISSIONER, THE REGISTRY SHALL BE OPEN TO INSPECTION AND EXAMINATION NO LATER THAN 10 DAYS AFTER THE REQUEST.

[(b)] (D) A limited lines license under this subtitle is subject to the same term and renewal conditions that are specified for an insurance producer license under § 10–115 of this title.

10–705.

(a) A limited lines license to **OFFER OR** sell coverage under a policy of portable electronics insurance to a customer issued under this subtitle authorizes a vendor or an authorized representative of the vendor to sell coverage under a policy of portable electronics insurance to customers [in connection with, and incidental to, a portable electronics transaction] at each location at which the vendor engages in portable electronics transactions in the State if:

(1) the portable electronics insurance policies have been filed with and approved by the Commissioner;

(2) the vendor holds an appointment under § 10–118 of this title with each authorized insurer that the vendor intends to represent;

(3) at each location where coverage under a policy of portable electronics insurance is offered or sold to customers, the vendor provides to the customers disclosures approved by the Commissioner that:

(i) summarize the material terms of the coverage under the policy of portable electronics insurance including:

1. the identity of the insurer;
2. the premium to be paid;
3. any applicable deductible;
4. the major features of the benefits of the coverage; and
5. the major features of any exclusions, conditions, or other limitations of coverage including whether the portable electronics may be repaired or replaced with similar make and model reconditioned or nonoriginal manufacturer parts or equipment;

(ii) 1. state that portable electronics insurance may duplicate insurance coverage already provided by a customer's homeowner's insurance policy, renter's insurance policy, or other source of insurance coverage; and

2. state that the purchase of coverage under a policy of portable electronics insurance would make this coverage primary to any other coverage, including duplicate coverage;

(iii) state that the purchase of coverage under a policy of portable electronics insurance is not required in order to enter into the portable electronics transaction;

(iv) describe the process for filing a claim if the customer elects to purchase coverage under a policy of portable electronics insurance including a description of:

1. any requirement to pay a deductible;
2. any requirement to return portable electronics;
3. the maximum fee applicable if the customer fails to comply with a return requirement; and
4. any requirement to file a proof of loss;

(v) state that:

1. the customer may cancel coverage under the portable electronics insurance at any time; and
2. if the customer cancels coverage under the portable electronics insurance, any unearned premium will be refunded **TO THE PERSON PAYING THE PREMIUM** in accordance with applicable law; and

(vi) provide the toll-free consumer hotline telephone number of the Administration; and

(4) the vendor provides a training program, approved by the Commissioner, for any employee or authorized representative who sells coverage under a policy of portable electronics insurance to customers under this subtitle that includes instruction:

(i) about the portable electronics insurance offered to customers of the vendor;

(ii) that the employee or authorized representative may not represent or imply to a customer that purchase of coverage under a policy of portable electronics insurance is required in order to purchase portable electronics;

(iii) that portable electronics insurance may duplicate insurance coverage already provided by a customer's homeowner's insurance policy, renter's insurance policy, or other source of insurance coverage; and

(iv) about the other disclosures required by item (3) of this subsection.

(b) (1) The training required under subsection (a)(4) of this section may be provided in electronic form.

(2) IF TRAINING IS CONDUCTED IN ELECTRONIC FORM, THE SUPERVISING ENTITY SHALL IMPLEMENT A SUPPLEMENTAL EDUCATION PROGRAM ABOUT THE PORTABLE ELECTRONICS INSURANCE PRODUCT THAT IS CONDUCTED AND OVERSEEN BY LICENSED INSURANCE PRODUCERS EMPLOYED BY THE SUPERVISING ENTITY.

10-706.

Coverage under a policy of portable electronics insurance sold [in connection with a portable electronics transaction] under this subtitle is primary to any other valid and collectible coverage.

10-707.

(a) The Commissioner may suspend, revoke, or refuse to renew a limited lines license issued under this subtitle after notice and opportunity for a hearing under Title 2, Subtitle 2 of this article if the vendor or an employee or authorized representative of the vendor has:

- (1) willfully violated this article or another law of the State that relates to insurance;
- (2) operated without a limited lines license as required under this subtitle;
- (3) failed to provide the disclosures required under § 10-705 of this subtitle;
- (4) offered or sold unapproved insurance products;
- (5) failed to hold an appointment with an insurer;
- (6) failed to train employees or authorized representatives as required under § 10-705 of this subtitle; or
- (7) misrepresented pertinent facts or policy provisions concerning a policy of portable electronics insurance.

(b) A vendor and the employees and authorized representatives of the vendor may not advertise, represent, or otherwise hold themselves out as an authorized insurer or as an insurance producer for any kind or subdivision of insurance, except as provided in this subtitle.

(c) Instead of, or in addition to, suspending or revoking a limited lines license issued under this subtitle, the Commissioner may:

(1) ~~EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION,~~ impose on the vendor a penalty of not more than \$2,500 for each violation of this subtitle; and

(2) require that restitution be made to any person who has suffered financial injury because of a violation of this subtitle.

~~(D) IF A SERIES OF THE SAME VIOLATIONS OCCUR THAT ARE NEAR IN TIME AND ARISE FROM THE SAME SOURCE, THE COMMISSIONER MAY IMPOSE A PENALTY OF NOT MORE THAN \$50,000 FOR THE SERIES OF VIOLATIONS.~~

19-903.

(a) Notwithstanding any other provision of law and except as otherwise provided in this section, an insurer may not terminate or otherwise change the terms and conditions of a policy of portable electronics insurance unless the insurer provides the policyholder and covered customers with at least 60 days' notice.

(b) If the insurer changes the terms and conditions of a policy of portable electronics insurance in accordance with subsection (a) of this section, the insurer shall:

(1) provide the policyholder with a revised policy or endorsement; and

(2) provide each covered customer with:

(i) a revised certificate, endorsement, updated brochure, or other evidence that indicates that a change in the terms and conditions of the policy has occurred; and

(ii) a summary of material changes.

(c) An insurer may terminate coverage of a covered customer under a policy of portable electronics insurance:

(1) after 45 days' notice for discovery of fraud or material misrepresentation in obtaining coverage or in the presentation of a claim under the policy; or

(2) after 10 days' notice for nonpayment of premium.

(d) (1) An insurer may automatically terminate coverage of a covered customer under a policy of portable electronics insurance:

(i) if the covered customer ceases to have active service related to the use of portable electronics with the vendor; or

(ii) if:

1. the covered customer exhausts the aggregate limit of liability, if any, under the terms of the policy of portable electronics insurance; and

2. the insurer sends notice of termination to the covered customer within 15 business days after exhaustion of the limit, subject to paragraph (2) of this subsection.

(2) If the insurer does not send timely notice in accordance with paragraph (1)(ii) of this subsection, coverage shall continue under the policy of portable electronics insurance notwithstanding the aggregate limit of liability until the insurer sends notice of termination to the covered customer.

(e) Notwithstanding subsection (d)(1)(ii) of this section, on request of a covered customer, the covered customer shall be eligible for reinstatement of coverage not more than 12 months after the date of exhaustion of the coverage limit in accordance with the terms of the policy and subject to the enrollment criteria then applicable to prospective customers generally.

(f) If a vendor terminates a policy of portable electronics insurance, the vendor shall mail or deliver, at least 45 days before termination, written notice to each covered customer that advises the covered customer of the termination of the policy and the effective date of termination.

(g) (1) An insurer is not required to give notice of termination to a covered customer if the insurer has been advised by either the vendor or another insurer that substantially similar coverage under a policy of portable electronics insurance has been obtained from another insurer without lapse of coverage.

(2) A vendor is not required to give notice of termination to a covered customer if substantially similar coverage under a policy of portable electronics insurance has been obtained from another insurer without lapse of coverage.

(h) (1) Whenever notice is required in accordance with this section, the notice shall be in writing and sent by [certificate of mail to the vendor at the vendor's mailing address and its affected customers' last known mailing addresses on file with the insurer] **MAIL OR ELECTRONIC MEANS AS SPECIFIED IN THIS SUBSECTION.**

(2) (1) UNLESS NOTICE BY ELECTRONIC MEANS IS AUTHORIZED UNDER PARAGRAPH (3) OR (4) OF THIS SUBSECTION, NOTICE

UNDER THIS SECTION SHALL BE PROVIDED BY MAIL IN ACCORDANCE WITH SUBPARAGRAPHS (II) AND (III) OF THIS PARAGRAPH.

(II) NOTICE SHALL BE MAILED TO THE VENDOR AT THE VENDOR'S LAST KNOWN MAILING ADDRESS ON FILE WITH THE INSURER.

(III) NOTICE SHALL BE MAILED TO A COVERED CUSTOMER AT THE COVERED CUSTOMER'S LAST KNOWN MAILING ADDRESS ON FILE WITH THE INSURER OR VENDOR.

(IV) THE INSURER OR VENDOR RESPONSIBLE FOR MAILING THE NOTICE UNDER THIS SECTION SHALL MAINTAIN PROOF OF MAILING.

(3) AN INSURER RESPONSIBLE FOR PROVIDING NOTICE TO A COVERED CUSTOMER UNDER THIS SECTION MAY PROVIDE NOTICE BY ELECTRONIC MEANS IF:

(I) THE COVERED CUSTOMER HAS PROVIDED AN ELECTRONIC MAIL ADDRESS TO THE INSURER OR VENDOR TO RECEIVE NOTICES ABOUT COVERAGE;

(II) NOTICE IS SENT TO THE ELECTRONIC MAIL ADDRESS PROVIDED BY THE COVERED CUSTOMER; AND

(III) THE INSURER OR VENDOR MAINTAINS PROOF THAT THE NOTICE WAS SENT TO THE COVERED CUSTOMER AT THE COVERED CUSTOMER'S ELECTRONIC MAIL ADDRESS.

(4) AN INSURER RESPONSIBLE FOR PROVIDING NOTICE TO A VENDOR UNDER THIS SECTION MAY PROVIDE NOTICE BY ELECTRONIC MEANS IF:

(I) THE VENDOR HAS PROVIDED AN ELECTRONIC MAIL ADDRESS TO THE INSURER AT WHICH THE VENDOR CONSENTS TO RECEIVE NOTICES ABOUT THE POLICY;

(II) NOTICE IS SENT TO THE ELECTRONIC MAIL ADDRESS PROVIDED BY THE VENDOR; AND

(III) THE INSURER MAINTAINS PROOF THAT THE NOTICE WAS SENT TO THE VENDOR AT THE VENDOR'S ELECTRONIC MAIL ADDRESS.

[(2) The insurer or vendor, as the case may be, shall maintain proof of mailing in a form authorized or accepted by the United States Postal Service.]

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to all policies of portable electronics insurance issued, delivered, or renewed in the State on or after October 1, 2012.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 602

(House Bill 1093)

AN ACT concerning

Portable Electronics Insurance

FOR the purpose of repealing a certain limitation on the authority of a vendor of portable electronics insurance to sell coverage under a policy of portable electronics insurance; altering the circumstances under which a vendor that collects premiums for portable electronics insurance need not keep the premiums in a segregated account; providing an exception under certain circumstances to a certain requirement to itemize premiums and charges and requiring a vendor to provide certain notice to a customer relating to those circumstances; ~~authorizing an employee or authorized representative of a vendor to receive certain compensation under certain circumstances;~~ altering certain information that must be submitted to the Maryland Insurance Commissioner in an application for a limited lines license to sell portable electronics insurance; requiring an applicant to provide certain information about certain individuals under certain circumstances; requiring a certain supervising entity to maintain a certain registry; requiring the registry to be open for inspection and examination after a certain period of time under certain circumstances; clarifying that, if a customer cancels coverage, any unearned premiums will be refunded to the person paying the premium; providing for a certain supplemental education program under certain circumstances; ~~authorizing the Commissioner to impose a certain penalty under certain circumstances;~~ altering the methods by which certain required notice may be sent to covered customers and vendors under certain circumstances; defining certain terms; altering a certain definition; providing for the application of this Act; and generally relating to portable electronics insurance.

BY repealing and reenacting, without amendments,

Article – Insurance

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

Article – Insurance

10–130.

(a) Except as otherwise provided in §§ 10–102 and 10–119 of this subtitle, a commission, fee, reward, rebate, or other consideration for selling, soliciting, or negotiating insurance may not be paid, directly or indirectly, to a person other than a licensed insurance producer.

(b) Except as otherwise provided in this article, for life insurance or health insurance this section does not prohibit payment to or receipt by a person who formerly held a license and, if the person acted on behalf of an insurer, an appointment of:

- (1) commissions on renewal premiums on existing policies; or
- (2) other deferred commissions.

(c) Unless the payment would violate § 27–209 or § 27–212 of this article, an insurer or insurance producer may pay or assign commissions, service fees, or other valuable consideration to an insurance agency or to persons who do not sell, solicit, or negotiate insurance in the State.

10–701.

- (a) In this subtitle the following words have the meanings indicated.
- (b) “Covered customer” means a customer who elects to purchase coverage under a policy of portable electronics insurance issued to a vendor.
- (c) “Customer” means a person who purchases or leases portable electronics or purchases service related to the use of portable electronics.

(D) “LOCATION” MEANS:

(1) A PHYSICAL LOCATION IN THE STATE; OR

(2) A WEB SITE, CALL CENTER SITE, OR SIMILAR LOCATION WHERE COVERAGE UNDER A POLICY OF PORTABLE ELECTRONICS INSURANCE IS OFFERED OR SOLD TO RESIDENTS OF THE STATE.

[(d)] (E) (1) "Portable electronics" means:

(i) [handsets, pagers, personal digital assistants, portable computers, cellular telephones, batteries, and other devices or accessories used to originate or receive communications signals or services] AN ELECTRONIC DEVICE, INCLUDING ITS ACCESSORIES, THAT:

1. IS EASILY OR CONVENIENTLY TRANSPORTED BY HAND BY AN INDIVIDUAL; AND

2. IS USED FOR COMMUNICATION, VIEWING, LISTENING, RECORDING, GAMING, COMPUTING, OR GLOBAL POSITIONING; and

(ii) any other electronic device that is portable in nature that the Commissioner approves.

(2) "PORTABLE ELECTRONICS" INCLUDES:

(I) CELLULAR OR SATELLITE PHONES;

(II) PAGERS;

(III) PERSONAL GLOBAL POSITIONING SATELLITE UNITS;

(IV) PORTABLE COMPUTERS;

(V) PORTABLE AUDIO LISTENING, VIDEO VIEWING, OR RECORDING DEVICES;

(VI) DIGITAL CAMERAS;

(VII) VIDEO CAMCORDERS;

(VIII) PORTABLE GAMING SYSTEMS;

(IX) DOCKING STATIONS; AND

(X) AUTOMATIC ANSWERING DEVICES.

[(2)] (3) “Portable electronics” does not include telecommunications switching equipment, transmission wires, cell site transceiver equipment, or other equipment and systems used by telecommunications companies to provide telecommunications service to consumers.

[(e)] (F) (1) “Portable electronics insurance” means insurance that provides coverage for the repair or replacement of portable electronics, including coverage against one or more of the following causes of loss:

(i) loss by disappearance;

(ii) theft;

(iii) mechanical failure;

(iv) malfunction;

(v) damage; and

(vi) any other applicable peril, as approved by the Commissioner.

(2) “Portable electronics insurance” does not include:

(i) a service contract governed by Title 14, Subtitle 4 of the Commercial Law Article that does not include coverage for loss by disappearance or theft;

(ii) a policy of insurance covering a seller’s or a manufacturer’s obligations under a warranty; or

(iii) a homeowner’s, renter’s, private passenger automobile, or similar policy that covers loss or theft of portable electronics.

[(f)] (G) “Portable electronics transaction” means:

(1) the sale or lease of portable electronics by a vendor to a customer;
or

(2) the sale of service related to the use of portable electronics by a vendor to a customer.

(H) “SUPERVISING ENTITY” MEANS A BUSINESS ENTITY THAT IS:

(1) AN AUTHORIZED INSURER; OR

(2) A LICENSED INSURANCE PRODUCER THAT IS APPOINTED BY AN INSURER TO SUPERVISE THE ADMINISTRATION OF A PORTABLE ELECTRONICS INSURANCE PROGRAM.

[(g)] (I) “Vendor” means a person in the business of leasing, selling, or providing portable electronics, or selling or providing service related to the use of portable electronics, to customers in the State.

10-703.

(a) A vendor shall hold a limited lines license to sell coverage under a policy of portable electronics insurance **[in connection with, and incidental to, a portable electronics transaction with a customer]** before the vendor or the employees of or authorized representatives of the vendor may sell or offer to sell coverage under a policy of portable electronics insurance to a customer.

(b) A limited lines license issued under this subtitle shall also authorize any salaried or hourly employee or authorized representative of the vendor to sell coverage under a policy of portable electronics insurance to a customer **[in connection with, and incidental to, a portable electronics transaction]** only if the employee or authorized representative is:

(1) trained under § 10-705 of this subtitle to act on behalf of the vendor; and

(2) acting under the supervision of the vendor.

(c) The acts of an employee or authorized representative offering to sell or selling coverage under a policy of portable electronics insurance shall be deemed the acts of the vendor for the purposes of this subtitle.

(d) (1) A vendor may bill and collect premiums from covered customers for coverage under a policy of portable electronics insurance.

(2) A vendor that bills and collects premiums under this section is not required to maintain the premiums collected in a segregated account if:

(i) the vendor’s appointing insurer agrees in writing that segregation of funds is not required; **[and]**

(ii) the vendor remits the funds collected to the appointing insurer or that insurer’s appointed insurance producer within 60 days after receipt;
AND

(III) THE FUNDS RECEIVED BY THE VENDOR FROM A COVERED CUSTOMER FOR THE SALE OF PORTABLE ELECTRONICS INSURANCE

ARE HELD IN TRUST BY THE VENDOR IN A FIDUCIARY CAPACITY FOR THE BENEFIT OF THE VENDOR'S APPOINTING INSURER.

(3) (I) [The] EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE premiums for coverage under a policy of portable electronics insurance shall be separately itemized from the charges for the purchase or lease of the portable electronics.

(II) IF PORTABLE ELECTRONICS INSURANCE COVERAGE IS INCLUDED IN THE PRICE OF THE PURCHASE OR LEASE OF PORTABLE ELECTRONICS OR RELATED SERVICES, THE VENDOR SHALL PROVIDE CLEAR AND CONSPICUOUS WRITTEN NOTICE TO THE CUSTOMER THAT THE PORTABLE ELECTRONICS INSURANCE COVERAGE IS INCLUDED WITH THE PORTABLE ELECTRONICS OR RELATED SERVICES.

(e) (1) ~~Except as provided in paragraph (2) of this subsection, a vendor and the employees or authorized representatives of the vendor may not receive compensation for the sale of coverage under a policy of portable electronics insurance.~~

~~(2)~~ (I) A vendor may receive compensation for billing and collection services under a policy of portable electronics insurance.

~~(II) AN EMPLOYEE OR AUTHORIZED REPRESENTATIVE OF A VENDOR MAY RECEIVE COMPENSATION FOR ACTIVITIES IN CONNECTION WITH THE SALE OF PORTABLE ELECTRONICS INSURANCE IF THE COMPENSATION:~~

~~1. IS INCIDENTAL TO THE EMPLOYEE'S OR AUTHORIZED REPRESENTATIVE'S OVERALL COMPENSATION; AND~~

~~2. DOES NOT EXCEED \$10 FOR EACH CUSTOMER WHO PURCHASES PORTABLE ELECTRONICS INSURANCE.~~

~~(3)~~ (2) ~~Nothing in this subsection shall affect the ability of a~~ A vendor or an authorized representative of the vendor ~~to~~ MAY compensate the employees of the vendor or of the authorized representative in a manner that does not depend on the sale of portable electronics insurance.

10-704.

(a) The Commissioner shall issue to a vendor a limited lines license authorizing the vendor to sell or offer to sell coverage under a policy of portable electronics insurance to a customer [in connection with, and incidental to, a portable electronics transaction] if the vendor:

(1) meets the requirements of § 10-705 of this subtitle;

(2) pays the fees for insurance producers required under § 2-112 of this article that are applicable to an insurance producer license; and

(3) submits to the Commissioner [any additional information or documentation that the Commissioner requires, including any information or documentation needed to determine the professional competence, good character, and trustworthiness of the vendor] **A SWORN APPLICATION FOR A LIMITED LINES LICENSE UNDER THIS SUBTITLE ON THE FORM REQUIRED BY THE COMMISSIONER.**

(B) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A VENDOR SHALL PROVIDE THE NAME, RESIDENCE ADDRESS, AND ANY OTHER INFORMATION REQUIRED BY THE COMMISSIONER FOR AN OFFICER OR EMPLOYEE OF THE VENDOR WHO IS DESIGNATED BY THE VENDOR AS THE PERSON RESPONSIBLE FOR THE VENDOR'S COMPLIANCE WITH THE REQUIREMENTS OF THIS SUBTITLE.

(2) IF THE VENDOR DERIVED MORE THE 25% OF ITS TOTAL REVENUE IN THE PRECEDING YEAR FROM THE SALE OF PORTABLE ELECTRONICS INSURANCE, THE VENDOR SHALL PROVIDE THE INFORMATION REQUIRED IN PARAGRAPH (1) OF THIS SUBSECTION FOR ALL OFFICERS, DIRECTORS, AND SHAREHOLDERS OF RECORD UNDER THE FEDERAL SECURITIES LAW.

(C) (1) THE SUPERVISING ENTITY SHALL MAINTAIN A REGISTRY OF ALL VENDOR LOCATIONS THAT ARE AUTHORIZED TO SELL OR OFFER PORTABLE ELECTRONICS INSURANCE COVERAGE IN THE STATE.

(2) ON REQUEST BY THE COMMISSIONER, THE REGISTRY SHALL BE OPEN TO INSPECTION AND EXAMINATION NO LATER THAN 10 DAYS AFTER THE REQUEST.

[(b)] (D) A limited lines license under this subtitle is subject to the same term and renewal conditions that are specified for an insurance producer license under § 10-115 of this title.

10-705.

(a) A limited lines license to **OFFER OR** sell coverage under a policy of portable electronics insurance to a customer issued under this subtitle authorizes a vendor or an authorized representative of the vendor to sell coverage under a policy of portable electronics insurance to customers [in connection with, and incidental to, a portable electronics transaction] at each location at which the vendor engages in portable electronics transactions in the State if:

(1) the portable electronics insurance policies have been filed with and approved by the Commissioner;

(2) the vendor holds an appointment under § 10–118 of this title with each authorized insurer that the vendor intends to represent;

(3) at each location where coverage under a policy of portable electronics insurance is offered or sold to customers, the vendor provides to the customers disclosures approved by the Commissioner that:

(i) summarize the material terms of the coverage under the policy of portable electronics insurance including:

1. the identity of the insurer;
2. the premium to be paid;
3. any applicable deductible;
4. the major features of the benefits of the coverage; and
5. the major features of any exclusions, conditions, or other limitations of coverage including whether the portable electronics may be repaired or replaced with similar make and model reconditioned or nonoriginal manufacturer parts or equipment;

(ii) 1. state that portable electronics insurance may duplicate insurance coverage already provided by a customer's homeowner's insurance policy, renter's insurance policy, or other source of insurance coverage; and

2. state that the purchase of coverage under a policy of portable electronics insurance would make this coverage primary to any other coverage, including duplicate coverage;

(iii) state that the purchase of coverage under a policy of portable electronics insurance is not required in order to enter into the portable electronics transaction;

(iv) describe the process for filing a claim if the customer elects to purchase coverage under a policy of portable electronics insurance including a description of:

1. any requirement to pay a deductible;
2. any requirement to return portable electronics;

3. the maximum fee applicable if the customer fails to comply with a return requirement; and

4. any requirement to file a proof of loss;

(v) state that:

1. the customer may cancel coverage under the portable electronics insurance at any time; and

2. if the customer cancels coverage under the portable electronics insurance, any unearned premium will be refunded **TO THE PERSON PAYING THE PREMIUM** in accordance with applicable law; and

(vi) provide the toll-free consumer hotline telephone number of the Administration; and

(4) the vendor provides a training program, approved by the Commissioner, for any employee or authorized representative who sells coverage under a policy of portable electronics insurance to customers under this subtitle that includes instruction:

(i) about the portable electronics insurance offered to customers of the vendor;

(ii) that the employee or authorized representative may not represent or imply to a customer that purchase of coverage under a policy of portable electronics insurance is required in order to purchase portable electronics;

(iii) that portable electronics insurance may duplicate insurance coverage already provided by a customer's homeowner's insurance policy, renter's insurance policy, or other source of insurance coverage; and

(iv) about the other disclosures required by item (3) of this subsection.

(b) **(1)** The training required under subsection (a)(4) of this section may be provided in electronic form.

(2) IF TRAINING IS CONDUCTED IN ELECTRONIC FORM, THE SUPERVISING ENTITY SHALL IMPLEMENT A SUPPLEMENTAL EDUCATION PROGRAM ABOUT THE PORTABLE ELECTRONICS INSURANCE PRODUCT THAT IS CONDUCTED AND OVERSEEN BY LICENSED INSURANCE PRODUCERS EMPLOYED BY THE SUPERVISING ENTITY.

Coverage under a policy of portable electronics insurance sold [in connection with a portable electronics transaction] under this subtitle is primary to any other valid and collectible coverage.

10–707.

(a) The Commissioner may suspend, revoke, or refuse to renew a limited lines license issued under this subtitle after notice and opportunity for a hearing under Title 2, Subtitle 2 of this article if the vendor or an employee or authorized representative of the vendor has:

- (1) willfully violated this article or another law of the State that relates to insurance;
- (2) operated without a limited lines license as required under this subtitle;
- (3) failed to provide the disclosures required under § 10–705 of this subtitle;
- (4) offered or sold unapproved insurance products;
- (5) failed to hold an appointment with an insurer;
- (6) failed to train employees or authorized representatives as required under § 10–705 of this subtitle; or
- (7) misrepresented pertinent facts or policy provisions concerning a policy of portable electronics insurance.

(b) A vendor and the employees and authorized representatives of the vendor may not advertise, represent, or otherwise hold themselves out as an authorized insurer or as an insurance producer for any kind or subdivision of insurance, except as provided in this subtitle.

(c) Instead of, or in addition to, suspending or revoking a limited lines license issued under this subtitle, the Commissioner may:

- (1) ~~EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION,~~ impose on the vendor a penalty of not more than \$2,500 for each violation of this subtitle; and
- (2) require that restitution be made to any person who has suffered financial injury because of a violation of this subtitle.

~~(D) IF A SERIES OF THE SAME VIOLATIONS OCCUR THAT ARE NEAR IN TIME AND ARISE FROM THE SAME SOURCE, THE COMMISSIONER MAY IMPOSE A PENALTY OF NOT MORE THAN \$50,000 FOR THE SERIES OF VIOLATIONS.~~

19-903.

(a) Notwithstanding any other provision of law and except as otherwise provided in this section, an insurer may not terminate or otherwise change the terms and conditions of a policy of portable electronics insurance unless the insurer provides the policyholder and covered customers with at least 60 days' notice.

(b) If the insurer changes the terms and conditions of a policy of portable electronics insurance in accordance with subsection (a) of this section, the insurer shall:

- (1) provide the policyholder with a revised policy or endorsement; and
- (2) provide each covered customer with:

(i) a revised certificate, endorsement, updated brochure, or other evidence that indicates that a change in the terms and conditions of the policy has occurred; and

(ii) a summary of material changes.

(c) An insurer may terminate coverage of a covered customer under a policy of portable electronics insurance:

(1) after 45 days' notice for discovery of fraud or material misrepresentation in obtaining coverage or in the presentation of a claim under the policy; or

(2) after 10 days' notice for nonpayment of premium.

(d) (1) An insurer may automatically terminate coverage of a covered customer under a policy of portable electronics insurance:

(i) if the covered customer ceases to have active service related to the use of portable electronics with the vendor; or

(ii) if:

1. the covered customer exhausts the aggregate limit of liability, if any, under the terms of the policy of portable electronics insurance; and

2. the insurer sends notice of termination to the covered customer within 15 business days after exhaustion of the limit, subject to paragraph (2) of this subsection.

(2) If the insurer does not send timely notice in accordance with paragraph (1)(ii) of this subsection, coverage shall continue under the policy of portable electronics insurance notwithstanding the aggregate limit of liability until the insurer sends notice of termination to the covered customer.

(e) Notwithstanding subsection (d)(1)(ii) of this section, on request of a covered customer, the covered customer shall be eligible for reinstatement of coverage not more than 12 months after the date of exhaustion of the coverage limit in accordance with the terms of the policy and subject to the enrollment criteria then applicable to prospective customers generally.

(f) If a vendor terminates a policy of portable electronics insurance, the vendor shall mail or deliver, at least 45 days before termination, written notice to each covered customer that advises the covered customer of the termination of the policy and the effective date of termination.

(g) (1) An insurer is not required to give notice of termination to a covered customer if the insurer has been advised by either the vendor or another insurer that substantially similar coverage under a policy of portable electronics insurance has been obtained from another insurer without lapse of coverage.

(2) A vendor is not required to give notice of termination to a covered customer if substantially similar coverage under a policy of portable electronics insurance has been obtained from another insurer without lapse of coverage.

(h) (1) Whenever notice is required in accordance with this section, the notice shall be in writing and sent by [certificate of mail to the vendor at the vendor's mailing address and its affected customers' last known mailing addresses on file with the insurer] **MAIL OR ELECTRONIC MEANS AS SPECIFIED IN THIS SUBSECTION.**

(2) (I) UNLESS NOTICE BY ELECTRONIC MEANS IS AUTHORIZED UNDER PARAGRAPH (3) OR (4) OF THIS SUBSECTION, NOTICE UNDER THIS SECTION SHALL BE PROVIDED BY MAIL IN ACCORDANCE WITH SUBPARAGRAPHS (II) AND (III) OF THIS PARAGRAPH.

(II) NOTICE SHALL BE MAILED TO THE VENDOR AT THE VENDOR'S LAST KNOWN MAILING ADDRESS ON FILE WITH THE INSURER.

(III) NOTICE SHALL BE MAILED TO A COVERED CUSTOMER AT THE COVERED CUSTOMER'S LAST KNOWN MAILING ADDRESS ON FILE WITH THE INSURER OR VENDOR.

(IV) THE INSURER OR VENDOR RESPONSIBLE FOR MAILING THE NOTICE UNDER THIS SECTION SHALL MAINTAIN PROOF OF MAILING.

(3) AN INSURER RESPONSIBLE FOR PROVIDING NOTICE TO A COVERED CUSTOMER UNDER THIS SECTION MAY PROVIDE NOTICE BY ELECTRONIC MEANS IF:

(I) THE COVERED CUSTOMER HAS PROVIDED AN ELECTRONIC MAIL ADDRESS TO THE INSURER OR VENDOR TO RECEIVE NOTICES ABOUT COVERAGE;

(II) NOTICE IS SENT TO THE ELECTRONIC MAIL ADDRESS PROVIDED BY THE COVERED CUSTOMER; AND

(III) THE INSURER OR VENDOR MAINTAINS PROOF THAT THE NOTICE WAS SENT TO THE COVERED CUSTOMER AT THE COVERED CUSTOMER'S ELECTRONIC MAIL ADDRESS.

(4) AN INSURER RESPONSIBLE FOR PROVIDING NOTICE TO A VENDOR UNDER THIS SECTION MAY PROVIDE NOTICE BY ELECTRONIC MEANS IF:

(I) THE VENDOR HAS PROVIDED AN ELECTRONIC MAIL ADDRESS TO THE INSURER AT WHICH THE VENDOR CONSENTS TO RECEIVE NOTICES ABOUT THE POLICY;

(II) NOTICE IS SENT TO THE ELECTRONIC MAIL ADDRESS PROVIDED BY THE VENDOR; AND

(III) THE INSURER MAINTAINS PROOF THAT THE NOTICE WAS SENT TO THE VENDOR AT THE VENDOR'S ELECTRONIC MAIL ADDRESS.

[(2) The insurer or vendor, as the case may be, shall maintain proof of mailing in a form authorized or accepted by the United States Postal Service.]

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to all policies of portable electronics insurance issued, delivered, or renewed in the State on or after October 1, 2012.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 603**(Senate Bill 864)**

AN ACT concerning

Gaming – ~~Instant Bingo~~ – Electronic Machines – Regulation

FOR the purpose of authorizing the operation of certain electronic instant bingo games using electronic machines; providing that the electronic instant bingo machines must have been in operation during a certain period or that the machines be in operation under a commercial bingo license on a certain date; prohibiting the operation of more than a certain number of electronic instant bingo machines than were in operation on a certain date; requiring the conduct of the gaming and the operation of certain electronic instant bingo machines to be consistent with certain provisions of law; clarifying that certain slot machines located in certain counties are not subject to certain provisions of law; altering the definition of “slot machine” to include a certain machine, apparatus, or device regardless of the manner in which it delivers a game and to exclude certain skills-based amusement devices; clarifying that a certain handheld device is not considered a slot machine; requiring the Office of the Attorney General, the State Lottery Commission, the Department of State Police, and local law enforcement units to construe certain statutory provisions in a certain manner; making a certain decision by the State Lottery Commission a final determination as to whether a certain electronic gaming device is legal and being operated in a lawful manner; authorizing the State Lottery Commission to refer certain matters for enforcement to the Department of State Police under certain circumstances; requiring the Commission to certify and regulate the operation, ownership, and manufacture of certain electronic gaming devices; specifying that certain provisions of law do not apply to ~~tip jar gaming and paper tip jar gaming where authorized~~; stating that a gaming device that is not licensed or otherwise operated in compliance with certain provisions of law as of a certain date may not legally operate in the State; requiring the Commission to adopt certain regulations related to the approval and licensing of certain electronic gaming devices; authorizing the Commission to make certain determinations and charge certain fees; altering the purpose of the Special Fund for Preservation of Cultural Arts in Maryland; requiring that the Fund be used to provide certain supplemental grants for operating and programmatic improvements that strengthen cultural arts organizations in certain ways; altering the process for transferring certain funds from the Fund; specifying that grants from the Fund are supplemental and may not take the place of certain funding for certain organizations; creating the Calvert County Youth Recreational Opportunities Fund; providing for the purpose, administration, type, contents, expenditures, and investments of the Fund; requiring that the Fund be used only for certain projects; specifying that certain money expended from the Fund is not intended to take the place of funding that otherwise would

be appropriated for a certain purpose; imposing a certain State admissions and amusement tax rate on electronic bingo in Calvert County; altering the revenue attributable from a certain tax rate distributed to a certain special fund; providing for the distribution of certain revenue and proceeds to ~~Program Open Space~~ the Calvert County Youth Recreational Opportunities Fund, the Boys and Girls Club of the Town of North Beach, and certain municipal corporations in certain years; requiring that certain admissions and amusement taxes are to be determined on a certain basis; providing that certain admissions and amusement taxes may be determined on a certain basis; requiring the Commission to certify the compliance with certain laws before certain electronic bingo machines may be authorized for use; authorizing a certain qualified organization to repair and replace electronic bingo machines under certain circumstances; authorizing a certain qualified organization that offered instant bingo during a certain time and then was required to obtain a commercial license to operate a certain number of instant bingo machines under certain circumstances; requiring certain regulations to be at least as stringent as certain requirements; authorizing certain regulations to include certain provisions and requiring that the regulations include certain provisions; repealing certain obsolete provisions of law; making a certain technical correction; and generally relating to the operation and regulation of electronic instant bingo machines.

BY repealing and reenacting, with amendments,

Article – Criminal Law

Section 12-113 and ~~12-301(3)~~ 12-301(2) and (3)

Annotated Code of Maryland

(2002 Volume and 2011 Supplement)

BY adding to

Article – Criminal Law

Section 12-301.1 and 12-308

Annotated Code of Maryland

(2002 Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,

Article – Economic Development

Section 4-801

Annotated Code of Maryland

(2008 Volume and 2011 Supplement)

BY adding to

Article – Natural Resources

Section 5-1901 to be under the new subtitle “Subtitle 19. Calvert County Youth Recreational Opportunities Fund”

Annotated Code of Maryland

(2005 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,

Article – Tax – General

Section 2–202, ~~4–102~~, and 4–105(a–1)

Annotated Code of Maryland

(2010 Replacement Volume and 2011 Supplement)

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

Article – Criminal Law

12–113.

(A) [A] **THE OFFICE OF THE ATTORNEY GENERAL, THE STATE LOTTERY COMMISSION, THE DEPARTMENT OF STATE POLICE, LOCAL LAW ENFORCEMENT UNITS, AND THE** court shall construe liberally this ~~title~~ ~~ARTICLE~~ relating to gambling and betting to prevent the activities prohibited.

(B) **A DECISION BY THE STATE LOTTERY COMMISSION SHALL BE THE FINAL DETERMINATION AS TO WHETHER A GAMING DEVICE BEING OPERATED IN THE STATE IS:**

(1) **A LEGAL GAMING DEVICE OR DEVICE CONSISTENT WITH THE PROVISIONS OF THIS ARTICLE; AND**

(2) **BEING OPERATED IN A LAWFUL MANNER UNDER THIS ARTICLE.**

(C) **IF A LOCAL LAW ENFORCEMENT UNIT FAILS TO PROMPTLY ENFORCE A FINAL DETERMINATION MADE UNDER SUBSECTION (B) OF THIS SECTION, THE STATE LOTTERY COMMISSION SHALL REFER THE MATTER TO THE DEPARTMENT OF STATE POLICE FOR ENFORCEMENT OF THE LAW.**

12–301.

In this subtitle:

(2) “slot machine” includes:

(i) a machine, apparatus, or device described in item (1) of this section that also sells, delivers, or awards merchandise, money, or some other tangible thing of value; [and]

(ii) a pinball machine or console machine that pays off in merchandise; AND

(III) A MACHINE, APPARATUS, OR DEVICE DESCRIBED IN ITEM (1) OF THIS SECTION, REGARDLESS OF WHETHER THE MACHINE, APPARATUS, OR DEVICE DELIVERS A GAME THROUGH THE INTERNET OR OFFERS INTERNET OR OTHER SERVICES; AND

(3) “slot machine” does not include a machine, apparatus, or device that:

(i) awards the user only free additional games or plays;

(ii) awards the user only noncash merchandise or noncash prizes of minimal value;

(iii) dispenses paper pull tab tip jar tickets or paper pull tab instant bingo tickets that must be opened manually by the user provided that the machine, apparatus, or device does not:

1. read the tickets electronically;
2. alert the user to a winning or losing ticket; or
3. tabulate a player’s winnings and losses;

(iv) 1. **IS A HANDHELD DEVICE THAT** displays **ONLY** facsimiles of bingo cards that [users] **AN INDIVIDUAL USES TO** mark and monitor [according to] **CONTEMPORANEOUSLY TO A LIVE CALL OF BINGO** numbers called on the premises by an individual where the user is operating the machine; [and]

2. does not permit a user to play more than 54 bingo cards at the same time;

3. DOES NOT RANDOMLY GENERATE ANY NUMBERS;

AND

4. IS NOT PART OF AN INTEGRATED SYSTEM;

(v) is used by the State Lottery Commission under Title 9 of the State Government Article; ~~or~~

(vi) if legislation takes effect authorizing the operation of video lottery terminals, is a video lottery terminal as defined in and licensed under that legislation; **OR**

(VII) IS A SKILLS-BASED AMUSEMENT DEVICE THAT AWARDS PRIZES OF MINIMAL VALUE APPROVED BY THE STATE LOTTERY COMMISSION THROUGH REGULATION.

12-301.1.

(A) IN THIS SUBTITLE, “COMMISSION” MEANS THE STATE LOTTERY COMMISSION.

(B) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION AND CONSISTENT WITH THE PROVISIONS OF THIS TITLE AND TITLE 13 OF THIS ARTICLE, THE COMMISSION SHALL CERTIFY AND REGULATE THE OPERATION, OWNERSHIP, AND MANUFACTURE OF ~~A~~ AN ELECTRONIC GAMING DEVICE AUTHORIZED UNDER THIS TITLE.

(2) THIS SECTION ~~MAY~~ DOES NOT APPLY TO:

(I) THE OWNERSHIP OR OPERATION OF SLOT MACHINES THAT ARE SUBJECT TO REGULATION BY THE COMPTROLLER UNDER § 12-304 OF THIS TITLE; AND

(II) ~~TIP JAR GAMING OR PAPER TIP JAR GAMING WHERE AUTHORIZED.~~

(C) THE COMMISSION SHALL ADOPT REGULATIONS THAT:

(1) DEFINE LAWFUL AND UNLAWFUL ELECTRONIC AND MECHANICAL EQUIPMENT USED IN CONNECTION WITH GAMING DEVICES THAT ARE CONSISTENT WITH THIS TITLE;

(2) APPROVE AND LICENSE ELECTRONIC GAMING DEVICES AUTHORIZED UNDER STATE LAW;

(3) APPROVE AND LICENSE OWNERS, OPERATORS, AND MANUFACTURERS OF ELECTRONIC GAMING DEVICES AUTHORIZED UNDER STATE LAW;

(4) ESTABLISH PROCEDURES FOR THE LICENSE APPLICATION AND RENEWAL PROCESSES REQUIRED UNDER THIS SECTION; AND

(5) ESTABLISH LICENSE FEES THAT ARE SUFFICIENT TO COVER THE DIRECT AND INDIRECT COSTS OF LICENSURE REQUIRED UNDER THIS SECTION.

(D) THE COMMISSION MAY DETERMINE:

(1) THAT A COUNTY'S LICENSING AND REGULATORY PROCESS FOR ELECTRONIC GAMING DEVICES IS EQUIVALENT TO THE STATE LICENSING AND REGULATORY PROCESS REQUIRED UNDER THIS SECTION; AND

(2) THAT A COUNTY LICENSE FOR OWNING, OPERATING, OR MANUFACTURING ~~A~~ AN ELECTRONIC GAMING DEVICE IN THAT COUNTY IS EQUIVALENT TO A STATE LICENSE.

(E) ~~A~~ AN ELECTRONIC GAMING DEVICE THAT IS NOT LICENSED OR OTHERWISE OPERATED IN COMPLIANCE WITH THE PROVISIONS OF THIS SECTION AS OF ~~JULY 1, 2012~~ JANUARY 1, 2013, IS AN ILLEGAL ~~GAMBLING GAMING~~ GAMING DEVICE THAT MAY NOT LEGALLY OPERATE IN THE STATE.

12-308.

NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS SUBTITLE, AN ENTITY LICENSED TO OFFER INSTANT BINGO UNDER A COMMERCIAL BINGO LICENSE ON JULY 1, 2007, OR BY A QUALIFIED ORGANIZATION AS DEFINED IN § 13-201 OF THIS ARTICLE ON THE PREMISES OF THE QUALIFIED ORGANIZATION MAY CONTINUE TO OPERATE A GAME OF INSTANT BINGO IN THE SAME MANNER USING ELECTRONIC MACHINES, PROVIDED THAT:

(1) (I) THE MACHINES WERE IN OPERATION FOR A 1-YEAR PERIOD ENDING DECEMBER 31, 2007; OR

(II) THE MACHINES WERE IN OPERATION UNDER A COMMERCIAL BINGO LICENSE ON DECEMBER 31, 2007;

(2) THE ENTITY DOES NOT OPERATE MORE THAN THE NUMBER OF ELECTRONIC MACHINES IN OPERATION ON FEBRUARY 28, 2008; AND

(3) THE CONDUCT OF THE GAMING AND OPERATION OF THE MACHINES ARE CONSISTENT WITH ALL OTHER PROVISIONS OF THIS ARTICLE.

Article – Economic Development

4-801.

(a) In this section, "Fund" means the Special Fund for Preservation of Cultural Arts in Maryland.

(b) There is a Special Fund for Preservation of Cultural Arts in Maryland.

(c) The purpose of the Fund is to provide [emergency] SUPPLEMENTAL grants to cultural arts organizations[, including museums, or similar entities] in the

State THAT QUALIFY FOR GENERAL OPERATING SUPPORT GRANTS FROM THE MARYLAND STATE ARTS COUNCIL.

(d) The Secretary of Business and Economic Development shall administer the Fund.

(e) (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) The Fund consists of:

(1) revenue distributed to the Fund under [§ 2–202(1)(ii)] § 2–202(A)(1)(II) of the Tax – General Article; and

(2) any other money from any other source accepted for the benefit of the Fund.

(g) [(1) Subject to paragraph (2) of this subsection, the Fund may be used only for preventing the closure, termination, or financial distress of] **THE FUND SHALL BE USED TO PROVIDE SUPPLEMENTAL GRANTS FOR OPERATING AND PROGRAMMATIC IMPROVEMENTS THAT STRENGTHEN THE ORGANIZATIONAL CAPACITY AND FINANCIAL STABILITY OF** cultural arts organizations[, including museums, or similar entities] in the State **THAT QUALIFY FOR GENERAL OPERATING SUPPORT GRANTS FROM THE MARYLAND STATE ARTS COUNCIL.**

[(2) For fiscal year 2011:

(i) \$450,000 from the Fund shall be used to provide a grant to the Baltimore Symphony Orchestra; and

(ii) \$50,000 from the Fund shall be used to provide a grant to the National Philharmonic.]

(h) (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 General Fund of the State.

(i) For each appropriation to the Fund, the Governor may:

(1) include the funds in the State budget subject to appropriation by the General Assembly; or

(2) transfer the funds by budget amendment from the Fund to the expenditure account of the [Department of Business and Economic Development only after the proposed budget amendment has been:

(i) submitted to the Senate Budget and Taxation Committee and the House Appropriations Committee of the General Assembly; and

(ii) approved by the Legislative Policy Committee] MARYLAND STATE ARTS COUNCIL.

(i) [Money expended] SUPPLEMENTAL GRANTS MADE from the Fund [for cultural arts organizations, including museums, or other similar entities is] ARE supplemental to and [is not intended to] MAY NOT take the place of funding that otherwise would be appropriated for [those] QUALIFYING organizations [or similar entities].

Article – Natural Resources

SUBTITLE 19. CALVERT COUNTY YOUTH RECREATIONAL OPPORTUNITIES FUND.

5-1901.

(A) IN THIS SECTION, “FUND” MEANS THE CALVERT COUNTY YOUTH RECREATIONAL OPPORTUNITIES FUND.

(B) THERE IS A CALVERT COUNTY YOUTH RECREATIONAL OPPORTUNITIES FUND.

(C) THE PURPOSE OF THE FUND IS TO INCREASE YOUTH RECREATIONAL OPPORTUNITIES IN CALVERT COUNTY.

(D) THE SECRETARY SHALL ADMINISTER THE FUND.

(E) (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) THE FUND CONSISTS OF:

(1) REVENUE DISTRIBUTED TO THE FUND UNDER § 2-202(B)(1)(II) OF THE TAX – GENERAL ARTICLE;

(2) MONEY APPROPRIATED IN THE STATE BUDGET TO THE FUND;
AND

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

(G) THE FUND MAY BE USED ONLY FOR PROJECTS THAT ARE APPROVED BY THE SECRETARY TO ADVANCE YOUTH RECREATIONAL OPPORTUNITIES IN CALVERT COUNTY AND THAT RECEIVE CONTRIBUTIONS FROM THE COUNTY FOR THE PROJECTS.

(H) (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 GENERAL FUND OF THE STATE.

(I) EXPENDITURES FROM THE FUND MAY BE MADE ONLY IN ACCORDANCE WITH THE STATE BUDGET.

(J) MONEY EXPENDED FROM THE FUND FOR YOUTH RECREATIONAL OPPORTUNITIES IN CALVERT COUNTY IS SUPPLEMENTAL TO AND IS NOT INTENDED TO TAKE THE PLACE OF FUNDING THAT OTHERWISE WOULD BE APPROPRIATED FOR YOUTH RECREATIONAL OPPORTUNITIES IN CALVERT COUNTY.

Article – Tax – General

2–202.

(a) After making the distribution required under § 2–201 of this subtitle, within 20 days after the end of each quarter, the Comptroller shall distribute:

(1) except as provided in ~~[subsection]~~ ~~SUBSECTIONS (b) AND (c)~~ of this section, from the revenue from the State admissions and amusement tax on electronic bingo and electronic tip jars under § 4–102(d) of this article:

(i) the revenue attributable to a tax rate of 20% to the General Fund of the State; and

(ii) the revenue attributable to a tax rate [in excess of 20%] ~~OF~~ 5% to the Special Fund for Preservation of Cultural Arts in Maryland, as provided in § 4–801 of the Economic Development Article; and

(2) the remaining admissions and amusement tax revenue:

(i) to the Maryland Stadium Authority, county, or municipal corporation that is the source of the revenue; or

(ii) if the Maryland Stadium Authority and also a county or municipal corporation tax a reduced charge or free admission:

1. 80% of that revenue to the Authority; and
2. 20% to the county or municipal corporation.

(B) FROM THE REVENUE FROM THE STATE ADMISSIONS AND AMUSEMENT TAX ON ELECTRONIC BINGO AND ELECTRONIC TIP JARS IN CALVERT COUNTY UNDER § 4-102(D) OF THIS ARTICLE, THE COMPTROLLER SHALL DISTRIBUTE:

(1) FOR FISCAL YEAR 2013, THE REVENUE ATTRIBUTABLE TO A TAX RATE OF 8%:

(I) \$100,000 TO THE BOYS AND GIRLS CLUB OF THE TOWN OF NORTH BEACH; AND

(II) THE REMAINDER TO ~~PROGRAM OPEN SPACE UNDER TITLE 5, SUBTITLE 9~~ THE CALVERT COUNTY YOUTH RECREATIONAL OPPORTUNITIES FUND UNDER TITLE 5, SUBTITLE 19 OF THE NATURAL RESOURCES ARTICLE THAT MAY ONLY BE USED FOR A ~~LOCAL OPEN SPACE~~ PROJECT APPROVED BY THE SECRETARY OF ~~THE DEPARTMENT OF~~ NATURAL RESOURCES THAT INCREASES YOUTH RECREATIONAL OPPORTUNITIES IN THE COUNTY; ~~AND~~

(2) FOR FISCAL YEARS 2014 THROUGH 2016, FROM:

(I) THE REVENUE ATTRIBUTABLE TO A TAX RATE OF 1.5%:

1. \$100,000 TO THE BOYS AND GIRLS CLUB OF THE TOWN OF NORTH BEACH; AND

2. THE REMAINDER TO THE TOWN OF NORTH BEACH;

(II) THE REVENUE ATTRIBUTABLE TO A TAX RATE OF 2.5% TO THE TOWN OF CHESAPEAKE BEACH; AND

(III) THE REVENUE ATTRIBUTABLE TO A TAX RATE OF 4% TO THE CALVERT COUNTY YOUTH RECREATIONAL OPPORTUNITIES FUND UNDER TITLE 5, SUBTITLE 19 OF THE NATURAL RESOURCES ARTICLE; AND

~~(2)~~ **(3) FOR FISCAL YEAR ~~2014~~ 2017 AND EACH FISCAL YEAR THEREAFTER, FROM:**

(I) FROM THE REVENUE ATTRIBUTABLE TO A TAX RATE OF ~~3%~~ 1.5%:

1. \$100,000 TO THE BOYS AND GIRLS CLUB OF THE TOWN OF NORTH BEACH; AND

2. THE REMAINDER TO THE TOWN OF NORTH BEACH; ~~AND~~

(II) THE REVENUE ATTRIBUTABLE TO A TAX RATE OF ~~5%~~ 2.5% TO THE TOWN OF CHESAPEAKE BEACH; AND

(III) THE REVENUE ATTRIBUTABLE TO A TAX RATE OF 4% TO THE CALVERT COUNTY BOARD OF EDUCATION FOR SCHOOL RENOVATION AND RENEWAL PROJECTS THAT MAY NOT BE USED TO SUPPLANT COUNTY FUNDS FOR PUBLIC SCHOOL CONSTRUCTION.

~~[(b)] (c) The revenue to be distributed in accordance with subsection (a)(1) of this section:~~

~~(1) for fiscal year 2010 only, shall be distributed to the General Fund of the State;~~

~~(2) for fiscal year 2011 only, shall be distributed as follows:~~

~~(i) \$500,000 to the Special Fund for Preservation of Cultural Arts in Maryland, as provided in § 4-801 of the Economic Development Article;~~

~~(ii) \$500,000 to a special fund, to be used only as provided in subsection (c) of this section; and~~

~~(iii) the balance to the General Fund of the State; and~~

~~(3) for fiscal year 2012 only, shall be distributed as follows:~~

~~(i) \$500,000 to a special fund, to be used only as provided in subsection (c) of this section; and~~

~~(ii) the balance to the General Fund of the State.~~

~~[(c)] (D) (1) (i) For fiscal year 2011, the Comptroller shall pay from the special fund established under subsection (b)(2)(ii) of this section a grant to the local jurisdictions where the electronic bingo machines or electronic tip jar machines that are the source of the revenue are located, to be used by the local jurisdictions only for one-time capital expenditures.~~

~~(ii) A grant under this paragraph shall be paid to a municipal corporation if the machines are located in a municipal corporation or to a county if the machines are not located in a municipal corporation.~~

~~(iii) The grants under this paragraph shall be paid to each local jurisdiction in proportion to the amount of tax revenue derived from machines in each jurisdiction.~~

~~(2) For fiscal year 2012, the special fund established under subsection (b)(3)(i) of this section may be used only as follows:~~

~~(i) \$150,000 as an appropriation to the State Archives, to be used only for the operating costs associated with the development and implementation of the State House Master Plan as approved by the State House Trust;~~

~~(ii) \$50,000 as a grant to be paid by the Comptroller to the Maryland Humanities Council; and~~

~~(iii) impact grants to be paid by the Comptroller in the local jurisdictions where the electronic bingo machines or electronic tip jar machines are located, as follows:~~

~~1. \$150,000 in Anne Arundel County to the Anne Arundel County Volunteer Firefighters Association for capital expenditures and replacement of equipment; and~~

~~2. \$150,000 in Calvert County as follows:~~

~~A. \$125,000 to be divided equally between the Town of Chesapeake Beach and the Town of North Beach, to be used only for one-time capital expenditures; and~~

~~B. \$25,000 to the Beach Trolley Association of Chesapeake Beach and North Beach.~~

4-102.

(A) IN THIS SECTION, "NET PROCEEDS" MEANS THE TOTAL RECEIPTS FROM THE OPERATION OF AN ELECTRONIC BINGO MACHINE OR ELECTRONIC

TIP JAR MACHINE LESS THE AMOUNT OF MONEY WINNINGS OR PRIZES PAID OUT TO PLAYERS.

[(a)](B) A county may impose, by resolution, a tax on:

(1) the gross receipts derived from any admissions and amusement charge in that county; and

(2) an admission in that county for a reduced charge or at no charge to a place if there is a charge for other admissions to the place.

[(b)](C) A municipal corporation may impose, by ordinance or resolution, a tax on:

(1) the gross receipts derived from any admission and amusement charge in that municipal corporation; and

(2) an admission in that municipal corporation for a reduced charge or at no charge to a place if there is a charge for other admissions to the place.

[(c)](D) The Stadium Authority may impose a tax on:

(1) the gross receipts derived from any admissions and amusement charge for an admission to a facility owned or leased by the Stadium Authority; and

(2) an admission for a reduced charge or at no charge to a facility owned or leased by the Stadium Authority if there is a charge for other admissions to the facility.

[(d)](E) [(1) In this subsection, “net proceeds” means the total receipts from the operation of an electronic bingo machine or electronic tip jar machine less the amount of money winnings or prizes paid out to players.

(2) A State tax is imposed on the net proceeds derived from any charge for the operation of an electronic bingo machine permitted under a commercial bingo license or an electronic tip jar machine authorized under Title 13 of the Criminal Law Article that is operated for commercial purposes.

(F) (1) THE STATE AND LOCAL ADMISSIONS AND AMUSEMENT TAXES APPLICABLE TO ELECTRONIC INSTANT BINGO SHALL BE DETERMINED ON A TAX-INCLUDED OR SEPARATELY STATED BASIS.

(2) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, OTHER STATE AND LOCAL ADMISSIONS AND AMUSEMENT TAXES APPLIED UNDER THIS SECTION MAY BE DETERMINED ON A TAX-INCLUDED OR SEPARATELY STATED BASIS.

4-105.

(a-1) (1) Except as provided in [paragraph] PARAGRAPHS (2) AND (3) of this subsection, the rate of the State admissions and amusement tax imposed on electronic bingo or electronic tip jars under § 4-102(d) of this subtitle is 30% of the net proceeds subject to the tax.

(2) THE RATE OF THE STATE ADMISSIONS AND AMUSEMENT TAX IMPOSED ON ELECTRONIC BINGO OR ELECTRONIC TIP JARS IN CALVERT COUNTY UNDER § 4-102(D) OF THIS SUBTITLE IS 33% OF THE NET PROCEEDS SUBJECT TO THE TAX.

[(2)] (3) If net proceeds subject to the State admissions and amusement tax imposed on electronic bingo or electronic tip jars under § 4-102(d) of this subtitle are also subject to an admissions and amusement tax imposed by a county or a municipal corporation under this subtitle:

(i) the rate of the State tax may not exceed a rate that, when combined with the rate of any county or municipal corporation tax, will exceed 35% of the net proceeds; and

(ii) the rate of any county or municipal corporation admissions and amusement tax that is applicable to net proceeds derived from electronic bingo or electronic tip jars may not exceed the rate of the admissions and amusement tax imposed by the county or municipal corporation as of January 1, 2009.

SECTION 2. AND BE IT FURTHER ENACTED, That, prior to an electronic bingo machine being authorized for use after ~~July 1, 2012~~ January 1, 2013, the State Lottery Commission shall certify that the electronic bingo machine complies with all applicable State laws as of the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That, a licensee or organization that is authorized under State law to own or operate electronic bingo machines for use after July 1, 2012, may repair and replace the authorized electronic bingo machines provided that the machines operate in the same manner as those in operation by the same organization as of February 28, 2008, and that the organization does not operate more than the number of electronic bingo machines in operation as of February 28, 2008.

SECTION 4. AND BE IT FURTHER ENACTED, That a qualified organization as defined in § 13-201 of the Criminal Law Article that offered instant bingo for a 1-year period as of December 31, 2007, and then was required by local regulation to obtain a commercial license may operate up to 10 electronic instant bingo machines as long as the qualified organization complies with the requirements of this Act and pays any applicable license taxes.

SECTION ~~4~~ 5. AND BE IT FURTHER ENACTED, That, regulations adopted by the State Lottery Commission as required under Section 1 of this Act pertaining to the operation of electronic bingo machines shall be at least as stringent as the requirements set forth in Article 11, Title 2, Subtitle 2 of the Anne Arundel County Code as of June 1, 2012.

SECTION ~~5~~ 6. AND BE IT FURTHER ENACTED, That, regulations adopted by the State Lottery Commission under Section 1 of this Act:

(1) may include provisions that regulate the repair and replacement of electronic bingo machines authorized under Section 3 of this Act; and

(2) shall include provisions providing for the legal operation of amusement games licensed by Baltimore City and Baltimore County.

SECTION ~~6~~ 7. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 604

(Senate Bill 867)

AN ACT concerning

State Department of Education – Oral Health Education – ~~Certification and~~ Monitoring

FOR the purpose of ~~requiring certain county superintendents to make certain certifications regarding oral health education on or before a certain date each year;~~ requiring the State Department of Education to support and facilitate certain oral health education ~~and~~, develop a process to monitor certain implementation of certain education, and submit a certain summary to the Governor and General Assembly on or before a certain date; requiring the State Board of Education to encourage certain county boards of education to incorporate certain lessons into certain curriculum; requiring the Department to report certain information to the Governor and General Assembly on or before a certain date each year; and generally relating to oral health education in the State.

BY adding to

Article – Education
Section 4-111.1

Annotated Code of Maryland
(2008 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,
Article – Education
Section ~~7-401(a)~~ 7-411.1
Annotated Code of Maryland
(2008 Replacement Volume and 2011 Supplement)

Preamble

WHEREAS, Tooth decay is the single most common chronic childhood disease and over 50% of children aged 5 to 9 years old have at least one cavity or filling; and

WHEREAS, Pain and suffering due to untreated dental diseases can lead to problems eating, speaking, and attending to learning; and

WHEREAS, Safe and effective measures exist to prevent the most common dental diseases such as tooth decay and periodontal diseases; now, therefore,

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

Article – Education

4-111.1.

~~(A) IN ADDITION TO THE REQUIREMENTS OF § 7-401 OF THIS ARTICLE, ON OR BEFORE SEPTEMBER 1 OF EACH YEAR, EACH COUNTY SUPERINTENDENT SHALL CERTIFY TO THE STATE SUPERINTENDENT THAT ORAL HEALTH EDUCATION, INCLUDING ORAL DISEASE PREVENTION AND DENTAL HEALTH PROMOTION, IS BEING TAUGHT IN THE COUNTY.~~

~~(B)~~ THE DEPARTMENT SHALL:

(1) SUPPORT AND FACILITATE ORAL HEALTH EDUCATION, INCLUDING ORAL DISEASE PREVENTION AND DENTAL HEALTH PROMOTION, IN EVERY COUNTY; ~~AND~~

(2) DEVELOP A PROCESS TO MONITOR IMPLEMENTATION OF ORAL HEALTH EDUCATION ~~AS CERTIFIED UNDER SUBSECTION (A) OF THIS SECTION; AND~~

(3) ON OR BEFORE DECEMBER 1, 2012 2015, AND EVERY 5 YEARS THEREAFTER, SUBMIT TO THE GOVERNOR AND, SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY A SUMMARY OF THE

INFORMATION REPORTED BY THE DEPARTMENT TO THE STATE SUPERINTENDENT DURING THE CERTIFICATION OF THE HEALTH EDUCATION STATE CURRICULUM.

~~(c) ON OR BEFORE DECEMBER 1 OF EACH YEAR, THE DEPARTMENT SHALL REPORT TO THE GOVERNOR AND, SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY, REGARDING THE MONITORING AND IMPLEMENTATION OF ORAL HEALTH EDUCATION IN THE STATE.~~

~~7-401.~~

~~(a) With the assistance of the county health department, each county board shall provide:~~

~~(1) Adequate school health services;~~

~~(2) Instruction in health education, including the importance of physical activity, ORAL DISEASE PREVENTION, AND DENTAL HEALTH PROMOTION in maintaining good health; and~~

~~(3) A healthful school environment.~~

7-411.1.

The State Board shall encourage the county boards to incorporate age-appropriate lessons on dating violence, ORAL DISEASE PREVENTION, AND DENTAL HEALTH PROMOTION into the county boards' health education curriculum.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 605

(House Bill 1401)

AN ACT concerning

**State Department of Education – Oral Health ~~Education~~ Education
~~Certification and Monitoring~~**

FOR the purpose of ~~requiring certain county superintendents to make certain certifications regarding oral health education on or before a certain date each year;~~ requiring the State Department of Education to support and facilitate certain *oral health* education ~~and, develop a process to monitor certain implementation of certain education, and submit a certain summary to the Governor and General Assembly on or before a certain date; requiring the State Board of Education to encourage certain county boards of education to incorporate certain lessons into certain curriculum;~~ ~~requiring the Department to report certain information to the Governor and General Assembly on or before a certain date each year at certain intervals;~~ and generally relating to oral health education in the State.

BY adding to

Article – Education

Section 4–111.1

Annotated Code of Maryland

(2008 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,

Article – Education

Section 7–411.1

Annotated Code of Maryland

(2008 Replacement Volume and 2011 Supplement)

~~BY repealing and reenacting, with amendments,~~

~~Article – Education~~

~~Section 7–401(a)~~

~~Annotated Code of Maryland~~

~~(2008 Replacement Volume and 2011 Supplement)~~

Preamble

WHEREAS, Tooth decay is the single most common chronic childhood disease and over 50% of children aged 5 to 9 years old have at least one cavity or filling; and

WHEREAS, Pain and suffering due to untreated dental diseases can lead to problems eating, speaking, and attending to learning; and

WHEREAS, Safe and effective measures exist to prevent the most common dental diseases such as tooth decay and periodontal diseases; now, therefore,

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

Article – Education

4–111.1.

~~(A) IN ADDITION TO THE REQUIREMENTS OF § 7-401 OF THIS ARTICLE, ON OR BEFORE SEPTEMBER 1 OF EACH YEAR, EACH COUNTY SUPERINTENDENT SHALL CERTIFY TO THE STATE SUPERINTENDENT THAT ORAL HEALTH EDUCATION, INCLUDING ORAL DISEASE PREVENTION AND DENTAL HEALTH PROMOTION, IS BEING TAUGHT IN THE COUNTY.~~

~~(B) THE DEPARTMENT SHALL:~~

~~(1) SUPPORT AND FACILITATE ORAL HEALTH EDUCATION, INCLUDING ORAL DISEASE PREVENTION AND DENTAL HEALTH PROMOTION, IN EVERY COUNTY; AND~~

~~(2) DEVELOP A PROCESS TO MONITOR IMPLEMENTATION OF ORAL HEALTH EDUCATION; AND~~

~~(3) ON OR BEFORE DECEMBER 1, 2015, AND EVERY 5 YEARS THEREAFTER, SUBMIT TO THE GOVERNOR AND, SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY A SUMMARY OF THE INFORMATION REPORTED BY THE DEPARTMENT TO THE STATE SUPERINTENDENT DURING THE CERTIFICATION OF THE HEALTH EDUCATION STATE CURRICULUM AS CERTIFIED UNDER SUBSECTION (A) OF THIS SECTION.~~

~~(C) ON OR BEFORE DECEMBER 1 OF EACH YEAR, THE DEPARTMENT SHALL REPORT TO THE GOVERNOR AND, SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY, REGARDING THE MONITORING AND IMPLEMENTATION OF ORAL HEALTH EDUCATION IN THE STATE.~~

~~7-401.~~

~~(a) With the assistance of the county health department, each county board shall provide:~~

~~(1) Adequate school health services;~~

~~(2) Instruction in health education, including the importance of physical activity, ORAL DISEASE PREVENTION, AND DENTAL HEALTH PROMOTION in maintaining good health; and~~

~~(3) A healthful school environment.~~

~~(B) ON OR BEFORE DECEMBER 1, 2012, AND EVERY 5 YEARS THEREAFTER, THE DEPARTMENT SHALL REPORT TO THE GOVERNOR AND, SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL~~

~~ASSEMBLY, A SUMMARY OF THE INFORMATION REPORTED TO THE STATE SUPERINTENDENT DURING THE COMPREHENSIVE HEALTH EDUCATION COMAR CERTIFICATION PROCESS.~~

7-411.1.

The State Board shall encourage the county boards to incorporate age-appropriate lessons on dating violence, **ORAL DISEASE PREVENTION, AND DENTAL HEALTH PROMOTION** into the county boards' health education curriculum.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 606

(Senate Bill 869)

AN ACT concerning

Maryland Building Performance Standards – Hotels – Mandatory Master Control Device

FOR the purpose of authorizing the Department of Housing and Community Development to adopt certain standards that are more stringent than standards in the International Building Code; requiring that guest rooms in newly constructed hotels be equipped with a certain device that turns off lighting fixtures after a certain period of time; authorizing the required device to control heating, ventilation, or air conditioning default settings in a certain manner; requiring the Department to adopt certain provisions of law as a part of the Maryland Building Performance Standards; providing for the application of this Act; defining certain terms; and generally relating to requirements for energy conservation devices in hotels under the Maryland Building Performance Standards.

BY repealing and reenacting, with amendments,
Article – Public Safety
Section 12-503
Annotated Code of Maryland
(2011 Replacement Volume)

BY adding to
Article – Public Safety

Section 12–510
Annotated Code of Maryland
(2011 Replacement Volume)

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

Article – Public Safety

12–503.

(a) (1) The Department shall adopt by regulation, as the Maryland Building Performance Standards, the International Building Code, including the International Energy Conservation Code, with the modifications incorporated by the Department under subsection (b) of this section.

(2) The Department shall adopt each subsequent version of the Standards within 12 months after it is issued.

(b) (1) Before adopting each version of the Standards, the Department shall:

(i) review the International Building Code to determine whether modifications should be incorporated in the Standards;

(ii) consider changes to the International Building Code to enhance energy conservation and efficiency;

(iii) accept written comments;

(iv) consider any comments received; and

(v) hold a public hearing on each proposed modification.

(2) (i) Except as provided in subparagraph (ii) of this paragraph **AND § 12–510 OF THIS SUBTITLE**, the Department may not adopt, as part of the Standards, a modification of a building code requirement that is more stringent than the requirement in the International Building Code.

(ii) The Department may adopt energy conservation requirements that are more stringent than the requirements in the International Energy Conservation Code, but may not adopt energy conservation requirements that are less stringent than the requirements in the International Energy Conservation Code.

(c) The Standards apply to each building or structure in the State for which a building permit application is received by a local jurisdiction on or after August 1, 1995.

12-510.

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

(2) (I) "HOTEL" MEANS AN ESTABLISHMENT THAT OFFERS SLEEPING ACCOMMODATIONS FOR COMPENSATION.

(II) "HOTEL" DOES NOT INCLUDE A BED AND BREAKFAST ESTABLISHMENT.

(3) "MASTER CONTROL DEVICE" MEANS:

(I) A CONTROL THAT IS ACTIVATED WHEN A PERSON ENTERS THE ROOM THROUGH THE PRIMARY ROOM-ACCESS METHOD; OR

(II) AN OCCUPANCY SENSOR CONTROL THAT IS ACTIVATED BY A PERSON'S PRESENCE IN THE ROOM.

(B) THIS SECTION APPLIES ONLY TO THE NEW CONSTRUCTION OF HOTELS.

(C) (1) EACH HOTEL GUEST ROOM SHALL BE EQUIPPED WITH A MASTER CONTROL DEVICE THAT AUTOMATICALLY TURNS OFF THE POWER TO ALL OF THE LIGHTING FIXTURES IN THE GUEST ROOM NO MORE THAN 30 MINUTES AFTER THE ROOM HAS BEEN VACATED.

(2) A MASTER CONTROL DEVICE MAY ALSO CONTROL THE HEATING, VENTILATION, OR AIR CONDITIONING DEFAULT SETTINGS IN HOTEL GUEST ROOMS 30 MINUTES AFTER A ROOM HAS BEEN VACATED BY:

(I) INCREASING THE SET TEMPERATURE BY AT LEAST 3 DEGREES FAHRENHEIT WHEN IN THE AIR CONDITIONING MODE; OR

(II) DECREASING THE SET TEMPERATURE BY AT LEAST 3 DEGREES FAHRENHEIT WHEN IN THE HEATING MODE.

(D) THE DEPARTMENT SHALL ADOPT THE PROVISIONS OF THIS SECTION AS A PART OF THE MARYLAND BUILDING PERFORMANCE STANDARDS.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to a building permit application submitted to a local jurisdiction under § 12–505(a) of the Public Safety Article and to industrialized building plans submitted to the Department of Housing and Community Development under Title 12, Subtitle 3 of the Public Safety Article on or after October 1, 2012.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 607

(House Bill 940)

AN ACT concerning

Maryland Building Performance Standards – Hotels – Mandatory Master Control Device

FOR the purpose of authorizing the Department of Housing and Community Development to adopt certain standards that are more stringent than standards in the International Building Code; requiring that guest rooms in newly constructed hotels be equipped with a certain device that turns off lighting fixtures after a certain period of time; authorizing the required device to control heating, ventilation, or air conditioning default settings in a certain manner; requiring the Department to adopt certain provisions of law as a part of the Maryland Building Performance Standards; providing for the application of this Act; defining certain terms; and generally relating to requirements for energy conservation devices in hotels under the Maryland Building Performance Standards.

BY repealing and reenacting, with amendments,

Article – Public Safety
Section 12–503
Annotated Code of Maryland
(2011 Replacement Volume)

BY adding to

Article – Public Safety
Section 12–510
Annotated Code of Maryland
(2011 Replacement Volume)

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

Article – Public Safety

12–503.

(a) (1) The Department shall adopt by regulation, as the Maryland Building Performance Standards, the International Building Code, including the International Energy Conservation Code, with the modifications incorporated by the Department under subsection (b) of this section.

(2) The Department shall adopt each subsequent version of the Standards within 12 months after it is issued.

(b) (1) Before adopting each version of the Standards, the Department shall:

(i) review the International Building Code to determine whether modifications should be incorporated in the Standards;

(ii) consider changes to the International Building Code to enhance energy conservation and efficiency;

(iii) accept written comments;

(iv) consider any comments received; and

(v) hold a public hearing on each proposed modification.

(2) (i) Except as provided in subparagraph (ii) of this paragraph **AND § 12–510 OF THIS SUBTITLE**, the Department may not adopt, as part of the Standards, a modification of a building code requirement that is more stringent than the requirement in the International Building Code.

(ii) The Department may adopt energy conservation requirements that are more stringent than the requirements in the International Energy Conservation Code, but may not adopt energy conservation requirements that are less stringent than the requirements in the International Energy Conservation Code.

(c) The Standards apply to each building or structure in the State for which a building permit application is received by a local jurisdiction on or after August 1, 1995.

12–510.

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

(2) (I) “HOTEL” MEANS AN ESTABLISHMENT THAT OFFERS SLEEPING ACCOMMODATIONS FOR COMPENSATION.

(II) “HOTEL” DOES NOT INCLUDE A BED AND BREAKFAST ESTABLISHMENT.

(3) “MASTER CONTROL DEVICE” MEANS:

(I) A CONTROL THAT IS ACTIVATED WHEN A PERSON ENTERS THE ROOM THROUGH THE PRIMARY ROOM-ACCESS METHOD; OR

(II) AN OCCUPANCY SENSOR CONTROL THAT IS ACTIVATED BY A PERSON’S PRESENCE IN THE ROOM.

(B) THIS SECTION APPLIES ONLY TO THE NEW CONSTRUCTION OF HOTELS.

(C) (1) EACH HOTEL GUEST ROOM SHALL BE EQUIPPED WITH A MASTER CONTROL DEVICE THAT AUTOMATICALLY TURNS OFF THE POWER TO ALL OF THE LIGHTING FIXTURES IN THE GUEST ROOM NO MORE THAN 30 MINUTES AFTER THE ROOM HAS BEEN VACATED.

(2) A MASTER CONTROL DEVICE MAY ALSO CONTROL THE HEATING, VENTILATION, OR AIR CONDITIONING DEFAULT SETTINGS IN HOTEL GUEST ROOMS 30 MINUTES AFTER A ROOM HAS BEEN VACATED BY:

(I) INCREASING THE SET TEMPERATURE BY AT LEAST 3 DEGREES FAHRENHEIT WHEN IN THE AIR CONDITIONING MODE; OR

(II) DECREASING THE SET TEMPERATURE BY AT LEAST 3 DEGREES FAHRENHEIT WHEN IN THE HEATING MODE.

(D) THE DEPARTMENT SHALL ADOPT THE PROVISIONS OF THIS SECTION AS A PART OF THE MARYLAND BUILDING PERFORMANCE STANDARDS.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to a building permit application submitted to a local jurisdiction under § 12-505(a) of the Public Safety Article and to industrialized building plans submitted to the Department of Housing and Community Development under Title 12, Subtitle 3 of the Public Safety Article on or after October 1, 2012.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 608

(Senate Bill 880)

AN ACT concerning

State Retirement and Pension System – Transfer of Members Between Systems

FOR the purpose of providing that if an individual who was a member of one of the several systems in the State Retirement and Pension System on a certain date becomes a member of another one of the several systems on or after a certain date, the individual shall be considered to be a new member of the subsequent system as of a certain date, ~~but is subject to certain requirements that were in place for the subsequent system on a certain date;~~ and is subject to the same requirements to which an individual who was a member of the subsequent system on a certain date and remains a member on a certain date is subject; providing for the application of this Act; and generally relating to the transfer of members between the State retirement and pension systems on or after a certain date.

BY adding to

Article – State Personnel and Pensions

Section 23–215.2, 24–208, 25–207, and 26–207

Annotated Code of Maryland

(2009 Replacement Volume and 2011 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

23–215.2.

IF AN INDIVIDUAL WAS A MEMBER OF ANY ONE OF THE SEVERAL SYSTEMS ON JUNE 30, 2011, AND WITHOUT INCURRING A BREAK IN ~~SERVICE EMPLOYMENT~~ OF MORE THAN 30 DAYS, BECOMES A MEMBER OF THE EMPLOYEES' PENSION SYSTEM OR THE TEACHERS' PENSION SYSTEM ON OR AFTER JULY 1, 2011, THE INDIVIDUAL:

(1) SHALL BE CONSIDERED TO BE A NEW MEMBER OF THE EMPLOYEES' PENSION SYSTEM OR THE TEACHERS' PENSION SYSTEM AS OF THE DATE THE INDIVIDUAL JOINS THE SYSTEM, ~~BUT~~; AND

(2) IS SUBJECT TO THE SAME REQUIREMENTS ~~THAT WERE IN PLACE FOR THE EMPLOYEES' PENSION SYSTEM OR THE TEACHERS' PENSION SYSTEM ON JUNE 30, 2011, INCLUDING EMPLOYEE CONTRIBUTION RATES, ELIGIBILITY REQUIREMENTS, AND VESTING REQUIREMENTS~~ TO WHICH AN INDIVIDUAL WHO WAS A MEMBER OF THE EMPLOYEES' PENSION SYSTEM OR TEACHERS' PENSION SYSTEM ON JUNE 30, 2011, AND REMAINS A MEMBER ON JULY 1, 2011, IS SUBJECT.

24-208.

IF AN INDIVIDUAL WAS A MEMBER OF ANY ONE OF THE SEVERAL SYSTEMS ON JUNE 30, 2011, AND WITHOUT INCURRING A BREAK IN ~~SERVICE~~ EMPLOYMENT OF MORE THAN 30 DAYS, BECOMES A MEMBER OF THE STATE POLICE RETIREMENT SYSTEM ON OR AFTER JULY 1, 2011, THE INDIVIDUAL:

(1) SHALL BE CONSIDERED TO BE A NEW MEMBER OF THE STATE POLICE RETIREMENT SYSTEM AS OF THE DATE THE INDIVIDUAL JOINS THE SYSTEM, ~~BUT~~; AND

(2) IS SUBJECT TO THE SAME REQUIREMENTS ~~THAT WERE IN PLACE FOR THE STATE POLICE RETIREMENT SYSTEM ON JUNE 30, 2011, INCLUDING EMPLOYEE CONTRIBUTION RATES, ELIGIBILITY REQUIREMENTS, AND VESTING REQUIREMENTS~~ TO WHICH AN INDIVIDUAL WHO WAS A MEMBER OF THE STATE POLICE RETIREMENT SYSTEM ON JUNE 30, 2011, AND REMAINS A MEMBER ON JULY 1, 2011, IS SUBJECT.

25-207.

IF AN INDIVIDUAL WAS A MEMBER OF ANY ONE OF THE SEVERAL SYSTEMS ON JUNE 30, 2011, AND WITHOUT INCURRING A BREAK IN ~~SERVICE~~ EMPLOYMENT OF MORE THAN 30 DAYS, BECOMES A MEMBER OF THE CORRECTIONAL OFFICERS' RETIREMENT SYSTEM ON OR AFTER JULY 1, 2011, THE INDIVIDUAL:

(1) SHALL BE CONSIDERED TO BE A NEW MEMBER OF THE CORRECTIONAL OFFICERS' RETIREMENT SYSTEM AS OF THE DATE THE INDIVIDUAL JOINS THE SYSTEM, ~~BUT~~; AND

(2) IS SUBJECT TO THE SAME REQUIREMENTS THAT WERE IN PLACE FOR THE CORRECTIONAL OFFICERS' RETIREMENT SYSTEM ON JUNE 30, 2011, INCLUDING EMPLOYEE CONTRIBUTION RATES, ELIGIBILITY REQUIREMENTS, AND VESTING REQUIREMENTS TO WHICH AN INDIVIDUAL WHO WAS A MEMBER OF THE CORRECTIONAL OFFICERS' RETIREMENT SYSTEM ON JUNE 30, 2011, AND REMAINS A MEMBER ON JULY 1, 2011, IS SUBJECT.

26-207.

IF AN INDIVIDUAL WAS A MEMBER OF ANY ONE OF THE SEVERAL SYSTEMS ON JUNE 30, 2011, AND WITHOUT INCURRING A BREAK IN ~~SERVICE~~ EMPLOYMENT OF MORE THAN 30 DAYS, BECOMES A MEMBER OF THE LAW ENFORCEMENT OFFICERS' PENSION SYSTEM ON OR AFTER JULY 1, 2011, THE INDIVIDUAL:

(1) SHALL BE CONSIDERED TO BE A NEW MEMBER OF THE LAW ENFORCEMENT OFFICERS' PENSION SYSTEM AS OF THE DATE THE INDIVIDUAL JOINS THE SYSTEM, BUT; AND

(2) IS SUBJECT TO THE SAME REQUIREMENTS THAT WERE IN PLACE FOR THE LAW ENFORCEMENT OFFICERS' PENSION SYSTEM ON JUNE 30, 2011, INCLUDING EMPLOYEE CONTRIBUTION RATES, ELIGIBILITY REQUIREMENTS, AND VESTING REQUIREMENTS TO WHICH AN INDIVIDUAL WHO WAS A MEMBER OF THE LAW ENFORCEMENT OFFICERS' PENSION SYSTEM ON JUNE 30, 2011, AND REMAINS A MEMBER ON JULY 1, 2011, IS SUBJECT.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply retroactively and shall be applied to and interpreted to affect individuals who were members of one of the several systems on June 30, 2011, and became members of another one of the several systems on or after July 1, 2011.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 609

(House Bill 801)

AN ACT concerning

State Retirement and Pension System – Transfer of Members Between Systems

FOR the purpose of providing that if an individual who was a member of one of the several systems in the State Retirement and Pension System on a certain date becomes a member of another one of the several systems on or after a certain date, the individual shall be considered to be a new member of the subsequent system as of a certain date, ~~but is subject to certain requirements that were in place for the subsequent system on a certain date;~~ and is subject to the same requirements to which an individual who was a member of the subsequent system on a certain date and remains a member on a certain date is subject; providing for the application of this Act; and generally relating to the transfer of members between the State retirement and pension systems on or after a certain date.

BY adding to

Article – State Personnel and Pensions

Section 23–215.2, 24–208, 25–207, and 26–207

Annotated Code of Maryland

(2009 Replacement Volume and 2011 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

23–215.2.

IF AN INDIVIDUAL WAS A MEMBER OF ANY ONE OF THE SEVERAL SYSTEMS ON JUNE 30, 2011, AND WITHOUT INCURRING A BREAK IN ~~SERVICE~~ EMPLOYMENT OF MORE THAN 30 DAYS, BECOMES A MEMBER OF THE EMPLOYEES' PENSION SYSTEM OR THE TEACHERS' PENSION SYSTEM ON OR AFTER JULY 1, 2011, THE INDIVIDUAL:

(1) SHALL BE CONSIDERED TO BE A NEW MEMBER OF THE EMPLOYEES' PENSION SYSTEM OR THE TEACHERS' PENSION SYSTEM AS OF THE DATE THE INDIVIDUAL JOINS THE SYSTEM, ~~BUT;~~ AND

(2) IS SUBJECT TO THE SAME REQUIREMENTS ~~THAT WERE IN PLACE FOR THE EMPLOYEES' PENSION SYSTEM OR THE TEACHERS' PENSION SYSTEM ON JUNE 30, 2011, INCLUDING EMPLOYEE CONTRIBUTION RATES, ELIGIBILITY REQUIREMENTS, AND VESTING REQUIREMENTS~~ TO WHICH AN INDIVIDUAL WHO WAS A MEMBER OF THE EMPLOYEES' PENSION SYSTEM OR THE TEACHERS' PENSION SYSTEM ON JUNE 30, 2011, AND REMAINS A MEMBER ON JULY 1, 2011, IS SUBJECT.

24-208.

IF AN INDIVIDUAL WAS A MEMBER OF ANY ONE OF THE SEVERAL SYSTEMS ON **JUNE 30, 2011**, AND WITHOUT INCURRING A BREAK IN ~~SERVICE~~ EMPLOYMENT OF MORE THAN 30 DAYS, BECOMES A MEMBER OF THE STATE POLICE RETIREMENT SYSTEM ON OR AFTER **JULY 1, 2011**, THE INDIVIDUAL:

(1) SHALL BE CONSIDERED TO BE A NEW MEMBER OF THE STATE POLICE RETIREMENT SYSTEM AS OF THE DATE THE INDIVIDUAL JOINS THE SYSTEM, ~~BUT~~; AND

(2) IS SUBJECT TO THE SAME REQUIREMENTS ~~THAT WERE IN PLACE FOR THE STATE POLICE RETIREMENT SYSTEM ON JUNE 30, 2011, INCLUDING EMPLOYEE CONTRIBUTION RATES, ELIGIBILITY REQUIREMENTS, AND VESTING REQUIREMENTS~~ TO WHICH AN INDIVIDUAL WHO WAS A MEMBER OF THE STATE POLICE RETIREMENT SYSTEM ON **JUNE 30, 2011**, AND REMAINS A MEMBER ON **JULY 1, 2011**, IS SUBJECT.

25-207.

IF AN INDIVIDUAL WAS A MEMBER OF ANY ONE OF THE SEVERAL SYSTEMS ON **JUNE 30, 2011**, AND WITHOUT INCURRING A BREAK IN ~~SERVICE~~ EMPLOYMENT OF MORE THAN 30 DAYS, BECOMES A MEMBER OF THE CORRECTIONAL OFFICERS' RETIREMENT SYSTEM ON OR AFTER **JULY 1, 2011**, THE INDIVIDUAL:

(1) SHALL BE CONSIDERED TO BE A NEW MEMBER OF THE CORRECTIONAL OFFICERS' RETIREMENT SYSTEM AS OF THE DATE THE INDIVIDUAL JOINS THE SYSTEM, ~~BUT~~; AND

(2) IS SUBJECT TO THE SAME REQUIREMENTS ~~THAT WERE IN PLACE FOR THE CORRECTIONAL OFFICERS' RETIREMENT SYSTEM ON JUNE 30, 2011, INCLUDING EMPLOYEE CONTRIBUTION RATES, ELIGIBILITY REQUIREMENTS, AND VESTING REQUIREMENTS~~ TO WHICH AN INDIVIDUAL WHO WAS A MEMBER OF THE CORRECTIONAL OFFICERS' RETIREMENT SYSTEM ON **JUNE 30, 2011**, AND REMAINS A MEMBER ON **JULY 1, 2011**, IS SUBJECT.

26-207.

IF AN INDIVIDUAL WAS A MEMBER OF ANY ONE OF THE SEVERAL SYSTEMS ON **JUNE 30, 2011**, AND WITHOUT INCURRING A BREAK IN ~~SERVICE~~ EMPLOYMENT OF MORE THAN 30 DAYS, BECOMES A MEMBER OF THE LAW ENFORCEMENT OFFICERS' PENSION SYSTEM ON OR AFTER **JULY 1, 2011**, THE INDIVIDUAL:

(1) SHALL BE CONSIDERED TO BE A NEW MEMBER OF THE LAW ENFORCEMENT OFFICERS' PENSION SYSTEM AS OF THE DATE THE INDIVIDUAL JOINS THE SYSTEM, ~~BUT~~; AND

(2) IS SUBJECT TO THE SAME REQUIREMENTS THAT WERE IN PLACE FOR THE LAW ENFORCEMENT OFFICERS' PENSION SYSTEM ON JUNE 30, 2011, INCLUDING EMPLOYEE CONTRIBUTION RATES, ELIGIBILITY REQUIREMENTS, AND VESTING REQUIREMENTS TO WHICH AN INDIVIDUAL WHO WAS A MEMBER OF THE LAW ENFORCEMENT OFFICERS' PENSION SYSTEM ON JUNE 30, 2011, AND REMAINS A MEMBER ON JULY 1, 2011, IS SUBJECT.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply retroactively and shall be applied to and interpreted to affect individuals who were members of one of the several systems on June 30, 2011, and became members of another one of the several systems on or after July 1, 2011.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 610

(Senate Bill 885)

AN ACT concerning

~~Correctional Services~~ **Parole and Probation – Employee Caseloads – Disciplinary Actions**

FOR the purpose of requiring the Division of Parole and Probation to ~~establish~~ consider a certain ~~standard~~ caseload for parole and probation employees; ~~requiring the caseload standard to be considered during~~ when considering employee disciplinary actions; and generally relating to the performance of Division of Parole and Probation employees.

BY repealing and reenacting, ~~with~~ without amendments,
 Article – Correctional Services
 Section 6–104
 Annotated Code of Maryland
 (2008 Replacement Volume and 2011 Supplement)

BY adding to

Article – Correctional Services
 Section 6–117
 Annotated Code of Maryland
 (2008 Replacement Volume and 2011 Supplement)

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

Article – Correctional Services

6–104.

(a) Subject to the authority of the Secretary and in addition to any other duties established by law, the Division:

(1) shall:

(i) supervise the conduct of parolees;

(ii) supervise an individual under mandatory supervision until the expiration of the individual's maximum term or terms of confinement;

~~(iii) ESTABLISH A STANDARD CASELOAD FOR PAROLE AND PROBATION EMPLOYEES IN ACCORDANCE WITH § 6-117 OF THIS SUBTITLE;~~

~~[(iii)] (iv)~~ regularly inform the Commission of the activities of offenders who are supervised by the Division;

~~[(iv)] (v)~~ issue a warrant for the retaking of an offender charged with a violation of a condition of parole or mandatory supervision, if this authority is delegated by the Commission to the Director of the Division; and

~~[(v)] (vi)~~ administer the Drinking Driver Monitor Program, collect supervision fees, and adopt guidelines for collecting the monthly program fee assessed in accordance with § 6–115 of this subtitle; and

(2) may recommend:

(i) that the Commission modify any condition of parole or mandatory supervision; and

(ii) that the Commission issue a warrant for the retaking of an offender.

(b) Funding for the Drinking Driver Monitor Program shall be as provided in the State budget.

6-117.

~~THE~~ WHEN CONSIDERING DISCIPLINARY ACTION RELATED TO THE PERFORMANCE OF A PAROLE AND PROBATION EMPLOYEE, THE DIVISION SHALL:

~~(1) ESTABLISH A STANDARD CASELOAD FOR PAROLE AND PROBATION EMPLOYEES OF 60 ACTIVE CASES; AND~~

~~(2) CONSIDER THE CASELOAD STANDARD UNDER PARAGRAPH (1) OF THIS SECTION WHEN CONSIDERING DISCIPLINARY ACTIONS RELATED TO EMPLOYEE PERFORMANCE~~ CONSIDER THE SIZE OF THE EMPLOYEE'S ACTIVE CASELOAD AND THE CLASSIFICATION OF THE OFFENDERS WITHIN THE EMPLOYEE'S ACTIVE CASELOAD AT THE TIME OF THE EVENT GIVING RISE TO THE CONSIDERATION OF DISCIPLINARY ACTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 611

(House Bill 1121)

AN ACT concerning

~~Correctional Services~~ Parole and Probation – Employee Caseloads –
Disciplinary Actions

FOR the purpose of requiring the Division of Parole and Probation to ~~establish~~ consider a certain ~~standard~~ caseload for parole and probation employees; ~~requiring the caseload standard to be considered during~~ when considering employee disciplinary actions; and generally relating to the performance of Division of Parole and Probation employees.

BY repealing and reenacting, ~~with~~ without amendments,
 Article – Correctional Services
 Section 6-104
 Annotated Code of Maryland
 (2008 Replacement Volume and 2011 Supplement)

BY adding to

Article – Correctional Services
 Section 6–117
 Annotated Code of Maryland
 (2008 Replacement Volume and 2011 Supplement)

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

Article – Correctional Services

6–104.

(a) Subject to the authority of the Secretary and in addition to any other duties established by law, the Division:

(1) shall:

(i) supervise the conduct of parolees;

(ii) supervise an individual under mandatory supervision until the expiration of the individual's maximum term or terms of confinement;

~~(iii) ESTABLISH A STANDARD CASELOAD FOR PAROLE AND PROBATION EMPLOYEES IN ACCORDANCE WITH § 6-117 OF THIS SUBTITLE;~~

~~[(iii)] (iv)~~ regularly inform the Commission of the activities of offenders who are supervised by the Division;

~~[(iv)] (v)~~ issue a warrant for the retaking of an offender charged with a violation of a condition of parole or mandatory supervision, if this authority is delegated by the Commission to the Director of the Division; and

~~[(v)] (vi)~~ administer the Drinking Driver Monitor Program, collect supervision fees, and adopt guidelines for collecting the monthly program fee assessed in accordance with § 6–115 of this subtitle; and

(2) may recommend:

(i) that the Commission modify any condition of parole or mandatory supervision; and

(ii) that the Commission issue a warrant for the retaking of an offender.

(b) Funding for the Drinking Driver Monitor Program shall be as provided in the State budget.

6-117.

~~THE~~ WHEN CONSIDERING DISCIPLINARY ACTION RELATED TO THE PERFORMANCE OF A PAROLE AND PROBATION EMPLOYEE, THE DIVISION SHALL:

~~(1) ESTABLISH A STANDARD CASELOAD FOR PAROLE AND PROBATION EMPLOYEES OF 60 ACTIVE CASES; AND~~

~~(2) CONSIDER THE CASELOAD STANDARD UNDER PARAGRAPH (1) OF THIS SECTION WHEN CONSIDERING DISCIPLINARY ACTIONS RELATED TO EMPLOYEE PERFORMANCE~~ CONSIDER THE SIZE OF THE EMPLOYEE'S ACTIVE CASELOAD AND THE CLASSIFICATION OF THE OFFENDERS WITHIN THE EMPLOYEE'S ACTIVE CASELOAD AT THE TIME OF THE EVENT GIVING RISE TO THE CONSIDERATION OF DISCIPLINARY ACTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 612

(Senate Bill 894)

AN ACT concerning

Baltimore City – Representation of Child Support Enforcement Administration – Transfer of Employees

FOR the purpose of requiring that, if the ~~Office of the Attorney General~~ Department of Human Resources ~~hires~~ Office of the Attorney General appoints certain individuals who were employees of the Office of the State's Attorney for Baltimore City who were providing certain services for the Child Support Enforcement Administration during a certain period and continue providing certain services on or after a certain date, the employees shall be placed in certain positions in the State Personnel Management System and receive certain employment rights, service credit for certain purposes, certain annual or sick leave, and certain rights as a member of the Employees' Pension System of the State of Maryland and for determining eligibility for certain other benefits; requiring certain employees who transfer service credit from the Employees' Retirement System of the City of Baltimore to be subject to a certain pension selection or pension benefit; providing certain exceptions for certain employees

who retire or do not transfer service credit from the Employees' Retirement System of the City of Baltimore; requiring Baltimore City, under certain circumstances, to make certain payments to certain employees and to transfer certain ~~pension~~ *employer* contributions *and interest* in a certain manner; declaring certain findings and the intent of the General Assembly; and generally relating to the transfer of certain employees from the Office of the State's Attorney for Baltimore City to ~~the~~ *position identification numbers in the Office of the Attorney General* Department of Human Resources.

BY repealing and reenacting, without amendments,
 Article – Family Law
 Section 10–115(g)
 Annotated Code of Maryland
 (2006 Replacement Volume and 2011 Supplement)

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

Article – Family Law

10–115.

(g) (1) A State's Attorney may make a written agreement with the Secretary of Human Resources and the county to provide legal representation for a fiscal year. An agreement shall be made by September 1 of the year preceding the fiscal year for which representation will be provided.

(2) An agreement shall establish reasonable administrative and fiscal requirements for:

- (i) providing and continuing representation; and
- (ii) reimbursement.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) The General Assembly finds that the Office of the State's Attorney for Baltimore City has given notice in accordance with § 10–115(g)(1) of the Family Law Article that, after September 30, 2012, the Office will no longer elect to provide legal representation to the Child Support Enforcement Administration of the Department of Human Resources in Baltimore City.

(b) For each of the 11 attorney positions and 1 clerical supervisor position in the 2012 agreement between the Child Support Enforcement Administration and the Office of the State's Attorney for Baltimore City, it is the intent of the General Assembly that a position identification number be created in the ~~Office of the Attorney General~~ Department of Human Resources.

(c) ~~If the Office of the Attorney General Department of Human Resources hires~~ an employee of the Office of the State's Attorney for Baltimore City who provides services under the 2012 agreement between the Child Support Enforcement Administration and the Office of the State's Attorney for Baltimore City for the period between October 1, 2011, and September 30, 2012 is appointed by the Office of the Attorney General to continue providing services for the Child Support Enforcement Administration as a State employee on or after October 1, 2012:

(1) the employee:

(i) shall be placed in a position in the State Personnel Management System that is comparable to or most closely compares to their former position, without further examination or qualification, and with a salary grade that is commensurate with the hourly rate of salary of the employee from Baltimore City as of September 30, 2012;

(ii) may not receive a diminution in compensation solely as a result of the election by the Office of the State's Attorney for Baltimore City to no longer provide legal services to the Child Support Enforcement Administration;

(iii) shall be credited with the years of service with Baltimore City for purposes of seniority, including the determination of leave accumulation and layoff rights under Title 11, Subtitle 2 of the State Personnel and Pensions Article;

(iv) unless the employee retires from the Employees' Retirement System of the City of Baltimore, may retain the amount of annual or sick leave to the employee's credit to the extent allowed by Baltimore City even if in excess of the amounts allowed to be retained annually under the State Personnel Management System; and

(v) unless the employee retires or otherwise does not transfer service credit from the Employees' Retirement System of the City of Baltimore,

~~1.~~ shall be credited with the years of service with Baltimore City for purposes of determining eligibility for participation as a retiree in the State Employee and Retiree Health and Welfare Benefits Program under ~~§ 2-308~~ § 2-508 of the State Personnel and Pensions Article based on the starting date for service with Baltimore City instead of the starting date of employment with the State; ~~and~~

~~2.~~ ~~shall become a member of the Employees' Pension System of the State of Maryland with a beginning date for membership, for purposes of determining which selection of benefits applies to the employee, to be the beginning date for membership in the Baltimore City Employees' Retirement System and shall be entitled to a transfer of service credit as provided in Title 37 of the State Personnel and Pensions Article;~~

(2) an employee who elects to transfer service credit from the Employees' Retirement System of the City of Baltimore to the Employees' Pension System of the State of Maryland as provided in Title 37 of the State Personnel and Pensions Article shall be subject to:

(i) the Alternate Contributory Pension Selection of the Employees' Pension System as provided under Title 23, Subtitle 2, Part III of the State Personnel and Pensions Article, if the beginning date of the employee's membership in the Baltimore City Employees' Retirement System was on or before June 30, 2011; or

(ii) the Reformed Contributory Pension Benefit of the Employees' Pension System as provided under Title 23, Subtitle 2, Part IV of the State Personnel and Pensions Article, if the beginning date of the employee's membership in the Baltimore City Employees' Retirement System was on or after July 1, 2011;

~~(2) (3)~~ an employee who elects to not transfer credit from the Employees' Retirement System of the City of Baltimore shall become a member of the Employees' Pension System of the State of Maryland as of the date of employment with the State, and may not receive service credit for the period of employment by Baltimore City; ~~and~~

~~(3) (4)~~ an employee who is eligible to retire from the Employees' Retirement System of the City of Baltimore on or before September 30, 2012, and elects to retire from the Employees' Retirement System upon commencing employment with the State:

~~(i) may retire from the Employees' Retirement System of the City of Baltimore;~~

~~(ii)~~ shall become a member of the Employees' Pension System of the State of Maryland as of the date of employment with the State, and may not receive service credit for the period of employment by Baltimore City; and

~~(iii) (i)~~ may not carry over any accumulated sick leave or annual leave to State service; and

~~(4) (5)~~ Baltimore City shall:

~~(i)~~ pay to each employee who transfers employment to the ~~Office of the Attorney General~~ State any compensation that is due to the employee on termination of employment with Baltimore City as of September 30, 2012, except for any accumulated leave that the employee elects to transfer to the State; and

~~(ii)~~ transfer ~~pension~~ employer contributions and interest for employees who transfer employment to the ~~Office of the Attorney General Department of Human Resources~~ State in accordance with ~~Title 27 § 37-205~~ of the State Personnel

and Pensions Article, except for any employees who retire or elect not to transfer service credit from the Employees' Retirement System of the City of Baltimore.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 613

(House Bill 1261)

AN ACT concerning

Baltimore City – Representation of Child Support Enforcement Administration – Transfer of Employees

FOR the purpose of requiring that, if the Office of the Attorney General ~~hires~~ appoints certain individuals who were employees of the Office of the State's Attorney for Baltimore City who were providing certain services for the Child Support Enforcement Administration during a certain period and continue providing certain services on or after a certain date, the employees shall be placed in certain positions in the State Personnel Management System and receive certain employment rights, service credit for certain purposes, certain annual or sick leave, and certain rights as a member of the Employees' Pension System of the State of Maryland and for determining eligibility for certain other benefits; requiring certain employees who transfer service credit from the Employees' Retirement System of the City of Baltimore to be subject to a certain pension selection or pension benefit; providing certain exceptions for certain employees who retire or do not transfer service credit from the Employees' Retirement System of the City of Baltimore; requiring Baltimore City, under certain circumstances, to make certain payments to certain employees and to transfer certain ~~pension~~ employer contributions and interest in a certain manner; declaring certain findings and the intent of the General Assembly; and generally relating to the transfer of certain employees from the Office of the State's Attorney for Baltimore City to ~~the Office of the Attorney General~~ position identification numbers in the Department of Human Resources.

BY repealing and reenacting, without amendments,
Article – Family Law
Section 10–115(g)
Annotated Code of Maryland
(2006 Replacement Volume and 2011 Supplement)

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

Article – Family Law

10–115.

(g) (1) A State's Attorney may make a written agreement with the Secretary of Human Resources and the county to provide legal representation for a fiscal year. An agreement shall be made by September 1 of the year preceding the fiscal year for which representation will be provided.

(2) An agreement shall establish reasonable administrative and fiscal requirements for:

- (i) providing and continuing representation; and
- (ii) reimbursement.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) The General Assembly finds that the Office of the State's Attorney for Baltimore City has given notice in accordance with § 10–115(g)(1) of the Family Law Article that, after September 30, 2012, the Office will no longer elect to provide legal representation to the Child Support Enforcement Administration of the Department of Human Resources in Baltimore City.

(b) For each of the 11 attorney positions and 1 clerical supervisor position in the 2012 agreement between the Child Support Enforcement Administration and the Office of the State's Attorney for Baltimore City, it is the intent of the General Assembly that a position identification number be created in the ~~Office of the Attorney General~~ Department of Human Resources.

(c) ~~If the Office of the Attorney General hires~~ an employee of the Office of the State's Attorney for Baltimore City who provides services under the 2012 agreement between the Child Support Enforcement Administration and the Office of the State's Attorney for Baltimore City for the period between October 1, 2011, and September 30, 2012 is appointed by the Office of the Attorney General to continue providing services for the Child Support Enforcement Administration as a State employee on or after October 1, 2012:

(1) the employee:

(i) shall be placed in a position in the State Personnel Management System that is comparable to or most closely compares to their former position, without further examination or qualification, and with a salary grade that is

commensurate with the hourly rate of salary of the employee from Baltimore City as of September 30, 2012;

(ii) may not receive a diminution in compensation solely as a result of the election by the Office of the State's Attorney for Baltimore City to no longer provide legal services to the Child Support Enforcement Administration;

(iii) shall be credited with the years of service with Baltimore City for purposes of seniority, including the determination of leave accumulation and layoff rights under Title 11, Subtitle 2 of the State Personnel and Pensions Article;

(iv) unless the employee retires from the Employees' Retirement System of the City of Baltimore, may retain the amount of annual or sick leave to the employee's credit to the extent allowed by Baltimore City even if in excess of the amounts allowed to be retained annually under the State Personnel Management System; and

(v) unless the employee retires or otherwise does not transfer service credit from the Employees' Retirement System of the City of Baltimore;

~~1.~~ shall be credited with the years of service with Baltimore City for purposes of determining eligibility for participation as a retiree in the State Employee and Retiree Health and Welfare Benefits Program under ~~§ 2-308~~ § 2-508 of the State Personnel and Pensions Article based on the starting date for service with Baltimore City instead of the starting date of employment with the State; ~~and~~

~~2. shall become a member of the Employees' Pension System of the State of Maryland with a beginning date for membership, for purposes of determining which selection of benefits applies to the employee, to be the beginning date for membership in the Baltimore City Employees' Retirement System and shall be entitled to a transfer of service credit as provided in Title 37 of the State Personnel and Pensions Article;~~

(2) an employee who elects to transfer service credit from the Employees' Retirement System of the City of Baltimore to the Employees' Pension System of the State of Maryland as provided in Title 37 of the State Personnel and Pensions Article shall be subject to:

(i) the Alternate Contributory Pension Selection of the Employees' Pension System as provided under Title 23, Subtitle 2, Part III of the State Personnel and Pensions Article, if the beginning date of the employee's membership in the Baltimore City Employees' Retirement System was on or before June 30, 2011; or

(ii) the Reformed Contributory Pension Benefit of the Employees' Pension System as provided under Title 23, Subtitle 2, Part IV of the State

Personnel and Pensions Article, if the beginning date of the employee's membership in the Baltimore City Employees' Retirement System was on or after July 1, 2011;

~~(2)~~ (3) an employee who elects to not transfer credit from the Employees' Retirement System of the City of Baltimore shall become a member of the Employees' Pension System of the State of Maryland as of the date of employment with the State, and may not receive service credit for the period of employment by Baltimore City; ~~and~~

~~(3)~~ (4) an employee who is eligible to retire from the Employees' Retirement System of the City of Baltimore on or before September 30, 2012, and elects to retire from the Employees' Retirement System upon commencing employment with the State:

(i) ~~may retire from the Employees' Retirement System of the City of Baltimore;~~

~~(ii)~~ shall become a member of the Employees' Pension System of the State of Maryland as of the date of employment with the State, and may not receive service credit for the period of employment by Baltimore City; and

~~(iii)~~ (ii) may not carry over any accumulated sick leave or annual leave to State service; and

~~(4)~~ (5) Baltimore City shall:

(i) pay to each employee who transfers employment to the ~~Office of the Attorney General~~ State any compensation that is due to the employee on termination of employment with Baltimore City as of September 30, 2012, except for any accumulated leave that the employee elects to transfer to the State; and

(ii) transfer ~~pension~~ employer contributions and interest for employees who transfer employment to the ~~Office of the Attorney General~~ State in accordance with ~~Title 37 § 37-205~~ of the State Personnel and Pensions Article, except for any employees who retire or elect not to transfer service credit from the Employees' Retirement System of the City of Baltimore.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 22, 2012.

AN ACT concerning

Maryland State Board of Morticians and Funeral Directors – Permits and Registration Required to Remove and Transport Human Remains

FOR the purpose of requiring a mortuary transport service to hold a permit issued by the Maryland State Board of Morticians and Funeral Directors before removing or transporting human remains in this State; ~~authorizing the Board to restrict the operations of certain permit holders;~~ establishing certain application requirements for obtaining a permit; requiring a mortuary transport service to meet certain standards to qualify for a permit; requiring permit holders to use vehicles that have passed an inspection by certain inspectors; requiring certain permit holders to employ only certain registered transporters for certain purposes; establishing the term and procedures for the renewal of a permit; requiring that certain signs and advertisements display the name that appears on a permit; requiring that individuals employed by certain permit holders be registered with the Board before removing and transporting human remains; establishing certain requirements for obtaining registration; requiring the Board to register an individual who meets certain standards; requiring that registered transporters treat certain decedents with certain dignity and display a certain permit; authorizing the Board to deny a permit or registration to an applicant, reprimand a permit holder or registered transporter, or suspend or revoke a permit or registration under certain circumstances; providing for certain criminal and civil penalties; requiring the Board to adopt certain regulations; defining certain terms; and generally relating to the Maryland State Board of Morticians and Funeral Directors and requiring permits and registration for removing and transporting human remains.

BY renumbering

Article – Health Occupations

Section 7–601 and 7–602, respectively, and the subtitle “Subtitle 6. Short Title; Termination of Title”

to be Section 7–701 and 7–702, respectively, and the subtitle “Subtitle 7. Short Title; Termination of Title”

Annotated Code of Maryland

(2009 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, without amendments,

Article – Health Occupations

Section 7–101(a), (d), (k), (l), and (p)

Annotated Code of Maryland

(2009 Replacement Volume and 2011 Supplement)

BY adding to

Article – Health Occupations

Section 7-601 through ~~7-606~~ 7-607 to be under the new subtitle "Subtitle 6. Mortuary Transport Services"
Annotated Code of Maryland
(2009 Replacement Volume and 2011 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 7-601 and 7-602, respectively, and the subtitle "Subtitle 6. Short Title; Termination of Title" of Article – Health Occupations of the Annotated Code of Maryland be renumbered to be Section(s) 7-701 and 7-702, respectively, and the subtitle "Subtitle 7. Short Title; Termination of Title".

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

Article – Health Occupations

7-101.

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

(d) "Board" means the Maryland State Board of Morticians and Funeral Directors.

(k) "Funeral establishment" means any building, structure, or premises from which the business of practicing mortuary science is conducted.

(l) (1) "Human remains" means:

(i) The body of a deceased person; or

(ii) A part of a body or limb that has been removed from a living person.

(2) "Human remains" includes the body or part of a body or limb in any state of decomposition.

(p) "Licensed funeral establishment" means, unless the context requires otherwise, a funeral establishment that is licensed by the Board.

SUBTITLE 6. MORTUARY TRANSPORT SERVICES.

7-601.

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

(B) (1) “MORTUARY TRANSPORT SERVICE” MEANS AN INDIVIDUAL OR A BUSINESS ENTITY THAT, FOR COMPENSATION, REMOVES AND TRANSPORTS HUMAN REMAINS OR EMPLOYS A TRANSPORTER TO REMOVE OR TRANSPORT HUMAN REMAINS.

(2) “MORTUARY TRANSPORT SERVICE” DOES NOT INCLUDE ~~A~~:

(I) A LICENSED FUNERAL ESTABLISHMENT OR AN EMPLOYEE OF A LICENSED FUNERAL ESTABLISHMENT THAT REMOVES AND TRANSPORTS HUMAN REMAINS; OR

(II) A CEMETERY OR AN EMPLOYEE OF A CEMETERY THAT REMOVES OR TRANSPORTS HUMAN REMAINS WITHIN THE BOUNDARIES OF THE CEMETERY.

(C) “PERMIT” MEANS A PERMIT ISSUED BY THE BOARD TO THE OWNER OF A MORTUARY TRANSPORT SERVICE TO OPERATE IN THE STATE.

(D) “PERMIT HOLDER” MEANS A MORTUARY TRANSPORT SERVICE THAT HOLDS A PERMIT ISSUED BY THE BOARD.

(E) “REGISTERED TRANSPORTER” MEANS AN INDIVIDUAL EMPLOYEE OF A MORTUARY TRANSPORT SERVICE WHO HAS REGISTERED WITH THE BOARD TO REMOVE AND TRANSPORT HUMAN REMAINS.

(F) “REMOVE AND TRANSPORT HUMAN REMAINS” MEANS TO REMOVE HUMAN REMAINS FROM ONE LOCATION AND TRANSPORT THE HUMAN REMAINS TO ANOTHER LOCATION.

(G) “TRANSPORTER” MEANS AN INDIVIDUAL WHO REMOVES AND TRANSPORTS HUMAN REMAINS.

7-602.

(A) ~~(1)~~ A MORTUARY TRANSPORT SERVICE SHALL BE ISSUED A PERMIT BY THE BOARD BEFORE THE MORTUARY TRANSPORT SERVICE MAY REMOVE AND TRANSPORT HUMAN REMAINS IN THIS STATE.

~~(2) A PERMIT HOLDER MAY BE RESTRICTED TO OPERATIONS TO REMOVE AND TRANSPORT HUMAN REMAINS AS DETERMINED BY THE BOARD.~~

(B) (1) TO APPLY FOR A PERMIT, A MORTUARY TRANSPORT SERVICE SHALL SUBMIT TO THE BOARD:

(I) AN APPLICATION ON THE FORM THAT THE BOARD REQUIRES;

(II) AN APPLICATION FEE SET BY THE BOARD; AND

(III) EVIDENCE THAT THE MORTUARY TRANSPORT SERVICE HOLDS A BOND AT THE TIME OF APPLICATION OR HAS THE ABILITY TO SECURE A BOND IS BONDED AND CARRIES LIABILITY INSURANCE THAT COVERS EACH REGISTERED TRANSPORTER EMPLOYED BY THE MORTUARY TRANSPORT SERVICE.

(2) AN APPLICATION FOR A PERMIT SHALL BE SIGNED BY AN INDIVIDUAL WHO IS THE OWNER OR A CO-OWNER OF THE MORTUARY TRANSPORT SERVICE TO BE ISSUED A PERMIT.

(C) TO QUALIFY FOR A PERMIT, A MORTUARY TRANSPORT SERVICE SHALL SATISFY THE BOARD THAT THE MORTUARY TRANSPORT SERVICE:

(1) HAS COMPLIED WITH ALL APPLICABLE STATE AND LOCAL LAWS;

(2) WILL BE OWNED AND OPERATED IN ACCORDANCE WITH THIS SUBTITLE; AND

(3) WHILE THE MORTUARY TRANSPORT SERVICE REMOVES AND TRANSPORTS HUMAN REMAINS, WILL BE HELD RESPONSIBLE FOR THE TREATMENT OF THE HUMAN REMAINS.

(D) (1) A PERMIT HOLDER SHALL USE VEHICLES THAT HAVE PASSED AN INSPECTION BY AN INSPECTOR DESIGNATED BY THE BOARD WHILE THE PERMIT HOLDER REMOVES AND TRANSPORTS HUMAN REMAINS.

(2) A PERMIT HOLDER SHALL EMPLOY ONLY REGISTERED TRANSPORTERS TO REMOVE AND TRANSPORT HUMAN REMAINS.

(E) (1) (I) A PERMIT ISSUED UNDER THIS SUBTITLE SHALL EXPIRE ON THE DATE SET BY THE BOARD.

(II) A PERMIT MAY NOT BE RENEWED FOR A TERM LONGER THAN 2 YEARS.

(2) A PERMIT HOLDER MAY RENEW A PERMIT FOR ADDITIONAL TERMS, IF THE PERMIT HOLDER:

(I) SUBMITS TO THE BOARD:

1. AN APPLICATION ON THE FORM THAT THE BOARD
REQUIRES; AND

2. AN APPLICATION FEE SET BY THE BOARD; AND

(II) COMPLIES WITH ANY OTHER RENEWAL REQUIREMENTS
ESTABLISHED BY THE BOARD.

(F) SIGNS AND ADVERTISEMENTS FOR A MORTUARY TRANSPORT
SERVICE SHALL DISPLAY THE NAME OF THE MORTUARY TRANSPORT SERVICE AS
IT APPEARS ON THE PERMIT.

7-603.

(A) AN INDIVIDUAL EMPLOYED BY A PERMIT HOLDER SHALL BE
REGISTERED WITH THE BOARD AS A TRANSPORTER BEFORE THE INDIVIDUAL
MAY REMOVE AND TRANSPORT HUMAN REMAINS.

(B) TO REGISTER AS A TRANSPORTER, AN INDIVIDUAL SHALL SUBMIT
TO THE BOARD:

(1) A SIGNED APPLICATION ON THE FORM THAT THE BOARD
REQUIRES; ~~AND~~

~~(2) A REGISTRATION FEE SET BY THE BOARD;~~

~~(2) A CRIMINAL HISTORY RECORDS CHECK; AND~~

~~(3) (2) (3) EVIDENCE OF THE COMPLETION OF COURSEWORK
RECOMMENDED BY THE BOARD; ~~AND~~~~

~~(4) EVIDENCE THAT THE INDIVIDUAL IS BONDED AND CARRIES
LIABILITY INSURANCE.~~

(C) THE BOARD SHALL REGISTER AN INDIVIDUAL WHO:

(1) HOLDS A VALID ~~MARYLAND~~ DRIVER'S LICENSE; AND

(2) HAS COMPLIED WITH ALL APPLICABLE STATE AND LOCAL
LAWS.

(D) WHILE A REGISTERED TRANSPORTER REMOVES AND TRANSPORTS HUMAN REMAINS OR OTHERWISE ACTS IN THE CAPACITY OF A REGISTERED TRANSPORTER, THE REGISTERED TRANSPORTER SHALL:

- (1) TREAT EVERY DECEDENT WITH THE UTMOST DIGNITY; AND**
- (2) PROMINENTLY DISPLAY ON THEIR PERSON THE PERMIT FOR THE MORTUARY TRANSPORT SERVICE FOR WHICH THE TRANSPORTER IS EMPLOYED.**

7-604.

SUBJECT TO THE HEARING PROVISIONS OF § 7-319 OF THIS TITLE, THE BOARD MAY DENY A PERMIT OR REGISTRATION TO ANY APPLICANT, REPRIMAND ANY PERMIT HOLDER OR REGISTERED TRANSPORTER, PLACE ANY PERMIT HOLDER OR REGISTERED TRANSPORTER ON PROBATION, OR SUSPEND OR REVOKE ANY PERMIT OR REGISTRATION IF THE APPLICANT, PERMIT HOLDER, OR REGISTERED TRANSPORTER:

- (1) FRAUDULENTLY OR DECEPTIVELY OBTAINS OR ATTEMPTS TO OBTAIN A PERMIT OR REGISTRATION FOR THE APPLICANT, PERMIT HOLDER, REGISTERED TRANSPORTER, OR ANOTHER;**
- (2) FRAUDULENTLY OR DECEPTIVELY USES A PERMIT OR REGISTRATION;**
- (3) COMMITS FRAUD OR MISREPRESENTATION WHILE THE APPLICANT, PERMIT HOLDER, OR REGISTERED TRANSPORTER REMOVES AND TRANSPORTS HUMAN REMAINS;**
- (4) IS CONVICTED OF OR PLEADS GUILTY OR NOLO CONTENDERE TO A FELONY OR TO A CRIME INVOLVING MORAL TURPITUDE, WHETHER OR NOT ANY APPEAL OR OTHER PROCEEDING IS PENDING TO HAVE THE CONVICTION OR PLEA SET ASIDE;**
- (5) AIDS OR ABETS AN UNAUTHORIZED PERSON TO REMOVE AND TRANSPORT HUMAN REMAINS;**
- (6) ADVERTISES FALSELY OR IN A MISLEADING MANNER;**
- (7) SOLICITS TO REMOVE AND TRANSPORT HUMAN REMAINS, EITHER PERSONALLY OR BY AN AGENT, FROM A DYING INDIVIDUAL OR THE RELATIVES OF A DEAD OR DYING INDIVIDUAL, OTHER THAN THROUGH GENERAL ADVERTISING;**

(8) EMPLOYS, PAYS, OR OFFERS TO PAY A “CAPPER”, “STEERER”, “SOLICITOR”, OR ANY OTHER PERSON TO OBTAIN BUSINESS, EITHER IN GENERAL OR FOR A PERMIT HOLDER OR REGISTERED TRANSPORTER;

(9) DIRECTLY OR INDIRECTLY PAYS OR OFFERS TO PAY TO OBTAIN BUSINESS TO REMOVE AND TRANSPORT HUMAN REMAINS;

(10) SOLICITS OR ACCEPTS ANY PAYMENT OR REBATE FOR RECOMMENDING ANY CREMATORY, MAUSOLEUM, OR CEMETERY OR CAUSING HUMAN REMAINS TO BE DISPOSED OF THERE;

(11) REFUSES TO SURRENDER CUSTODY OF HUMAN REMAINS ON THE DEMAND OF A PERSON WHO IS ENTITLED TO THEIR CUSTODY;

(12) SELLS OR OFFERS TO SELL ANY SHARE, CERTIFICATE, OR INTEREST IN A MORTUARY TRANSPORT SERVICE WITH A PROMISE OR OFFER TO PERFORM SERVICES TO THE BUYER AT A COST LESS THAN THAT OFFERED TO THE GENERAL PUBLIC;

(13) VIOLATES ANY STATE, MUNICIPAL, OR COUNTY LAW, RULE, OR REGULATION ON THE HANDLING, CUSTODY, CARE, OR TRANSPORTATION OF HUMAN REMAINS OR THE DISPOSAL OF INSTRUMENTS, MATERIALS, AND WASTES RELEVANT TO PREPARATION OF HUMAN REMAINS FOR FINAL DISPOSITION;

(14) REMOVES AND TRANSPORTS HUMAN REMAINS UNDER A NAME OTHER THAN THE NAME THAT APPEARS ON THE PERMIT OR REGISTRATION OF THE PERMIT HOLDER OR REGISTERED TRANSPORTER;

(15) SIGNS AN APPLICATION FOR A PERMIT OR REGISTRATION IF THE SIGNER KNEW OR SHOULD HAVE KNOWN THAT GROUNDS EXISTED FOR WHICH THE PERMIT OR REGISTRATION LATER WAS DENIED, SUSPENDED, OR REVOKED;

(16) VIOLATES ANY PROVISION OF THIS SUBTITLE OR OF ANY OTHER LAW RELATING TO REMOVING AND TRANSPORTING HUMAN REMAINS;

(17) IS DISCIPLINED BY A LICENSING OR DISCIPLINARY AUTHORITY OF ANY OTHER STATE OR COUNTRY OR CONVICTED OR DISCIPLINED BY A COURT OF ANY STATE OR COUNTRY FOR AN ACT THAT WOULD BE GROUNDS FOR DISCIPLINARY ACTION UNDER THE BOARD’S DISCIPLINARY STATUTES;

(18) WILLFULLY MAKES OR FILES A FALSE REPORT OR RECORD FOR A MORTUARY TRANSPORT SERVICE;

(19) WILLFULLY FAILS TO FILE OR RECORD ANY REPORT AS REQUIRED UNDER LAW, WILLFULLY IMPEDES OR OBSTRUCTS THE FILING OR RECORDING OF THE REPORT, OR INDUCES ANOTHER TO FAIL TO FILE OR RECORD THE REPORT;

(20) SUBMITS A FALSE STATEMENT TO COLLECT A FEE;

(21) PROVIDES PROFESSIONAL SERVICES WHILE:

(I) UNDER THE INFLUENCE OF ALCOHOL; OR

(II) USING ANY NARCOTIC OR CONTROLLED DANGEROUS SUBSTANCE, AS DEFINED IN § 5-101 OF THE CRIMINAL LAW ARTICLE, OR OTHER DRUG THAT IS IN EXCESS OF THERAPEUTIC AMOUNTS OR WITHOUT VALID MEDICAL INDICATION;

(22) VIOLATES ANY RULE OR REGULATION ADOPTED BY THE BOARD;

(23) IS PROFESSIONALLY, PHYSICALLY, OR MENTALLY INCOMPETENT;

(24) COMMITS AN ACT OF UNPROFESSIONAL CONDUCT WHILE REMOVING AND TRANSPORTING HUMAN REMAINS;

(25) REFUSES, WITHHOLDS FROM, DENIES, OR DISCRIMINATES AGAINST AN INDIVIDUAL WITH REGARD TO THE PROVISION OF PROFESSIONAL SERVICES FOR WHICH THE PERMIT HOLDER OR REGISTERED TRANSPORTER IS QUALIFIED TO RENDER BECAUSE THE INDIVIDUAL IS HIV POSITIVE;

(26) EXCEPT IN AN EMERGENCY LIFE-THREATENING SITUATION WHERE IT IS NOT FEASIBLE OR PRACTICABLE, FAILS TO COMPLY WITH THE CENTERS FOR DISEASE CONTROL AND PREVENTION'S GUIDELINES ON UNIVERSAL PRECAUTIONS;

~~(27) TAKES HUMAN REMAINS OUT OF THE STATE TO A FUNERAL ESTABLISHMENT, MORTUARY, OR CREMATORY NOT PERMITTED TO BE INSPECTED BY THE BOARD;~~

~~(28)~~ (27) REMOVES HUMAN REMAINS FROM A DEATH SCENE, MORTUARY, FUNERAL ESTABLISHMENT, OR CREMATORY WITHOUT AUTHORIZATION OF THE INDIVIDUAL OR ENTITY IN CUSTODY OF THE HUMAN REMAINS;

~~(29)~~ (28) REMOVES AND TRANSPORTS HUMAN REMAINS, EITHER FREE OF CHARGE OR FOR COMPENSATION, TO AN ENTITY WHERE THE HUMAN REMAINS ARE NOT AUTHORIZED TO BE HELD; OR

~~(30)~~ (29) REMOVES AND TRANSPORTS HUMAN REMAINS WITHOUT RESPECT FOR THE DECEDENT OR THE HEALTH AND SAFETY OF THE PUBLIC.

7-605.

(A) (1) UNLESS AN INDIVIDUAL OR ENTITY HOLDS A CURRENT PERMIT ISSUED BY THE BOARD UNDER THIS SUBTITLE, THE INDIVIDUAL OR ENTITY MAY NOT REPRESENT TO THE PUBLIC BY NAME, DESCRIPTION OF SERVICES, METHODS, OR PROCEDURES, OR OTHERWISE, THAT THE INDIVIDUAL OR ENTITY IS A PERMIT HOLDER.

(2) UNLESS AN INDIVIDUAL OR ENTITY HOLDS A CURRENT PERMIT ISSUED BY THE BOARD UNDER THIS SUBTITLE, AN INDIVIDUAL OR ENTITY MAY NOT USE THE WORDS “PERMITTED MORTUARY TRANSPORT SERVICE” OR “MORTUARY TRANSPORT SERVICE” WITH THE INTENT TO REPRESENT THAT THE INDIVIDUAL OR ENTITY IS AUTHORIZED TO OPERATE AS A PERMIT HOLDER.

(B) (1) UNLESS AN INDIVIDUAL IS REGISTERED BY THE BOARD UNDER THIS SUBTITLE, THE INDIVIDUAL MAY NOT REPRESENT TO THE PUBLIC BY NAME, DESCRIPTION OF SERVICES, METHODS, OR PROCEDURES, OR OTHERWISE, THAT THE INDIVIDUAL IS A REGISTERED TRANSPORTER.

(2) UNLESS AN INDIVIDUAL IS REGISTERED BY THE BOARD UNDER THIS SUBTITLE, THE INDIVIDUAL MAY NOT USE THE TERMS “REGISTERED TRANSPORTER” OR “TRANSPORTER” WITH THE INTENT TO REPRESENT THAT THE INDIVIDUAL IS AUTHORIZED TO OPERATE AS A REGISTERED TRANSPORTER.

(C) (1) A MORTUARY TRANSPORT SERVICE OR TRANSPORTER MAY NOT OBTAIN A PERMIT OR REGISTRATION BY MAKING A FALSE STATEMENT.

(2) ON CONVICTION OF AN INDIVIDUAL FOR MAKING A FALSE REPRESENTATION TO THE BOARD IN ORDER TO OBTAIN A PERMIT OR REGISTRATION, THE PERMIT OR REGISTRATION IS VOID.

~~(D) A PERMIT HOLDER IS LIABLE FOR A VIOLATION OF ANY PROVISION OF THIS SUBTITLE COMMITTED BY A REGISTERED TRANSPORTER IF:~~

~~(1) THE OWNER OR CO-OWNER OF THE MORTUARY TRANSPORT SERVICE WAS A KNOWING PARTY TO THE VIOLATION; OR~~

~~(2) THE VIOLATION OCCURRED WHILE THE REGISTERED TRANSPORTER WAS EMPLOYED BY THE PERMIT HOLDER.~~

7-606.

A PERSON WHO VIOLATES ANY PROVISION OF THIS SUBTITLE IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$500 OR IMPRISONMENT NOT EXCEEDING 1 YEAR OR BOTH.

7-607.

THE BOARD SHALL ADOPT REGULATIONS TO:

(1) IMPLEMENT THIS SUBTITLE; AND

(2) ESTABLISH REQUIREMENTS FOR REMOVING AND TRANSPORTING HUMAN REMAINS.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 615

(House Bill 753)

AN ACT concerning

Maryland State Board of Morticians and Funeral Directors – Permits and Registration Required to Remove and Transport Human Remains

FOR the purpose of requiring a mortuary transport service to hold a permit issued by the Maryland State Board of Morticians and Funeral Directors before removing or transporting human remains in this State; ~~authorizing the Board to restrict the operations of certain permit holders;~~ establishing certain application requirements for obtaining a permit; requiring a mortuary transport service to meet certain standards to qualify for a permit; requiring permit holders to use vehicles that have passed an inspection by certain inspectors; requiring certain permit holders to employ only certain registered transporters for certain purposes; establishing the term and procedures for the renewal of a permit;

requiring that certain signs and advertisements display the name that appears on a permit; requiring that individuals employed by certain permit holders be registered with the Board before removing and transporting human remains; establishing certain requirements for obtaining registration; requiring the Board to register an individual who meets certain standards; requiring that registered transporters treat certain decedents with certain dignity and display a certain permit; authorizing the Board to deny a permit or registration to an applicant, reprimand a permit holder or registered transporter, or suspend or revoke a permit or registration under certain circumstances; providing for certain criminal and civil penalties; requiring the Board to adopt certain regulations; defining certain terms; and generally relating to the Maryland State Board of Morticians and Funeral Directors and requiring permits and registration for removing and transporting human remains.

BY renumbering

Article – Health Occupations

Section 7–601 and 7–602, respectively, and the subtitle “Subtitle 6. Short Title; Termination of Title”

to be Section 7–701 and 7–702, respectively, and the subtitle “Subtitle 7. Short Title; Termination of Title”

Annotated Code of Maryland

(2009 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, without amendments,

Article – Health Occupations

Section 7–101(a), (d), (k), (l), and (p)

Annotated Code of Maryland

(2009 Replacement Volume and 2011 Supplement)

BY adding to

Article – Health Occupations

Section 7–601 through ~~7–606~~ 7–607 to be under the new subtitle “Subtitle 6. Mortuary Transport Services”

Annotated Code of Maryland

(2009 Replacement Volume and 2011 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 7–601 and 7–602, respectively, and the subtitle “Subtitle 6. Short Title; Termination of Title” of Article – Health Occupations of the Annotated Code of Maryland be renumbered to be Section(s) 7–701 and 7–702, respectively, and the subtitle “Subtitle 7. Short Title; Termination of Title”.

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

Article – Health Occupations

7-101.

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

(d) "Board" means the Maryland State Board of Morticians and Funeral Directors.

(k) "Funeral establishment" means any building, structure, or premises from which the business of practicing mortuary science is conducted.

(l) (1) "Human remains" means:

(i) The body of a deceased person; or

(ii) A part of a body or limb that has been removed from a living person.

(2) "Human remains" includes the body or part of a body or limb in any state of decomposition.

(p) "Licensed funeral establishment" means, unless the context requires otherwise, a funeral establishment that is licensed by the Board.

SUBTITLE 6. MORTUARY TRANSPORT SERVICES.

7-601.

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

(B) (1) "MORTUARY TRANSPORT SERVICE" MEANS AN INDIVIDUAL OR A BUSINESS ENTITY THAT, FOR COMPENSATION, REMOVES AND TRANSPORTS HUMAN REMAINS OR EMPLOYS A TRANSPORTER TO REMOVE OR TRANSPORT HUMAN REMAINS.

(2) "MORTUARY TRANSPORT SERVICE" DOES NOT INCLUDE ~~A~~:

(I) A LICENSED FUNERAL ESTABLISHMENT OR AN EMPLOYEE OF A LICENSED FUNERAL ESTABLISHMENT THAT REMOVES AND TRANSPORTS HUMAN REMAINS; OR

(II) A CEMETERY OR EMPLOYEE OF A CEMETERY THAT REMOVES OR TRANSPORTS HUMAN REMAINS WITHIN THE BOUNDARIES OF THE CEMETERY.

(C) “PERMIT” MEANS A PERMIT ISSUED BY THE BOARD TO THE OWNER OF A MORTUARY TRANSPORT SERVICE TO OPERATE IN THE STATE.

(D) “PERMIT HOLDER” MEANS A MORTUARY TRANSPORT SERVICE THAT HOLDS A PERMIT ISSUED BY THE BOARD.

(E) “REGISTERED TRANSPORTER” MEANS AN INDIVIDUAL EMPLOYEE OF A MORTUARY TRANSPORT SERVICE WHO HAS REGISTERED WITH THE BOARD TO REMOVE AND TRANSPORT HUMAN REMAINS.

(F) “REMOVE AND TRANSPORT HUMAN REMAINS” MEANS TO REMOVE HUMAN REMAINS FROM ONE LOCATION AND TRANSPORT THE HUMAN REMAINS TO ANOTHER LOCATION.

(G) “TRANSPORTER” MEANS AN INDIVIDUAL WHO REMOVES AND TRANSPORTS HUMAN REMAINS.

7-602.

(A) ~~(1)~~ A MORTUARY TRANSPORT SERVICE SHALL BE ISSUED A PERMIT BY THE BOARD BEFORE THE MORTUARY TRANSPORT SERVICE MAY REMOVE AND TRANSPORT HUMAN REMAINS IN THIS STATE.

~~(2) A PERMIT HOLDER MAY BE RESTRICTED TO OPERATIONS TO REMOVE AND TRANSPORT HUMAN REMAINS AS DETERMINED BY THE BOARD.~~

(B) (1) TO APPLY FOR A PERMIT, A MORTUARY TRANSPORT SERVICE SHALL SUBMIT TO THE BOARD:

(I) AN APPLICATION ON THE FORM THAT THE BOARD REQUIRES;

(II) AN APPLICATION FEE SET BY THE BOARD; AND

(III) EVIDENCE THAT THE MORTUARY TRANSPORT SERVICE HOLDS A BOND AT THE TIME OF APPLICATION OR HAS THE ABILITY TO SECURE A BOND IS BONDED AND CARRIES LIABILITY INSURANCE THAT COVERS EACH REGISTERED TRANSPORTER EMPLOYED BY THE MORTUARY TRANSPORT SERVICE.

(2) AN APPLICATION FOR A PERMIT SHALL BE SIGNED BY AN INDIVIDUAL WHO IS THE OWNER OR A CO-OWNER OF THE MORTUARY TRANSPORT SERVICE TO BE ISSUED A PERMIT.

(C) TO QUALIFY FOR A PERMIT, A MORTUARY TRANSPORT SERVICE SHALL SATISFY THE BOARD THAT THE MORTUARY TRANSPORT SERVICE:

(1) HAS COMPLIED WITH ALL APPLICABLE STATE AND LOCAL LAWS;

(2) WILL BE OWNED AND OPERATED IN ACCORDANCE WITH THIS SUBTITLE; AND

(3) WHILE THE MORTUARY TRANSPORT SERVICE REMOVES AND TRANSPORTS HUMAN REMAINS, WILL BE HELD RESPONSIBLE FOR THE TREATMENT OF THE HUMAN REMAINS.

(D) (1) A PERMIT HOLDER SHALL USE VEHICLES THAT HAVE PASSED AN INSPECTION BY AN INSPECTOR DESIGNATED BY THE BOARD WHILE THE PERMIT HOLDER REMOVES AND TRANSPORTS HUMAN REMAINS.

(2) A PERMIT HOLDER SHALL EMPLOY ONLY REGISTERED TRANSPORTERS TO REMOVE AND TRANSPORT HUMAN REMAINS.

(E) (1) (I) A PERMIT ISSUED UNDER THIS SUBTITLE SHALL EXPIRE ON THE DATE SET BY THE BOARD.

(II) A PERMIT MAY NOT BE RENEWED FOR A TERM LONGER THAN 2 YEARS.

(2) A PERMIT HOLDER MAY RENEW A PERMIT FOR ADDITIONAL TERMS, IF THE PERMIT HOLDER:

(I) SUBMITS TO THE BOARD:

1. AN APPLICATION ON THE FORM THAT THE BOARD REQUIRES; AND

2. AN APPLICATION FEE SET BY THE BOARD; AND

(II) COMPLIES WITH ANY OTHER RENEWAL REQUIREMENTS ESTABLISHED BY THE BOARD.

(F) SIGNS AND ADVERTISEMENTS FOR A MORTUARY TRANSPORT SERVICE SHALL DISPLAY THE NAME OF THE MORTUARY TRANSPORT SERVICE AS IT APPEARS ON THE PERMIT.

(A) AN INDIVIDUAL EMPLOYED BY A PERMIT HOLDER SHALL BE REGISTERED WITH THE BOARD AS A TRANSPORTER BEFORE THE INDIVIDUAL MAY REMOVE AND TRANSPORT HUMAN REMAINS.

(B) TO REGISTER AS A TRANSPORTER, AN INDIVIDUAL SHALL SUBMIT TO THE BOARD:

(1) A SIGNED APPLICATION ON THE FORM THAT THE BOARD REQUIRES;

(2) ~~A REGISTRATION FEE SET BY THE BOARD;~~ A CRIMINAL HISTORY RECORDS CHECK; AND

(3) EVIDENCE OF THE COMPLETION OF COURSEWORK RECOMMENDED BY THE BOARD;~~AND~~

~~(4) EVIDENCE THAT THE INDIVIDUAL IS BONDED AND CARRIES LIABILITY INSURANCE.~~

(C) THE BOARD SHALL REGISTER AN INDIVIDUAL WHO:

(1) HOLDS A VALID ~~MARYLAND~~ DRIVER'S LICENSE; AND

(2) HAS COMPLIED WITH ALL APPLICABLE STATE AND LOCAL LAWS.

(D) WHILE A REGISTERED TRANSPORTER REMOVES AND TRANSPORTS HUMAN REMAINS OR OTHERWISE ACTS IN THE CAPACITY OF A REGISTERED TRANSPORTER, THE REGISTERED TRANSPORTER SHALL:

(1) TREAT EVERY DECEDENT WITH THE UTMOST DIGNITY; AND

(2) PROMINENTLY DISPLAY ON THEIR PERSON THE PERMIT FOR THE MORTUARY TRANSPORT SERVICE FOR WHICH THE TRANSPORTER IS EMPLOYED.

7-604.

SUBJECT TO THE HEARING PROVISIONS OF § 7-319 OF THIS TITLE, THE BOARD MAY DENY A PERMIT OR REGISTRATION TO ANY APPLICANT, REPRIMAND ANY PERMIT HOLDER OR REGISTERED TRANSPORTER, PLACE ANY PERMIT HOLDER OR REGISTERED TRANSPORTER ON PROBATION, OR SUSPEND

OR REVOKE ANY PERMIT OR REGISTRATION IF THE APPLICANT, PERMIT HOLDER, OR REGISTERED TRANSPORTER:

(1) FRAUDULENTLY OR DECEPTIVELY OBTAINS OR ATTEMPTS TO OBTAIN A PERMIT OR REGISTRATION FOR THE APPLICANT, PERMIT HOLDER, REGISTERED TRANSPORTER, OR ANOTHER;

(2) FRAUDULENTLY OR DECEPTIVELY USES A PERMIT OR REGISTRATION;

(3) COMMITS FRAUD OR MISREPRESENTATION WHILE THE APPLICANT, PERMIT HOLDER, OR REGISTERED TRANSPORTER REMOVES AND TRANSPORTS HUMAN REMAINS;

(4) IS CONVICTED OF OR PLEADS GUILTY OR NOLO CONTENDERE TO A FELONY OR TO A CRIME INVOLVING MORAL TURPITUDE, WHETHER OR NOT ANY APPEAL OR OTHER PROCEEDING IS PENDING TO HAVE THE CONVICTION OR PLEA SET ASIDE;

(5) AIDS OR ABETS AN UNAUTHORIZED PERSON TO REMOVE AND TRANSPORT HUMAN REMAINS;

(6) ADVERTISES FALSELY OR IN A MISLEADING MANNER;

(7) SOLICITS TO REMOVE AND TRANSPORT HUMAN REMAINS, EITHER PERSONALLY OR BY AN AGENT, FROM A DYING INDIVIDUAL OR THE RELATIVES OF A DEAD OR DYING INDIVIDUAL, OTHER THAN THROUGH GENERAL ADVERTISING;

(8) EMPLOYS, PAYS, OR OFFERS TO PAY A "CAPPER", "STEERER", "SOLICITOR", OR ANY OTHER PERSON TO OBTAIN BUSINESS, EITHER IN GENERAL OR FOR A PERMIT HOLDER OR REGISTERED TRANSPORTER;

(9) DIRECTLY OR INDIRECTLY PAYS OR OFFERS TO PAY TO OBTAIN BUSINESS TO REMOVE AND TRANSPORT HUMAN REMAINS;

(10) SOLICITS OR ACCEPTS ANY PAYMENT OR REBATE FOR RECOMMENDING ANY CREMATORY, MAUSOLEUM, OR CEMETERY OR CAUSING HUMAN REMAINS TO BE DISPOSED OF THERE;

(11) REFUSES TO SURRENDER CUSTODY OF HUMAN REMAINS ON THE DEMAND OF A PERSON WHO IS ENTITLED TO THEIR CUSTODY;

(12) SELLS OR OFFERS TO SELL ANY SHARE, CERTIFICATE, OR INTEREST IN A MORTUARY TRANSPORT SERVICE WITH A PROMISE OR OFFER TO PERFORM SERVICES TO THE BUYER AT A COST LESS THAN THAT OFFERED TO THE GENERAL PUBLIC;

(13) VIOLATES ANY STATE, MUNICIPAL, OR COUNTY LAW, RULE, OR REGULATION ON THE HANDLING, CUSTODY, CARE, OR TRANSPORTATION OF HUMAN REMAINS OR THE DISPOSAL OF INSTRUMENTS, MATERIALS, AND WASTES RELEVANT TO PREPARATION OF HUMAN REMAINS FOR FINAL DISPOSITION;

(14) REMOVES AND TRANSPORTS HUMAN REMAINS UNDER A NAME OTHER THAN THE NAME THAT APPEARS ON THE PERMIT OR REGISTRATION OF THE PERMIT HOLDER OR REGISTERED TRANSPORTER;

(15) SIGNS AN APPLICATION FOR A PERMIT OR REGISTRATION IF THE SIGNER KNEW OR SHOULD HAVE KNOWN THAT GROUNDS EXISTED FOR WHICH THE PERMIT OR REGISTRATION LATER WAS DENIED, SUSPENDED, OR REVOKED;

(16) VIOLATES ANY PROVISION OF THIS SUBTITLE OR OF ANY OTHER LAW RELATING TO REMOVING AND TRANSPORTING HUMAN REMAINS;

(17) IS DISCIPLINED BY A LICENSING OR DISCIPLINARY AUTHORITY OF ANY OTHER STATE OR COUNTRY OR CONVICTED OR DISCIPLINED BY A COURT OF ANY STATE OR COUNTRY FOR AN ACT THAT WOULD BE GROUNDS FOR DISCIPLINARY ACTION UNDER THE BOARD'S DISCIPLINARY STATUTES;

(18) WILLFULLY MAKES OR FILES A FALSE REPORT OR RECORD FOR A MORTUARY TRANSPORT SERVICE;

(19) WILLFULLY FAILS TO FILE OR RECORD ANY REPORT AS REQUIRED UNDER LAW, WILLFULLY IMPEDES OR OBSTRUCTS THE FILING OR RECORDING OF THE REPORT, OR INDUCES ANOTHER TO FAIL TO FILE OR RECORD THE REPORT;

(20) SUBMITS A FALSE STATEMENT TO COLLECT A FEE;

(21) PROVIDES PROFESSIONAL SERVICES WHILE:

(I) UNDER THE INFLUENCE OF ALCOHOL; OR

(II) USING ANY NARCOTIC OR CONTROLLED DANGEROUS SUBSTANCE, AS DEFINED IN § 5-101 OF THE CRIMINAL LAW ARTICLE, OR

OTHER DRUG THAT IS IN EXCESS OF THERAPEUTIC AMOUNTS OR WITHOUT VALID MEDICAL INDICATION;

(22) VIOLATES ANY RULE OR REGULATION ADOPTED BY THE BOARD;

(23) IS PROFESSIONALLY, PHYSICALLY, OR MENTALLY INCOMPETENT;

(24) COMMITS AN ACT OF UNPROFESSIONAL CONDUCT WHILE REMOVING AND TRANSPORTING HUMAN REMAINS;

(25) REFUSES, WITHHOLDS FROM, DENIES, OR DISCRIMINATES AGAINST AN INDIVIDUAL WITH REGARD TO THE PROVISION OF PROFESSIONAL SERVICES FOR WHICH THE PERMIT HOLDER OR REGISTERED TRANSPORTER IS QUALIFIED TO RENDER BECAUSE THE INDIVIDUAL IS HIV POSITIVE;

(26) EXCEPT IN AN EMERGENCY LIFE-THREATENING SITUATION WHERE IT IS NOT FEASIBLE OR PRACTICABLE, FAILS TO COMPLY WITH THE CENTERS FOR DISEASE CONTROL AND PREVENTION'S GUIDELINES ON UNIVERSAL PRECAUTIONS;

~~(27) TAKES HUMAN REMAINS OUT OF THE STATE TO A FUNERAL ESTABLISHMENT, MORTUARY, OR CREMATORY NOT PERMITTED TO BE INSPECTED BY THE BOARD;~~

~~(28)~~ (27) REMOVES HUMAN REMAINS FROM A DEATH SCENE, MORTUARY, FUNERAL ESTABLISHMENT, OR CREMATORY WITHOUT AUTHORIZATION OF THE INDIVIDUAL OR ENTITY IN CUSTODY OF THE HUMAN REMAINS;

~~(29)~~ (28) REMOVES AND TRANSPORTS HUMAN REMAINS, EITHER FREE OF CHARGE OR FOR COMPENSATION, TO AN ENTITY WHERE THE HUMAN REMAINS ARE NOT AUTHORIZED TO BE HELD; OR

~~(30)~~ (29) REMOVES AND TRANSPORTS HUMAN REMAINS WITHOUT RESPECT FOR THE DECEDENT OR THE HEALTH AND SAFETY OF THE PUBLIC.

7-605.

(A) (1) UNLESS AN INDIVIDUAL OR ENTITY HOLDS A CURRENT PERMIT ISSUED BY THE BOARD UNDER THIS SUBTITLE, THE INDIVIDUAL OR ENTITY MAY NOT REPRESENT TO THE PUBLIC BY NAME, DESCRIPTION OF

SERVICES, METHODS, OR PROCEDURES, OR OTHERWISE, THAT THE INDIVIDUAL OR ENTITY IS A PERMIT HOLDER.

(2) UNLESS AN INDIVIDUAL OR ENTITY HOLDS A CURRENT PERMIT ISSUED BY THE BOARD UNDER THIS SUBTITLE, AN INDIVIDUAL OR ENTITY MAY NOT USE THE WORDS “PERMITTED MORTUARY TRANSPORT SERVICE” OR “MORTUARY TRANSPORT SERVICE” WITH THE INTENT TO REPRESENT THAT THE INDIVIDUAL OR ENTITY IS AUTHORIZED TO OPERATE AS A PERMIT HOLDER.

(B) (1) UNLESS AN INDIVIDUAL IS REGISTERED BY THE BOARD UNDER THIS SUBTITLE, THE INDIVIDUAL MAY NOT REPRESENT TO THE PUBLIC BY NAME, DESCRIPTION OF SERVICES, METHODS, OR PROCEDURES, OR OTHERWISE, THAT THE INDIVIDUAL IS A REGISTERED TRANSPORTER.

(2) UNLESS AN INDIVIDUAL IS REGISTERED BY THE BOARD UNDER THIS SUBTITLE, THE INDIVIDUAL MAY NOT USE THE TERMS “REGISTERED TRANSPORTER” OR “TRANSPORTER” WITH THE INTENT TO REPRESENT THAT THE INDIVIDUAL IS AUTHORIZED TO OPERATE AS A REGISTERED TRANSPORTER.

(C) (1) A MORTUARY TRANSPORT SERVICE OR TRANSPORTER MAY NOT OBTAIN A PERMIT OR REGISTRATION BY MAKING A FALSE STATEMENT.

(2) ON CONVICTION OF AN INDIVIDUAL FOR MAKING A FALSE REPRESENTATION TO THE BOARD IN ORDER TO OBTAIN A PERMIT OR REGISTRATION, THE PERMIT OR REGISTRATION IS VOID.

~~(D) A PERMIT HOLDER IS LIABLE FOR A VIOLATION OF ANY PROVISION OF THIS SUBTITLE COMMITTED BY A REGISTERED TRANSPORTER IF:~~

~~(1) THE OWNER OR CO-OWNER OF THE MORTUARY TRANSPORT SERVICE WAS A KNOWING PARTY TO THE VIOLATION; OR~~

~~(2) THE VIOLATION OCCURRED WHILE THE REGISTERED TRANSPORTER WAS EMPLOYED BY THE PERMIT HOLDER.~~

7-606.

A PERSON WHO VIOLATES ANY PROVISION OF THIS SUBTITLE IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$500 OR IMPRISONMENT NOT EXCEEDING 1 YEAR OR BOTH.

7-607.

THE BOARD SHALL ADOPT REGULATIONS TO:

(1) IMPLEMENT THIS SUBTITLE; AND

(2) ESTABLISH REQUIREMENTS FOR REMOVING AND TRANSPORTING HUMAN REMAINS.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 616

(Senate Bill 899)

AN ACT concerning

**Correctional Services – Correctional Officer – Emergency Suspension
Rescinded**

FOR the purpose of providing that a State correctional officer who receives an emergency suspension without pay after being ~~charge~~ charged with a felony and who is not convicted of the felony shall have the emergency suspension rescinded and any lost time, compensation, status, and benefits restored; providing that this Act does not apply to a State correctional officer under certain circumstances; and generally relating to the rights of a State correctional officer.

BY repealing and reenacting, with amendments,
Article – Correctional Services
Section 10–913
Annotated Code of Maryland
(2008 Replacement Volume and 2011 Supplement)

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

Article – Correctional Services

10–913.

(a) This subtitle does not prohibit emergency suspension with pay by a correctional officer of higher rank as designated by the appointing authority.

(b) (1) The appointing authority may impose emergency suspension with pay if it appears that the action is in the best interest of the inmates, the public, and the correctional facility.

(2) If the correctional officer is suspended with pay, the appointing authority may suspend the correctional powers of the correctional officer and reassign the correctional officer to restricted duties pending:

(i) a determination by a court with respect to a criminal violation; or

(ii) a final determination by the hearing board or the Office of Administrative Hearings with respect to a correctional facility violation.

(3) A correctional officer who is suspended under this subsection is entitled to a prompt hearing.

(c) (1) If a correctional officer is charged with a felony, the appointing authority may impose an emergency suspension of correctional powers without pay.

(2) A correctional officer who is suspended under paragraph (1) of this subsection is entitled to a prompt hearing, held no more than 90 days after the suspension.

(3) ~~A~~ EXCEPT AS PROVIDED IN PARAGRAPH (4) OF THIS SUBSECTION, A CORRECTIONAL OFFICER WHO IS SUSPENDED UNDER PARAGRAPH (1) OF THIS SUBSECTION AND WHO IS NOT CONVICTED OF THE FELONY FOR WHICH THE SUSPENSION WAS IMPOSED SHALL HAVE:

(I) THE SUSPENSION RESCINDED; AND

(II) ANY LOST TIME, COMPENSATION, STATUS, AND BENEFITS RESTORED.

(4) PARAGRAPH (3) OF THIS SUBSECTION DOES NOT APPLY TO A CORRECTIONAL OFFICER WHO:

(I) RESIGNS BEFORE THE DISPOSITION OF THE CRIMINAL MATTER FOR WHICH THE SUSPENSION WAS IMPOSED; OR

(II) IS NO LONGER EMPLOYED BY THE DEPARTMENT WHEN A DETERMINATION IS MADE BY A COURT WITH RESPECT TO THE CRIMINAL MATTER FOR WHICH THE SUSPENSION WAS IMPOSED.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 617

(House Bill 930)

AN ACT concerning

Correctional Services – Correctional Officer – Emergency Suspension Rescinded

FOR the purpose of providing that a State correctional officer who receives an emergency suspension without pay after being ~~charge~~ charged with a felony and who is not convicted of the felony shall have the emergency suspension rescinded and any lost time, compensation, status, and benefits restored; providing that this Act does not apply to a State correctional officer under certain circumstances; and generally relating to the rights of a State correctional officer.

BY repealing and reenacting, with amendments,
Article – Correctional Services
Section 10–913
Annotated Code of Maryland
(2008 Replacement Volume and 2011 Supplement)

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

Article – Correctional Services

10–913.

(a) This subtitle does not prohibit emergency suspension with pay by a correctional officer of higher rank as designated by the appointing authority.

(b) (1) The appointing authority may impose emergency suspension with pay if it appears that the action is in the best interest of the inmates, the public, and the correctional facility.

(2) If the correctional officer is suspended with pay, the appointing authority may suspend the correctional powers of the correctional officer and reassign the correctional officer to restricted duties pending:

(i) a determination by a court with respect to a criminal violation; or

(ii) a final determination by the hearing board or the Office of Administrative Hearings with respect to a correctional facility violation.

(3) A correctional officer who is suspended under this subsection is entitled to a prompt hearing.

(c) (1) If a correctional officer is charged with a felony, the appointing authority may impose an emergency suspension of correctional powers without pay.

(2) A correctional officer who is suspended under paragraph (1) of this subsection is entitled to a prompt hearing, held no more than 90 days after the suspension.

(3) ~~A~~ EXCEPT AS PROVIDED IN PARAGRAPH (4) OF THIS SUBSECTION, A CORRECTIONAL OFFICER WHO IS SUSPENDED UNDER PARAGRAPH (1) OF THIS SUBSECTION AND WHO IS NOT CONVICTED OF THE FELONY FOR WHICH THE SUSPENSION WAS IMPOSED SHALL HAVE:

(I) THE SUSPENSION RESCINDED; AND

(II) ANY LOST TIME, COMPENSATION, STATUS, AND BENEFITS RESTORED.

(4) PARAGRAPH (3) OF THIS SUBSECTION DOES NOT APPLY TO A CORRECTIONAL OFFICER WHO:

(I) RESIGNS BEFORE THE DISPOSITION OF THE CRIMINAL MATTER FOR WHICH THE SUSPENSION WAS IMPOSED; OR

(II) IS NO LONGER EMPLOYED BY THE DEPARTMENT WHEN A DETERMINATION IS MADE BY A COURT WITH RESPECT TO THE CRIMINAL MATTER FOR WHICH THE SUSPENSION WAS IMPOSED.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 618

(Senate Bill 901)

AN ACT concerning

Credit Regulation – Retail Installment Sales and Closed End Credit – Debt Cancellation Agreements – Definitions

FOR the purpose of altering the definition of “debt cancellation agreement”, for purposes of certain provisions of law governing retail installment sales and closed end credit, to include, under certain circumstances, an agreement under which the outstanding balance of a loan is reduced by the actual cash value of a certain motor vehicle or of certain collateral at the time of loss; altering the definitions of “outstanding balance” and “remaining loan balance” to exclude any ~~other items as agreed to by the parties and stated in the debt cancellation agreement~~ deferred payments and the refundable a certain portion of any financed taxes and charges; and generally relating to credit regulation and debt cancellation agreements.

BY repealing and reenacting, without amendments,
 Article – Commercial Law
 Section 12–601(a) and 12–1001(a)
 Annotated Code of Maryland
 (2005 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,
 Article – Commercial Law
 Section 12–601(h) and (p) and 12–1001(h) and (l)
 Annotated Code of Maryland
 (2005 Replacement Volume and 2011 Supplement)

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

Article – Commercial Law

12–601.

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

(h) “Debt cancellation agreement” means an agreement between a seller and a buyer which provides for cancellation of the outstanding balance payable under an installment sale agreement in the event of theft or total destruction of the motor vehicle that is the subject of the installment sale agreement [after application of] **MINUS** the proceeds of any insurance maintained on the motor vehicle **OR, IF THE BUYER DOES NOT HAVE INSURANCE THAT COVERS THE LOSS, THE ACTUAL CASH**

VALUE OF THE MOTOR VEHICLE AT THE TIME OF LOSS, DETERMINED AS PROVIDED IN THE ~~DEBT CANCELLATION~~ AGREEMENT.

(p) “Outstanding balance”, when used in reference to a debt cancellation agreement, does not include:

- (1) Any delinquent OR DEFERRED payments;
- (2) Past due charges;
- (3) Late payment charges;
- (4) Unearned interest;
- (5) Unearned rental payments; [or]

(6) THE REFUNDABLE PORTION OF ANY FINANCED TAXES OR CHARGES, INCLUDING CHARGES FOR CREDIT LIFE INSURANCE, CREDIT HEALTH INSURANCE, CREDIT INVOLUNTARY UNEMPLOYMENT BENEFIT INSURANCE, AND MECHANICAL REPAIR CONTRACTS, ALREADY REFUNDED TO THE BUYER ACTUALLY REFUNDED TO THE BUYER OR CREDITED AS A REDUCTION TO THE LOAN BALANCE; OR

~~(6) (7)~~ By agreement of the parties, the amount of any primary insurance deductible; ~~OR~~

~~(7) OTHER ITEMS AS AGREED TO BY THE PARTIES AND STATED IN THE DEBT CANCELLATION AGREEMENT.~~

12-1001.

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

(h) “Debt cancellation agreement” means an agreement between a credit grantor and a borrower which provides for cancellation of the remaining loan balance in the event of theft or total destruction of the collateral for the loan [after application of] MINUS the proceeds of any insurance maintained on the collateral for the loan **OR, IF THE BORROWER DOES NOT HAVE INSURANCE THAT COVERS THE LOSS, THE ACTUAL CASH VALUE OF THE ~~MOTOR VEHICLE~~ COLLATERAL AT THE TIME OF LOSS, DETERMINED AS PROVIDED IN THE ~~DEBT CANCELLATION~~ AGREEMENT.**

(l) “Remaining loan balance”, when used in reference to a debt cancellation agreement, does not include:

- (1) Any delinquent OR DEFERRED payments;

- (2) Past due charges;
- (3) Late payment charges;
- (4) Unearned interest;
- (5) Unearned rental payments; [or]

(6) THE REFUNDABLE PORTION OF ANY FINANCED TAXES OR CHARGES, INCLUDING CHARGES FOR CREDIT LIFE INSURANCE, CREDIT HEALTH INSURANCE, CREDIT INVOLUNTARY UNEMPLOYMENT BENEFIT INSURANCE, AND MECHANICAL REPAIR CONTRACTS, ALREADY REFUNDED TO THE BORROWER ACTUALLY REFUNDED TO THE BORROWER OR CREDITED AS A REDUCTION TO THE LOAN BALANCE; OR

~~(6) (7)~~ By agreement of the parties, the amount of any primary insurance deductible; ~~OR~~

~~(7) OTHER ITEMS AS AGREED TO BY THE PARTIES AND STATED IN THE DEBT CANCELLATION AGREEMENT.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 619

(House Bill 1027)

AN ACT concerning

Credit Regulation – Retail Installment Sales and Closed End Credit – Debt Cancellation Agreements – Definitions

FOR the purpose of altering the definition of “debt cancellation agreement”, for purposes of certain provisions of law governing retail installment sales and closed end credit, to include, under certain circumstances, an agreement under which the outstanding balance of a loan is reduced by the actual cash value of a certain motor vehicle or of certain collateral at the time of loss; altering the definitions of “outstanding balance” and “remaining loan balance” to exclude any ~~other items as agreed to by the parties and stated in the debt cancellation agreement~~ deferred payments and the refundable a certain portion of any

financed taxes and charges; and generally relating to credit regulation and debt cancellation agreements.

BY repealing and reenacting, without amendments,
Article – Commercial Law
Section 12–601(a) and 12–1001(a)
Annotated Code of Maryland
(2005 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,
Article – Commercial Law
Section 12–601(h) and (p) and 12–1001(h) and (l)
Annotated Code of Maryland
(2005 Replacement Volume and 2011 Supplement)

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

Article – Commercial Law

12–601.

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

(h) “Debt cancellation agreement” means an agreement between a seller and a buyer which provides for cancellation of the outstanding balance payable under an installment sale agreement in the event of theft or total destruction of the motor vehicle that is the subject of the installment sale agreement [after application of] **MINUS** the proceeds of any insurance maintained on the motor vehicle **OR, IF THE BUYER DOES NOT HAVE INSURANCE THAT COVERS THE LOSS, THE ACTUAL CASH VALUE OF THE MOTOR VEHICLE AT THE TIME OF LOSS, DETERMINED AS PROVIDED IN THE ~~DEBT CANCELLATION~~ AGREEMENT.**

(p) “Outstanding balance”, when used in reference to a debt cancellation agreement, does not include:

- (1) Any delinquent **OR DEFERRED** payments;
- (2) Past due charges;
- (3) Late payment charges;
- (4) Unearned interest;
- (5) Unearned rental payments; [or]

(6) THE REFUNDABLE PORTION OF ANY FINANCED TAXES OR CHARGES, INCLUDING CHARGES FOR CREDIT LIFE INSURANCE, CREDIT HEALTH INSURANCE, CREDIT INVOLUNTARY UNEMPLOYMENT BENEFIT INSURANCE, AND MECHANICAL REPAIR CONTRACTS, ACTUALLY REFUNDED TO THE BUYER OR CREDITED AS A REDUCTION TO THE LOAN BALANCE; OR

~~(6) (7)~~ By agreement of the parties, the amount of any primary insurance deductible;~~OR~~

~~(7) OTHER ITEMS AS AGREED TO BY THE PARTIES AND STATED IN THE DEBT CANCELLATION AGREEMENT.~~

12-1001.

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

(h) "Debt cancellation agreement" means an agreement between a credit grantor and a borrower which provides for cancellation of the remaining loan balance in the event of theft or total destruction of the collateral for the loan [after application of] MINUS the proceeds of any insurance maintained on the collateral for the loan **OR, IF THE BORROWER DOES NOT HAVE INSURANCE THAT COVERS THE LOSS, THE ACTUAL CASH VALUE OF THE MOTOR VEHICLE COLLATERAL AT THE TIME OF LOSS, DETERMINED AS PROVIDED IN THE DEBT CANCELLATION AGREEMENT.**

(l) "Remaining loan balance", when used in reference to a debt cancellation agreement, does not include:

- (1) Any delinquent **OR DEFERRED** payments;
- (2) Past due charges;
- (3) Late payment charges;
- (4) Unearned interest;
- (5) Unearned rental payments; [or]

(6) THE REFUNDABLE PORTION OF ANY FINANCED TAXES OR CHARGES, INCLUDING CHARGES FOR CREDIT LIFE INSURANCE, CREDIT HEALTH INSURANCE, CREDIT INVOLUNTARY UNEMPLOYMENT BENEFIT INSURANCE, AND MECHANICAL REPAIR CONTRACTS, ACTUALLY REFUNDED TO THE BORROWER OR CREDITED AS A REDUCTION TO THE LOAN BALANCE; OR

~~(6) (7)~~ By agreement of the parties, the amount of any primary insurance deductible;~~OR~~

~~(7) OTHER ITEMS AS AGREED TO BY THE PARTIES AND STATED IN THE DEBT CANCELLATION AGREEMENT.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 620

(Senate Bill 920)

AN ACT concerning

Ethics Online Disclosure Act of 2012

FOR the purpose of requiring that certain ethics statements and reports be made available to the general public on the Internet *through an online registration program*; requiring that certain ethics statements and reports be submitted in an electronic format; altering certain procedures relating to the availability of ethics statements and reports; ~~altering provisions relating to the review of certain ethics statements by the Joint Committee on Legislative Ethics; requiring the State Ethics Commission to adopt certain regulations; repealing a requirement that the Court of Appeals or its designee transmit copies of certain statements to the State Ethics Commission; providing that counties, municipal corporations, municipal corporations and boards of education are not required to post financial disclosure information on the Internet or to require that financial disclosure statements be filed electronically; requiring the governing body of a county, including Baltimore City, to post information from financial disclosure statements on the Internet and require certain local officials to file certain statements electronically; providing for the delayed implementation of certain provisions of this Act; providing that a legislator is not required to report certain information under certain circumstances if reporting the information would violate standards of client confidentiality or professional conduct; requiring a legislator to report to the Joint Ethics Committee certain information related to employment and business interests, under certain circumstances; prohibiting the Department of Legislative Services from posting on the Internet certain information reported to the Joint Ethics Committee; requiring the President of the Senate and the Speaker of the House of Delegates to jointly establish a workgroup to perform a certain review of the disclosure requirements of the Maryland Public Ethics Law; providing for the appointment of the workgroup; establishing the duties of the workgroup and requiring the workgroup to submit any recommended legislation to certain committees of the General Assembly on or before a certain date; making certain stylistic changes; providing for the~~

termination of certain provisions of this Act; and generally relating to the revision of the Maryland Public Ethics Law.

BY repealing and reenacting, with amendments,

Article – State Government

Section ~~15-512, 15-513(e), 15-602, 15-606, 15-805, and 15-813~~ *and 15-513(b) and (c)*

Annotated Code of Maryland

(2009 Replacement Volume and 2011 Supplement)

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

~~Article – State Government~~

~~Section 15-513(b)~~

~~Annotated Code of Maryland~~

~~(2009 Replacement Volume and 2011 Supplement)~~

BY adding to

Article – State Government

Section 15-513(d)

Annotated Code of Maryland

(2009 Replacement Volume and 2011 Supplement)

~~BY repealing~~

~~Article – State Government~~

~~Section 15-610(e)~~

~~Annotated Code of Maryland~~

~~(2009 Replacement Volume and 2011 Supplement)~~

Preamble

WHEREAS, The Maryland General Assembly is a part-time legislature and many of its members have outside employment and investments; and

WHEREAS, As a result, real or perceived conflicts of interest will inevitably arise for members of the General Assembly; and

WHEREAS, For these reasons, the General Assembly is committed to maximum transparency in dealing with conflicts of interest by establishing for its members stringent requirements for annual financial disclosure and disclosure of conflicts of interest; and

WHEREAS, These important disclosure requirements must be balanced with the vital duty to safeguard personal information that could lead to identity theft or other criminal activity; now, therefore,

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

Article – State Government

15–512.

(a) (1) (i) Except as provided in subparagraph (ii) of this paragraph, the disqualification arising under § 15–511 of this subtitle may not be suspended if the conflict is direct and personal to:

1. the legislator;
2. a member of the legislator's immediate family; or
3. the legislator's employer.

(ii) This paragraph does not apply to a vote on:

1. the annual operating budget bill, in its entirety; or
2. the annual capital budget bill, in its entirety.

~~(2) As to any other conflict, AND SUBJECT TO A DETERMINATION BY THE JOINT ETHICS COMMITTEE UNDER SUBSECTION (B) OF THIS SECTION, the disqualification arising under § 15–511 of this subtitle is suspended if a legislator with an apparent or presumed conflict files with the Joint Ethics Committee a sworn statement that describes the circumstances of the apparent or presumed conflict and the legislation or class of legislation to which it relates and asserts the legislator is able to vote and otherwise participate in action relating to the legislation, fairly, objectively, and in the public interest.~~

~~(b) (1) Whenever a legislator files a statement for the suspension of the disqualification, the Joint Ethics Committee [on its own motion may issue a statement] SHALL MAKE A DETERMINATION concerning the propriety of the legislator's participation in the particular legislative action[, with reference to the applicable ethical standards of this matter].~~

~~[(2) The suspension of the disqualification by the filing of the statement is subject to further action by the Joint Ethics Committee if the question of conflict comes before it as to the same circumstances and the same legislator.]~~

~~(2) IF THE JOINT ETHICS COMMITTEE DETERMINES THAT THE LEGISLATOR'S PARTICIPATION IS IMPROPER:~~

~~(i) THE COMMITTEE SHALL NOTIFY THE LEGISLATOR OF THAT DETERMINATION IN WRITING, WITH REFERENCE TO THE APPLICABLE ETHICAL STANDARDS OF THE MATTER; AND~~

~~(H) THE LEGISLATOR SHALL BE DISQUALIFIED FROM PARTICIPATING IN LEGISLATIVE ACTION TO WHICH THE DETERMINATION APPLIES.~~

(2) As to any other conflict, the disqualification arising under § 15-511 of this subtitle is suspended if a legislator with an apparent or presumed conflict files with the Joint Ethics Committee a sworn statement that describes the circumstances of the apparent or presumed conflict and the legislation or class of legislation to which it relates and asserts the legislator is able to vote and otherwise participate in action relating to the legislation, fairly, objectively, and in the public interest.

(b) (1) Whenever a legislator files a statement for the suspension of the disqualification, the Joint Ethics Committee on its own motion may issue a statement concerning the propriety of the legislator's participation in the particular legislative action, with reference to the applicable ethical standards of this matter.

(2) The suspension of the disqualification by the filing of the statement is subject to further action by the Joint Ethics Committee if the question of conflict comes before it as to the same circumstances and the same legislator.

(c) A member who is disqualified from participating in legislative action under subsection (a)(1) of this section, or who chooses to be excused from participating in legislative action on a bill or class of bills because of the appearance or presumption of a conflict, shall file in a timely manner a statement with the Joint Ethics Committee that describes the circumstances of the apparent or presumed conflict.

(d) [(1)] All statements filed under this section shall be:

(1) FILED ELECTRONICALLY ON A FORM PRESCRIBED BY THE JOINT ETHICS COMMITTEE; AND

(2) MAINTAINED AS a matter of public record AS PRESCRIBED IN SUBSECTION (E) OF THIS SECTION.

[(2) The Joint Ethics Committee shall develop procedures under which a statement filed under this section may be filed electronically without any additional cost to the legislator.]

(E) (1) THE DEPARTMENT OF LEGISLATIVE SERVICES SHALL:

(I) COMPILE THE STATEMENTS FILED UNDER THIS SECTION;

(II) MAKE THE STATEMENTS AVAILABLE FOR PUBLIC INSPECTION AS PROVIDED IN THE PUBLIC INFORMATION ACT; AND

(III) AS TO STATEMENTS FILED ON OR AFTER JANUARY 1, 2013, MAKE THE STATEMENTS FREELY AVAILABLE TO THE PUBLIC ~~BY PROMPTLY POSTING THE INFORMATION~~ ON THE INTERNET THROUGH AN ONLINE REGISTRATION PROGRAM.

(2) AS TO EACH STATEMENT, THE INTERNET POSTING SHALL INDICATE:

(I) WHETHER THE JOINT ETHICS COMMITTEE HAS MADE A DETERMINATION UNDER SUBSECTION (B) OF THIS SECTION;

(II) THE DETERMINATION MADE, IF ANY; AND

(III) THE DATE, IF ANY, ON WHICH THE DETERMINATION WAS MADE.

15-513.

(b) (1) A legislator shall report the following information in writing to the Joint Ethics Committee at the times and in the manner required by the Joint Ethics Committee:

~~(1)~~ (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, if representing a person for compensation before a State or local government agency, except in a judicial proceeding or in a quasi-judicial proceeding, the name of the person represented, the services performed, and the consideration. The Joint Ethics Committee may adopt procedures to keep confidential the name of the person represented if that information is privileged or confidential pursuant to any provision of law governing proceedings before that State agency.

~~(2)~~ (II) if representing a State or local government agency for compensation, the name of the agency, the services performed, and the consideration.

~~(3)~~ (III) the name of any business enterprise subject to regulation by a State agency in which the legislator and a member of the legislator's immediate family (spouse and children living with the legislator), together or separately, have:

~~(1)~~ 1. the lesser of:

~~A.~~ A. 10 percent or more of the capital stock of any corporation; or

~~B.~~ B. capital stock of any corporation with a cumulative value of \$25,000 or more; and

~~(ii)~~ **2.** any interest in a partnership, limited liability partnership, or limited liability company.

~~(4)~~ **(IV)** details of any contractual relationship with the State or a State agency, or a local government in the State, including the subject matter and the consideration.

~~(5)~~ **(V)** details of any transaction with the State, or a local government in the State, involving a monetary consideration.

(VI) ANY PRIMARY EMPLOYMENT OR BUSINESS INTEREST AND THE EMPLOYER OF THE LEGISLATOR OR THE SPOUSE OF THE LEGISLATOR, EXCEPT FOR EMPLOYMENT AS A LEGISLATOR.

(2) A LEGISLATOR, ON THE WRITTEN ADVICE OF THE COUNSEL TO THE JOINT ETHICS COMMITTEE, IS NOT REQUIRED TO REPORT ANY INFORMATION UNDER THIS PARAGRAPH IF REPORTING THE INFORMATION WOULD VIOLATE STANDARDS OF CLIENT CONFIDENTIALITY OR PROFESSIONAL CONDUCT.

(c) [(1)] All reports filed under this section shall be:

(1) FILED ELECTRONICALLY ON A FORM REQUIRED BY THE JOINT ETHICS COMMITTEE; AND

(2) MAINTAINED AS a matter of public record AS REQUIRED IN SUBSECTION (D) OF THIS SECTION.

[(2)] The Joint Ethics Committee shall develop procedures under which a report required under this section may be filed electronically without any additional cost to the legislator.]

(D) (1) THE DEPARTMENT OF LEGISLATIVE SERVICES SHALL:

~~(1)~~ **(I) COMPILE THE REPORTS FILED UNDER THIS SECTION;**

~~(2)~~ **(II) MAKE THE REPORTS AVAILABLE FOR PUBLIC INSPECTION AS PROVIDED IN THE PUBLIC INFORMATION ACT; AND**

~~(3)~~ **(III) AS TO REPORTS FILED ON OR AFTER JANUARY 1, 2013, AND EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, MAKE THE REPORTS FREELY AVAILABLE TO THE PUBLIC BY PROMPTLY POSTING THE INFORMATION ON THE INTERNET THROUGH AN ONLINE REGISTRATION PROGRAM.**

(2) THE DEPARTMENT OF LEGISLATIVE SERVICES MAY NOT POST ON THE INTERNET INFORMATION RELATED TO CONSIDERATION RECEIVED THAT IS REPORTED UNDER SUBSECTION (B) OF THIS SECTION.

~~15-602.~~

~~(a) Except as otherwise provided in this subtitle, a statement filed under § 15-601, § 15-603, § 15-604, or § 15-605 of this subtitle shall:~~

- ~~(1) be filed ELECTRONICALLY with the Ethics Commission;~~
- ~~(2) be filed under oath;~~
- ~~(3) be filed on or before April 30 of each year;~~
- ~~(4) cover the calendar year immediately preceding the year of filing;~~

~~and~~

- ~~(5) contain the information required in § 15-607 of this subtitle.~~

~~(b) [Notwithstanding subsection (a)(1) of this section, a] THE ETHICS COMMISSION SHALL PROMPTLY TRANSMIT TO THE JOINT ETHICS COMMITTEE THE TEXT OF A statement filed by a member of the General Assembly [shall be filed in duplicate with the Joint Ethics Committee].~~

~~(c) (1) In addition to the statement filed under § 15-601 of this subtitle, a member of the General Assembly shall file ELECTRONICALLY a preliminary disclosure on or before the seventh day of the regular legislative session if there will be a substantial change in the statement covering the calendar year immediately preceding the year of filing, as compared to the next preceding calendar year.~~

~~(2) A member of the General Assembly whose statement under § 15-601 of this subtitle will not contain a substantial change is not required to file a preliminary disclosure under paragraph (1) of this subsection.~~

~~(3) The Joint Ethics Committee shall:~~

~~(i) prescribe the form of a preliminary disclosure under this subsection; and~~

~~(ii) determine which aspects of financial disclosure are subject to this subsection.~~

~~(4) A preliminary disclosure shall be filed [and], maintained, and [may be disclosed,] POSTED ON THE INTERNET in the same manner prescribed for a statement filed under § 15-601 of this subtitle.~~

~~(d) (1) The Ethics Commission shall develop procedures [under which] FOR THE ELECTRONIC FILING OF a statement under this subtitle [may be filed electronically and without additional cost to the individual who files the statement].~~

~~(2) (i) To comply with the requirement of paragraph (1) of this subsection, the Ethics Commission may adopt regulations to modify the format for disclosure of information required under § 15-607 of this subtitle.~~

~~(H) THE ETHICS COMMISSION SHALL ADOPT PROCEDURES TO ALLOW THE ETHICS COMMISSION TO GRANT EXCEPTIONS TO THE REQUIREMENT THAT ALL STATEMENTS BE FILED ELECTRONICALLY.~~

~~[(ii)] (III) The regulations adopted under this paragraph shall be consistent with the intent of this title.~~

~~(e) (1) If the financial disclosure statement filed electronically under subsection (d) of this section is required to be made under oath or affirmation, the oath or affirmation shall be made by an electronic signature that:~~

~~(i) is in the financial disclosure statement or attached to and made part of the financial disclosure statement; and~~

~~(ii) is made expressly under the penalties for perjury.~~

~~(2) An electronic signature made under paragraph (1) of this subsection subjects the individual making it to the penalties for perjury to the same extent as an oath or affirmation made before an individual authorized to administer oaths.~~

~~15-606.~~

~~(a) (1) The Ethics Commission [and the Joint Ethics Committee] shall:~~

~~(I) maintain the statements submitted under this subtitle [and, during normal office hours,];~~

~~(II) make the statements available to the public for examination and copying;~~

~~(III) BEGINNING JULY 1, 2013, MAKE FREELY AVAILABLE TO THE PUBLIC, BY PROMPTLY POSTING THE INFORMATION ON THE INTERNET, THE STATEMENTS FILED ON OR AFTER JANUARY 1, 2013, BY:~~

~~1. A MEMBER OR MEMBER ELECT OF THE GENERAL ASSEMBLY;~~

~~2. A STATE OFFICIAL OR STATE OFFICIAL ELECT, EXCEPT A STATE OFFICIAL OR STATE OFFICIAL ELECT WHO FILES A STATEMENT REQUIRED BY § 15-601(B) OR § 15-610 OF THIS SUBTITLE;~~

~~3. THE HEAD OF EACH CABINET LEVEL AGENCY OF THE EXECUTIVE BRANCH; AND~~

~~4. THE HEAD OF EACH INDEPENDENT AGENCY OF THE EXECUTIVE BRANCH THAT THE ETHICS COMMISSION DETERMINES IS COMPARABLE TO A CABINET LEVEL AGENCY; AND~~

~~(IV) BEGINNING JULY 1, 2015, MAKE FREELY AVAILABLE TO THE PUBLIC, BY PROMPTLY POSTING THE INFORMATION ON THE INTERNET, ALL STATEMENTS FILED ON OR AFTER JANUARY 1, 2015.~~

~~(2) The Ethics Commission [and the Joint Ethics Committee] may charge a reasonable fee and adopt administrative procedures for the examination and copying of a statement.~~

~~[(b) (1) The Ethics Commission and the Joint Ethics Committee shall maintain a record of:~~

~~(i) the name and home address of each individual who examines or copies a statement under this section; and~~

~~(ii) the name of the individual whose statement was examined or copied.~~

~~(2) On the request of the individual whose statement was examined or copied, the Ethics Commission or the Joint Ethics Committee shall forward a copy of that record to that individual.]~~

~~(B) THE JOINT ETHICS COMMITTEE AND THE DEPARTMENT OF LEGISLATIVE SERVICES SHALL COMPILE AND MAINTAIN THE STATEMENTS FILED BY MEMBERS OF THE GENERAL ASSEMBLY AND POST THE INFORMATION ON THE INTERNET IN THE SAME MANNER AS REPORTS AND STATEMENTS ARE FILED UNDER §§ 15-512 AND 15-513 OF THIS TITLE.~~

~~15-610.~~

~~[(c) Within 30 days after receiving a statement under this section, the Court of Appeals or its designee shall transmit a copy of the statement to the Ethics Commission.]~~

~~15-805.~~

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

~~(2) "Elected local official" includes:~~

~~(i) any individual who holds an elective office of a county or municipal corporation; and~~

~~(ii) a candidate for elective office as a local official of a county or municipal corporation.~~

~~(3) "Local official" includes an individual, designated as a local official, whose position is funded wholly or partly by the State.~~

~~(b) (1) Except as provided in paragraph (2) of this subsection and subsection (c) of this section, the financial disclosure provisions enacted by a county or municipal corporation under § 15-803 of this subtitle shall be similar to the provisions of Subtitle 6 of this title, but shall be modified to the extent necessary to make the provisions relevant to the prevention of conflicts of interest in that jurisdiction.~~

~~(2) The financial disclosure provisions for elected local officials enacted by a county or municipal corporation under § 15-803 of this subtitle shall be equivalent to or exceed the requirements of Subtitle 6 of this title, but shall be modified to the extent necessary to make the provisions relevant to the prevention of conflicts of interest in that jurisdiction.~~

~~(c) (1) This subtitle does not compel the governing body of a county or municipal corporation to require a local official to file a financial disclosure statement except:~~

~~(i) when the personal interest of the local official will present a potential conflict with the public interest in connection with an anticipated public action of the local official; and~~

~~(ii) at least annually to report on gifts received by the local official.~~

~~(2) The provisions shall require:~~

~~(i) that a statement filed under paragraph (1)(i) of this subsection be filed sufficiently in advance of the action to provide adequate disclosure to the public; and~~

~~(ii) a statement filed by an elected local official under subsection (b)(2) of this section to be filed on or before April 30 of each year.~~

~~(3) THE GOVERNING BODY OF A COUNTY OR MUNICIPAL CORPORATION IS NOT REQUIRED TO:~~

~~(i) POST INFORMATION FROM FINANCIAL DISCLOSURE STATEMENTS ON THE INTERNET; OR~~

~~(ii) REQUIRE A LOCAL ELECTED OFFICIAL OR LOCAL OFFICIAL TO FILE STATEMENTS ELECTRONICALLY.~~

~~(4) THE GOVERNING BODY OF A COUNTY, INCLUDING BALTIMORE CITY, SHALL:~~

~~(i) POST INFORMATION FROM FINANCIAL DISCLOSURE STATEMENTS ON THE INTERNET; AND~~

~~(ii) REQUIRE A LOCAL ELECTED OFFICIAL OR LOCAL OFFICIAL TO FILE STATEMENTS ELECTRONICALLY.~~

~~(d) Financial disclosure provisions applicable to a candidate shall be consistent with the provisions applicable to an incumbent holding the office involved.~~

~~15-813.~~

~~(a) (1) In accordance with this section, a school board:~~

~~(i) may adopt financial disclosure regulations applicable to officials and employees of that school system; and~~

~~(ii) shall adopt financial disclosure regulations applicable to members of the school board.~~

~~(2) (i) The regulations adopted under paragraph (1)(i) of this subsection shall apply to:~~

~~1. the superintendent of that school system; and~~

~~2. subject to subparagraph (iii) of this paragraph, those other officials and employees of that school system designated by the school board.~~

~~(ii) The regulations adopted under paragraph (1)(ii) of this subsection shall apply to:~~

- ~~1. each member of the school board; and~~
- ~~2. if the school board is an elected board under Title 3, Subtitle 1, Part III of the Education Article, each candidate for election to the school board.~~

~~(iii) The regulations may not apply to a classroom teacher unless the teacher has additional duties, not normally expected of classroom teachers, that cause the teacher for other reasons to be covered by the financial disclosure regulations.~~

~~(b) (1) Except as provided in subsection (e) of this section, the regulations adopted under subsection (a)(1)(i) of this section shall be similar to the provisions of Subtitle 6 of this title, but may be modified to the extent necessary to make the regulations relevant to the prevention of conflicts of interest in that school system.~~

~~(2) The regulations adopted under subsection (a)(1)(ii) of this section shall be equivalent to or exceed the requirements of Subtitle 6 of this title, but may be modified to the extent necessary to make the regulations relevant to the prevention of conflicts of interest in that school system.~~

~~(e) (1) (i) This paragraph does not compel a school board to require an individual to file a financial disclosure statement except:~~

~~1. when the personal interest of the individual will present a potential conflict with the public interest in connection with an anticipated public action of the individual; and~~

~~2. at least annually to report on gifts received by the individual.~~

~~(ii) The regulations adopted under subsection (a)(1)(i) of this section shall require that a statement filed under subparagraph (i)1 of this paragraph be filed sufficiently in advance of the public action to provide adequate disclosure to the public.~~

~~(2) The regulations adopted under subsection (a)(1)(ii) of this section shall require that a statement filed by a member of a board of education be filed on or before April 30 of each year.~~

~~(3) A SCHOOL BOARD IS NOT REQUIRED TO:~~

~~(i) POST INFORMATION FROM FINANCIAL DISCLOSURE STATEMENTS ON THE INTERNET; OR~~

~~(H) REQUIRE A MEMBER OF THE SCHOOL BOARD OR A CANDIDATE FOR ELECTION TO THE SCHOOL BOARD TO FILE FINANCIAL DISCLOSURE STATEMENTS ELECTRONICALLY.~~

~~(d) Except as provided for a member of a board of education under this Part II, unless a school board adopts and maintains financial disclosure regulations under this subtitle, the provisions enacted by the county under § 15-805 of this subtitle shall apply to:~~

~~(1) the superintendent of that school system; and~~

~~(2) the other officials and employees of the school system that the governing body of that county designates.~~

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) The President of the Senate of Maryland and the Speaker of the Maryland House of Delegates jointly shall establish a workgroup during the 2012 interim to perform a comprehensive and coordinated review of the disclosure requirements of the Maryland Public Ethics Law as it applies to State and local governments.

(b) The President and the Speaker may appoint to the workgroup in their discretion:

(1) members of the General Assembly;

(2) representatives of the Maryland State Ethics Commission;

(3) representatives of State, county, and municipal governments;

(4) representatives of private sector agencies that promote and encourage government accountability;

(5) representatives of public sector employees' unions; and

(6) any other interested party.

(c) The workgroup shall:

(1) review current methods used to provide access to public ethics disclosures and consider any alternative methods that could be made available to citizens and interested parties to more easily access public ethics disclosures;

(2) consider options for verifiable notification of electronic or postal access into a public ethics disclosure to be made to the person who is the subject of the inquiry;

(3) consider the feasibility and desirability of requiring different levels of public ethics disclosure for different categories of persons based on the person's position of authority and policy making duties;

(4) review the information that is currently required to be disclosed and determine:

(i) additional information that should be required to be disclosed; and

(ii) information that is currently disclosed that no longer needs to be disclosed;

(5) consider the implications of current and any proposed disclosure requirements under the Maryland Public Ethics Law on counties and municipal corporations;

(6) review the composition, duties, and procedures of the Joint Ethics Committee;

(7) review any other aspect of the disclosure requirements under the Maryland Public Ethics Law; and

(8) on or before December 31, 2012, submit, in accordance with § 2-1246 of the State Government Article, any recommended legislation for the 2013 regular session to the Senate Education, Health, and Environmental Affairs Committee and the House Environmental Matters Committee.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October 1, 2012~~ June 1, 2012. Section 2 of this Act shall remain effective for a period of 1 year and, at the end of May 31, 2013, with no further action required by the General Assembly, Section 2 of this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 22, 2012.

Chapter 621

(Senate Bill 921)

AN ACT concerning

State Board of Nursing – Sunset Extension and Revisions

FOR the purpose of continuing the State Board of Nursing in accordance with the provisions of the Maryland Program Evaluation Act (sunset law) by extending to a certain date the termination provisions relating to the statutory and regulatory authority of the Board; requiring that an evaluation of the Board and the statutes and regulations that relate to the Board be performed on or before a certain date; requiring the Board to submit a certain annual report to the General Assembly; specifying the data that must be included in a certain annual report; altering a certain requirement related to the application for a license to practice registered nursing or licensed practical nursing; altering a certain requirement related to the application for certification as a certified nursing assistant; altering the membership of a certain advisory committee; requiring a certain advisory committee to meet at least once during a certain time period; requiring the ~~Board to contract with an independent entity Department of Budget and Management~~ Department of Health and Mental Hygiene, in consultation with the Department of Budget and Management, to contract with an independent entity to perform a certain management and personnel study to be completed on or before a certain date ~~and to submit a certain study to certain committees of the General Assembly on or before a certain date~~; requiring the Department of Health and Mental Hygiene and the Department of Budget and Management jointly to develop specifications for a certain solicitation; requiring the Department of Budget and Management to oversee a certain independent entity; requiring that the costs of a certain study be paid from the Board of Nursing Fund; requiring the Department of Budget and Management, on or before a certain date, to report to certain committees of the General Assembly on the results of a certain study; requiring the Board to report to certain committees of the General Assembly on the implementation and use of certain sanctioning guidelines on or before a certain date; requiring the Board to report to certain committees of the General Assembly on the implementation of certain recommendations; requiring the report to include certain information and a certain plan; making a stylistic change; and generally relating to the State Board of Nursing.

BY repealing and reenacting, with amendments,

Article – Health Occupations

Section 8–205(a)(8), 8–304, 8–6A–05(c)(2), 8–6A–13, and 8–802

Annotated Code of Maryland

(2009 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, without amendments,

Article – State Government

Section 8–403(a)

Annotated Code of Maryland

(2009 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,

Article – State Government

Section 8–403(b)(40)

Annotated Code of Maryland
(2009 Replacement Volume and 2011 Supplement)

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

Article – Health Occupations

8–205.

(a) In addition to the powers and duties set forth elsewhere in this title, the Board has the following powers and duties:

(8) To submit [an annual report] to the Governor, [and] THE Secretary, AND, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY, AN ANNUAL REPORT THAT INCLUDES THE FOLLOWING DATA CALCULATED ON A FISCAL YEAR BASIS:

(I) THE NUMBER OF INITIAL AND RENEWAL LICENSES AND CERTIFICATES ISSUED;

(II) THE NUMBER OF POSITIVE AND NEGATIVE CRIMINAL HISTORY RECORDS CHECKS RESULTS RECEIVED;

(III) THE NUMBER OF INDIVIDUALS DENIED INITIAL OR RENEWAL LICENSURE OR CERTIFICATION DUE TO POSITIVE CRIMINAL HISTORY RECORDS CHECKS RESULTS;

(IV) THE NUMBER OF INDIVIDUALS DENIED LICENSURE OR CERTIFICATION DUE TO REASONS OTHER THAN A POSITIVE CRIMINAL HISTORY RECORDS CHECK;

(V) THE NUMBER OF NEW COMPLAINTS RECEIVED;

(VI) THE NUMBER OF COMPLAINTS CARRIED OVER FROM YEAR TO YEAR;

(VII) THE MOST COMMON GROUNDS FOR COMPLAINTS; AND

(VIII) THE NUMBER AND TYPES OF DISCIPLINARY ACTIONS TAKEN BY THE BOARD;

8–304.

To apply for a license to practice registered nursing or licensed practical nursing, an applicant shall:

(1) [(i)] Submit to a criminal history records check in accordance with § 8–303 of this subtitle; [or

(ii) Have completed a criminal history records check in accordance with § 8–303 of this subtitle through another state board of nursing within the 5 years preceding the date of application;]

(2) Submit to the Board:

(i) An application on the form that the Board requires;

(ii) Written, verified evidence that the requirement of item (1) of this subsection is being met or has been met; and

(iii) Written, verified evidence of completion of the appropriate education requirements of § 8–302 of this subtitle; and

(3) Pay to the Board the application fee set by the Board.

8–6A–05.

(c) (2) Subject to paragraph (1) of this subsection, an applicant for certification as a certified nursing assistant shall submit to the Board:

(i) [1.] A criminal history records check in accordance with § 8–303 of this title; [or

2. Evidence of completion of a criminal history records check in accordance with § 8–303 of this title through another state board of nursing within the 5 years preceding the date of application;] and

(ii) On the form required by the Board, written, verified evidence that the requirement of item (i) of this paragraph is being met or has been met.

8–6A–13.

(a) The Board shall appoint an advisory committee consisting of at least [14] 15 members appointed by the Board.

(b) Of the [14] 15 committee members:

(1) Six shall be nursing assistants:

- (i) One shall be an acute care nursing assistant;
 - (ii) One shall be a home care nursing assistant;
 - (iii) One shall be a long-term care nursing assistant;
 - (iv) One shall be an adult medical day care nursing assistant;
 - (v) At least one of the nursing assistant members shall be a member of a union; and
 - (vi) One shall be an independent contractor;
- (2) Three shall be registered nurses:
- (i) One shall be an acute care registered nurse;
 - (ii) One shall be a home care registered nurse; and
 - (iii) One shall be a long-term care registered nurse;
- (3) One shall be an administrator from a licensed health care facility;
- (4) One shall be a licensed practical nurse;
- (5) One shall be an individual who teaches a nursing assistant course;
- (6) One shall be a consumer member who has received care, or has a family member who has received care from a nursing assistant; [and]
- (7) One shall be a representative of the Department; **AND**
- (8) ONE SHALL BE A CERTIFIED MEDICATION TECHNICIAN.**

(c) The Board shall appoint an alternate for each of the three nursing assistant members in the event that the nursing assistant member is unable to discharge the duties of the committee.

(d) An advisory committee member shall serve a term of 4 years.

(E) THE ADVISORY COMMITTEE SHALL MEET AT LEAST ONCE A MONTH.

[(e)] (F) The advisory committee shall:

- (1) Evaluate training programs and make recommendations for approval by the Board;
- (2) Develop and recommend regulations to enforce the provisions of this subtitle;
- (3) Evaluate candidates as required and recommend action to the Board;
- (4) Review investigations of complaints against nursing assistants or medication technicians and make recommendations to the Board for disciplinary action;
- (5) Keep a record of its proceedings; and
- (6) Submit an annual report to the Board.

8–802.

Subject to the evaluation and reestablishment provisions of the Program Evaluation Act, the provisions of this title and of any rule or regulation adopted under this title shall terminate and be of no effect after July 1, [2013] **2023**.

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:

(40) Nursing, State Board of (§ 8–201 of the Health Occupations Article: July 1, [2012] **2022**);

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) (1) The State Board of Nursing shall contract with an independent entity to Department of Budget and Management shall perform a Department of Health and Mental Hygiene, in consultation with the Department of Budget and Management, shall contract with an independent entity to perform a management and

personnel study ~~to determine the necessity and allocation of additional staff to the State Board of Nursing.~~

(2) The Department of Health and Mental Hygiene and the Department of Budget and Management jointly shall develop the specifications for the solicitation of the contract required under paragraph (1) of this subsection.

(3) (i) The Department of Budget and Management shall oversee the independent entity that is performing the management and personnel study required under paragraph (1) of this subsection.

(ii) The independent entity that is performing the management and personnel study required under paragraph (1) of this subsection shall report directly to the Department of Budget and Management regarding the study.

(4) The costs of the management and personnel study required under paragraph (1) of this subsection shall be paid from the Board of Nursing Fund established under § 8-206 of the Health Occupations Article.

(b) The study required under subsection (a) of this section shall:

~~(i)~~ ~~(1)~~ include an analysis of the workload of the Board related to its licensure, certification, and complaint resolution functions; ~~and~~

~~(2)~~ consider at a minimum:

~~(i)~~ the number of applications and complaints received by the Board;

~~(ii)~~ the number of employees assigned to each step of each function; and

~~(iii)~~ the amount of time an application or complaint remains at each step of each function;

~~(3)~~ include an analysis of the impact on staffing needs of:

~~(i)~~ the online processing of licenses and certificates; and

~~(ii)~~ the movement to biennial renewal of licenses; and

~~(4)~~ make recommendations on the most effective use of existing staff, including cross training and reassignment.

(c) The study required under subsection (a) of this section shall be completed on or before October 1, 2013, ~~and, in accordance with § 2-1246 of the State Government Article, shall be submitted to the Senate Education, Health, and~~

~~Environmental Affairs Committee and the House Health and Government Operations Committee on or before December 1, 2013.~~

(d) On or before December 1, 2013, the Department of Budget and Management 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 the results of the management and personnel study required under subsection (a) of this section.

SECTION 3. AND BE IT FURTHER ENACTED, That, on or before December 1, 2012, 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 the implementation and use of the sanctioning guidelines required by Chapters 533 and 534 of the Acts of the General Assembly of 2010.

SECTION 4. AND BE IT FURTHER ENACTED, That:

(a) On or before October 1, 2013, 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 the implementation of nonstatutory recommendations contained in the sunset evaluation report dated October 2011.

(b) The report required under subsection (a) of this section shall include:

(1) information on how the Board has improved its use of data collection and tracking for the application and complaint resolution processes; and

(2) the Board's plan to implement the findings of the personnel study required under Section 2 of this Act.

SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 622

(Senate Bill 928)

AN ACT concerning

Health Insurance – Fees for Administrative Services Provided by Insurance Producers – Authorized

FOR the purpose of authorizing an insurance producer who is licensed to sell health insurance to charge reasonable fees for ~~services related to the administration of a health benefit plan~~ an administrative service that is sold by the insurance producer to an employer ~~and covers eligible employees of the employer~~; providing that fees may not be charged by an insurance producer for certain services; requiring an insurance producer to disclose certain information on a certain form and in a certain manner before a fee for administrative services is charged; requiring the disclosure form to be signed by the insurance producer and an authorized representative of the employer and retained by the insurance producer as required by regulations adopted by the Maryland Insurance Commissioner; defining certain terms; and generally relating to fees for administrative services provided by insurance producers.

BY repealing and reenacting, without amendments,

Article – Insurance

Section 27–216(a)

Annotated Code of Maryland

(2011 Replacement Volume)

BY adding to

Article – Insurance

Section 27–216(g)

Annotated Code of Maryland

(2011 Replacement Volume)

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

Article – Insurance

27–216.

(a) A person may not willfully collect a premium or charge for insurance if the insurance is not then provided, or is not in due course to be provided subject to acceptance of the risk by the insurer, in a policy issued by an insurer as authorized by this article.

(G) (1) (I) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE MEANING INDICATED.

(II) “ADMINISTRATIVE SERVICE” MEANS A SERVICE, OTHER THAN A SERVICE RELATED TO THE SALE, SOLICITATION, NEGOTIATION, OR SERVICING OF A HEALTH BENEFIT PLAN, THAT AN INSURANCE PRODUCER PROVIDES TO ASSIST AN EMPLOYER IN:

- REQUIREMENT;
1. COMPLYING WITH A STATUTORY OR REGULATORY
 2. PROVIDING AN EMPLOYEE BENEFIT ON BEHALF OF THE EMPLOYER; OR
 3. PERFORMING FUNCTIONS RELATED TO THE MANAGEMENT OF EMPLOYEES OF THE EMPLOYER.

(III) “HEALTH BENEFIT PLAN” HAS THE MEANING STATED IN § 2-112.2 OF THIS ARTICLE.

(2) (I) NOTWITHSTANDING SUBSECTION (A) OF THIS SECTION AND SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, AN INSURANCE PRODUCER WHO IS LICENSED UNDER TITLE 10 OF THIS ARTICLE TO SELL HEALTH INSURANCE MAY CHARGE REASONABLE FEES FOR SERVICES RELATED TO THE ADMINISTRATION OF A HEALTH BENEFIT PLAN THAT:

1. AN ADMINISTRATIVE SERVICE THAT IS SOLD BY THE INSURANCE PRODUCER TO AN EMPLOYER; AND
2. COVERS ELIGIBLE EMPLOYEES OF THE EMPLOYER.

(II) AN INSURANCE PRODUCER MAY NOT CHARGE FEES UNDER THIS SUBSECTION FOR SERVICES THAT ARE:

1. COMPENSATED BY COMMISSIONS OR SIMILAR OTHER COMPENSATION REMUNERATION PAID TO THE INSURANCE PRODUCER BY AN INSURER FOR THE SALE OF, NONPROFIT HEALTH SERVICE PLAN, OR HEALTH MAINTENANCE ORGANIZATION RELATED TO A HEALTH BENEFIT PLAN TO OF AN EMPLOYER; OR
2. PERFORMED BY THE INSURANCE PRODUCER ACTING AS AN ADMINISTRATOR UNDER TITLE 8, SUBTITLE 3 OF THIS ARTICLE OR AN ADVISER UNDER TITLE 10, SUBTITLE 2 OF THIS ARTICLE.

(2) (3) BEFORE A FEE FOR ADMINISTRATIVE SERVICES IS CHARGED, AN INSURANCE PRODUCER, ON A FORM APPROVED ADOPTED BY THE COMMISSIONER BY REGULATION, SHALL DISCLOSE IN A CLEAR AND CONSPICUOUS MANNER:

(I) EACH ADMINISTRATIVE SERVICE OR GROUP OF ADMINISTRATIVE SERVICES TO BE PROVIDED;

(II) ~~THE FEE FOR EACH ADMINISTRATIVE SERVICE OR GROUP OF ADMINISTRATIVE SERVICES TO BE PROVIDED; AND~~

(III) IF THE INSURANCE PRODUCER SELLS A HEALTH BENEFIT PLAN TO THE EMPLOYER, THE AMOUNT OF COMMISSION OR SIMILAR OTHER COMPENSATION THAT THE INSURANCE PRODUCER WILL RECEIVE FROM THE AN INSURER, NONPROFIT HEALTH SERVICE PLAN, OR HEALTH MAINTENANCE ORGANIZATION FOR THE SALE OF THE HEALTH BENEFIT PLAN TO THE EMPLOYER RELATED TO THE HEALTH BENEFIT PLAN.

~~(3)~~ (4) THE DISCLOSURE FORM REQUIRED UNDER PARAGRAPH ~~(2)~~ (3) OF THIS SUBSECTION SHALL BE:

(I) SIGNED BY THE INSURANCE PRODUCER AND AN AUTHORIZED REPRESENTATIVE OF THE EMPLOYER; AND

(II) RETAINED BY THE INSURANCE PRODUCER AS REQUIRED BY REGULATIONS ADOPTED BY THE COMMISSIONER.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 623

(House Bill 982)

AN ACT concerning

Health Insurance – Fees for Administrative Services Provided by Insurance Producers – Authorized

FOR the purpose of authorizing an insurance producer who is licensed to sell health insurance to charge reasonable fees for ~~services related to the administration of a health benefit plan~~ an administrative service that is sold by the insurance producer to an employer ~~and covers eligible employees of the employer;~~ providing that fees may not be charged by an insurance producer for certain services; requiring an insurance producer to disclose certain information on a certain form and in a certain manner before a fee for administrative services is charged; requiring the disclosure form to be signed by the insurance producer and an authorized representative of the employer and retained by the insurance producer as required by regulations adopted by the Maryland Insurance

Commissioner; ~~defining a certain term~~ *certain terms*; and generally relating to fees for administrative services provided by insurance producers.

BY repealing and reenacting, without amendments,

Article – Insurance

Section 27–216(a)

Annotated Code of Maryland
(2011 Replacement Volume)

BY adding to

Article – Insurance

Section 27–216(g)

Annotated Code of Maryland
(2011 Replacement Volume)

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

Article – Insurance

27–216.

(a) A person may not willfully collect a premium or charge for insurance if the insurance is not then provided, or is not in due course to be provided subject to acceptance of the risk by the insurer, in a policy issued by an insurer as authorized by this article.

(G) (1) (I) ~~IN THIS SUBSECTION, “ADMINISTRATIVE~~ IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE MEANING INDICATED.

(II) “ADMINISTRATIVE SERVICE” MEANS A SERVICE, OTHER THAN A SERVICE RELATED TO THE SALE, SOLICITATION, NEGOTIATION, OR SERVICING OF A HEALTH BENEFIT PLAN, THAT AN INSURANCE PRODUCER PROVIDES TO ASSIST AN EMPLOYER IN:

~~(H)~~ 1. COMPLYING WITH A STATUTORY OR REGULATORY REQUIREMENT;

~~(H)~~ 2. PROVIDING AN EMPLOYEE BENEFIT ON BEHALF OF THE EMPLOYER; OR

~~(H)~~ 3. PERFORMING FUNCTIONS RELATED TO THE MANAGEMENT OF EMPLOYEES OF THE EMPLOYER.

(III) “HEALTH BENEFIT PLAN” HAS THE MEANING STATED IN § 2–112.2 OF THIS ARTICLE.

(2) (I) NOTWITHSTANDING SUBSECTION (A) OF THIS SECTION AND SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, AN INSURANCE PRODUCER WHO IS LICENSED UNDER TITLE 10 OF THIS ARTICLE TO SELL HEALTH INSURANCE MAY CHARGE REASONABLE FEES FOR ~~SERVICES RELATED TO THE ADMINISTRATION OF A HEALTH BENEFIT PLAN THAT:~~

~~1. AN ADMINISTRATIVE SERVICE THAT IS SOLD BY THE INSURANCE PRODUCER TO AN EMPLOYER; AND~~

~~2. COVERS ELIGIBLE EMPLOYEES OF THE EMPLOYER.~~

(II) AN INSURANCE PRODUCER MAY NOT CHARGE FEES UNDER THIS SUBSECTION FOR SERVICES THAT ARE:

1. COMPENSATED BY COMMISSIONS OR ~~SIMILAR OTHER COMPENSATION REMUNERATION~~ PAID TO THE INSURANCE PRODUCER BY AN INSURER ~~FOR THE SALE OF~~, NONPROFIT HEALTH SERVICE PLAN, OR HEALTH MAINTENANCE ORGANIZATION RELATED TO A HEALTH BENEFIT PLAN TO OF AN EMPLOYER; OR

2. PERFORMED BY THE INSURANCE PRODUCER ACTING AS AN ADMINISTRATOR UNDER TITLE 8, SUBTITLE 3 OF THIS ARTICLE OR AN ADVISER UNDER TITLE 10, SUBTITLE 2 OF THIS ARTICLE.

~~(2)~~ (3) BEFORE A FEE FOR ADMINISTRATIVE SERVICES IS CHARGED, AN INSURANCE PRODUCER, ON A FORM ~~APPROVED~~ ADOPTED BY THE COMMISSIONER BY REGULATION, SHALL DISCLOSE IN A CLEAR AND CONSPICUOUS MANNER:

(I) EACH ADMINISTRATIVE SERVICE ~~OR GROUP OF ADMINISTRATIVE SERVICES~~ TO BE PROVIDED;

(II) THE FEE FOR EACH ADMINISTRATIVE SERVICE ~~OR GROUP OF ADMINISTRATIVE SERVICES~~ TO BE PROVIDED; AND

(III) IF THE INSURANCE PRODUCER SELLS A HEALTH BENEFIT PLAN TO THE EMPLOYER, THE AMOUNT OF COMMISSION OR ~~SIMILAR OTHER COMPENSATION~~ THAT THE INSURANCE PRODUCER WILL RECEIVE FROM ~~THE~~ AN INSURER, NONPROFIT HEALTH SERVICE PLAN, OR HEALTH MAINTENANCE ORGANIZATION ~~FOR THE SALE OF THE HEALTH BENEFIT PLAN TO THE EMPLOYER~~ RELATED TO THE HEALTH BENEFIT PLAN.

~~(2)~~ ~~(3)~~ **(4) THE DISCLOSURE FORM REQUIRED UNDER PARAGRAPH**
(2) (3) OF THIS SUBSECTION SHALL BE:

(I) SIGNED BY THE INSURANCE PRODUCER AND AN AUTHORIZED REPRESENTATIVE OF THE EMPLOYER; AND

(II) RETAINED BY THE INSURANCE PRODUCER AS REQUIRED BY REGULATIONS ADOPTED BY THE COMMISSIONER.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 624

(Senate Bill 929)

AN ACT concerning

Electric Companies – Contact Voltage – Surveys and Mitigation – The Deanna Camille Green Act of 2012

FOR the purpose of requiring certain electric companies to file with the Public Service Commission for approval a certain list or voltage survey plan on or before a certain date; requiring an electric company to file a certain voltage survey plan for Commission approval within a certain period of time; requiring ~~on a certain approval~~ an electric company to conduct certain surveys of certain objects and surfaces within certain contact voltage risk zones at certain times and under certain circumstances; requiring an electric company to conduct certain surveys of certain objects and surfaces that are not within a certain contact voltage risk zone at certain times; specifying how an electric company shall test street lights; requiring an electric company to file for Commission approval a certain amended voltage survey plan within a certain time period before implementing a material change to a voltage survey plan; authorizing the Commission to modify certain contact voltage survey requirements under certain circumstances; requiring that certain equipment must be certified by an independent laboratory for certain purposes; requiring an electric company to include certain certification when filing a certain voltage survey plan; requiring an electric company to confirm and document all contact voltage detected in a contact voltage survey in a certain manner; requiring an electric company to make an area safe after detecting a potential contact voltage condition until the condition can be confirmed; requiring that, when an electric company detects a

certain contact voltage measurement, the electric company shall maintain certain records, perform a certain contact voltage survey, make a certain area safe, and use best efforts to make a certain permanent repair within a certain time period if the property is electric distribution plant or a certain street light or notify a certain person associated with a property that is not owned by the electric company of the condition and the need for the owner to make a certain repair; requiring an electric company to file a certain compliance report with the Commission on or before a certain date each year; providing for the contents of the compliance report; authorizing the Commission to impose a certain civil penalty under certain circumstances; ~~requiring the Commission to adopt certain regulations;~~ authorizing the Commission under certain circumstances to waive or modify a certain provision or impose certain requirements under certain circumstances; requiring the Commission to submit a certain report on or ~~after~~ before a certain date on the progress of the implementation of this Act and certain regulations; defining certain terms; making this Act an emergency measure; and generally relating to contact voltage plans and surveys.

BY adding to

Article – Public Utilities
 Section 7–214
 Annotated Code of Maryland
 (2010 Replacement Volume and 2011 Supplement)

Preamble

WHEREAS, On May 5, 2006, Deanna Camille Green, at the age of fourteen, was electrocuted by 277 volts on a fence in Baltimore City; and

WHEREAS, Contact voltage is a voltage present on a publicly accessible structure or surface due to faults in buried or internal wiring that poses a safety risk to pedestrians and pets; and

WHEREAS, Deteriorated and damaged utility electric distribution cables may energize a variety of structures and surfaces in the public right-of-way, including utility assets such as manhole covers, light poles, and transformer boxes, as well as nonutility structures and surfaces such as fences, sidewalks, and storm drains; and

WHEREAS, On October 28, 2011, the Maryland Public Service Commission approved the adoption of COMAR 20.50.11 Contact Voltage Survey Requirement and Reporting (In Memory of Deanna Camille Green); ~~and~~

~~WHEREAS, The regulations, with the exception of parks, do not account for the propensity of electric company owned cables and equipment to energize publicly accessible conductive structures and surfaces not owned by the electric company; and~~

~~WHEREAS, The regulations do not require testing of those structures and surfaces not owned by the electric company, exposing the public to unnecessary and significant risk;~~ now, therefore,

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

Article – Public Utilities

7-214.

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

(2) “CONTACT VOLTAGE” MEANS A VOLTAGE CONDITION THAT MAY RESULT IN AN OBJECT OR SURFACE BEING INADVERTENTLY ENERGIZED.

(3) “CONTACT VOLTAGE RISK ZONE” OR “CVRZ” MEANS THE PORTIONS OF EACH ELECTRIC COMPANY’S SERVICE TERRITORY THAT:

(I) ARE SERVED BY UNDERGROUND ELECTRIC DISTRIBUTION PLANT; AND

(II) HAVE SUBSTANTIAL PEDESTRIAN TRAFFIC OR POPULATION DENSITY, WHETHER PERMANENT, SEASONAL, OR VARYING BY TIME OF DAY.

(4) “CONTACT VOLTAGE SURVEY” MEANS A SURVEY PERFORMED BY AN ELECTRIC COMPANY TO DETECT CONTACT VOLTAGE CONSISTENT WITH THE ELECTRIC COMPANY’S VOLTAGE SURVEY PLAN.

(5) (I) “ELECTRIC DISTRIBUTION PLANT” MEANS ALL ELECTRIC COMPANY PLANT USED TO DISTRIBUTE ELECTRICITY TO ITS CUSTOMERS.

(II) “ELECTRIC DISTRIBUTION PLANT” INCLUDES COVERS AND PROTECTIVE STRUCTURES.

(III) “ELECTRIC DISTRIBUTION PLANT” DOES NOT INCLUDE CUSTOMER METERS AND METER ENCLOSURES.

(6) “VOLTAGE SURVEY PLAN” MEANS A PLAN, SUBMITTED BY AN ELECTRIC COMPANY AND APPROVED BY THE COMMISSION, THAT GOVERNS THE ELECTRIC COMPANY’S CONTACT VOLTAGE DETECTION AND TESTING

EQUIPMENT AND VOLTAGE DETECTION AND TESTING PROCEDURES TO BE USED WHEN CONDUCTING CONTACT VOLTAGE SURVEYS.

(B) (1) ON OR BEFORE SEPTEMBER 1, 2012, EACH ELECTRIC COMPANY SHALL FILE WITH THE COMMISSION FOR APPROVAL:

(I) A LIST AND LOCATION MAP FOR ALL CVRZS WITHIN ITS SERVICE TERRITORY, IF APPLICABLE; OR

(II) IF NO CVRZS ARE DESIGNATED IN ITS SERVICE TERRITORY, A VOLTAGE SURVEY PLAN.

(2) WITHIN 30 DAYS AFTER THE COMMISSION APPROVES A CVRZ WITHIN AN ELECTRIC COMPANY'S SERVICE TERRITORY, THE ELECTRIC COMPANY SHALL FILE ITS VOLTAGE SURVEY PLAN FOR COMMISSION APPROVAL.

(3) EACH ON COMMISSION APPROVAL OF ITS VOLTAGE SURVEY PLAN, EACH ELECTRIC COMPANY SHALL CONDUCT:

(I) AN INITIAL CONTACT VOLTAGE SURVEY OF EACH CVRZ WITHIN 1 YEAR AFTER THE COMMISSION APPROVES AN ELECTRIC COMPANY'S VOLTAGE SURVEY PLAN; AND

(II) SUBSEQUENT SURVEYS OF EACH CVRZ AS SET FORTH IN ITS VOLTAGE SURVEY PLAN.

(4) EACH ELECTRIC COMPANY SHALL CONDUCT AN INITIAL AND EACH SUBSEQUENT CONTACT VOLTAGE SURVEY WITHIN EACH CVRZ OF ALL OBJECTS AND SURFACES THAT ARE:

(I) PUBLICLY ACCESSIBLE;

(II) CAPABLE OF CONDUCTING ELECTRICITY; AND

(III) 1. ~~PROXIMATE TO UNDERGROUND PART OF THE~~ ELECTRIC DISTRIBUTION PLANT;

2. ~~ELECTRIC COMPANY OWNED OR MAINTAINED~~ STREETLIGHTS *OWNED OR MAINTAINED BY THE ELECTRIC COMPANY*;

3. ~~MUNICIPAL OR GOVERNMENT OWNED~~ STREETLIGHTS AND TRAFFIC SIGNALS, ~~IF~~ *OWNED BY A MUNICIPAL*

CORPORATION OR OTHER UNIT OF GOVERNMENT, WITH THE CONSENT OF THE APPROPRIATE AUTHORITY IS RECEIVED; OR AND

4. PUBLIC PARKS AND PLAYGROUNDS, ~~IF~~ WITH THE CONSENT OF THE APPROPRIATE AUTHORITY IS RECEIVED.

(5) (I) FOR AREAS IN EACH ELECTRIC COMPANY'S SERVICE TERRITORY NOT LOCATED IN A CVRZ, EXCEPT FOR WOODEN POLES, THE ELECTRIC COMPANY SHALL CONDUCT A CONTACT VOLTAGE SURVEY ON ALL PUBLICLY ACCESSIBLE ELECTRIC DISTRIBUTION PLANT AND PUBLICLY ACCESSIBLE STREET LIGHTS THAT THE ELECTRIC COMPANY OWNS OR MAINTAINS THAT ARE CAPABLE OF CONDUCTING ELECTRICITY:

1. WITHIN 3 YEARS AFTER THE INITIAL APPROVAL OF THE VOLTAGE SURVEY PLAN; AND

2. SUBSEQUENTLY AS SET FORTH IN ITS VOLTAGE SURVEY PLAN.

(II) AN ELECTRIC COMPANY SHALL TEST EACH STREET LIGHT FOR CONTACT VOLTAGE AFTER DARK OR WHEN THE LIGHT IS ILLUMINATED.

(6) AT LEAST 60 DAYS BEFORE IMPLEMENTING A MATERIAL CHANGE TO A VOLTAGE SURVEY PLAN, AN ELECTRIC COMPANY SHALL FILE AN AMENDED VOLTAGE SURVEY PLAN FOR COMMISSION APPROVAL.

(7) THE COMMISSION MAY MODIFY THE FREQUENCY OR SCOPE OF ANY CONTACT VOLTAGE SURVEY REQUIREMENT ON A SHOWING OF GOOD CAUSE.

(C) (1) EACH ELECTRIC COMPANY SHALL INCLUDE IN ITS VOLTAGE SURVEY PLAN ALL EQUIPMENT USED FOR DETECTING CONTACT VOLTAGE.

(2) (I) THE TYPE OF EACH EQUIPMENT MUST BE CERTIFIED BY AN INDEPENDENT TEST LABORATORY AS BEING ABLE TO RELIABLY DETECT VOLTAGES OF 6 TO 600 VOLTS.

(II) EACH ELECTRIC COMPANY SHALL INCLUDE THE CERTIFICATION WHEN FILING THE VOLTAGE SURVEY PLAN.

(D) (1) EACH ELECTRIC COMPANY SHALL CONFIRM AND DOCUMENT ALL CONTACT VOLTAGE DETECTED IN ITS CONTACT VOLTAGE SURVEY USING A VOLTMETER AND A 500 OHM SHUNT RESISTOR.

(2) UNTIL A POTENTIAL CONTACT VOLTAGE CONDITION CAN BE CONFIRMED UNDER PARAGRAPH (1) OF THIS SUBSECTION, EACH ELECTRIC COMPANY SHALL MAKE AN AREA SAFE AFTER DETECTING A POTENTIAL CONTACT VOLTAGE CONDITION DURING ITS CONTACT VOLTAGE SURVEY.

(3) IF AN ELECTRIC COMPANY DETECTS A CONTACT VOLTAGE MEASUREMENT UNDER PARAGRAPH (1) OF THIS SUBSECTION THAT IS AT LEAST 1 VOLT OF ALTERNATING CURRENT, THE ELECTRIC COMPANY SHALL:

(I) PERFORM A CONTACT VOLTAGE SURVEY ON ALL OBJECTS AND SURFACES THAT ARE CAPABLE OF CONDUCTING ELECTRICITY AND ARE PUBLICLY ACCESSIBLE WITHIN AT LEAST 30 FEET OF THE LOCATION OF THE MEASURED CONTACT VOLTAGE;

(II) WHEN ELECTRIC DISTRIBUTION PLANT OR A STREET LIGHT THAT THE ELECTRIC COMPANY OWNS OR MAINTAINS IS INDICATING CONTACT VOLTAGE:

1. IMMEDIATELY AND CONTINUOUSLY MAKE THE AREA SAFE; AND

2. USE BEST EFFORTS TO MAKE A PERMANENT REPAIR TO MITIGATE THE CONTACT VOLTAGE AS SOON AS POSSIBLE, BUT NOT LATER THAN 45 DAYS ~~EXCEPT AS OTHERWISE APPROVED BY THE COMMISSION~~ ~~IN, UNLESS THERE ARE~~ EXTRAORDINARY CIRCUMSTANCES EXIST ~~IF~~ AND THE AREA CONTINUES TO BE MADE SAFE THROUGH A TEMPORARY MEASURE TO MITIGATE THE CONTACT VOLTAGE;

(III) WHEN PROPERTY THAT IS NOT OWNED BY THE ELECTRIC COMPANY IS INDICATING CONTACT VOLTAGE, IMMEDIATELY USE BEST EFFORTS TO:

1. MAKE THE AREA SAFE; AND

2. NOTIFY THE CUSTOMER OR RESPONSIBLE PERSON ASSOCIATED WITH THE PREMISES OR CUSTOMER-OWNED FACILITY OF THE UNSAFE CONDITION AND THE NEED FOR THE CUSTOMER TO MAKE A PERMANENT REPAIR TO MITIGATE CONTACT VOLTAGE; AND

(IV) MAINTAIN WRITTEN RECORDS OF ITS ACTIONS TO MAKE THE AREA SAFE AND MITIGATE THE CONTACT VOLTAGE.

(E) (1) ON OR BEFORE APRIL 1 OF EACH YEAR, EACH ELECTRIC COMPANY SHALL FILE A COMPLIANCE REPORT WITH THE COMMISSION:

(I) DESCRIBING THE RESULTS OF ITS CONTACT VOLTAGE SURVEYS; AND

(II) SUMMARIZING EACH KNOWN CONTACT VOLTAGE ELECTRIC SHOCK AND EACH CONTACT VOLTAGE ELECTRIC SHOCK COMPLAINT RECEIVED FROM A MEMBER OF THE PUBLIC, WHETHER THE SHOCK AFFECTED AN INDIVIDUAL OR AN ANIMAL.

(2) THE COMMISSION SHALL APPROVE THE FORM OF THE REPORT.

(F) THE COMMISSION MAY IMPOSE A CIVIL PENALTY UNDER THIS DIVISION FOR A VIOLATION OF THIS SUBSECTION.

~~(G) THE COMMISSION SHALL ADOPT REGULATIONS TO IMPLEMENT THIS SECTION.~~

(G) THE COMMISSION MAY, IN ITS DISCRETION, THROUGH ORDER OR REGULATION:

(1) WAIVE OR MODIFY ANY PROVISION OF THIS SECTION; OR

(2) IMPOSE ADDITIONAL REQUIREMENTS AS CIRCUMSTANCES WARRANT REQUIRE.

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before January 1, 2013, the Public Service Commission shall submit a report to the General Assembly, in accordance with § 2-1246 of the State Government Article, on the progress of the implementation of this Act and the regulations under COMAR 20.50.11: Deanna Camille Green Rule – Contact Voltage Survey Requirement and Reporting Authority, including the status and availability of contact voltage technology in the State.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a 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, May 22, 2012.

Chapter 625**(House Bill 520)**

AN ACT concerning

Electric Companies – Contact Voltage – Surveys and Mitigation – The Deanna Camille Green Act of 2012

FOR the purpose of requiring certain electric companies to file with the Public Service Commission for approval a certain list or voltage survey plan on or before a certain date; requiring an electric company to file a certain voltage survey plan for Commission approval within a certain period of time; requiring an electric company to conduct certain surveys of certain objects and surfaces within certain contact voltage risk zones at certain times and under certain circumstances; requiring an electric company to conduct certain surveys of certain objects and surfaces that are not within a certain contact voltage risk zone at certain times; specifying how an electric company shall test street lights; requiring an electric company to file for Commission approval a certain amended voltage survey plan within a certain time period before implementing a material change to a voltage survey plan; authorizing the Commission to modify certain contact voltage survey requirements under certain circumstances; requiring that certain equipment must be certified by an independent laboratory for certain purposes; requiring an electric company to include certain certification when filing a certain voltage survey plan; requiring an electric company to confirm and document all contact voltage detected in a contact voltage survey in a certain manner; requiring an electric company to make an area safe after detecting a potential contact voltage condition until the condition can be confirmed; requiring that, when an electric company detects a certain contact voltage measurement, the electric company shall maintain certain records, perform a certain contact voltage survey, make a certain area safe, and use best efforts to make a certain permanent repair within a certain time period if the property is electric distribution plant or a certain street light or notify a certain person associated with a property that is not owned by the electric company of the condition and the need for the owner to make a certain repair; requiring an electric company to file a certain compliance report with the Commission on or before a certain date each year; providing for the contents of the compliance report; authorizing the Commission to impose a certain civil penalty under certain circumstances; ~~requiring the Commission to adopt certain regulations;~~ authorizing the Commission under certain circumstances to waive or modify a certain provision or impose certain requirements under certain circumstances; requiring the Commission to submit a certain report on or before a certain date on the progress of the implementation of this Act and certain regulations; defining certain terms; making this Act an emergency measure; and generally relating to contact voltage plans and surveys.

BY adding to

Article – Public Utilities
Section 7–214
Annotated Code of Maryland
(2010 Replacement Volume and 2011 Supplement)

Preamble

WHEREAS, On May 5, 2006, Deanna Camille Green, at the age of fourteen, was electrocuted by 277 volts on a fence in Baltimore City; and

WHEREAS, Contact voltage is a voltage present on a publicly accessible structure or surface due to faults in buried or internal wiring that poses a safety risk to pedestrians and pets; and

WHEREAS, Deteriorated and damaged utility electric distribution cables may energize a variety of structures and surfaces in the public right-of-way, including utility assets such as manhole covers, light poles, and transformer boxes, as well as nonutility structures and surfaces such as fences, sidewalks, and storm drains; and

WHEREAS, On October 28, 2011, the Maryland Public Service Commission approved the adoption of COMAR 20.50.11 Contact Voltage Survey Requirement and Reporting (In Memory of Deanna Camille Green); ~~and~~

~~WHEREAS, The regulations, with the exception of parks, do not account for the propensity of electric company owned cables and equipment to energize publicly accessible conductive structures and surfaces not owned by the electric company; and~~

~~WHEREAS, The regulations do not require testing of those structures and surfaces not owned by the electric company, exposing the public to unnecessary and significant risk; now, therefore,~~

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

Article – Public Utilities

7–214.

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

(2) “CONTACT VOLTAGE” MEANS A VOLTAGE CONDITION THAT MAY RESULT IN AN OBJECT OR SURFACE BEING INADVERTENTLY ENERGIZED.

(3) “CONTACT VOLTAGE RISK ZONE” OR “CVRZ” MEANS THE PORTIONS OF EACH ELECTRIC COMPANY’S SERVICE TERRITORY THAT:

(I) ARE SERVED BY UNDERGROUND ELECTRIC DISTRIBUTION PLANT; AND

(II) HAVE SUBSTANTIAL PEDESTRIAN TRAFFIC OR POPULATION DENSITY, WHETHER PERMANENT, SEASONAL, OR VARYING BY TIME OF DAY.

(4) "CONTACT VOLTAGE SURVEY" MEANS A SURVEY PERFORMED BY AN ELECTRIC COMPANY TO DETECT CONTACT VOLTAGE CONSISTENT WITH THE ELECTRIC COMPANY'S VOLTAGE SURVEY PLAN.

(5) (I) "ELECTRIC DISTRIBUTION PLANT" MEANS ALL ELECTRIC COMPANY PLANT USED TO DISTRIBUTE ELECTRICITY TO ITS CUSTOMERS.

(II) "ELECTRIC DISTRIBUTION PLANT" INCLUDES COVERS AND PROTECTIVE STRUCTURES.

(III) "ELECTRIC DISTRIBUTION PLANT" DOES NOT INCLUDE CUSTOMER METERS AND METER ENCLOSURES.

(6) "VOLTAGE SURVEY PLAN" MEANS A PLAN, SUBMITTED BY AN ELECTRIC COMPANY AND APPROVED BY THE COMMISSION, THAT GOVERNS THE ELECTRIC COMPANY'S CONTACT VOLTAGE DETECTION AND TESTING EQUIPMENT AND VOLTAGE DETECTION AND TESTING PROCEDURES TO BE USED WHEN CONDUCTING CONTACT VOLTAGE SURVEYS.

(B) (1) ON OR BEFORE SEPTEMBER 1, 2012, EACH ELECTRIC COMPANY SHALL FILE WITH THE COMMISSION FOR APPROVAL:

(I) A LIST AND LOCATION MAP FOR ALL CVRZS WITHIN ITS SERVICE TERRITORY, IF APPLICABLE; OR

(II) IF NO CVRZS ARE DESIGNATED IN ITS SERVICE TERRITORY, A VOLTAGE SURVEY PLAN.

(2) WITHIN 30 DAYS AFTER THE COMMISSION APPROVES A CVRZ WITHIN AN ELECTRIC COMPANY'S SERVICE TERRITORY, THE ELECTRIC COMPANY SHALL FILE ITS VOLTAGE SURVEY PLAN FOR COMMISSION APPROVAL.

(3) EACH ON COMMISSION APPROVAL OF ITS VOLTAGE SURVEY PLAN, EACH ELECTRIC COMPANY SHALL CONDUCT:

(I) AN INITIAL CONTACT VOLTAGE SURVEY OF EACH CVRZ WITHIN 1 YEAR AFTER THE COMMISSION APPROVES AN ELECTRIC COMPANY'S VOLTAGE SURVEY PLAN; AND

(II) SUBSEQUENT SURVEYS OF EACH CVRZ AS SET FORTH IN ITS VOLTAGE SURVEY PLAN.

(4) EACH ELECTRIC COMPANY SHALL CONDUCT AN INITIAL AND EACH SUBSEQUENT CONTACT VOLTAGE SURVEY WITHIN EACH CVRZ OF ALL OBJECTS AND SURFACES THAT ARE:

(I) PUBLICLY ACCESSIBLE;

(II) CAPABLE OF CONDUCTING ELECTRICITY; AND

(III) 1. ~~PROXIMATE TO UNDERGROUND~~ ELECTRIC DISTRIBUTION PLANT;

2. STREETLIGHTS OWNED OR MAINTAINED BY THE ELECTRIC COMPANY;

3. STREETLIGHTS AND TRAFFIC SIGNALS OWNED BY A MUNICIPAL CORPORATION OR OTHER UNIT OF GOVERNMENT, WITH THE CONSENT OF THE APPROPRIATE AUTHORITY; AND

4. PUBLIC PARKS AND PLAYGROUNDS, WITH THE CONSENT OF THE APPROPRIATE AUTHORITY.

(5) (I) FOR AREAS IN EACH ELECTRIC COMPANY'S SERVICE TERRITORY NOT LOCATED IN A CVRZ, EXCEPT FOR WOODEN POLES, THE ELECTRIC COMPANY SHALL CONDUCT A CONTACT VOLTAGE SURVEY ON ALL PUBLICLY ACCESSIBLE ELECTRIC DISTRIBUTION PLANT AND PUBLICLY ACCESSIBLE STREET LIGHTS THAT THE ELECTRIC COMPANY OWNS OR MAINTAINS THAT ARE CAPABLE OF CONDUCTING ELECTRICITY:

1. WITHIN 3 YEARS AFTER THE INITIAL APPROVAL OF THE VOLTAGE SURVEY PLAN; AND

2. SUBSEQUENTLY AS SET FORTH IN ITS VOLTAGE SURVEY PLAN.

(II) AN ELECTRIC COMPANY SHALL TEST EACH STREET LIGHT FOR CONTACT VOLTAGE AFTER DARK OR WHEN THE LIGHT IS ILLUMINATED.

(6) AT LEAST 60 DAYS BEFORE IMPLEMENTING A MATERIAL CHANGE TO A VOLTAGE SURVEY PLAN, AN ELECTRIC COMPANY SHALL FILE AN AMENDED VOLTAGE SURVEY PLAN FOR COMMISSION APPROVAL.

(7) THE COMMISSION MAY MODIFY THE FREQUENCY OR SCOPE OF ANY CONTACT VOLTAGE SURVEY REQUIREMENT ON A SHOWING OF GOOD CAUSE.

(C) (1) EACH ELECTRIC COMPANY SHALL INCLUDE IN ITS VOLTAGE SURVEY PLAN ALL EQUIPMENT USED FOR DETECTING CONTACT VOLTAGE.

(2) (I) THE TYPE OF EACH EQUIPMENT MUST BE CERTIFIED BY AN INDEPENDENT TEST LABORATORY AS BEING ABLE TO RELIABLY DETECT VOLTAGES OF 6 TO 600 VOLTS.

(II) EACH ELECTRIC COMPANY SHALL INCLUDE THE CERTIFICATION WHEN FILING THE VOLTAGE SURVEY PLAN.

(D) (1) EACH ELECTRIC COMPANY SHALL CONFIRM AND DOCUMENT ALL CONTACT VOLTAGE DETECTED IN ITS CONTACT VOLTAGE SURVEY USING A VOLTMETER AND A 500 OHM SHUNT RESISTOR.

(2) UNTIL A POTENTIAL CONTACT VOLTAGE CONDITION CAN BE CONFIRMED UNDER PARAGRAPH (1) OF THIS SUBSECTION, EACH ELECTRIC COMPANY SHALL MAKE AN AREA SAFE AFTER DETECTING A POTENTIAL CONTACT VOLTAGE CONDITION DURING ITS CONTACT VOLTAGE SURVEY.

(3) IF AN ELECTRIC COMPANY DETECTS A CONTACT VOLTAGE MEASUREMENT UNDER PARAGRAPH (1) OF THIS SUBSECTION THAT IS AT LEAST 1 VOLT OF ALTERNATING CURRENT, THE ELECTRIC COMPANY SHALL:

(I) PERFORM A CONTACT VOLTAGE SURVEY ON ALL OBJECTS AND SURFACES THAT ARE CAPABLE OF CONDUCTING ELECTRICITY AND ARE PUBLICLY ACCESSIBLE WITHIN AT LEAST 30 FEET OF THE LOCATION OF THE MEASURED CONTACT VOLTAGE;

(II) WHEN ELECTRIC DISTRIBUTION PLANT OR A STREET LIGHT THAT THE ELECTRIC COMPANY OWNS OR MAINTAINS IS INDICATING CONTACT VOLTAGE:

1. IMMEDIATELY AND CONTINUOUSLY MAKE THE AREA SAFE; AND

2. USE BEST EFFORTS TO MAKE A PERMANENT REPAIR TO MITIGATE THE CONTACT VOLTAGE AS SOON AS POSSIBLE, BUT NOT LATER THAN 45 DAYS ~~EXCEPT AS OTHERWISE APPROVED BY THE COMMISSION~~ IN, UNLESS EXTRAORDINARY CIRCUMSTANCES ~~IF~~ EXIST AND THE AREA CONTINUES TO BE MADE SAFE THROUGH A TEMPORARY MEASURE TO MITIGATE THE CONTACT VOLTAGE;

(III) WHEN PROPERTY THAT IS NOT OWNED BY THE ELECTRIC COMPANY IS INDICATING CONTACT VOLTAGE, IMMEDIATELY USE BEST EFFORTS TO:

1. MAKE THE AREA SAFE; AND

2. NOTIFY THE CUSTOMER OR RESPONSIBLE PERSON ASSOCIATED WITH THE PREMISES OR CUSTOMER-OWNED FACILITY OF THE UNSAFE CONDITION AND THE NEED FOR THE CUSTOMER TO MAKE A PERMANENT REPAIR TO MITIGATE CONTACT VOLTAGE; AND

(IV) MAINTAIN WRITTEN RECORDS OF ITS ACTIONS TO MAKE THE AREA SAFE AND MITIGATE THE CONTACT VOLTAGE.

(E) (1) ON OR BEFORE APRIL 1 OF EACH YEAR, EACH ELECTRIC COMPANY SHALL FILE A COMPLIANCE REPORT WITH THE COMMISSION:

(I) DESCRIBING THE RESULTS OF ITS CONTACT VOLTAGE SURVEYS; AND

(II) SUMMARIZING EACH KNOWN CONTACT VOLTAGE ELECTRIC SHOCK AND EACH CONTACT VOLTAGE ELECTRIC SHOCK COMPLAINT RECEIVED FROM A MEMBER OF THE PUBLIC, WHETHER THE SHOCK AFFECTED AN INDIVIDUAL OR AN ANIMAL.

(2) THE COMMISSION SHALL APPROVE THE FORM OF THE REPORT.

(F) THE COMMISSION MAY IMPOSE A CIVIL PENALTY UNDER THIS DIVISION FOR A VIOLATION OF THIS SUBSECTION.

~~(G) THE COMMISSION SHALL ADOPT REGULATIONS TO IMPLEMENT THIS SECTION.~~

(G) THE COMMISSION MAY, IN ITS DISCRETION, THROUGH ORDER OR REGULATION:

- (1) WAIVE OR MODIFY ANY PROVISION OF THIS SECTION; OR**
- (2) IMPOSE ADDITIONAL REQUIREMENTS AS CIRCUMSTANCES REQUIRE.**

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before January 1, 2013, the Public Service Commission shall submit a report to the General Assembly, in accordance with § 2-1246 of the State Government Article, on the progress of the implementation of this Act and the regulations under COMAR 20.50.11: Deanna Camille Green Rule – Contact Voltage Survey Requirement and Reporting Authority, including the status and availability of contact voltage technology in the State.

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

Approved by the Governor, May 22, 2012.

Chapter 626

(Senate Bill 938)

AN ACT concerning

~~Property and Casualty~~ ***Personal Automobile Insurance – Rescission of Policy or Binder – Authorized***

FOR the purpose of authorizing an insurer to rescind a policy or binder of personal *automobile* insurance, ~~commercial property insurance, or commercial liability insurance~~ if the applicant's initial premium payment is made by a check or other remittance that is dishonored and returned by not honored on presentation to a financial institution for a certain reason under certain circumstances; requiring an insurer to continue or reinstate a certain policy or binder without a lapse of coverage under certain circumstances; requiring that an insurer, to rescind the policy or binder, send a certain notice to ~~the applicant~~ certain persons within a certain period of time, in a certain manner, and to ~~a certain address~~ certain addresses; requiring the notice to contain certain statements; providing for the application of this Act; *providing for a delayed*

effective date; and generally relating to the rescission of policies and binders of ~~property and casualty~~ *personal automobile* insurance.

BY repealing and reenacting, without amendments,

Article – Insurance

Section 12–106(a) and (b)

Annotated Code of Maryland

(2011 Replacement Volume)

BY adding to

Article – Insurance

Section 12–106(j)

Annotated Code of Maryland

(2011 Replacement Volume)

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

Article – Insurance

12–106.

(a) In this section, “personal insurance” means property insurance or casualty insurance issued to an individual, trust, estate, or similar entity that is intended to insure against loss arising principally from the personal, noncommercial activities of the insured.

(b) This section applies only to a binder or policy, other than a renewal policy, of personal insurance, commercial property insurance, and commercial liability insurance.

(J) (1) ~~AN~~ SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, AN INSURER MAY RESCIND A POLICY OR BINDER OF PERSONAL AUTOMOBILE INSURANCE IF:

(I) THE APPLICANT’S INITIAL PREMIUM PAYMENT FOR THE POLICY OR BINDER IS MADE BY A CHECK OR OTHER REMITTANCE THAT IS ~~DISHONORED AND RETURNED BY A~~ NOT HONORED ON PRESENTATION TO THE FINANCIAL INSTITUTION ~~AS UNPAID BECAUSE OF INSUFFICIENT FUNDS IN THE ACCOUNT ON WHICH~~ WHERE THE CHECK OR OTHER REMITTANCE IS DRAWN; AND

(II) THE INSURER HAS DISCLOSED TO THE APPLICANT AT THE TIME OF APPLICATION THAT NO COVERAGE WILL BE IN EFFECT IF THE INITIAL PREMIUM PAYMENT IS NOT HONORED ON PRESENTATION TO THE FINANCIAL INSTITUTION.

(2) AN INSURER SHALL CONTINUE OR REINSTATE A POLICY OR BINDER UNDER PARAGRAPH (1) OF THIS SUBSECTION WITHOUT A LAPSE IN COVERAGE IF:

(I) 1. THE FINANCIAL INSTITUTION ERRONEOUSLY FAILED TO HONOR THE CHECK OR OTHER REMITTANCE; AND

2. THE APPLICANT:

A. PROMPTLY NOTIFIES THE INSURER OF THE ERROR; AND

B. PROVIDES DOCUMENTATION OF THE ERROR TO THE INSURER AS IT BECOMES AVAILABLE AND ON REQUEST OF THE INSURER; OR

(II) THE APPLICANT OR ANY SECURED CREDITOR PAYS THE INSURER THE AMOUNT OF THE INITIAL PREMIUM WITHIN 5 BUSINESS DAYS AFTER THE INSURER HAS SENT NOTICE, AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, TO THE APPLICANT AND ANY SECURED CREDITOR THAT THE CHECK OR OTHER REMITTANCE FOR THE INITIAL PREMIUM PAYMENT WAS NOT HONORED.

~~(2) (3)~~ TO RESCIND A POLICY OR BINDER, AN INSURER SHALL SEND, ~~WITHIN 10 DAYS~~ IMMEDIATELY OR THE NEXT BUSINESS DAY AFTER RECEIPT OF A NOTICE ~~OF INSUFFICIENT FUNDS~~ THAT THE CHECK OR OTHER REMITTANCE FOR THE INITIAL PREMIUM PAYMENT WAS NOT HONORED ON PRESENTATION TO THE FINANCIAL INSTITUTION, WRITTEN NOTICE TO THE APPLICANT AND ANY SECURED CREDITOR, BY CERTIFICATE OF MAIL AND, IF AVAILABLE, BY ELECTRONIC MAIL OR OTHER ELECTRONIC MEANS, TO THE APPLICANT'S AND ANY SECURED CREDITOR'S LAST KNOWN ADDRESS, STATING THAT:

(I) 1. THE POLICY OR BINDER IS RESCINDED AS OF ITS PROPOSED EFFECTIVE DATE BECAUSE THE APPLICANT'S CHECK OR OTHER REMITTANCE FOR THE INITIAL PREMIUM PAYMENT WAS DISHONORED AND RETURNED BECAUSE OF INSUFFICIENT FUNDS NOT HONORED ON PRESENTATION TO THE FINANCIAL INSTITUTION; AND

~~(II)~~ 2. NO COVERAGE IS IN EFFECT UNDER THE POLICY OR BINDER; BUT

~~(III) (II)~~ IF THE FINANCIAL INSTITUTION FAILED TO HONOR THE CHECK OR OTHER REMITTANCE IN ERROR, THE INSURER SHALL

CONTINUE OR REINSTATE THE POLICY OR BINDER WITHOUT A LAPSE IN COVERAGE IF:

1. THE FINANCIAL INSTITUTION ERRONEOUSLY FAILED TO HONOR THE CHECK OR OTHER REMITTANCE AND THE APPLICANT:

~~1.A.~~ PROMPTLY NOTIFIES THE INSURER OF THE ERROR; AND

~~2.B.~~ PROVIDES DOCUMENTATION OF THE FINANCIAL INSTITUTION'S ERROR TO THE INSURER AS IT BECOMES AVAILABLE AND ON REQUEST OF THE INSURER; OR

2. THE APPLICANT OR ANY SECURED CREDITOR PAYS THE INSURER THE AMOUNT OF THE INITIAL PREMIUM WITHIN 5 BUSINESS DAYS AFTER THE INSURER HAS SENT NOTICE TO THE APPLICANT AND ANY SECURED CREDITOR THAT THE CHECK OR OTHER REMITTANCE FOR THE INITIAL PREMIUM PAYMENT WAS NOT HONORED.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to all policies and binders of ~~personal insurance, commercial property insurance, and commercial liability insurance issued, delivered, or renewed~~ personal automobile insurance issued or delivered in the State on or after ~~October 1, 2012~~ January 1, 2013.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October 1, 2012~~ January 1, 2013.

Approved by the Governor, May 22, 2012.

Chapter 627

(House Bill 1059)

AN ACT concerning

~~Property and Casualty~~ Personal Automobile Insurance – Rescission of Policy or Binder – Authorized

FOR the purpose of authorizing an insurer to rescind a policy or binder of ~~personal automobile insurance, commercial property insurance, or commercial liability insurance~~ if the applicant's initial premium payment is made by a check or other remittance that is ~~dishonored and returned by~~ not honored on presentation to a financial institution for a certain reason under certain circumstances; requiring an insurer to continue or reinstate a certain policy or

binder without a lapse of coverage under certain circumstances; requiring that an insurer, to rescind the policy or binder, send a certain notice to ~~the applicant~~ certain persons within a certain period of time, in a certain manner, and to ~~a certain address~~ certain addresses; requiring the notice to contain certain statements; providing for the application of this Act; *providing for a delayed effective date*; and generally relating to the rescission of policies and binders of ~~property and casualty~~ personal automobile insurance.

BY repealing and reenacting, without amendments,

Article – Insurance
Section 12–106(a) and (b)
Annotated Code of Maryland
(2011 Replacement Volume)

BY adding to

Article – Insurance
Section 12–106(j)
Annotated Code of Maryland
(2011 Replacement Volume)

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

Article – Insurance

12–106.

(a) In this section, “personal insurance” means property insurance or casualty insurance issued to an individual, trust, estate, or similar entity that is intended to insure against loss arising principally from the personal, noncommercial activities of the insured.

(b) This section applies only to a binder or policy, other than a renewal policy, of personal insurance, commercial property insurance, and commercial liability insurance.

(J) (1) ~~AN~~ SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, AN INSURER MAY RESCIND A POLICY OR BINDER OF PERSONAL AUTOMOBILE INSURANCE IF:

(I) THE APPLICANT’S INITIAL PREMIUM PAYMENT FOR THE POLICY OR BINDER IS MADE BY A CHECK OR OTHER REMITTANCE THAT IS ~~DISHONORED AND RETURNED BY A~~ NOT HONORED ON PRESENTATION TO THE FINANCIAL INSTITUTION ~~AS UNPAID BECAUSE OF INSUFFICIENT FUNDS IN THE ACCOUNT ON WHICH~~ WHERE THE CHECK OR OTHER REMITTANCE IS DRAWN; AND

(II) THE INSURER HAS DISCLOSED TO THE APPLICANT AT THE TIME OF APPLICATION THAT NO COVERAGE WILL BE IN EFFECT IF THE INITIAL PREMIUM PAYMENT IS NOT HONORED ON PRESENTATION TO THE FINANCIAL INSTITUTION.

(2) AN INSURER SHALL CONTINUE OR REINSTATE A POLICY OR BINDER UNDER PARAGRAPH (1) OF THIS SUBSECTION WITHOUT A LAPSE IN COVERAGE IF:

(I) 1. THE FINANCIAL INSTITUTION ERRONEOUSLY FAILED TO HONOR THE CHECK OR OTHER REMITTANCE; AND

2. THE APPLICANT:

A. PROMPTLY NOTIFIES THE INSURER OF THE ERROR; AND

B. PROVIDES DOCUMENTATION OF THE ERROR TO THE INSURER AS IT BECOMES AVAILABLE AND ON REQUEST OF THE INSURER; OR

(II) THE APPLICANT OR ANY SECURED CREDITOR PAYS THE INSURER THE AMOUNT OF THE INITIAL PREMIUM WITHIN 5 BUSINESS DAYS AFTER THE INSURER HAS SENT NOTICE, AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, TO THE APPLICANT AND ANY SECURED CREDITOR THAT THE CHECK OR OTHER REMITTANCE FOR THE INITIAL PREMIUM PAYMENT WAS NOT HONORED.

~~(2)~~ (3) TO RESCIND A POLICY OR BINDER, AN INSURER SHALL SEND, WITHIN 10 5 BUSINESS DAYS IMMEDIATELY OR THE NEXT BUSINESS DAY AFTER RECEIPT OF A NOTICE OF INSUFFICIENT FUNDS THAT THE CHECK OR OTHER REMITTANCE FOR THE INITIAL PREMIUM PAYMENT WAS NOT HONORED ON PRESENTATION TO THE FINANCIAL INSTITUTION, WRITTEN NOTICE TO THE APPLICANT AND ANY SECURED CREDITOR, BY CERTIFICATE OF MAIL AND, IF AVAILABLE, BY ELECTRONIC MAIL OR OTHER ELECTRONIC MEANS, TO THE APPLICANT'S AND ANY SECURED CREDITOR'S LAST KNOWN ADDRESS, STATING THAT:

(I) 1. THE POLICY OR BINDER IS RESCINDED AS OF ITS PROPOSED EFFECTIVE DATE BECAUSE THE APPLICANT'S CHECK OR OTHER REMITTANCE FOR THE INITIAL PREMIUM PAYMENT WAS DISHONORED AND RETURNED BECAUSE OF INSUFFICIENT FUNDS NOT HONORED ON PRESENTATION TO THE FINANCIAL INSTITUTION; AND

~~(H)~~ 2. NO COVERAGE IS IN EFFECT UNDER THE POLICY OR BINDER; BUT

~~(H) (II) IF THE FINANCIAL INSTITUTION FAILED TO HONOR THE CHECK OR OTHER REMITTANCE IN ERROR,~~ THE INSURER SHALL CONTINUE OR REINSTATE THE POLICY OR BINDER WITHOUT A LAPSE IN COVERAGE IF:

1. THE FINANCIAL INSTITUTION ERRONEOUSLY FAILED TO HONOR THE CHECK OR OTHER REMITTANCE AND THE APPLICANT:

1. A. PROMPTLY NOTIFIES THE INSURER OF THE ERROR; AND

2. B. PROVIDES DOCUMENTATION OF THE FINANCIAL INSTITUTION'S ERROR TO THE INSURER AS IT BECOMES AVAILABLE AND ON REQUEST OF THE INSURER; OR

2. THE APPLICANT OR ANY SECURED CREDITOR PAYS THE INSURER THE AMOUNT OF THE INITIAL PREMIUM WITHIN 5 BUSINESS DAYS AFTER THE INSURER HAS SENT NOTICE TO THE APPLICANT AND ANY SECURED CREDITOR THAT THE CHECK OR OTHER REMITTANCE FOR THE INITIAL PREMIUM PAYMENT WAS NOT HONORED.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to all policies and binders of ~~personal insurance, commercial property insurance, and commercial liability insurance issued, delivered, or renewed~~ *personal automobile insurance issued or delivered* in the State on or after ~~October 1, 2012~~ *January 1, 2013*.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October 1, 2012~~ *January 1, 2013*.

Approved by the Governor, May 22, 2012.

Chapter 628

(Senate Bill 969)

AN ACT concerning

State Board of Professional Counselors and Therapists – Licensure of
Clinical Professional Art Therapists

FOR the purpose of altering the membership of the State Board of Professional Counselors and Therapists ~~to include two members who are licensed as clinical professional art therapists~~; requiring certain individuals to be licensed by the Board as clinical professional art therapists before performing certain work in the State; establishing certain education and experience requirements to qualify for a license to practice clinical professional art therapy; requiring the Board to waive certain requirements under certain circumstances; providing that a license authorizes certain individuals to practice clinical professional art therapy while a license is effective; authorizing the Board to adopt certain regulations allowing certain individuals to practice as licensed graduate professional art therapists under certain supervision; establishing certain requirements to qualify for a license to practice as a licensed graduate professional art therapist; authorizing certain individuals to practice graduate professional art therapy under certain supervision for a certain period of time; prohibiting a licensee from surrendering a license under certain circumstances; authorizing the Board to deny a license to an applicant, reprimand a licensee, place a licensee on probation, or suspend or revoke a license under certain circumstances; authorizing the State or the Board to maintain a certain action to enjoin certain unauthorized practice or certain conduct; providing that certain action is in addition to and not instead of certain prosecution; authorizing certain committees or certain associations to be a counselor or therapist rehabilitation committee; providing that a counselor and therapist rehabilitation committee evaluates and provides assistance to certain professional art therapists under certain circumstances; prohibiting certain individuals from engaging in certain actions or making certain representations in the State or using certain titles unless licensed by the Board; providing for the appointment of ~~certain members~~ a certain member of the Board; ~~requiring certain vacancies on the Board to remain unfilled in accordance with provisions of this Act altering the membership of the Board~~; and generally relating to the establishment of a license for clinical professional art therapy and the State Board of Professional Counselors and Therapists.

BY repealing and reenacting, with amendments,

Article – Health Occupations

Section 17–101, 17–202, 17–301, 17–308, 17–309, 17–508, 17–509, 17–513,
17–515, 17–601, and 17–602

Annotated Code of Maryland

(2009 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, without amendments,

Article – Health Occupations

Section 17–103 and 17–201

Annotated Code of Maryland

(2009 Replacement Volume and 2011 Supplement)

BY adding to

Article – Health Occupations

Section 17-304.1, 17-304.2, and 17-307.1
Annotated Code of Maryland
(2009 Replacement Volume and 2011 Supplement)

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

Article – Health Occupations

17-101.

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

(b) “Alcohol and drug counseling” means assisting an individual, family, or group through the client–counselor relationship:

(1) To develop understanding of intrapersonal and interpersonal substance abuse problems;

(2) To define goals relating to substance abuse;

(3) To make decisions relating to substance abuse;

(4) To plan a course of action reflecting the needs, interests, and abilities of the individual, family, or group relating to substance abuse; and

(5) To use informational and community substance abuse resources relating to personal, social, emotional, educational, and vocational development and adjustment.

(c) (1) “Appraisal” means:

(i) Selecting, administering, scoring, and interpreting instruments designed to assess an individual’s aptitudes, attitudes, abilities, achievements, interests, and personal characteristics; and

(ii) Using nonstandardized methods and techniques for understanding human behavior in relation to coping with, adapting to, or changing life situations.

(2) “Appraisal” does not include instruments which require specialized psychological training for administration and interpretation unless the licensed counselor or therapist has completed the training required under § 17-310 of this title.

(D) “ART THERAPY” MEANS THE INTEGRATED USE OF PSYCHOTHERAPEUTIC PRINCIPLES, ART MEDIA, AND THE CREATIVE PROCESS TO ASSIST INDIVIDUALS, FAMILIES, OR GROUPS IN:

- (1) INCREASING AWARENESS OF SELF AND OTHERS;
- (2) COPING WITH SYMPTOMS, STRESS, AND TRAUMATIC EXPERIENCES;
- (3) ENHANCING COGNITIVE ABILITIES; AND
- (4) IDENTIFYING AND ASSESSING CLIENTS' NEEDS IN ORDER TO IMPLEMENT THERAPEUTIC INTERVENTION TO MEET DEVELOPMENTAL, BEHAVIORAL, MENTAL, AND EMOTIONAL NEEDS.

[(d)] (E) “Board” means the State Board of Professional Counselors and Therapists.

[(e)] (F) “Certificate” means a certificate issued by the Board to practice professional counseling.

[(f)] (G) “Certified professional counselor” means a professional counselor who is certified by the Board.

[(g)] (H) “Certified professional counselor–marriage and family therapist” means an individual who is certified by the Board to practice marriage and family therapy in the State.

[(h)] (I) (1) “Certified supervised counselor–alcohol and drug” means an individual who is certified by the Board to practice alcohol and drug counseling in the State pursuant to the limitations in § 17–404 of this title.

(2) “Certified associate counselor–alcohol and drug” means an individual who is certified by the Board to practice alcohol and drug counseling in the State pursuant to the limitations in § 17–403 of this title.

(3) “Certified professional counselor–alcohol and drug” means an individual who is certified by the Board to practice alcohol and drug counseling in the State.

[(i)] (J) “Counseling” means assisting an individual, family, or group through the client–counselor relationship:

- (1) To develop understanding of intrapersonal and interpersonal problems;
- (2) To define goals;
- (3) To make decisions;

(4) To plan a course of action reflecting the needs, interests, and abilities of the individual, family, or group; and

(5) To use informational and community resources, as these procedures are related to personal, social, emotional, educational, and vocational development and adjustment.

[(j)] (K) “Fund” means the State Board of Professional Counselors and Therapists Fund.

[(k)] (L) “License” means, unless the context requires otherwise, one of six types of licenses issued by the Board authorizing an individual to practice:

(1) Clinical alcohol and drug counseling;

(2) Clinical marriage and family therapy;

(3) CLINICAL PROFESSIONAL ART THERAPY;

[(3)] (4) Clinical professional counseling;

[(4)] (5) Graduate alcohol and drug counseling;

[(5)] (6) Graduate marriage and family therapy; **[or]**

(7) GRADUATE PROFESSIONAL ART THERAPY; OR

[(6)] (8) Graduate professional counseling.

[(l)] (M) “Licensed graduate alcohol and drug counselor” means an individual approved by the Board to practice graduate alcohol and drug counseling.

[(m)] (N) “Licensed graduate marriage and family therapist” means an individual approved by the Board to practice graduate marriage and family therapy.

(O) “LICENSED GRADUATE PROFESSIONAL ART THERAPIST” MEANS AN INDIVIDUAL APPROVED BY THE BOARD TO PRACTICE GRADUATE PROFESSIONAL ART THERAPY.

[(n)] (P) “Licensed graduate professional counselor” means an individual approved by the Board to practice graduate professional counseling.

[(o)] (Q) “Marriage and family therapy” means applying marriage and family systems theory, principles, methods, therapeutic techniques, and research in:

(1) Resolving emotional conflict and modifying perception and behavior in the context of marriage and family life; and

(2) The identification and assessment of client needs and the implementation of therapeutic intervention.

[(p)] (R) “Practice alcohol and drug counseling” means to engage professionally and for compensation in alcohol and drug counseling activities while representing oneself to be a certified professional counselor–alcohol and drug, a certified supervised counselor–alcohol and drug, or a certified associate counselor–alcohol and drug.

[(q)] (S) “Practice clinical alcohol and drug counseling” means to engage professionally and for compensation in alcohol and drug counseling and appraisal activities by providing services involving the application of counseling principles and methods in the diagnosis, prevention, treatment, and amelioration of psychological problems and emotional or mental conditions of individuals or groups.

[(r)] (T) “Practice clinical marriage and family therapy” means to engage professionally and for compensation in marriage and family therapy and appraisal activities by providing services involving the application of therapy principles and methods in the diagnosis, prevention, treatment, and amelioration of psychological problems and emotional or mental conditions of individuals or groups.

(U) “PRACTICE CLINICAL PROFESSIONAL ART THERAPY” MEANS TO ENGAGE PROFESSIONALLY AND FOR COMPENSATION IN ART THERAPY AND APPRAISAL ACTIVITIES BY PROVIDING SERVICES INVOLVING THE APPLICATION OF ART THERAPY PRINCIPLES AND METHODS IN THE DIAGNOSIS, PREVENTION, TREATMENT, AND AMELIORATION OF PSYCHOLOGICAL PROBLEMS AND EMOTIONAL OR MENTAL CONDITIONS OF INDIVIDUALS OR GROUPS.

[(s)] (V) “Practice clinical professional counseling” means to engage professionally and for compensation in counseling and appraisal activities by providing services involving the application of counseling principles and methods in the diagnosis, prevention, treatment, and amelioration of psychological problems and emotional or mental conditions of individuals or groups.

[(t)] (W) “Practice graduate alcohol and drug counseling” means to practice clinical alcohol and drug counseling:

(1) Under the supervision of a licensed clinical alcohol and drug counselor or another health care provider licensed under this article, as approved by the Board; and

(2) While fulfilling the requirements for supervised experience under § 17–302 of this title.

[(u)] (X) “Practice graduate marriage and family therapy” means to practice clinical marriage and family therapy:

(1) Under the supervision of a licensed clinical marriage and family therapist or another health care provider licensed under this article, as approved by the Board; and

(2) While fulfilling the requirements for supervised experience under § 17-303 of this title.

(Y) “PRACTICE GRADUATE PROFESSIONAL ART THERAPY” MEANS TO PRACTICE CLINICAL PROFESSIONAL ART THERAPY:

(1) UNDER THE SUPERVISION OF A LICENSED CLINICAL PROFESSIONAL ART THERAPIST OR ANOTHER HEALTH CARE PROVIDER LICENSED UNDER THIS ARTICLE, AS APPROVED BY THE BOARD; AND

(2) WHILE FULFILLING THE REQUIREMENTS FOR SUPERVISED EXPERIENCE UNDER § 17-304.1 OF THIS TITLE.

[(v)] (Z) “Practice graduate professional counseling” means to practice clinical professional counseling:

(1) Under the supervision of a licensed clinical professional counselor or another health care provider licensed under this article, as approved by the Board; and

(2) While fulfilling the requirements for supervised experience under § 17-304 of this title.

[(w)] (AA) “Practice marriage and family therapy” means to engage professionally and for compensation in marriage and family therapy activities while representing oneself to be a certified professional counselor–marriage and family therapist.

[(x)] (BB) “Practice professional counseling” means to engage professionally and for compensation in counseling and appraisal activities while representing oneself to be a certified professional counselor.

17-103.

This title does not limit the right of an individual to practice a health occupation that the individual is authorized to practice under this article.

17-201.

There is a State Board of Professional Counselors and Therapists.

17–202.

(a) (1) The Board consists of ~~{13}~~ ~~11~~ members appointed by the Governor with the advice of the Secretary.

(2) Of the ~~{13}~~ ~~11~~ Board members:

(i) ~~{Five}~~ ~~THREE~~ FOUR shall be licensed as clinical professional counselors;

(ii) ~~{Three}~~ ~~TWO~~ shall be licensed as clinical marriage and family therapists;

(iii) ~~{Three}~~ ~~TWO~~ shall be licensed as clinical alcohol and drug counselors; [and]

(IV) ~~TWO~~ ONE SHALL BE LICENSED AS A CLINICAL PROFESSIONAL ART ~~THERAPISTS~~ THERAPIST; AND

[(iv)] (V) Two shall be consumer members.

(3) The composition of the Board as to the race and sex of its members shall reflect the composition of the population of the State.

(4) The Governor shall appoint the counselors and therapists from a list submitted to the Governor by the Secretary. Any association representing professional counselors, marriage and family therapists, [or] alcohol and drug counselors, **OR PROFESSIONAL ART THERAPISTS** may submit recommendations for Board members to the Secretary.

(b) The consumer members of the Board:

(1) Shall be members of the general public;

(2) May not be or ever have been certified or licensed as a counselor or therapist or in training to become certified or licensed as a counselor or therapist;

(3) May not have a household member who is certified or licensed as a counselor or therapist or in training to become certified or licensed as a counselor or therapist;

(4) May not participate or ever have participated in a commercial or professional field related to professional counseling, marriage and family therapy, [or] alcohol and drug counseling, **OR PROFESSIONAL ART THERAPY**;

(5) May not have a household member who participates in a commercial or professional field related to professional counseling, marriage and family therapy, [or] alcohol and drug counseling, **OR PROFESSIONAL ART THERAPY**;

(6) May not have had within 2 years before appointment a substantial financial interest in a person regulated by the Board; and

(7) While members of the Board, may not have a substantial financial interest in a person regulated by the Board.

(c) Before taking office, each appointee to the Board shall take the oath required by Article I, § 9 of the Maryland Constitution.

(d) (1) The term of a member is 4 years.

(2) The terms of the members of the Board are staggered as required by the terms of the members of the Board serving on July 1, 1988.

(3) At the end of a term, a member continues to serve until a successor is appointed and qualifies.

(4) A member may not serve more than 2 consecutive full terms.

(5) To the extent practicable, the Governor shall fill any vacancy on the Board within 60 days of the date of the vacancy.

(e) (1) The Governor may remove a member for incompetency, misconduct, 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.

17-301.

(a) ~~(1)~~ Except as otherwise provided in subsection (b) of this section, an individual may not practice, attempt to practice, or offer to practice clinical alcohol and drug counseling, clinical marriage and family therapy, **CLINICAL PROFESSIONAL ART THERAPY**, or clinical professional counseling in the State unless licensed by the Board.

~~(2) ON OR BEFORE OCTOBER 1, 2014, AN INDIVIDUAL SHALL BE LICENSED BY THE BOARD BEFORE THE INDIVIDUAL MAY PRACTICE CLINICAL PROFESSIONAL ART THERAPY IN THE STATE.~~

(b) Subject to the regulations of the Board, subsection (a) of this section does not apply to:

(1) A student working under the supervision of a licensed mental health care provider while pursuing a supervised course of study in counseling that the Board approves as qualifying training and experience under this title; or

(2) An individual who, in accordance with § 17-406 of this title, is working as a trainee under the supervision of a licensed clinical alcohol and drug counselor or another health care provider licensed or certified under this article and approved by the Board while fulfilling the experiential or course of study requirements under § 17-302 of this subtitle or § 17-402, § 17-403, or § 17-404 of this title.

(c) This subtitle may not be construed to limit the scope of practice of any individual who is duly licensed under this article.

17-304.1.

(A) EXCEPT AS PROVIDED IN §§ 17-304.2 AND 17-307.1 OF THIS SUBTITLE, TO QUALIFY FOR A LICENSE TO PRACTICE CLINICAL PROFESSIONAL ART THERAPY, AN APPLICANT SHALL BE AN INDIVIDUAL WHO 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) (1) THE APPLICANT SHALL HOLD A MASTER'S OR DOCTORAL DEGREE IN ART THERAPY FROM AN ACCREDITED EDUCATIONAL INSTITUTION THAT IS APPROVED BY THE BOARD.

(2) IN THE CASE OF AN APPLICANT HOLDING A DOCTORAL DEGREE, THE APPLICANT SHALL HAVE COMPLETED:

(I) A MINIMUM OF 90 GRADUATE CREDIT HOURS IN AN ART THERAPY PROGRAM ACCREDITED BY THE AMERICAN ART THERAPY ASSOCIATION AND APPROVED BY THE BOARD; AND

(II) NOT LESS THAN 2 YEARS OF SUPERVISED EXPERIENCE IN ART THERAPY APPROVED BY THE BOARD, 1 YEAR OF WHICH SHALL HAVE BEEN COMPLETED AFTER THE AWARD OF THE DOCTORAL DEGREE.

(3) IN THE CASE OF AN APPLICANT HOLDING ONLY A MASTER'S DEGREE, THE APPLICANT SHALL HAVE COMPLETED:

(I) A MINIMUM OF 60 GRADUATE CREDIT HOURS IN AN ART THERAPY PROGRAM ACCREDITED BY THE AMERICAN ART THERAPY ASSOCIATION AND APPROVED BY THE BOARD; AND

(II) NOT LESS THAN 3 YEARS, WITH A MINIMUM OF 3,000 HOURS, OF SUPERVISED EXPERIENCE IN ART THERAPY APPROVED BY THE BOARD, 2 YEARS OF WHICH SHALL HAVE BEEN COMPLETED AFTER THE AWARD OF THE MASTER'S DEGREE.

(E) THE APPLICANT SHALL PROVIDE DOCUMENTATION TO THE BOARD EVIDENCING THE COMPLETION OF 60 HOURS OF GRADUATE COURSE WORK IN ART THERAPY FROM AN ACCREDITED COLLEGE OR UNIVERSITY PROGRAM THAT IS ACCREDITED BY THE AMERICAN ART THERAPY ASSOCIATION, APPROVED BY THE BOARD, AND INCLUDES TRAINING IN:

(1) PERSONALITY DEVELOPMENT;

(2) DIAGNOSIS AND TREATMENT OF MENTAL AND EMOTIONAL DISORDERS;

(3) PSYCHOPATHOLOGY;

(4) PSYCHOTHERAPY;

(5) MARRIAGE AND FAMILY THERAPY;

(6) ADDICTIONS; AND

(7) LIFESTYLE AND CAREER DEVELOPMENT.

(F) THE APPLICANT SHALL PROVIDE DOCUMENTATION EVIDENCING THE COMPLETION OF 2 YEARS OF POSTGRADUATE SUPERVISED EXPERIENCE AS REQUIRED BY THE BOARD.

(G) EXCEPT AS OTHERWISE PROVIDED IN THIS TITLE, THE APPLICANT SHALL PASS THE ART THERAPY CREDENTIALS BOARD EXAM.

17-304.2.

~~ON OR BEFORE OCTOBER 1, 2014, THE BOARD SHALL WAIVE THE REQUIREMENTS FOR LICENSURE UNDER § 17-304.1(D) THROUGH (G) OF THIS SUBTITLE FOR AN APPLICANT TO PRACTICE CLINICAL PROFESSIONAL ART THERAPY, IF THE APPLICANT PROVIDES THE BOARD WITH EVIDENCE OF:~~

~~(1) CURRENT CERTIFICATION BY THE ART THERAPY CREDENTIALS BOARD, INC.; AND~~

~~(2) HAVING COMPLETED 3 YEARS OF FULL-TIME EXPERIENCE PROVIDING ART THERAPY.~~

THE BOARD SHALL WAIVE THE REQUIREMENTS FOR THE PRACTICE OF LICENSED CLINICAL PROFESSIONAL ART THERAPY UNDER § 17-304.1(D) THROUGH (G) OF THIS SUBTITLE IF, ON OR BEFORE OCTOBER 1, 2014, THE APPLICANT PROVIDES THE BOARD WITH DOCUMENTATION SHOWING:

(1) CURRENT CERTIFICATION BY THE ART THERAPY CREDENTIALS BOARD, INC.; AND

(2) COMPLETION OF 3 YEARS OF FULL-TIME EXPERIENCE PROVIDING ART THERAPY.

17-307.1.

(A) THE BOARD SHALL WAIVE THE REQUIREMENTS FOR LICENSURE FOR AN APPLICANT TO PRACTICE CLINICAL PROFESSIONAL ART THERAPY IF THE APPLICANT:

(1) IS LICENSED AS A CLINICAL PROFESSIONAL ART THERAPIST IN ANOTHER STATE, TERRITORY, OR JURISDICTION THAT HAS REQUIREMENTS THAT ARE EQUIVALENT TO OR EXCEED THE REQUIREMENTS OF § 17-304.1 OF THIS SUBTITLE;

(2) SUBMITS AN APPLICATION TO THE BOARD ON A FORM THAT THE BOARD REQUIRES; AND

(3) PAYS TO THE BOARD AN APPLICATION FEE SET BY THE BOARD.

(B) THE BOARD SHALL ADOPT REGULATIONS TO IMPLEMENT THIS SECTION.

17-308.

(a) A license authorizes the licensee to practice clinical alcohol and drug counseling, clinical marriage and family therapy, [or] clinical professional counseling, **OR CLINICAL PROFESSIONAL ART THERAPY** while the license is effective.

(b) An individual licensed under this subtitle may provide services involving the application of counseling principles and methods in the diagnosis, prevention, treatment, and amelioration of psychological problems, emotional conditions, or mental conditions of individuals or groups.

17-309.

(a) The Board may adopt regulations to allow an individual to practice under supervision as a licensed graduate alcohol and drug counselor, a licensed graduate marriage and family therapist, [or] a licensed graduate professional counselor, **OR A LICENSED GRADUATE PROFESSIONAL ART THERAPIST**.

(b) To qualify to practice as a licensed graduate alcohol and drug counselor, a licensed graduate marriage and family therapist, [or] a licensed graduate professional counselor, **OR A LICENSED GRADUATE PROFESSIONAL ART THERAPIST**, an individual shall be:

- (1) Of good moral character; and
- (2) At least 18 years old.

(c) An individual may practice graduate alcohol and drug counseling under supervision for a limited period of time if the individual has:

(1) A master's or doctoral degree in a health and human services counseling field that meets the educational requirements of § 17-302 of this subtitle; and

(2) Passed the National Alcohol and Drug Counselor Examination approved by the Board.

(d) An individual may practice graduate marriage and family therapy under supervision for a limited period of time if the individual has:

(1) A master's or doctoral degree in a marriage and family field that meets the educational requirements of § 17-303 of this subtitle; and

(2) Passed the National Marriage and Family Therapy Examination approved by the Board.

(e) An individual may practice graduate professional counseling under supervision for a limited period of time if the individual has:

(1) A master's or doctoral degree in a professional counseling field that meets the educational requirements of § 17-304 of this subtitle; and

(2) Passed the National Professional Counselor Examination approved by the Board.

(F) AN INDIVIDUAL MAY PRACTICE GRADUATE PROFESSIONAL ART THERAPY UNDER SUPERVISION FOR A LIMITED PERIOD OF TIME IF THE INDIVIDUAL HAS A MASTER'S OR DOCTORAL DEGREE IN ART THERAPY THAT MEETS THE EDUCATIONAL REQUIREMENTS OF § 17-304.1 OF THIS SUBTITLE.

[(f)] (G) An individual may not practice without approval by the Board.

17-508.

(a) In this section, "regulated counselor or therapist" means:

(1) A licensed clinical alcohol and drug counselor;

(2) A licensed clinical marriage and family therapist;

(3) A LICENSED CLINICAL PROFESSIONAL ART THERAPIST;

[(3)] (4) A licensed clinical professional counselor;

[(4)] (5) A licensed graduate alcohol and drug counselor;

[(5)] (6) A licensed graduate marriage and family therapist;

(7) A LICENSED GRADUATE PROFESSIONAL ART THERAPIST;

[(6)] (8) A licensed graduate professional counselor;

[(7)] (9) A certified professional counselor–alcohol and drug counselor;

[(8)] (10) A certified associate counselor–alcohol and drug counselor;

[(9)] (11) A certified supervised counselor–alcohol and drug counselor;

[(10)] (12) A certified professional counselor–marriage and family therapist; and

[(11)] (13) A certified professional counselor.

(b) Unless the Board agrees to accept the surrender of a license or certificate, while the licensee or certificate holder is under investigation or while charges are pending against the licensee or certificate holder, a regulated counselor or therapist may not:

- (1) Surrender the license or certificate; or
- (2) Allow the license or certificate to lapse by operation of law.

(c) The Board may set conditions on its agreement with the regulated counselor or therapist under investigation or against whom charges are pending to accept surrender of the license or certificate.

17-509.

Subject to the hearing provisions of § 17-511 of this subtitle, the Board, on the affirmative vote of a majority of its members then serving, may deny a license or certificate to any applicant, place any licensee or certificate holder on probation, reprimand any licensee or certificate holder, or suspend or revoke a license of any licensee or a certificate of any certificate holder if the applicant, licensee, or certificate holder:

- (1) Fraudulently or deceptively obtains or attempts to obtain a license or certificate for the applicant, licensee, or certificate holder or for another;
- (2) Habitually is intoxicated;
- (3) Provides professional services:
 - (i) While under the influence of alcohol; or
 - (ii) While using any narcotic or controlled dangerous substance, as defined in § 5-101 of the Criminal Law Article, or other drug that is in excess of therapeutic amounts or without valid medical indication;
- (4) Aids or abets an unauthorized individual in practicing clinical or nonclinical counseling or therapy or representing to be an alcohol and drug counselor, marriage and family therapist, [or] professional counselor, **OR PROFESSIONAL ART THERAPIST**;
- (5) Promotes the sale of drugs, devices, appliances, or goods to a patient so as to exploit the patient for financial gain;
- (6) Willfully makes or files a false report or record in the practice of counseling or therapy;

- (7) Makes a willful misrepresentation while counseling or providing therapy;
- (8) Violates the code of ethics adopted by the Board;
- (9) Knowingly violates any provision of this title;
- (10) Is convicted of or pleads guilty or nolo contendere to a felony or a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside;
- (11) Is professionally, physically, or mentally incompetent;
- (12) Submits a false statement to collect a fee;
- (13) Violates any rule or regulation adopted by the Board;
- (14) Is disciplined by a licensing or disciplinary authority of any other state or country or convicted or disciplined by a court of any state or country for an act that would be grounds for disciplinary action under the Board's disciplinary statutes;
- (15) Refuses, withholds from, denies, or discriminates against an individual with regard to the provision of professional services for which the licensee is licensed and qualified or the certificate holder is certified and qualified to render because the individual is HIV positive;
- (16) Commits an act of immoral or unprofessional conduct in the practice of clinical or nonclinical counseling or therapy;
- (17) Knowingly fails to report suspected child abuse in violation of § 5–704 of the Family Law Article; or
- (18) Fails to cooperate with a lawful investigation conducted by the Board.

17–513.

(a) An action may be maintained in the name of the State or the Board to enjoin:

(1) The unauthorized practice of alcohol and drug counseling and clinical alcohol and drug counseling, marriage and family therapy and clinical marriage and family therapy, [or] professional counseling and clinical professional counseling, **OR CLINICAL PROFESSIONAL ART THERAPY**; or

(2) Conduct that is a ground for disciplinary action under § 17–509 of this subtitle.

(b) An action under this section may be brought by:

- (1) The Board, in its own name;
- (2) The Attorney General, in the name of the State; or
- (3) A State's Attorney, in the name of the State.

(c) An action under this section shall be brought in the county where the defendant:

- (1) Resides; or
- (2) Engages in the acts sought to be enjoined.

(d) Proof of actual damages or that any person will sustain any damages if an injunction is not granted is not required for an action under this section.

(e) An action under this section is in addition to and not instead of criminal prosecution for the unauthorized practice of alcohol and drug counseling and clinical alcohol and drug counseling, marriage and family therapy and clinical marriage and family therapy, [or] professional counseling and clinical professional counseling, **OR CLINICAL PROFESSIONAL ART THERAPY**, under § 17-301, § 17-601, § 17-602, or § 17-603 of this title or disciplinary action under § 17-509 of this subtitle.

17-515.

(a) In this section, "counselor and therapist rehabilitation committee" means a committee that:

- (1) Is described in subsection (b) of this section; and
- (2) Performs any of the functions listed in subsection (d) of this section.

(b) For purposes of this section, a counselor and therapist rehabilitation committee is a committee of the Board or a committee of any association or associations representing alcohol and drug counselors, marriage and family therapists, [or] professional counselors, **OR PROFESSIONAL ART THERAPISTS** that:

- (1) Is recognized by the Board; and
- (2) Includes but is not limited to alcohol and drug counselors, marriage and family therapists, [and] professional counselors, **AND PROFESSIONAL ART THERAPISTS**.

(c) A rehabilitation committee of the Board or recognized by the Board may function:

- (1) Solely for the Board; or
- (2) Jointly with a rehabilitation committee representing another board or boards.

(d) For purposes of this section, a counselor and therapist rehabilitation committee evaluates and provides assistance to any alcohol and drug counselor, marriage and family therapist, professional counselor, **PROFESSIONAL ART THERAPIST**, and any other individual regulated by the Board, in need of treatment and rehabilitation for alcoholism, drug abuse, chemical dependency, or other physical, emotional, or mental condition.

(e) (1) Except as otherwise provided in this subsection, the proceedings, records, and files of the counselor and therapist rehabilitation committee are not discoverable and are not admissible in evidence in any civil action arising out of the matters that are being or have been reviewed and evaluated by the counselor and therapist rehabilitation committee.

(2) Paragraph (1) of this subsection does not apply to any record or document that is considered by the counselor and therapist rehabilitation committee and that otherwise would be subject to discovery or introduction into evidence in a civil action.

(3) For purposes of this subsection, civil action does not include a proceeding before the Board or judicial review of a proceeding before the Board.

(f) A person who acts in good faith and within the scope of jurisdiction of a counselor and therapist rehabilitation committee is not civilly liable for any action as a member of the counselor and therapist rehabilitation committee or for giving information to, participating in, or contributing to the function of the counselor and therapist rehabilitation committee.

17-601.

Unless an individual is licensed to practice clinical alcohol and drug counseling, clinical marriage and family therapy, [or] clinical professional counseling, **OR CLINICAL PROFESSIONAL ART THERAPY**, an individual may not:

(1) Represent to the public by title, by description of services, methods, or procedures, or otherwise, that the individual is licensed by the Board to provide clinical alcohol and drug counseling services, clinical marriage and family therapy

services, [or] clinical professional counseling services, **OR CLINICAL PROFESSIONAL ART THERAPY SERVICES** in the State;

(2) Use any title, abbreviation, sign, card, or other representation that the individual is a licensed clinical alcohol and drug counselor, licensed clinical marriage and family therapist, [or] licensed clinical professional counselor, **LICENSED CLINICAL PROFESSIONAL ART THERAPIST**; or

(3) Use the title “L.C.A.D.C.”, “L.C.M.F.T.”, [or] “L.C.P.C.”, ~~OR~~ **“L.C.P.A.T OR “L.C.P.A.T.”** or the words “licensed clinical alcohol and drug counselor”, “licensed clinical marriage and family therapist”, [or] “licensed clinical professional counselor”, **OR “LICENSED CLINICAL PROFESSIONAL ART THERAPIST”** with the intent to represent that the individual practices clinical alcohol and drug counseling, clinical marriage and family therapy, [or] clinical professional counseling, **OR CLINICAL PROFESSIONAL ART THERAPY**.

17-602.

Except as otherwise provided in this title, unless an individual has been approved by the Board to practice as a licensed graduate alcohol and drug counselor, a licensed graduate professional counselor, [or] a licensed graduate marriage and family therapist, **OR A LICENSED GRADUATE PROFESSIONAL ART THERAPIST** the individual may not:

(1) Use the title “licensed graduate alcohol and drug counselor”, “licensed graduate professional counselor”, [or] “licensed graduate marriage and family therapist”, **OR “LICENSED GRADUATE PROFESSIONAL ART THERAPIST”**;

(2) Use the initials “L.G.A.D.C.”, “L.G.P.C.”, [or] “L.G.M.F.T.”, ~~OR~~ **“L.G.P.A.T OR “L.G.P.A.T.”** after the name of the individual;

(3) Represent to the public that the individual is approved by the Board to practice alcohol and drug counseling, professional counseling, [or] marriage and family therapy, **OR PROFESSIONAL ART THERAPY**; or

(4) Use any title, abbreviation, sign, card, or other representation that the individual is a licensed graduate alcohol and drug counselor, a licensed graduate professional counselor, [or] a licensed graduate marriage and family therapist, **OR A LICENSED GRADUATE PROFESSIONAL ART THERAPIST**.

SECTION 2. AND BE IT FURTHER ENACTED, That

~~(1)~~ the ~~two~~ clinical professional art therapist ~~members~~ member added to the State Board of Professional Counselors and Therapists under § 17-202(a)(2)(iv) of the Health Occupations Article, as enacted by Section 1 of this Act, shall be

appointed to fill the first ~~two vacancies~~ vacancy on the Board formerly filled by a licensed clinical professional counselor member, ~~a licensed clinical marriage and family therapist member, or a licensed clinical alcohol and drug counselor member~~ that occur after the effective date of this Act; and

~~(2) after the two clinical professional art therapist members have been added in accordance with item (1) of this section, the next two vacancies on the Board formerly filled by a licensed clinical professional counselor member, a licensed clinical marriage and family therapist member, or a licensed clinical alcohol and drug counselor member shall be left vacant until the membership of the Board reflects the membership required by § 17-202(a) of the Health Occupations Article, as enacted by Section 1 of this Act.~~

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 629

(House Bill 1207)

AN ACT concerning

State Board of Professional Counselors and Therapists – Licensure of Clinical Professional Art Therapists

FOR the purpose of altering the membership of the State Board of Professional Counselors and Therapists ~~to include two members who are licensed as clinical professional art therapists~~; requiring certain individuals to be licensed by the Board as clinical professional art therapists before performing certain work in the State; establishing certain education and experience requirements to qualify for a license to practice clinical professional art therapy; requiring the Board to waive certain requirements under certain circumstances; providing that a license authorizes certain individuals to practice clinical professional art therapy while a license is effective; authorizing the Board to adopt certain regulations allowing certain individuals to practice as licensed graduate professional art therapists under certain supervision; establishing certain requirements to qualify for a license to practice as a licensed graduate professional art therapist; authorizing certain individuals to practice graduate professional art therapy under certain supervision for a certain period of time; prohibiting a licensee from surrendering a license under certain circumstances; authorizing the Board to deny a license to an applicant, reprimand a licensee, place a licensee on probation, or suspend or revoke a license under certain circumstances; authorizing the State or the Board to maintain a certain action

to enjoin certain unauthorized practice or certain conduct; providing that certain action is in addition to and not instead of certain prosecution; authorizing certain committees or certain associations to be a counselor or therapist rehabilitation committee; providing that a counselor and therapist rehabilitation committee evaluates and provides assistance to certain professional art therapists under certain circumstances; prohibiting certain individuals from engaging in certain actions or making certain representations in the State or using certain titles unless licensed by the Board; providing for the appointment of ~~certain members~~ a certain member of the Board; ~~requiring certain vacancies on the Board to remain unfilled in accordance with provisions of this Act altering the membership of the Board;~~ and generally relating to the establishment of a license for clinical professional art therapy and the State Board of Professional Counselors and Therapists.

BY repealing and reenacting, with amendments,

Article – Health Occupations

Section 17–101, 17–202, 17–301, 17–308, 17–309, 17–508, 17–509, 17–513, 17–515, 17–601, and 17–602

Annotated Code of Maryland

(2009 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, without amendments,

Article – Health Occupations

Section 17–103 and 17–201

Annotated Code of Maryland

(2009 Replacement Volume and 2011 Supplement)

BY adding to

Article – Health Occupations

Section 17–304.1, 17–304.2, and 17–307.1

Annotated Code of Maryland

(2009 Replacement Volume and 2011 Supplement)

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

Article – Health Occupations

17–101.

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

(b) “Alcohol and drug counseling” means assisting an individual, family, or group through the client–counselor relationship:

(1) To develop understanding of intrapersonal and interpersonal substance abuse problems;

- (2) To define goals relating to substance abuse;
- (3) To make decisions relating to substance abuse;
- (4) To plan a course of action reflecting the needs, interests, and abilities of the individual, family, or group relating to substance abuse; and
- (5) To use informational and community substance abuse resources relating to personal, social, emotional, educational, and vocational development and adjustment.

(c) (1) “Appraisal” means:

(i) Selecting, administering, scoring, and interpreting instruments designed to assess an individual’s aptitudes, attitudes, abilities, achievements, interests, and personal characteristics; and

(ii) Using nonstandardized methods and techniques for understanding human behavior in relation to coping with, adapting to, or changing life situations.

(2) “Appraisal” does not include instruments which require specialized psychological training for administration and interpretation unless the licensed counselor or therapist has completed the training required under § 17–310 of this title.

(D) “ART THERAPY” MEANS THE INTEGRATED USE OF PSYCHOTHERAPEUTIC PRINCIPLES, ART MEDIA, AND THE CREATIVE PROCESS TO ASSIST INDIVIDUALS, FAMILIES, OR GROUPS IN:

- (1) INCREASING AWARENESS OF SELF AND OTHERS;**
- (2) COPING WITH SYMPTOMS, STRESS, AND TRAUMATIC EXPERIENCES;**
- (3) ENHANCING COGNITIVE ABILITIES; AND**
- (4) IDENTIFYING AND ASSESSING CLIENTS’ NEEDS IN ORDER TO IMPLEMENT THERAPEUTIC INTERVENTION TO MEET DEVELOPMENTAL, BEHAVIORAL, MENTAL, AND EMOTIONAL NEEDS.**

[(d)] (E) “Board” means the State Board of Professional Counselors and Therapists.

[(e)] (F) “Certificate” means a certificate issued by the Board to practice professional counseling.

[(f)] (G) “Certified professional counselor” means a professional counselor who is certified by the Board.

[(g)] (H) “Certified professional counselor–marriage and family therapist” means an individual who is certified by the Board to practice marriage and family therapy in the State.

[(h)] (I) (1) “Certified supervised counselor–alcohol and drug” means an individual who is certified by the Board to practice alcohol and drug counseling in the State pursuant to the limitations in § 17–404 of this title.

(2) “Certified associate counselor–alcohol and drug” means an individual who is certified by the Board to practice alcohol and drug counseling in the State pursuant to the limitations in § 17–403 of this title.

(3) “Certified professional counselor–alcohol and drug” means an individual who is certified by the Board to practice alcohol and drug counseling in the State.

[(i)] (J) “Counseling” means assisting an individual, family, or group through the client–counselor relationship:

(1) To develop understanding of intrapersonal and interpersonal problems;

(2) To define goals;

(3) To make decisions;

(4) To plan a course of action reflecting the needs, interests, and abilities of the individual, family, or group; and

(5) To use informational and community resources, as these procedures are related to personal, social, emotional, educational, and vocational development and adjustment.

[(j)] (K) “Fund” means the State Board of Professional Counselors and Therapists Fund.

[(k)] (L) “License” means, unless the context requires otherwise, one of six types of licenses issued by the Board authorizing an individual to practice:

(1) Clinical alcohol and drug counseling;

(2) Clinical marriage and family therapy;

(3) CLINICAL PROFESSIONAL ART THERAPY;

[(3)] (4) Clinical professional counseling;

[(4)] (5) Graduate alcohol and drug counseling;

[(5)] (6) Graduate marriage and family therapy; **[or]**

(7) GRADUATE PROFESSIONAL ART THERAPY; OR

[(6)] (8) Graduate professional counseling.

[(l)] (M) “Licensed graduate alcohol and drug counselor” means an individual approved by the Board to practice graduate alcohol and drug counseling.

[(m)] (N) “Licensed graduate marriage and family therapist” means an individual approved by the Board to practice graduate marriage and family therapy.

(O) “LICENSED GRADUATE PROFESSIONAL ART THERAPIST” MEANS AN INDIVIDUAL APPROVED BY THE BOARD TO PRACTICE GRADUATE PROFESSIONAL ART THERAPY.

[(n)] (P) “Licensed graduate professional counselor” means an individual approved by the Board to practice graduate professional counseling.

[(o)] (Q) “Marriage and family therapy” means applying marriage and family systems theory, principles, methods, therapeutic techniques, and research in:

(1) Resolving emotional conflict and modifying perception and behavior in the context of marriage and family life; and

(2) The identification and assessment of client needs and the implementation of therapeutic intervention.

[(p)] (R) “Practice alcohol and drug counseling” means to engage professionally and for compensation in alcohol and drug counseling activities while representing oneself to be a certified professional counselor–alcohol and drug, a certified supervised counselor–alcohol and drug, or a certified associate counselor–alcohol and drug.

[(q)] (S) “Practice clinical alcohol and drug counseling” means to engage professionally and for compensation in alcohol and drug counseling and appraisal activities by providing services involving the application of counseling principles and methods in the diagnosis, prevention, treatment, and amelioration of psychological problems and emotional or mental conditions of individuals or groups.

[(r)] (T) “Practice clinical marriage and family therapy” means to engage professionally and for compensation in marriage and family therapy and appraisal activities by providing services involving the application of therapy principles and methods in the diagnosis, prevention, treatment, and amelioration of psychological problems and emotional or mental conditions of individuals or groups.

(U) “PRACTICE CLINICAL PROFESSIONAL ART THERAPY” MEANS TO ENGAGE PROFESSIONALLY AND FOR COMPENSATION IN ART THERAPY AND APPRAISAL ACTIVITIES BY PROVIDING SERVICES INVOLVING THE APPLICATION OF ART THERAPY PRINCIPLES AND METHODS IN THE DIAGNOSIS, PREVENTION, TREATMENT, AND AMELIORATION OF PSYCHOLOGICAL PROBLEMS AND EMOTIONAL OR MENTAL CONDITIONS OF INDIVIDUALS OR GROUPS.

[(s)] (V) “Practice clinical professional counseling” means to engage professionally and for compensation in counseling and appraisal activities by providing services involving the application of counseling principles and methods in the diagnosis, prevention, treatment, and amelioration of psychological problems and emotional or mental conditions of individuals or groups.

[(t)] (W) “Practice graduate alcohol and drug counseling” means to practice clinical alcohol and drug counseling:

(1) Under the supervision of a licensed clinical alcohol and drug counselor or another health care provider licensed under this article, as approved by the Board; and

(2) While fulfilling the requirements for supervised experience under § 17-302 of this title.

[(u)] (X) “Practice graduate marriage and family therapy” means to practice clinical marriage and family therapy:

(1) Under the supervision of a licensed clinical marriage and family therapist or another health care provider licensed under this article, as approved by the Board; and

(2) While fulfilling the requirements for supervised experience under § 17-303 of this title.

(Y) “PRACTICE GRADUATE PROFESSIONAL ART THERAPY” MEANS TO PRACTICE CLINICAL PROFESSIONAL ART THERAPY:

(1) UNDER THE SUPERVISION OF A LICENSED CLINICAL PROFESSIONAL ART THERAPIST OR ANOTHER HEALTH CARE PROVIDER LICENSED UNDER THIS ARTICLE, AS APPROVED BY THE BOARD; AND

(2) WHILE FULFILLING THE REQUIREMENTS FOR SUPERVISED EXPERIENCE UNDER § 17-304.1 OF THIS TITLE.

[(v)] (Z) “Practice graduate professional counseling” means to practice clinical professional counseling:

(1) Under the supervision of a licensed clinical professional counselor or another health care provider licensed under this article, as approved by the Board; and

(2) While fulfilling the requirements for supervised experience under § 17-304 of this title.

[(w)] (AA) “Practice marriage and family therapy” means to engage professionally and for compensation in marriage and family therapy activities while representing oneself to be a certified professional counselor–marriage and family therapist.

[(x)] (BB) “Practice professional counseling” means to engage professionally and for compensation in counseling and appraisal activities while representing oneself to be a certified professional counselor.

17-103.

This title does not limit the right of an individual to practice a health occupation that the individual is authorized to practice under this article.

17-201.

There is a State Board of Professional Counselors and Therapists.

17-202.

(a) (1) The Board consists of ~~13~~ ~~11~~ members appointed by the Governor with the advice of the Secretary.

(2) Of the ~~13~~ ~~11~~ Board members:

(i) ~~Five~~ ~~THREE~~ FOUR shall be licensed as clinical professional counselors;

(ii) ~~Three~~ ~~TWO~~ shall be licensed as clinical marriage and family therapists;

(iii) ~~Three~~ ~~Two~~ shall be licensed as clinical alcohol and drug counselors; [and]

(IV) ~~Two~~ ONE SHALL BE LICENSED AS A CLINICAL PROFESSIONAL ART THERAPIST; AND

[(iv)] (V) Two shall be consumer members.

(3) The composition of the Board as to the race and sex of its members shall reflect the composition of the population of the State.

(4) The Governor shall appoint the counselors and therapists from a list submitted to the Governor by the Secretary. Any association representing professional counselors, marriage and family therapists, [or] alcohol and drug counselors, **OR PROFESSIONAL ART THERAPISTS** may submit recommendations for Board members to the Secretary.

(b) The consumer members of the Board:

(1) Shall be members of the general public;

(2) May not be or ever have been certified or licensed as a counselor or therapist or in training to become certified or licensed as a counselor or therapist;

(3) May not have a household member who is certified or licensed as a counselor or therapist or in training to become certified or licensed as a counselor or therapist;

(4) May not participate or ever have participated in a commercial or professional field related to professional counseling, marriage and family therapy, [or] alcohol and drug counseling, **OR PROFESSIONAL ART THERAPY**;

(5) May not have a household member who participates in a commercial or professional field related to professional counseling, marriage and family therapy, [or] alcohol and drug counseling, **OR PROFESSIONAL ART THERAPY**;

(6) May not have had within 2 years before appointment a substantial financial interest in a person regulated by the Board; and

(7) While members of the Board, may not have a substantial financial interest in a person regulated by the Board.

(c) Before taking office, each appointee to the Board shall take the oath required by Article I, § 9 of the Maryland Constitution.

(d) (1) The term of a member is 4 years.

(2) The terms of the members of the Board are staggered as required by the terms of the members of the Board serving on July 1, 1988.

(3) At the end of a term, a member continues to serve until a successor is appointed and qualifies.

(4) A member may not serve more than 2 consecutive full terms.

(5) To the extent practicable, the Governor shall fill any vacancy on the Board within 60 days of the date of the vacancy.

(e) (1) The Governor may remove a member for incompetency, misconduct, 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.

17-301.

(a) ~~(1)~~ Except as otherwise provided in subsection (b) of this section, an individual may not practice, attempt to practice, or offer to practice clinical alcohol and drug counseling, clinical marriage and family therapy, CLINICAL PROFESSIONAL ART THERAPY, or clinical professional counseling in the State unless licensed by the Board.

~~(2) ON OR BEFORE OCTOBER 1, 2014, AN INDIVIDUAL SHALL BE LICENSED BY THE BOARD BEFORE THE INDIVIDUAL MAY PRACTICE CLINICAL PROFESSIONAL ART THERAPY IN THE STATE.~~

(b) Subject to the regulations of the Board, subsection (a) of this section does not apply to:

(1) A student working under the supervision of a licensed mental health care provider while pursuing a supervised course of study in counseling that the Board approves as qualifying training and experience under this title; or

(2) An individual who, in accordance with § 17-406 of this title, is working as a trainee under the supervision of a licensed clinical alcohol and drug counselor or another health care provider licensed or certified under this article and approved by the Board while fulfilling the experiential or course of study requirements under § 17-302 of this subtitle or § 17-402, § 17-403, or § 17-404 of this title.

(c) This subtitle may not be construed to limit the scope of practice of any individual who is duly licensed under this article.

17-304.1.

(A) EXCEPT AS PROVIDED IN §§ 17-304.2 AND 17-307.1 OF THIS SUBTITLE, TO QUALIFY FOR A LICENSE TO PRACTICE CLINICAL PROFESSIONAL ART THERAPY, AN APPLICANT SHALL BE AN INDIVIDUAL WHO 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) (1) THE APPLICANT SHALL HOLD A MASTER'S OR DOCTORAL DEGREE IN ART THERAPY FROM AN ACCREDITED EDUCATIONAL INSTITUTION THAT IS APPROVED BY THE BOARD.

(2) IN THE CASE OF AN APPLICANT HOLDING A DOCTORAL DEGREE, THE APPLICANT SHALL HAVE COMPLETED:

(I) A MINIMUM OF 90 GRADUATE CREDIT HOURS IN AN ART THERAPY PROGRAM ACCREDITED BY THE AMERICAN ART THERAPY ASSOCIATION AND APPROVED BY THE BOARD; AND

(II) NOT LESS THAN 2 YEARS OF SUPERVISED EXPERIENCE IN ART THERAPY APPROVED BY THE BOARD, 1 YEAR OF WHICH SHALL HAVE BEEN COMPLETED AFTER THE AWARD OF THE DOCTORAL DEGREE.

(3) IN THE CASE OF AN APPLICANT HOLDING ONLY A MASTER'S DEGREE, THE APPLICANT SHALL HAVE COMPLETED:

(I) A MINIMUM OF 60 GRADUATE CREDIT HOURS IN AN ART THERAPY PROGRAM ACCREDITED BY THE AMERICAN ART THERAPY ASSOCIATION AND APPROVED BY THE BOARD; AND

(II) NOT LESS THAN 3 YEARS, WITH A MINIMUM OF 3,000 HOURS, OF SUPERVISED EXPERIENCE IN ART THERAPY APPROVED BY THE BOARD, 2 YEARS OF WHICH SHALL HAVE BEEN COMPLETED AFTER THE AWARD OF THE MASTER'S DEGREE.

(E) THE APPLICANT SHALL PROVIDE DOCUMENTATION TO THE BOARD EVIDENCING THE COMPLETION OF 60 HOURS OF GRADUATE COURSE WORK IN ART THERAPY FROM AN ACCREDITED COLLEGE OR UNIVERSITY PROGRAM THAT IS ACCREDITED BY THE AMERICAN ART THERAPY ASSOCIATION, APPROVED BY THE BOARD, AND INCLUDES TRAINING IN:

- (1) PERSONALITY DEVELOPMENT;
- (2) DIAGNOSIS AND TREATMENT OF MENTAL AND EMOTIONAL DISORDERS;
- (3) PSYCHOPATHOLOGY;
- (4) PSYCHOTHERAPY;
- (5) MARRIAGE AND FAMILY THERAPY;
- (6) ADDICTIONS; AND
- (7) LIFESTYLE AND CAREER DEVELOPMENT.

(F) THE APPLICANT SHALL PROVIDE DOCUMENTATION EVIDENCING THE COMPLETION OF 2 YEARS OF POSTGRADUATE SUPERVISED EXPERIENCE AS REQUIRED BY THE BOARD.

(G) EXCEPT AS OTHERWISE PROVIDED IN THIS TITLE, THE APPLICANT SHALL PASS THE ART THERAPY CREDENTIALS BOARD EXAM.

17-304.2.

~~ON OR BEFORE OCTOBER 1, 2014, THE BOARD SHALL WAIVE THE REQUIREMENTS FOR LICENSURE UNDER § 17-304.1(D) THROUGH (G) OF THIS SUBTITLE FOR AN APPLICANT TO PRACTICE CLINICAL PROFESSIONAL ART THERAPY, IF THE APPLICANT PROVIDES THE BOARD WITH EVIDENCE OF:~~

~~(1) CURRENT CERTIFICATION BY THE ART THERAPY CREDENTIALS BOARD, INC.; AND~~

~~(2) HAVING COMPLETED 3 YEARS OF FULL-TIME EXPERIENCE PROVIDING ART THERAPY.~~

THE BOARD SHALL WAIVE THE REQUIREMENTS FOR THE PRACTICE OF LICENSED CLINICAL PROFESSIONAL ART THERAPY UNDER § 17-304.1(D) THROUGH (G) OF THIS SUBTITLE IF, ON OR BEFORE OCTOBER 1, 2014, THE APPLICANT PROVIDES THE BOARD WITH DOCUMENTATION SHOWING:

(1) CURRENT CERTIFICATION BY THE ART THERAPY CREDENTIALS BOARD, INC., AND

(2) COMPLETION OF 3 YEARS OF FULL-TIME EXPERIENCE PROVIDING ART THERAPY.

17-307.1.

(A) THE BOARD SHALL WAIVE THE REQUIREMENTS FOR LICENSURE FOR AN APPLICANT TO PRACTICE CLINICAL PROFESSIONAL ART THERAPY IF THE APPLICANT:

(1) IS LICENSED AS A CLINICAL PROFESSIONAL ART THERAPIST IN ANOTHER STATE, TERRITORY, OR JURISDICTION THAT HAS REQUIREMENTS THAT ARE EQUIVALENT TO OR EXCEED THE REQUIREMENTS OF § 17-304.1 OF THIS SUBTITLE;

(2) SUBMITS AN APPLICATION TO THE BOARD ON A FORM THAT THE BOARD REQUIRES; AND

(3) PAYS TO THE BOARD AN APPLICATION FEE SET BY THE BOARD.

(B) THE BOARD SHALL ADOPT REGULATIONS TO IMPLEMENT THIS SECTION.

17-308.

(a) A license authorizes the licensee to practice clinical alcohol and drug counseling, clinical marriage and family therapy, [or] clinical professional counseling, **OR CLINICAL PROFESSIONAL ART THERAPY** while the license is effective.

(b) An individual licensed under this subtitle may provide services involving the application of counseling principles and methods in the diagnosis, prevention, treatment, and amelioration of psychological problems, emotional conditions, or mental conditions of individuals or groups.

17-309.

(a) The Board may adopt regulations to allow an individual to practice under supervision as a licensed graduate alcohol and drug counselor, a licensed graduate marriage and family therapist, [or] a licensed graduate professional counselor, **OR A LICENSED GRADUATE PROFESSIONAL ART THERAPIST.**

(b) To qualify to practice as a licensed graduate alcohol and drug counselor, a licensed graduate marriage and family therapist, [or] a licensed graduate professional counselor, **OR A LICENSED GRADUATE PROFESSIONAL ART THERAPIST**, an individual shall be:

- (1) Of good moral character; and
- (2) At least 18 years old.

(c) An individual may practice graduate alcohol and drug counseling under supervision for a limited period of time if the individual has:

(1) A master's or doctoral degree in a health and human services counseling field that meets the educational requirements of § 17-302 of this subtitle; and

(2) Passed the National Alcohol and Drug Counselor Examination approved by the Board.

(d) An individual may practice graduate marriage and family therapy under supervision for a limited period of time if the individual has:

(1) A master's or doctoral degree in a marriage and family field that meets the educational requirements of § 17-303 of this subtitle; and

(2) Passed the National Marriage and Family Therapy Examination approved by the Board.

(e) An individual may practice graduate professional counseling under supervision for a limited period of time if the individual has:

(1) A master's or doctoral degree in a professional counseling field that meets the educational requirements of § 17-304 of this subtitle; and

(2) Passed the National Professional Counselor Examination approved by the Board.

(F) AN INDIVIDUAL MAY PRACTICE GRADUATE PROFESSIONAL ART THERAPY UNDER SUPERVISION FOR A LIMITED PERIOD OF TIME IF THE INDIVIDUAL HAS A MASTER'S OR DOCTORAL DEGREE IN ART THERAPY THAT MEETS THE EDUCATIONAL REQUIREMENTS OF § 17-304.1 OF THIS SUBTITLE.

[(f)] (G) An individual may not practice without approval by the Board.

17-508.

(a) In this section, "regulated counselor or therapist" means:

- (1) A licensed clinical alcohol and drug counselor;

(2) A licensed clinical marriage and family therapist;

(3) A LICENSED CLINICAL PROFESSIONAL ART THERAPIST;

~~[(3)] (4)~~ A licensed clinical professional counselor;

~~[(4)] (5)~~ A licensed graduate alcohol and drug counselor;

~~[(5)] (6)~~ A licensed graduate marriage and family therapist;

(7) A LICENSED GRADUATE PROFESSIONAL ART THERAPIST;

~~[(6)] (8)~~ A licensed graduate professional counselor;

~~[(7)] (9)~~ A certified professional counselor—alcohol and drug counselor;

~~[(8)] (10)~~ A certified associate counselor—alcohol and drug counselor;

~~[(9)] (11)~~ A certified supervised counselor—alcohol and drug counselor;

~~[(10)] (12)~~ A certified professional counselor—marriage and family therapist; and

~~[(11)] (13)~~ A certified professional counselor.

(b) Unless the Board agrees to accept the surrender of a license or certificate, while the licensee or certificate holder is under investigation or while charges are pending against the licensee or certificate holder, a regulated counselor or therapist may not:

(1) Surrender the license or certificate; or

(2) Allow the license or certificate to lapse by operation of law.

(c) The Board may set conditions on its agreement with the regulated counselor or therapist under investigation or against whom charges are pending to accept surrender of the license or certificate.

17-509.

Subject to the hearing provisions of § 17-511 of this subtitle, the Board, on the affirmative vote of a majority of its members then serving, may deny a license or certificate to any applicant, place any licensee or certificate holder on probation, reprimand any licensee or certificate holder, or suspend or revoke a license of any

licensee or a certificate of any certificate holder if the applicant, licensee, or certificate holder:

- (1) Fraudulently or deceptively obtains or attempts to obtain a license or certificate for the applicant, licensee, or certificate holder or for another;
- (2) Habitually is intoxicated;
- (3) Provides professional services:
 - (i) While under the influence of alcohol; or
 - (ii) While using any narcotic or controlled dangerous substance, as defined in § 5–101 of the Criminal Law Article, or other drug that is in excess of therapeutic amounts or without valid medical indication;
- (4) Aids or abets an unauthorized individual in practicing clinical or nonclinical counseling or therapy or representing to be an alcohol and drug counselor, marriage and family therapist, [or] professional counselor, **OR PROFESSIONAL ART THERAPIST**;
- (5) Promotes the sale of drugs, devices, appliances, or goods to a patient so as to exploit the patient for financial gain;
- (6) Willfully makes or files a false report or record in the practice of counseling or therapy;
- (7) Makes a willful misrepresentation while counseling or providing therapy;
- (8) Violates the code of ethics adopted by the Board;
- (9) Knowingly violates any provision of this title;
- (10) Is convicted of or pleads guilty or nolo contendere to a felony or a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside;
- (11) Is professionally, physically, or mentally incompetent;
- (12) Submits a false statement to collect a fee;
- (13) Violates any rule or regulation adopted by the Board;
- (14) Is disciplined by a licensing or disciplinary authority of any other state or country or convicted or disciplined by a court of any state or country for an act that would be grounds for disciplinary action under the Board's disciplinary statutes;

(15) Refuses, withholds from, denies, or discriminates against an individual with regard to the provision of professional services for which the licensee is licensed and qualified or the certificate holder is certified and qualified to render because the individual is HIV positive;

(16) Commits an act of immoral or unprofessional conduct in the practice of clinical or nonclinical counseling or therapy;

(17) Knowingly fails to report suspected child abuse in violation of § 5–704 of the Family Law Article; or

(18) Fails to cooperate with a lawful investigation conducted by the Board.

17–513.

(a) An action may be maintained in the name of the State or the Board to enjoin:

(1) The unauthorized practice of alcohol and drug counseling and clinical alcohol and drug counseling, marriage and family therapy and clinical marriage and family therapy, [or] professional counseling and clinical professional counseling, **OR CLINICAL PROFESSIONAL ART THERAPY**; or

(2) Conduct that is a ground for disciplinary action under § 17–509 of this subtitle.

(b) An action under this section may be brought by:

(1) The Board, in its own name;

(2) The Attorney General, in the name of the State; or

(3) A State's Attorney, in the name of the State.

(c) An action under this section shall be brought in the county where the defendant:

(1) Resides; or

(2) Engages in the acts sought to be enjoined.

(d) Proof of actual damages or that any person will sustain any damages if an injunction is not granted is not required for an action under this section.

(e) An action under this section is in addition to and not instead of criminal prosecution for the unauthorized practice of alcohol and drug counseling and clinical alcohol and drug counseling, marriage and family therapy and clinical marriage and family therapy, [or] professional counseling and clinical professional counseling, **OR CLINICAL PROFESSIONAL ART THERAPY**, under § 17–301, § 17–601, § 17–602, or § 17–603 of this title or disciplinary action under § 17–509 of this subtitle.

17–515.

(a) In this section, “counselor and therapist rehabilitation committee” means a committee that:

- (1) Is described in subsection (b) of this section; and
- (2) Performs any of the functions listed in subsection (d) of this section.

(b) For purposes of this section, a counselor and therapist rehabilitation committee is a committee of the Board or a committee of any association or associations representing alcohol and drug counselors, marriage and family therapists, [or] professional counselors, **OR PROFESSIONAL ART THERAPISTS** that:

- (1) Is recognized by the Board; and
- (2) Includes but is not limited to alcohol and drug counselors, marriage and family therapists, [and] professional counselors, **AND PROFESSIONAL ART THERAPISTS**.

(c) A rehabilitation committee of the Board or recognized by the Board may function:

- (1) Solely for the Board; or
- (2) Jointly with a rehabilitation committee representing another board or boards.

(d) For purposes of this section, a counselor and therapist rehabilitation committee evaluates and provides assistance to any alcohol and drug counselor, marriage and family therapist, professional counselor, **PROFESSIONAL ART THERAPIST**, and any other individual regulated by the Board, in need of treatment and rehabilitation for alcoholism, drug abuse, chemical dependency, or other physical, emotional, or mental condition.

(e) (1) Except as otherwise provided in this subsection, the proceedings, records, and files of the counselor and therapist rehabilitation committee are not discoverable and are not admissible in evidence in any civil action arising out of the

matters that are being or have been reviewed and evaluated by the counselor and therapist rehabilitation committee.

(2) Paragraph (1) of this subsection does not apply to any record or document that is considered by the counselor and therapist rehabilitation committee and that otherwise would be subject to discovery or introduction into evidence in a civil action.

(3) For purposes of this subsection, civil action does not include a proceeding before the Board or judicial review of a proceeding before the Board.

(f) A person who acts in good faith and within the scope of jurisdiction of a counselor and therapist rehabilitation committee is not civilly liable for any action as a member of the counselor and therapist rehabilitation committee or for giving information to, participating in, or contributing to the function of the counselor and therapist rehabilitation committee.

17-601.

Unless an individual is licensed to practice clinical alcohol and drug counseling, clinical marriage and family therapy, [or] clinical professional counseling, **OR CLINICAL PROFESSIONAL ART THERAPY**, an individual may not:

(1) Represent to the public by title, by description of services, methods, or procedures, or otherwise, that the individual is licensed by the Board to provide clinical alcohol and drug counseling services, clinical marriage and family therapy services, [or] clinical professional counseling services, **OR CLINICAL PROFESSIONAL ART THERAPY SERVICES** in the State;

(2) Use any title, abbreviation, sign, card, or other representation that the individual is a licensed clinical alcohol and drug counselor, licensed clinical marriage and family therapist, [or] licensed clinical professional counselor, **LICENSED CLINICAL PROFESSIONAL ART THERAPIST**; or

(3) Use the title "L.C.A.D.C.", "L.C.M.F.T.", [or] "L.C.P.C.", ~~OR~~ **"L.C.P.A.T OR "L.C.P.A.T."** or the words "licensed clinical alcohol and drug counselor", "licensed clinical marriage and family therapist", [or] "licensed clinical professional counselor", **OR "LICENSED CLINICAL PROFESSIONAL ART THERAPIST"** with the intent to represent that the individual practices clinical alcohol and drug counseling, clinical marriage and family therapy, [or] clinical professional counseling, **OR CLINICAL PROFESSIONAL ART THERAPY**.

17-602.

Except as otherwise provided in this title, unless an individual has been approved by the Board to practice as a licensed graduate alcohol and drug counselor, a

licensed graduate professional counselor, [or] a licensed graduate marriage and family therapist, **OR A LICENSED GRADUATE PROFESSIONAL ART THERAPIST** the individual may not:

(1) Use the title “licensed graduate alcohol and drug counselor”, “licensed graduate professional counselor”, [or] “licensed graduate marriage and family therapist”, **OR “LICENSED GRADUATE PROFESSIONAL ART THERAPIST”**;

(2) Use the initials “L.G.A.D.C.”, “L.G.P.C.”, [or] “L.G.M.F.T.”, ~~OR~~ **“L.G.P.A.T” OR “L.G.P.A.T.”** after the name of the individual;

(3) Represent to the public that the individual is approved by the Board to practice alcohol and drug counseling, professional counseling, [or] marriage and family therapy, **OR PROFESSIONAL ART THERAPY**; or

(4) Use any title, abbreviation, sign, card, or other representation that the individual is a licensed graduate alcohol and drug counselor, a licensed graduate professional counselor, [or] a licensed graduate marriage and family therapist, **OR A LICENSED GRADUATE PROFESSIONAL ART THERAPIST**.

SECTION 2. AND BE IT FURTHER ENACTED, That~~s~~

~~(1) the two clinical professional art therapist members member added to the State Board of Professional Counselors and Therapists under § 17–202(a)(2)(iv) of the Health Occupations Article, as enacted by Section 1 of this Act, shall be appointed to fill the first two vacancies vacancy on the Board formerly filled by a licensed clinical professional counselor member, a licensed clinical marriage and family therapist member, or a licensed clinical alcohol and drug counselor member that occur after the effective date of this Act; and~~

~~(2) after the two clinical professional art therapist members have been added in accordance with item (1) of this section, the next two vacancies on the Board formerly filled by a licensed clinical professional counselor member, a licensed clinical marriage and family therapist member, or a licensed clinical alcohol and drug counselor member shall be left vacant until the membership of the Board reflects the membership required by § 17–202(a) of the Health Occupations Article, as enacted by Section 1 of this Act.~~

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 630**(Senate Bill 990)**

AN ACT concerning

Ocean City Convention Center – Financial Obligations and Taxing Authority

FOR the purpose of altering a certain provision that places a limit on the amount of certain bonds that may be issued by a local governing body in connection with a certain convention center facility in a resort area and a tax on the sale of food and beverages in the resort area so that the limit applies to the total outstanding principal amount of the bonds; extending the time during which Ocean City and the Stadium Authority each own a certain leasehold interest in the Ocean City Convention Center and its expansion; altering certain required terms of a certain agreement between the Stadium Authority and Ocean City in connection with the timing for Ocean City to become solely responsible for certain operating deficits and capital improvements and the timing for certain required contributions to a certain capital improvement reserve fund; and generally relating to financial obligations and taxing authority related to the Ocean City Convention Center and its expansion.

BY repealing and reenacting, with amendments,
Article 25B – Home Rule for Code Counties
Section 13H(b)(1)
Annotated Code of Maryland
(2011 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – Economic Development
Section 10–643(d)(5) and (f)(1)
Annotated Code of Maryland
(2008 Volume and 2011 Supplement)

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

Article 25B – Home Rule for Code Counties

13H.

(b) (1) Except as otherwise provided in this section, the county commissioners of a code county, by public local law, may impose a tax on the sale of food and beverages in a resort area in the county for the sole purpose of providing revenues to pay the principal and interest on bonds issued relating to the construction, reconstruction, repair, renovation, or equipping of a convention center facility in the

resort area. The total **OUTSTANDING** principal amount of the bonds issued by the local governing body for this purpose may not exceed \$20,000,000.

Article – Economic Development

10–643.

(d) The Authority shall secure a lease or other written agreement with Ocean City, as approved by the Board of Public Works, under which:

(5) Ocean City and the Authority shall each own a 50% leasehold interest as tenants in common in the improvements comprising the existing Ocean City Convention Center and the Ocean City Convention Center expansion for the duration of any bonds issued as authorized under § 10–628 of this subtitle **AND FOR ~~15~~ 20 YEARS THEREAFTER**; and

(f) (1) The Authority shall secure a written agreement with Ocean City, as approved by the Board of Public Works:

(i) in which Ocean City agrees to:

1. subject to paragraph (2) of this subsection, market, promote, and operate the Ocean City Convention facility in a manner that maximizes the facility's economic return;

2. maintain and repair the facility so as to keep it in first class operating condition; and

3. be solely responsible for all operating deficits and capital improvements:

A. before the completion of the expanded and renovated Ocean City Convention facility; and

B. **~~15~~ 20 YEARS** after the repayment of the Ocean City Convention facility bonds issued by the Authority; and

(ii) that includes provisions that:

1. protect the respective investment of the Authority and Ocean City;

2. require:

A. the Authority to contribute one-half and Ocean City to contribute one-half to operating deficits; and

B. the Authority and Ocean City each to contribute \$50,000 each year to a capital improvement reserve fund, for the period beginning on the completion of the expanded and renovated Ocean City Convention facility and continuing during the period that the Ocean City Convention facility bonds issued by the Authority are outstanding **AND FOR ~~15~~ 20 YEARS THEREAFTER**; and

3. provide for remedies on default, including the right of the Authority, if a material default by Ocean City is not corrected after a reasonable notice and cure period, to:

A. immediately assume responsibility for maintenance and repairs of the Ocean City Convention facility; and

B. offset the costs of the maintenance and repairs against other amounts owed by the Authority to Ocean City, whether under the operating agreement with Ocean City or otherwise.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 631

(Senate Bill 997)

AN ACT concerning

Public Utilities – Electric Vehicle Users and Charging Stations – Exclusions

FOR the purpose of altering certain definitions of “electricity supplier” and “public service company” to exclude, for purposes of certain provisions of law, a person that owns or operates equipment used for charging electric vehicles; altering a certain definition of “retail electric customer” to include certain persons and to exclude, for purposes of certain provisions of law, a person that charges an electric vehicle at an electric vehicle charging station, with a certain exception; and generally relating to exclusions from certain provisions of law for electric vehicle users and charging stations.

BY repealing and reenacting, without amendments,

Article – Public Utilities

Section 1–101(a)

Annotated Code of Maryland

(2010 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,
Article – Public Utilities
Section 1–101(j), (x), and (cc)
Annotated Code of Maryland
(2010 Replacement Volume and 2011 Supplement)

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

Article – Public Utilities

1–101.

- (a) In this division the following words have the meanings indicated.
- (j) (1) “Electricity supplier” means a person:
- (i) who sells:
 - 1. electricity;
 - 2. electricity supply services;
 - 3. competitive billing services; or
 - 4. competitive metering services; or
 - (ii) who purchases, brokers, arranges, or markets electricity or electricity supply services for sale to a retail electric customer.
- (2) “Electricity supplier” includes an electric company, an aggregator, a broker, and a marketer of electricity.
- (3) “Electricity supplier” does not include:
- (i) the following persons who supply electricity and electricity supply services solely to occupants of a building for use by the occupants:
 - 1. an owner/operator who holds ownership in and manages the internal distribution system serving the building; or
 - 2. a lessee/operator who holds a leasehold interest in and manages the internal distribution system serving the building; **[or]**
 - (ii) a person who generates on–site generated electricity; **OR**

(III) A PERSON THAT OWNS OR OPERATES EQUIPMENT USED FOR CHARGING ELECTRIC VEHICLES, INCLUDING A PERSON THAT OWNS OR OPERATES:

- 1. AN ELECTRIC VEHICLE CHARGING STATION;**
- 2. ELECTRIC VEHICLE SUPPLY EQUIPMENT; OR**
- 3. AN ELECTRIC VEHICLE CHARGING STATION SERVICE COMPANY OR PROVIDER.**

(x) (1) "Public service company" means a common carrier company, electric company, gas company, sewage disposal company, telegraph company, telephone company, water company, or any combination of public service companies.

(2) "Public service company" does not include:

(I) a campground that provides water, electric, gas, sewage, or telephone service to campers incident to the campground's primary business of operating and maintaining the campground; OR

(II) A PERSON THAT OWNS OR OPERATES EQUIPMENT USED FOR CHARGING ELECTRIC VEHICLES, INCLUDING A PERSON THAT OWNS OR OPERATES:

- 1. AN ELECTRIC VEHICLE CHARGING STATION;**
- 2. ELECTRIC VEHICLE SUPPLY EQUIPMENT; OR**
- 3. AN ELECTRIC VEHICLE CHARGING STATION SERVICE COMPANY OR PROVIDER.**

(cc) (1) "Retail electric customer" means a purchaser of electricity for end use in the State.

(2) **"RETAIL ELECTRIC CUSTOMER" INCLUDES:**

(I) A PERSON THAT OWNS OR OPERATES EQUIPMENT USED FOR CHARGING ELECTRIC VEHICLES, INCLUDING:

- 1. AN ELECTRIC VEHICLE CHARGING STATION;**
- 2. ELECTRIC VEHICLE SUPPLY EQUIPMENT; OR**

3. AN ELECTRIC VEHICLE CHARGING STATION SERVICE COMPANY OR PROVIDER; AND

(II) A PERSON THAT CHARGES AN ELECTRIC VEHICLE AT AN ELECTRIC VEHICLE CHARGING STATION THAT THE PERSON OWNS OR OPERATES.

(3) “Retail electric customer” ~~excludes~~ DOES NOT INCLUDE:

(i) an occupant of a building in which the owner/operator or lessee/operator manages the internal distribution system serving the building and supplies electricity and electricity supply services solely to occupants of the building for use by the occupants; [and]

(ii) a person who generates on-site generated electricity, to the extent the on-site generated electricity is consumed by that person or its tenants; ~~AND~~
OR

(III) EXCEPT AS PROVIDED IN PARAGRAPH (2)(II) OF THIS SUBSECTION, A PERSON THAT CHARGES AN ELECTRIC VEHICLE AT AN ELECTRIC VEHICLE CHARGING STATION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 632

(House Bill 1280)

AN ACT concerning

Public Utilities – Electric Vehicle Users and Charging Stations – Exclusions

FOR the purpose of altering certain definitions of “electricity supplier” and “public service company” to exclude, for purposes of certain provisions of law, a person that owns or operates equipment used for charging electric vehicles; altering a certain definition of “retail electric customer” to include certain persons and to exclude, for purposes of certain provisions of law, a person that charges an electric vehicle at an electric vehicle charging station, with a certain exception; and generally relating to exclusions from certain provisions of law for electric vehicle users and charging stations.

BY repealing and reenacting, without amendments,
Article – Public Utilities
Section 1–101(a)
Annotated Code of Maryland
(2010 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,
Article – Public Utilities
Section 1–101(j), (x), and (cc)
Annotated Code of Maryland
(2010 Replacement Volume and 2011 Supplement)

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

Article – Public Utilities

1–101.

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

(j) (1) “Electricity supplier” means a person:

(i) who sells:

1. electricity;
2. electricity supply services;
3. competitive billing services; or
4. competitive metering services; or

(ii) who purchases, brokers, arranges, or markets electricity or electricity supply services for sale to a retail electric customer.

(2) “Electricity supplier” includes an electric company, an aggregator, a broker, and a marketer of electricity.

(3) “Electricity supplier” does not include:

(i) the following persons who supply electricity and electricity supply services solely to occupants of a building for use by the occupants:

1. an owner/operator who holds ownership in and manages the internal distribution system serving the building; or

2. a lessee/operator who holds a leasehold interest in and manages the internal distribution system serving the building; [or]

(ii) a person who generates on-site generated electricity; OR

(III) A PERSON THAT OWNS OR OPERATES EQUIPMENT USED FOR CHARGING ELECTRIC VEHICLES, INCLUDING A PERSON THAT OWNS OR OPERATES:

1. AN ELECTRIC VEHICLE CHARGING STATION;

2. ELECTRIC VEHICLE SUPPLY EQUIPMENT; OR

3. AN ELECTRIC VEHICLE CHARGING STATION SERVICE COMPANY OR PROVIDER.

(x) (1) “Public service company” means a common carrier company, electric company, gas company, sewage disposal company, telegraph company, telephone company, water company, or any combination of public service companies.

(2) “Public service company” does not include:

(I) a campground that provides water, electric, gas, sewage, or telephone service to campers incident to the campground’s primary business of operating and maintaining the campground; OR

(II) A PERSON THAT OWNS OR OPERATES EQUIPMENT USED FOR CHARGING ELECTRIC VEHICLES, INCLUDING A PERSON THAT OWNS OR OPERATES:

1. AN ELECTRIC VEHICLE CHARGING STATION;

2. ELECTRIC VEHICLE SUPPLY EQUIPMENT; OR

3. AN ELECTRIC VEHICLE CHARGING STATION SERVICE COMPANY OR PROVIDER.

(cc) (1) “Retail electric customer” means a purchaser of electricity for end use in the State.

~~(2)~~ **(2) “RETAIL ELECTRIC CUSTOMER” INCLUDES:**

(I) A PERSON THAT OWNS OR OPERATES EQUIPMENT USED FOR CHARGING ELECTRIC VEHICLES, INCLUDING:

1. AN ELECTRIC VEHICLE CHARGING STATION;
2. ELECTRIC VEHICLE SUPPLY EQUIPMENT; OR
3. AN ELECTRIC VEHICLE CHARGING STATION SERVICE COMPANY OR PROVIDER; AND

(II) A PERSON THAT CHARGES AN ELECTRIC VEHICLE AT AN ELECTRIC VEHICLE CHARGING STATION THAT THE PERSON OWNS OR OPERATES.

(3) "Retail electric customer" ~~excludes~~ DOES NOT INCLUDE:

(i) an occupant of a building in which the owner/operator or lessee/operator manages the internal distribution system serving the building and supplies electricity and electricity supply services solely to occupants of the building for use by the occupants; [and]

(ii) a person who generates on-site generated electricity, to the extent the on-site generated electricity is consumed by that person or its tenants; ~~AND~~
OR

(III) EXCEPT AS PROVIDED IN PARAGRAPH (2)(II) OF THIS SUBSECTION, A PERSON THAT CHARGES AN ELECTRIC VEHICLE AT AN ELECTRIC VEHICLE CHARGING STATION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 633

(Senate Bill 1003)

AN ACT concerning

Life and Health Insurance Guaranty Corporation Act – Revisions

FOR the purpose of revising the Life and Health Insurance Guaranty Corporation Act; clarifying the purpose of the Act to protect certain persons against failure in the performance of contractual obligations due to the impairment or insolvency of certain insurers; clarifying the persons and circumstances under which certain coverage shall be provided by the Life and Health Insurance Guaranty

Corporation; authorizing the Corporation to provide coverage to certain payees or certain beneficiaries of payees under structured settlement annuities under certain circumstances; specifying certain circumstances under which certain persons are not provided coverage under the Act; specifying certain circumstances under which certain policies and contracts issued by member insurers are not provided coverage under the Act; specifying certain interest and certain changes in value of certain policies or contracts that will not be subject to forfeiture under certain circumstances; establishing the principal place of business for certain entities for purposes of the Act; clarifying the authority of the Corporation to take certain action for member insurers that are impaired insurers; clarifying the authority of the Corporation to take certain action for member insurers that are insolvent insurers; clarifying the powers and duties of the Maryland Insurance Commissioner under certain circumstances; authorizing the Corporation, subject to approval of the Commissioner, to issue substitute coverage for certain policies and contracts under certain circumstances; altering the maximum amounts of certain contractual obligations of certain impaired or insolvent insurers for which the Corporation may become liable under certain circumstances; authorizing the Corporation to join an organization of certain state associations for a certain purpose; authorizing the Corporation to elect to succeed to the rights and obligations of certain insolvent insurers relating to certain reinsurance contracts within a certain period of time after the date of an order of liquidation; requiring a receiver and certain reinsurers to make certain information available under certain circumstances for certain purposes after commencement of certain delinquency proceedings; establishing certain rights and obligations of the Corporation relating to certain reinsurance contracts assumed by the Corporation under certain circumstances; requiring the Corporation and certain reinsurers to make certain calculations within a certain period of time after a certain election; requiring certain reinsurers and the Corporation to make certain payments to a receiver in a certain manner under certain circumstances; requiring a receiver to remit certain payments to the Corporation in a certain manner under a certain circumstance; prohibiting certain reinsurers from taking certain actions relating to reinsurance contracts under certain circumstances; establishing certain rights and obligations of the Corporation and certain reinsurers during a certain period of time after the date of an order of liquidation; authorizing the Corporation to transfer certain reinsurance on certain policies, annuities, or covered obligations under certain circumstances; providing for the application of this Act as it relates to certain laws and certain rights and obligations under certain reinsurance contracts; providing for the application of this Act as it relates to certain rights of the Corporation; extending a certain immunity to certain organizations and certain agents or employees of certain organizations; defining certain terms; altering certain defined terms; and generally relating to the Life and Health Insurance Guaranty Corporation Act.

Section 9-401, 9-402, 9-403, 9-404, 9-407, 9-408, 9-414, and 9-417
 Annotated Code of Maryland
 (2011 Replacement Volume)

BY adding to
 Article – Insurance
 Section 9-407.1
 Annotated Code of Maryland
 (2011 Replacement Volume)

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

Article – Insurance

9-401.

- (a) In this subtitle the following words have the meanings indicated.
- (b) “Account” means:
- (1) the health insurance account;
 - (2) the life insurance account; or
 - (3) the annuity account.

(C) “ASSOCIATION” MEANS THE CORPORATION OR ANY SIMILAR ORGANIZATION THAT HAS BEEN FORMED IN ANOTHER STATE THAT SERVES THE SAME PURPOSE AS THE CORPORATION FOR THE OTHER STATE.

~~(D)~~ **(D)** “Contractual obligation” means an obligation under a policy or contract or certificate under a group policy or contract for which coverage is provided under § 9-403 of this subtitle.

~~(E)~~ **(E)** “Corporation” means the Life and Health Insurance Guaranty Corporation.

~~(F)~~ **(F)** “Covered policy” means a policy or contract to which this subtitle applies.

~~(G)~~ **(G)** “Impaired insurer” means an insurer that:

- (1) after July 1, 1971, is **NOT AN** insolvent **INSURER** and is placed under an order of rehabilitation or conservation by a court of competent jurisdiction; or

(2) is determined by the Commissioner after July 1, 1971, to be unable or potentially unable to fulfill its contractual obligations.

~~(G)~~ **(H)** “Individual” means a natural person covered under an individual policy or covered as a member under a group policy.

~~(H)~~ **(I)** “Insolvent insurer” means a member insurer that, after July 1, 1971, is placed under an order of liquidation by a court of competent jurisdiction [after] **WITH** a finding of insolvency.

~~(I)~~ **(J)** (1) “Member insurer” means an authorized insurer that writes a kind of insurance to which this subtitle applies.

(2) “MEMBER INSURER” INCLUDES AN INSURER WHOSE LICENSE OR CERTIFICATE OF AUTHORITY IN THE STATE MAY HAVE BEEN SUSPENDED, REVOKED, NOT RENEWED, OR VOLUNTARILY WITHDRAWN.

[(2)](3) “Member insurer” does not include:

- (i) a health maintenance organization;
- (ii) a fraternal benefit society;
- (iii) a mandatory State pooling plan;
- (iv) a mutual assessment company or other entity that operates on an assessment basis; or
- (v) an insurance exchange.

~~(J)~~ **(K)** “Moody’s corporate bond yield average” means the monthly average yield on corporate bonds as published by Moody’s Investors Service, Inc.

~~(K)~~ **(L)** (1) “Premiums” means amounts received on covered policies or contracts, less premiums, considerations, and deposits returned, and less dividends and experience credits.

(2) “Premiums” does not include amounts for policies or contracts, or for parts of policies or contracts, for which coverage is not provided under § 9–403(b) of this subtitle.

~~(L)~~ **(M)** “Resident” means a person that resides in the State [when] **ON THE DATE OF ENTRY OF A COURT ORDER THAT DETERMINES** a member insurer [is determined] to be an impaired insurer or **A COURT ORDER THAT DETERMINES A MEMBER INSURER TO BE AN** insolvent insurer and to whom a contractual obligation is owed.

~~(m)~~ **(N)** “STRUCTURED SETTLEMENT ANNUITY” MEANS AN ANNUITY PURCHASED IN ORDER TO FUND PERIODIC PAYMENTS FOR A PLAINTIFF OR ANY OTHER CLAIMANT IN PAYMENT FOR OR WITH RESPECT TO PERSONAL INJURY SUFFERED BY THE PLAINTIFF OR OTHER CLAIMANT.

~~(N)~~ **(O)** “Supplemental contract” means an agreement entered into for the distribution of policy or contract proceeds.

9-402.

Subject to certain limitations, the purpose of this subtitle is to protect [residents] **PERSONS SPECIFIED IN § 9-403(A) THROUGH (F) OF THIS SUBTITLE** who are policyowners, [insureds,] **CONTRACT OWNERS, CERTIFICATE HOLDERS, beneficiaries, [annuitants,] payees, and assignees of life insurance policies, health insurance policies, annuity contracts, and supplemental contracts SPECIFIED IN § 9-403(G) OF THIS SUBTITLE** against failure in the performance of contractual obligations due to the impairment **OR INSOLVENCY** of the insurer that issued the policies or contracts.

9-403.

(a) **THIS SUBTITLE IS INTENDED TO PROVIDE COVERAGE TO A PERSON WHO IS A RESIDENT OF THIS STATE AND, IN SPECIAL CIRCUMSTANCES, TO A NONRESIDENT.**

(B) (1) [Subject] **FOR CONTRACTS OTHER THAN STRUCTURED SETTLEMENT ANNUITIES, SUBJECT** to paragraph (2) of this subsection, coverage shall be provided under this subtitle for the policies or contracts specified in subsection **[(b)] (G)** of this section to [an individual] **A PERSON** who is:

(i) a resident and an owner of or certificate holder under the policy or contract; or

(ii) a nonresident and an owner of or certificate holder under the policy or contract, if:

1. the insurer that issued the policy or contract is domiciled in this State;

[2. the insurer that issued the policy or contract has never held a license or certificate of authority in the state in which the nonresident resides;]

[3.] **2.** the state in which the nonresident resides has an insurance guaranty corporation or its equivalent similar to the Corporation established by § 9–405 of this subtitle; and

[4.] **3.** the nonresident is not eligible for coverage by the insurance guaranty corporation or its equivalent in the state in which the nonresident resides **BECAUSE THE INSURER WAS NOT LICENSED IN THAT STATE AT THE TIME SPECIFIED IN THAT STATE’S GUARANTY CORPORATION OR ASSOCIATION LAW.**

(2) Coverage shall be provided under this subtitle for the policies or contracts specified in paragraph (1) of this subsection to a beneficiary, assignee, or payee of [an individual] **A PERSON** covered under paragraph (1) of this subsection, regardless of the [individual’s] **PERSON’S** residence.

(C) EXCEPT AS PROVIDED IN SUBSECTIONS (A), (D), AND (E) OF THIS SECTION, THIS SUBTITLE SHALL PROVIDE COVERAGE TO A PERSON WHO IS A PAYEE UNDER A STRUCTURED SETTLEMENT ANNUITY OR BENEFICIARY OF A PAYEE IF THE PAYEE IS DECEASED, IF:

(1) (I) THE PAYEE IS A RESIDENT, REGARDLESS OF WHERE THE CONTRACT OWNER RESIDES; OR

(II) THE PAYEE IS NOT A RESIDENT AND:

1. THE CONTRACT OWNER OF THE STRUCTURED SETTLEMENT ANNUITY IS A RESIDENT; OR

2. A. THE CONTRACT OWNER OF THE STRUCTURED SETTLEMENT ANNUITY IS NOT A RESIDENT;

B. THE INSURER THAT ISSUED THE STRUCTURED SETTLEMENT ANNUITY IS DOMICILED IN THIS STATE; AND

C. THE STATE IN WHICH THE CONTRACT OWNER RESIDES HAS AN ASSOCIATION SIMILAR TO THE CORPORATION; AND

(2) THE PAYEE OR BENEFICIARY, AND THE CONTRACT OWNER ARE NOT ELIGIBLE FOR COVERAGE BY THE ASSOCIATION OF THE STATE IN WHICH THE PAYEE OR CONTRACT OWNER RESIDES.

(D) THIS SUBTITLE DOES NOT PROVIDE COVERAGE TO:

(1) A PERSON WHO IS A PAYEE OR BENEFICIARY OF A CONTRACT OWNER WHO IS A RESIDENT OF THIS STATE, IF THE PAYEE OR BENEFICIARY IS PROVIDED ANY COVERAGE BY THE ASSOCIATION OF ANOTHER STATE; OR

(2) A PERSON WHO OTHERWISE WOULD RECEIVE COVERAGE UNDER THIS SUBTITLE, IF THE PERSON IS PROVIDED COVERAGE UNDER THE LAWS OF ANOTHER STATE.

(E) TO DETERMINE COVERAGE UNDER THIS SECTION UNDER CIRCUMSTANCES IN WHICH A PERSON COULD BE COVERED BY THE ASSOCIATION OF MORE THAN ONE STATE, WHETHER AS AN OWNER, A PAYEE, A BENEFICIARY, OR AN ASSIGNEE, THIS SUBTITLE SHALL BE CONSTRUED IN CONJUNCTION WITH OTHER STATE LAWS TO RESULT IN COVERAGE BY ONLY ONE ASSOCIATION.

(F) (1) TO DETERMINE COVERAGE UNDER THIS SECTION, A PERSON MAY BE A RESIDENT OF ONLY ONE STATE.

(2) TO DETERMINE COVERAGE UNDER THIS SECTION, A PERSON SHALL BE TREATED AS A RESIDENT OF THE STATE OF DOMICILE OF THE INSURER THAT ISSUED THE RELEVANT POLICY OR CONTRACT IF:

(I) THE PERSON IS A CITIZEN OF THE UNITED STATES AND IS A RESIDENT OF A FOREIGN COUNTRY; OR

(II) THE PERSON IS A RESIDENT OF A UNITED STATES POSSESSION, TERRITORY, OR PROTECTORATE THAT DOES NOT HAVE AN ASSOCIATION SIMILAR TO THE CORPORATION.

[(b)] (G) (1) Except as provided in paragraph (2) of this subsection OR OTHERWISE LIMITED BY THIS SUBTITLE, coverage shall be provided under this subtitle to [individuals] PERSONS specified in [subsection (a)] SUBSECTIONS (B) AND (C) of this section for THE FOLLOWING POLICIES AND CONTRACTS ISSUED BY MEMBER INSURERS:

(i) direct, nongroup life, health, annuity, including structured [settlements] SETTLEMENT ANNUITIES, and supplemental policies or contracts TO ANY OF THESE; or

(ii) certificates under direct, group policies or contracts [issued by member insurers, except as limited by this subtitle], AND SUPPLEMENTAL POLICIES OR CONTRACTS TO ANY OF THESE.

(2) Coverage may not be provided under this subtitle for:

(i) any part of a policy or contract[:

1.] that is not guaranteed by the insurer, or under which the risk is borne by the policyholder or contract holder; [and

2. that, under subitem 1 of this item, includes the following types of policies:

A. variable annuity contracts;

B. variable life insurance contracts, except to the extent of guaranteed death benefits in the contract;

C. the value of an annuity contract in excess of the values guaranteed in the contract; or

D. the value of a universal life and interest sensitive life and similar products in excess of the values guaranteed in the contract;]

(ii) a policy or contract of reinsurance, unless assumption certificates have been issued;

(iii) any part of a policy or contract to the extent that the rate of interest on which it is based **OR THE INTEREST RATE, CREDITING RATE, OR SIMILAR FACTOR DETERMINED BY USE OF AN INDEX OR OTHER EXTERNAL REFERENCE STATED IN THE POLICY OR CONTRACT EMPLOYED IN CALCULATING RETURNS OR CHANGES IN VALUE:**

1. averaged over the period of 4 years before the date on which the Corporation becomes obligated with respect to the policy or contract, exceeds a rate of interest determined by subtracting 2 percentage points from Moody's corporate bond yield average for the 4-year period before the date on which the Corporation became obligated or, if the policy or contract was issued less than 4 years before the Corporation became obligated, for that period; or

2. on or after the date on which the Corporation becomes obligated with respect to the policy or contract, exceeds the rate of interest determined by subtracting 3 percentage points from the most recent published Moody's corporate bond yield average;

(iv) a plan or program of an employer, association, or similar entity to provide life, health, or annuity benefits to its employees or members to the extent that the plan or program is self-funded or uninsured, including benefits payable by an employer, association, or similar entity under:

1. a multiple employer welfare arrangement, as defined in ~~§ [514] 3(40) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. § 1002(40))~~ 29 U.S.C. § 1002(40);

2. a minimum premium group insurance plan;
3. a stop-loss group insurance plan; or
4. an administrative services only contract;

(v) any part of a policy or contract to the extent that it provides dividends or experience rating credits or provides that a fee or allowances be paid to [an individual] **ANY PERSON**, including the policy or contract holder, in connection with the service to or administration of the policy or contract;

(vi) a policy or contract issued in the State by a member insurer at a time when it was not licensed or did not have a certificate of authority to issue the policy or contract in the State;

(vii) an annuity contract or group annuity certificate that is not issued to and owned by an individual [policyholder], except to the extent of annuity benefits guaranteed to an individual [policyholder] by an insurer under the annuity contract or group certificate, including the following contracts:

1. unallocated funding agreements;
2. unallocated annuity contract benefits;
3. deposit administration contracts; or
4. guaranteed investment contract accounts;

(viii) a policy issued by an organization as provided in § 1-202(3) of this article; [or]

(ix) an annuity agreement issued under § 16-114 of this article;

(X) A PORTION OF A POLICY OR CONTRACT TO THE EXTENT THAT THE ASSESSMENTS REQUIRED BY § 9-409 OF THIS SUBTITLE WITH RESPECT TO THE POLICY OR CONTRACT ARE PREEMPTED BY FEDERAL OR STATE LAW;

(XI) AN OBLIGATION THAT DOES NOT ARISE UNDER THE EXPRESS WRITTEN TERMS OF THE POLICY OR CONTRACT ISSUED BY THE INSURER TO THE CONTRACT OWNER OR POLICY OWNER, INCLUDING WITHOUT LIMITATION:

1. **CLAIMS MADE ON MARKETING MATERIALS;**

2. CLAIMS BASED ON SIDE LETTERS, RIDERS, OR OTHER DOCUMENTS THAT WERE ISSUED BY THE INSURER WITHOUT MEETING APPLICABLE POLICY FORM FILING OR APPROVAL REQUIREMENTS;

3. MISREPRESENTATIONS OF OR REGARDING POLICY BENEFITS;

4. EXTRA-CONTRACTUAL CLAIMS; AND

5. A CLAIM FOR PENALTIES OR CONSEQUENTIAL OR INCIDENTAL DAMAGES;

(XII) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, A PORTION OF A POLICY OR CONTRACT TO THE EXTENT THAT IT PROVIDES FOR INTEREST OR OTHER CHANGES IN VALUE TO BE DETERMINED BY THE USE OF AN INDEX OR OTHER EXTERNAL REFERENCE STATED IN THE POLICY OR CONTRACT, BUT WHICH HAVE NOT BEEN CREDITED TO THE POLICY OR CONTRACT, OR AS TO WHICH THE POLICY OR CONTRACT OWNER'S RIGHTS ARE SUBJECT TO FORFEITURE, AS OF THE DATE THE MEMBER INSURER BECOMES AN IMPAIRED INSURER OR INSOLVENT INSURER UNDER THIS SUBTITLE, WHICHEVER IS EARLIER; OR

(XIII) A POLICY OR CONTRACT PROVIDING ANY HOSPITAL, MEDICAL, PRESCRIPTION DRUG, OR OTHER HEALTH CARE BENEFITS UNDER PART C OR PART D OF SUBCHAPTER XVIII, CHAPTER 7 OF TITLE 42 OF THE UNITED STATES CODE, COMMONLY KNOWN AS MEDICARE PART C & D, OR ANY REGULATIONS ADOPTED UNDER IT.

(3) IF A POLICY'S OR CONTRACT'S INTEREST OR CHANGES IN VALUE ARE CREDITED LESS FREQUENTLY THAN ANNUALLY, THEN TO DETERMINE THE VALUES THAT HAVE BEEN CREDITED AND ARE NOT SUBJECT TO FORFEITURE UNDER THIS SUBSECTION, THE INTEREST OR CHANGE IN VALUE DETERMINED BY USING THE PROCEDURES DEFINED IN THE POLICY OR CONTRACT WILL BE CREDITED AS IF THE CONTRACTUAL DATE OF CREDITING INTEREST OR CHANGING VALUES WAS THE DATE OF IMPAIRMENT OR INSOLVENCY, WHICHEVER IS EARLIER, AND WILL NOT BE SUBJECT TO FORFEITURE.

9-404.

(a) (1) This subtitle shall be liberally construed to carry out its purpose as specified in § 9-402 of this subtitle.

(2) Section 9-402 of this subtitle is an aid and guide to the interpretation of this subtitle.

(b) The words "policy" and "contract" are used interchangeably throughout this subtitle.

(c) A person may be a resident of only one state. For a person other than an individual, that state is the state in which its principal place of business is located.

(D) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, FOR A PLAN SPONSOR OR PERSON OTHER THAN AN INDIVIDUAL, ITS PRINCIPAL PLACE OF BUSINESS IS THE SINGLE STATE IN WHICH THE INDIVIDUALS WHO ESTABLISH POLICY FOR THE DIRECTION, CONTROL, AND COORDINATION OF THE OPERATIONS OF THE ENTITY, AS A WHOLE, PRIMARILY EXERCISE THAT FUNCTION, AS DETERMINED BY THE CORPORATION IN ITS REASONABLE JUDGMENT BY CONSIDERING THE FOLLOWING FACTORS:

(I) THE STATE IN WHICH THE PRIMARY EXECUTIVE AND ADMINISTRATIVE HEADQUARTERS OF THE ENTITY IS LOCATED;

(II) THE STATE IN WHICH THE PRINCIPAL OFFICE OF THE CHIEF EXECUTIVE OFFICER OF THE ENTITY IS LOCATED;

(III) THE STATE IN WHICH THE BOARD OF DIRECTORS, OR SIMILAR GOVERNING PERSON OR PERSONS, OF THE ENTITY CONDUCTS THE MAJORITY OF ITS MEETINGS;

(IV) THE STATE IN WHICH THE EXECUTIVE OR MANAGEMENT COMMITTEE OF THE BOARD OF DIRECTORS, OR SIMILAR GOVERNING PERSON OR PERSONS, OF THE ENTITY CONDUCTS THE MAJORITY OF ITS MEETINGS;

(V) THE STATE FROM WHICH THE MANAGEMENT OF THE OVERALL OPERATIONS OF THE ENTITY IS DIRECTED; AND

(VI) FOR A BENEFIT PLAN SPONSORED BY AFFILIATED COMPANIES COMPRISING A CONSOLIDATED CORPORATION, THE STATE IN WHICH THE HOLDING COMPANY OR CONTROLLING AFFILIATE HAS ITS PRINCIPAL PLACE OF BUSINESS, AS DETERMINED UNDER THE FACTORS IN THIS PARAGRAPH.

(2) FOR A PLAN SPONSOR, IF MORE THAN 50% OF THE PARTICIPANTS IN THE BENEFIT PLAN ARE EMPLOYED IN A SINGLE STATE, THAT STATE IS DEEMED TO BE THE PRINCIPAL PLACE OF BUSINESS OF THE PLAN SPONSOR.

(3) FOR AN ASSOCIATION, A COMMITTEE, A JOINT BOARD OF TRUSTEES, OR ANY OTHER SIMILAR GROUP OF REPRESENTATIVES OF THE PARTIES WHO ESTABLISH OR MAINTAIN A BENEFIT PLAN WHEN THERE IS NO SPECIFIC OR CLEAR DESIGNATION OF A PRINCIPAL PLACE OF BUSINESS, THE PRINCIPAL PLACE OF BUSINESS IS THE PRINCIPAL PLACE OF BUSINESS OF THE EMPLOYER OR EMPLOYEE ORGANIZATION THAT HAS THE LARGEST INVESTMENT IN THE BENEFIT PLAN IN QUESTION.

9-407.

(a) For a [domestic] **MEMBER** insurer that is an impaired insurer, [before an order of liquidation or rehabilitation and] **THE CORPORATION**, subject to any conditions imposed by the Corporation that do not impair the contractual obligations of the impaired insurer [if the impaired insurer and Commissioner approve, the Corporation] **AND THAT ARE APPROVED BY THE COMMISSIONER**, may:

(1) guarantee or reinsure, or cause to be guaranteed, assumed, or reinsured, [the impaired insurer's covered policies of residents] **ANY OR ALL OF THE COVERED POLICIES OR CONTRACTS OF THE IMPAIRED INSURER; AND**

(2) provide moneys, pledges, **LOANS**, notes, guarantees, or other appropriate means to:

(i) carry out item (1) of this subsection; and

(ii) ensure payment of the contractual obligations of the impaired insurer, pending action under item (1) of this subsection]; and

(3) lend money to the impaired insurer].

[(b) For a foreign insurer or alien insurer that is an impaired insurer, before an order of liquidation, rehabilitation, or conservation and subject to any conditions imposed by the Corporation that do not impair the contractual obligations of the impaired insurer, if the impaired insurer and the Commissioner approve, the Corporation may, with respect to the covered policies of residents:

(1) guarantee or reinsure, or cause to be guaranteed, assumed, or reinsured, the impaired insurer's covered policies of residents;

(2) provide moneys, pledges, notes, guarantees, or other appropriate means to:

(i) carry out item (1) of this subsection; and

(ii) ensure payment of the contractual obligations of the impaired insurer to residents, pending action under item (1) of this subsection; and

(3) lend money to the impaired insurer.

(c) (1) For a domestic insurer that is an impaired insurer under an order of liquidation or rehabilitation, if the Commissioner approves, the Corporation shall:

(i) guarantee, assume, or reinsure, or cause to be guaranteed, assumed, or reinsured, the impaired insurer's covered policies of residents;

(ii) ensure payment of the contractual obligations of the impaired insurer; and

(iii) provide moneys, pledges, notes, guarantees, or other means reasonably necessary to carry out this paragraph.

(2) If the Corporation fails to act within a reasonable period of time with respect to the domestic impaired insurer, the Commissioner shall have the powers and duties of the Corporation under this subtitle.

(d) (1) For a foreign insurer or alien insurer that is an impaired insurer under an order of liquidation, rehabilitation, or conservation, if the Commissioner approves, the Corporation shall:

(i) guarantee, assume, or reinsure, or cause to be guaranteed, assumed, or reinsured, the impaired insurer's covered policies of residents;

(ii) ensure payment of the contractual obligations of the impaired insurer to residents; and

(iii) provide moneys, pledges, notes, guarantees, or other means reasonably necessary to carry out this paragraph.

(2) If the Corporation fails to act within a reasonable period of time with respect to the foreign or alien impaired insurer, the Commissioner shall have the powers and duties of the Corporation under this subtitle.]

(B) FOR A MEMBER INSURER THAT IS AN INSOLVENT INSURER, THE CORPORATION MAY:

(1) (I) GUARANTEE OR REINSURE, OR CAUSE TO BE GUARANTEED, ASSUMED, OR REINSURED, ANY OR ALL OF THE COVERED POLICIES OR CONTRACTS OF THE INSOLVENT INSURER; OR

(II) ENSURE PAYMENT OF THE CONTRACTUAL OBLIGATIONS OF THE INSOLVENT INSURER; AND

(2) PROVIDE MONEY, PLEDGES, LOANS, NOTES, GUARANTEES, OR OTHER APPROPRIATE MEANS TO DISCHARGE THE CORPORATION'S DUTIES UNDER ITEM (1) OF THIS SUBSECTION.

(C) IF THE CORPORATION FAILS TO ACT WITHIN A REASONABLE PERIOD OF TIME WITH RESPECT TO THE IMPAIRED OR INSOLVENT INSURER, THE COMMISSIONER SHALL HAVE THE POWERS AND DUTIES OF THE CORPORATION UNDER THIS SUBTITLE.

[(e)] (D) (1) In carrying out its duties under [subsections (c) and (d)] **SUBSECTION (B)** of this section, the Corporation may request that policy liens, contract liens, moratoriums on payments, or other similar means be imposed.

(2) Policy liens, contract liens, moratoriums on payments, or other similar means may be imposed if the Commissioner approves the specific policy liens, contract liens, moratoriums on payments, or other similar means after finding that:

(i) the amounts that can be assessed under this subtitle are less than the amounts needed to ensure full and prompt performance of the impaired insurer's contractual obligations; or

(ii) the economic or financial conditions, as they affect member insurers, are sufficiently adverse to render the imposition of policy liens, contract liens, moratoriums on payments, or other similar means to be in the public interest.

(3) (i) Before being obligated under [subsections (c) and (d)] **SUBSECTION (B)** of this section, the Corporation may request that temporary moratoriums or liens on payments of cash values and policy loans be imposed.

(ii) If the Commissioner approves, the temporary moratoriums or liens requested by the Corporation under this paragraph may be imposed.

[(f)] (E) The Corporation is not liable under this section for a covered policy of a foreign insurer or alien insurer whose domiciliary jurisdiction or state of entry provides, by statute or regulation, protection for residents of this State substantially similar to that provided under this subtitle for residents of other states.

[(g)] (F) On request of the Commissioner, the Corporation may give help and advice to the Commissioner about rehabilitation, payment of claims, continuations of coverage, or the performance of other contractual obligations of an impaired insurer.

[(h)] (G) (1) The Corporation has standing to appear **OR INTERVENE** before any court **[in the State] OR AGENCY** with jurisdiction over an impaired **OR INSOLVENT** insurer as to which the Corporation is or may become obligated under this subtitle.

(2) The standing extends to all matters germane to the powers and duties of the Corporation, including proposals for reinsuring or guaranteeing the covered policies of the impaired **OR INSOLVENT** insurer and the determination of the covered policies and contractual obligations.

[(i)] (H) (1) A person receiving benefits under this subtitle, whether the benefits are payments of contractual obligations or continuation of coverage, is deemed to have assigned all rights under **OR CAUSES OF ACTION RELATING TO** the covered policy to the Corporation to the extent of the benefits received because of this subtitle.

(2) The Corporation may require a payee, policy or contract owner, beneficiary, insured, or annuitant to assign to the Corporation all rights to the extent of benefits received under the covered policy as a condition precedent to the receipt of any rights or benefits under this subtitle.

(3) The Corporation is subrogated to the rights assigned under this subsection against the assets of the impaired **OR INSOLVENT** insurer.

(4) The subrogation rights of the Corporation under this subsection have the same priority against the assets of the impaired **OR INSOLVENT** insurer as those of the person entitled to receive benefits under this subtitle.

(I) IN CARRYING OUT ITS DUTIES IN CONNECTION WITH GUARANTEEING OR REINSURING POLICIES OR CONTRACTS UNDER SUBSECTIONS (A) AND (B) OF THIS SECTION, THE CORPORATION MAY, SUBJECT TO APPROVAL OF THE COMMISSIONER, ISSUE SUBSTITUTE COVERAGE FOR A POLICY OR CONTRACT THAT PROVIDES AN INTEREST RATE, A CREDITING RATE, OR A SIMILAR FACTOR DETERMINED BY USE OF AN INDEX OR OTHER EXTERNAL REFERENCE STATED IN THE POLICY OR CONTRACT EMPLOYED IN CALCULATING RETURNS OR CHANGES IN VALUE BY ISSUING AN ALTERNATIVE POLICY OR CONTRACT, IF:

(1) IN LIEU OF THE INDEX OR OTHER EXTERNAL REFERENCE PROVIDED FOR IN THE ORIGINAL POLICY OR CONTRACT, THE ALTERNATIVE POLICY OR CONTRACT PROVIDES FOR:

(I) A FIXED INTEREST RATE;

(II) PAYMENT OF DIVIDENDS WITH MINIMUM GUARANTEES;

OR

(III) A DIFFERENT METHOD FOR CALCULATING INTEREST OR CHANGES IN VALUE;

(2) THERE IS NO REQUIREMENT FOR EVIDENCE OF INSURABILITY, WAITING PERIOD, OR OTHER EXCLUSION THAT WOULD NOT HAVE APPLIED UNDER THE ORIGINAL POLICY OR CONTRACT; AND

(3) THE ALTERNATIVE POLICY OR CONTRACT IS SUBSTANTIALLY SIMILAR TO THE ORIGINAL POLICY OR CONTRACT IN ALL OTHER MATERIAL TERMS.

(j) (1) Subject to paragraphs (2) and (3) of this subsection and unless the contractual obligations of the impaired insurer or insolvent insurer are reduced **OR EXCLUDED** under subsection [(e)](D) of this section **OR § 9-403(G)(2) OF THIS SUBTITLE**, the contractual obligations of the impaired insurer or insolvent insurer for which the Corporation is or may become liable shall be as great as, but no greater than, the contractual obligations that the impaired insurer or insolvent insurer would have had in the absence of the impairment or insolvency.

(2) The Corporation is not liable for health care received after the date of the impairment or insolvency unless the health care was in progress on the date of the impairment or insolvency or unless other health care coverage is not available from another insurer or nonprofit health service plan.

(3) Benefits for which the Corporation may become liable may not exceed the lesser of:

(i) the contractual obligations for which the insurer is or would have been liable if it were not an impaired insurer or insolvent insurer; or

(ii) with respect to any one life, regardless of the number of policies or contracts:

1. \$300,000 in life insurance death benefits, but not more than \$100,000 in net cash surrender and net cash withdrawal values for life insurance;

2. **[\$300,000 in health insurance benefits, including net cash surrender and net cash withdrawal values] IN HEALTH INSURANCE BENEFITS:**

A. \$500,000 FOR BASIC HOSPITAL, MEDICAL, AND SURGICAL INSURANCE OR MAJOR MEDICAL INSURANCE PROVIDED BY HEALTH BENEFIT PLANS, AS DEFINED IN § 15-1301 OF THIS ARTICLE;

B. \$300,000 FOR DISABILITY INSURANCE AND \$300,000 FOR LONG-TERM CARE INSURANCE, AS DEFINED IN § 18-101 OF THIS ARTICLE; AND

C. \$100,000 FOR COVERAGES NOT ~~DEFINED~~ INCLUDED AS BASIC HOSPITAL, MEDICAL, AND SURGICAL INSURANCE, OR MAJOR MEDICAL INSURANCE, OR DISABILITY INSURANCE OR LONG-TERM CARE INSURANCE, INCLUDING ANY NET CASH SURRENDER AND NET CASH WITHDRAWAL VALUES UNDER ITEMS A AND B OF THIS ITEM; and

3. **A. \$250,000 in the present value of annuity benefits, including net cash surrender and net cash withdrawal values; AND**

B. WITH RESPECT TO EACH PAYEE UNDER A STRUCTURED SETTLEMENT ANNUITY, OR BENEFICIARY OF THE PAYEE IF THE PAYEE IS DECEASED, \$250,000 IN PRESENT VALUE ANNUITY BENEFITS, IN THE AGGREGATE, INCLUDING ANY NET CASH SURRENDER AND NET CASH WITHDRAWAL VALUES.

(4) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE CORPORATION MAY NOT, WITH RESPECT TO ANY ONE LIFE, BE LIABLE FOR COVERAGE GREATER THAN AN AGGREGATE OF \$300,000 ~~IN HEALTH INSURANCE BENEFITS UNDER PARAGRAPH (3)(II)2 OF THIS SUBSECTION~~ FOR THE BENEFITS DESCRIBED IN PARAGRAPH (3)(II)1, 2, AND 3 OF THIS SUBSECTION.

(II) THE CORPORATION MAY NOT, WITH RESPECT TO ANY ONE LIFE, BE LIABLE FOR COVERAGE GREATER THAN AN AGGREGATE OF \$500,000 IN BASIC HOSPITAL, MEDICAL, AND SURGICAL INSURANCE OR MAJOR MEDICAL INSURANCE UNDER PARAGRAPH (3)(II)2A OF THIS SUBSECTION.

(K) THE CORPORATION MAY JOIN AN ORGANIZATION OF ONE OR MORE OTHER STATE ASSOCIATIONS OF SIMILAR PURPOSES, TO FURTHER THE PURPOSES AND ADMINISTER THE POWERS AND DUTIES OF THE CORPORATION.

9-407.1.

(A) AT ANY TIME WITHIN 180 DAYS AFTER THE DATE OF AN ORDER OF LIQUIDATION, THE CORPORATION MAY ELECT TO SUCCEED TO THE RIGHTS AND OBLIGATIONS OF THE CEDING MEMBER INSURER THAT RELATE TO POLICIES OR ANNUITIES COVERED, IN WHOLE OR IN PART, BY THE CORPORATION, IN EACH CASE UNDER ANY ONE OR MORE REINSURANCE CONTRACTS ENTERED INTO BY THE INSOLVENT INSURER AND ITS REINSURERS AND SELECTED BY THE CORPORATION.

(B) ANY ASSUMPTION UNDER SUBSECTION (A) OF THIS SECTION IS EFFECTIVE AS OF THE DATE OF THE ORDER OF LIQUIDATION.

(C) THE ELECTION SHALL BE EFFECTED BY THE CORPORATION OR THE NATIONAL ORGANIZATION OF LIFE AND HEALTH INSURANCE GUARANTY ASSOCIATIONS ON ITS BEHALF SENDING WRITTEN NOTICE, RETURN RECEIPT REQUESTED, TO THE AFFECTED REINSURERS.

(D) TO FACILITATE THE EARLIEST PRACTICABLE DECISION ABOUT WHETHER TO ASSUME ANY OF THE CONTRACTS OF REINSURANCE, AND IN ORDER TO PROTECT THE FINANCIAL POSITION OF THE ESTATE, THE RECEIVER AND EACH REINSURER OF THE CEDING MEMBER INSURER SHALL MAKE AVAILABLE ON REQUEST TO THE CORPORATION OR TO THE NATIONAL ORGANIZATION OF LIFE AND HEALTH INSURANCE GUARANTY ASSOCIATIONS ON ITS BEHALF AS SOON AS POSSIBLE AFTER COMMENCEMENT OF FORMAL DELINQUENCY PROCEEDINGS:

(1) COPIES OF IN-FORCE CONTRACTS OF REINSURANCE AND ALL RELATED FILES AND RECORDS RELEVANT TO THE DETERMINATION OF WHETHER THE CONTRACTS SHOULD BE ASSUMED; AND

(2) NOTICES OF ANY DEFAULTS UNDER THE REINSURANCE CONTRACTS OR ANY KNOWN EVENT OR CONDITION THAT, WITH THE PASSAGE OF TIME, COULD BECOME A DEFAULT UNDER THE REINSURANCE CONTRACTS.

(E) (1) THIS SUBSECTION APPLIES TO REINSURANCE CONTRACTS ASSUMED BY THE CORPORATION.

(2) THE CORPORATION IS RESPONSIBLE FOR ALL UNPAID PREMIUMS DUE UNDER A REINSURANCE CONTRACT ASSUMED BY THE CORPORATION FOR PERIODS BOTH BEFORE AND AFTER THE DATE OF THE ORDER OF LIQUIDATION, AND IS RESPONSIBLE FOR THE PERFORMANCE OF ALL OTHER OBLIGATIONS TO BE PERFORMED AFTER THE DATE OF THE ORDER OF LIQUIDATION, IN EACH CASE WHICH RELATE TO POLICIES OR ANNUITIES COVERED, IN WHOLE OR IN PART, BY THE CORPORATION.

(3) THE CORPORATION MAY CHARGE POLICIES OR ANNUITIES COVERED IN PART BY THE CORPORATION, THROUGH REASONABLE ALLOCATION METHODS, THE COSTS FOR REINSURANCE IN EXCESS OF THE OBLIGATIONS OF THE CORPORATION AND SHALL PROVIDE NOTICE AND AN ACCOUNTING OF THESE CHARGES TO THE LIQUIDATOR.

(4) THE CORPORATION IS ENTITLED TO ANY AMOUNTS PAYABLE BY THE REINSURER UNDER THE REINSURANCE CONTRACTS WITH RESPECT TO LOSSES OR EVENTS THAT OCCUR IN PERIODS AFTER THE DATE OF THE ORDER OF LIQUIDATION AND THAT RELATE TO POLICIES OR ANNUITIES COVERED, IN WHOLE OR IN PART, BY THE CORPORATION, IF ON RECEIPT OF ANY AMOUNTS PAYABLE, THE CORPORATION IS OBLIGED TO PAY TO THE BENEFICIARY UNDER THE POLICY OR ANNUITY ON ACCOUNT OF WHICH THE AMOUNTS WERE PAID A PORTION OF THE AMOUNT EQUAL TO THE LESSER OF:

(I) THE AMOUNT RECEIVED BY THE CORPORATION; AND

(II) THE EXCESS OF THE AMOUNT RECEIVED BY THE CORPORATION OVER THE AMOUNT EQUAL TO THE BENEFITS PAID BY THE CORPORATION ON ACCOUNT OF THE POLICY OR ANNUITY LESS THE RETENTION OF THE INSURER APPLICABLE TO THE LOSS OR EVENT.

(F) (1) (I) WITHIN 30 DAYS AFTER THE CORPORATION'S ELECTION, THE CORPORATION AND EACH REINSURER UNDER CONTRACTS ASSUMED BY THE CORPORATION SHALL CALCULATE THE NET BALANCE DUE TO OR FROM THE CORPORATION UNDER EACH REINSURANCE CONTRACT AS OF THE ELECTION DATE WITH RESPECT TO POLICIES OR ANNUITIES COVERED, IN WHOLE OR IN PART, BY THE CORPORATION.

(II) THE CALCULATION UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL GIVE FULL CREDIT TO ALL ITEMS PAID BY EITHER THE INSURER OR ITS RECEIVER OR THE REINSURER PRIOR TO THE ELECTION DATE.

(2) WITHIN 5 DAYS AFTER THE COMPLETION OF THE CALCULATION UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE REINSURER SHALL PAY THE RECEIVER ANY AMOUNTS DUE FOR LOSSES OR EVENTS BEFORE THE DATE OF THE ORDER OF LIQUIDATION, SUBJECT TO ANY SETOFF FOR PREMIUMS UNPAID FOR PERIODS BEFORE THE DATE, AND THE CORPORATION OR REINSURER SHALL PAY ANY REMAINING BALANCE DUE THE OTHER, IN EACH CASE.

(3) ANY DISPUTES OVER THE AMOUNTS DUE TO EITHER THE CORPORATION OR THE REINSURER SHALL BE RESOLVED BY ARBITRATION UNDER THE TERMS OF THE AFFECTED REINSURANCE CONTRACTS OR, IF THE CONTRACT CONTAINS NO ARBITRATION CLAUSE, AS OTHERWISE PROVIDED BY LAW.

(4) IF THE RECEIVER HAS RECEIVED ANY AMOUNTS DUE TO THE CORPORATION UNDER SUBSECTION ~~(E)(3)~~ (E)(4) OF THIS SECTION, THE

RECEIVER SHALL REMIT THOSE AMOUNTS TO THE CORPORATION AS PROMPTLY AS PRACTICABLE.

(G) IF THE CORPORATION OR RECEIVER, ON THE CORPORATION'S BEHALF, WITHIN 60 DAYS AFTER THE ELECTION DATE, PAYS THE UNPAID PREMIUMS DUE FOR PERIODS BOTH BEFORE AND AFTER THE ELECTION DATE THAT RELATE TO POLICIES OR ANNUITIES COVERED, IN WHOLE OR IN PART, BY THE CORPORATION, THE REINSURER IS NOT ENTITLED TO:

(1) TERMINATE THE REINSURANCE CONTRACTS FOR FAILURE TO PAY PREMIUMS FOR THE REINSURANCE CONTRACTS THAT RELATE TO POLICIES OR ANNUITIES COVERED, IN WHOLE OR IN PART, BY THE CORPORATION; OR

(2) SET OFF ANY UNPAID AMOUNTS DUE UNDER OTHER CONTRACTS, OR UNPAID AMOUNTS DUE FROM PARTIES OTHER THAN THE CORPORATION, AGAINST AMOUNTS DUE THE CORPORATION.

(H) DURING THE PERIOD FROM THE DATE OF THE ORDER OF LIQUIDATION UNTIL THE ELECTION DATE OR, IF THE ELECTION DATE DOES NOT OCCUR, UNTIL 180 DAYS AFTER THE DATE OF THE ORDER OF LIQUIDATION:

(1) (I) NEITHER THE CORPORATION NOR THE REINSURER SHALL HAVE ANY RIGHTS OR OBLIGATIONS UNDER REINSURANCE CONTRACTS THAT THE CORPORATION HAS THE RIGHT TO ASSUME UNDER SUBSECTIONS (A) THROUGH (G) OF THIS SECTION, WHETHER FOR PERIODS BEFORE OR AFTER THE DATE OF THE ORDER OF LIQUIDATION; AND

(II) THE REINSURER, THE RECEIVER, AND THE CORPORATION SHALL, TO THE EXTENT PRACTICABLE, PROVIDE EACH OTHER DATA AND RECORDS REASONABLY REQUESTED; AND

(2) IF THE CORPORATION HAS ELECTED TO ASSUME A REINSURANCE CONTRACT, THE PARTIES' RIGHTS AND OBLIGATIONS SHALL BE GOVERNED BY SUBSECTIONS (A) THROUGH (G) OF THIS SECTION.

(I) IF THE CORPORATION DOES NOT ELECT TO ASSUME A REINSURANCE CONTRACT BY THE ELECTION DATE UNDER SUBSECTIONS (A) THROUGH (G) OF THIS SECTION, THE CORPORATION SHALL HAVE NO RIGHTS OR OBLIGATIONS, IN EACH CASE FOR PERIODS BOTH BEFORE AND AFTER THE DATE OF THE ORDER OF LIQUIDATION, WITH RESPECT TO THE REINSURANCE CONTRACT.

(J) WHEN POLICIES OR ANNUITIES, OR COVERED OBLIGATIONS WITH RESPECT TO POLICIES OR ANNUITIES, ARE TRANSFERRED TO AN ASSUMING

INSURER, REINSURANCE ON THE POLICIES OR ANNUITIES MAY ALSO BE TRANSFERRED BY THE CORPORATION, IN THE CASE OF CONTRACTS ASSUMED UNDER SUBSECTIONS (A) THROUGH (G) OF THIS SECTION, IF:

(1) UNLESS THE REINSURER AND THE ASSUMING INSURER AGREE OTHERWISE, THE REINSURANCE CONTRACT TRANSFERRED DOES NOT COVER ANY NEW POLICIES OF INSURANCE OR ANNUITIES IN ADDITION TO THOSE TRANSFERRED;

(2) THE OBLIGATIONS DESCRIBED IN SUBSECTIONS (A) THROUGH (G) OF THIS SECTION NO LONGER APPLY WITH RESPECT TO MATTERS ARISING AFTER THE EFFECTIVE DATE OF THE TRANSFER; AND

(3) NOTICE IS GIVEN IN WRITING, RETURN RECEIPT REQUESTED, BY THE TRANSFERRING PARTY TO THE AFFECTED REINSURER AT LEAST 30 DAYS BEFORE THE EFFECTIVE DATE OF THE TRANSFER.

(K) (1) THE PROVISIONS OF THIS SECTION SUPERSEDE THE PROVISIONS OF ANY STATE LAW OR OF ANY AFFECTED REINSURANCE CONTRACT THAT PROVIDES FOR OR REQUIRES ANY PAYMENT OF REINSURANCE PROCEEDS, ON ACCOUNT OF LOSSES OR EVENTS THAT OCCUR IN PERIODS AFTER THE DATE OF THE ORDER OF LIQUIDATION, TO THE RECEIVER OF THE INSOLVENT INSURER OR ANY OTHER PERSON.

(2) THE RECEIVER REMAINS ENTITLED TO ANY AMOUNTS PAYABLE BY THE REINSURER UNDER THE REINSURANCE CONTRACTS WITH RESPECT TO LOSSES OR EVENTS THAT OCCUR IN PERIODS BEFORE THE DATE OF THE ORDER OF LIQUIDATION, SUBJECT TO APPLICABLE SETOFF PROVISIONS.

(L) (1) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, THIS SECTION DOES NOT ALTER OR MODIFY THE TERMS AND CONDITIONS OF ANY REINSURANCE CONTRACT.

(2) THIS SECTION DOES NOT:

(I) ABROGATE OR LIMIT ANY RIGHTS OF ANY REINSURER TO CLAIM THAT THE REINSURER IS ENTITLED TO RESCIND A REINSURANCE CONTRACT;

(II) GIVE A POLICYHOLDER OR BENEFICIARY AN INDEPENDENT CAUSE OF ACTION AGAINST A REINSURER THAT IS NOT OTHERWISE SET FORTH IN THE REINSURANCE CONTRACT;

(III) LIMIT OR AFFECT THE CORPORATION'S RIGHTS AS A CREDITOR OF THE ESTATE AGAINST THE ASSETS OF THE ESTATE; OR

(IV) APPLY TO REINSURANCE AGREEMENTS COVERING PROPERTY OR CASUALTY RISKS.

9-408.

The Corporation may:

(1) enter into contracts that are necessary or proper to carry out the provisions and purposes of this subtitle;

(2) sue or be sued and take any other legal actions necessary or proper for the recovery of unpaid assessments under § 9-409 of this subtitle;

(3) borrow money to carry out the purposes of this subtitle, provided that any notes or other evidences of indebtedness of the Corporation not in default are legal investments for domestic insurers and may be carried as admitted assets;

(4) employ or retain persons as necessary to handle the financial transactions of the Corporation and perform other functions that are necessary or proper under this subtitle;

(5) negotiate and contract with liquidators, rehabilitators, conservators, or ancillary receivers to carry out the powers and duties of the Corporation;

(6) take any legal action necessary to avoid payment of improper claims;

(7) for the purposes of this subtitle and to the extent approved by the Commissioner, exercise the powers of a domestic life insurer or health insurer, except that the Corporation may not issue policies or annuity contracts other than those issued to perform the contractual obligation of an impaired **OR INSOLVENT** insurer; and

(8) perform any other act necessary or proper to carry out the purposes of this subtitle.

9-414.

(a) This subtitle may not be construed to reduce the liability for unpaid assessments of the insureds of an impaired **OR INSOLVENT** insurer operating under a plan with assessment liability.

(b) Assessable premiums may not be reduced because of ~~[\S 9-403(b)(2)(iii)]~~ **\S 9-403(G)(2)(III)** of this subtitle relating to interest limitations and because of ~~\S 9-407(j)~~ of this subtitle relating to limitations with respect to an individual policyholder.

(c) (1) The Corporation shall keep records of all negotiations and meetings in which the Corporation or its representatives are involved to discuss the activities of the Corporation in carrying out its powers and duties under ~~\S\S 9-407 and 9-408~~ of this subtitle.

(2) Records of the negotiations or meetings described in paragraph (1) of this subsection shall be made public only:

(i) after the termination of a liquidation, rehabilitation, or conservation proceeding involving an impaired **OR INSOLVENT** insurer;

(ii) after the termination of the impairment **OR INSOLVENCY** of an insurer; or

(iii) by court order.

(3) This subsection does not limit the duty of the Corporation to submit a report of its activities under ~~\S 9-415~~ of this subtitle.

(d) (1) In this subsection, "assets attributable to covered policies" means that proportion of the impaired **OR INSOLVENT** insurer's assets that the amount of the reserves that should have been established for the covered policies bears to the amount of the reserves that should have been established for all policies written by the impaired **OR INSOLVENT** insurer.

(2) For the purpose of carrying out its obligations under this subtitle, the Corporation is considered a creditor of the impaired **OR INSOLVENT** insurer to the extent of the impaired **OR INSOLVENT** insurer's assets attributable to covered policies reduced by any amounts to which the Corporation is entitled as subrogee under ~~[\S 9-407(i)]~~ **\S 9-407(H)** of this subtitle.

(3) The assets attributable to covered policies of the impaired **OR INSOLVENT** insurer shall be used to continue the covered policies and pay the contractual obligations of the impaired **OR INSOLVENT** insurer as required by this subtitle.

(e) (1) (i) Before the termination of a liquidation, rehabilitation, or conservation proceeding, the court may consider the contributions of the respective parties, including the Corporation, the stockholders and policy owners of the impaired **OR INSOLVENT** insurer, and any other party with a bona fide interest, in making an equitable distribution of the ownership rights of the impaired **OR INSOLVENT** insurer.

(ii) In making a determination under subparagraph (i) of this paragraph, the court shall consider the welfare of the policyholders of the continuing or successor insurer.

(2) A distribution to any stockholders of an impaired **OR INSOLVENT** insurer may not be made until all of the assessments levied by the Corporation with respect to the impaired **OR INSOLVENT** insurer have been fully recovered by the Corporation.

(f) It is a prohibited unfair method of competition, subject to Title 27 of this article (Unfair Trade Practices), for a person to make use in any manner of the protection afforded by this subtitle in the sale of insurance.

(g) (1) Subject to the limitations of paragraphs (2) and (4) of this subsection, if an order for liquidation or rehabilitation of an insurer domiciled in the State has been entered, the receiver appointed under the order shall have a right to recover on behalf of the insurer, from any affiliate that controlled the insurer, the amount of distribution, other than stock dividends paid by the insurer on its capital stock, made at any time during the 5 years preceding the petition for liquidation or rehabilitation.

(2) A dividend described in paragraph (1) of this subsection is not recoverable if the insurer shows that:

(i) the distribution was lawful and reasonable when paid; and

(ii) the insurer did not know and could not reasonably have known that the distribution might adversely affect the ability of the insurer to fulfill its contractual obligations.

(3) (i) A person that was an affiliate that controlled the insurer when the distributions described in paragraph (1) of this subsection were paid is liable up to the amount of distributions the person received.

(ii) A person that was an affiliate that controlled the insurer when the distributions described under paragraph (1) of this subsection were declared, is liable up to the amount of distributions the person would have received if they had been paid immediately.

(iii) Two or more persons that are liable with respect to the same distributions are jointly and severally liable.

(4) The maximum amount recoverable under this subsection is the amount needed in excess of all other available assets of the impaired **OR INSOLVENT** insurer to pay the contractual obligations of the impaired **OR INSOLVENT** insurer.

(5) If a person liable under paragraph (3) of this subsection is insolvent, all of its affiliates that controlled it when the dividend was paid are jointly and severally liable for any resulting deficiency in the amount recovered from the insolvent affiliate.

(h) (1) An insurer or insurance producer may not deliver a policy or contract that at the time of delivery exceeds the limitations imposed by ~~§ 9-407(j)(3)~~ ~~§ 9-407(i)(3)~~ of this subtitle, or that is not subject to coverage under § 9-403 of this subtitle, unless the insurer or insurance producer, before or at the time of delivery, provides the policyholder or contract holder with a separate written notice as provided in paragraph (2) of this subsection.

(2) The notice required under this subsection shall disclose clearly and conspicuously that:

(i) the policy or contract is not covered by, or exceeds the limitations of liability applicable to, the Corporation; and

(ii) the Corporation is not a department or unit of the State, and the liabilities or debts of the Corporation are not liabilities or debts of the State.

(3) The Commissioner shall adopt regulations establishing a standard form to be used by insurance producers and insurers to conform with the provisions of this subsection.

9-417.

(A) A member insurer or its agents or employees, the Corporation or its agents or employees, members of the Board of Directors, and the Commissioner or the Commissioner's representatives shall have the immunity from liability described in § 5-413 of the Courts Article for any action or omission taken by them in the performance of their powers and duties under this subtitle.

(B) THE IMMUNITY UNDER SUBSECTION (A) OF THIS SECTION SHALL EXTEND TO:

(1) THE CORPORATION AS A PARTICIPANT IN AN ORGANIZATION OF ONE OR MORE OTHER STATE ASSOCIATIONS OF SIMILAR PURPOSES TO THE CORPORATION; AND

(2) THE AGENTS OR EMPLOYEES OF AN ORGANIZATION IN WHICH THE CORPORATION IS A PARTICIPANT UNDER ITEM (1) OF THIS SUBSECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 634

(House Bill 1340)

AN ACT concerning

Life and Health Insurance Guaranty Corporation Act – Revisions

FOR the purpose of revising the Life and Health Insurance Guaranty Corporation Act; clarifying the purpose of the Act to protect certain persons against failure in the performance of contractual obligations due to the impairment or insolvency of certain insurers; clarifying the persons and circumstances under which certain coverage shall be provided by the Life and Health Insurance Guaranty Corporation; authorizing the Corporation to provide coverage to certain payees or certain beneficiaries of payees under structured settlement annuities under certain circumstances; specifying certain circumstances under which certain persons are not provided coverage under the Act; specifying certain circumstances under which certain policies and contracts issued by member insurers are not provided coverage under the Act; specifying certain interest and certain changes in value of certain policies or contracts that will not be subject to forfeiture under certain circumstances; establishing the principal place of business for certain entities for purposes of the Act; clarifying the authority of the Corporation to take certain action for member insurers that are impaired insurers; clarifying the authority of the Corporation to take certain action for member insurers that are insolvent insurers; clarifying the powers and duties of the Maryland Insurance Commissioner under certain circumstances; authorizing the Corporation, subject to approval of the Commissioner, to issue substitute coverage for certain policies and contracts under certain circumstances; altering the maximum amounts of certain contractual obligations of certain impaired or insolvent insurers for which the Corporation may become liable under certain circumstances; authorizing the Corporation to join an organization of certain state associations for a certain purpose; authorizing the Corporation to elect to succeed to the rights and obligations of certain insolvent insurers relating to certain reinsurance contracts within a certain period of time after the date of an order of liquidation; requiring a receiver and certain reinsurers to make certain information available under certain circumstances for certain purposes after commencement of certain delinquency proceedings; establishing certain rights and obligations of the Corporation relating to certain reinsurance contracts assumed by the Corporation under certain circumstances; requiring the Corporation and certain reinsurers to make certain calculations within a certain period of time after a certain election; requiring certain reinsurers and the Corporation to make certain payments to a receiver in a certain manner under certain circumstances;

requiring a receiver to remit certain payments to the Corporation in a certain manner under a certain circumstance; prohibiting certain reinsurers from taking certain actions relating to reinsurance contracts under certain circumstances; establishing certain rights and obligations of the Corporation and certain reinsurers during a certain period of time after the date of an order of liquidation; authorizing the Corporation to transfer certain reinsurance on certain policies, annuities, or covered obligations under certain circumstances; providing for the application of this Act as it relates to certain laws and certain rights and obligations under certain reinsurance contracts; providing for the application of this Act as it relates to certain rights of the Corporation; extending a certain immunity to certain organizations and certain agents or employees of certain organizations; defining certain terms; altering certain defined terms; and generally relating to the Life and Health Insurance Guaranty Corporation Act.

BY repealing and reenacting, with amendments,

Article – Insurance

Section 9–401, 9–402, 9–403, 9–404, 9–407, 9–408, 9–414, and 9–417

Annotated Code of Maryland

(2011 Replacement Volume)

BY adding to

Article – Insurance

Section 9–407.1

Annotated Code of Maryland

(2011 Replacement Volume)

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

Article – Insurance

9–401.

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

(b) “Account” means:

(1) the health insurance account;

(2) the life insurance account; or

(3) the annuity account.

(c) “ASSOCIATION” MEANS THE CORPORATION OR ANY SIMILAR ORGANIZATION THAT HAS BEEN FORMED IN ANOTHER STATE THAT SERVES THE SAME PURPOSE AS THE CORPORATION FOR THE OTHER STATE.

~~(D)~~ **(D)** “Contractual obligation” means an obligation under a policy or contract or certificate under a group policy or contract for which coverage is provided under § 9–403 of this subtitle.

~~(E)~~ **(E)** “Corporation” means the Life and Health Insurance Guaranty Corporation.

~~(F)~~ **(F)** “Covered policy” means a policy or contract to which this subtitle applies.

~~(G)~~ **(G)** “Impaired insurer” means an insurer that:

(1) after July 1, 1971, is **NOT AN** insolvent **INSURER** and is placed under an order of rehabilitation or conservation by a court of competent jurisdiction; or

(2) is determined by the Commissioner after July 1, 1971, to be unable or potentially unable to fulfill its contractual obligations.

~~(H)~~ **(H)** “Individual” means a natural person covered under an individual policy or covered as a member under a group policy.

~~(I)~~ **(I)** “Insolvent insurer” means a member insurer that, after July 1, 1971, is placed under an order of liquidation by a court of competent jurisdiction [after] **WITH** a finding of insolvency.

~~(J)~~ **(J)** (1) “Member insurer” means an authorized insurer that writes a kind of insurance to which this subtitle applies.

(2) “MEMBER INSURER” INCLUDES AN INSURER WHOSE LICENSE OR CERTIFICATE OF AUTHORITY IN THE STATE MAY HAVE BEEN SUSPENDED, REVOKED, NOT RENEWED, OR VOLUNTARILY WITHDRAWN.

~~(2)~~**(3)** “Member insurer” does not include:

- (i) a health maintenance organization;
- (ii) a fraternal benefit society;
- (iii) a mandatory State pooling plan;
- (iv) a mutual assessment company or other entity that operates on an assessment basis; or
- (v) an insurance exchange.

~~(K)~~ **(K)** “Moody’s corporate bond yield average” means the monthly average yield on corporate bonds as published by Moody’s Investors Service, Inc.

~~(L)~~ **(L)** (1) “Premiums” means amounts received on covered policies or contracts, less premiums, considerations, and deposits returned, and less dividends and experience credits.

(2) “Premiums” does not include amounts for policies or contracts, or for parts of policies or contracts, for which coverage is not provided under § 9–403(b) of this subtitle.

~~(M)~~ **(M)** “Resident” means a person that resides in the State [when] **ON THE DATE OF ENTRY OF A COURT ORDER THAT DETERMINES** a member insurer [is determined] to be an impaired insurer or **A COURT ORDER THAT DETERMINES A MEMBER INSURER TO BE AN** insolvent insurer and to whom a contractual obligation is owed.

~~(N)~~ **(N)** “**STRUCTURED SETTLEMENT ANNUITY**” MEANS AN ANNUITY PURCHASED IN ORDER TO FUND PERIODIC PAYMENTS FOR A PLAINTIFF OR ANY OTHER CLAIMANT IN PAYMENT FOR OR WITH RESPECT TO PERSONAL INJURY SUFFERED BY THE PLAINTIFF OR OTHER CLAIMANT.

~~(O)~~ **(O)** “Supplemental contract” means an agreement entered into for the distribution of policy or contract proceeds.

9–402.

Subject to certain limitations, the purpose of this subtitle is to protect [residents] **PERSONS SPECIFIED IN § 9–403(A) THROUGH (F) OF THIS SUBTITLE** who are policyowners, [insureds,] **CONTRACT OWNERS, CERTIFICATE HOLDERS, beneficiaries, [annuitants,] payees, and assignees of life insurance policies, health insurance policies, annuity contracts, and supplemental contracts SPECIFIED IN § 9–403(G) OF THIS SUBTITLE** against failure in the performance of contractual obligations due to the impairment **OR INSOLVENCY** of the insurer that issued the policies or contracts.

9–403.

(a) **THIS SUBTITLE IS INTENDED TO PROVIDE COVERAGE TO A PERSON WHO IS A RESIDENT OF THIS STATE AND, IN SPECIAL CIRCUMSTANCES, TO A NONRESIDENT.**

(B) (1) [Subject] **FOR CONTRACTS OTHER THAN STRUCTURED SETTLEMENT ANNUITIES, SUBJECT** to paragraph (2) of this subsection, coverage

shall be provided under this subtitle for the policies or contracts specified in subsection [(b)] (G) of this section to [an individual] A PERSON who is:

(i) a resident and an owner of or certificate holder under the policy or contract; or

(ii) a nonresident and an owner of or certificate holder under the policy or contract, if:

1. the insurer that issued the policy or contract is domiciled in this State;

[2. the insurer that issued the policy or contract has never held a license or certificate of authority in the state in which the nonresident resides;]

[3.] 2. the state in which the nonresident resides has an insurance guaranty corporation or its equivalent similar to the Corporation established by § 9–405 of this subtitle; and

[4.] 3. the nonresident is not eligible for coverage by the insurance guaranty corporation or its equivalent in the state in which the nonresident resides **BECAUSE THE INSURER WAS NOT LICENSED IN THAT STATE AT THE TIME SPECIFIED IN THAT STATE’S GUARANTY CORPORATION OR ASSOCIATION LAW.**

(2) Coverage shall be provided under this subtitle for the policies or contracts specified in paragraph (1) of this subsection to a beneficiary, assignee, or payee of [an individual] A PERSON covered under paragraph (1) of this subsection, regardless of the [individual’s] PERSON’S residence.

(C) EXCEPT AS PROVIDED IN SUBSECTIONS (A), (D), AND (E) OF THIS SECTION, THIS SUBTITLE SHALL PROVIDE COVERAGE TO A PERSON WHO IS A PAYEE UNDER A STRUCTURED SETTLEMENT ANNUITY OR BENEFICIARY OF A PAYEE IF THE PAYEE IS DECEASED, IF:

(1) (I) THE PAYEE IS A RESIDENT, REGARDLESS OF WHERE THE CONTRACT OWNER RESIDES; OR

(II) THE PAYEE IS NOT A RESIDENT AND:

1. THE CONTRACT OWNER OF THE STRUCTURED SETTLEMENT ANNUITY IS A RESIDENT; OR

2. A. THE CONTRACT OWNER OF THE STRUCTURED SETTLEMENT ANNUITY IS NOT A RESIDENT;

B. THE INSURER THAT ISSUED THE STRUCTURED SETTLEMENT ANNUITY IS DOMICILED IN THIS STATE; AND

C. THE STATE IN WHICH THE CONTRACT OWNER RESIDES HAS AN ASSOCIATION SIMILAR TO THE CORPORATION; AND

(2) THE PAYEE OR BENEFICIARY, AND THE CONTRACT OWNER ARE NOT ELIGIBLE FOR COVERAGE BY THE ASSOCIATION OF THE STATE IN WHICH THE PAYEE OR CONTRACT OWNER RESIDES.

(D) THIS SUBTITLE DOES NOT PROVIDE COVERAGE TO:

(1) A PERSON WHO IS A PAYEE OR BENEFICIARY OF A CONTRACT OWNER WHO IS A RESIDENT OF THIS STATE, IF THE PAYEE OR BENEFICIARY IS PROVIDED ANY COVERAGE BY THE ASSOCIATION OF ANOTHER STATE; OR

(2) A PERSON WHO OTHERWISE WOULD RECEIVE COVERAGE UNDER THIS SUBTITLE, IF THE PERSON IS PROVIDED COVERAGE UNDER THE LAWS OF ANOTHER STATE.

(E) TO DETERMINE COVERAGE UNDER THIS SECTION UNDER CIRCUMSTANCES IN WHICH A PERSON COULD BE COVERED BY THE ASSOCIATION OF MORE THAN ONE STATE, WHETHER AS AN OWNER, A PAYEE, A BENEFICIARY, OR AN ASSIGNEE, THIS SUBTITLE SHALL BE CONSTRUED IN CONJUNCTION WITH OTHER STATE LAWS TO RESULT IN COVERAGE BY ONLY ONE ASSOCIATION.

(F) (1) TO DETERMINE COVERAGE UNDER THIS SECTION, A PERSON MAY BE A RESIDENT OF ONLY ONE STATE.

(2) TO DETERMINE COVERAGE UNDER THIS SECTION, A PERSON SHALL BE TREATED AS A RESIDENT OF THE STATE OF DOMICILE OF THE INSURER THAT ISSUED THE RELEVANT POLICY OR CONTRACT IF:

(I) THE PERSON IS A CITIZEN OF THE UNITED STATES AND IS A RESIDENT OF A FOREIGN COUNTRY; OR

(II) THE PERSON IS A RESIDENT OF A UNITED STATES POSSESSION, TERRITORY, OR PROTECTORATE THAT DOES NOT HAVE AN ASSOCIATION SIMILAR TO THE CORPORATION.

[(b)] (G) (1) Except as provided in paragraph (2) of this subsection OR OTHERWISE LIMITED BY THIS SUBTITLE, coverage shall be provided under this

subtitle to [individuals] **PERSONS** specified in [subsection (a)] **SUBSECTIONS (B) AND (C)** of this section for **THE FOLLOWING POLICIES AND CONTRACTS ISSUED BY MEMBER INSURERS:**

(i) direct, nongroup life, health, annuity, including structured [settlements] **SETTLEMENT ANNUITIES**, and supplemental policies or contracts **TO ANY OF THESE**; or

(ii) certificates under direct, group policies or contracts [issued by member insurers, except as limited by this subtitle], **AND SUPPLEMENTAL POLICIES OR CONTRACTS TO ANY OF THESE.**

(2) Coverage may not be provided under this subtitle for:

(i) any part of a policy or contract[:

1.] that is not guaranteed by the insurer, or under which the risk is borne by the policyholder or contract holder; [and

2. that, under subitem 1 of this item, includes the following types of policies:

A. variable annuity contracts;

B. variable life insurance contracts, except to the extent of guaranteed death benefits in the contract;

C. the value of an annuity contract in excess of the values guaranteed in the contract; or

D. the value of a universal life and interest sensitive life and similar products in excess of the values guaranteed in the contract;]

(ii) a policy or contract of reinsurance, unless assumption certificates have been issued;

(iii) any part of a policy or contract to the extent that the rate of interest on which it is based **OR THE INTEREST RATE, CREDITING RATE, OR SIMILAR FACTOR DETERMINED BY USE OF AN INDEX OR OTHER EXTERNAL REFERENCE STATED IN THE POLICY OR CONTRACT EMPLOYED IN CALCULATING RETURNS OR CHANGES IN VALUE:**

1. averaged over the period of 4 years before the date on which the Corporation becomes obligated with respect to the policy or contract, exceeds a rate of interest determined by subtracting 2 percentage points from Moody's corporate bond yield average for the 4-year period before the date on which the

Corporation became obligated or, if the policy or contract was issued less than 4 years before the Corporation became obligated, for that period; or

2. on or after the date on which the Corporation becomes obligated with respect to the policy or contract, exceeds the rate of interest determined by subtracting 3 percentage points from the most recent published Moody's corporate bond yield average;

(iv) a plan or program of an employer, association, or similar entity to provide life, health, or annuity benefits to its employees or members to the extent that the plan or program is self-funded or uninsured, including benefits payable by an employer, association, or similar entity under:

1. a multiple employer welfare arrangement, as defined in ~~§ [514] 3(40) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. § 1002(40))~~ 29 U.S.C. § 1002(40);

2. a minimum premium group insurance plan;

3. a stop-loss group insurance plan; or

4. an administrative services only contract;

(v) any part of a policy or contract to the extent that it provides dividends or experience rating credits or provides that a fee or allowances be paid to [an individual] **ANY PERSON**, including the policy or contract holder, in connection with the service to or administration of the policy or contract;

(vi) a policy or contract issued in the State by a member insurer at a time when it was not licensed or did not have a certificate of authority to issue the policy or contract in the State;

(vii) an annuity contract or group annuity certificate that is not issued to and owned by an individual [policyholder], except to the extent of annuity benefits guaranteed to an individual [policyholder] by an insurer under the annuity contract or group certificate, including the following contracts:

1. unallocated funding agreements;

2. unallocated annuity contract benefits;

3. deposit administration contracts; or

4. guaranteed investment contract accounts;

(viii) a policy issued by an organization as provided in § 1–202(3) of this article; [or]

(ix) an annuity agreement issued under § 16–114 of this article;

(X) A PORTION OF A POLICY OR CONTRACT TO THE EXTENT THAT THE ASSESSMENTS REQUIRED BY § 9–409 OF THIS SUBTITLE WITH RESPECT TO THE POLICY OR CONTRACT ARE PREEMPTED BY FEDERAL OR STATE LAW;

(XI) AN OBLIGATION THAT DOES NOT ARISE UNDER THE EXPRESS WRITTEN TERMS OF THE POLICY OR CONTRACT ISSUED BY THE INSURER TO THE CONTRACT OWNER OR POLICY OWNER, INCLUDING WITHOUT LIMITATION:

- 1. CLAIMS MADE ON MARKETING MATERIALS;**
- 2. CLAIMS BASED ON SIDE LETTERS, RIDERS, OR OTHER DOCUMENTS THAT WERE ISSUED BY THE INSURER WITHOUT MEETING APPLICABLE POLICY FORM FILING OR APPROVAL REQUIREMENTS;**
- 3. MISREPRESENTATIONS OF OR REGARDING POLICY BENEFITS;**
- 4. EXTRA–CONTRACTUAL CLAIMS; AND**
- 5. A CLAIM FOR PENALTIES OR CONSEQUENTIAL OR INCIDENTAL DAMAGES;**

(XII) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, A PORTION OF A POLICY OR CONTRACT TO THE EXTENT THAT IT PROVIDES FOR INTEREST OR OTHER CHANGES IN VALUE TO BE DETERMINED BY THE USE OF AN INDEX OR OTHER EXTERNAL REFERENCE STATED IN THE POLICY OR CONTRACT, BUT WHICH HAVE NOT BEEN CREDITED TO THE POLICY OR CONTRACT, OR AS TO WHICH THE POLICY OR CONTRACT OWNER’S RIGHTS ARE SUBJECT TO FORFEITURE, AS OF THE DATE THE MEMBER INSURER BECOMES AN IMPAIRED INSURER OR INSOLVENT INSURER UNDER THIS SUBTITLE, WHICHEVER IS EARLIER; OR

(XIII) A POLICY OR CONTRACT PROVIDING ANY HOSPITAL, MEDICAL, PRESCRIPTION DRUG, OR OTHER HEALTH CARE BENEFITS UNDER PART C OR PART D OF SUBCHAPTER XVIII, CHAPTER 7 OF TITLE 42 OF THE UNITED STATES CODE, COMMONLY KNOWN AS MEDICARE PART C & D, OR ANY REGULATIONS ADOPTED UNDER IT.

(3) IF A POLICY'S OR CONTRACT'S INTEREST OR CHANGES IN VALUE ARE CREDITED LESS FREQUENTLY THAN ANNUALLY, THEN TO DETERMINE THE VALUES THAT HAVE BEEN CREDITED AND ARE NOT SUBJECT TO FORFEITURE UNDER THIS SUBSECTION, THE INTEREST OR CHANGE IN VALUE DETERMINED BY USING THE PROCEDURES DEFINED IN THE POLICY OR CONTRACT WILL BE CREDITED AS IF THE CONTRACTUAL DATE OF CREDITING INTEREST OR CHANGING VALUES WAS THE DATE OF IMPAIRMENT OR INSOLVENCY, WHICHEVER IS EARLIER, AND WILL NOT BE SUBJECT TO FORFEITURE.

9-404.

(a) (1) This subtitle shall be liberally construed to carry out its purpose as specified in § 9-402 of this subtitle.

(2) Section 9-402 of this subtitle is an aid and guide to the interpretation of this subtitle.

(b) The words "policy" and "contract" are used interchangeably throughout this subtitle.

(c) A person may be a resident of only one state. For a person other than an individual, that state is the state in which its principal place of business is located.

(D) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, FOR A PLAN SPONSOR OR PERSON OTHER THAN AN INDIVIDUAL, ITS PRINCIPAL PLACE OF BUSINESS IS THE SINGLE STATE IN WHICH THE INDIVIDUALS WHO ESTABLISH POLICY FOR THE DIRECTION, CONTROL, AND COORDINATION OF THE OPERATIONS OF THE ENTITY, AS A WHOLE, PRIMARILY EXERCISE THAT FUNCTION, AS DETERMINED BY THE CORPORATION IN ITS REASONABLE JUDGMENT BY CONSIDERING THE FOLLOWING FACTORS:

(I) THE STATE IN WHICH THE PRIMARY EXECUTIVE AND ADMINISTRATIVE HEADQUARTERS OF THE ENTITY IS LOCATED;

(II) THE STATE IN WHICH THE PRINCIPAL OFFICE OF THE CHIEF EXECUTIVE OFFICER OF THE ENTITY IS LOCATED;

(III) THE STATE IN WHICH THE BOARD OF DIRECTORS, OR SIMILAR GOVERNING PERSON OR PERSONS, OF THE ENTITY CONDUCTS THE MAJORITY OF ITS MEETINGS;

(IV) THE STATE IN WHICH THE EXECUTIVE OR MANAGEMENT COMMITTEE OF THE BOARD OF DIRECTORS, OR SIMILAR GOVERNING PERSON OR PERSONS, OF THE ENTITY CONDUCTS THE MAJORITY OF ITS MEETINGS;

(V) THE STATE FROM WHICH THE MANAGEMENT OF THE OVERALL OPERATIONS OF THE ENTITY IS DIRECTED; AND

(VI) FOR A BENEFIT PLAN SPONSORED BY AFFILIATED COMPANIES COMPRISING A CONSOLIDATED CORPORATION, THE STATE IN WHICH THE HOLDING COMPANY OR CONTROLLING AFFILIATE HAS ITS PRINCIPAL PLACE OF BUSINESS, AS DETERMINED UNDER THE FACTORS IN THIS PARAGRAPH.

(2) FOR A PLAN SPONSOR, IF MORE THAN 50% OF THE PARTICIPANTS IN THE BENEFIT PLAN ARE EMPLOYED IN A SINGLE STATE, THAT STATE IS DEEMED TO BE THE PRINCIPAL PLACE OF BUSINESS OF THE PLAN SPONSOR.

(3) FOR AN ASSOCIATION, A COMMITTEE, A JOINT BOARD OF TRUSTEES, OR ANY OTHER SIMILAR GROUP OF REPRESENTATIVES OF THE PARTIES WHO ESTABLISH OR MAINTAIN A BENEFIT PLAN WHEN THERE IS NO SPECIFIC OR CLEAR DESIGNATION OF A PRINCIPAL PLACE OF BUSINESS, THE PRINCIPAL PLACE OF BUSINESS IS THE PRINCIPAL PLACE OF BUSINESS OF THE EMPLOYER OR EMPLOYEE ORGANIZATION THAT HAS THE LARGEST INVESTMENT IN THE BENEFIT PLAN IN QUESTION.

9-407.

(a) For a [domestic] MEMBER insurer that is an impaired insurer, [before an order of liquidation or rehabilitation and] THE CORPORATION, subject to any conditions imposed by the Corporation that do not impair the contractual obligations of the impaired insurer [if the impaired insurer and Commissioner approve, the Corporation] AND THAT ARE APPROVED BY THE COMMISSIONER, may:

(1) guarantee or reinsure, or cause to be guaranteed, assumed, or reinsured, [the impaired insurer's covered policies of residents] ANY OR ALL OF THE COVERED POLICIES OR CONTRACTS OF THE IMPAIRED INSURER; AND

(2) provide moneys, pledges, LOANS, notes, guarantees, or other appropriate means to:

(i) carry out item (1) of this subsection; and

(ii) ensure payment of the contractual obligations of the impaired insurer, pending action under item (1) of this subsection[; and

(3) lend money to the impaired insurer].

[(b) For a foreign insurer or alien insurer that is an impaired insurer, before an order of liquidation, rehabilitation, or conservation and subject to any conditions imposed by the Corporation that do not impair the contractual obligations of the impaired insurer, if the impaired insurer and the Commissioner approve, the Corporation may, with respect to the covered policies of residents:

(1) guarantee or reinsure, or cause to be guaranteed, assumed, or reinsured, the impaired insurer's covered policies of residents;

(2) provide moneys, pledges, notes, guarantees, or other appropriate means to:

(i) carry out item (1) of this subsection; and

(ii) ensure payment of the contractual obligations of the impaired insurer to residents, pending action under item (1) of this subsection; and

(3) lend money to the impaired insurer.

(c) (1) For a domestic insurer that is an impaired insurer under an order of liquidation or rehabilitation, if the Commissioner approves, the Corporation shall:

(i) guarantee, assume, or reinsure, or cause to be guaranteed, assumed, or reinsured, the impaired insurer's covered policies of residents;

(ii) ensure payment of the contractual obligations of the impaired insurer; and

(iii) provide moneys, pledges, notes, guarantees, or other means reasonably necessary to carry out this paragraph.

(2) If the Corporation fails to act within a reasonable period of time with respect to the domestic impaired insurer, the Commissioner shall have the powers and duties of the Corporation under this subtitle.

(d) (1) For a foreign insurer or alien insurer that is an impaired insurer under an order of liquidation, rehabilitation, or conservation, if the Commissioner approves, the Corporation shall:

(i) guarantee, assume, or reinsure, or cause to be guaranteed, assumed, or reinsured, the impaired insurer's covered policies of residents;

(ii) ensure payment of the contractual obligations of the impaired insurer to residents; and

(iii) provide moneys, pledges, notes, guarantees, or other means reasonably necessary to carry out this paragraph.

(2) If the Corporation fails to act within a reasonable period of time with respect to the foreign or alien impaired insurer, the Commissioner shall have the powers and duties of the Corporation under this subtitle.]

(B) FOR A MEMBER INSURER THAT IS AN INSOLVENT INSURER, THE CORPORATION MAY:

(1) (I) GUARANTEE OR REINSURE, OR CAUSE TO BE GUARANTEED, ASSUMED, OR REINSURED, ANY OR ALL OF THE COVERED POLICIES OR CONTRACTS OF THE INSOLVENT INSURER; OR

(II) ENSURE PAYMENT OF THE CONTRACTUAL OBLIGATIONS OF THE INSOLVENT INSURER; AND

(2) PROVIDE MONEY, PLEDGES, LOANS, NOTES, GUARANTEES, OR OTHER APPROPRIATE MEANS TO DISCHARGE THE CORPORATION'S DUTIES UNDER ITEM (1) OF THIS SUBSECTION.

(C) IF THE CORPORATION FAILS TO ACT WITHIN A REASONABLE PERIOD OF TIME WITH RESPECT TO THE IMPAIRED OR INSOLVENT INSURER, THE COMMISSIONER SHALL HAVE THE POWERS AND DUTIES OF THE CORPORATION UNDER THIS SUBTITLE.

[(e)] (D) (1) In carrying out its duties under [subsections (c) and (d)] **SUBSECTION (B)** of this section, the Corporation may request that policy liens, contract liens, moratoriums on payments, or other similar means be imposed.

(2) Policy liens, contract liens, moratoriums on payments, or other similar means may be imposed if the Commissioner approves the specific policy liens, contract liens, moratoriums on payments, or other similar means after finding that:

(i) the amounts that can be assessed under this subtitle are less than the amounts needed to ensure full and prompt performance of the impaired insurer's contractual obligations; or

(ii) the economic or financial conditions, as they affect member insurers, are sufficiently adverse to render the imposition of policy liens, contract liens, moratoriums on payments, or other similar means to be in the public interest.

(3) (i) Before being obligated under [subsections (c) and (d)] **SUBSECTION (B)** of this section, the Corporation may request that temporary moratoriums or liens on payments of cash values and policy loans be imposed.

(ii) If the Commissioner approves, the temporary moratoriums or liens requested by the Corporation under this paragraph may be imposed.

[(f)] (E) The Corporation is not liable under this section for a covered policy of a foreign insurer or alien insurer whose domiciliary jurisdiction or state of entry provides, by statute or regulation, protection for residents of this State substantially similar to that provided under this subtitle for residents of other states.

[(g)] (F) On request of the Commissioner, the Corporation may give help and advice to the Commissioner about rehabilitation, payment of claims, continuations of coverage, or the performance of other contractual obligations of an impaired insurer.

[(h)] (G) (1) The Corporation has standing to appear **OR INTERVENE** before any court [in the State] **OR AGENCY** with jurisdiction over an impaired **OR INSOLVENT** insurer as to which the Corporation is or may become obligated under this subtitle.

(2) The standing extends to all matters germane to the powers and duties of the Corporation, including proposals for reinsuring or guaranteeing the covered policies of the impaired **OR INSOLVENT** insurer and the determination of the covered policies and contractual obligations.

[(i)] (H) (1) A person receiving benefits under this subtitle, whether the benefits are payments of contractual obligations or continuation of coverage, is deemed to have assigned all rights under **OR CAUSES OF ACTION RELATING TO** the covered policy to the Corporation to the extent of the benefits received because of this subtitle.

(2) The Corporation may require a payee, policy or contract owner, beneficiary, insured, or annuitant to assign to the Corporation all rights to the extent of benefits received under the covered policy as a condition precedent to the receipt of any rights or benefits under this subtitle.

(3) The Corporation is subrogated to the rights assigned under this subsection against the assets of the impaired **OR INSOLVENT** insurer.

(4) The subrogation rights of the Corporation under this subsection have the same priority against the assets of the impaired **OR INSOLVENT** insurer as those of the person entitled to receive benefits under this subtitle.

(I) IN CARRYING OUT ITS DUTIES IN CONNECTION WITH GUARANTEEING OR REINSURING POLICIES OR CONTRACTS UNDER SUBSECTIONS (A) AND (B) OF THIS SECTION, THE CORPORATION MAY, SUBJECT

TO APPROVAL OF THE COMMISSIONER, ISSUE SUBSTITUTE COVERAGE FOR A POLICY OR CONTRACT THAT PROVIDES AN INTEREST RATE, A CREDITING RATE, OR A SIMILAR FACTOR DETERMINED BY USE OF AN INDEX OR OTHER EXTERNAL REFERENCE STATED IN THE POLICY OR CONTRACT EMPLOYED IN CALCULATING RETURNS OR CHANGES IN VALUE BY ISSUING AN ALTERNATIVE POLICY OR CONTRACT, IF:

(1) IN LIEU OF THE INDEX OR OTHER EXTERNAL REFERENCE PROVIDED FOR IN THE ORIGINAL POLICY OR CONTRACT, THE ALTERNATIVE POLICY OR CONTRACT PROVIDES FOR:

(I) A FIXED INTEREST RATE;

(II) PAYMENT OF DIVIDENDS WITH MINIMUM GUARANTEES;

OR

(III) A DIFFERENT METHOD FOR CALCULATING INTEREST OR CHANGES IN VALUE;

(2) THERE IS NO REQUIREMENT FOR EVIDENCE OF INSURABILITY, WAITING PERIOD, OR OTHER EXCLUSION THAT WOULD NOT HAVE APPLIED UNDER THE ORIGINAL POLICY OR CONTRACT; AND

(3) THE ALTERNATIVE POLICY OR CONTRACT IS SUBSTANTIALLY SIMILAR TO THE ORIGINAL POLICY OR CONTRACT IN ALL OTHER MATERIAL TERMS.

(j) (1) Subject to paragraphs (2) and (3) of this subsection and unless the contractual obligations of the impaired insurer or insolvent insurer are reduced **OR EXCLUDED** under subsection [(e)](D) of this section **OR § 9-403(G)(2) OF THIS SUBTITLE**, the contractual obligations of the impaired insurer or insolvent insurer for which the Corporation is or may become liable shall be as great as, but no greater than, the contractual obligations that the impaired insurer or insolvent insurer would have had in the absence of the impairment or insolvency.

(2) The Corporation is not liable for health care received after the date of the impairment or insolvency unless the health care was in progress on the date of the impairment or insolvency or unless other health care coverage is not available from another insurer or nonprofit health service plan.

(3) Benefits for which the Corporation may become liable may not exceed the lesser of:

(i) the contractual obligations for which the insurer is or would have been liable if it were not an impaired insurer or insolvent insurer; or

(ii) with respect to any one life, regardless of the number of policies or contracts:

1. \$300,000 in life insurance death benefits, but not more than \$100,000 in net cash surrender and net cash withdrawal values for life insurance;

2. [\$300,000 in health insurance benefits, including net cash surrender and net cash withdrawal values] **IN HEALTH INSURANCE BENEFITS:**

A. \$500,000 FOR BASIC HOSPITAL, MEDICAL, AND SURGICAL INSURANCE OR MAJOR MEDICAL INSURANCE PROVIDED BY HEALTH BENEFIT PLANS, AS DEFINED IN § 15-1301 OF THIS ARTICLE;

B. \$300,000 FOR DISABILITY INSURANCE AND \$300,000 FOR LONG-TERM CARE INSURANCE, AS DEFINED IN § 18-101 OF THIS ARTICLE; AND

C. \$100,000 FOR COVERAGES NOT ~~DEFINED~~ INCLUDED AS BASIC HOSPITAL, MEDICAL, AND SURGICAL INSURANCE, OR MAJOR MEDICAL INSURANCE, OR DISABILITY INSURANCE OR LONG-TERM CARE INSURANCE, INCLUDING ANY NET CASH SURRENDER AND NET CASH WITHDRAWAL VALUES UNDER ITEMS A AND B OF THIS ITEM; and

3. **A. \$250,000 in the present value of annuity benefits, including net cash surrender and net cash withdrawal values; AND**

B. WITH RESPECT TO EACH PAYEE UNDER A STRUCTURED SETTLEMENT ANNUITY, OR BENEFICIARY OF THE PAYEE IF THE PAYEE IS DECEASED, \$250,000 IN PRESENT VALUE ANNUITY BENEFITS, IN THE AGGREGATE, INCLUDING ANY NET CASH SURRENDER AND NET CASH WITHDRAWAL VALUES.

(4) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE CORPORATION MAY NOT, WITH RESPECT TO ANY ONE LIFE, BE LIABLE FOR COVERAGE GREATER THAN AN AGGREGATE OF \$300,000 ~~IN HEALTH INSURANCE BENEFITS UNDER PARAGRAPH (3)(I)2 OF THIS SUBSECTION FOR THE BENEFITS DESCRIBED IN PARAGRAPH (3)(I)1, 2, AND 3 OF THIS SUBSECTION.~~

(II) THE CORPORATION MAY NOT, WITH RESPECT TO ANY ONE LIFE, BE LIABLE FOR COVERAGE GREATER THAN AN AGGREGATE OF

\$500,000 IN BASIC HOSPITAL, MEDICAL, AND SURGICAL INSURANCE OR MAJOR MEDICAL INSURANCE UNDER PARAGRAPH (3)(II)2A OF THIS SUBSECTION.

(K) THE CORPORATION MAY JOIN AN ORGANIZATION OF ONE OR MORE OTHER STATE ASSOCIATIONS OF SIMILAR PURPOSES, TO FURTHER THE PURPOSES AND ADMINISTER THE POWERS AND DUTIES OF THE CORPORATION.

9-407.1.

(A) AT ANY TIME WITHIN 180 DAYS AFTER THE DATE OF AN ORDER OF LIQUIDATION, THE CORPORATION MAY ELECT TO SUCCEED TO THE RIGHTS AND OBLIGATIONS OF THE CEDING MEMBER INSURER THAT RELATE TO POLICIES OR ANNUITIES COVERED, IN WHOLE OR IN PART, BY THE CORPORATION, IN EACH CASE UNDER ANY ONE OR MORE REINSURANCE CONTRACTS ENTERED INTO BY THE INSOLVENT INSURER AND ITS REINSURERS AND SELECTED BY THE CORPORATION.

(B) ANY ASSUMPTION UNDER SUBSECTION (A) OF THIS SECTION IS EFFECTIVE AS OF THE DATE OF THE ORDER OF LIQUIDATION.

(C) THE ELECTION SHALL BE EFFECTED BY THE CORPORATION OR THE NATIONAL ORGANIZATION OF LIFE AND HEALTH INSURANCE GUARANTY ASSOCIATIONS ON ITS BEHALF SENDING WRITTEN NOTICE, RETURN RECEIPT REQUESTED, TO THE AFFECTED REINSURERS.

(D) TO FACILITATE THE EARLIEST PRACTICABLE DECISION ABOUT WHETHER TO ASSUME ANY OF THE CONTRACTS OF REINSURANCE, AND IN ORDER TO PROTECT THE FINANCIAL POSITION OF THE ESTATE, THE RECEIVER AND EACH REINSURER OF THE CEDING MEMBER INSURER SHALL MAKE AVAILABLE ON REQUEST TO THE CORPORATION OR TO THE NATIONAL ORGANIZATION OF LIFE AND HEALTH INSURANCE GUARANTY ASSOCIATIONS ON ITS BEHALF AS SOON AS POSSIBLE AFTER COMMENCEMENT OF FORMAL DELINQUENCY PROCEEDINGS:

(1) COPIES OF IN-FORCE CONTRACTS OF REINSURANCE AND ALL RELATED FILES AND RECORDS RELEVANT TO THE DETERMINATION OF WHETHER THE CONTRACTS SHOULD BE ASSUMED; AND

(2) NOTICES OF ANY DEFAULTS UNDER THE REINSURANCE CONTRACTS OR ANY KNOWN EVENT OR CONDITION THAT, WITH THE PASSAGE OF TIME, COULD BECOME A DEFAULT UNDER THE REINSURANCE CONTRACTS.

(E) (1) THIS SUBSECTION APPLIES TO REINSURANCE CONTRACTS ASSUMED BY THE CORPORATION.

(2) THE CORPORATION IS RESPONSIBLE FOR ALL UNPAID PREMIUMS DUE UNDER A REINSURANCE CONTRACT ASSUMED BY THE CORPORATION FOR PERIODS BOTH BEFORE AND AFTER THE DATE OF THE ORDER OF LIQUIDATION, AND IS RESPONSIBLE FOR THE PERFORMANCE OF ALL OTHER OBLIGATIONS TO BE PERFORMED AFTER THE DATE OF THE ORDER OF LIQUIDATION, IN EACH CASE WHICH RELATE TO POLICIES OR ANNUITIES COVERED, IN WHOLE OR IN PART, BY THE CORPORATION.

(3) THE CORPORATION MAY CHARGE POLICIES OR ANNUITIES COVERED IN PART BY THE CORPORATION, THROUGH REASONABLE ALLOCATION METHODS, THE COSTS FOR REINSURANCE IN EXCESS OF THE OBLIGATIONS OF THE CORPORATION AND SHALL PROVIDE NOTICE AND AN ACCOUNTING OF THESE CHARGES TO THE LIQUIDATOR.

(4) THE CORPORATION IS ENTITLED TO ANY AMOUNTS PAYABLE BY THE REINSURER UNDER THE REINSURANCE CONTRACTS WITH RESPECT TO LOSSES OR EVENTS THAT OCCUR IN PERIODS AFTER THE DATE OF THE ORDER OF LIQUIDATION AND THAT RELATE TO POLICIES OR ANNUITIES COVERED, IN WHOLE OR IN PART, BY THE CORPORATION, IF ON RECEIPT OF ANY AMOUNTS PAYABLE, THE CORPORATION IS OBLIGED TO PAY TO THE BENEFICIARY UNDER THE POLICY OR ANNUITY ON ACCOUNT OF WHICH THE AMOUNTS WERE PAID A PORTION OF THE AMOUNT EQUAL TO THE LESSER OF:

(I) THE AMOUNT RECEIVED BY THE CORPORATION; AND

(II) THE EXCESS OF THE AMOUNT RECEIVED BY THE CORPORATION OVER THE AMOUNT EQUAL TO THE BENEFITS PAID BY THE CORPORATION ON ACCOUNT OF THE POLICY OR ANNUITY LESS THE RETENTION OF THE INSURER APPLICABLE TO THE LOSS OR EVENT.

(F) (1) (I) WITHIN 30 DAYS AFTER THE CORPORATION'S ELECTION, THE CORPORATION AND EACH REINSURER UNDER CONTRACTS ASSUMED BY THE CORPORATION SHALL CALCULATE THE NET BALANCE DUE TO OR FROM THE CORPORATION UNDER EACH REINSURANCE CONTRACT AS OF THE ELECTION DATE WITH RESPECT TO POLICIES OR ANNUITIES COVERED, IN WHOLE OR IN PART, BY THE CORPORATION.

(II) THE CALCULATION UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL GIVE FULL CREDIT TO ALL ITEMS PAID BY EITHER THE INSURER OR ITS RECEIVER OR THE REINSURER PRIOR TO THE ELECTION DATE.

(2) WITHIN 5 DAYS AFTER THE COMPLETION OF THE CALCULATION UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE REINSURER

SHALL PAY THE RECEIVER ANY AMOUNTS DUE FOR LOSSES OR EVENTS BEFORE THE DATE OF THE ORDER OF LIQUIDATION, SUBJECT TO ANY SETOFF FOR PREMIUMS UNPAID FOR PERIODS BEFORE THE DATE, AND THE CORPORATION OR REINSURER SHALL PAY ANY REMAINING BALANCE DUE THE OTHER, IN EACH CASE.

(3) ANY DISPUTES OVER THE AMOUNTS DUE TO EITHER THE CORPORATION OR THE REINSURER SHALL BE RESOLVED BY ARBITRATION UNDER THE TERMS OF THE AFFECTED REINSURANCE CONTRACTS OR, IF THE CONTRACT CONTAINS NO ARBITRATION CLAUSE, AS OTHERWISE PROVIDED BY LAW.

(4) IF THE RECEIVER HAS RECEIVED ANY AMOUNTS DUE TO THE CORPORATION UNDER SUBSECTION ~~(E)(3)~~ (E)(4) OF THIS SECTION, THE RECEIVER SHALL REMIT THOSE AMOUNTS TO THE CORPORATION AS PROMPTLY AS PRACTICABLE.

(G) IF THE CORPORATION OR RECEIVER, ON THE CORPORATION'S BEHALF, WITHIN 60 DAYS AFTER THE ELECTION DATE, PAYS THE UNPAID PREMIUMS DUE FOR PERIODS BOTH BEFORE AND AFTER THE ELECTION DATE THAT RELATE TO POLICIES OR ANNUITIES COVERED, IN WHOLE OR IN PART, BY THE CORPORATION, THE REINSURER IS NOT ENTITLED TO:

(1) TERMINATE THE REINSURANCE CONTRACTS FOR FAILURE TO PAY PREMIUMS FOR THE REINSURANCE CONTRACTS THAT RELATE TO POLICIES OR ANNUITIES COVERED, IN WHOLE OR IN PART, BY THE CORPORATION; OR

(2) SET OFF ANY UNPAID AMOUNTS DUE UNDER OTHER CONTRACTS, OR UNPAID AMOUNTS DUE FROM PARTIES OTHER THAN THE CORPORATION, AGAINST AMOUNTS DUE THE CORPORATION.

(H) DURING THE PERIOD FROM THE DATE OF THE ORDER OF LIQUIDATION UNTIL THE ELECTION DATE OR, IF THE ELECTION DATE DOES NOT OCCUR, UNTIL 180 DAYS AFTER THE DATE OF THE ORDER OF LIQUIDATION:

(1) (I) NEITHER THE CORPORATION NOR THE REINSURER SHALL HAVE ANY RIGHTS OR OBLIGATIONS UNDER REINSURANCE CONTRACTS THAT THE CORPORATION HAS THE RIGHT TO ASSUME UNDER SUBSECTIONS (A) THROUGH (G) OF THIS SECTION, WHETHER FOR PERIODS BEFORE OR AFTER THE DATE OF THE ORDER OF LIQUIDATION; AND

(II) THE REINSURER, THE RECEIVER, AND THE CORPORATION SHALL, TO THE EXTENT PRACTICABLE, PROVIDE EACH OTHER DATA AND RECORDS REASONABLY REQUESTED; AND

(2) IF THE CORPORATION HAS ELECTED TO ASSUME A REINSURANCE CONTRACT, THE PARTIES' RIGHTS AND OBLIGATIONS SHALL BE GOVERNED BY SUBSECTIONS (A) THROUGH (G) OF THIS SECTION.

(I) IF THE CORPORATION DOES NOT ELECT TO ASSUME A REINSURANCE CONTRACT BY THE ELECTION DATE UNDER SUBSECTIONS (A) THROUGH (G) OF THIS SECTION, THE CORPORATION SHALL HAVE NO RIGHTS OR OBLIGATIONS, IN EACH CASE FOR PERIODS BOTH BEFORE AND AFTER THE DATE OF THE ORDER OF LIQUIDATION, WITH RESPECT TO THE REINSURANCE CONTRACT.

(J) WHEN POLICIES OR ANNUITIES, OR COVERED OBLIGATIONS WITH RESPECT TO POLICIES OR ANNUITIES, ARE TRANSFERRED TO AN ASSUMING INSURER, REINSURANCE ON THE POLICIES OR ANNUITIES MAY ALSO BE TRANSFERRED BY THE CORPORATION, IN THE CASE OF CONTRACTS ASSUMED UNDER SUBSECTIONS (A) THROUGH (G) OF THIS SECTION, IF:

(1) UNLESS THE REINSURER AND THE ASSUMING INSURER AGREE OTHERWISE, THE REINSURANCE CONTRACT TRANSFERRED DOES NOT COVER ANY NEW POLICIES OF INSURANCE OR ANNUITIES IN ADDITION TO THOSE TRANSFERRED;

(2) THE OBLIGATIONS DESCRIBED IN SUBSECTIONS (A) THROUGH (G) OF THIS SECTION NO LONGER APPLY WITH RESPECT TO MATTERS ARISING AFTER THE EFFECTIVE DATE OF THE TRANSFER; AND

(3) NOTICE IS GIVEN IN WRITING, RETURN RECEIPT REQUESTED, BY THE TRANSFERRING PARTY TO THE AFFECTED REINSURER AT LEAST 30 DAYS BEFORE THE EFFECTIVE DATE OF THE TRANSFER.

(K) (1) THE PROVISIONS OF THIS SECTION SUPERSEDE THE PROVISIONS OF ANY STATE LAW OR OF ANY AFFECTED REINSURANCE CONTRACT THAT PROVIDES FOR OR REQUIRES ANY PAYMENT OF REINSURANCE PROCEEDS, ON ACCOUNT OF LOSSES OR EVENTS THAT OCCUR IN PERIODS AFTER THE DATE OF THE ORDER OF LIQUIDATION, TO THE RECEIVER OF THE INSOLVENT INSURER OR ANY OTHER PERSON.

(2) THE RECEIVER REMAINS ENTITLED TO ANY AMOUNTS PAYABLE BY THE REINSURER UNDER THE REINSURANCE CONTRACTS WITH RESPECT TO LOSSES OR EVENTS THAT OCCUR IN PERIODS BEFORE THE DATE OF THE ORDER OF LIQUIDATION, SUBJECT TO APPLICABLE SETOFF PROVISIONS.

(L) (1) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, THIS SECTION DOES NOT ALTER OR MODIFY THE TERMS AND CONDITIONS OF ANY REINSURANCE CONTRACT.

(2) THIS SECTION DOES NOT:

(I) ABROGATE OR LIMIT ANY RIGHTS OF ANY REINSURER TO CLAIM THAT THE REINSURER IS ENTITLED TO RESCIND A REINSURANCE CONTRACT;

(II) GIVE A POLICYHOLDER OR BENEFICIARY AN INDEPENDENT CAUSE OF ACTION AGAINST A REINSURER THAT IS NOT OTHERWISE SET FORTH IN THE REINSURANCE CONTRACT;

(III) LIMIT OR AFFECT THE CORPORATION'S RIGHTS AS A CREDITOR OF THE ESTATE AGAINST THE ASSETS OF THE ESTATE; OR

(IV) APPLY TO REINSURANCE AGREEMENTS COVERING PROPERTY OR CASUALTY RISKS.

9-408.

The Corporation may:

(1) enter into contracts that are necessary or proper to carry out the provisions and purposes of this subtitle;

(2) sue or be sued and take any other legal actions necessary or proper for the recovery of unpaid assessments under § 9-409 of this subtitle;

(3) borrow money to carry out the purposes of this subtitle, provided that any notes or other evidences of indebtedness of the Corporation not in default are legal investments for domestic insurers and may be carried as admitted assets;

(4) employ or retain persons as necessary to handle the financial transactions of the Corporation and perform other functions that are necessary or proper under this subtitle;

(5) negotiate and contract with liquidators, rehabilitators, conservators, or ancillary receivers to carry out the powers and duties of the Corporation;

(6) take any legal action necessary to avoid payment of improper claims;

(7) for the purposes of this subtitle and to the extent approved by the Commissioner, exercise the powers of a domestic life insurer or health insurer, except that the Corporation may not issue policies or annuity contracts other than those issued to perform the contractual obligation of an impaired **OR INSOLVENT** insurer; and

(8) perform any other act necessary or proper to carry out the purposes of this subtitle.

9-414.

(a) This subtitle may not be construed to reduce the liability for unpaid assessments of the insureds of an impaired **OR INSOLVENT** insurer operating under a plan with assessment liability.

(b) Assessable premiums may not be reduced because of [§ 9-403(b)(2)(iii)] **§ 9-403(G)(2)(III)** of this subtitle relating to interest limitations and because of § 9-407(j) of this subtitle relating to limitations with respect to an individual policyholder.

(c) (1) The Corporation shall keep records of all negotiations and meetings in which the Corporation or its representatives are involved to discuss the activities of the Corporation in carrying out its powers and duties under §§ 9-407 and 9-408 of this subtitle.

(2) Records of the negotiations or meetings described in paragraph (1) of this subsection shall be made public only:

(i) after the termination of a liquidation, rehabilitation, or conservation proceeding involving an impaired **OR INSOLVENT** insurer;

(ii) after the termination of the impairment **OR INSOLVENCY** of an insurer; or

(iii) by court order.

(3) This subsection does not limit the duty of the Corporation to submit a report of its activities under § 9-415 of this subtitle.

(d) (1) In this subsection, “assets attributable to covered policies” means that proportion of the impaired **OR INSOLVENT** insurer’s assets that the amount of the reserves that should have been established for the covered policies bears to the amount of the reserves that should have been established for all policies written by the impaired **OR INSOLVENT** insurer.

(2) For the purpose of carrying out its obligations under this subtitle, the Corporation is considered a creditor of the impaired **OR INSOLVENT** insurer to the extent of the impaired **OR INSOLVENT** insurer's assets attributable to covered policies reduced by any amounts to which the Corporation is entitled as subrogee under [§ 9–407(i)] **§ 9–407(H)** of this subtitle.

(3) The assets attributable to covered policies of the impaired **OR INSOLVENT** insurer shall be used to continue the covered policies and pay the contractual obligations of the impaired **OR INSOLVENT** insurer as required by this subtitle.

(e) (1) (i) Before the termination of a liquidation, rehabilitation, or conservation proceeding, the court may consider the contributions of the respective parties, including the Corporation, the stockholders and policy owners of the impaired **OR INSOLVENT** insurer, and any other party with a bona fide interest, in making an equitable distribution of the ownership rights of the impaired **OR INSOLVENT** insurer.

(ii) In making a determination under subparagraph (i) of this paragraph, the court shall consider the welfare of the policyholders of the continuing or successor insurer.

(2) A distribution to any stockholders of an impaired **OR INSOLVENT** insurer may not be made until all of the assessments levied by the Corporation with respect to the impaired **OR INSOLVENT** insurer have been fully recovered by the Corporation.

(f) It is a prohibited unfair method of competition, subject to Title 27 of this article (Unfair Trade Practices), for a person to make use in any manner of the protection afforded by this subtitle in the sale of insurance.

(g) (1) Subject to the limitations of paragraphs (2) and (4) of this subsection, if an order for liquidation or rehabilitation of an insurer domiciled in the State has been entered, the receiver appointed under the order shall have a right to recover on behalf of the insurer, from any affiliate that controlled the insurer, the amount of distribution, other than stock dividends paid by the insurer on its capital stock, made at any time during the 5 years preceding the petition for liquidation or rehabilitation.

(2) A dividend described in paragraph (1) of this subsection is not recoverable if the insurer shows that:

(i) the distribution was lawful and reasonable when paid; and

(ii) the insurer did not know and could not reasonably have known that the distribution might adversely affect the ability of the insurer to fulfill its contractual obligations.

(3) (i) A person that was an affiliate that controlled the insurer when the distributions described in paragraph (1) of this subsection were paid is liable up to the amount of distributions the person received.

(ii) A person that was an affiliate that controlled the insurer when the distributions described under paragraph (1) of this subsection were declared, is liable up to the amount of distributions the person would have received if they had been paid immediately.

(iii) Two or more persons that are liable with respect to the same distributions are jointly and severally liable.

(4) The maximum amount recoverable under this subsection is the amount needed in excess of all other available assets of the impaired **OR INSOLVENT** insurer to pay the contractual obligations of the impaired **OR INSOLVENT** insurer.

(5) If a person liable under paragraph (3) of this subsection is insolvent, all of its affiliates that controlled it when the dividend was paid are jointly and severally liable for any resulting deficiency in the amount recovered from the insolvent affiliate.

(h) (1) An insurer or insurance producer may not deliver a policy or contract that at the time of delivery exceeds the limitations imposed by ~~§ 9-407(j)(3)~~ ~~§ 9-407(i)(3)~~ of this subtitle, or that is not subject to coverage under § 9-403 of this subtitle, unless the insurer or insurance producer, before or at the time of delivery, provides the policyholder or contract holder with a separate written notice as provided in paragraph (2) of this subsection.

(2) The notice required under this subsection shall disclose clearly and conspicuously that:

(i) the policy or contract is not covered by, or exceeds the limitations of liability applicable to, the Corporation; and

(ii) the Corporation is not a department or unit of the State, and the liabilities or debts of the Corporation are not liabilities or debts of the State.

(3) The Commissioner shall adopt regulations establishing a standard form to be used by insurance producers and insurers to conform with the provisions of this subsection.

9-417.

(A) A member insurer or its agents or employees, the Corporation or its agents or employees, members of the Board of Directors, and the Commissioner or the

Commissioner's representatives shall have the immunity from liability described in § 5-413 of the Courts Article for any action or omission taken by them in the performance of their powers and duties under this subtitle.

(B) THE IMMUNITY UNDER SUBSECTION (A) OF THIS SECTION SHALL EXTEND TO:

(1) THE CORPORATION AS A PARTICIPANT IN AN ORGANIZATION OF ONE OR MORE OTHER STATE ASSOCIATIONS OF SIMILAR PURPOSES TO THE CORPORATION; AND

(2) THE AGENTS OR EMPLOYEES OF AN ORGANIZATION IN WHICH THE CORPORATION IS A PARTICIPANT UNDER ITEM (1) OF THIS SUBSECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 635

(Senate Bill 1004)

AN ACT concerning

Renewable Energy Portfolio Standard – Renewable Energy Credits – ~~Qualifying~~ Thermal Biomass Systems

FOR the purpose of specifying that energy from a certain ~~qualifying~~ thermal biomass system is eligible for inclusion in meeting the renewable energy portfolio standard; specifying that a person that owns and operates a certain ~~qualifying~~ thermal biomass system is eligible to receive a certain renewable energy credit under certain circumstances; specifying that a certain person that is eligible to receive a certain renewable energy credit shall receive a certain renewable energy credit ~~under certain circumstances~~ equal to a certain amount; requiring the total amount of energy generated and consumed by a residential, nonresidential, or commercial ~~qualifying~~ thermal biomass system to be measured in a certain way; requiring the Public Service Commission to adopt certain regulations; defining a certain term; altering a certain term; providing for a delayed effective date; and generally relating to the eligibility of ~~qualifying~~ thermal biomass systems for inclusion in meeting the renewable energy portfolio standard.

BY repealing and reenacting, without amendments,

Article – Public Utilities
 Section 7–701(a)
 Annotated Code of Maryland
 (2010 Replacement Volume and 2011 Supplement)

BY adding to
 Article – Public Utilities
 Section 7–701(h–1) and 7–704(h)
 Annotated Code of Maryland
 (2010 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,
 Article – Public Utilities
 Section 7–701(l)
 Annotated Code of Maryland
 (2010 Replacement Volume and 2011 Supplement)

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

Article – Public Utilities

7–701.

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

~~(H–1) “QUALIFYING THERMAL BIOMASS SYSTEM” MEANS A SYSTEM THAT:~~

~~(1) GENERATES ENERGY USING PRIMARILY FOOD WASTE, CROP WASTE, CROPS GROWN FOR ENERGY PRODUCTION, OR ANIMAL MANURE, INCLUDING POULTRY LITTER;~~

~~(2) PROVIDES ENERGY USED FOR SPACE HEATING OR COOLING, WATER HEATING OR COOLING, COMBINED HEAT AND POWER, HUMIDITY CONTROL, OR THERMAL END USE IF FUEL OR ELECTRICITY WOULD OTHERWISE BE CONSUMED;~~

~~(3) IS LOCATED IN A FACILITY THAT IS CONNECTED TO THE STATE’S ELECTRIC DISTRIBUTION GRID; AND~~

~~(4) HAS ALL APPLICABLE STATE AND FEDERAL PERMITS.~~

(H–1) “THERMAL BIOMASS SYSTEM” MEANS A SYSTEM THAT:

(1) USES:

(I) PRIMARILY ANIMAL MANURE, INCLUDING POULTRY LITTER, AND ASSOCIATED BEDDING TO GENERATE THERMAL ENERGY; AND

(II) FOOD WASTE OR QUALIFYING BIOMASS FOR THE REMAINDER OF THE FEEDSTOCK;

(2) IS USED IN THE STATE; AND

(3) COMPLIES WITH ALL APPLICABLE STATE AND FEDERAL STATUTES AND REGULATIONS, AS DETERMINED BY THE APPROPRIATE REGULATORY AUTHORITY.

(1) “Tier 1 renewable source” means one or more of the following types of energy sources:

(1) solar energy, including energy from photovoltaic technologies and solar water heating systems;

(2) wind;

(3) qualifying biomass, ~~INCLUDING QUALIFYING THERMAL BIOMASS SYSTEMS;~~

(4) methane from the anaerobic decomposition of organic materials in a landfill or wastewater treatment plant;

(5) geothermal;

(6) ocean, including energy from waves, tides, currents, and thermal differences;

(7) a fuel cell that produces electricity from a Tier 1 renewable source under item (3) or (4) of this subsection;

(8) a small hydroelectric power plant of less than 30 megawatts in capacity that is licensed or exempt from licensing by the Federal Energy Regulatory Commission;

(9) poultry litter-to-energy;

(10) waste-to-energy; ~~and~~

(11) refuse-derived fuel; AND

(12) THERMAL ENERGY FROM A THERMAL BIOMASS SYSTEM.

7-704.

(H) (1) ENERGY FROM A ~~QUALIFYING~~ THERMAL BIOMASS SYSTEM IS ELIGIBLE FOR INCLUSION IN MEETING THE RENEWABLE ENERGY PORTFOLIO STANDARD.

(2) (I) A PERSON THAT OWNS AND OPERATES A THERMAL BIOMASS SYSTEM THAT USES ANAEROBIC DIGESTION IS ELIGIBLE TO RECEIVE A RENEWABLE ENERGY CREDIT.

(II) A PERSON THAT OWNS AND OPERATES A THERMAL BIOMASS SYSTEM THAT USES A THERMOCHEMICAL PROCESS IS ELIGIBLE TO RECEIVE A RENEWABLE ENERGY CREDIT IF THE PERSON DEMONSTRATES TO THE MARYLAND DEPARTMENT OF THE ENVIRONMENT THAT THE OPERATION OF THE THERMAL BIOMASS SYSTEM:

1. IS NOT SIGNIFICANTLY CONTRIBUTING TO LOCAL OR REGIONAL AIR QUALITY IMPAIRMENTS; AND

2. WILL SUBSTANTIALLY DECREASE EMISSIONS OF OXIDES OF NITROGEN BEYOND THAT ACHIEVED BY A DIRECT BURN COMBUSTION UNIT THROUGH THE USE OF PRECOMBUSTION TECHNIQUES, COMBUSTION TECHNIQUES, OR POSTCOMBUSTION TECHNIQUES.

~~(2)~~ (3) A PERSON THAT OWNS AND OPERATES A QUALIFYING THERMAL BIOMASS SYSTEM IS ELIGIBLE TO RECEIVE A RENEWABLE ENERGY CREDIT UNDER PARAGRAPH (2) OF THIS SUBSECTION SHALL RECEIVE A RENEWABLE ENERGY CREDIT EQUAL TO THE AMOUNT OF ENERGY, CONVERTED FROM BTUS TO KILOWATT-HOURS, THAT IS GENERATED BY THE QUALIFYING THERMAL BIOMASS SYSTEM AND USED ON SITE.

~~(3)~~ (4) THE TOTAL AMOUNT OF ENERGY GENERATED AND CONSUMED FOR A RESIDENTIAL, NONRESIDENTIAL, OR COMMERCIAL QUALIFYING THERMAL BIOMASS SYSTEM SHALL BE MEASURED BY AN ON-SITE METER THAT MEETS THE REQUIRED PERFORMANCE STANDARDS OF THE INTERNATIONAL ORGANIZATION OF LEGAL METROLOGY ESTABLISHED BY THE COMMISSION.

~~(4)~~ (5) THE COMMISSION SHALL ADOPT REGULATIONS FOR THE METERING, VERIFICATION, AND REPORTING OF THE OUTPUT OF QUALIFYING THERMAL BIOMASS SYSTEMS.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect January 1, 2013.

Approved by the Governor, May 22, 2012.

Chapter 636

(Senate Bill 1018)

AN ACT concerning

Alcoholic Beverages – Rectifiers – Tours, Samples, and Sales

FOR the purpose of expanding the privileges of a rectifying license so that the holder of the license may conduct guided tours of the licensed premises, and serve not more than a certain number of samples of products manufactured at the licensed premises, ~~sell certain foods and beverages, sell products manufactured on the licensed premises for consumption off the licensed premises, and sell related merchandise~~ prohibiting a license holder or entity in which a license holder has a pecuniary interest from acting as a caterer of food; specifying the times when certain activities may be conducted; providing that a Class 2 manufacturer's (rectifying) license allows the holder to operate a certain number of days a week, with a certain exception; requiring a license holder to file with the Comptroller a notice of a promotional event at least a certain time before the event is held; prohibiting a license holder from selling or allowing to be consumed at the licensed premises certain products, with a certain exception; providing that this Act does not limit the application of certain laws and regulations; making certain technical corrections; and generally relating to rectifying licenses.

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 2–203
Annotated Code of Maryland
(2011 Replacement Volume)

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

Article 2B – Alcoholic Beverages

2–203.

(A) A Class 2 manufacturer's license:

(1) Is a rectifying license;

(2) Authorizes the holder to:

(i) Establish and operate in this State a plant for rectifying, blending and bottling alcoholic beverages; and

(ii) Sell and deliver alcoholic beverages to a holder of a distillery, rectifying, or wholesaler's license, or to permit holders authorized to acquire those alcoholic beverages and to persons outside this State;

(3) [Permits a licensee] **AUTHORIZES THE HOLDER** to acquire alcoholic beverages from the holder of a:

(i) Distillery, rectifying, winery, or wholesaler's license in this State; or

(ii) Nonresident dealer's permit; [and]

(4) [Permits a rectifier] **AUTHORIZES THE HOLDER** to rectify, blend, bottle and store alcoholic beverages for another person or under another trade name if a rectifying license has been issued in the name of that person or under that trade name, as the case may be; **AND**

(5) **AUTHORIZES THE HOLDER TO:**

(I) **CONDUCT GUIDED TOURS OF THE LICENSED PREMISES;**

AND

(II) **SERVE NOT MORE THAN THREE SAMPLES OF PRODUCTS MANUFACTURED AT THE LICENSED PREMISES, WITH EACH SAMPLE CONSISTING OF NOT MORE THAN ONE-HALF OUNCE FROM A SINGLE PRODUCT, TO PERSONS WHO HAVE ATTAINED THE LEGAL DRINKING AGE AND PARTICIPATED IN A GUIDED TOUR OF THE LICENSED PREMISES;**

~~(III) **SELL OR SERVE:**~~

~~1. **NONALCOHOLIC BEVERAGES;**~~

~~2. **BREAD AND OTHER BAKED GOODS;**~~

~~3. **CHILI;**~~

~~4. **CHOCOLATE;**~~

~~5. **CRACKERS;**~~

- ~~6. CURED MEAT;~~
- ~~7. FRUITS (WHOLE AND CUT);~~
- ~~8. SALADS AND VEGETABLES (WHOLE AND CUT);~~
- ~~9. HARD AND SOFT CHEESE (WHOLE AND CUT);~~
- ~~10. ICE CREAM;~~
- ~~11. JELLY AND JAM;~~
- ~~12. VINEGAR;~~
- ~~13. PIZZA;~~
- ~~14. PREPACKAGED SANDWICHES AND OTHER PREPACKAGED FOODS READY TO BE EATEN;~~
- ~~15. SOUP; AND~~
- ~~16. CONDIMENTS; AND~~

~~(IV) SELL NOT MORE THAN THREE 750-MILLILITER BOTTLES OF PRODUCTS MANUFACTURED ON THE LICENSED PREMISES, FOR CONSUMPTION OFF THE LICENSED PREMISES, AND RELATED MERCHANDISE TO PERSONS WHO HAVE ATTAINED THE LEGAL DRINKING AGE AND PARTICIPATED IN A GUIDED TOUR OF THE LICENSED PREMISES.~~

(B) A HOLDER OF A CLASS 2 MANUFACTURER'S (RECTIFYING) LICENSE OR ENTITY IN WHICH A HOLDER HAS A PECUNIARY INTEREST MAY NOT ACT AS A CATERER OF FOOD.

(C) SUBJECT TO SUBSECTION (D) OF THIS SECTION, A LICENSE HOLDER MAY CONDUCT THE ACTIVITIES SPECIFIED IN SUBSECTION (A)(5) OF THIS SECTION:

(1) FOR CONSUMPTION OFF THE LICENSED PREMISES OF PRODUCTS MANUFACTURED AT THE LICENSED PREMISES AND FOR SAMPLING, EACH DAY FROM 10 A.M. TO 10 P.M.; AND

(2) FOR CONSUMPTION ON THE LICENSED PREMISES OF PRODUCTS MANUFACTURED AT THE LICENSED PREMISES:

(I) FROM 10 A.M. TO 6 P.M. EACH DAY; OR

(II) IF GUESTS ARE ATTENDING A PLANNED PROMOTIONAL EVENT OR OTHER ORGANIZED ACTIVITY ON THE LICENSED PREMISES, FROM 10 A.M. TO 10 P.M. EACH DAY.

(D) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A CLASS 2 MANUFACTURER'S (RECTIFYING) LICENSE ALLOWS THE HOLDER TO OPERATE 7 DAYS A WEEK.

(2) IN GARRETT COUNTY, A LICENSE HOLDER MAY OPEN ON SUNDAYS TO ENGAGE IN THE ACTIVITIES LISTED IN SUBSECTION (A)(5) OF THIS SECTION ONLY IN AN ELECTION DISTRICT WHERE THE VOTERS, IN A REFERENDUM AUTHORIZED BY LAW, HAVE APPROVED SUNDAY SALES AT A RECTIFYING FACILITY.

(E) AT LEAST 14 DAYS BEFORE HOLDING A PLANNED PROMOTIONAL EVENT AFTER 6 P.M., A LICENSE HOLDER SHALL FILE A NOTICE OF THE PROMOTIONAL EVENT WITH THE COMPTROLLER ON THE FORM THAT THE COMPTROLLER PROVIDES.

(F) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A LICENSE HOLDER MAY NOT SELL OR ALLOW TO BE CONSUMED AT THE LICENSED PREMISES ANY PRODUCT OTHER THAN PRODUCTS PRODUCED BY THE LICENSE HOLDER UNDER THE AUTHORITY OF THIS SECTION.

(2) A HOLDER OF A CATERER'S LICENSE OR PRIVILEGE UNDER TITLE 6, SUBTITLE 7 OF THIS ARTICLE MAY EXERCISE THE PRIVILEGES OF THE LICENSE OR PRIVILEGE ON THE LICENSED PREMISES OF THE LICENSE HOLDER.

(G) NOTHING IN THIS SECTION LIMITS THE APPLICATION OF RELEVANT PROVISIONS OF TITLE 21 OF THE HEALTH - GENERAL ARTICLE, AND REGULATIONS ADOPTED UNDER THAT TITLE, TO A LICENSE HOLDER.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 637

(House Bill 1316)

AN ACT concerning

Alcoholic Beverages – Rectifiers – Tours, Samples, and Sales

FOR the purpose of expanding the privileges of a rectifying license so that the holder of the license may conduct guided tours of the licensed premises, and serve not more than a certain number of samples of products manufactured at the licensed premises, sell certain foods and beverages, sell products manufactured on the licensed premises for consumption off the licensed premises, and sell related merchandise prohibiting a license holder or entity in which a license holder has a pecuniary interest from acting as a caterer of food; specifying the times when certain activities may be conducted; providing that a Class 2 manufacturer's (rectifying) license allows the holder to operate a certain number of days a week, with a certain exception; requiring a license holder to file with the Comptroller a notice of a promotional event at least a certain time before the event is held; prohibiting a license holder from selling or allowing to be consumed at the licensed premises certain products, with a certain exception; providing that this Act does not limit the application of certain laws and regulations; making certain technical corrections; and generally relating to rectifying licenses.

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 2–203
Annotated Code of Maryland
(2011 Replacement Volume)

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

Article 2B – Alcoholic Beverages

2–203.

(A) A Class 2 manufacturer's license:

(1) Is a rectifying license;

(2) Authorizes the holder to:

(i) Establish and operate in this State a plant for rectifying, blending and bottling alcoholic beverages; and

(ii) Sell and deliver alcoholic beverages to a holder of a distillery, rectifying, or wholesaler's license, or to permit holders authorized to acquire those alcoholic beverages and to persons outside this State;

(3) [Permits a licensee] **AUTHORIZES THE HOLDER** to acquire alcoholic beverages from the holder of a:

(i) Distillery, rectifying, winery, or wholesaler's license in this State; or

(ii) Nonresident dealer's permit; [and]

(4) [Permits a rectifier] **AUTHORIZES THE HOLDER** to rectify, blend, bottle and store alcoholic beverages for another person or under another trade name if a rectifying license has been issued in the name of that person or under that trade name, as the case may be; **AND**

(5) AUTHORIZES THE HOLDER TO:

(I) CONDUCT GUIDED TOURS OF THE LICENSED PREMISES;

AND

(II) SERVE NOT MORE THAN THREE SAMPLES OF PRODUCTS MANUFACTURED AT THE LICENSED PREMISES, WITH EACH SAMPLE CONSISTING OF NOT MORE THAN ONE-HALF OUNCE FROM A SINGLE PRODUCT, TO PERSONS WHO HAVE ATTAINED THE LEGAL DRINKING AGE AND PARTICIPATED IN A GUIDED TOUR OF THE LICENSED PREMISES_;

~~**(III) SELL OR SERVE:**~~

~~**1. NONALCOHOLIC BEVERAGES;**~~

~~**2. BREAD AND OTHER BAKED GOODS;**~~

~~**3. CHILI;**~~

~~**4. CHOCOLATE;**~~

~~**5. CRACKERS;**~~

~~**6. CURED MEAT;**~~

~~**7. FRUITS (WHOLE AND CUT);**~~

~~**8. SALADS AND VEGETABLES (WHOLE AND CUT);**~~

~~**9. HARD AND SOFT CHEESE (WHOLE AND CUT);**~~

~~**10. ICE CREAM;**~~

~~11. JELLY AND JAM;~~

~~12. VINEGAR;~~

~~13. PIZZA;~~

~~14. PREPACKAGED SANDWICHES AND OTHER PREPACKAGED FOODS READY TO BE EATEN;~~

~~15. SOUP; AND~~

~~16. CONDIMENTS; AND~~

~~(IV) SELL NOT MORE THAN THREE 750 MILLILITER BOTTLES OF PRODUCTS MANUFACTURED ON THE LICENSED PREMISES, FOR CONSUMPTION OFF THE LICENSED PREMISES, AND RELATED MERCHANDISE TO PERSONS WHO HAVE ATTAINED THE LEGAL DRINKING AGE AND PARTICIPATED IN A GUIDED TOUR OF THE LICENSED PREMISES.~~

(B) A HOLDER OF A CLASS 2 MANUFACTURER'S (RECTIFYING) LICENSE OR ENTITY IN WHICH A HOLDER HAS A PECUNIARY INTEREST MAY NOT ACT AS A CATERER OF FOOD.

(C) SUBJECT TO SUBSECTION (D) OF THIS SECTION, A LICENSE HOLDER MAY CONDUCT THE ACTIVITIES SPECIFIED IN SUBSECTION (A)(5) OF THIS SECTION:

(1) FOR CONSUMPTION OFF THE LICENSED PREMISES OF PRODUCTS MANUFACTURED AT THE LICENSED PREMISES AND FOR SAMPLING, EACH DAY FROM 10 A.M. TO 10 P.M.; AND

(2) FOR CONSUMPTION ON THE LICENSED PREMISES OF PRODUCTS MANUFACTURED AT THE LICENSED PREMISES:

(I) FROM 10 A.M. TO 6 P.M. EACH DAY; OR

(II) IF GUESTS ARE ATTENDING A PLANNED PROMOTIONAL EVENT OR OTHER ORGANIZED ACTIVITY ON THE LICENSED PREMISES, FROM 10 A.M. TO 10 P.M. EACH DAY.

(D) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A CLASS 2 MANUFACTURER'S (RECTIFYING) LICENSE ALLOWS THE HOLDER TO OPERATE 7 DAYS A WEEK.

(2) IN GARRETT COUNTY, A LICENSE HOLDER MAY OPEN ON SUNDAYS TO ENGAGE IN THE ACTIVITIES LISTED IN SUBSECTION (A)(5) OF THIS SECTION ONLY IN AN ELECTION DISTRICT WHERE THE VOTERS, IN A REFERENDUM AUTHORIZED BY LAW, HAVE APPROVED SUNDAY SALES AT A RECTIFYING FACILITY.

(E) AT LEAST 14 DAYS BEFORE HOLDING A PLANNED PROMOTIONAL EVENT AFTER 6 P.M., A LICENSE HOLDER SHALL FILE A NOTICE OF THE PROMOTIONAL EVENT WITH THE COMPTROLLER ON THE FORM THAT THE COMPTROLLER PROVIDES.

(F) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A LICENSE HOLDER MAY NOT SELL OR ALLOW TO BE CONSUMED AT THE LICENSED PREMISES ANY PRODUCT OTHER THAN PRODUCTS PRODUCED BY THE LICENSE HOLDER UNDER THE AUTHORITY OF THIS SECTION.

(2) A HOLDER OF A CATERER'S LICENSE OR PRIVILEGE UNDER TITLE 6, SUBTITLE 7 OF THIS ARTICLE MAY EXERCISE THE PRIVILEGES OF THE LICENSE OR PRIVILEGE ON THE LICENSED PREMISES OF THE LICENSE HOLDER.

(G) NOTHING IN THIS SECTION LIMITS THE APPLICATION OF RELEVANT PROVISIONS OF TITLE 21 OF THE HEALTH – GENERAL ARTICLE, AND REGULATIONS ADOPTED UNDER THAT TITLE, TO A LICENSE HOLDER.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 638

(Senate Bill 1036)

AN ACT concerning

Academic Facilities Bonding Authority

FOR the purpose of approving certain projects for the acquisition, development, and improvement of certain academic facilities for the University System of Maryland; approving the issuance of bonds by the University System of Maryland for financing the projects; providing that certain bonds are not a debt

or obligation of the State or any of its subdivisions; and generally relating to academic facilities bonding authority and projects.

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

(1) In accordance with § 19–102(d) of the Education Article, each of the following projects is approved as a project for an academic facility, and the University System of Maryland may issue, sell, and deliver bonds in the total principal amount of \$15,000,000 for the purposes of financing and refinancing the costs of these projects:

(A) Coppin State University (Baltimore City)

(i) New Science and Technology Center

(B) University of Maryland, College Park (Prince George’s County)

(i) Campuswide Building System and Infrastructure Improvements

(2) In accordance with § 19–102(d) of the Education Article, system–wide capital facilities renewal projects for the constituent institutions and centers of the University System of Maryland, as are authorized by the Board of Regents, are hereby approved as projects for academic facilities, and the University System of Maryland may issue, sell, and deliver bonds in the total principal amount of \$17,000,000 for the purposes of financing and refinancing the costs of those facilities renewal projects.

(3) The bonds issued under the authority of this Act do not create or constitute any indebtedness or obligation of the State or of any political subdivision thereof except the University System of Maryland, and the bonds shall so state on their face. The bonds do not constitute a debt or obligation contracted by the General Assembly of Maryland or pledge the faith and credit of the State within the meaning of Article III, § 34 of the Maryland Constitution.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 639

(Senate Bill 1037)

AN ACT concerning

Prior Authorizations of State Debt to Fund Capital Projects – Alterations

FOR the purpose of amending certain prior authorizations of State Debt to alter the requirement that certain grantees provide certain matching funds; extending the deadline for certain grantees to present certain evidence that a matching fund will be presented; providing that certain grants may not terminate before certain dates; changing the locations of certain capital projects; repealing a certain requirement that a certain grantee grant a certain easement; altering the purpose of certain grants; changing the names of certain grantees; and generally relating to amending prior authorizations of State Debt.

BY repealing and reenacting, with amendments,

Chapter 445 of the Acts of the General Assembly of 2005

Section 1(3) Item ZA00(C), Item ZA01(~~AV~~)(AB), (AV), and (BL), and Item ZA02(~~BH~~)(I), (BH), and (BQ)

BY repealing and reenacting, with amendments,

Chapter 445 of the Acts of the General Assembly of 2005, as amended by Chapter 65 of the Acts of the General Assembly of 2007, Chapter 219 of the Acts of the General Assembly of 2008, Chapter 707 of the Acts of the General Assembly of 2009, and Chapter 372 of the Acts of the General Assembly of 2010

Section 1(3) Item ZA01(AR) and Item ZA02(AV)

BY repealing and reenacting, with amendments,

Chapter 46 of the Acts of the General Assembly of 2006

Section 1(3) Item ZA01(CM)

BY repealing and reenacting, with amendments,

Chapter 488 of the Acts of the General Assembly of 2007, as amended by Chapter 219 of the Acts of the General Assembly of 2008

Section 1(3) Item ZA01(BD) and Item ZA02(BT)

BY repealing and reenacting, with amendments,

Chapter 488 of the Acts of the General Assembly of 2007, as amended by Chapter 372 of the Acts of the General Assembly of 2010 and Chapter 396 of the Acts of the General Assembly of 2011

Section 1(3) Item ZA01(BM)

BY repealing and reenacting, with amendments,

Chapter 336 of the Acts of the General Assembly of 2008

Section 1(3) Item ZA01(M) and (BJ) and Item ZA02(H) and (BP)

BY repealing and reenacting, with amendments,

Chapter 336 of the Acts of the General Assembly of 2008, as amended by Chapter 372 of the Acts of the General Assembly of 2010

Section 1(3) Item ZA01(AA) and (BG) and Item ZA02(J) ~~and (X)~~, (X), (AQ), and (BQ)

BY repealing and reenacting, with amendments,

Chapter 336 of the Acts of the General Assembly of 2008, as amended by Chapter 396 of the Acts of the General Assembly of 2011
Section 1(3) Item ZA01(AT) and Item ZA02(AG)

BY repealing and reenacting, with amendments,

Chapter 485 of the Acts of the General Assembly of 2009
Section 1(3) Item ZA00(S)

BY repealing and reenacting, with amendments,

Chapter 485 of the Acts of the General Assembly of 2009, as amended by Chapter 396 of the Acts of the General Assembly of 2011
Section 1(3) Item ZA03(AK)

BY repealing and reenacting, with amendments,

Chapter 483 of the Acts of the General Assembly of 2010
Section 1(3) Item ZA02(L), (N), (P), (X), (AD), (AF), (AH), (AI), (AR), (AX), (BA), ~~and (BB)~~ (BB), (BG), and (BJ) and Item ZA03(L), (P), (Q), (AD), (AH), (AI), (AM), (AN), (AS), (AZ), (BD), (BI), and (BK)

BY repealing and reenacting, with amendments,

Chapter 483 of the Acts of the General Assembly of 2010, as amended by Chapter 187 of the Acts of the General Assembly of 2011
Section 1(3) Item ZA02(BH)

BY repealing and reenacting, with amendments,

Chapter 483 of the Acts of the General Assembly of 2010, as amended by Chapter 188 of the Acts of the General Assembly of 2011
Section 1(3) Item ZA02(BE)

BY repealing and reenacting, with amendments,

Chapter 483 of the Acts of the General Assembly of 2010, as amended by Chapter 396 of the Acts of the General Assembly of 2011
Section 1(3) Item ZA02(~~BE~~)(U), (BF), and (BK) and Item ZA03(~~BB-1~~)(X) and (BB-1)

BY repealing and reenacting, with amendments,

Chapter 396 of the Acts of the General Assembly of 2011
Section 1(3) Item ZA00(S), Item ZA02(H) ~~and (BH)~~, (U), (BB), and (BH), and Item ZA03(H)

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

Chapter 445 of the Acts of 2005

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

(3) ZA00 MISCELLANEOUS GRANT PROGRAMS

(C) Babe Ruth Birthplace and Museum. Provide a grant to the Board of Directors of the Babe Ruth Birthplace Foundation, Inc. to assist in the design, construction, renovation, and equipping of improvements to the Babe Ruth Birthplace and Museum. **NOTWITHSTANDING SECTION 1(7) OF THIS ACT, THIS GRANT MAY NOT TERMINATE BEFORE JUNE 1, ~~2015~~ 2013** (Baltimore City) 250,000

ZA01 LOCAL HOUSE OF DELEGATES INITIATIVES

(AB) [The Amphitheater at Bainbridge] HISTORIC TOME SCHOOL. Provide a grant equal to the lesser of (i) \$100,000 or (ii) the amount of the matching fund provided, to the Board of Directors of the Bainbridge Development Corporation, Inc. for the planning, design, repair, renovation, reconstruction, and capital equipping of the [amphitheater] HISTORIC TOME SCHOOL, located at the former Bainbridge Naval Training Center, in Bainbridge, SUBJECT TO A REQUIREMENT THAT THE GRANTEE GRANT AND CONVEY A HISTORIC EASEMENT TO THE MARYLAND HISTORICAL TRUST. NOTWITHSTANDING SECTION 1(7) OF THIS ACT, THIS GRANT MAY NOT TERMINATE BEFORE JUNE 1, 2013 (Cecil County) 100,000

(AV) Seneca Schoolhouse Museum. Provide a grant [equal to the lesser of (i)] OF \$100,000 [or (ii) the amount of the matching fund provided,] to the Board of Directors of Historic Medley District, Inc. for the design, repair, renovation, addition of handicapped access, and historic preservation of the Seneca Schoolhouse Museum, located in Montgomery County, subject to a requirement that the grantee grant and convey an historic easement to the Maryland Historical Trust. [Notwithstanding Section 1(5) of this Act, the matching fund may consist of in kind contributions or funds expended prior to the effective date of this Act] **NOTWITHSTANDING SECTION 1(7) OF THIS ACT, THIS GRANT MAY NOT TERMINATE BEFORE JUNE 1, ~~2014~~ 2013** (Montgomery County) 100,000

(BL) Patuxent River Naval Air Museum and Visitors Center. Provide a grant equal to the lesser of (i) \$350,000 or (ii) the amount of the matching fund provided, to the Board of County Commissioners of St. Mary’s County for the planning, design, construction, renovation, reconstruction, and capital equipping of the buildings and permanent exhibits of the Patuxent River Naval Air Museum and Visitors Center, to be located adjacent to the Patuxent River Naval Air Station in Lexington Park. **NOTWITHSTANDING SECTION 1(7) OF THIS ACT, THIS GRANT MAY NOT TERMINATE BEFORE JUNE 1, 2013** (St. Mary’s County) 350,000

ZA02 LOCAL SENATE INITIATIVES

(I) *Robert A. Pascal Youth Counseling Clinic. Provide a grant equal to the lesser of (i) \$100,000 or (ii) the amount of the matching fund provided, to the Board of Directors of the Robert A. Pascal Youth and Family Services, Inc. for the planning, design, construction, renovation, and capital equipping of a clinic to provide comprehensive counseling services to high-risk youth and families, located in Severna Park. Notwithstanding Section 1(5) of this Act, the matching fund may consist of in kind contributions. **NOTWITHSTANDING SECTION 1(7) OF THIS ACT, THIS GRANT MAY NOT TERMINATE BEFORE JUNE 1, 2013** (Anne Arundel County)* 100,000

(BH) Historic Bostwick House. Provide a grant equal to the lesser of (i) \$100,000 or (ii) the amount of the matching fund provided, to the Mayor and Town Council of the Town of Bladensburg for the design, repair, renovation, reconstruction, and capital equipping of the Historic Bostwick House, including grounds stabilization, structural rehabilitation, fire protection systems and utility improvements, air conditioning, and other improvements to make the facility compliant with the Federal Americans With Disabilities Act, located in Bladensburg, subject to a requirement that the grantee grant and convey an historical easement to the Maryland Historical Trust. Notwithstanding Section 1(5) of this Act, the matching fund may consist of in kind contributions. **NOTWITHSTANDING SECTION 1(7) OF THIS ACT, THIS GRANT MAY NOT TERMINATE BEFORE JUNE 1, 2014 2013** (Prince George’s County) 100,000

(BQ) Patuxent River Naval Air Museum and Visitors Center.

Provide a grant equal to the lesser of (i) \$150,000 or (ii) the amount of the matching fund provided, to the Board of County Commissioners of St. Mary's County for the planning, design, construction, renovation, reconstruction, and capital equipping of the buildings and permanent exhibits of the Patuxent River Naval Air Museum and Visitors Center, to be located adjacent to the Patuxent River Naval Air Station in Lexington Park. **NOTWITHSTANDING SECTION 1(7) OF THIS ACT, THIS GRANT MAY NOT TERMINATE BEFORE JUNE 1, 2013** (St. Mary's County)

150,000

Chapter 445 of the Acts of 2005, as amended by Chapter 65 of the Acts of 2007, Chapter 219 of the Acts of 2008, Chapter 707 of the Acts of 2009, and Chapter 372 of the Acts of 2010

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

(3) ZA01 LOCAL HOUSE OF DELEGATES INITIATIVES

(AR) Old Blair High School Auditorium. Provide a grant equal to the lesser of (i) \$300,000 or (ii) the amount of the matching fund provided, to the Board of Directors of the Old Blair Auditorium Project, Inc. for the repair, renovation, construction, reconstruction, and capital equipping of the Old Blair High School Auditorium located in Silver Spring. Notwithstanding Section 1(5) of this Act, the matching fund may consist of in kind contributions or funds expended prior to the effective date of this Act and the grantee must present evidence that a matching fund will be provided by June 1, [2012] ~~2014~~ 2013. **NOTWITHSTANDING SECTION 1(7) OF THIS ACT, THIS GRANT MAY NOT TERMINATE BEFORE JUNE 1, ~~2014~~ 2013** (Montgomery County).....

300,000

ZA02 LOCAL SENATE INITIATIVES

(AV) Old Blair High School Auditorium. Provide a grant equal to the lesser of (i) \$300,000 or (ii) the amount of the matching fund provided, to the Board of Directors of the Old Blair Auditorium Project, Inc. for the repair, renovation, construction, reconstruction, and capital equipping of the Old Blair High School Auditorium located in Silver Spring. Notwithstanding Section 1(5) of this Act, the matching fund may consist of in kind contributions or funds expended prior to the effective date of this Act and the grantee must present evidence that a matching fund will be provided by June 1,

[2012] ~~2014~~ 2013. NOTWITHSTANDING SECTION 1(7) OF THIS ACT, THIS GRANT MAY NOT TERMINATE BEFORE JUNE 1, ~~2014~~ 2013 (Montgomery County)..... 300,000

Chapter 46 of the Acts of 2006

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

(3) ZA01 LOCAL SENATE INITIATIVES

(CM) Rural Heritage Transportation Museum. Provide a grant equal to the lesser of (i) \$100,000 or (ii) the amount of the matching fund provided, to the Board of Directors of the Washington County Agricultural Education Center, Inc. for the planning, design, construction, and capital equipping of the Rural Heritage Transportation Museum, located in [Sharpsburg] **BOONSBORO** (Washington County) 100,000

Chapter 488 of the Acts of 2007, as amended by Chapter 219 of the Acts of 2008

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

(3) ZA01 LOCAL HOUSE INITIATIVES

(BD) Reid Community Business Development Center. Provide a grant [equal to the lesser of (i)] **OF** \$100,000 [or (ii) the amount of the matching fund provided,] to the Board of Directors of the Reid Community Development Corporation for the acquisition, planning, construction, and capital equipping of the Reid Community Business Development Center, located in Prince George’s County, **SUBJECT TO A REQUIREMENT THAT THE GRANTEE PROVIDE AND EXPEND A MATCHING FUND OF \$50,000. NOTWITHSTANDING SECTION 1(5) OF THIS ACT, THE GRANTEE HAS UNTIL JUNE 1, ~~2014~~ 2013, TO PRESENT EVIDENCE THAT A MATCHING FUND WILL BE PROVIDED** (Prince George’s County) 100,000

ZA02 LOCAL SENATE INITIATIVES

(BT) Reid Community Business Development Center. Provide a grant [equal to the lesser of (i)] **OF** \$200,000 [or (ii) the amount of the matching fund provided,] to the Board of

Directors of the Reid Community Development Corporation for the acquisition, planning, construction, and capital equipping of the Reid Community Business Development Center, located in Prince George's County, **SUBJECT TO A REQUIREMENT THAT THE GRANTEE PROVIDE AND EXPEND A MATCHING FUND OF \$100,000. NOTWITHSTANDING SECTION 1(5) OF THIS ACT, THE GRANTEE HAS UNTIL JUNE 1, ~~2014~~ 2013, TO PRESENT EVIDENCE THAT A MATCHING FUND WILL BE PROVIDED** (Prince George's County) 200,000

Chapter 488 of the Acts of 2007, as amended by Chapter 372 of the Acts of 2010, as amended by Chapter 396 of the Acts of 2011

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

(3) ZA01 LOCAL HOUSE INITIATIVES

(BM) St. Mary's County Fairgrounds. Provide a grant equal to the lesser of (i) \$75,000 or (ii) the amount of the matching fund provided, to the Board of Directors of the St. Mary's County Fair Association, Inc. for the construction, repair, renovation, reconstruction, and capital equipping of the St. Mary's County Fairgrounds, located in ~~St. Mary's City~~ Leonardtown. Notwithstanding Section 1(5) of this Act, the matching fund may consist of real property, in kind contributions, or funds expended prior to the effective date of this Act and the grantee has until June 1, [2012] ~~2014~~ **2013**, to present evidence that a matching fund will be provided (St. Mary's County) 75,000

Chapter 336 of the Acts of 2008

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

(3) ZA01 LOCAL SENATE INITIATIVES

(M) [Deale Elementary] **SOUTHERN MIDDLE** School ~~Baseball~~ **MULTIPURPOSE** Fields. Provide a grant equal to the lesser of (i) \$100,000 or (ii) the amount of the matching fund provided, to the County Executive and County Council of Anne Arundel County for the planning, design, construction, and renovation of lights and field improvements to ~~baseball~~ **MULTIPURPOSE** fields, located in [Deale] **LOTHIAN** (Anne Arundel County) 100,000

(BJ) Gaithersburg Upcounty Senior Center. Provide a grant equal to the lesser of (i) \$200,000 or (ii) the amount of the matching fund provided, to the Mayor and City Council of the City of Gaithersburg for the design [and], construction, AND **RENOVATION** of the Gaithersburg Upcounty Senior Center, located in Gaithersburg (Montgomery County) 200,000

ZA02 LOCAL HOUSE INITIATIVES

(H) [Deale Elementary] **SOUTHERN MIDDLE** School ~~Baseball~~ **MULTIPURPOSE** Fields. Provide a grant equal to the lesser of (i) \$25,000 or (ii) the amount of the matching fund provided, to the County Executive and County Council of Anne Arundel County for the planning, design, construction, and renovation of lights and field improvements to ~~baseball~~ **MULTIPURPOSE** fields, located in [Deale] **LOTHIAN** (Anne Arundel County) ... 25,000

(BP) [New Carrollton Recreation Center] **BECKETT FIELD**. Provide a grant equal to the lesser of (i) \$150,000 or (ii) the amount of the matching fund provided, to the Mayor and City Council of the City of New Carrollton for the planning, design, and construction of [a recreation center] **LIGHTS AND A SCOREBOARD FOR BECKETT FIELD**, located in New Carrollton. Notwithstanding Section 1(5) of this Act, the matching fund may consist of real property (Prince George’s County) 150,000

Chapter 336 of the Acts of 2008, as amended by Chapter 372 of the Acts of 2010

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

(3) ZA01 LOCAL SENATE INITIATIVES

(AA) Roberta’s House. Provide a grant [equal to the lesser of (i)] **OF \$50,000 [or (ii) the amount of the matching fund provided,]** to the Board of Directors of Roberta’s House, Inc. for the acquisition, planning, design, renovation, construction, reconstruction, repair, and capital equipping of Roberta’s House, located in Baltimore City[. Notwithstanding Section 1(5) of this Act, the matching fund may consist of real property, in kind contributions, or funds expended prior to the effective date of this Act and the grantee must present evidence that a matching fund will be provided by June 1, 2012] (Baltimore City) 50,000

(BG) Button Farm Historic Preservation and Rehabilitation. Provide a grant equal to the lesser of (i) \$125,000 or (ii) the amount of the matching fund provided, to the Board of Directors of The Menare Foundation, Inc. for the planning, design, construction, repair, and renovation of the Button Farm, located in Germantown. Notwithstanding Section 1(5) of this Act, the matching fund may consist of in kind contributions or funds expended prior to the effective date of this Act and the grantee must present evidence that a matching fund will be provided by June 1, [2012] 2013. NOTWITHSTANDING SECTION 1(7) OF THIS ACT, THIS GRANT MAY NOT TERMINATE BEFORE JUNE 1, 2013 (Montgomery County) 125,000

ZA02 LOCAL HOUSE INITIATIVES

(J) Goshen House. Provide a grant equal to the lesser of (i) \$150,000 or (ii) the amount of the matching fund provided, to the Board of Directors of the Goshen Farm Preservation Society, Inc. for the planning, design, construction, repair, renovation, reconstruction, emergency stabilization, and capital equipping of the Goshen House, located in Cape St. Claire[, subject to a requirement that the grantee grant and convey a historic easement to the Maryland Historical Trust]. Notwithstanding Section 1(5) of this Act, the matching fund may consist of real property, in kind contributions, or funds expended prior to the effective date of this Act and the grantee must present evidence that a matching fund will be provided by June 1, [2012] 2013 (Anne Arundel County) 150,000

(X) Roberta's House. Provide a grant [equal to the lesser of (i)] OF \$250,000 [or (ii) the amount of the matching fund provided,] to the Board of Directors of Roberta's House, Inc. for the acquisition, planning, design, renovation, construction, reconstruction, repair, and capital equipping of Roberta's House, located in Baltimore City[. Notwithstanding Section 1(5) of this Act, the matching fund may consist of real property, in kind contributions, or funds expended prior to the effective date of this Act and the grantee must present evidence that a matching fund will be provided by June 1, 2012] (Baltimore City) 250,000

(AQ) Button Farm Historic Preservation and Rehabilitation. Provide a grant equal to the lesser of (i) \$175,000 or (ii) the amount of the matching fund provided, to the Board of

Directors of The Menare Foundation, Inc. for the planning, design, construction, repair, and renovation of the Button Farm, located in Germantown. Notwithstanding Section 1(5) of this Act, the matching fund may consist of in kind contributions or funds expended prior to the effective date of this Act and the grantee must present evidence that a matching fund will be provided by June 1, [2012] 2013. NOTWITHSTANDING SECTION 1(7) OF THIS ACT, THIS GRANT MAY NOT TERMINATE BEFORE JUNE 1, 2013 (Montgomery County)

175,000

(BQ) Rosaryville Conservancy Tack House and Stables. Provide a grant equal to the lesser of (i) \$100,000 or (ii) the amount of the matching fund provided, to the Board of Directors of the Rosaryville Conservancy, Inc. for the repair, renovation, and restoration of the tack house and stables located in the conservancy area on the grounds of the Mount Airy Mansion, located in Upper Marlboro. Notwithstanding Section 1(5) of this Act, the matching fund may consist of in kind contributions and funds expended prior to the effective date of this Act and the grantee has until June 1, [2012] 2013, to present evidence that a matching fund will be provided (Prince George’s County)

100,000

Chapter 336 of the Acts of 2008, as amended by Chapter 396 of the Acts of 2011

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

(3) ZA01 LOCAL SENATE INITIATIVES

(AT) Lions Camp Merrick. Provide a grant equal to the lesser of (i) \$102,500 or (ii) the amount of the matching fund provided, to the Board of Directors of Waldorf Lions Foundation for the renovation of the septic system at Camp Merrick, located in Nanjemoy. Notwithstanding Section 1(5) of this Act, the matching fund may consist of real property or in kind contributions, and the grantee has until December 1, [2012] 2013, to present evidence that a matching fund will be provided. Notwithstanding Section 1(7) of this Act, the proceeds of the loan must be expended or encumbered by the Board of Public Works for the purposes provided in this Act no later than December 1, [2012] 2013 (Charles County).....

102,500

ZA02 LOCAL HOUSE INITIATIVES

(AG) Lions Camp Merrick. Provide a grant equal to the lesser of (i) \$48,000 or (ii) the amount of the matching fund provided, to the Board of Directors of Waldorf Lions Foundation for the renovation of the septic system at Camp Merrick, located in Nanjemoy. Notwithstanding Section 1(5) of this Act, the matching fund may consist of real property or in kind contributions, and the grantee has until December 1, [2012] 2013, to present evidence that a matching fund will be provided. Notwithstanding Section 1(7) of this Act, the proceeds of the loan must be expended or encumbered by the Board of Public Works for the purposes provided in this Act no later than December 1, [2012] 2013 (Charles County)..... 48,000

Chapter 485 of the Acts of 2009

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

(3) ZA00 MISCELLANEOUS GRANT PROGRAMS

(S) Robert E. Lee Park. Provide a grant to the County Executive and County Council of Baltimore County for the design [and], construction, AND CAPITAL EQUIPPING of improvements to Robert E. Lee Park in Baltimore County, subject to the requirement that the grantee provide an equal and matching fund for this purpose. Notwithstanding the provisions of Section 1(5) of this Act, the matching fund may consist of funds expended prior to the effective date of this Act (Baltimore County)..... 3,000,000

Chapter 485 of the Acts of 2009, as amended by Chapter 396 of the Acts of 2011

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

(3) ZA03 LOCAL SENATE INITIATIVES

(AK) Black Rock Center for the Arts. Provide a grant equal to the lesser of (i) \$50,000 or (ii) the amount of the matching fund provided, to the Board of Trustees of the Germantown Cultural Arts Center, Inc. d / b/ a Black Rock Center for the Arts, Inc. for the planning, design, construction, and capital equipping of the Black Rock Center for the Arts, located in Germantown. Notwithstanding Section 1(5) of this Act, the matching fund may consist of in kind contributions and the grantee has until

[December 1, 2012] JUNE 1, 2013, to present evidence that a matching fund will be provided. Notwithstanding Section 1(7) of this Act, [the proceeds of the loan must be expended or encumbered by the Board of Public Works for the purposes provided in this Act no later than December 1, 2012] THIS GRANT MAY NOT TERMINATE BEFORE JUNE 1, 2013 (Montgomery County).....

50,000

Chapter 483 of the Acts of 2010

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

(3) ZA02 LOCAL SENATE INITIATIVES

(L) Franklin Entrepreneurial and Apprenticeship Center. Provide a grant equal to the lesser of (i) \$45,000 or (ii) the amount of the matching fund provided, to the Board of Directors of the Druid Heights Community Development Corporation for the construction and renovation of the Franklin Entrepreneurial and Apprenticeship Center, located in Baltimore City. NOTWITHSTANDING SECTION 1(5) OF THIS ACT, THE GRANTEE HAS UNTIL JUNE 1, 2013, TO PRESENT EVIDENCE THAT A MATCHING FUND WILL BE PROVIDED. NOTWITHSTANDING SECTION 1(7) OF THIS ACT, THIS GRANT MAY NOT TERMINATE BEFORE JUNE 1, 2013 (Baltimore City).....

45,000

(N) Port Discovery. Provide a grant equal to the lesser of (i) \$75,000 or (ii) the amount of the matching fund provided, to the Board of Directors of the Baltimore Children’s Museum, Inc. for the planning, design, construction, renovation, and capital equipping of Port Discovery, to include replacing windows, construction of permanent exhibits, replacing the roof, and reconfiguring the stairways and doorways to improve the flow of traffic through the museum, located in Baltimore City. NOTWITHSTANDING SECTION 1(5) OF THIS ACT, THE GRANTEE HAS UNTIL JUNE 1, 2013, TO PRESENT EVIDENCE THAT A MATCHING FUND WILL BE PROVIDED. NOTWITHSTANDING SECTION 1(7) OF THIS ACT, THIS GRANT MAY NOT TERMINATE BEFORE JUNE 1, 2013 (Baltimore City)

75,000

(P) Southeast Neighborhood Development Center. Provide a grant equal to the lesser of (i) \$150,000 or (ii) the amount of

the matching fund provided, to the Board of Directors of Southeast Development, Inc. for the renovation of the Southeast Neighborhood Development Center, located in Baltimore City. NOTWITHSTANDING SECTION 1(5) OF THIS ACT, THE GRANTEE HAS UNTIL JUNE 1, 2013, TO PRESENT EVIDENCE THAT A MATCHING FUND WILL BE PROVIDED. NOTWITHSTANDING SECTION 1(7) OF THIS ACT, THIS GRANT MAY NOT TERMINATE BEFORE JUNE 1, 2013 (Baltimore City)

150,000

(X) Carroll County Agriculture Center. Provide a grant equal to the lesser of (i) \$150,000 or (ii) the amount of the matching fund provided, to the Board of Directors of the Carroll County Agriculture Center, Inc. for the repair, renovation, capital equipping, and utility upgrades of the Carroll County Agriculture Center, located in Westminster. Notwithstanding Section 1(5) of this Act, the matching fund may consist of in kind contributions or funds expended prior to the effective date of this Act **AND THE GRANTEE HAS UNTIL JUNE 1, ~~2014~~ 2013, TO PRESENT EVIDENCE THAT A MATCHING FUND WILL BE PROVIDED. NOTWITHSTANDING SECTION 1(7) OF THIS ACT, THIS GRANT MAY NOT TERMINATE BEFORE JUNE 1, ~~2014~~ 2013** (Carroll County)

150,000

(AD) Richardson Maritime Heritage Center. Provide a grant equal to the lesser of (i) \$50,000 or (ii) the amount of the matching fund provided, to the Board of Trustees of the James B. Richardson Foundation, Inc. for the development or improvement purposes of the Richardson Maritime Heritage Center, located in Cambridge. Notwithstanding Section 1(5) of this Act, the matching fund may consist of real property, **IN KIND CONTRIBUTIONS, OR FUNDS EXPENDED PRIOR TO THE EFFECTIVE DATE OF THIS ACT, AND THE GRANTEE HAS UNTIL JUNE 1, ~~2014~~ 2013, TO PRESENT EVIDENCE THAT A MATCHING FUND WILL BE PROVIDED. NOTWITHSTANDING SECTION 1(7) OF THIS ACT, THIS GRANT MAY NOT TERMINATE BEFORE JUNE 1, ~~2014~~ 2013** (Dorchester County)

50,000

(AF) Oakland B&O Museum. Provide a grant equal to the lesser of (i) \$100,000 or (ii) the amount of the matching fund provided, to the Mayor and Town Council of the Town of Oakland for the planning, design, construction, repair, renovation, reconstruction, and capital equipping of the Oakland B&O Museum, located in Oakland. Notwithstanding Section 1(5) of

| | | |
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| | <u>this Act, the matching fund may consist of real property, in kind contributions, or funds expended prior to the effective date of this Act. NOTWITHSTANDING SECTION 1(5) OF THIS ACT, THE GRANTEE HAS UNTIL JUNE 1, 2013, TO PRESENT EVIDENCE THAT A MATCHING FUND WILL BE PROVIDED. NOTWITHSTANDING SECTION 1(7) OF THIS ACT, THIS GRANT MAY NOT TERMINATE BEFORE JUNE 1, 2013 (Garrett County)</u> | <u>100,000</u> |
| (AH) | <u>Symphony Woods Park. Provide a grant equal to the lesser of (i) \$190,000 or (ii) the amount of the matching fund provided, to the Board of Directors of the Columbia Association, Inc. for the design and construction of the Symphony Woods Park, located in Columbia. NOTWITHSTANDING SECTION 1(5) OF THIS ACT, THE GRANTEE HAS UNTIL JUNE 1, 2013, TO PRESENT EVIDENCE THAT A MATCHING FUND WILL BE PROVIDED. NOTWITHSTANDING SECTION 1(7) OF THIS ACT, THIS GRANT MAY NOT TERMINATE BEFORE JUNE 1, 2013 (Howard County)</u> | <u>190,000</u> |
| (AI) | <u>Troy Regional Park. Provide a grant equal to the lesser of (i) \$225,000 or (ii) the amount of the matching fund provided, to the County Executive and County Council of Howard County for the design, construction, and capital equipping of the Troy Regional Park, located in Elkridge. NOTWITHSTANDING SECTION 1(7) OF THIS ACT, THIS GRANT MAY NOT TERMINATE BEFORE JUNE 1, 2013 (Howard County)</u> | <u>225,000</u> |
| (AR) | <u>Maydale Nature Center. Provide a grant of \$20,000 to the Board of Directors of The Friends of Maydale Nature Center, Inc. for the reconstruction of the Maydale Nature Center, located in Colesville, subject to a requirement that the grantee provide and expend a matching fund of \$10,000. Notwithstanding Section 1(5) of this Act, the matching fund may consist of in kind contributions. NOTWITHSTANDING SECTION 1(5) OF THIS ACT, THE GRANTEE HAS UNTIL JUNE 1, 2014 2013, TO PRESENT EVIDENCE THAT A MATCHING FUND WILL BE PROVIDED. NOTWITHSTANDING SECTION 1(7) OF THIS ACT, THIS GRANT MAY NOT TERMINATE BEFORE JUNE 1, 2014 2013 (Montgomery County)</u> | <u>20,000</u> |
| (AX) | <u>Sandy Spring Museum. Provide a grant equal to the lesser of (i) \$65,000 or (ii) the amount of the matching fund provided, to the Board of Trustees of the Sandy Spring Museum, Inc. for</u> | |

the planning, repair, and capital equipping of the Sandy Spring Museum, located in Sandy Spring. Notwithstanding Section 1(5) of this Act, the matching fund may consist of in kind contributions or funds expended prior to the effective date of this Act **AND THE GRANTEE HAS UNTIL JUNE 1, 2013, TO PRESENT EVIDENCE THAT A MATCHING FUND WILL BE PROVIDED. NOTWITHSTANDING SECTION 1(7) OF THIS ACT, THIS GRANT MAY NOT TERMINATE BEFORE JUNE 1, 2013** (Montgomery County)

65,000

~~(AX)~~

~~Sandy Spring Museum. Provide a grant equal to the lesser of (i) \$65,000 or (ii) the amount of the matching fund provided, to the Board of Trustees of the Sandy Spring Museum, Inc. for the planning, repair, and capital equipping of the Sandy Spring Museum, located in Sandy Spring. Notwithstanding Section 1(5) of this Act, the matching fund may consist of in kind contributions or funds expended prior to the effective date of this Act **AND THE GRANTEE HAS UNTIL JUNE 1, 2013, TO PRESENT EVIDENCE THAT A MATCHING FUND WILL BE PROVIDED. NOTWITHSTANDING SECTION 1(7) OF THIS ACT, THIS GRANT MAY NOT TERMINATE BEFORE JUNE 1, 2013** (Montgomery County)~~

~~65,000~~

(BA)

Bladensburg Market Square II. Provide a grant equal to the lesser of (i) \$100,000 or (ii) the amount of the matching fund provided, to the Board of Directors of Prince George's Heritage, Inc. for the acquisition, planning, design, construction, repair, renovation, reconstruction, and capital equipping of the second phase of the Bladensburg Market Square Project, located in Bladensburg. Notwithstanding Section 1(5) of this Act, the matching fund may consist of real property, in kind contributions, or funds expended prior to the effective date of this Act **AND THE GRANTEE HAS UNTIL JUNE 1, 2014 2013, TO PRESENT EVIDENCE THAT A MATCHING FUND WILL BE PROVIDED. NOTWITHSTANDING SECTION 1(7) OF THIS ACT, THIS GRANT MAY NOT TERMINATE BEFORE JUNE 1, 2014 2013** (Prince George's County)

100,000

(BB)

Community Forklift Facility. Provide a grant equal to the lesser of (i) \$100,000 or (ii) the amount of the matching fund provided, to the Board of Directors of the Sustainable Community Initiatives, Inc. for the acquisition, construction, and repair of the Community Forklift Facility, located in Edmonston. **NOTWITHSTANDING SECTION 1(5) OF THIS**

ACT, THE GRANTEE HAS UNTIL JUNE 1, 2013, TO PRESENT EVIDENCE THAT A MATCHING FUND WILL BE PROVIDED. NOTWITHSTANDING SECTION 1(7) OF THIS ACT, THIS GRANT MAY NOT TERMINATE BEFORE JUNE 1, 2013 (Prince George’s County) 100,000

(BG) La Vida Sana (Healthy Living Farm). Provide a grant equal to the lesser of (i) \$50,000 or (ii) the amount of the matching fund provided, to the Board of Directors of the Engaged Community Offshoots, Inc. for the acquisition, design, and construction of the Healthy Living Farm, located in Edmonston. Notwithstanding Section 1(5) of this Act, the matching fund may consist of real property, in kind contributions, or funds expended prior to the effective date of this Act AND THE GRANTEE HAS UNTIL JUNE 1, 2013, TO PRESENT EVIDENCE THAT A MATCHING FUND WILL BE PROVIDED. NOTWITHSTANDING SECTION 1(7) OF THIS ACT, THIS GRANT MAY NOT TERMINATE BEFORE JUNE 1, 2013 (Prince George’s County)..... 50,000

ZA03 LOCAL HOUSE OF DELEGATES INITIATIVES

(L) Franklin Entrepreneurial and Apprenticeship Center. Provide a grant equal to the lesser of (i) \$75,000 or (ii) the amount of the matching fund provided, to the Board of Directors of the Druid Heights Community Development Corporation for the construction and renovation of the Franklin Entrepreneurial and Apprenticeship Center, located in Baltimore City. NOTWITHSTANDING SECTION 1(5) OF THIS ACT, THE GRANTEE HAS UNTIL JUNE 1, 2013, TO PRESENT EVIDENCE THAT A MATCHING FUND WILL BE PROVIDED. NOTWITHSTANDING SECTION 1(7) OF THIS ACT, THIS GRANT MAY NOT TERMINATE BEFORE JUNE 1, 2013 (Baltimore City)..... 75,000

(P) Port Discovery. Provide a grant equal to the lesser of (i) \$25,000 or (ii) the amount of the matching fund provided, to the Board of Directors of the Baltimore Children’s Museum, Inc. for the planning, design, construction, renovation, and capital equipping of Port Discovery, to include replacing windows, construction of permanent exhibits, replacing the roof, and reconfiguring the stairways and doorways to improve the flow of traffic through the museum, located in Baltimore City. NOTWITHSTANDING SECTION 1(5) OF THIS ACT, THE GRANTEE HAS UNTIL JUNE 1, 2013, TO

PRESENT EVIDENCE THAT A MATCHING FUND WILL BE PROVIDED. NOTWITHSTANDING SECTION 1(7) OF THIS ACT, THIS GRANT MAY NOT TERMINATE BEFORE JUNE 1, 2013 (Baltimore City)

25,000

(Q) Southeast Neighborhood Development Center. Provide a grant equal to the lesser of (i) \$150,000 or (ii) the amount of the matching fund provided, to the Board of Directors of Southeast Development, Inc. for the renovation of the Southeast Neighborhood Development Center, located in Baltimore City. NOTWITHSTANDING SECTION 1(5) OF THIS ACT, THE GRANTEE HAS UNTIL JUNE 1, 2013, TO PRESENT EVIDENCE THAT A MATCHING FUND WILL BE PROVIDED. NOTWITHSTANDING SECTION 1(7) OF THIS ACT, THIS GRANT MAY NOT TERMINATE BEFORE JUNE 1, 2013 (Baltimore City)

150,000

(AD) Kellam’s Field. Provide a grant equal to the lesser of (i) \$125,000 or (ii) the amount of the matching fund provided, to the MAYOR AND TOWN COUNCIL OF THE Town of Chesapeake Beach for the planning, design, construction, repair, renovation, reconstruction, and capital equipping of Kellam’s Field, located in Chesapeake Beach. Notwithstanding Section 1(5) of this Act, the matching fund may consist of real property, in kind contributions, or funds expended prior to the effective date of this Act. NOTWITHSTANDING SECTION 1(5) OF THIS ACT, THE GRANTEE HAS UNTIL JUNE 1, ~~2014~~ 2013, TO PRESENT EVIDENCE THAT A MATCHING FUND WILL BE PROVIDED. NOTWITHSTANDING SECTION 1(7) OF THIS ACT, THIS GRANT MAY NOT TERMINATE BEFORE JUNE 1, ~~2014~~ 2013 (Calvert County)

125,000

(AH) Oakland B&O Museum. Provide a grant equal to the lesser of (i) \$100,000 or (ii) the amount of the matching fund provided, to the Mayor and Town Council of the Town of Oakland for the planning, design, construction, repair, renovation, reconstruction, and capital equipping of the Oakland B&O Museum, located in Oakland. Notwithstanding Section 1(5) of this Act, the matching fund may consist of real property, in kind contributions, or funds expended prior to the effective date of this Act. NOTWITHSTANDING SECTION 1(5) OF THIS ACT, THE GRANTEE HAS UNTIL JUNE 1, 2013, TO PRESENT EVIDENCE THAT A MATCHING FUND WILL BE PROVIDED. NOTWITHSTANDING SECTION 1(7) OF THIS

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| | <u>ACT, THIS GRANT MAY NOT TERMINATE BEFORE JUNE 1, 2013 (Garrett County)</u> | <u>100,000</u> |
| (AI) | Nuttal Avenue Park. Provide a grant equal to the lesser of (i) \$100,000 or (ii) the amount of the matching fund provided, to the County Executive and County Council of Harford County for the construction of Nuttal Avenue Park, located in Edgewood. NOTWITHSTANDING SECTION 1(5) OF THIS ACT, THE GRANTEE HAS UNTIL JUNE 1, 2013, TO PRESENT EVIDENCE THAT A MATCHING FUND WILL BE PROVIDED. NOTWITHSTANDING SECTION 1(7) OF THIS ACT, THIS GRANT MAY NOT TERMINATE BEFORE JUNE 1, 2013 (Harford County) | 100,000 |
| (AM) | <u>Symphony Woods Park. Provide a grant equal to the lesser of (i) \$60,000 or (ii) the amount of the matching fund provided, to the Board of Directors of the Columbia Association, Inc. for the design and construction of the Symphony Woods Park, located in Columbia. NOTWITHSTANDING SECTION 1(5) OF THIS ACT, THE GRANTEE HAS UNTIL JUNE 1, 2013, TO PRESENT EVIDENCE THAT A MATCHING FUND WILL BE PROVIDED. NOTWITHSTANDING SECTION 1(7) OF THIS ACT, THIS GRANT MAY NOT TERMINATE BEFORE JUNE 1, 2013 (Howard County)</u> | <u>60,000</u> |
| (AN) | <u>Troy Regional Park. Provide a grant equal to the lesser of (i) \$230,000 or (ii) the amount of the matching fund provided, to the County Executive and County Council of Howard County for the design, construction, and capital equipping of the Troy Regional Park, located in Elkridge. NOTWITHSTANDING SECTION 1(7) OF THIS ACT, THIS GRANT MAY NOT TERMINATE BEFORE JUNE 1, 2013 (Howard County)</u> | <u>230,000</u> |
| (AS) | Maydale Nature Center. Provide a grant of \$35,000 to the Board of Directors of The Friends of Maydale Nature Center, Inc. for the reconstruction of the Maydale Nature Center, located in Colesville. NOTWITHSTANDING SECTION 1(5) OF THIS ACT, THE GRANTEE HAS UNTIL JUNE 1, 2014 2013, TO PRESENT EVIDENCE THAT A MATCHING FUND WILL BE PROVIDED. NOTWITHSTANDING SECTION 1(7) OF THIS ACT, THIS GRANT MAY NOT TERMINATE BEFORE JUNE 1, 2014 2013 (Montgomery County)..... | 35,000 |
| (AZ) | Community Forklift Facility. Provide a grant equal to the lesser of (i) \$100,000 or (ii) the amount of the matching fund | |

provided, to the Board of Directors of the Sustainable Community Initiatives, Inc. for the acquisition, construction, and repair of the Community Forklift Facility, located in Edmonston. **NOTWITHSTANDING SECTION 1(5) OF THIS ACT, THE GRANTEE HAS UNTIL JUNE 1, 2013, TO PRESENT EVIDENCE THAT A MATCHING FUND WILL BE PROVIDED. NOTWITHSTANDING SECTION 1(7) OF THIS ACT, THIS GRANT MAY NOT TERMINATE BEFORE JUNE 1, 2013** (Prince George's County)

100,000

(BD) La Vida Sana (Healthy Living Farm). Provide a grant equal to the lesser of (i) \$25,000 or (ii) the amount of the matching fund provided, to the Board of Directors of the Engaged Community Offshoots, Inc. for the acquisition, design, and construction of the Healthy Living Farm, located in Edmonston. Notwithstanding Section 1(5) of this Act, the matching fund may consist of real property, in kind contributions, or funds expended prior to the effective date of this Act AND THE GRANTEE HAS UNTIL JUNE 1, 2013, TO PRESENT EVIDENCE THAT A MATCHING FUND WILL BE PROVIDED. NOTWITHSTANDING SECTION 1(7) OF THIS ACT, THIS GRANT MAY NOT TERMINATE BEFORE JUNE 1, 2013 (Prince George's County)

25,000

(BI) Walker Mill Daycare and Training Center. Provide a grant equal to the lesser of (i) \$100,000 or (ii) the amount of the matching fund provided, to the Board of Directors of Walker Mill Development, Inc. for the construction and capital equipping of the Walker Mill Daycare and Training Center, located in Capitol Heights. Notwithstanding Section 1(5) of this Act, the matching fund may consist of in kind contributions AND THE GRANTEE HAS UNTIL JUNE 1, 2013, TO PRESENT EVIDENCE THAT A MATCHING FUND WILL BE PROVIDED. NOTWITHSTANDING SECTION 1(7) OF THIS ACT, THIS GRANT MAY NOT TERMINATE BEFORE JUNE 1, 2013 (Prince George's County)

100,000

(BJ) Marlboro Meadows Senior Center. Provide a grant equal to the lesser of (i) \$50,000 or (ii) the amount of the matching fund provided, to the Board of Directors of the Marlboro Meadows Community Development Corporation for the acquisition, planning, design, construction, repair, and renovation of the Marlboro Meadows Senior Center, INCLUDING ACQUISITION AND INSTALLATION OF SECURITY EQUIPMENT, located in Upper Marlboro.

Notwithstanding Section 1(5) of this Act, the matching fund may consist of real property or in kind contributions. NOTWITHSTANDING SECTION 1(5) OF THIS ACT, THE GRANTEE HAS UNTIL JUNE 1, 2013, TO PRESENT EVIDENCE THAT A MATCHING FUND WILL BE PROVIDED. NOTWITHSTANDING SECTION 1(7) OF THIS ACT, THIS GRANT MAY NOT TERMINATE BEFORE JUNE 1, 2013 (Prince George’s County).....

50,000

(BK) United States Colored Troops Memorial Monument. Provide a grant equal to the lesser of (i) \$150,000 or (ii) the amount of the matching fund provided, to the Board of Directors of the Unified Committee for Afro–American Contributions, Inc. **AND THE BOARD OF COUNTY COMMISSIONERS OF ST. MARY’S COUNTY** for the acquisition, planning, design, construction, and capital equipping of the United States Colored Troops Memorial Monument, **THE MEMORIAL PARK, AND A MEMORIAL INTERPRETIVE CENTER**, located in Lexington Park. Notwithstanding Section 1(5) of this Act, the matching fund may consist of real property, in kind contributions, or funds expended [prior to the effective date of this Act] **ON OR AFTER JANUARY 1, 2007, AND THE GRANTEE HAS UNTIL JUNE 1, ~~2016~~ 2013, TO PRESENT EVIDENCE THAT A MATCHING FUND WILL BE PROVIDED. NOTWITHSTANDING SECTION 1(7) OF THIS ACT, THIS GRANT MAY NOT TERMINATE BEFORE JUNE 1, ~~2014~~ 2013** (St. Mary’s County)

150,000

Chapter 483 of the Acts of 2010, as amended by Chapter 187 of the Acts of 2011

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

(3) ZA02 LOCAL SENATE INITIATIVES

(BH) Largo High School PTSA Track Renovation. Provide a grant of \$180,000, to the Prince George’s County Board of Education for the planning, design, construction, repair, renovation, and reconstruction of the Largo High School Track, located in Largo, subject to a requirement that the grantee provide and expend a matching fund of **[\$90,000] \$45,000**. Notwithstanding Section 1(5) of this Act, the matching fund may consist of real property, in kind contributions, or funds expended prior to the effective date of this Act.

Notwithstanding Section 1(5) of this Act, the grantee has until June 1, [2012] **2013**, to present evidence that a matching fund will be provided. Notwithstanding Section 1(7) of this Act, the proceeds of the loan must be expended or encumbered by the Board of Public Works for the purposes provided in this Act no later than June 1, [2012] **2013** (Prince George's County) 180,000

Chapter 483 of the Acts of 2010, as amended by Chapter 188 of the Acts of 2011

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

(3) ZA02 LOCAL SENATE INITIATIVES

(BE) Forestville Military Academy Track. Provide a grant of \$180,000, to the Prince George's County Board of Education for the planning, design, construction, repair, renovation, and reconstruction of the Forestville Military Academy Track, located in Forestville, subject to a requirement that the grantee provide and expend a matching fund of ~~[\$90,000]~~ **\$45,000**. Notwithstanding Section 1(5) of this Act, the matching fund may consist of real property, in kind contributions, or funds expended prior to the effective date of this Act. Notwithstanding Section 1(5) of this Act, the grantee has until June 1, [2012] **2013**, to present evidence that a matching fund will be provided. Notwithstanding Section 1(7) of this Act, the proceeds of the loan must be expended or encumbered by the Board of Public Works for the purposes provided in this Act no later than June 1, [2012] **2013** (Prince George's County) 180,000

Chapter 483 of the Acts of 2010, as amended by Chapter 396 of the Acts of 2011

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

(3) ZA02 LOCAL SENATE INITIATIVES

(U) HopeWell Cancer Support Facility. Provide a grant equal to the lesser of (i) \$75,000 or (ii) the amount of the matching fund provided, to the Board of Trustees of HopeWell Cancer Support, Inc. for the planning, design, construction, repair, renovation, reconstruction, and capital equipping of the

HopeWell Cancer Support Facility, located in Lutherville. NOTWITHSTANDING SECTION 1(5) OF THIS ACT, THE GRANTEE HAS UNTIL JUNE 1, 2013, TO PRESENT EVIDENCE THAT A MATCHING FUND WILL BE PROVIDED. NOTWITHSTANDING SECTION 1(7) OF THIS ACT, THIS GRANT MAY NOT TERMINATE BEFORE JUNE 1, 2013 (Baltimore County)

75,000

(BF) John E. Feggans Center Renovation. Provide a grant equal to the lesser of (i) \$150,000 or (ii) the amount of the matching fund provided, to the Mayor and Common Council of the City of Seat Pleasant for the construction, repair, renovation, reconstruction, and capital equipping of the John E. Feggans Center, located in Seat Pleasant. Notwithstanding Section 1(5) of this Act, the matching fund may consist of real property **AND THE GRANTEE HAS UNTIL JUNE 1, ~~2014~~ 2013, TO PRESENT EVIDENCE THAT A MATCHING FUND WILL BE PROVIDED. NOTWITHSTANDING SECTION 1(7) OF THIS ACT, THIS GRANT MAY NOT TERMINATE BEFORE JUNE 1, ~~2014~~ 2013** (Prince George’s County)

150,000

(BK) Marleigh Community Safety and Surveillance System. Provide a grant of \$20,000 to the Board of Directors of the [301 Community Corporation, Inc.] MARLEIGH COMMUNITY ASSOCIATION for the acquisition, construction, and capital equipping of the Marleigh Community Safety and Surveillance System, located in Bowie, subject to a requirement that the grantee provide and expend a matching fund of \$6,250 AND THE GRANTEE HAS UNTIL JUNE 1, 2013, TO PRESENT EVIDENCE THAT A MATCHING FUND WILL BE PROVIDED. NOTWITHSTANDING SECTION 1(7) OF THIS ACT, THIS GRANT MAY NOT TERMINATE BEFORE JUNE 1, 2013 (Prince George’s County).....

20,000

ZA03 LOCAL HOUSE OF DELEGATES INITIATIVES

(X) HopeWell Cancer Support Facility. Provide a grant equal to the lesser of (i) \$100,000 or (ii) the amount of the matching fund provided, to the Board of Trustees of HopeWell Cancer Support, Inc. for the planning, design, construction, repair, renovation, reconstruction, and capital equipping of the HopeWell Cancer Support Facility, located in Lutherville. NOTWITHSTANDING SECTION 1(5) OF THIS ACT, THE GRANTEE HAS UNTIL JUNE 1, 2013, TO PRESENT EVIDENCE THAT A MATCHING FUND WILL BE PROVIDED.

NOTWITHSTANDING SECTION 1(7) OF THIS ACT, THIS GRANT MAY NOT TERMINATE BEFORE JUNE 1, 2013
 (*Baltimore County*)

100,000

(BB-1) John E. Feggans Center Renovation. Provide a grant equal to the lesser of (i) \$55,000 or (ii) the amount of the matching fund provided, to the Mayor and Common Council of the City of Seat Pleasant for the construction, repair, renovation, reconstruction, and capital equipping of the John E. Feggans Center, located in Seat Pleasant. Notwithstanding Section 1(5) of this Act, the matching fund may consist of real property **AND THE GRANTEE HAS UNTIL JUNE 1, 2014 2013, TO PRESENT EVIDENCE THAT A MATCHING FUND WILL BE PROVIDED. NOTWITHSTANDING SECTION 1(7) OF THIS ACT, THIS GRANT MAY NOT TERMINATE BEFORE JUNE 1, 2014 2013** (Prince George's County)

55,000

Chapter 396 of the Acts of 2011

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

(3) ZA00 MISCELLANEOUS GRANT PROGRAMS

(S) Liberty Road ~~Corridor~~ **OWINGS MILLS BOULEVARD SOUTH** Infrastructure Improvements. Provide a grant equal to the lesser of (i) \$2,000,000 or (ii) the amount of the matching fund provided, to the County Executive and County Council of Baltimore County for the **PLANNING, design, AND construction[, and capital equipping]** of infrastructure improvements of ~~the Liberty Road Corridor at Liberty ROAD~~ and **[Old Court Roads] OWINGS MILLS BOULEVARD SOUTH FROM LIBERTY ROAD TO WINANDS ROAD.** **NOTWITHSTANDING SECTION 1(5) OF THIS ACT, THE MATCHING FUND MAY CONSIST OF FUNDS EXPENDED FOR OWINGS MILLS BOULEVARD SOUTH AND LIBERTY ROAD PRIOR TO THE EFFECTIVE DATE OF THIS ACT** (Baltimore County)

2,000,000

ZA02 LOCAL SENATE INITIATIVES

(H) Andover Field Renovations. Provide a grant equal to the lesser of (i) \$25,000 or (ii) the amount of the matching fund provided, to the Board of Directors of the Andover Football League, Inc. and the County Executive and County Council of

Anne Arundel County for the planning, design, construction, repair, and renovation of the Andover Park fields and field house, located in Linthicum. **NOTWITHSTANDING SECTION 1(5) OF THIS ACT, THE MATCHING FUND MAY CONSIST OF REAL PROPERTY, IN KIND CONTRIBUTIONS, OR FUNDS EXPENDED PRIOR TO THE EFFECTIVE DATE OF THIS ACT** (Anne Arundel County)

25,000

(U) [Morgan Mill Facility.] PROJECT PLASE. Provide a grant equal to the lesser of (i) \$100,000 or (ii) the amount of the matching fund provided, to the Board of Directors of Project PLASE, Inc. for the acquisition and renovation of the [Morgan Mill Facility] ST. JOSEPH’S MONASTERY SCHOOL BUILDING, located in Baltimore City (Baltimore City)

100,000

(BB) Olney Theatre Center. Provide a grant equal to the lesser of (i) \$150,000 or (ii) the amount of the matching fund provided, to the Board of Directors of the Olney Theatre Center for the Arts, Inc. for the construction of the main stage building at the Olney Theatre Center, located in Olney. Notwithstanding Section 1(5) of this Act, the matching fund may consist of funds expended prior to the effective date of this Act, INCLUDING FUNDS EXPENDED ON OR AFTER JANUARY 1, 2004 (Montgomery County)

150,000

(BH) Battle of Bladensburg Visitor Center and Monument. Provide a grant equal to the lesser of (i) \$125,000 or (ii) the amount of the matching fund provided, to the [Board of Directors of Anacostia Trails Heritage Area, Inc.] **BOARD OF TRUSTEES OF THE AMAN MEMORIAL TRUST, INC.** for the construction and renovation of the Battle of Bladensburg Visitor Center and Monument, located in Bladensburg. Notwithstanding Section 1(5) of this Act, the matching fund may consist of real property or funds expended prior to the effective date of this Act (Prince George’s County)

125,000

ZA03 LOCAL HOUSE OF DELEGATES INITIATIVES

(H) Andover Field Renovations. Provide a grant equal to the lesser of (i) \$75,000 or (ii) the amount of the matching fund provided, to the Board of Directors of the Andover Football League, Inc. and the County Executive and County Council of Anne Arundel County for the planning, design, construction, repair, and renovation of the Andover Park fields and field house, located in Linthicum. **NOTWITHSTANDING SECTION 1(5) OF THIS ACT, THE MATCHING FUND MAY CONSIST OF**

REAL PROPERTY, IN KIND CONTRIBUTIONS, OR FUNDS
EXPENDED PRIOR TO THE EFFECTIVE DATE OF THIS ACT
(Anne Arundel County)

75,000

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 640

(Senate Bill 1044)

AN ACT concerning

**Wicomico County – Alcoholic Beverages – Class D Licenses ~~Follow Up~~
~~Records Checks~~**

FOR the purpose of clarifying that there is a Class D beer, wine and liquor tavern license in Wicomico County; establishing a Class D beer, wine and liquor entertainment and amusement license in the County; providing for an annual fee and days of sale for the entertainment and amusement license; specifying that the entertainment and amusement license authorizes consumption on the premises only; specifying certain requirements that the premises that is the subject of an entertainment and amusement license application must meet; providing that the entertainment and amusement license holder must purchase certain alcoholic beverages from a county dispensary and may not be charged more than a certain price; prohibiting certain individuals under certain ages from entering or remaining on the licensed premises under certain circumstances; authorizing the Board to adopt certain regulations; ~~requiring the Criminal Justice Information System Central Repository (CJIS) to provide the Board with a revised printed criminal record statement of a license applicant or license holder if information is reported to CJIS after the initial criminal history records check is completed; requiring CJIS to stop providing the Board with revised printed statements under certain circumstances; defining a certain term;~~ making certain technical and stylistic changes; clarifying language; and generally relating to alcoholic beverages in Wicomico County.

BY repealing and reenacting, without amendments,
Article 2B – Alcoholic Beverages
Section 6-401(a)
Annotated Code of Maryland
(2011 Replacement Volume)

BY repealing and reenacting, with amendments,

Article 2B – Alcoholic Beverages
Section 6-401(x) and ~~10-103(b)(13)(vii)~~
Annotated Code of Maryland
(2011 Replacement Volume)

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

Article 2B – Alcoholic Beverages

6-401.

(a) (1) A Class D beer, wine and liquor license shall be issued by the license issuing authority of the county in which the place of business is located. It authorizes the holder to keep for sale and sell all alcoholic beverages at retail at the place described in it, for consumption on the premises or elsewhere. A license may not be issued for any drugstore.

(2) The annual license fee shall be paid to the local collecting agent before any license is issued, for distribution as provided.

(3) In this section, “Board” means the Board of License Commissioners for the jurisdiction to which the subsection applies.

(x) (1) This subsection applies only in Wicomico County.

(2) **(I) THERE IS A CLASS D BEER, WINE AND LIQUOR TAVERN LICENSE.**

(II) The annual license fee is \$2,200.

[(3)] (III) Any license issued under **[the provisions of]** this **[section]** **PARAGRAPH** is for 7 days.

[(4)] (IV) In order to qualify for a license under **[the provisions of this section]** **THIS PARAGRAPH**, the premises that is the subject of the application shall:

1. **[have] HAVE** a minimum seating capacity of 140 persons, not including the bar area or dancing floor area~~[,]~~; and

2. **[shall meet] MEET** the minimum requirements of the fire code applicable to the jurisdiction in which the premises is located.

[(5)] (V) Alcoholic beverages sold under **[the provisions of this section]** **THIS PARAGRAPH** shall be consumed on the premises only.

[(6)] (VI) A person may not be on the premises [who] **IF THE PERSON** is under the legal drinking age for the consumption of alcohol in the State.

[(7)] (VII) All alcoholic beverages other than beer and light wine shall be purchased from the Liquor Control Board for Wicomico County and shall be charged not more than **[15 percent] 15%** above the wholesale cost to the dispensary.

(3) (I) THERE IS A CLASS D BEER, WINE AND LIQUOR ENTERTAINMENT AND AMUSEMENT LICENSE.

(II) THE ANNUAL LICENSE FEE IS \$4,000.

(III) A LICENSE ISSUED UNDER THIS PARAGRAPH IS A 7-DAY LICENSE FOR CONSUMPTION ON THE PREMISES ONLY.

(IV) TO QUALIFY FOR A LICENSE, THE PREMISES THAT IS THE SUBJECT OF THE APPLICATION SHALL BE AN ENTERTAINMENT AMUSEMENT CENTER THAT:

1. IS A BUSINESS ESTABLISHMENT THAT ACCOMMODATES THE PUBLIC;

2. HAS A MINIMUM SEATING CAPACITY OF 140 PERSONS, NOT INCLUDING THE BAR AREA OR DANCING FLOOR AREA;

3. MEETS THE MINIMUM REQUIREMENTS OF THE FIRE CODE APPLICABLE FOR THE JURISDICTION IN WHICH THE PREMISES IS LOCATED;

4. IS FULLY EQUIPPED WITH A PROPER AND ADEQUATE DINING ROOM WITH FACILITIES FOR PREPARING AND SERVING REGULAR MEALS;

5. EXCLUDING THE KITCHEN, HAS MORE THAN 50% OF ITS FLOOR SPACE DEDICATED TO OR OCCUPIED BY EQUIPMENT FOR FOOSBALL, BILLIARDS, DARTS, VIRTUAL REALITY SIMULATION GAMES, AND OTHER GAMES THAT THE BOARD APPROVES THAT REQUIRE THE ACTIVE PHYSICAL PARTICIPATION OF ONE OR MORE PLAYERS; AND

6. HAS AN INITIAL CAPITAL INVESTMENT OF AT LEAST \$300,000, EXCLUDING THE COST OF THE LAND AND BUILDING.

(v) 1. FOR PURPOSES OF SUBPARAGRAPH (IV)5 OF THIS PARAGRAPH, GAMES APPROVED BY THE BOARD MAY NOT INCLUDE KENO, CARD GAMES, PINBALL MACHINES, AND BAR GAMES.

2. ANY FLOOR SPACE OCCUPIED BY A JUKEBOX OR SIMILAR PASSIVE ENTERTAINMENT DEVICE MAY NOT BE COUNTED IN CALCULATING WHETHER THE FLOOR SPACE REQUIREMENTS UNDER SUBPARAGRAPH (IV)5 OF THIS PARAGRAPH HAVE BEEN MET.

(vi) EXCEPT FOR BEER AND LIGHT WINE, THE LICENSE HOLDER SHALL PURCHASE ALL OF THE ALCOHOLIC BEVERAGES THAT ARE SOLD FOR CONSUMPTION ON THE PREMISES FROM A COUNTY DISPENSARY AND MAY NOT BE CHARGED MORE THAN 15% ABOVE THE WHOLESALE COST TO THE DISPENSARY.

(vii) AN INDIVIDUAL WHO IS:

1. UNDER THE AGE OF 21 YEARS MAY NOT ENTER OR REMAIN ON THE LICENSED PREMISES AFTER 9 P.M.; AND

2. UNDER THE AGE OF 17 YEARS MAY NOT ENTER THE LICENSED PREMISES WITHOUT A PARENT OR GUARDIAN.

(viii) THE BOARD MAY ADOPT REGULATIONS TO CARRY OUT THIS PARAGRAPH.

~~10-103.~~

~~(b) Except as otherwise provided in this subtitle, every new application for a license shall be made to the Board of License Commissioners on forms prescribed by the Comptroller and sworn to by the applicant. Every application for a license shall contain the following:~~

~~(13) (vii) 1. IN THIS SUBPARAGRAPH, "CJIS" MEANS THE CRIMINAL JUSTICE INFORMATION SYSTEM CENTRAL REPOSITORY OF THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES.~~

~~[1.] 2. The provisions of this subparagraph apply only in Wicomico County.~~

~~[2.] 3. The Board of License Commissioners shall:~~

~~A. Obtain criminal records of license applicants from [the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services] CJIS;~~

~~B. Require applicants for licenses to be fingerprinted;~~
and

~~C. Forward the fingerprints through [the Department of Public Safety and Correctional Services] CJIS for transmittal to the Federal Bureau of Investigation for a national criminal history records check[;].~~

~~4. WHEN CRIMINAL HISTORY RECORD INFORMATION ON AN APPLICANT OR LICENSE HOLDER IS REPORTED TO CJIS AFTER THE INITIAL CRIMINAL HISTORY RECORDS CHECK IS COMPLETED, CJIS SHALL PROVIDE THE BOARD OF LICENSE COMMISSIONERS WITH A REVISED PRINTED STATEMENT OF THE CRIMINAL RECORD OF THE APPLICANT OR LICENSE HOLDER.~~

~~5. IF THE BOARD OF LICENSE COMMISSIONERS INFORMS CJIS THAT AN INDIVIDUAL IS NO LONGER AN APPLICANT OR LICENSE HOLDER, CJIS SHALL STOP PROVIDING THE BOARD WITH REVISED PRINTED STATEMENTS OF THE CRIMINAL RECORD OF THE INDIVIDUAL.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 641

(Senate Bill 1059)

AN ACT concerning

Alcoholic Beverages – Comptroller – Departments of Liquor Control and Liquor Control Boards

FOR the purpose of expressly requiring the Comptroller to enforce certain provisions of law applicable to certain activities conducted by a department of liquor control or a liquor control board; making certain powers of liquor control boards subject to the enforcement authority of the Comptroller; and generally relating to the authority of the Comptroller regarding certain activities of liquor control boards and departments of liquor control.

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 15–204(a) and 15–205

Annotated Code of Maryland
(2011 Replacement Volume)

BY adding to

Article 2B – Alcoholic Beverages

Section 16–407.1

Annotated Code of Maryland
(2011 Replacement Volume)

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

Article 2B – Alcoholic Beverages

15–204.

(a) [Except] **SUBJECT TO § 16–407.1 OF THIS ARTICLE AND EXCEPT** as otherwise provided in this section, the liquor control board in each county shall have an absolute monopoly of the sale and distribution of the particular alcoholic beverages which elsewhere in this subtitle it is empowered to sell.

15–205.

[The] **SUBJECT TO § 16–407.1 OF THIS ARTICLE, THE** liquor control board of each county shall have full power and authority within its county:

(a) (1) (i) To appoint such employees as may be necessary to conduct such county liquor dispensary or branch dispensaries, fix their compensation and require such bonds for the faithful performance of their duties as the board may in each case determine.

(ii) In Montgomery County, effective July 1, 1951, the positions of General Manager and Treasurer of the Liquor Control Board are hereby abolished. All existing employees of the Board, except those whose positions are abolished herein, shall be entitled to continue to be employed on probation of six months duration at their existing salaries subject to passing qualifying examinations and regulations of the County Personnel Board. All employees of the Department except the Director shall be appointed and hold their positions subject to the regulations. The office of the County Attorney shall furnish legal services to the Department.

(2) This paragraph applies only to Garrett County. The position of clerk of the Board of License Commissioners is abolished as of July 1, 1987. The County Commissioners shall provide administrative, clerical, and accounting services to the Board of License Commissioners as are needed in the execution of their duties under the provisions of this article. The County Commissioners shall provide legal counsel to the Board of License Commissioners through the office of the County Attorney or bear the expense of competent private legal counsel for the Board.

(b) To purchase from any licensed wholesaler or manufacturer any sparkling or fortified wine or any other alcoholic beverage which the Board is authorized to sell, upon which the tax imposed by § 5–102 of the Tax – General Article has been paid, and to purchase from any nonresident or resident producer or dealer any such alcoholic beverages and import the same for resale, as hereinafter provided; but such importations shall not be resold until the excise tax has been paid.

(c) To sell such alcoholic beverages in sealed containers, as above provided, at such prices as may be determined by the board, which prices shall be uniform in all stores in the said county.

(d) To refuse to sell any alcoholic beverage to any person who, in its judgment, is not a suitable person to purchase or consume such beverages; to restrict and/or limit the quantities of said alcoholic beverages which might be sold at any given time or period to any individual consumer or licensee by such system or methods as may be prescribed by the liquor control board.

(e) (1) To make any and all contracts, rules and regulations which they may deem necessary or desirable to carry out the powers conferred upon them by this article.

(2) In Harford County, the Board shall hold public hearings on all proposed alterations of its rules and regulations. These hearings shall be advertised in two or more newspapers of general circulation in the county at least two consecutive weeks prior to the scheduled public hearings.

(f) To sell and ship outside of county any containers or packages of alcoholic beverages kept for sale in the dispensary or branch dispensaries, provided that such shipment is not prohibited by law applicable in the place where shipment is consigned.

(g) To rent, lease, or purchase premises necessary for the conduct of said dispensaries, subject to the approval of the county commissioners.

(h) Unless otherwise provided in this subtitle, to fix the hours for opening and closing all dispensaries and branch dispensaries; and it shall be unlawful to remain open or sell any alcoholic beverages after the regular closing hours.

(i) (1) In Harford County, the Liquor Control Board shall employ one full-time chief inspector and such other inspector or inspectors as in its discretion shall be required from time to time. Provided, however, that neither the Sheriff, any deputy sheriff or any constable or municipal peace officer in Harford County shall be eligible to be appointed or to serve as the chief inspector or as an inspector. The person appointed to be chief inspector shall have had at the time of appointment investigative experience as a police officer or as an inspector for a governmental agency or as a police officer or investigator for a private agency. After appointment, the chief inspector shall serve as such and shall be discharged only for cause involving

dishonesty, incompetency or immoral conduct; and prior to his discharge, he shall be given a list of the charges against him and an opportunity to reply thereto in an open hearing either in person or by counsel. The chief inspector with the approval of the Liquor Control Board shall be empowered to contract with or hire any independent accounting firm to audit the books and accounts of any licensee. The Liquor Control Board is authorized to establish and change from time to time such reasonable compensation for the chief inspector or any other inspector or inspectors as is warranted by their respective duties and responsibilities. Nothing in this subsection shall be construed to relieve from the responsibility of enforcing the provisions of this article in Harford County the several peace officers listed in § 16–401 of this article.

(2) In Harford County the Liquor Control Board shall appoint a general manager, who shall act as secretary–treasurer of the Board and who shall be the chief business administrative officer of the Board under its control and supervision. No Board member shall be eligible to fill said position while retaining his membership on the Liquor Control Board. The manager so appointed shall hold office during good behavior and shall be discharged only for cause involving dishonesty, incompetency, or immoral conduct after opportunity for hearing.

(3) The salaries of all employees of the Liquor Control Board shall be fixed by the Liquor Control Board, subject to the approval of the County Executive and County Council. The County Council shall also review the adequacy of the fidelity bonds required of the employees by the Liquor Control Board for the protection of the county.

(4) Notwithstanding any other provision of the Code or local law, employees of the Harford County Liquor Control Board are subject to the provisions regarding conflicts of interest, and lobbying activities found in Title 15, Subtitle 5, Part I, and Subtitle 7 of the State Government Article, but may not be required to file the statement required by § 15–601 of the State Government Article.

(j) Repealed.

(k) (1) In Montgomery County, in addition to the powers already enumerated in this section, which powers are subject to the approval of the County Executive, the director of the Department of Liquor Control shall have power to acquire, with the approval of the County Executive, by lease, purchase or otherwise, such real or personal property as may be deemed necessary by the director to operate dispensaries, stores or warehouses. He may acquire, by purchase or otherwise, any alcoholic beverages from any source for resale. Except for purchases of merchandise for resale, all purchases shall be made through the county purchasing office.

(2) Effective July 1, 1951, the title to all real and personal property now used by or in the name of the Liquor Control Board, including money in banks, credits, accounts receivable, trucks, automobiles, equipment, stock in trade, leases, franchises, contracts and the title to the liquor dispensary building located in Silver Spring, Maryland, more particularly described in a deed dated July 27, 1943, and

recorded among the land records of Montgomery County in Liber 917, folio 156, shall be and is hereby vested in Montgomery County, Maryland. Nothing in this subtitle shall be construed to impair the validity of any outstanding contracts or obligations of any nature to which the Liquor Control Board has heretofore become a party.

(l) In Worcester County, subject to the approval of the County Commissioners, the Director of the Department of Liquor Control may purchase or otherwise acquire:

(1) Real or personal property that the Director considers necessary to operate dispensaries, stores, or warehouses; and

(2) Wine and liquor from any source for resale.

(m) In Wicomico County, the Liquor Control Board may hold wine tasting and sampling promotional events in county liquor dispensaries in accordance with the following restrictions:

(1) The Liquor Control Board may not serve to an individual more than 1 ounce from each brand at an event;

(2) The number of bottles that may be open at any one time at an event may not exceed six;

(3) The number of days during which events are conducted in the County may not exceed 10 in any 12-month period;

(4) Once opened, each bottle used for an event shall be marked that it is to be used only for that purpose;

(5) The contents of each bottle may not be mixed with the contents of any other bottle, and all bottles shall be destroyed once they are empty; and

(6) Wine tasting and sampling may be conducted for on-premises consumption only and may not be conducted using a drive-through window.

16-407.1.

THE COMPTROLLER SHALL ENFORCE THE PROVISIONS OF THIS ARTICLE APPLICABLE TO:

(1) THE PURCHASE OR IMPORTATION OF ALCOHOLIC BEVERAGES BY A DEPARTMENT OF LIQUOR CONTROL OR A LIQUOR CONTROL BOARD; AND

(2) THE SALE OF ALCOHOLIC BEVERAGES TO A WHOLESALER OR RETAIL DEALER BY A DEPARTMENT OF LIQUOR CONTROL OR A LIQUOR CONTROL BOARD.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 642

(House Bill 1432)

AN ACT concerning

**Alcoholic Beverages – Comptroller – Departments of Liquor Control and
Liquor Control Boards**

FOR the purpose of expressly requiring the Comptroller to enforce certain provisions of law applicable to certain activities conducted by a department of liquor control or a liquor control board; making certain powers of liquor control boards subject to the enforcement authority of the Comptroller; and generally relating to the authority of the Comptroller regarding certain activities of liquor control boards and departments of liquor control.

BY repealing and reenacting, with amendments,

Article 2B – Alcoholic Beverages
Section 15–204(a) and 15–205
Annotated Code of Maryland
(2011 Replacement Volume)

BY adding to

Article 2B – Alcoholic Beverages
Section 16–407.1
Annotated Code of Maryland
(2011 Replacement Volume)

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

Article 2B – Alcoholic Beverages

15–204.

(a) [Except] **SUBJECT TO § 16-407.1 OF THIS ARTICLE AND EXCEPT** as otherwise provided in this section, the liquor control board in each county shall have an absolute monopoly of the sale and distribution of the particular alcoholic beverages which elsewhere in this subtitle it is empowered to sell.

15-205.

[The] **SUBJECT TO § 16-407.1 OF THIS ARTICLE, THE** liquor control board of each county shall have full power and authority within its county:

(a) (1) (i) To appoint such employees as may be necessary to conduct such county liquor dispensary or branch dispensaries, fix their compensation and require such bonds for the faithful performance of their duties as the board may in each case determine.

(ii) In Montgomery County, effective July 1, 1951, the positions of General Manager and Treasurer of the Liquor Control Board are hereby abolished. All existing employees of the Board, except those whose positions are abolished herein, shall be entitled to continue to be employed on probation of six months duration at their existing salaries subject to passing qualifying examinations and regulations of the County Personnel Board. All employees of the Department except the Director shall be appointed and hold their positions subject to the regulations. The office of the County Attorney shall furnish legal services to the Department.

(2) This paragraph applies only to Garrett County. The position of clerk of the Board of License Commissioners is abolished as of July 1, 1987. The County Commissioners shall provide administrative, clerical, and accounting services to the Board of License Commissioners as are needed in the execution of their duties under the provisions of this article. The County Commissioners shall provide legal counsel to the Board of License Commissioners through the office of the County Attorney or bear the expense of competent private legal counsel for the Board.

(b) To purchase from any licensed wholesaler or manufacturer any sparkling or fortified wine or any other alcoholic beverage which the Board is authorized to sell, upon which the tax imposed by § 5-102 of the Tax – General Article has been paid, and to purchase from any nonresident or resident producer or dealer any such alcoholic beverages and import the same for resale, as hereinafter provided; but such importations shall not be resold until the excise tax has been paid.

(c) To sell such alcoholic beverages in sealed containers, as above provided, at such prices as may be determined by the board, which prices shall be uniform in all stores in the said county.

(d) To refuse to sell any alcoholic beverage to any person who, in its judgment, is not a suitable person to purchase or consume such beverages; to restrict and/or limit the quantities of said alcoholic beverages which might be sold at any given

time or period to any individual consumer or licensee by such system or methods as may be prescribed by the liquor control board.

(e) (1) To make any and all contracts, rules and regulations which they may deem necessary or desirable to carry out the powers conferred upon them by this article.

(2) In Harford County, the Board shall hold public hearings on all proposed alterations of its rules and regulations. These hearings shall be advertised in two or more newspapers of general circulation in the county at least two consecutive weeks prior to the scheduled public hearings.

(f) To sell and ship outside of county any containers or packages of alcoholic beverages kept for sale in the dispensary or branch dispensaries, provided that such shipment is not prohibited by law applicable in the place where shipment is consigned.

(g) To rent, lease, or purchase premises necessary for the conduct of said dispensaries, subject to the approval of the county commissioners.

(h) Unless otherwise provided in this subtitle, to fix the hours for opening and closing all dispensaries and branch dispensaries; and it shall be unlawful to remain open or sell any alcoholic beverages after the regular closing hours.

(i) (1) In Harford County, the Liquor Control Board shall employ one full-time chief inspector and such other inspector or inspectors as in its discretion shall be required from time to time. Provided, however, that neither the Sheriff, any deputy sheriff or any constable or municipal peace officer in Harford County shall be eligible to be appointed or to serve as the chief inspector or as an inspector. The person appointed to be chief inspector shall have had at the time of appointment investigative experience as a police officer or as an inspector for a governmental agency or as a police officer or investigator for a private agency. After appointment, the chief inspector shall serve as such and shall be discharged only for cause involving dishonesty, incompetency or immoral conduct; and prior to his discharge, he shall be given a list of the charges against him and an opportunity to reply thereto in an open hearing either in person or by counsel. The chief inspector with the approval of the Liquor Control Board shall be empowered to contract with or hire any independent accounting firm to audit the books and accounts of any licensee. The Liquor Control Board is authorized to establish and change from time to time such reasonable compensation for the chief inspector or any other inspector or inspectors as is warranted by their respective duties and responsibilities. Nothing in this subsection shall be construed to relieve from the responsibility of enforcing the provisions of this article in Harford County the several peace officers listed in § 16–401 of this article.

(2) In Harford County the Liquor Control Board shall appoint a general manager, who shall act as secretary–treasurer of the Board and who shall be the chief business administrative officer of the Board under its control and supervision. No Board member shall be eligible to fill said position while retaining his

membership on the Liquor Control Board. The manager so appointed shall hold office during good behavior and shall be discharged only for cause involving dishonesty, incompetency, or immoral conduct after opportunity for hearing.

(3) The salaries of all employees of the Liquor Control Board shall be fixed by the Liquor Control Board, subject to the approval of the County Executive and County Council. The County Council shall also review the adequacy of the fidelity bonds required of the employees by the Liquor Control Board for the protection of the county.

(4) Notwithstanding any other provision of the Code or local law, employees of the Harford County Liquor Control Board are subject to the provisions regarding conflicts of interest, and lobbying activities found in Title 15, Subtitle 5, Part I, and Subtitle 7 of the State Government Article, but may not be required to file the statement required by § 15-601 of the State Government Article.

(j) Repealed.

(k) (1) In Montgomery County, in addition to the powers already enumerated in this section, which powers are subject to the approval of the County Executive, the director of the Department of Liquor Control shall have power to acquire, with the approval of the County Executive, by lease, purchase or otherwise, such real or personal property as may be deemed necessary by the director to operate dispensaries, stores or warehouses. He may acquire, by purchase or otherwise, any alcoholic beverages from any source for resale. Except for purchases of merchandise for resale, all purchases shall be made through the county purchasing office.

(2) Effective July 1, 1951, the title to all real and personal property now used by or in the name of the Liquor Control Board, including money in banks, credits, accounts receivable, trucks, automobiles, equipment, stock in trade, leases, franchises, contracts and the title to the liquor dispensary building located in Silver Spring, Maryland, more particularly described in a deed dated July 27, 1943, and recorded among the land records of Montgomery County in Liber 917, folio 156, shall be and is hereby vested in Montgomery County, Maryland. Nothing in this subtitle shall be construed to impair the validity of any outstanding contracts or obligations of any nature to which the Liquor Control Board has heretofore become a party.

(l) In Worcester County, subject to the approval of the County Commissioners, the Director of the Department of Liquor Control may purchase or otherwise acquire:

(1) Real or personal property that the Director considers necessary to operate dispensaries, stores, or warehouses; and

(2) Wine and liquor from any source for resale.

(m) In Wicomico County, the Liquor Control Board may hold wine tasting and sampling promotional events in county liquor dispensaries in accordance with the following restrictions:

(1) The Liquor Control Board may not serve to an individual more than 1 ounce from each brand at an event;

(2) The number of bottles that may be open at any one time at an event may not exceed six;

(3) The number of days during which events are conducted in the County may not exceed 10 in any 12-month period;

(4) Once opened, each bottle used for an event shall be marked that it is to be used only for that purpose;

(5) The contents of each bottle may not be mixed with the contents of any other bottle, and all bottles shall be destroyed once they are empty; and

(6) Wine tasting and sampling may be conducted for on-premises consumption only and may not be conducted using a drive-through window.

16-407.1.

THE COMPTROLLER SHALL ENFORCE THE PROVISIONS OF THIS ARTICLE APPLICABLE TO:

(1) THE PURCHASE OR IMPORTATION OF ALCOHOLIC BEVERAGES BY A DEPARTMENT OF LIQUOR CONTROL OR A LIQUOR CONTROL BOARD; AND

(2) THE SALE OF ALCOHOLIC BEVERAGES TO A WHOLESALER OR RETAIL DEALER BY A DEPARTMENT OF LIQUOR CONTROL OR A LIQUOR CONTROL BOARD.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 643

(Senate Bill 1073)

AN ACT concerning

Electricity – ~~Certificate of Public Convenience and Necessity~~ Construction of Overhead Transmission Lines and Wind Generating Stations

FOR the purpose of authorizing the Public Service Commission to waive the requirement for an electric company to obtain a certificate of public convenience and necessity under certain circumstances for good cause; requiring the Commission to waive the requirement to obtain a certificate of public convenience and necessity for construction related to an existing overhead transmission line designed to carry a certain amount of voltage under certain circumstances; authorizing an electric company to undertake construction *related to an existing overhead transmission line that is* necessary to avoid an imminent safety hazard or reliability risk under certain circumstances; requiring an electric company to file a certain report with the Commission within a certain period of time under certain circumstances; *providing that a certain provision that requires a person to obtain certain approval from the Commission before constructing a certain generating station does not apply to a person constructing a certain wind generating station that has wind turbines within a certain distance from the Patuxent River Naval Air Station, as determined by certain regulation*; and generally relating to ~~certificates of public convenience and necessity for~~ *the construction of* overhead electric transmission lines *and certain wind generating stations*.

BY repealing and reenacting, without amendments,
 Article – Public Utilities
 Section 7–207(a)
 Annotated Code of Maryland
 (2010 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,
 Article – Public Utilities
 Section 7–207(b) *and 7–207.1(a)*
 Annotated Code of Maryland
 (2010 Replacement Volume and 2011 Supplement)

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:

1. any physical change at a site, including fabrication, erection, installation, or demolition; or

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.

(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) (I) [Unless] **EXCEPT AS PROVIDED IN PARAGRAPH (4) OF THIS SUBSECTION, 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.

(II) ~~THE~~ **FOR CONSTRUCTION RELATED TO AN EXISTING OVERHEAD TRANSMISSION LINE, THE** COMMISSION MAY WAIVE THE REQUIREMENT IN SUBPARAGRAPH (I) OF THIS PARAGRAPH FOR GOOD CAUSE.

(4) (I) **EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, FOR CONSTRUCTION RELATED TO AN EXISTING OVERHEAD TRANSMISSION LINE DESIGNED TO CARRY A VOLTAGE IN EXCESS OF 69,000 VOLTS, THE COMMISSION SHALL WAIVE THE REQUIREMENT TO OBTAIN A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY IF THE COMMISSION FINDS THAT THE CONSTRUCTION DOES NOT:**

1. **REQUIRE THE ELECTRIC COMPANY TO OBTAIN NEW REAL PROPERTY OR ADDITIONAL RIGHTS-OF-WAY THROUGH EMINENT DOMAIN; OR**

2. **REQUIRE LARGER OR HIGHER STRUCTURES TO ACCOMMODATE:**

A. **INCREASED VOLTAGE; OR**

B. **LARGER CONDUCTORS.**

(II) 1. **FOR CONSTRUCTION RELATED TO AN EXISTING OVERHEAD TRANSMISSION LINE, INCLUDING REPAIRS, THAT IS NECESSARY TO AVOID AN IMMINENT SAFETY HAZARD OR RELIABILITY RISK, AN ELECTRIC COMPANY MAY UNDERTAKE THE NECESSARY CONSTRUCTION.**

2. **WITHIN 30 DAYS AFTER CONSTRUCTION IS COMPLETED UNDER SUBSUBPARAGRAPH 1 OF THIS SUBPARAGRAPH, AN**

ELECTRIC COMPANY SHALL FILE A REPORT WITH THE COMMISSION DESCRIBING THE WORK THAT WAS COMPLETED.

7-207.1.

(a) This section applies to a person who:

(1) constructs a generating station:

(i) designed to provide on-site generated electricity if:

1. the capacity of the generating station does not exceed 70 megawatts; and

2. the electricity that may be exported for sale from the generating station to the electric system is sold only on the wholesale market pursuant to an interconnection, operation, and maintenance agreement with the local electric company; or

(ii) that produces electricity from wind if:

1. the generating station is land-based;

2. the capacity of the generating station does not exceed 70 megawatts;

3. the electricity that may be exported for sale from the generating station to the electric system is sold only on the wholesale market pursuant to an interconnection, operation, and maintenance agreement with the local electric company; [and]

4. the Commission provides an opportunity for public comment at a public hearing as provided in subsection (e) of this section; AND

5. THE GENERATING STATION'S WIND TURBINES ARE NOT LOCATED WITHIN A DISTANCE FROM THE PATUXENT RIVER NAVAL AIR STATION THAT IS DETERMINED BY REGULATIONS ADOPTED BY THE COMMISSION IN COORDINATION WITH THE COMMANDER, NAVAL AIR WARFARE CENTER AIRCRAFT DIVISION, PROVIDED THAT THE DISTANCE REQUIREMENT UNDER THE REGULATION IS:

A. NOT GREATER THAN IS NECESSARY TO ENCOMPASS AN AREA IN WHICH UTILITY SCALE WIND TURBINES COULD CREATE DOPPLER RADAR INTERFERENCE FOR MISSIONS AT THE PATUXENT RIVER NAVAL AIR STATION;

B. NOT GREATER THAN 46 MILES, MEASURED FROM LOCATION 38.29667N, 76.37668W; AND

C. SUBJECT TO MODIFICATION IF NECESSARY TO REFLECT CHANGES IN MISSIONS OR TECHNOLOGY AT THE PATUXENT RIVER NAVAL AIR STATION OR CHANGES IN WIND ENERGY TECHNOLOGY; or

(2) constructs a generating station if:

(i) the capacity of the generating station does not exceed 25 megawatts;

(ii) the electricity that may be exported for sale from the generating station to the electric system is sold only on the wholesale market pursuant to an interconnection, operation, and maintenance agreement with the local electric company; and

(iii) at least 10% of the electricity generated at the generating station each year is consumed on-site.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 644

(House Bill 1427)

AN ACT concerning

Electricity – ~~Certificate of Public Convenience and Necessity~~ – Construction of Overhead Transmission Lines and Wind Generating Stations

FOR the purpose of authorizing the Public Service Commission to waive the requirement for an electric company to obtain a certificate of public convenience and necessity under certain circumstances for good cause; requiring the Commission to waive the requirement to obtain a certificate of public convenience and necessity for construction related to an existing overhead transmission line designed to carry a certain amount of voltage under certain circumstances; authorizing an electric company to undertake construction related to an existing overhead transmission line that is necessary to avoid an imminent safety hazard or reliability risk under certain circumstances; requiring an electric company to file a certain report with the Commission

within a certain period of time under certain circumstances; providing that a certain provision that requires a person to obtain certain approval from the Commission before constructing a certain generating station does not apply to a person constructing a certain wind generating station that has wind turbines within a certain distance from the Patuxent River Naval Air Station, as determined by certain regulation; and generally relating to ~~certificates of public convenience and necessity for the construction of~~ overhead electric transmission lines and certain wind generating stations.

BY repealing and reenacting, without amendments,
Article – Public Utilities
Section 7–207(a)
Annotated Code of Maryland
(2010 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,
Article – Public Utilities
Section 7–207(b) and 7–207.1(a)
Annotated Code of Maryland
(2010 Replacement Volume and 2011 Supplement)

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:

1. any physical change at a site, including fabrication, erection, installation, or demolition; or

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.

(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) (I) **[Unless] EXCEPT AS PROVIDED IN PARAGRAPH (4) OF THIS SUBSECTION, 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.

(II) ~~THE~~ FOR CONSTRUCTION RELATED TO AN EXISTING OVERHEAD TRANSMISSION LINE, THE COMMISSION MAY WAIVE THE REQUIREMENT IN SUBPARAGRAPH (I) OF THIS PARAGRAPH FOR GOOD CAUSE.

(4) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, FOR CONSTRUCTION RELATED TO AN EXISTING OVERHEAD TRANSMISSION LINE DESIGNED TO CARRY A VOLTAGE IN EXCESS OF 69,000 VOLTS, THE COMMISSION SHALL WAIVE THE REQUIREMENT TO OBTAIN A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY IF THE COMMISSION FINDS THAT THE CONSTRUCTION DOES NOT:

1. REQUIRE THE ELECTRIC COMPANY TO OBTAIN NEW REAL PROPERTY OR ADDITIONAL RIGHTS-OF-WAY THROUGH EMINENT DOMAIN; OR

2. REQUIRE LARGER OR HIGHER STRUCTURES TO ACCOMMODATE:

A. INCREASED VOLTAGE; OR

B. LARGER CONDUCTORS.

(II) 1. FOR CONSTRUCTION RELATED TO AN EXISTING OVERHEAD TRANSMISSION LINE, INCLUDING REPAIRS, THAT IS NECESSARY TO AVOID AN IMMINENT SAFETY HAZARD OR RELIABILITY RISK, AN ELECTRIC COMPANY MAY UNDERTAKE THE NECESSARY CONSTRUCTION.

2. WITHIN 30 DAYS AFTER CONSTRUCTION IS COMPLETED UNDER SUBSUBPARAGRAPH 1 OF THIS SUBPARAGRAPH, AN ELECTRIC COMPANY SHALL FILE A REPORT WITH THE COMMISSION DESCRIBING THE WORK THAT WAS COMPLETED.

7-207.1.

(a) This section applies to a person who:

(1) constructs a generating station:

(i) designed to provide on-site generated electricity if:

1. the capacity of the generating station does not exceed 70 megawatts; and

2. the electricity that may be exported for sale from the generating station to the electric system is sold only on the wholesale market pursuant to an interconnection, operation, and maintenance agreement with the local electric company; or

(ii) that produces electricity from wind if:

1. the generating station is land-based;

2. the capacity of the generating station does not exceed 70 megawatts;

3. the electricity that may be exported for sale from the generating station to the electric system is sold only on the wholesale market pursuant to an interconnection, operation, and maintenance agreement with the local electric company; [and]

4. the Commission provides an opportunity for public comment at a public hearing as provided in subsection (e) of this section; AND

5. THE GENERATING STATION'S WIND TURBINES ARE NOT LOCATED WITHIN A DISTANCE FROM THE PATUXENT RIVER NAVAL AIR STATION THAT IS DETERMINED BY REGULATIONS ADOPTED BY THE COMMISSION IN COORDINATION WITH THE COMMANDER, NAVAL AIR WARFARE CENTER AIRCRAFT DIVISION, PROVIDED THAT THE DISTANCE REQUIREMENT UNDER THE REGULATION IS:

A. NOT GREATER THAN IS NECESSARY TO ENCOMPASS AN AREA IN WHICH UTILITY SCALE WIND TURBINES COULD CREATE DOPPLER RADAR INTERFERENCE FOR MISSIONS AT THE PATUXENT RIVER NAVAL AIR STATION;

B. NOT GREATER THAN 46 MILES, MEASURED FROM LOCATION 38.29667N, 76.37668W; AND

C. SUBJECT TO MODIFICATION IF NECESSARY TO REFLECT CHANGES IN MISSIONS OR TECHNOLOGY AT THE PATUXENT RIVER NAVAL AIR STATION OR CHANGES IN WIND ENERGY TECHNOLOGY; or

(2) constructs a generating station if:

(i) the capacity of the generating station does not exceed 25 megawatts;

(ii) the electricity that may be exported for sale from the generating station to the electric system is sold only on the wholesale market pursuant to an interconnection, operation, and maintenance agreement with the local electric company; and

(iii) at least 10% of the electricity generated at the generating station each year is consumed on-site.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 645

(House Bill 16)

AN ACT concerning

Talbot County – Alcoholic Beverages Violations – Issuance of Citations

FOR the purpose of authorizing certain alcoholic beverages inspectors in Talbot County to issue citations for certain alcoholic beverages violations; and generally relating to the issuance of citations for alcoholic beverages violations by alcoholic beverages inspectors in Talbot County.

BY repealing and reenacting, with amendments,

Article – Criminal Law

Section 10–119

Annotated Code of Maryland

(2002 Volume and 2011 Supplement)

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

Article – Criminal Law

10–119.

(a) (1) A person who violates §§ 10–113 through 10–115 or § 10–118 of this part shall be issued a citation under this section.

(2) A minor who violates § 10–116 or § 10–117(a) of this part shall be issued a citation under this section.

(b) A citation for a violation of §§ 10–113 through 10–115 or a violation of § 10–118 of this part may be issued by:

(1) a police officer authorized to make arrests;

(2) in State forestry reservations, State parks, historic monuments, and recreation areas, a forest or park warden under § 5–206(a) or (b) of the Natural Resources Article; and

(3) in Anne Arundel County, Frederick County, Harford County, Montgomery County, [and] Prince George's County, **AND TALBOT COUNTY**, and only in the inspector's jurisdiction, an alcoholic beverages inspector who investigates license violations under Article 2B of the Code if the inspector:

(i) has successfully completed an appropriate program of training in the proper use of arrest authority and pertinent police procedures as required by the board of license commissioners; and

(ii) does not carry firearms in the performance of the inspector's duties.

(c) A person authorized under this section to issue a citation shall issue it if the person has probable cause to believe that the person charged is committing or has committed a Code violation.

(d) (1) Subject to paragraph (2) of this subsection, the form of citation issued to an adult shall be as prescribed by the District Court and shall be uniform throughout the State.

(2) The citation issued to an adult shall contain:

(i) the name and address of the person charged;

(ii) the statute allegedly violated;

(iii) the location, date, and time that the violation occurred;

(iv) the fine that may be imposed;

(v) a notice stating that prepayment of the fine is not allowed;

(vi) a notice that the District Court shall promptly send the person charged a summons to appear for trial;

(vii) the signature of the person issuing the citation; and

(viii) a space for the person charged to sign the citation.

(3) The form of citation issued to a minor shall:

(i) be prescribed by the State Court Administrator;

(ii) be uniform throughout the State; and

(iii) contain the information listed in § 3–8A–33(b) of the Courts Article.

(e) (1) Except for a citation subject to the jurisdiction of a circuit court, the issuing jurisdiction shall forward a copy of the citation and a request for trial to the District Court in the district having venue.

(2) (i) The District Court shall promptly schedule the case for trial and summon the defendant to appear.

(ii) Willful failure of the defendant to respond to the summons is contempt of court.

(f) (1) For purposes of this section, a violation of §§ 10–113 through 10–115 or a violation of § 10–118 of this part is a Code violation and is a civil offense.

(2) A person charged who is under the age of 18 years shall be subject to the procedures and dispositions provided in Title 3, Subtitle 8A of the Courts Article.

(3) A person charged who is at least 18 years old shall be subject to the provisions of this section.

(4) Adjudication of a Code violation is not a criminal conviction for any purpose, and it does not impose any of the civil disabilities ordinarily imposed by a criminal conviction.

(g) In any proceeding for a Code violation:

(1) the State has the burden to prove the guilt of the defendant to the same extent as is required by law in the trial of criminal causes, and in any such proceeding, the court shall apply the evidentiary standards as prescribed by law or rule for the trial of criminal causes;

(2) the court shall ensure that the defendant has received a copy of the charges against the defendant and that the defendant understands those charges;

(3) the defendant is entitled to cross-examine all witnesses who appear against the defendant, to produce evidence or witnesses on behalf of the

defendant, or to testify on the defendant's own behalf, if the defendant chooses to do so;

(4) the defendant is entitled to be represented by counsel of the defendant's choice and at the expense of the defendant; and

(5) the defendant may enter a plea of guilty or not guilty, and the verdict of the court in the case shall be:

(i) guilty of a Code violation;

(ii) not guilty of a Code violation; or

(iii) before rendering judgment, the court may place the defendant on probation in the same manner and to the same extent as is allowed by law in the trial of a criminal case.

(h) (1) Except as provided in paragraph (2) of this subsection, if the District Court finds that a person has committed a Code violation, the court shall require the person to pay:

(i) a fine not exceeding \$500; or

(ii) if the violation is a subsequent violation, a fine not exceeding \$1,000.

(2) If the District Court finds that a person has committed a Code violation under § 10–117 of this subtitle, the court shall require the person to pay:

(i) a fine not exceeding \$2,500; or

(ii) if the violation is a subsequent violation, a fine not exceeding \$5,000.

(3) The Chief Judge of the District Court may not establish a schedule for the prepayment of fines for a Code violation under this part.

(i) When a defendant has been found guilty of a Code violation and a fine has been imposed by the court:

(1) the court may direct that the payment of the fine be suspended or deferred under conditions that the court may establish; and

(2) if the defendant willfully fails to pay the fine imposed by the court, that willful failure may be treated as a criminal contempt of court, for which the defendant may be punished by the court as provided by law.

(j) (1) The defendant is liable for the costs of the proceedings in the District Court and for payment to the Criminal Injuries Compensation Fund.

(2) The court costs in a Code violation case in which costs are imposed are \$5.

(k) (1) In this subsection, “driver’s license” means a license or permit to drive a motor vehicle that is issued under the laws of this State or any other jurisdiction.

(2) This subsection applies only to:

(i) a person who is at least 18 but under 21 years of age; or

(ii) a minor if the minor is subject to the jurisdiction of the court.

(3) If a person is found guilty of a Code violation under § 10–113 of this part that involved the use of a driver’s license or a document purporting to be a driver’s license, the court shall notify the Motor Vehicle Administration of the violation.

(4) The Chief Judge of the District Court, in conjunction with the Motor Vehicle Administrator, shall establish uniform procedures for reporting Code violations described in this subsection.

(l) (1) A defendant who has been found guilty of a Code violation has the right to appeal or to file a motion for a new trial or a motion for a revision of a judgment provided by law in the trial of a criminal case.

(2) A motion shall be made in the same manner as provided in the trial of criminal cases, and the court, in ruling on the motion has the same authority provided in the trial of criminal cases.

(m) (1) The State’s Attorney for any county may prosecute a Code violation in the same manner as prosecution of a violation of the criminal laws of this State.

(2) In a Code violation case the State’s Attorney may:

(i) enter a nolle prosequi in or place the case on the stet docket;

and

(ii) exercise authority in the same manner as prescribed by law for violation of the criminal laws of this State.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 646

(House Bill 19)

AN ACT concerning

State Retirement and Pension System – Military Service Credit – Reservists

FOR the purpose of authorizing certain members of the State Retirement and Pension System who are members of a reserve component of the armed forces of the United States to receive a certain amount of service credit under certain circumstances for military service as a member of a reserve component of the armed forces of the United States; and generally relating to military service credit for members of a reserve component of the armed forces of the United States.

BY repealing and reenacting, with amendments,
Article – State Personnel and Pensions
Section 38–103(d) and 38–104(c)
Annotated Code of Maryland
(2009 Replacement Volume and 2011 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

38–103.

(d) (1) Subject to paragraph (2)(i) of this subsection, a member of a State or local retirement or pension system shall receive service credit for a period of absence from employment while in military service if:

(i) the employment of the member under subsection (a)(2) of this section is active or the employee is reinstated as a regular employee on a leave of absence; and

(ii) membership in a State or local retirement or pension system is a requirement of employment.

(2) (i) For an absence for military service, service credit for the military service may not exceed 5 years.

(ii) 1. This subparagraph applies only to a member of a State system.

2. Subject to subparagraph (i) of this paragraph and in addition to any service credit received under paragraph (1) of this subsection, a member of the Maryland National Guard **OR OF A RESERVE COMPONENT OF THE ARMED FORCES OF THE UNITED STATES** who has been activated under Title 10 of the United States Code and who is on active or inactive duty for training that interrupts the member's service shall receive service credit at the rate of 4 months for each full year for military service, not to exceed a total of 36 months.

38–104.

(c) (1) An individual described in subsection (a) of this section may not receive credit for that military service if the individual receives credit for military service from another retirement system for which retirement benefits have been or will be received by the individual.

(2) Paragraph (1) of this subsection does not apply to:

(i) credit for military service provided under:

1. the Social Security Act;

2. the National Railroad Retirement Act; or

3. Title 3 or Title 10, Chapter 1223, §§ 12731 through 12737 of the United States Code; or

(ii) disability payments from a pension or retirement system.

(3) (i) Military service credit under this section may not exceed 5 years.

(ii) Subject to subparagraph (i) of this paragraph, a member of the Maryland National Guard **OR OF A RESERVE COMPONENT OF THE ARMED FORCES OF THE UNITED STATES** who has not been activated under Title 10 of the United States Code, shall receive service credit at the rate of 4 months for each full year of service with the Maryland National Guard **OR ~~OF~~ WITH A RESERVE COMPONENT OF THE ARMED FORCES OF THE UNITED STATES**, not to exceed a total of 36 months.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 647

(House Bill 94)

AN ACT concerning

Vehicle Laws – Special and Commemorative Registration Plates

FOR the purpose of repealing the authority of the Motor Vehicle Administration to issue certain commemorative registration plates and making certain conforming changes; requiring rather than authorizing the Administration to issue a special Chesapeake Bay Commemorative Registration Plate; requiring the Administration to disburse certain fees to the Chesapeake Bay Trust; requiring the Administration to consult with the Chesapeake Bay Trust on certain matters; repealing the termination provision for the Chesapeake Bay Commemorative Plate Program; repealing the termination provision for the special registration plate honoring State agriculture; making certain stylistic and technical changes; and generally relating to special and commemorative registration plates for motor vehicles.

BY repealing and reenacting, with amendments,
Article – Transportation
Section 13–618
Annotated Code of Maryland
(2009 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, without amendments,
Article – Transportation
Section 13–619.2
Annotated Code of Maryland
(2009 Replacement Volume and 2011 Supplement)

BY repealing

Chapter 3 of the Acts of the General Assembly of the First Special Session of 1992, as amended by Chapter 91 of the Acts of the General Assembly of 1994, Chapter 356 of the Acts of the General Assembly of 1996, Chapter 141 of the Acts of the General Assembly of 1998, Chapter 340 of the Acts of the General Assembly of 2000, Chapter 34 of the Acts of the General Assembly of 2002, Chapter 398 of the Acts of the General Assembly of 2003, and Chapters 135 and 136 of the Acts of the General Assembly of 2007

Section 3

BY repealing and reenacting, with amendments,

Chapter 251 of the Acts of the General Assembly of 2000, as amended by Chapter 398 of the Acts of the General Assembly of 2003 and Chapters 135 and 136 of the Acts of the General Assembly of 2007

Section 3

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

Article – Transportation

13–618.

(a) The Administration [may] **SHALL** issue A special [commemorative original or substitute registration plates for any geographical, historical, natural resource, or environmental commemoration of statewide significance] **CHESAPEAKE BAY COMMEMORATIVE REGISTRATION PLATE**.

(b) The owner of a vehicle, or a lessee of the vehicle under a lease not intended as security, or a director, officer, employee, or partner of a business entity that owns the vehicle considered eligible by the Administration may apply to the Administration for the assignment of a commemorative registration plate under this section if the vehicle is included in one of the following classes:

(1) A Class A (passenger) vehicle;

(2) A Class E (truck) vehicle with a manufacturer's rated capacity of one ton or less;

(3) A Class G (trailer) vehicle; or

(4) A Class M (multipurpose) vehicle.

(c) [(1) An original or substitute commemorative plate may only be issued under this section for a fixed period of 2 consecutive years after its initial issuance.

(2) The Administration may only issue one commemorative plate under this section at any one time.

(d)] (1) In addition to the annual registration fee otherwise required under this title, an owner of a vehicle assigned a commemorative registration plate under this section shall pay:

(i) An additional initial registration fee set by the Administration when the new registration plates are issued to the vehicle under this section; or

(ii) An additional renewal fee set by the Administration each time the plate is renewed.

(2) (i) The Administration shall set the additional initial registration fee at a level that will enable the Administration to recover its costs under this section.

(ii) The Administration may set the additional initial registration fee at a level that is sufficient to result in a surplus after costs are subtracted.

(iii) The Administration shall retain a portion of the additional initial registration fee that is sufficient to allow the Administration to recover any costs of issuing and distributing commemorative plates under this section.

(iv) Any surplus moneys remaining after the Administration has recovered the costs of issuing a commemorative plate under this section and moneys collected for additional renewal fees may not be retained by or transferred to any agency of the State for any purpose.

(v) Notwithstanding subparagraph (iv) of this paragraph, the surplus moneys and moneys collected for additional renewal fees [may be retained for the purpose described in paragraph (3) of this subsection] **SHALL BE DISBURSED BY THE ADMINISTRATION TO THE CHESAPEAKE BAY TRUST.**

(3) [The surplus moneys and moneys collected for additional renewal fees shall be disbursed by the Administration to a nonprofit organization that is:

(i) Closely related to the geographical, historical, natural resource, or environmental theme which the plate commemorates; and

(ii) Designated by the Administration under subsection (e) of this section.

(4) No portion of the additional initial registration or renewal fees may be credited to the Gasoline and Motor Vehicle Revenue Account for distribution under § 8-403 or § 8-404 of this article.

[(e)] (D) (1) The Administration shall adopt regulations not inconsistent with the Maryland Vehicle Law to govern the issuance of special registration plates under this section, **INCLUDING REGULATIONS DETAILING THE PLAN OF DISTRIBUTION OF THE FUNDS.**

(2) [Before designating any nonprofit organization to receive any surplus moneys or moneys collected for additional renewal fees and before distributing the moneys to any nonprofit organization, the Administration shall adopt regulations specific to each new commemorative plate detailing:

(i) The name and nature of the nonprofit organization receiving the money;

(ii) The relationship of the nonprofit organization to the geographical, historical, natural resource, or environmental theme which the plate commemorates; and

(iii) The plan of distribution of the funds.

(3) The Administration shall consult with the [nonprofit organization designated to receive moneys under this section] **CHESAPEAKE BAY TRUST** to establish a schedule under which the Administration will transfer to the [nonprofit organization] **TRUST** revenue collected on behalf of the [nonprofit organization] **TRUST** under this section.

[(f)](E) The additional fees to the annual registration fee required by this section are not required for special registration of a vehicle that is exempt under § 13–903 of this title[, or a vehicle with a special registration plate recognizing:

(1) The Maryland National Guard; or

(2) A volunteer fire department, volunteer rescue squad, or volunteer ambulance company in this State].

[(g)] (F) (1) **A COMMEMORATIVE REGISTRATION PLATE ISSUED UNDER THIS SECTION SHALL DISPLAY:**

(I) **A** special registration number [as specified] **ASSIGNED** by the Administration [and assigned under this section] **THAT** may consist of[:

(i) Any] **ANY** combination of:

1. Letters; and

2. Numerals; and

(ii) [Any] **A** design approved by the Administration that adequately reflects the [geographical, historical, natural resource, or environmental] **CHESAPEAKE BAY** theme [which] **THAT** the plate commemorates.

(2) [A special registration number or design assigned under this section shall be displayed on the registration plates for the vehicle.

(3) The Administration shall consult with the [nonprofit organization designated to receive moneys under this section] **CHESAPEAKE BAY TRUST** with respect to [any] **THE** design of the Chesapeake Bay Commemorative [License] **REGISTRATION** Plate.

13-619.2.

(a) In consultation with the Maryland Agricultural Education Foundation, Inc. the Administration shall develop and make available for qualifying vehicles a specially designed registration plate honoring Maryland agriculture.

(b) The owner of a vehicle, or a lessee of the vehicle under a lease not intended as security, or a director, officer, employee, or partner of a business entity that owns the vehicle considered eligible by the Administration may apply to the Administration for an original or substitute registration plate under this section if the vehicle is included in one of the following classes:

(1) A Class A (passenger) vehicle;

(2) A Class E (truck) vehicle with a manufacturer's rated capacity of one ton or less;

(3) A Class E (farm truck) vehicle;

(4) A Class G (trailer) vehicle; or

(5) A Class M (multipurpose) vehicle.

(c) (1) In addition to the annual registration fee otherwise required under this title, an owner of a vehicle assigned a registration plate under this section shall pay:

(i) When initially issued the registration plate, a onetime fee set by the Administration to recover the Administration's costs under this section; and

(ii) When initially issued the registration plate, and each time the registration plate is renewed, an additional fee set by the Administration to benefit the Maryland Agricultural Education Foundation, Inc.

(2) The additional fee collected under this section is not required for special registration of a vehicle that is exempt under § 13-903 of this title.

(3) No portion of the fee collected under this section may be credited to the Gasoline and Motor Vehicle Revenue Account for distribution under § 8–403 or § 8–404 of this article.

(d) The Administration shall consult with the Maryland Agricultural Education Foundation, Inc. on:

(1) The design of a registration plate to be issued under this section to honor Maryland agriculture;

(2) The setting of the fee to be charged under subsection (c)(1)(ii) of this section at a level intended to encourage the purchase of the registration plate issued under this section while providing a continuous revenue source to benefit the Foundation; and

(3) A schedule under which the Administration will transfer to the Foundation revenue collected on the Foundation's behalf.

(e) The Administration shall adopt regulations to govern the issuance of special registration plates under this section.

Chapter 3 of the Acts of the First Special Session of 1992, as amended by Chapter 91 of the Acts of 1994, Chapter 356 of the Acts of 1996, Chapter 141 of the Acts of 1998, Chapter 340 of the Acts of 2000, Chapter 34 of the Acts of 2002, Chapter 398 of the Acts of 2003, and Chapters 135 and 136 of the Acts of 2007

[SECTION 3. AND BE IT FURTHER ENACTED, That, notwithstanding the provisions of § 13–618(c) of the Transportation Article, the Motor Vehicle Administration shall extend the Chesapeake Bay Commemorative Plate Program until July 1, 2013.]

Chapter 251 of the Acts of 2000, as amended by Chapter 398 of the Acts of 2003 and Chapters 135 and 136 of the Acts of 2007

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2000. [It shall remain effective for a period of 13 years and, at the end of June 30, 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, 2012.

Approved by the Governor, May 22, 2012.

Chapter 648

(House Bill 99)

AN ACT concerning

~~Health~~ Anne Arundel County – Semipermanent Food Service Facilities – Regulations Requirements

FOR the purpose of ~~requiring the Department of Health and Mental Hygiene to adopt certain regulations~~ requiring the operator of a certain semipermanent food service facility to ~~keep a certain record of~~ meet certain requirements regarding wastewater disposal and ~~to use, under certain circumstances, a certain hose to~~ access to a potable water supply; providing for the application of this Act; defining the term “semipermanent food service facility”; and generally relating to ~~regulations~~ requirements regarding the operation of semipermanent food service facilities in Anne Arundel County.

BY repealing and reenacting, without amendments,
Article – Health – General
Section 21–301(a) and (h)
Annotated Code of Maryland
(2009 Replacement Volume and 2011 Supplement)

BY adding to
Article – Health – General
Section 21–301(j–2)
Annotated Code of Maryland
(2009 Replacement Volume and 2011 Supplement)

~~BY repealing and reenacting, with amendments,~~

BY adding to
Article – Health – General
Section ~~21–304(a)~~ 21–312.2
Annotated Code of Maryland
(2009 Replacement Volume and 2011 Supplement)

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

Article – Health – General

21–301.

- (a) In this subtitle the following words have the meanings indicated.
- (h) (1) “Food service facility” means:

(i) A place where food or drink is prepared for sale or service on the premises or elsewhere; or

(ii) Any operation where food is served to or provided for the public, with or without charge.

(2) “Food service facility” does not include:

(i) A kitchen in a private home where food is prepared at no charge for guests in the home, for guests at a social gathering, or for service to unemployed, homeless, or other disadvantaged populations;

(ii) A food preparation or serving area where only nonpotentially hazardous food, as defined by the United States Food and Drug Administration, is prepared or served only by an excluded organization; or

(iii) A location in a farmer’s market or at a public festival or event where raw agricultural products, as defined in § 21–304(d)(1)(iii) of this subtitle, are sold.

(J–2) (1) “SEMIPERMANENT FOOD SERVICE FACILITY” MEANS A FOOD SERVICE FACILITY THAT:

(I) IS BUILT AT A LOCATION OTHER THAN WHERE IT OPERATES;

(II) IS TRANSPORTED AS A COMPLETE UNIT THAT DOES NOT REQUIRE A BUILDING PERMIT TO INSTALL ON THE LOCATION AT WHICH IT OPERATES;

(III) HAS NO INDOOR SEATING FOR PATRONS; AND

(IV) WHEN SERVING COOKED FOOD, SERVES ONLY FOODS COOKED FOR IMMEDIATE SERVICE.

(2) “SEMIPERMANENT FOOD SERVICE FACILITY” DOES NOT INCLUDE A FOOD SERVICE FACILITY THAT IS A MECHANICALLY, ELECTRICALLY, MANUALLY, OR OTHERWISE PROPELLED VEHICLE OPERATING ON LAND OR WATER THAT MOVES AS PART OF ITS ROUTINE OPERATION TO:

(I) CHANGE LOCATION FOR SALES;

(II) OBTAIN FOOD AND OTHER SUPPLIES;

(III) FILL POTABLE WATER SUPPLY HOLDING TANKS;

(IV) EMPTY WASTEWATER HOLDING TANKS; OR

(V) PROVIDE FOR THE CLEANING AND SANITATION OF EQUIPMENT AND UTENSILS.

~~21-304.~~

~~(a) (1) The Department shall adopt rules and regulations necessary to carry out the provisions of this subtitle.~~

~~(2) For excluded organizations, the Department:~~

~~(i) Shall adopt separate regulations that establish minimum standards that:~~

~~1. Ensure food integrity and safety;~~

~~2. Preserve public health; and~~

~~3. Control foodborne illnesses; and~~

~~(ii) May adopt separate regulations that establish a licensing system, with appropriate standards, that excluded organizations may voluntarily choose to submit to as a nonrescindable alternative to regulation under item (i) of this paragraph.~~

~~(3) FOR SEMIPERMANENT FOOD SERVICE FACILITIES, THE DEPARTMENT SHALL ADOPT SEPARATE REGULATIONS THAT REQUIRE THE OPERATOR OF A SEMIPERMANENT FOOD SERVICE FACILITY TO:~~

~~(i) KEEP A RECORD OF THE TIME, PLACE, AND METHOD OF WASTEWATER DISPOSAL; AND~~

~~(ii) USE A HOSE THAT IS APPROVED FOR FOOD SERVICE USE IF THE OPERATOR OF THE SEMIPERMANENT FOOD SERVICE FACILITY USES A HOSE TO ACCESS A POTABLE WATER SUPPLY.~~

21-312.2.

(A) THIS SECTION APPLIES TO A SEMIPERMANENT FOOD SERVICE FACILITY THAT:

(1) OPERATES IN ANNE ARUNDEL COUNTY;

(2) WAS LICENSED UNDER § 21-305 OF THIS SUBTITLE ON OR BEFORE DECEMBER 1, 2010; AND

(3) WAS NOT SOLD OR TRANSFERRED TO ANOTHER OPERATOR AFTER DECEMBER 1, 2010.

(B) AN OPERATOR OF A SEMIPERMANENT FOOD SERVICE FACILITY SHALL:

(1) PUMP OUT THE ONBOARD WASTEWATER HOLDING TANK AS FREQUENTLY AS REQUIRED BY ANNE ARUNDEL COUNTY TO AVOID CREATING A PUBLIC HEALTH NUISANCE;

(2) REMOVE WASTEWATER BY:

(i) HIRING A LICENSED LIQUID WASTE HAULER TO DISPOSE OF THE WASTEWATER; OR

(ii) DISPOSING OF THE WASTEWATER AT A WASTEWATER DISPOSAL FACILITY APPROVED BY ANNE ARUNDEL COUNTY;

(3) ~~SHALL USE~~ USE A FOOD GRADE HOSE AND AN ADEQUATE BACKFLOW PREVENTION DEVICE TO MAINTAIN A POTABLE WATER SUPPLY; AND

(4) DEMONSTRATE COMPLIANCE WITH ITEMS (1) AND (2) OF THIS SUBSECTION BY QUARTERLY SUBMITTING A RECORD OF RECEIPTS TO THE ISSUER OF THE LICENSE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 649

(House Bill 101)

AN ACT concerning

Health – General – Posthumous Use of Donor Sperm and Eggs

FOR the purpose of prohibiting a person from using sperm or eggs from a known donor ~~after the donor's death~~ for the purpose of assisted reproduction, ~~except~~ under

certain circumstances; establishing requirements for a certain consent; establishing certain penalties for a ~~certain~~ violation of certain provisions of this Act; providing for the application of certain provisions of this Act; altering the definition of “child”, for purposes of certain provisions of law regarding inheritance, to include a child conceived from the genetic material of a person after the person’s death under certain circumstances; providing that a certain after-born relation may not be considered as entitled to distribution in that relation’s own right, unless the decedent had consented in a written record to use of the decedent’s genetic material for posthumous conception in accordance with the requirements of a certain provision of law, the decedent consented in a written record to be the parent of a child posthumously conceived using the decedent’s genetic material, and the child posthumously conceived was born within a certain period after the death of the decedent; making stylistic changes; and generally relating to the posthumous use of donor sperm and eggs.

BY repealing and reenacting, with amendments,

Article – Estates and Trusts

Section 1–205 and 3–107

Annotated Code of Maryland

(2011 Replacement Volume and 2011 Supplement)

BY adding to

Article – Health – General

Section 20–111

Annotated Code of Maryland

(2009 Replacement Volume and 2011 Supplement)

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

Article – Estates and Trusts

1–205.

(A) A child includes:

(1) [a] A legitimate child, an adopted child, and an illegitimate child to the extent provided in §§ 1–206 through 1–208 of this subtitle; AND

(2) A CHILD CONCEIVED FROM THE GENETIC MATERIAL OF A PERSON AFTER THE DEATH OF THE PERSON IF:

(i) THE PERSON CONSENTED IN A WRITTEN RECORD TO USE OF THE PERSON’S GENETIC MATERIAL FOR POSTHUMOUS CONCEPTION IN ACCORDANCE WITH THE REQUIREMENTS OF § 20–111 OF THE HEALTH – GENERAL ARTICLE; AND

(II) THE PERSON CONSENTED IN A WRITTEN RECORD TO BE THE PARENT OF A CHILD POSTHUMOUSLY CONCEIVED USING THE PERSON'S GENETIC MATERIAL.

(B) A child does not include a stepchild, a foster child, or a grandchild or more remote descendant.

3-107.

(A) A child of the decedent who is conceived before the death of the decedent, but born afterwards shall inherit as if [he] THE CHILD had been born in the lifetime of the decedent.

(B) No other after-born relation may be considered as entitled to distribution in [his] THE RELATION'S own right UNLESS:

(1) THE DECEDENT HAD CONSENTED IN A WRITTEN RECORD TO USE OF THE DECEDENT'S GENETIC MATERIAL FOR POSTHUMOUS CONCEPTION IN ACCORDANCE WITH THE REQUIREMENTS OF § 20-111 OF THE HEALTH – GENERAL ARTICLE;

(2) THE PERSON CONSENTED IN A WRITTEN RECORD TO BE THE PARENT OF A CHILD POSTHUMOUSLY CONCEIVED USING THE PERSON'S GENETIC MATERIAL; AND

(3) THE CHILD POSTHUMOUSLY CONCEIVED USING THE DECEDENT'S GENETIC MATERIAL IS BORN WITHIN 2 YEARS AFTER THE DEATH OF THE DECEDENT.

Article – Health – General

20-111.

(A) (1) THIS SECTION APPLIES TO THE USE OF SPERM OR EGGS FROM A DONOR KNOWN TO THE INDIVIDUAL WHO INTENDS TO BECOME A PARENT THROUGH THE USE OF THE SPERM OR EGGS.

(2) THIS SECTION DOES NOT APPLY TO THE USE OF SPERM OR EGGS DONATED TO A TISSUE BANK OR FERTILITY CLINIC BY A DONOR WHO INTENDED TO REMAIN ANONYMOUS EITHER INDEFINITELY OR UNTIL A CHILD THAT RESULTS FROM THE USE OF THE SPERM OR EGGS BECOMES AN ADULT.

~~(A)~~ (B) A PERSON MAY NOT USE SPERM OR EGGS FROM A KNOWN DONOR ~~AFTER THE DONOR'S DEATH~~ FOR THE PURPOSE OF ASSISTED REPRODUCTION, ~~UNLESS THE DONOR PREVIOUSLY GAVE IF:~~

(1) THE PERSON KNOWS THAT THE KNOWN DONOR DIED AND DID NOT GIVE CONSENT FOR THE POSTHUMOUS USE OF THE SPERM OR EGGS; OR

(2) THE DONOR OR THE INDIVIDUAL WHO INTENDS TO BECOME A PARENT THROUGH THE USE OF THE SPERM OR EGGS RECEIVES ANY REMUNERATION FOR THE DONATION OR USE OF THE SPERM OR EGGS.

~~(B)~~ (C) A DONOR'S CONSENT TO THE POSTHUMOUS USE OF THE DONOR'S SPERM OR EGGS GIVEN ON OR AFTER OCTOBER 1, 2012 IS NOT VALID UNLESS IT IS:

(1) IN WRITING; AND

(2) SIGNED BY THE DONOR OR BY SOME OTHER PERSON FOR THE DONOR, IN THE PRESENCE OF THE DONOR, AND AT THE EXPRESS DIRECTION OF THE DONOR; ~~AND~~

~~(3) ACKNOWLEDGED BY THE DONOR BEFORE A NOTARY PUBLIC.~~

~~(C)~~ (D) A PERSON WHO ~~KNOWINGLY~~ VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO:

(1) FOR A FIRST OFFENSE, A FINE NOT EXCEEDING \$1,000; AND

(2) FOR A SECOND OR SUBSEQUENT OFFENSE, A FINE NOT EXCEEDING \$5,000.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 650

(House Bill 125)

AN ACT concerning

**Frederick County and Washington County – Property Tax Credit – Job
Creation by Small Businesses**

FOR the purpose of authorizing the governing body of Frederick County and the governing body of Washington County to grant, by law, a property tax credit against the county property tax imposed on real property owned or leased by certain business entities that meet certain requirements; providing for the amount and duration of certain property tax credits; requiring a lessor of real property in Frederick County or in Washington County eligible for certain property tax credits to reduce by a certain amount the amount of tax for which the tenant is contractually liable under the lease under certain circumstances; requiring the governing body of Frederick County and the governing body of Washington County to provide, by law, requirements for eligibility for the property tax credit, any additional limitations on the credit, and any other provision necessary to implement the credit; defining certain terms; providing for the application of this Act; and generally relating to a county property tax credit for certain new or existing business entities located in Frederick County and in Washington County.

BY renumbering

Article – Tax – Property

Section 9–312(i)

to be Section 9–312(j)

Annotated Code of Maryland

(2007 Replacement Volume and 2011 Supplement)

BY adding to

Article – Tax – Property

Section 9–312(i) and 9–323(g)

Annotated Code of Maryland

(2007 Replacement Volume and 2011 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 9–312(i) of Article – Tax – Property of the Annotated Code of Maryland be renumbered to be Section(s) 9–312(j).

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

Article – Tax – Property

9–312.

(I) (1) (I) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(II) “AFFILIATE” MEANS A PERSON:

1. THAT DIRECTLY OR INDIRECTLY OWNS AT LEAST 80% OF A BUSINESS ENTITY; OR

2. AT LEAST 80% OF WHICH IS OWNED, DIRECTLY OR INDIRECTLY, BY A BUSINESS ENTITY.

(III) "BUSINESS ENTITY" MEANS A PERSON CONDUCTING A TRADE OR BUSINESS IN THE STATE THAT IS SUBJECT TO THE STATE INDIVIDUAL OR CORPORATE INCOME TAX OR INSURANCE PREMIUMS TAX.

(IV) "FULL-TIME POSITION" MEANS A POSITION REQUIRING AT LEAST 840 HOURS OF AN INDIVIDUAL'S TIME DURING AT LEAST 24 WEEKS IN A 6-MONTH PERIOD.

(V) "NEW OR EXPANDED PREMISES" MEANS COMMERCIAL OR INDUSTRIAL REAL PROPERTY, INCLUDING A BUILDING OR PART OF A BUILDING THAT HAS NOT BEEN PREVIOUSLY OCCUPIED, WHERE A BUSINESS ENTITY OR ITS AFFILIATES LOCATE TO CONDUCT BUSINESS.

(VI) 1. "NEW PERMANENT FULL-TIME POSITION" MEANS A POSITION THAT IS:

A. A FULL-TIME POSITION OF INDEFINITE DURATION;

B. LOCATED IN FREDERICK COUNTY;

C. NEWLY CREATED, AS A RESULT OF THE ESTABLISHMENT OR EXPANSION OF A BUSINESS FACILITY IN THE COUNTY; AND

D. FILLED.

2. "NEW PERMANENT FULL-TIME POSITION" DOES NOT INCLUDE A POSITION THAT IS:

A. CREATED WHEN AN EMPLOYMENT FUNCTION IS SHIFTED FROM AN EXISTING BUSINESS FACILITY OF THE BUSINESS ENTITY OR ITS AFFILIATES LOCATED IN FREDERICK COUNTY TO ANOTHER BUSINESS FACILITY OF THE SAME BUSINESS ENTITY OR ITS AFFILIATES, IF THE POSITION DOES NOT REPRESENT A NET NEW JOB IN THE COUNTY;

B. CREATED THROUGH A CHANGE IN OWNERSHIP OF A TRADE OR BUSINESS;

C. CREATED THROUGH A CONSOLIDATION, MERGER, OR RESTRUCTURING OF A BUSINESS ENTITY OR ITS AFFILIATES, IF THE POSITION DOES NOT REPRESENT A NET NEW JOB IN THE COUNTY;

D. CREATED WHEN AN EMPLOYMENT FUNCTION IS CONTRACTUALLY SHIFTED FROM AN EXISTING BUSINESS ENTITY OR ITS AFFILIATES LOCATED IN THE COUNTY TO ANOTHER BUSINESS ENTITY OR ITS AFFILIATES, IF THE POSITION DOES NOT REPRESENT A NET NEW JOB IN THE COUNTY; OR

E. FILLED FOR A PERIOD OF LESS THAN 12 MONTHS.

(2) THE GOVERNING BODY OF FREDERICK COUNTY MAY GRANT, BY LAW, A PROPERTY TAX CREDIT AGAINST THE COUNTY PROPERTY TAX IMPOSED ON REAL PROPERTY OWNED OR LEASED BY A BUSINESS ENTITY THAT MEETS THE REQUIREMENTS SPECIFIED FOR THE TAX CREDIT UNDER THIS SUBSECTION.

(3) TO QUALIFY FOR A PROPERTY TAX CREDIT UNDER THIS SUBSECTION, BEFORE A BUSINESS ENTITY OBTAINS THE NEW OR EXPANDED PREMISES OR HIRES EMPLOYEES TO FILL THE NEW PERMANENT FULL-TIME POSITIONS AT THE NEW OR EXPANDED PREMISES, THE BUSINESS ENTITY SHALL PROVIDE WRITTEN NOTIFICATION TO THE GOVERNING BODY OF FREDERICK COUNTY STATING:

(I) THAT THE BUSINESS ENTITY INTENDS TO CLAIM THE PROPERTY TAX CREDIT; AND

(II) WHEN THE BUSINESS ENTITY EXPECTS TO OBTAIN THE NEW OR EXPANDED PREMISES AND HIRE THE REQUIRED NUMBER OF EMPLOYEES IN THE NEW PERMANENT FULL-TIME POSITIONS.

(4) (I) TO QUALIFY FOR A PROPERTY TAX CREDIT UNDER THIS SUBSECTION, AN EXISTING BUSINESS ENTITY IN THE COUNTY SHALL:

1. OBTAIN AT LEAST AN ADDITIONAL 1,500 SQUARE FEET OF NEW OR EXPANDED PREMISES BY PURCHASING NEWLY CONSTRUCTED PREMISES, CONSTRUCTING NEW PREMISES, CAUSING NEW PREMISES TO BE CONSTRUCTED, OR LEASING PREVIOUSLY UNOCCUPIED PREMISES; AND

2. EMPLOY AT LEAST ONE INDIVIDUAL IN A NEW PERMANENT FULL-TIME POSITION DURING A 12-MONTH PERIOD, DURING

WHICH PERIOD THE BUSINESS ENTITY ALSO MUST OBTAIN AND OCCUPY THE NEW OR EXPANDED PREMISES.

(II) TO QUALIFY FOR THE PROPERTY TAX CREDIT UNDER THIS SUBSECTION, A NEW BUSINESS ENTITY LOCATING IN THE COUNTY SHALL:

1. OBTAIN AT LEAST 2,500 SQUARE FEET OF NEW OR EXPANDED PREMISES BY PURCHASING NEWLY CONSTRUCTED PREMISES, CONSTRUCTING NEW PREMISES, CAUSING NEW PREMISES TO BE CONSTRUCTED, OR LEASING PREVIOUSLY UNOCCUPIED PREMISES; AND

2. EMPLOY AT LEAST FIVE INDIVIDUALS IN NEW PERMANENT FULL-TIME POSITIONS DURING A 24-MONTH PERIOD, DURING WHICH PERIOD THE BUSINESS ENTITY ALSO MUST OBTAIN AND OCCUPY THE NEW OR EXPANDED PREMISES.

(5) (I) IF AN EXISTING BUSINESS ENTITY IN THE COUNTY MEETS THE REQUIREMENTS OF PARAGRAPH (4)(I) OF THIS SUBSECTION, THE PROPERTY TAX CREDIT GRANTED UNDER THIS SUBSECTION SHALL EQUAL A PERCENTAGE OF THE AMOUNT OF PROPERTY TAX IMPOSED ON THE ASSESSMENT OF THE NEW OR EXPANDED PREMISES, AS FOLLOWS:

1. 52% IN THE 1ST AND 2ND TAXABLE YEARS;
2. 39% IN THE 3RD AND 4TH TAXABLE YEARS; AND
3. 26% IN THE 5TH AND 6TH TAXABLE YEARS.

(II) IF A NEW BUSINESS ENTITY LOCATING IN THE COUNTY MEETS THE REQUIREMENTS OF PARAGRAPH (4)(II) OF THIS SUBSECTION, THE PROPERTY TAX CREDIT GRANTED UNDER THIS SUBSECTION SHALL EQUAL A PERCENTAGE OF THE AMOUNT OF PROPERTY TAX IMPOSED ON THE ASSESSMENT OF THE NEW OR EXPANDED PREMISES, AS FOLLOWS:

1. 30% IN THE 1ST AND 2ND TAXABLE YEARS;
2. 20% IN THE 3RD AND 4TH TAXABLE YEARS; AND
3. 10% IN THE 5TH AND 6TH TAXABLE YEARS.

(6) THE LESSOR OF REAL PROPERTY GRANTED A PROPERTY TAX CREDIT UNDER THIS SUBSECTION SHALL REDUCE THE AMOUNT OF TAXES FOR WHICH A BUSINESS ENTITY IS CONTRACTUALLY LIABLE UNDER THE LEASE

AGREEMENT BY THE AMOUNT OF ANY CREDIT GRANTED UNDER THIS SUBSECTION FOR IMPROVEMENTS MADE BY THE BUSINESS ENTITY.

(7) THE GOVERNING BODY OF FREDERICK COUNTY SHALL PROVIDE, BY LAW, FOR:

(I) THE SPECIFIC REQUIREMENTS FOR ELIGIBILITY FOR A PROPERTY TAX CREDIT AUTHORIZED UNDER THIS SUBSECTION;

(II) ANY ADDITIONAL LIMITATIONS ON ELIGIBILITY FOR THE CREDIT; AND

(III) ANY OTHER PROVISION APPROPRIATE TO IMPLEMENT THE CREDIT.

9-323.

(G) (1) (I) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(II) “AFFILIATE” MEANS A PERSON:

1. THAT DIRECTLY OR INDIRECTLY OWNS AT LEAST 80% OF A BUSINESS ENTITY; OR

2. AT LEAST 80% OF WHICH IS OWNED, DIRECTLY OR INDIRECTLY, BY A BUSINESS ENTITY.

(III) “BUSINESS ENTITY” MEANS A PERSON CONDUCTING A TRADE OR BUSINESS IN THE STATE THAT IS SUBJECT TO THE STATE INDIVIDUAL OR CORPORATE INCOME TAX OR INSURANCE PREMIUMS TAX.

(IV) “FULL-TIME POSITION” MEANS A POSITION REQUIRING AT LEAST 840 HOURS OF AN INDIVIDUAL’S TIME DURING AT LEAST 24 WEEKS IN A 6-MONTH PERIOD.

(V) “NEW OR EXPANDED PREMISES” MEANS COMMERCIAL OR INDUSTRIAL REAL PROPERTY, INCLUDING A BUILDING OR PART OF A BUILDING THAT HAS NOT BEEN PREVIOUSLY OCCUPIED, WHERE A BUSINESS ENTITY OR ITS AFFILIATES LOCATE TO CONDUCT BUSINESS.

(VI) 1. “NEW PERMANENT FULL-TIME POSITION” MEANS A POSITION THAT IS:

A. A FULL-TIME POSITION OF INDEFINITE DURATION;

B. LOCATED IN WASHINGTON COUNTY;

C. NEWLY CREATED, AS A RESULT OF THE ESTABLISHMENT OR EXPANSION OF A BUSINESS FACILITY IN THE COUNTY; AND

D. FILLED.

2. "NEW PERMANENT FULL-TIME POSITION" DOES NOT INCLUDE A POSITION THAT IS:

A. CREATED WHEN AN EMPLOYMENT FUNCTION IS SHIFTED FROM AN EXISTING BUSINESS FACILITY OF THE BUSINESS ENTITY OR ITS AFFILIATES LOCATED IN WASHINGTON COUNTY TO ANOTHER BUSINESS FACILITY OF THE SAME ENTITY OR ITS AFFILIATES, IF THE POSITION DOES NOT REPRESENT A NET NEW JOB IN THE COUNTY;

B. CREATED THROUGH A CHANGE IN OWNERSHIP OF A TRADE OR BUSINESS;

C. CREATED THROUGH A CONSOLIDATION, MERGER, OR RESTRUCTURING OF A BUSINESS ENTITY OR ITS AFFILIATES, IF THE POSITION DOES NOT REPRESENT A NET NEW JOB IN THE COUNTY;

D. CREATED WHEN AN EMPLOYMENT FUNCTION IS CONTRACTUALLY SHIFTED FROM AN EXISTING BUSINESS ENTITY OR ITS AFFILIATES LOCATED IN THE COUNTY TO ANOTHER BUSINESS ENTITY OR ITS AFFILIATES, IF THE POSITION DOES NOT REPRESENT A NET NEW JOB IN THE COUNTY; OR

E. FILLED FOR A PERIOD OF LESS THAN 12 MONTHS.

(2) THE GOVERNING BODY OF WASHINGTON COUNTY MAY GRANT, BY LAW, A PROPERTY TAX CREDIT AGAINST THE COUNTY PROPERTY TAX IMPOSED ON REAL PROPERTY OWNED OR LEASED BY A BUSINESS ENTITY THAT MEETS THE REQUIREMENTS SPECIFIED FOR THE TAX CREDIT UNDER THIS SUBSECTION.

(3) TO QUALIFY FOR A PROPERTY TAX CREDIT UNDER THIS SUBSECTION, BEFORE A BUSINESS ENTITY OBTAINS THE NEW OR EXPANDED PREMISES OR HIRES EMPLOYEES TO FILL THE NEW PERMANENT FULL-TIME POSITIONS AT THE NEW OR EXPANDED PREMISES, THE BUSINESS ENTITY SHALL

PROVIDE WRITTEN NOTIFICATION TO THE GOVERNING BODY OF WASHINGTON COUNTY STATING:

(I) THAT THE BUSINESS ENTITY INTENDS TO CLAIM THE PROPERTY TAX CREDIT; AND

(II) WHEN THE BUSINESS ENTITY EXPECTS TO OBTAIN THE NEW OR EXPANDED PREMISES AND HIRE THE REQUIRED NUMBER OF EMPLOYEES IN THE NEW PERMANENT FULL-TIME POSITIONS.

(4) (I) TO QUALIFY FOR A PROPERTY TAX CREDIT UNDER THIS SUBSECTION, AN EXISTING BUSINESS ENTITY IN THE COUNTY SHALL:

1. OBTAIN AT LEAST AN ADDITIONAL 1,500 SQUARE FEET OF NEW OR EXPANDED PREMISES BY PURCHASING NEWLY CONSTRUCTED PREMISES, CONSTRUCTING NEW PREMISES, CAUSING NEW PREMISES TO BE CONSTRUCTED, OR LEASING PREVIOUSLY UNOCCUPIED PREMISES; AND

2. EMPLOY AT LEAST ONE INDIVIDUAL IN A NEW PERMANENT FULL-TIME POSITION DURING A 12-MONTH PERIOD, DURING WHICH PERIOD THE BUSINESS ENTITY ALSO MUST OBTAIN AND OCCUPY THE NEW OR EXPANDED PREMISES.

(II) TO QUALIFY FOR THE PROPERTY TAX CREDIT UNDER THIS SUBSECTION, A NEW BUSINESS ENTITY LOCATING IN THE COUNTY SHALL:

1. OBTAIN AT LEAST 2,500 SQUARE FEET OF NEW OR EXPANDED PREMISES BY PURCHASING NEWLY CONSTRUCTED PREMISES, CONSTRUCTING NEW PREMISES, CAUSING NEW PREMISES TO BE CONSTRUCTED, OR LEASING PREVIOUSLY UNOCCUPIED PREMISES; AND

2. EMPLOY AT LEAST FIVE INDIVIDUALS IN NEW PERMANENT FULL-TIME POSITIONS DURING A 24-MONTH PERIOD, DURING WHICH PERIOD THE BUSINESS ENTITY ALSO MUST OBTAIN AND OCCUPY THE NEW OR EXPANDED PREMISES.

(5) (I) IF AN EXISTING BUSINESS ENTITY IN THE COUNTY MEETS THE REQUIREMENTS OF PARAGRAPH (4)(I) OF THIS SUBSECTION, THE PROPERTY TAX CREDIT GRANTED UNDER THIS SUBSECTION SHALL EQUAL A PERCENTAGE OF THE AMOUNT OF PROPERTY TAX IMPOSED ON THE ASSESSMENT OF THE NEW OR EXPANDED PREMISES, AS FOLLOWS:

1. 52% IN THE FIRST AND SECOND TAXABLE YEARS;

- AND
2. 39% IN THE THIRD AND FOURTH TAXABLE YEARS;
 3. 26% IN THE FIFTH AND SIXTH TAXABLE YEARS.

(II) IF A NEW BUSINESS ENTITY LOCATING IN THE COUNTY MEETS THE REQUIREMENTS OF PARAGRAPH (4)(II) OF THIS SUBSECTION, THE PROPERTY TAX CREDIT GRANTED UNDER THIS SUBSECTION SHALL EQUAL A PERCENTAGE OF THE AMOUNT OF PROPERTY TAX IMPOSED ON THE ASSESSMENT OF THE NEW OR EXPANDED PREMISES, AS FOLLOWS:

1. 30% IN THE FIRST AND SECOND TAXABLE YEARS;
 2. 20% IN THE THIRD AND FOURTH TAXABLE YEARS;
- AND
3. 10% IN THE FIFTH AND SIXTH TAXABLE YEARS.

(6) THE LESSOR OF REAL PROPERTY GRANTED A PROPERTY TAX CREDIT UNDER THIS SUBSECTION SHALL REDUCE THE AMOUNT OF TAXES FOR WHICH A BUSINESS ENTITY IS CONTRACTUALLY LIABLE UNDER THE LEASE AGREEMENT BY THE AMOUNT OF ANY CREDIT GRANTED UNDER THIS SUBSECTION FOR IMPROVEMENTS MADE BY THE BUSINESS ENTITY.

(7) THE GOVERNING BODY OF WASHINGTON COUNTY SHALL PROVIDE, BY LAW, FOR:

(I) THE SPECIFIC REQUIREMENTS FOR ELIGIBILITY FOR A PROPERTY TAX CREDIT AUTHORIZED UNDER THIS SUBSECTION;

(II) ANY ADDITIONAL LIMITATIONS ON ELIGIBILITY FOR THE CREDIT; AND

(III) ANY OTHER PROVISION APPROPRIATE TO IMPLEMENT THE CREDIT.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2012, and shall be applicable to all taxable years beginning after June 30, 2012.

Approved by the Governor, May 22, 2012.

Chapter 651**(House Bill 138)**

AN ACT concerning

Carroll County – Polling Places – Electioneering Boundaries

FOR the purpose of making Carroll County subject to the general rule for locating the line beyond which electioneering is prohibited outside a polling place; requiring that the line be as near as practicable to a certain distance from the entrance and exit of the polling place; repealing an exception, applicable to Carroll County, regarding the boundaries for electioneering outside a polling place; and generally relating to electioneering at a polling place in Carroll County.

BY repealing and reenacting, with amendments,
Article – Election Law
Section 16–206
Annotated Code of Maryland
(2010 Replacement Volume and 2011 Supplement)

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

Article – Election Law

16–206.

(a) A person may not:

- (1) place any distinguishing mark on the person's own or another person's ballot for the purpose of identifying the ballot;
- (2) misrepresent the person's ability to mark a ballot or operate voting equipment;
- (3) interfere or attempt to interfere with a voter while the voter is inside the polling room, marking a ballot, or operating voting equipment;
- (4) induce or attempt to induce a voter to mark the voter's ballot in a certain way;
- (5) except for servicing by an authorized person, unlock any locked compartment of a voting device unless instructed to do so by the election director;
- (6) destroy or deface a ballot;

(7) remove a ballot from a building in which voting occurs, except as otherwise provided in this article;

(8) delay the delivery of a ballot;

(9) possess on or before the day of election an official ballot printed for the election, unless the possession of the ballot is necessary and appropriate for carrying out the election process; or

(10) canvass, electioneer, or post any campaign material in the polling place or beyond a line established by signs posted in accordance with subsection (b) of this section.

(b) (1) At each polling place, one election judge from each principal political party shall be designated by the local board and, acting jointly, shall post signs delineating a line around the entrance and exit of the building that are closest to that part of the building in which voting occurs.

(2) (i) Except as provided in subparagraph (ii) of this paragraph, the line shall be located as near as practicable to 100 feet from the entrance and exit and shall be established after consideration of the configuration of the entrance and the effect of placement on public safety and the flow of pedestrian and vehicular traffic.

(ii) In [Carroll County and] Montgomery County, on approval of the local board, the line may be located at any point between 25 feet and 100 feet from the entrance and exit.

(3) The signs shall contain the words "No Electioneering Beyond this Point".

(c) A person who violates this section is guilty of a misdemeanor and is subject to a fine of not less than \$50 nor more than \$500 or imprisonment for not more than 60 days or both.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 652

(House Bill 167)

AN ACT concerning

Agriculture – Commercial Feed – Arsenic Prohibition

FOR the purpose of prohibiting a person from using, selling, or distributing certain commercial feed that contains roxarsonone or any other additive that contains arsenic; authorizing a person to use, sell, or distribute certain commercial feed that contains histostat; providing for the termination of this Act under certain circumstances; requiring the State Department of Agriculture to provide a certain notification; providing for a delayed effective date; and generally relating to the contents of commercial feed.

BY adding to

Article – Agriculture

Section 6–107.3

Annotated Code of Maryland

(2007 Replacement Volume and 2011 Supplement)

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

Article – Agriculture

6–107.3.

(A) ~~A~~ EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A PERSON MAY NOT USE, SELL, OR DISTRIBUTE FOR USE OR SALE WITHIN THE STATE ANY COMMERCIAL FEED INTENDED FOR USE AS POULTRY FEED THAT CONTAINS:

(1) ROXARSONONE; OR

(2) ANY OTHER ADDITIVE THAT CONTAINS ARSENIC.

(B) A PERSON MAY USE, SELL, OR DISTRIBUTE FOR USE OR SALE WITHIN THE STATE ANY COMMERCIAL FEED INTENDED FOR USE AS POULTRY FEED THAT CONTAINS HISTOSTAT.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) This Act shall be abrogated and of no further force and effect with respect to the specific arsenical additive receiving approval by the U.S. Food and Drug Administration under 21 C.F.R. Part 514, if the U.S. Food and Drug Administration, on review of new information under 21 C.F.R. Part 514, issues a finding that:

~~(1) approves the use of Roxarsone, or any other additive that contains arsenic; and~~

~~(2) finds that the exposure to Roxarsone, or any other additive that contains arsenic is:~~

~~(i) unavoidable and necessary; and~~

~~(ii) without adverse effects to the environment.~~

(1) approves the use of the arsenical additive; and

(2) includes in its approval an evaluation of:

(i) human food safety;

(ii) impact on the environment;

(iii) safety to animals;

(iv) effectiveness of the drug for its intended use; and

(v) chemistry and manufacturing procedures; ~~and~~

~~(vi) water quality impacts to the Chesapeake Bay; and~~

~~(3) exposure to the arsenical additive is unavoidable and necessary.~~

(b) The State Department of Agriculture shall notify the Department of Legislative Services within 5 days after the action under subsection (a) of this section occurs.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October 1, 2012~~ January 1, 2013.

Approved by the Governor, May 22, 2012.

Chapter 653

(House Bill 175)

AN ACT concerning

Baltimore County Revenue Authority – Public Ethics Law

FOR the purpose of altering the provisions of the Maryland Public Ethics Law to include each board member and ~~employee~~ the chief executive of the Baltimore County Revenue Authority in the definition of “local official” for all purposes of the Baltimore County Public Ethics Law; and generally relating to public ethics laws and the Baltimore County Revenue Authority.

BY repealing and reenacting, without amendments,
Article – State Government
Section 15–803
Annotated Code of Maryland
(2009 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,
Article – State Government
Section 15–807(b)
Annotated Code of Maryland
(2009 Replacement Volume and 2011 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.

(b) **[For] IN BALTIMORE COUNTY, “LOCAL OFFICIAL” INCLUDES:**

(1) EACH BOARD MEMBER AND ~~EMPLOYEE~~ THE CHIEF EXECUTIVE OF THE BALTIMORE COUNTY REVENUE AUTHORITY; AND

(2) 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.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 654

(House Bill 213)

AN ACT concerning

Baltimore City Community Enhancement Transit-Oriented Development Fund

FOR the purpose of establishing the Baltimore City Community Enhancement Transit-Oriented Development Fund for certain purposes; providing that the Fund is a special, nonlapsing fund; providing for the contents and uses of the Fund; ~~requiring~~ *providing* that a certain portion of certain revenues from certain projects and certain other money *shall* be paid into the Fund *under certain circumstances*; requiring the Comptroller to pay certain money from the Fund to the Mayor and City Council of Baltimore City in a certain manner; authorizing the Mayor and City Council to use or make awards of money received from the Fund for certain purposes; requiring the State Treasurer to invest the money in the Fund in a certain manner; adding the Fund to the list of exceptions to the requirement that the earnings of special funds accrue to the General Fund; stating certain findings of the General Assembly; providing for the application of this Act; providing for the purposes of certain provisions of this Act; defining certain terms; and generally relating to the Baltimore City Community Enhancement Transit-Oriented Development Fund.

BY repealing and reenacting, without amendments,
Article – Economic Development
Section 1–101(e)
Annotated Code of Maryland

(2008 Volume and 2011 Supplement)

BY adding to

Article – Economic Development

Section 15–101 through 15–107 to be under the new title “Title 15. Baltimore City Community Enhancement Transit–Oriented Development Fund”

Annotated Code of Maryland

(2008 Volume and 2011 Supplement)

BY repealing and reenacting, without amendments,

Article – State Finance and Procurement

Section 6–226(a)(2)(i)

Annotated Code of Maryland

(2009 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,

Article – State Finance and Procurement

Section 6–226(a)(2)(ii)62. and 63. and 10–306

Annotated Code of Maryland

(2009 Replacement Volume and 2011 Supplement)

BY adding to

Article – State Finance and Procurement

Section 6–226(a)(2)(ii)64.

Annotated Code of Maryland

(2009 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, without amendments,

Article – Transportation

Section 7–101(m)

Annotated Code of Maryland

(2008 Replacement Volume and 2011 Supplement)

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

Article – Economic Development

1–101.

(e) (1) “Qualified distressed county” means a county with:

(i) an average rate of unemployment for the most recent 24–month period for which data are available that exceeds 150% of the average rate of unemployment for the State during that period; or

(ii) an average per capita personal income for the most recent 24-month period for which data are available that is equal to or less than 67% of the average per capita personal income for the State during that period.

(2) "Qualified distressed county" includes a county that:

(i) no longer meets either criterion stated in paragraph (1) of this subsection; but

(ii) has met at least one of the criteria at some time during the preceding 24-month period.

TITLE 15. BALTIMORE CITY COMMUNITY ENHANCEMENT TRANSIT-ORIENTED DEVELOPMENT FUND.

15-101.

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

(B) "FINANCIAL ASSISTANCE" MEANS A GRANT OR LOAN FROM THE FUND.

(C) "FUND" MEANS THE BALTIMORE CITY COMMUNITY ENHANCEMENT TRANSIT-ORIENTED DEVELOPMENT FUND.

(D) "QUALIFIED PROJECT AREA" MEANS A COMMUNITY THAT IS:

(1) LOCATED IN BALTIMORE CITY; AND

(2) DIRECTLY IMPACTED BY AND WITHIN 0.5 MILES OF THE BOUNDARY OF A DEVELOPMENT THAT HAS BEEN DESIGNATED AS A TRANSIT-ORIENTED DEVELOPMENT.

(E) "QUALIFIED RECIPIENT" MEANS AN ENTITY THAT IS BASED IN AND SERVES A QUALIFIED PROJECT AREA AND IS:

(1) A NOT FOR PROFIT COMMUNITY-BASED ORGANIZATION THAT HAS EXPERIENCE IN MAKING PHYSICAL, HUMAN CAPITAL, AND ECONOMIC INVESTMENTS TO REBUILD COMMUNITIES; OR

(2) A COMMUNITY DEVELOPMENT CORPORATION.

(F) "TRANSIT-ORIENTED DEVELOPMENT" HAS THE MEANING STATED IN § 7-101 OF THE TRANSPORTATION ARTICLE.

15-102.

(A) THE GENERAL ASSEMBLY FINDS THAT:

(1) WHILE STATE AND PRIVATELY FUNDED TRANSIT-ORIENTED DEVELOPMENT IS PARAMOUNT AND NECESSARY FOR THE ORDERLY ECONOMIC DEVELOPMENT OF THE STATE, SUCH DEVELOPMENT SHOULD BE PURSUED IN A MANNER THAT EXTENDS BENEFITS TO AND MINIMIZES NEGATIVE IMPACTS ON THE COMMUNITIES IN AND ADJACENT TO THE DEVELOPMENT;

(2) IN ORDER TO PRESERVE AND ENHANCE THE STATE'S DIVERSE CULTURAL FABRIC IN COMMUNITIES AFFECTED BY TRANSIT-ORIENTED DEVELOPMENT, IT IS ESSENTIAL FOR THE PUBLIC AND PRIVATE SECTORS TO COOPERATE IN DEVELOPING PARTNERSHIPS THAT AIM TO STABILIZE SUCH COMMUNITIES;

(3) IT IS MOST FRUITFUL TO SEEK COMMUNITY INPUT AND INVOLVEMENT FROM ORGANIZATIONS IN AREAS AFFECTED BY TRANSIT-ORIENTED DEVELOPMENT IN ORDER TO BEST ADDRESS THE PHYSICAL, CULTURAL, AND ECONOMIC IMPACTS OF THE DEVELOPMENT; AND

(4) FOSTERING COMMUNITY-BASED INITIATIVES FOR NEIGHBORHOOD STABILITY AND GROWTH IS IN THE PUBLIC INTEREST.

(B) THE PURPOSE OF THIS TITLE IS TO PROMOTE AND ASSIST COMMUNITY-BASED INITIATIVES THAT ENHANCE NEIGHBORHOOD STABILITY AND ECONOMIC GROWTH IN COMMUNITIES THAT ARE DIRECTLY IMPACTED BY STATE- AND PRIVATELY FUNDED TRANSIT-ORIENTED DEVELOPMENT.

15-103.

THIS TITLE APPLIES ONLY IN BALTIMORE CITY.

15-104.

(A) THERE IS A BALTIMORE CITY COMMUNITY ENHANCEMENT TRANSIT-ORIENTED DEVELOPMENT FUND.

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

15-105.

(A) THE PURPOSE OF THE FUND IS TO PROMOTE AND ASSIST COMMUNITY-BASED INITIATIVES IN QUALIFIED PROJECT AREAS CONSISTENT WITH THE PURPOSE OF THIS TITLE.

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

(C) (1) THE FUND CONSISTS OF:

(I) MONEY APPROPRIATED IN THE STATE BUDGET TO THE FUND;

(II) PROCEEDS OF BONDS THAT ARE MADE AVAILABLE FOR THE USE OF THE FUND, INCLUDING GENERAL OBLIGATION BONDS AND GRANT ANTICIPATION REVENUE VEHICLES;

(III) MONEY MADE AVAILABLE FOR QUALIFYING USES BY THE FUND FROM OTHER GOVERNMENTAL SOURCES, INCLUDING COMMUNITY DEVELOPMENT BLOCK GRANTS AND THE MARYLAND TRANSPORTATION TRUST FUND;

(IV) CONTRIBUTIONS TO THE FUND MADE BY THE PRIVATE DEVELOPERS OF THE RELEVANT TRANSIT-ORIENTED DEVELOPMENT;

(V) GROUND RENTS OR LAND SALE PROCEEDS IN ACCORDANCE WITH § 10-306(C)(1) OF THE STATE FINANCE AND PROCUREMENT ARTICLE;

(VI) PAYMENTS OF PRINCIPAL OF AND INTEREST ON LOANS MADE UNDER THIS TITLE;

(VII) INVESTMENT EARNINGS OF THE FUND; AND

(VIII) ANY OTHER MONEY FROM ANY OTHER SOURCE, PUBLIC OR PRIVATE, ACCEPTED FOR THE BENEFIT OF THE FUND.

(2) CONTRIBUTIONS TO THE FUND UNDER PARAGRAPH (1)(IV) OF THIS SUBSECTION SHALL BE SEPARATELY ACCOUNTED FOR IN THE FUND SO THAT THE REVENUE DERIVED FROM A DEVELOPMENT IN A PARTICULAR QUALIFIED PROJECT AREA SHALL RETURN TO A QUALIFIED RECIPIENT IN THAT QUALIFIED PROJECT AREA.

(3) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE COMPTROLLER SHALL:

(I) PAY MONEY IN THE FUND IN ANNUAL INSTALLMENTS TO THE MAYOR AND CITY COUNCIL OF BALTIMORE CITY; AND

(II) ENSURE THAT THE MONEY IN THE FUND IS DISTRIBUTED IN THE MANNER THAT BEST ACCOMPLISHES THE PURPOSE OF THE FUND UNDER THIS TITLE.

15-106.

THE FUND MAY BE USED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE CITY OR AWARDED TO A QUALIFIED RECIPIENT BY THE MAYOR AND CITY COUNCIL ONLY FOR:

(1) OPERATING SUPPORT FOR OR BUILDING THE CAPACITY OF QUALIFIED RECIPIENTS;

(2) ECONOMIC AND PHYSICAL IMPROVEMENTS TO THE COMMUNITY THROUGH PROJECTS THAT REINVEST IN AND REVITALIZE THE COMMUNITY;

(3) THE DEVELOPMENT OF WOMEN-OWNED, MINORITY-OWNED, AND SMALL BUSINESSES;

(4) THE DEVELOPMENT OF RECREATIONAL FACILITIES, PARKS, OR IMPROVEMENTS TO THE NATURAL ENVIRONMENT;

(5) THE DEVELOPMENT AND PRESERVATION OF AFFORDABLE AND WORKPLACE HOUSING;

(6) EXPANSION OF SCHOOL PROGRAMS AND CAPITAL IMPROVEMENTS TO SCHOOL FACILITIES THAT SERVE THE AREA;

(7) JOB TRAINING AND WORKFORCE DEVELOPMENT; OR

(8) COUNSELING FOR HOUSING AND SMALL BUSINESS DEVELOPMENT.

15-107.

(A) THE STATE TREASURER SHALL INVEST THE MONEY OF THE FUND IN THE SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.

(B) ANY INVESTMENT EARNINGS OF THE FUND SHALL BE PAID INTO THE FUND.

Article – State Finance and Procurement

6–226.

(a) (2) (i) Notwithstanding any other provision of law, and unless inconsistent with a federal law, grant agreement, or other federal requirement or with the terms of a gift or settlement agreement, net interest on all State money allocated by the State Treasurer under this section to special funds or accounts, and otherwise entitled to receive interest earnings, as accounted for by the Comptroller, shall accrue to the General Fund of the State.

(ii) The provisions of subparagraph (i) of this paragraph do not apply to the following funds:

62. Veterans Trust Fund; [and]

63. Transportation Trust Fund; AND

64. BALTIMORE CITY COMMUNITY ENHANCEMENT TRANSIT-ORIENTED DEVELOPMENT FUND.

10–306.

(a) In this section, “capital asset” means an asset of a substantial permanent nature.

(b) If the consideration received for the disposition of any real or personal property of the State or any unit of the State government is other real or personal property, the real or personal property received shall be held and accounted for in the same manner as other property under the jurisdiction and control of the unit of the State government that receives the real or personal property.

(c) (1) Except as provided in [paragraph (2)] **PARAGRAPHS (2) AND (3)** of this subsection, if cash is received as consideration for the disposition of a capital asset of the State or any unit of the State government, the cash shall be applied to the State Annuity Bond Fund Account for the payment of the principal of and interest on the bonded indebtedness of the State.

(2) IF THE CAPITAL ASSET IS REAL PROPERTY THAT IS BEING LEASED OR SOLD TO A PRIVATE PARTY FOR THE PURPOSE OF REALIZING A TRANSIT-ORIENTED DEVELOPMENT AS DEFINED UNDER § 7–101 OF THE TRANSPORTATION ARTICLE, AT THE DISCRETION OF THE STATE AGENCY THAT IS DISPOSING OF THE PROPERTY, ALL OR A PORTION OF THE CASH PROCEEDS

RESULTING FROM THE TRANSACTION SHALL BE DEPOSITED IN THE BALTIMORE CITY COMMUNITY ENHANCEMENT TRANSIT-ORIENTED DEVELOPMENT FUND ESTABLISHED UNDER TITLE 15 OF THE ECONOMIC DEVELOPMENT ARTICLE FOR THE PURPOSES OF THAT FUND.

[(2)] (3) (i) If cash is received as consideration for the disposition of a capital asset, and if the capital asset was originally purchased with special funds, the cash shall be applied to the special fund.

(ii) Notwithstanding subparagraph (i) of this paragraph, cash received as consideration for the disposition of helicopters, auxiliary helicopter equipment, ground support equipment, or other capital equipment related to helicopters shall be applied to the State Annuity Bond Fund Account for the payment of the principal of and interest on the bonded indebtedness of the State.

[(3)] (4) If cash is received as consideration for the disposition of any real or personal property of the State or any unit of the State government, other than a capital asset, the cash shall be accounted for and paid into the State Treasury.

Article – Transportation

7-101.

(m) “Transit-oriented development” means a mix of private or public parking facilities, commercial and residential structures, and uses, improvements, and facilities customarily appurtenant to such facilities and uses, that:

(1) Is part of a deliberate development plan or strategy involving:

(i) Property that is adjacent to the passenger boarding and alighting location of a planned or existing transit station; or

(ii) Property, any part of which is located within one-half mile of the passenger boarding and alighting location of a planned or existing transit station;

(2) Is planned to maximize the use of transit, walking, and bicycling by residents and employees; and

(3) Is designated as a transit-oriented development by:

(i) The Secretary, after considering a recommendation of the Smart Growth Subcabinet established under § 9-1406 of the State Government Article; and

(ii) The local government or multicounty agency with land use and planning responsibility for the relevant area.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 655

(House Bill 215)

AN ACT concerning

~~Local Government~~ Baltimore City – Investment in Our Youth (IO–YOUth)
~~Programs~~ Pilot Program

FOR the purpose of authorizing ~~a county~~ the Mayor and City Council of Baltimore to establish an Investment in Our Youth (IO–YOUth) Pilot Program; providing that a the Program must be established as a qualified organization eligible to receive certain contributions under a certain provision of federal law; specifying the purpose of the Program; requiring a the Program to provide summer jobs for certain youths by hiring them to work for a certain county the City of Baltimore or by providing grants to certain nonprofit organizations that will provide summer jobs; requiring a county that establishes a Program the Mayor and City Council of Baltimore to establish a committee to carry out the Program; requiring the Mayor and City Council of Baltimore to establish a certain procedure for the disposition of certain funds remaining in the Program under certain circumstances; specifying that a nonprofit organization must meet certain requirements to be eligible for a grant from a Program; prohibiting a nonprofit organization that receives a grant from a Program from using the grant for certain purposes; requiring ~~a county that establishes a Program~~ the Mayor and City Council of Baltimore to establish a special fund that is to be used to fund the Program; specifying that the Program is to be funded by certain funds and donations; providing that certain funds may be used only for funding the Program; authorizing an employer to make a deduction from the wage of an employee, under certain circumstances, for the benefit of a Program; requiring that a certain written request include certain information; requiring certain employers to ~~pay certain funds to the Comptroller; requiring the Comptroller to distribute to the to certain counties~~ the City of Baltimore certain funds at certain times; requiring certain employers to report certain information to certain counties the City of Baltimore at certain times; requiring ~~a county that receives certain funds~~ the Mayor and City Council of Baltimore to pay the funds into a certain special fund, ~~except under certain circumstances; requiring~~

~~a county that receives certain funds to divide and distribute the funds equally to certain counties under certain circumstances; specifying the amount of funds distributed to a county *the City of Baltimore* under a certain provision of this Act; requiring the Comptroller to distribute, at certain times, a certain amount of certain funds to an administrative cost account; allowing an individual or a corporation a subtraction modification under the Maryland income tax equal to the amount of a donation to a Program if the donation is not allowed as a deduction under the federal income tax; authorizing a county *the City of Baltimore* to receive certain direct donations for the benefit of a Program; requiring certain counties *the City of Baltimore* to provide certain receipts to certain persons; providing for the construction of a certain provision of this Act; providing for the application of certain provisions of this Act; defining certain terms; *providing for the termination of this Act*; and generally relating to Investment in Our Youth (IO-YOUth) Programs.~~

~~BY adding to~~

~~Article 24 – Political Subdivisions – Miscellaneous Provisions
Section 25-101 through 25-104 to be under the new title “Title 25. Investment
in Our Youth (IO-YOUth) Programs”
Annotated Code of Maryland
(2011 Replacement Volume)~~

~~BY adding to~~

~~*The Charter of Baltimore City*
Article II – General Powers
Section (67)
(2007 Replacement Volume, as amended)~~

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

~~Article – Tax – General
Section 10-208(a) and 10-308(a)
Annotated Code of Maryland
(2010 Replacement Volume and 2011 Supplement)~~

~~BY adding to~~

~~Article – Tax – General
Section 10-208(r)
Annotated Code of Maryland
(2010 Replacement Volume and 2011 Supplement)~~

~~BY repealing and reenacting, with amendments,~~

~~Article – Tax – General
Section 10-308(b)
Annotated Code of Maryland
(2010 Replacement Volume and 2011 Supplement)~~

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~~

~~TITLE 25. INVESTMENT IN OUR YOUTH (IO-YOUTH) PROGRAMS.~~

~~25-101.~~

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

~~(B) "COMPTROLLER" MEANS THE STATE COMPTROLLER.~~

~~(C)(B) (1) "EMPLOYER" MEANS: HAS THE MEANING STATED IN § 3401 OF THE INTERNAL REVENUE CODE.~~

~~(1)(2) A PERSON ENGAGED IN A BUSINESS, AN INDUSTRY, A PROFESSION, A TRADE, OR OTHER ENTERPRISE IN THE STATE; "EMPLOYER" INCLUDES:~~

~~(2) (I) THE STATE AND ITS UNITS;~~

~~(3) (II) A COUNTY AND ITS UNITS; OR AND~~

~~(4) (III) A MUNICIPAL GOVERNMENT IN THE STATE.~~

~~(C) "NONPROFIT ORGANIZATION" MEANS AN ORGANIZATION THAT IS EXEMPT FROM TAXATION UNDER § 501 OF THE INTERNAL REVENUE CODE.~~

~~(D) "PROGRAM" MEANS AN INVESTMENT IN OUR YOUTH (IO-YOUTH) PROGRAM.~~

~~(E) "SUMMER" MEANS THE PERIOD FROM JUNE 1 TO SEPTEMBER 30, INCLUSIVE, OF EACH YEAR.~~

~~25-102.~~

~~(A) A COUNTY MAY ESTABLISH AN INVESTMENT IN OUR YOUTH (IO-YOUTH) PROGRAM.~~

~~(B) A PROGRAM SHALL BE ESTABLISHED AS A QUALIFIED ORGANIZATION ELIGIBLE TO RECEIVE TAX DEDUCTIBLE CHARITABLE CONTRIBUTIONS UNDER § 170(C) OF THE INTERNAL REVENUE CODE.~~

~~(B) (C) THE PURPOSE OF A PROGRAM IS TO PROVIDE GRANTS TO NONPROFIT ORGANIZATIONS TO PROVIDE SUMMER JOBS FOR:~~

~~(1) FOR YOUTHS WHO ARE AT LEAST 14 YEARS OLD AND NOT MORE THAN 18 YEARS OLD; AND~~

~~(2) THAT ARE RELATED TO AND IN FURTHERANCE OF THE PURPOSES OF THE NONPROFIT ORGANIZATION.~~

~~(D) A PROGRAM SHALL PROVIDE SUMMER JOBS FOR YOUTHS BY:~~

~~(1) HIRING YOUTHS TO WORK DURING THE SUMMER FOR THE COUNTY THAT ESTABLISHED THE PROGRAM; OR~~

~~(2) PROVIDING GRANTS TO NONPROFIT ORGANIZATIONS THAT WILL PROVIDE SUMMER JOBS FOR YOUTHS.~~

~~(C) (E) A COUNTY THAT ESTABLISHES A PROGRAM SHALL ESTABLISH A COMMITTEE TO CARRY OUT THE PROGRAM.~~

~~(D) (F) TO BE ELIGIBLE FOR A GRANT FROM A COUNTY'S PROGRAM, A NONPROFIT ORGANIZATION SHALL:~~

~~(1) OPERATE WITHIN THE COUNTY; AND~~

~~(2) MEET ANY OTHER REQUIREMENT ESTABLISHED UNDER THE PROGRAM.~~

~~(E) (G) A NONPROFIT ORGANIZATION THAT RECEIVES A GRANT FROM A PROGRAM MAY NOT USE THE GRANT TO:~~

~~(1) EMPLOY YOUTHS WHO DO NOT RESIDE IN THE COUNTY; OR~~

~~(2) PROVIDE JOBS AT SITES THAT ARE LOCATED OUTSIDE OF THE COUNTY.~~

~~25-103.~~

~~(A) (1) NOTHING IN THIS SUBSECTION MAY BE CONSTRUED TO REQUIRE AN EMPLOYER TO MAKE A DEDUCTION FROM THE WAGE OF AN EMPLOYEE.~~

~~(2) ON WRITTEN REQUEST OF AN EMPLOYEE, AN EMPLOYER MAY MAKE A DEDUCTION FROM THE WAGE OF AN EMPLOYEE FOR THE BENEFIT OF A PROGRAM ESTABLISHED BY A COUNTY UNDER § 25-102 OF THIS TITLE.~~

~~(3) THE WRITTEN REQUEST PROVIDED BY AN EMPLOYEE UNDER PARAGRAPH (2) OF THIS SUBSECTION SHALL INCLUDE:~~

~~(I) THE AMOUNT OF THE DEDUCTION;~~

~~(II) THE COUNTY TO WHICH THE FUNDS SHOULD BE DISTRIBUTED UNDER SUBSECTION (C) OF THIS SECTION; AND~~

~~(III) WHETHER THE COMPTROLLER SHOULD REFUND THE FUNDS DEDUCTED FROM THE WAGE OF THE EMPLOYEE OR THE EMPLOYEE'S ACKNOWLEDGEMENT THAT THE COUNTY SPECIFIED UNDER ITEM (II) OF THIS PARAGRAPH WILL DIVIDE AND DISTRIBUTE THE FUNDS EQUALLY AMONG THE REMAINING PROGRAMS ESTABLISHED UNDER § 25-102 OF THIS TITLE IN THE EVENT THAT THE COUNTY SPECIFIED UNDER ITEM (II) OF THIS PARAGRAPH HAS ENDED THE PROGRAM.~~

~~(B) (1) AN EMPLOYER SHALL PAY:~~

~~(I) DISTRIBUTE QUARTERLY TO THE COMPTROLLER A COUNTY ANY FUNDS DEDUCTED BY THE EMPLOYER FROM THE WAGE OF AN EMPLOYEE WHO IDENTIFIED THE COUNTY UNDER SUBSECTION (A) OF THIS SECTION AS THE COUNTY TO WHICH THE FUNDS SHOULD BE DISTRIBUTED; AND~~

~~(II) REPORT QUARTERLY TO THE COUNTY TO WHICH FUNDS ARE DISTRIBUTED UNDER ITEM (I) OF THIS PARAGRAPH THE NAME, ADDRESS, AND OTHER INFORMATION PROVIDED BY THE EMPLOYEE UNDER SUBSECTION (A) OF THIS SECTION.~~

~~(2) THE AMOUNT OF FUNDS DISTRIBUTED TO A COUNTY UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL EQUAL THE AMOUNT OF FUNDS DEDUCTED FROM THE WAGES OF EMPLOYEES WHO HAVE SPECIFIED THE COUNTY ON THE WRITTEN REQUEST AS PROVIDED IN SUBSECTION (A) OF THIS SECTION.~~

~~(C) (1) (I) EVERY 3 MONTHS, THE COMPTROLLER SHALL DISTRIBUTE TO THE COUNTIES THE FUNDS THAT WERE PAID TO THE COMPTROLLER UNDER SUBSECTION (B) OF THIS SECTION.~~

~~(II) A EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A COUNTY THAT RECEIVES FUNDS UNDER SUBPARAGRAPH (I) OF~~

~~THIS PARAGRAPH SUBSECTION (B) OF THIS SECTION SHALL PAY THE FUNDS INTO THE SPECIAL FUND ESTABLISHED UNDER § 25-104 OF THIS TITLE.~~

~~(2) IF A COUNTY HAS ENDED THE PROGRAM, THE COUNTY SHALL DIVIDE AND DISTRIBUTE ANY FUNDS RECEIVED UNDER SUBSECTION (B) OF THIS SECTION EQUALLY AMONG THE REMAINING PROGRAMS ESTABLISHED UNDER § 25-102 OF THIS TITLE.~~

~~(2) THE AMOUNT OF FUNDS DISTRIBUTED TO A COUNTY UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL EQUAL THE AMOUNT OF FUNDS DEDUCTED FROM THE WAGES OF EMPLOYEES WHO HAVE SPECIFIED THE COUNTY ON THE WRITTEN REQUEST AS PROVIDED IN SUBSECTION (A) OF THIS SECTION LESS ANY AMOUNT DISTRIBUTED TO AN ADMINISTRATIVE ACCOUNT UNDER PARAGRAPH (3) OF THIS SUBSECTION.~~

~~(3) EVERY 3 MONTHS, THE COMPTROLLER SHALL DISTRIBUTE, FROM THE FUNDS PAID TO THE COMPTROLLER UNDER SUBSECTION (B) OF THIS SECTION, THE AMOUNT NECESSARY TO ADMINISTER PARAGRAPH (1) OF THIS SUBSECTION IN THE PREVIOUS 3 MONTH PERIOD TO AN ADMINISTRATIVE COST ACCOUNT.~~

~~(D) A COUNTY MAY RECEIVE A DIRECT DONATION FROM A PERSON FOR THE BENEFIT OF A PROGRAM ESTABLISHED BY THE COUNTY UNDER § 25-102 OF THIS TITLE.~~

~~(E) (1) A COUNTY THAT RECEIVES FUNDS UNDER SUBSECTION (B) OR (D) OF THIS SECTION SHALL PROVIDE A RECEIPT TO:~~

~~(I) EACH EMPLOYEE WHOSE INFORMATION WAS REPORTED TO THE COUNTY BY THE EMPLOYER UNDER SUBSECTION (B) OF THIS SECTION; AND~~

~~(II) EACH PERSON FROM WHICH THE COUNTY RECEIVES A DIRECT DONATION UNDER SUBSECTION (D) OF THIS SECTION.~~

~~(2) A RECEIPT PROVIDED BY A COUNTY UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL INCLUDE A STATEMENT THAT THE AMOUNT OF THE DEDUCTION FROM THE EMPLOYEE'S WAGES OR THE AMOUNT OF THE DONATION IS TAX DEDUCTIBLE UNDER § 170(C) OF THE INTERNAL REVENUE CODE.~~

~~25-104.~~

~~(A) A COUNTY THAT ESTABLISHES A PROGRAM SHALL ESTABLISH A SPECIAL FUND TO BE USED TO FUND THE PROGRAM.~~

- ~~(B) THE PROGRAM SHALL BE FUNDED BY:~~
- ~~(1) FUNDS DISTRIBUTED TO A COUNTY UNDER § 25-103 OF THIS TITLE;~~
- ~~(2) FUNDS APPROPRIATED TO THE PROGRAM BY THE COUNTY;~~
- ~~AND~~
- ~~(3) DONATIONS RECEIVED BY THE COUNTY TO BE USED FOR THE PROGRAM.~~
- ~~(C) FUNDS IN THE SPECIAL FUND MAY BE USED ONLY FOR FUNDING THE PROGRAM.~~

The Charter of Baltimore City
Article II – General Powers

The Mayor and City Council of Baltimore shall have full power and authority to exercise all of the powers heretofore or hereafter granted to it by the Constitution of Maryland or by any Public General or Public Local Laws of the State of Maryland; and in particular, without limitation upon the foregoing, shall have power by ordinance, or such other method as may be provided for in its Charter, subject to the provisions of said Constitution and Public General Laws:

(67)

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

(2) (I) “EMPLOYER” HAS THE MEANING STATED IN § 3401 OF THE INTERNAL REVENUE CODE.

(II) “EMPLOYER” INCLUDES:

- 1. THE STATE AND ITS UNITS;**
- 2. A COUNTY AND ITS UNITS; AND**
- 3. A MUNICIPAL GOVERNMENT IN THE STATE.**

(3) “NONPROFIT ORGANIZATION” MEANS AN ORGANIZATION THAT IS EXEMPT FROM TAXATION UNDER § 501 OF THE INTERNAL REVENUE CODE.

(4) “PROGRAM” MEANS THE INVESTMENT IN OUR YOUTH (IO-YOUTH) PILOT PROGRAM.

(5) “SUMMER” MEANS THE PERIOD FROM JUNE 1 TO SEPTEMBER 30, INCLUSIVE, OF EACH YEAR.

(B) (1) THE MAYOR AND CITY COUNCIL OF BALTIMORE MAY ESTABLISH AN INVESTMENT IN OUR YOUTH (IO-YOUTH) PILOT PROGRAM.

(2) THE PROGRAM SHALL BE ESTABLISHED AS A QUALIFIED ORGANIZATION ELIGIBLE TO RECEIVE TAX-DEDUCTIBLE CHARITABLE CONTRIBUTIONS UNDER § 170(C) OF THE INTERNAL REVENUE CODE.

(3) THE PURPOSE OF THE PROGRAM IS TO PROVIDE SUMMER JOBS FOR YOUTHS WHO ARE AT LEAST 14 YEARS OLD AND NOT MORE THAN 18 YEARS OLD.

(4) THE PROGRAM SHALL PROVIDE SUMMER JOBS FOR YOUTHS BY:

(I) HIRING YOUTHS TO WORK DURING THE SUMMER FOR THE CITY OF BALTIMORE; OR

(II) PROVIDING GRANTS TO NONPROFIT ORGANIZATIONS THAT WILL PROVIDE SUMMER JOBS FOR YOUTHS.

(5) THE MAYOR AND CITY COUNCIL OF BALTIMORE SHALL ESTABLISH A COMMITTEE TO CARRY OUT THE PROGRAM.

(6) THE MAYOR AND CITY COUNCIL OF BALTIMORE SHALL ESTABLISH A PROCEDURE FOR THE DISPOSITION OF ANY FUNDS REMAINING IN THE PROGRAM IN THE EVENT THAT THE PROGRAM IS TERMINATED.

(7) TO BE ELIGIBLE FOR A GRANT FROM THE PROGRAM, A NONPROFIT ORGANIZATION SHALL:

(I) OPERATE WITHIN THE CITY OF BALTIMORE; AND

(II) MEET ANY OTHER REQUIREMENT ESTABLISHED UNDER THE PROGRAM.

(8) A NONPROFIT ORGANIZATION THAT RECEIVES A GRANT FROM THE PROGRAM MAY NOT USE THE GRANT TO:

(I) EMPLOY YOUTHS WHO DO NOT RESIDE IN THE CITY OF BALTIMORE; OR

(II) PROVIDE JOBS AT SITES THAT ARE LOCATED OUTSIDE OF THE CITY OF BALTIMORE.

(C) (1) (I) NOTHING IN THIS PARAGRAPH MAY BE CONSTRUED TO REQUIRE AN EMPLOYER TO MAKE A DEDUCTION FROM THE WAGE OF AN EMPLOYEE.

(II) ON WRITTEN REQUEST OF AN EMPLOYEE, AN EMPLOYER MAY MAKE A DEDUCTION FROM THE WAGE OF AN EMPLOYEE FOR THE BENEFIT OF THE PROGRAM.

(III) THE WRITTEN REQUEST PROVIDED BY AN EMPLOYEE UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH SHALL INCLUDE THE AMOUNT OF THE DEDUCTION.

(2) (I) AN EMPLOYER SHALL:

1. DISTRIBUTE QUARTERLY TO THE CITY OF BALTIMORE ANY FUNDS DEDUCTED BY THE EMPLOYER FROM THE WAGE OF AN EMPLOYEE; AND

2. REPORT QUARTERLY TO THE CITY OF BALTIMORE THE NAME, ADDRESS, AND OTHER INFORMATION PROVIDED BY THE EMPLOYEE UNDER SUBSECTION (C)(1) OF THIS SECTION.

(II) THE AMOUNT OF FUNDS DISTRIBUTED TO THE CITY OF BALTIMORE UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL EQUAL THE AMOUNT OF FUNDS DEDUCTED FROM THE WAGES OF EMPLOYEES WHO HAVE SUBMITTED A WRITTEN REQUEST AS PROVIDED IN SUBSECTION (C)(1) OF THIS SECTION.

(3) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE MAYOR AND CITY COUNCIL OF BALTIMORE SHALL PAY THE FUNDS INTO THE SPECIAL FUND ESTABLISHED UNDER SUBSECTION (D) OF THIS SECTION.

(II) IF THE PROGRAM HAS ENDED, THE MAYOR AND CITY COUNCIL OF BALTIMORE SHALL FOLLOW THE PROCEDURE FOR THE DISPOSITION OF FUNDS REMAINING IN THE PROGRAM AS PROVIDED UNDER SUBSECTION (A)(6) OF THIS SECTION.

(4) THE CITY OF BALTIMORE MAY RECEIVE A DIRECT DONATION FROM A PERSON FOR THE BENEFIT OF THE PROGRAM.

(5) (I) THE CITY OF BALTIMORE SHALL PROVIDE A RECEIPT TO:

1. EACH EMPLOYEE WHOSE INFORMATION WAS REPORTED TO THE CITY OF BALTIMORE BY THE EMPLOYER UNDER PARAGRAPH (2) OF THIS SUBSECTION; AND

2. EACH PERSON FROM WHICH THE CITY OF BALTIMORE RECEIVES A DIRECT DONATION UNDER PARAGRAPH (4) OF THIS SUBSECTION.

(II) A RECEIPT PROVIDED BY THE CITY OF BALTIMORE UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL INCLUDE A STATEMENT THAT THE AMOUNT OF THE DEDUCTION FROM THE EMPLOYEE'S WAGES OR THE AMOUNT OF THE DONATION IS TAX-DEDUCTIBLE UNDER § 170(C) OF THE INTERNAL REVENUE CODE.

(D) (1) THE MAYOR AND CITY COUNCIL OF BALTIMORE SHALL ESTABLISH A SPECIAL FUND TO BE USED TO FUND THE PROGRAM.

(2) THE PROGRAM SHALL BE FUNDED BY:

(I) FUNDS DISTRIBUTED TO THE CITY OF BALTIMORE UNDER SUBSECTION (C) OF THIS SECTION;

(II) FUNDS APPROPRIATED TO THE PROGRAM BY THE MAYOR AND CITY COUNCIL OF BALTIMORE; AND

(III) DONATIONS RECEIVED BY THE CITY OF BALTIMORE TO BE USED FOR THE PROGRAM.

(3) FUNDS IN THE SPECIAL FUND MAY BE USED ONLY FOR FUNDING THE PROGRAM.

~~Article Tax General~~

~~10-208.~~

~~(a) In addition to the modification under § 10-207 of this subtitle, the amounts under this section are subtracted from the federal adjusted gross income of a resident to determine Maryland adjusted gross income.~~

~~(R) THE SUBTRACTION UNDER SUBSECTION (A) OF THIS SECTION INCLUDES AN AMOUNT EQUAL TO THE AMOUNT OF A DONATION TO AN INVESTMENT IN OUR YOUTH (IO YOUTH) PROGRAM ESTABLISHED UNDER ARTICLE 24, § 25-102 OF THE CODE IF THE DONATION IS NOT ALLOWED AS A DEDUCTION UNDER § 170 OF THE INTERNAL REVENUE CODE.~~

~~10-308.~~

~~(a) In addition to the modification under § 10-307 of this subtitle, the amounts under this section are subtracted from the federal taxable income of a corporation to determine Maryland modified income.~~

~~(b) The subtraction under subsection (a) of this section includes the amounts allowed to be subtracted for an individual under:~~

~~(1) § 10-208(d) of this title (Conservation tillage equipment expenses);~~

~~(2) § 10-208(i) of this title (Reforestation or timber stand expenses);~~

~~(3) § 10-208(k) of this title (Wage expenses for targeted jobs);~~

~~(4) § 10-208(m) of this title (Poultry or livestock manure spreading equipment); [and]~~

~~(5) § 10-208(p) of this title (Elevator handrails in health care facilities); AND~~

~~(6) § 10-208(r) OF THIS TITLE (DONATION TO AN INVESTMENT IN OUR YOUTH (IO YOUTH) PROGRAM).~~

~~SECTION 2. AND BE IT FURTHER ENACTED, That §§ 10-208(r) and 10-308(b)(6) of the Tax General Article, as enacted by Section 1 of this Act, shall be applicable to all taxable years beginning after December 31, 2011.~~

SECTION ~~2~~ 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012. *It shall remain effective for a period of 3 years and, at the end of September 30, 2015, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.*

Approved by the Governor, May 22, 2012.

Chapter 656

(House Bill 245)

AN ACT concerning

Charles County – School Buses – Length of Operation

FOR the purpose of altering the length of time a school bus may be operated in Charles County; and generally relating to school bus operation in Charles County.

BY repealing and reenacting, with amendments,
Article – Education
Section 7–804
Annotated Code of Maryland
(2008 Replacement Volume and 2011 Supplement)

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, **CHARLES**, 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.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 657**(House Bill 269)**

AN ACT concerning

Natural Resources – Boating – Disclosure of Personal Information

FOR the purpose of repealing a requirement that an owner of a certain vessel submit a written request to the Department of Natural Resources to prohibit the Department from disclosing certain information to any person; narrowing the prohibition against and exception for the disclosure of certain records held by the Department ~~of Natural Resources~~ by applying the prohibition and exception only to personal information about the owner of a registered vessel; clarifying the application of certain exceptions to the prohibition under certain circumstances against the Department disclosing certain personal information about an owner of a registered vessel; and generally relating to disclosure of records held by the Department of Natural Resources.

BY repealing and reenacting, without amendments,
Article – Natural Resources
Section 8–704.1
Annotated Code of Maryland
(2007 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,
Article – State Government
Section 10–616(s)
Annotated Code of Maryland
(2009 Replacement Volume and 2011 Supplement)

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

Article – Natural Resources

8–704.1.

(a) Except as provided in subsection (b) of this section, ~~upon written request by the owner of a vessel registered under this subtitle that information about that person not be disclosed,~~ the Department may not furnish to any person the name, address, or other identifying information about the owner of the registered vessel.

(b) This section does not prevent the Department from furnishing information under this section:

(1) To another governmental agency;

(2) If not requested for the purpose of preparing a mailing list, to a person requesting the information in connection with the compilation of statistical data;

(3) As to the owners of vessels registered under this subtitle, to a person whose request for the information is determined by the Department to be limited to, and necessary for, the protection of the ownership, safe operation, proper maintenance, or repair of the vessel; or

(4) To a financial institution, as defined in § 1–101(i) of the Financial Institutions Article, or its agents, employees, or contractors, requesting information under § 10–616(s) of the State Government Article.

Article – State Government

10–616.

(s) (1) [Except as provided in] **SUBJECT TO § 8–704.1 OF THE NATURAL RESOURCES ARTICLE** AND paragraph (2) of this subsection, a custodian may not knowingly disclose a public record of the Department of Natural Resources containing personal information **ABOUT THE OWNER OF A REGISTERED VESSEL**.

(2) Notwithstanding paragraph (1) of this subsection, a custodian shall disclose personal information **ABOUT THE OWNER OF A REGISTERED VESSEL** for use in the normal course of business activity by a financial institution, as defined in § 1–101(i) of the Financial Institutions Article, its agents, employees, or contractors, but only:

(i) to verify the accuracy of personal information submitted by the individual to that financial institution; and

(ii) if the information submitted is not accurate, to obtain correct information only for the purpose of:

1. preventing fraud by the individual;
2. pursuing legal remedies against the individual; or
3. recovering on a debt or security interest against the individual.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 658**(House Bill 283)**

AN ACT concerning

State Board of Pharmacy – Sunset Extension and Revisions

FOR the purpose of continuing the State Board of Pharmacy 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; ~~providing that staff of the Board hired after a certain date are in the executive service or management service or are a special appointment in the State Personnel Management System; requiring the Board, in consultation with the Secretary of Health and Mental Hygiene, to determine appropriate job classifications and grades for the staff of the Board;~~ altering the dates on which a pharmacy permit and a wholesale distributor permit expires; altering the date by which the Board must send certain renewal information to certain permit holders; repealing certain provisions requiring certain physician–pharmacist agreements to be approved by the State Board of Physicians and the State Board of Pharmacy; repealing certain provisions that prohibit the State Board of Physicians and the State Board of Pharmacy from approving certain physician–pharmacist agreements under certain circumstances; repealing certain provisions relating to the time period during which a physician–pharmacist agreement is valid; requiring a certain physician and a certain pharmacist to submit a copy of a certain agreement to a certain board; requiring a therapy management contract to apply only to conditions for which protocols have been agreed to by certain parties; repealing a certain provision requiring ~~the establishment of~~ certain fees related to therapy management to be established in regulations; authorizing the State Board of Pharmacy to assess a certain fee established in regulation; repealing a requirement that certain regulations include provisions that establish a certain procedure; prohibiting certain regulations from requiring certain boards to approve certain physician–pharmacist agreements or the protocols specified in the agreements; requiring that an evaluation of the State Board of Pharmacy and the statutes and regulations that relate to the Board be performed on or before a certain date; providing for an extension of the renewal dates of certain permits; requiring the State Board of Pharmacy to submit certain reports to certain committees of the General Assembly on or before certain dates; altering a certain definition; making a conforming change; and generally relating to the State Board of Pharmacy.

BY repealing and reenacting, with amendments,

Article – Health Occupations

Section ~~12-204(d)~~, 12-407(a) and (b)(1), 12-6A-01(f), 12-6A-03, 12-6A-07, 12-6A-10, 12-6C-06(a), and 12-802

Annotated Code of Maryland
(2009 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, without amendments,
Article – Health Occupations
Section 12–6A–01(a)
Annotated Code of Maryland
(2009 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, without amendments,
Article – State Government
Section 8–403(a)
Annotated Code of Maryland
(2009 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,
Article – State Government
Section 8–403(b)(45)
Annotated Code of Maryland
(2009 Replacement Volume and 2011 Supplement)

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

Article – Health Occupations

~~12–204.~~

~~(d) (1) The Board may employ a staff in accordance with the budget of the Board.~~

~~(2) The Board may designate 1 of its staff as an executive director.~~

~~(3) STAFF HIRED AFTER SEPTEMBER 30, 2012, ARE IN THE EXECUTIVE SERVICE OR MANAGEMENT SERVICE OR ARE SPECIAL APPOINTMENTS IN THE STATE PERSONNEL MANAGEMENT SYSTEM.~~

~~(4) THE BOARD, IN CONSULTATION WITH THE SECRETARY, SHALL DETERMINE THE APPROPRIATE JOB CLASSIFICATIONS AND GRADES FOR ALL STAFF.~~

12–407.

(a) A pharmacy permit expires on the [December 31] **MAY 31** after its effective date, unless the pharmacy permit is renewed for a 2–year term as provided in this section.

(b) (1) Except as provided in paragraph (2) of this subsection, on or before [October 1] **MARCH 1** of the year the permit expires, the Board shall send to each pharmacy permit holder a renewal notice for each pharmacy permit by first-class mail to the last known address of the pharmacy permit holder.

12-6A-01.

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

(f) “Physician–pharmacist agreement” means an [approved] agreement between a licensed physician and a licensed pharmacist that is disease–state specific and specifies the protocols that may be used.

12-6A-03.

(a) A licensed physician and a licensed pharmacist who wish to enter into therapy management contracts shall have a physician–pharmacist agreement [that is approved by the Board of Pharmacy and the Board of Physicians].

[(b) The Board of Physicians and the Board of Pharmacy may not approve a physician–pharmacist agreement if the Boards find there is:

(1) Inadequate training, experience, or education of the physicians or pharmacists to implement the protocol or protocols specified in the agreement; or

(2) A failure to satisfy requirements of:

(i) This title or Title 14 of this article; or

(ii) Regulations established by the Board of Physicians and the Board of Pharmacy adopted under this subtitle.

(c) A physician–pharmacist agreement shall be valid for 2 years from the date of its final approval by the Board of Physicians and the Board of Pharmacy unless renewed in accordance with established regulations adopted under this subtitle.]

(B) (1) A LICENSED PHYSICIAN WHO HAS ENTERED INTO A PHYSICIAN–PHARMACIST AGREEMENT SHALL SUBMIT TO THE BOARD OF PHYSICIANS A COPY OF THE PHYSICIAN–PHARMACIST AGREEMENT AND ANY SUBSEQUENT MODIFICATIONS MADE TO THE PHYSICIAN–PHARMACIST AGREEMENT OR THE PROTOCOLS SPECIFIED IN THE PHYSICIAN–PHARMACIST AGREEMENT.

(2) A LICENSED PHARMACIST WHO HAS ENTERED INTO A PHYSICIAN–PHARMACIST AGREEMENT SHALL SUBMIT TO THE BOARD OF

PHARMACY A COPY OF THE PHYSICIAN–PHARMACIST AGREEMENT AND ANY SUBSEQUENT MODIFICATIONS MADE TO THE PHYSICIAN–PHARMACIST AGREEMENT OR THE PROTOCOLS SPECIFIED IN THE PHYSICIAN–PHARMACIST AGREEMENT.

12–6A–07.

(a) A therapy management contract shall apply only to conditions for which protocols have been [approved by the Board of Physicians and the Board of Pharmacy under] **AGREED TO BY A LICENSED PHYSICIAN AND A LICENSED PHARMACIST IN ACCORDANCE WITH** the regulations adopted under this subtitle.

(b) A therapy management contract shall terminate 1 year from the date of its signing, unless renewed by the licensed physician, licensed pharmacist, and patient.

(c) A therapy management contract shall include:

(1) A statement that none of the parties involved in the therapy management contract have been coerced, given economic incentives, excluding normal reimbursement for services rendered, or involuntarily required to participate;

(2) Notice to the patient indicating how the patient may terminate the therapy management contract;

(3) A procedure for periodic review by the physician, of the drugs modified pursuant to the agreement or changed with the consent of the physician; and

(4) Reference to [an approved] A protocol, which will be provided to the patient upon request.

(d) Any party to the therapy management contract may terminate the contract at any time.

[(e) Fees paid to the Board of Physicians and Board of Pharmacy related to therapy management shall be established in regulations.]

(E) THE BOARD OF PHARMACY MAY ASSESS A FEE, AS ESTABLISHED IN REGULATION, FOR APPROVAL OF A PHARMACIST TO ENTER INTO A PHYSICIAN–PHARMACIST AGREEMENT.

12–6A–10.

(a) Subject to subsection (b) of this section, the Board of Pharmacy, together with the Board of Physicians, shall jointly develop and adopt regulations to implement the provisions of this subtitle.

(b) The regulations adopted under subsection (a) of this section:

(1) [shall] **SHALL** include provisions that:

[(1)] **(I)** Define the criteria for physician–pharmacist agreements;
AND

[(2)] **(II)** Establish guidelines concerning the use of protocols, including communication, documentation, and other relevant factors; and

[(3) Establish a procedure to allow for the approval, modification, continuation, or disapproval of specific protocols by the Board of Physicians and the Board of Pharmacy.]

(2) MAY NOT REQUIRE THE BOARD OF PHYSICIANS OR THE BOARD OF PHARMACY TO APPROVE A PHYSICIAN–PHARMACIST AGREEMENT OR THE PROTOCOLS SPECIFIED IN A PHYSICIAN–PHARMACIST AGREEMENT.

12–6C–06.

(a) A wholesale distributor permit expires on [December 31] **MAY 31** after its effective date, unless the wholesale distributor permit is renewed for an additional 2–year term as provided in this section.

12–802.

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] **2023**.

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:

(45) Pharmacy, State Board of (§ 12–201 of the Health Occupations Article: July 1, [2012] **2022**);

SECTION 2. AND BE IT FURTHER ENACTED, That the State Board of Pharmacy shall extend the renewal of permits required under §§ 12–407 and 12–6C–06 of the Health Occupations Article, as enacted by Section 1 of this Act, to May 31, 2013, and May 31, 2014, respectively, for pharmacy permits and wholesale distributor permits expiring on December 31, 2012, and December 31, 2013, respectively, to accommodate the revised permit renewal date of May 31.

SECTION 3. AND BE IT FURTHER ENACTED, That, on or before December 1, 2012, the State Board of Pharmacy shall submit a report to the Senate Education, Health, and Environmental Affairs Committee and the House Health and Government Operations Committee, in accordance with § 2–1246 of the State Government Article, on the implementation and use of the sanctioning guidelines required by Chapters 533 and 534 of the Acts of the General Assembly of 2010.

SECTION 4. AND BE IT FURTHER ENACTED, That, on or before October 1, 2013, the State Board of Pharmacy (Board) shall submit a report to the Senate Education, Health, and Environmental Affairs Committee and the House Health and Government Operations Committee, in accordance with § 2–1246 of the State Government Article, on the implementation of nonstatutory recommendations contained in the October 2011 sunset evaluation report on the Board, published by the Department of Legislative Services, including:

(1) the impact of modifications made to the drug therapy management program, including the number of physician–pharmacist agreements and the number of drug therapy management protocols on file with the Board and the State Board of Physicians;

(2) the Board's progress in further reducing the length of the pharmacy technician registration process following implementation of the Board's new Information Technology (IT) system, including information, for each full month following implementation of the IT system, on the average wait time from the date of application to the date of an applicant's registration or rejection;

(3) the status of the Board's contractual relationship with the Pharmacists' Education and Advocacy Council (PEAC) and whether any statutory changes are necessary to allow other vendors to compete with PEAC;

(4) the implementation of the Board's IT system, including both positive and negative outcomes, and the effect, if any, of the IT system on the Board's staffing needs; and

(5) the Board's 5–year financial outlook and an analysis of the Board's ability to maintain a healthy fiscal outlook, including the effect of transfers from the Board's fund balance under the Budget Reconciliation and Financing Acts of 2009,

2010, and 2011, costs associated with the Board's new database, and any additional personnel costs resulting from the recommendations of the Department of Legislative Services contained in the sunset evaluation report on the Board dated October 2011, on the Board's ability to maintain an adequate fund balance.

SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 659

(House Bill 284)

AN ACT concerning

Education – Children in Out-of-County Living Arrangements – Payments for Children with Disabilities

FOR the purpose of altering a certain provision relating to funding the education of certain disabled children placed in out-of-county living arrangements; defining certain terms; and generally relating to education funding for disabled children in out-of-county living arrangements.

BY repealing and reenacting, with amendments,
Article – Education
Section 4–122(a) and (c)
Annotated Code of Maryland
(2008 Replacement Volume and 2011 Supplement)

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

Article – Education

4–122.

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

(2) “Child in an out-of-county living arrangement” means a child who is placed by a State agency, a licensed child placement agency as provided by § 5–507 of the Family Law Article, or a court in a county other than where the child's parent or legal guardian resides. “Child in an out-of-county living arrangement” does not

include a child living with a relative, stepparent or a person exercising temporary care, custody or control over a child at the request of a parent or guardian of the child.

(3) “Financially responsible county” means the county where the parent or legal guardian of a child in an out-of-county living arrangement resides. If the parents of the child live apart, the financially responsible county is:

(i) The county where the parent who has been awarded custody of the child resides;

(ii) If custody has not been awarded, the county where the parent with whom the child lives when not in a foster care home or residential facility resides;

(iii) If custody has been awarded to both parents and the parents reside in different counties, both counties shall be considered financially responsible and shall pay one-half the amount as computed in accordance with subsection (c) of this section, except that if the child receives a public education in a county where a parent resides, this subparagraph shall not apply; or

(iv) If custody has been awarded to both parents and one parent resides in a county and the other resides out-of-state, the county shall be considered the financially responsible county.

(4) “LEAST RESTRICTIVE ENVIRONMENT C (LRE-C)” MEANS A SETTING IN WHICH A CHILD IS ENROLLED IN A COMPREHENSIVE SCHOOL ~~WHO~~ AND RECEIVES SPECIAL EDUCATION AND RELATED SERVICES IN REGULAR EDUCATION SETTINGS LESS THAN 40% OF THE SCHOOL DAY.

(5) “LEAST RESTRICTIVE ENVIRONMENT F (LRE-F)” MEANS A SETTING IN WHICH A CHILD ~~WHO~~ RECEIVES SPECIAL EDUCATION AND RELATED SERVICES FOR GREATER THAN 50% OF THE SCHOOL DAY IN A PUBLIC SEPARATE DAY FACILITY THAT DOES NOT INCLUDE PROGRAMS FOR STUDENTS WITHOUT DISABILITIES.

[(4)] (6) “Local current expense per student” means all expenditures made by a county from county appropriations, except State, federal, and other aid, for public elementary and secondary education in the prior fiscal year, divided by the full-time equivalent enrollment, as defined in § 5-202(a) of this article.

[(5)] (7) “Service providing local education agency” means the local education agency for the county where a child in an out-of-county living arrangement is placed.

(c) (1) Except as provided in paragraph (4) of this subsection, for each child in an out-of-county living arrangement enrolled in a public school program on

December 31, the financially responsible county shall pay the service providing local education agency an amount equal to the lesser of:

(i) The local current expense per student in the financially responsible county; or

(ii) The local current expense per student in the service providing local education agency.

(2) If the service providing local education agency determines that a child in an out-of-county living arrangement is [handicapped and needs public school Intensity IV or V Special Education Services,] **A STUDENT WITH A DISABILITY WHO NEEDS AN LRE-C OR LRE-F PLACEMENT**, the financially responsible county shall pay the service providing local education agency for each such child an amount equal to the lesser of:

(i) Three times the local current expense per student in the financially responsible county; or

(ii) Three times the local current expense per student in the service providing local education agency.

(3) (i) If the local current expense per student in the financially responsible county is less than the local current expense per student in the service providing local education agency, the State shall pay to the service providing local education agency the difference for each student in an out-of-county living arrangement who attends a public school in the service providing local education agency.

(ii) The necessary funds shall be provided in the appropriation to the State Board.

(4) If the service providing local education agency determines that a child in an out-of-county living arrangement is [handicapped]**DISABLED** and needs a nonpublic educational program as provided by § 8-406 of this article, the financially responsible county shall pay for each such child the amount provided by § 8-415(d)(3) of this article.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 660**(House Bill 329)**

AN ACT concerning

**Anne Arundel County – Alcoholic Beverages – Video Lottery Facility –
Licenses and Hours for Sale and Consumption**

FOR the purpose of altering the hours for the sale and consumption of alcoholic beverages at a video lottery facility in Anne Arundel County to match the hours of operation for a video lottery facility; prohibiting the holder of an entertainment facility license or an entertainment concessionaire license, or an employee of the license holder from knowingly allowing a person to consume alcoholic beverages on the licensed premises of a video lottery facility except during the hours of operation of the facility established by law; providing that a subsidiary of a certain entity may be issued an entertainment facility license; and generally relating to entertainment facility licenses and the hours for the sale and consumption of alcoholic beverages at a video lottery facility in Anne Arundel County.

BY repealing and reenacting, without amendments,
Article 2B – Alcoholic Beverages
Section 8–202(a), 11–304(a)(1), and 11–502(a)
Annotated Code of Maryland
(2011 Replacement Volume)

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 8–202(k) and 11–304(c)
Annotated Code of Maryland
(2011 Replacement Volume)

BY adding to
Article 2B – Alcoholic Beverages
Section 11–502(j)
Annotated Code of Maryland
(2011 Replacement Volume)

BY repealing and reenacting, without amendments,
Article – State Government
Section 9–1A–23(a)
Annotated Code of Maryland
(2009 Replacement Volume and 2011 Supplement)

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

Article 2B – Alcoholic Beverages

8–202.

(a) This section applies only in Anne Arundel County.

(k) (1) (i) In this subsection the following words have the meanings indicated.

(ii) “Concessionaire” means a lessee, sublessee, or any other operator of an establishment that:

1. Engages in the daily sale of beer, wine, and liquor on its premises for consumption anywhere in an entertainment facility; and

2. Is operated as a concession adjacent to but independent of the entertainment facility.

(iii) “Entertainment facility” means a facility that holds a license under Title 9, Subtitle 1A of the State Government Article.

(2) (i) There is an entertainment facility license.

(ii) The Board may issue an entertainment facility license for an entertainment facility that contains one or more food service facilities, bars, or lounges that are part of the operation of the entertainment facility.

(iii) The entertainment facility license shall be issued to an individual ~~or entity~~, **ENTITY, OR SUBSIDIARY OF AN ENTITY** that owns an entertainment facility and holds a license under Title 9, Subtitle 1A of the State Government Article.

(iv) An applicant for an entertainment facility license need not meet any location, voting, or residency requirements.

(v) An entertainment facility license authorizes the holder to sell beer, wine, and liquor on any premises of the entertainment facility that is not covered by an entertainment concessionaire license for consumption anywhere in the entertainment facility.

(3) (i) There is an entertainment concessionaire license.

(ii) The Board may issue an entertainment concessionaire license to a concessionaire operating in conjunction with an entertainment facility.

(iii) The entertainment concessionaire license authorizes the holder to sell beer, wine, and liquor on the premises of the concessionaire for consumption anywhere in the entertainment facility.

(4) (i) The annual fee for an entertainment facility license is \$15,000.

(ii) The annual fee for an entertainment concessionaire license is \$5,000.

(iii) The annual license fees shall be paid on May 1 to the Board.

(5) (i) An off-sale privilege is not conferred by an entertainment facility license or an entertainment concessionaire license.

(ii) Beer, wine, and liquor purchased under an entertainment facility license or an entertainment concessionaire license may be taken into and consumed anywhere in an entertainment facility.

(III) THE HOURS FOR THE SALE AND CONSUMPTION OF ALCOHOLIC BEVERAGES UNDER AN ENTERTAINMENT FACILITY LICENSE OR AN ENTERTAINMENT CONCESSIONAIRE LICENSE ARE THE SAME AS THE HOURS OF OPERATION FOR A VIDEO LOTTERY FACILITY ESTABLISHED UNDER § 9-1A-23 OF THE STATE GOVERNMENT ARTICLE.

(6) An entertainment facility license and an entertainment concessionaire license authorize the playing of music and dancing in their respective licensed premises.

(7) Subsection (d) of this section, relating to special Sunday licenses, does not apply to a license issued under this subsection.

(8) An entertainment facility license or an entertainment concessionaire license may not be counted as a Class B or Class H license for purposes of § 9-102(h-1) of this article.

(9) The licenses and holders are subject to all laws and regulations applicable to the sale of alcoholic beverages not inconsistent with this subsection.

(10) Any penalty or other sanction that is imposed for a violation of a regulation of the Board on the licensed premises of the holder of an entertainment concessionaire license shall apply to the concessionaire that the Board determines to be responsible for the violation.

(a) (1) Between 2 a.m. and 6 a.m. on any day, a person may not consume any alcoholic beverages on any premises open to the general public, any place of public entertainment, or any place at which setups or other component parts of mixed alcoholic drinks are sold under any license issued under the provisions of the Business Regulation Article, and an owner, operator or manager of the premises or places may not knowingly permit such consumption.

(c) (1) **(I)** This subsection applies only in Anne Arundel County.

[(2)] (II) In this [subsection] **PARAGRAPH**, “premises” means a restaurant, tavern, hotel, club, dance studio, disco, or place of public entertainment, or a place open to the general public or in a place in any way licensed by this State or the county.

[(3) (i)] (III) 1. A person, corporation, club, or organization may not give or allow to be consumed on the premises or on premises under its possession or control any alcoholic beverages other than as specifically permitted or provided in this article.

[(ii)] 2. This does not apply to the room of a registered guest in any hotel, motel, or hospice.

(2) (I) A PERSON MAY CONSUME ALCOHOLIC BEVERAGES ON THE LICENSED PREMISES OF A VIDEO LOTTERY FACILITY ONLY DURING THE HOURS OF OPERATION ESTABLISHED UNDER § 9-1A-23 OF THE STATE GOVERNMENT ARTICLE.

(II) A HOLDER OF AN ENTERTAINMENT FACILITY LICENSE OR AN ENTERTAINMENT CONCESSIONAIRE LICENSE OR AN EMPLOYEE OF THE LICENSE HOLDER MAY NOT KNOWINGLY ALLOW A PERSON TO CONSUME ALCOHOLIC BEVERAGES ON THE LICENSED PREMISES OF A VIDEO LOTTERY FACILITY EXCEPT DURING THE HOURS OF OPERATION ESTABLISHED UNDER § 9-1A-23 OF THE STATE GOVERNMENT ARTICLE.

[(4)] (3) Any owner, operator, manager, or employee of the premises who knowingly permits consumption in violation of this subsection is guilty of a misdemeanor and upon conviction may be fined not more than \$250.

11-502.

In Anne Arundel County, notwithstanding any other provisions in this subtitle, the following restrictions, limitations, and regulations are in effect:

(a) The hours during which sales of alcoholic beverages may be made under all Class A, B, C, D, H, and special class licenses from 6 a.m. until 2 a.m. of the day

following, except that no licensed premises shall be permitted to sell alcoholic beverages at any time on Sunday without a special Sunday license.

(J) THE HOURS FOR THE SALE OF ALCOHOLIC BEVERAGES UNDER AN ENTERTAINMENT FACILITY LICENSE OR AN ENTERTAINMENT CONCESSIONAIRE LICENSE ARE THE SAME AS THE HOURS OF OPERATION FOR A VIDEO LOTTERY FACILITY ESTABLISHED UNDER § 9-1A-23 OF THE STATE GOVERNMENT ARTICLE.

Article – State Government

9-1A-23.

(a) (1) Except as provided in paragraph (2) of this subsection, a video lottery facility may operate daily from 8 a.m. to 2 a.m.

(2) A video lottery facility may extend operations until 4 a.m. on Saturday and 4 a.m. on Sunday.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ June 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 661

(House Bill 362)

AN ACT concerning

Northeast Maryland Higher Education Advisory Board

FOR the purpose of establishing the Northeast Maryland Higher Education Advisory Board; providing for the composition, appointment, and terms of the Board members; providing for a chair of the Board and the establishment of certain committees; prohibiting Board members from receiving certain compensation but entitling Board members to reimbursement for certain expenses; providing for the powers and duties of the Board; authorizing the Board to apply, accept, and expend certain gifts, appropriations, or grants; authorizing the Board to adopt a corporate seal; requiring the Board to keep certain records and be subject to certain audits; requiring the Advisory Board to the Higher Education and Conference Center at HEAT to take a certain action on or before a certain date; declaring the intent of the General Assembly; defining certain terms; and

generally relating to the establishment of the Northeast Maryland Higher Education Advisory Board.

BY adding to

Article – Education

Section 24–901 through 24–904 to be under the new subtitle “Subtitle 9. Northeast Maryland Higher Education Advisory Board”

Annotated Code of Maryland

(2008 Replacement Volume and 2011 Supplement)

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

Article – Education

SUBTITLE 9. NORTHEAST MARYLAND HIGHER EDUCATION ADVISORY BOARD.

24–901.

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

(B) “BOARD” MEANS THE NORTHEAST MARYLAND HIGHER EDUCATION ADVISORY BOARD.

(C) “CENTER” MEANS THE HIGHER EDUCATION AND CONFERENCE CENTER AT HEAT.

(D) “COMMISSION” MEANS THE MARYLAND HIGHER EDUCATION COMMISSION.

(E) “SITE” MEANS A 4–YEAR INSTITUTION OF HIGHER EDUCATION THAT OFFERS COMMISSION–APPROVED UNDERGRADUATE AND GRADUATE PROGRAMS IN CECIL COUNTY AND HARFORD COUNTY AND IS AFFILIATED WITH THE CENTER.

24–902.

THERE IS A NORTHEAST MARYLAND HIGHER EDUCATION ADVISORY BOARD.

24–903.

(A) THE BOARD CONSISTS OF THE FOLLOWING VOTING MEMBERS:

(1) ONE REPRESENTATIVE OF EACH OF THE 4-YEAR INSTITUTIONS OF HIGHER EDUCATION OFFERING A COMMISSION-APPROVED PROGRAM AT THE CENTER AND AT A SITE, APPOINTED BY THE INSTITUTION; AND

(2) THE FOLLOWING ~~NINE~~ 10 REPRESENTATIVES, APPOINTED IN ACCORDANCE WITH THE BYLAWS OF THE BOARD:

(I) THREE REPRESENTATIVES OF REGIONAL BUSINESSES, INDUSTRIES, OR CORPORATIONS;

(II) ONE REPRESENTATIVE OF THE CECIL COUNTY OFFICE OF ECONOMIC DEVELOPMENT;

(III) ONE REPRESENTATIVE OF THE HARFORD COUNTY OFFICE OF ECONOMIC DEVELOPMENT;

(IV) ONE REPRESENTATIVE OF CECIL COLLEGE;

(V) ONE REPRESENTATIVE OF HARFORD COMMUNITY COLLEGE; ~~AND~~

(VI) ONE REPRESENTATIVE OF THE NORTHEAST MARYLAND UNIVERSITY RESEARCH PARK; AND

~~(VI)~~ (VII) TWO REPRESENTATIVES CHOSEN FROM THE COMMUNITY AT LARGE.

(B) (1) EACH MEMBER SERVES FOR A TERM OF 3 YEARS AND UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(2) A MEMBER MAY NOT SERVE MORE THAN TWO FULL CONSECUTIVE TERMS.

(3) A MEMBER APPOINTED TO FILL A VACANCY IN AN UNEXPIRED TERM SERVES ONLY FOR THE REMAINDER OF THAT TERM AND UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(C) (1) (I) ~~THE~~ SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE CHAIR OF THE BOARD SHALL BE ELECTED BY THE BOARD FROM AMONG ITS MEMBERS.

(II) A MEMBER WHO IS A REPRESENTATIVE OF AN OUT-OF-STATE INSTITUTION MAY NOT SERVE AS CHAIR.

(2) THE VOTING MEMBERS MAY ELECT OTHER OFFICERS AND ESTABLISH COMMITTEES, INCLUDING ADVISORY COMMITTEES, AS NEEDED.

(D) IN ADDITION TO THE VOTING MEMBERS, THE FOLLOWING INDIVIDUALS SHALL SERVE AS EX OFFICIO, NONVOTING MEMBERS:

(1) THE SENIOR MISSION COMMANDER OF THE ABERDEEN PROVING GROUND, OR THE COMMANDER'S DESIGNEE;

(2) THE GARRISON COMMANDER OF THE ABERDEEN PROVING GROUND, OR THE COMMANDER'S DESIGNEE; AND

(3) THE CENTER COORDINATOR.

(E) EACH MEMBER OF THE BOARD:

(1) SERVES WITHOUT COMPENSATION; AND

(2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES IN ACCORDANCE WITH THE STANDARD STATE TRAVEL REGULATIONS.

24-904.

(A) IN ADDITION TO THE OTHER POWERS EXPRESSLY GRANTED AND DUTIES IMPOSED BY THIS TITLE, AND SUBJECT TO THE AUTHORITY OF THE COMMISSION, THE BOARD HAS ONLY THE POWERS AND DUTIES SET FORTH IN THIS SECTION.

(B) THE BOARD SHALL:

(1) ASSIST AND SUPPORT THE DEVELOPMENT OF HIGHER EDUCATION IN CECIL COUNTY AND HARFORD COUNTY;

(2) ASSIST IN SETTING THE MISSIONS OF AND ACCOMPLISHING THE GOALS AND OBJECTIVES OF THE SITES IN CECIL COUNTY AND HARFORD COUNTY;

(3) ADVISE THE CENTER, SITE COORDINATORS, AND THE SUPERVISORY STAFF TO WHOM THE COORDINATORS REPORT ON PROGRAMS OFFERED AND FACILITY UTILIZATION;

(4) PROVIDE GUIDANCE AND SUPPORT IN IDENTIFYING INSTITUTIONS AND PROGRAMS TO SERVE HIGHER EDUCATION AND WORKFORCE NEEDS IN CECIL COUNTY AND HARFORD COUNTY;

(5) ASSIST WITH THE MARKETING AND PROMOTION OF PROGRAMS OFFERED AT THE CENTER AND SITES;

(6) FACILITATE INTERACTIONS AMONG THE BUSINESS, NONPROFIT, EDUCATION, AND MILITARY COMMUNITIES;

(7) KEEP SEPARATE RECORDS AND MINUTES; AND

(8) ADOPT REASONABLE RULES, REGULATIONS, OR BYLAWS TO CARRY OUT THE PROVISIONS OF THIS SUBTITLE.

(C) THE BOARD SHALL ENSURE THAT ALL ACADEMIC PROGRAMS AND POLICIES OF THE CENTER AND SITES ARE IN COMPLIANCE WITH THE POLICIES OF AND APPROVED BY THE COMMISSION.

(D) THE BOARD MAY APPLY, ACCEPT, AND EXPEND ANY GIFT, APPROPRIATION, OR GRANT FROM THE STATE, COUNTY, OR FEDERAL GOVERNMENT OR ANY OTHER PERSON.

(E) THE BOARD MAY MAKE AGREEMENTS WITH THE FEDERAL, STATE, OR A COUNTY GOVERNMENT OR ANY OTHER PERSON, IF IT CONSIDERS THE AGREEMENT ADVISABLE FOR THE OPERATION OF THE CENTER.

(F) THE BOARD MAY ADOPT A CORPORATE SEAL.

(G) IN ADDITION TO OTHER REPORTS THAT MAY BE REQUIRED BY THE COMMISSION, THE BOARD SHALL:

(1) KEEP RECORDS THAT ARE CONSISTENT WITH SOUND BUSINESS PRACTICES AND ACCOUNTING RECORDS USING GENERALLY ACCEPTED ACCOUNTING PRINCIPLES;

(2) CAUSE AN AUDIT BY AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT TO BE MADE OF THE ACCOUNTS AND TRANSACTIONS OF THE CENTER AT THE CONCLUSION OF EACH FISCAL YEAR; AND

(3) FOR ANY STATE MONEY, BE SUBJECT TO AN AUDIT BY THE OFFICE OF LEGISLATIVE AUDITS, IN ACCORDANCE WITH §§ 2-1220 THROUGH 2-1227 OF THE STATE GOVERNMENT ARTICLE.

SECTION 2. AND BE IT FURTHER ENACTED, That the Advisory Board to the Higher Education and Conference Center at HEAT shall appoint the initial members of the Northeast Maryland Higher Education Advisory Board established under the provisions of this Act on or before November 1, 2012.

SECTION 3. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that the Higher Education and Conference Center at HEAT located in Aberdeen, Maryland change its name to the Northeast Maryland Higher Education Center.

SECTION ~~3~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 662

(House Bill 392)

AN ACT concerning

Baltimore City – Alcoholic Beverages Licenses – Memorandum of Understanding

FOR the purpose of ~~requiring~~ *authorizing* the Baltimore City Board of Liquor License Commissioners to make the issuance and renewal of certain alcoholic beverages licenses conditional on the *substantial* compliance of the license holder with a certain memorandum of understanding; making certain stylistic changes; establishing that the existence of a certain memorandum does not affect any requirement of any individuals to file a certain protest; *defining a certain term*; and generally relating to the issuance of alcoholic beverages licenses in Baltimore City.

BY repealing and reenacting, with amendments,
Article 2B – Alcoholic Beverages
Section 10–104(a) and (d)
Annotated Code of Maryland
(2011 Replacement Volume)

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

Article 2B – Alcoholic Beverages

10–104.

(a) [The following requirements] **A REQUIREMENT** for AN application for [county licenses] **A LICENSE IN THIS SECTION** shall be applicable in [these counties,] **A COUNTY OR BALTIMORE CITY** as AN additional [requirements] **REQUIREMENT** except where inconsistent with [those listed elsewhere] **A REQUIREMENT OTHERWISE PROVIDED** in this subtitle[:].

(d) **(1)** In Baltimore City the certificate shall be signed by at least three citizens who shall be owners of real estate and registered voters of the City, setting forth a statement that the applicant is personally known to them and has been a resident or a taxpayer of the City for two years and a resident of the State of Maryland for two years preceding the presentation to them of the application, and in the case of a corporation at least one of the applicants is personally known to them and has been a resident or taxpayer of the City for a period of at least two years and a resident of the State of Maryland for two years preceding the presentation to them of the application and is a registered voter; and in the case of a partnership that all members of the partnership have been residents or taxpayers of the City for at least a period of two years and a resident of the State of Maryland for two years preceding the presentation of the application to them.

(2) (1) IN THIS PARAGRAPH, "COMMUNITY ASSOCIATION"
MEANS:

1. A NONPROFIT ASSOCIATION, CORPORATION, OR OTHER ORGANIZATION THAT IS:

A. COMPOSED OF RESIDENTS OF A COMMUNITY WITHIN WHICH A NUISANCE IS LOCATED;

B. OPERATED EXCLUSIVELY FOR THE PROMOTION OF SOCIAL WELFARE AND GENERAL NEIGHBORHOOD IMPROVEMENT AND ENHANCEMENT; AND

C. EXEMPT FROM TAXATION UNDER § 501(C)(3) OR (4) OF THE INTERNAL REVENUE CODE; OR

2. A NONPROFIT ASSOCIATION, CORPORATION, OR OTHER ORGANIZATION THAT IS:

A. COMPOSED OF RESIDENTS OF A CONTIGUOUS COMMUNITY THAT IS DEFINED BY SPECIFIC GEOGRAPHIC BOUNDARIES, WITHIN WHICH A NUISANCE IS LOCATED;

B. OPERATED FOR THE PROMOTION OF THE WELFARE, IMPROVEMENT, AND ENHANCEMENT OF THAT COMMUNITY; AND

C. IN GOOD STANDING WITH THE STATE
DEPARTMENT OF ASSESSMENTS AND TAXATION.

~~(H)~~ (II) IN BALTIMORE CITY, IF A COMMUNITY ASSOCIATION AND AN APPLICANT FOR THE ISSUANCE OR RENEWAL OF A CLASS B OR D ALCOHOLIC BEVERAGES LICENSE HAVE ENTERED INTO A MEMORANDUM OF UNDERSTANDING THAT EXPRESSLY ACKNOWLEDGES THE AUTHORITY OF THE BOARD UNDER THIS ARTICLE, THE BOARD OF LIQUOR LICENSE COMMISSIONERS ~~SHALL~~ MAY MAKE THE ISSUANCE OR RENEWAL OF THE LICENSE CONDITIONAL ON THE SUBSTANTIAL COMPLIANCE OF THE APPLICANT WITH THE MEMORANDUM OF UNDERSTANDING.

~~(H)~~ (III) THE EXISTENCE OF A MEMORANDUM OF UNDERSTANDING DOES NOT AFFECT ANY REQUIREMENT OF ANY INDIVIDUALS TO FILE A PROTEST UNDER ~~§§ 10-301 OR 10-403~~ § 10-301 OR § 10-403 OF THIS TITLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 663

(House Bill 421)

AN ACT concerning

Workers' Compensation – Death Benefits – Determination of Benefits

FOR the purpose of altering the calculation of workers' compensation death benefits for a dependent of a deceased covered employee who died due to an occupational disease; and generally relating to workers' compensation death benefits for dependents of covered employees.

BY repealing and reenacting, with amendments,
Article – Labor and Employment
Section 9–683.3
Annotated Code of Maryland
(2008 Replacement Volume and 2011 Supplement)

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

Article – Labor and Employment

9–683.3.

(a) This section does not apply to a covered employee of a municipal corporation or a county who is subject to § 9–503 of this title and the dependents of those covered employees, unless the municipal corporation or county has made an election under § 9–683.6 of this subtitle.

(b) If there are individuals who were dependent on a deceased covered employee at the time of death resulting from an accidental personal injury or occupational disease, the employer or its insurer shall pay death benefits in accordance with this section.

(c) (1) Beginning on the date of death of a deceased covered employee and continuing for a period of 144 months, the employer or its insurer shall pay death benefits, as calculated in this section, to the dependents of the deceased covered employee.

(2) Except as otherwise provided in this subsection, death benefits shall be paid at the rate of two-thirds of the deceased covered employee's average weekly wage at the time of the occurrence of the accidental personal injury that caused the death of the covered employee or on the date of [disablement from] **THE LAST INJURIOUS EXPOSURE OF THE COVERED EMPLOYEE TO THE HAZARDS OF** the occupational disease that caused the death of the covered employee, not to exceed the State average weekly wage.

(3) The average weekly wage of all dependents and the deceased covered employee's average weekly wage shall be combined to determine the family income.

(4) The deceased covered employee's income shall be divided by the family income to determine the percent of the family income earned by the deceased covered employee.

(5) The percent of the family income earned by the deceased covered employee shall be multiplied by the death benefit, as calculated in paragraph (2) of this subsection, to determine the amount payable, collectively, to all dependents.

(6) If the average weekly wage of the deceased covered employee was less than \$100 at the time of the occurrence of the accidental personal injury that caused the death of the covered employee or on the date of disablement from the occupational disease that caused the death of the covered employee, the weekly death benefit paid under this section shall equal the average weekly wage of the deceased covered employee up to \$100 per week.

(d) (1) Death benefits shall be paid for a minimum of 5 years after the covered employee's death.

(2) Subject to subsections (e) through (i) of this section, provided that a minimum of 5 years of death benefits has been paid, death benefits shall terminate on the date that would have been the deceased covered employee's 70th birthday.

(e) Notwithstanding the time limitations under subsections (c) and (d) of this section, if a dependent spouse or dependent child is incapable of self-support because of a mental or physical disability that preexisted the covered employee's death, death benefits shall continue for the duration of the dependent's disability.

(f) If a dependent spouse remarries, death benefits shall terminate 2 years after the date of remarriage.

(g) The employer or its insurer shall continue to make payments to or for the benefit of a dependent child until the child reaches 18 years of age.

(h) The employer or its insurer shall continue to make payments to, or for the benefit of, a dependent child for up to 5 years after the child reaches 18 years of age if:

(1) the child is attending school on a full-time basis; and

(2) the school offers an educational program or a vocational training program that is accredited or approved by the State Department of Education.

(i) (1) Except as provided in paragraph (2) of this subsection, all dependents who are neither a dependent spouse nor a dependent child shall be entitled to no more than a total of \$65,000, collectively, as their portion of the total death benefits payable in accordance with subsection (c) of this section.

(2) Beginning on January 1, 2012, the benefit limit under paragraph (1) of this subsection shall be adjusted annually by the same percent applicable to the adjustment of the State average weekly wage.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 664

(House Bill 457)

AN ACT concerning

Transportation – Highway *or* Capital Transit Construction Training and Supportive Services

FOR the purpose of requiring the ~~State Highway Administration~~ *Maryland Department of Transportation* to use the maximum amount of certain federal funds available under a certain provision of federal law for highway *or capital transit* construction training and supportive services, including skill improvement programs; *requiring the Department to administer certain highway construction and supportive services programs in collaboration with the Governor's Workforce Investment Board for a certain purpose*; requiring the ~~Administration~~ *Department and the Board* to submit a certain report by a certain date each year to certain committees of the General Assembly; requiring the report to include certain information; defining ~~a certain term~~ *terms*; and generally relating to the use of federal funds for highway *or capital transit* construction training.

BY repealing and reenacting, without amendments,
 Article – Transportation
 Section 8–502
 Annotated Code of Maryland
 (2008 Replacement Volume and 2011 Supplement)

BY adding to
 Article – Transportation
 Section 8–508
 Annotated Code of Maryland
 (2008 Replacement Volume and 2011 Supplement)

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

Article – Transportation

8–502.

The purpose of this subtitle is to assist the national recovery and promote the general welfare by enabling this State and its political subdivisions to provide matching funds for and secure the benefits of any federal funds available under the federal acts for the construction and reconstruction of State highways and county roads and for related State or local projects.

8–508.

(A) ~~IN THIS SECTION, “HIGHWAY CONSTRUCTION” INCLUDES ACTUAL CONSTRUCTION, PRELIMINARY ENGINEERING, HIGHWAY PLANNING AND~~

~~RESEARCH, OR ANY OTHER WORK OR ACTIVITY TO IMPLEMENT FEDERAL LAWS FOR THE ADMINISTRATION OF FEDERAL AID FOR HIGHWAYS~~

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

(2) “BOARD” MEANS THE GOVERNOR’S WORKFORCE INVESTMENT BOARD.

(3) “HIGHWAY OR CAPITAL TRANSIT CONSTRUCTION” MEANS ACTUAL CONSTRUCTION, PRELIMINARY ENGINEERING, PLANNING AND RESEARCH, OR ANY OTHER WORK OR ACTIVITY TO IMPLEMENT FEDERAL LAWS FOR THE ADMINISTRATION OF FEDERAL AID FOR HIGHWAYS OR CAPITAL TRANSIT PROJECTS.

(4) “WORKFORCE INVESTMENT AREA” HAS THE MEANING STATED IN § 11-503(N) OF THE LABOR AND EMPLOYMENT ARTICLE.

(B) THE ~~ADMINISTRATION~~ DEPARTMENT SHALL USE THE MAXIMUM FEASIBLE AMOUNT OF FEDERAL FUNDS AVAILABLE TO THE STATE UNDER 23 U.S.C. § 140(B) TO DEVELOP, CONDUCT, AND ADMINISTER HIGHWAY OR CAPITAL TRANSIT CONSTRUCTION TRAINING AND SUPPORTIVE SERVICES, INCLUDING SKILL IMPROVEMENT PROGRAMS.

(C) THE DEPARTMENT SHALL ADMINISTER THE TRAINING PROGRAMS UNDER SUBSECTION (B) OF THIS SECTION IN COLLABORATION WITH THE BOARD TO ENSURE THAT HIGHWAY OR CAPITAL TRANSIT CONSTRUCTION TRAINING AND SUPPORTIVE SERVICES ARE PROVIDED TO THE GREATEST EXTENT FEASIBLE TO INDIVIDUALS IN EACH RELEVANT WORKFORCE INVESTMENT AREA.

~~(D)~~ (1) BY FEBRUARY 1 OF EACH YEAR, THE ~~ADMINISTRATION DEPARTMENT AND BOARD~~ SHALL SUBMIT TO THE SENATE BUDGET AND TAXATION COMMITTEE, SENATE FINANCE COMMITTEE, HOUSE APPROPRIATIONS COMMITTEE, AND HOUSE COMMITTEE ON WAYS AND MEANS, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, A REPORT ON THE ~~ADMINISTRATION’S~~ DEPARTMENT’S AND BOARD’S COMPLIANCE WITH ~~SUBSECTION (B)~~ SUBSECTIONS (B) AND (C) OF THIS SECTION WITH RESPECT TO EACH OF THE 2 PREVIOUS CALENDAR YEARS.

(2) THE REPORT SHALL:

(I) DESCRIBE THE HIGHWAY OR CAPITAL TRANSIT CONSTRUCTION TRAINING, SUPPORTIVE SERVICES, AND SKILL IMPROVEMENT PROGRAMS THE ~~ADMINISTRATION HAS~~ DEPARTMENT AND BOARD HAVE

CONDUCTED AND ADMINISTERED IN EACH WORKFORCE INVESTMENT AREA, INCLUDING A DESCRIPTION OF:

1. ANY ENTITIES, INSTITUTIONS, OR ORGANIZATIONS USED BY THE DEPARTMENT AND BOARD TO PROVIDE THE TRAINING AND SERVICES; AND

2. THE INDIVIDUALS AND ORGANIZATIONS THAT HAVE RECEIVED TRAINING AND SERVICES;

(II) ANALYZE THE RESULTS OF THE TRAINING PROGRAMS IN EACH WORKFORCE INVESTMENT AREA;

(III) STATE THE AMOUNT OF FEDERAL FUNDS AVAILABLE TO THE STATE UNDER 23 U.S.C. § 140(B); AND

(IV) IDENTIFY THE AMOUNT SPENT ~~BY THE~~ ADMINISTRATION IN CONDUCTING AND ADMINISTERING IN EACH WORKFORCE INVESTMENT AREA TO CONDUCT AND ADMINISTER THE PROGRAMS.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 665

(House Bill 493)

AN ACT concerning

Task Force to Study Economic Development and Apprenticeships

FOR the purpose of establishing the Task Force to Study Economic Development and Apprenticeships; providing for the composition, chair, and staffing of the Task Force; establishing the duties of the Task Force; prohibiting a member of the Task Force from receiving certain compensation, but authorizing the reimbursement of certain expenses; requiring the Task Force to report its findings and recommendations to the Governor and the General Assembly on or before a certain date; providing for the termination of this Act; and generally relating to the Task Force to Study Economic Development and Apprenticeships.

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

(a) There is a Task Force to Study Economic Development and Apprenticeships.

(b) The Task Force consists of the following members:

(1) two members of the Senate of Maryland, appointed by the President of the Senate;

(2) three members of the House of Delegates, appointed by the Speaker of the House;

(3) the Secretary of Business and Economic Development, or the Secretary's designee;

(4) the Secretary of Labor, Licensing, and Regulation, or the Secretary's designee;

(5) the Secretary of Education, or the Secretary's designee; and

(6) the following members, appointed by the Governor:

(i) one representative of the community college system;

(ii) two members of the business community who have existing apprenticeship programs; ~~and~~

(iii) one member of the public who has benefited from participation in an apprenticeship program;

(iv) one member of the public who holds a doctoral degree in economics, specializes in labor economics, and has expertise in and has published work on U.S. and international apprenticeship systems, including youth apprenticeship and registered apprenticeship programs;

(v) one representative from the Bricklayers and Allied Craftworkers Local 1 Maryland/Virginia/DC;

(vi) one representative of the Maryland Apprenticeship and Training Council;

(vii) two representatives of group nonjoint apprenticeship programs; and

(viii) two representatives from unions that are members of the Maryland State and D.C. Building and Construction Trades Council and that have apprenticeship programs.

(c) The members of the Task Force shall designate the chair of the Task Force.

(d) The Department of ~~Labor, Licensing, and Regulation~~ Legislative Services shall provide staff for the Task Force.

(e) A member of the Task Force:

(1) may not receive compensation as a member of the Task Force; but

(2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(f) The Task Force shall:

(1) ~~study the effectiveness of existing apprenticeship programs within the State;~~

~~(2)~~ primarily research the effectiveness of apprenticeship programs in other states as well as international apprenticeship programs, particularly those in Germany and Switzerland and those in which U.S. businesses participate abroad and, based on that research, consider how existing apprenticeship programs in Maryland could be improved; ~~and~~

(2) study the effectiveness of existing apprenticeship programs within the State;

(3) address the contributions of secondary schools to successful apprenticeship programs, and recommend ways to enhance partnerships between secondary schools and apprenticeship programs and increase the effectiveness of their interactions;

(4) determine whether a major expansion of apprenticeship in the State, through the use of youth apprenticeship or registered apprenticeship programs, is appropriate and feasible;

(5) if a major expansion of apprenticeship in the State is determined to be appropriate and feasible, develop and recommend a multiyear expansion plan; and

(6) develop and recommend for implementation in the State a pilot apprenticeship program that is based on successful and effective apprenticeship programs studied and researched by the Task Force.

(g) On or before December 1, 2013, the Task Force shall report its findings and recommendations to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012. It shall remain effective for a period of 1 year and 3 months and, at the end of December 31, 2013, 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, May 22, 2012.

Chapter 666

(House Bill 509)

AN ACT concerning

Public Health – Inmates – HIV Testing

FOR the purpose of authorizing certain courts to order certain inmates to furnish to certain correctional institutions blood samples or cheek swabs to be tested for the presence of human immunodeficiency virus (HIV) under certain circumstances; requiring certain courts, before ordering a certain test, to hold certain hearings under certain circumstances; requiring a certain correctional employee or the correctional employee's representative and a certain inmate or the inmate's representative to be notified of certain information; providing that certain courts may admit only certain evidence at certain hearings; requiring a certain written request of a correctional employee or the correctional employee's representative to be filed by a certain State's Attorney with a certain court and sealed by the court; requiring certain courts to hold certain hearings and issue certain orders within certain time periods; defining a certain term; and generally relating to HIV testing of inmates.

BY repealing and reenacting, with amendments,
Article – Health – General
Section 18–338
Annotated Code of Maryland
(2009 Replacement Volume and 2011 Supplement)

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

Article – Health – General

18–338.

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

(2) "Correctional institution" means a place of detention or correctional confinement operated by or for the State or a local government.

(3) "Correctional employee" means:

(i) A person who is employed by a correctional institution; or

(ii) A person who performs duties in a correctional institution by virtue of federal, State, or local government employment.

(4) "COURT" MEANS A DISTRICT OR CIRCUIT COURT OF THE STATE.

[(4)] (5) "Exposure" means, as between a correctional employee and an inmate:

(i) Percutaneous contact with blood, semen, or blood contaminated fluids;

(ii) Mucocutaneous contact with blood, semen, or blood contaminated fluids;

(iii) Open wound, including dermatitis, exudative lesions, or chapped skin, contact with blood, semen, or blood contaminated fluids; and

(iv) Intact skin contact with large amounts of blood, semen, or blood contaminated fluids for a prolonged period.

[(5)] (6) "Health care provider" means:

(i) Any person, including a physician or hospital, who is licensed or otherwise authorized in this State to provide health care services and is under contract with or operated by the correctional facility; or

(ii) An employee's private physician.

(b) An inmate shall furnish to the correctional institution a blood sample or buccal (cheek) swab to be tested for the presence of human immunodeficiency virus (HIV) when:

(1) There has been an exposure involving the inmate;

(2) The exposure occurred in connection with the inmate's violation of institutional regulations;

(3) The inmate has been found guilty of the violation of institutional regulations described in paragraph (2) of this subsection;

(4) The correctional employee involved in the exposure has given written notice of the exposure to the managing official of the correctional institution, or the official's designee; and

(5) The exposure is confirmed by a health care provider.

(c) The correctional institution shall collect the blood sample from the inmate, and shall have the sample tested for human immunodeficiency virus (HIV) by a test and test procedure approved by the Department.

(D) (1) IF THE INMATE REFUSES TO FURNISH TO THE CORRECTIONAL INSTITUTION A BLOOD SAMPLE OR BUCCAL (CHEEK) SWAB TO BE TESTED FOR THE PRESENCE OF HUMAN IMMUNODEFICIENCY VIRUS (HIV) AS REQUIRED UNDER SUBSECTION (B) OF THIS SECTION, A COURT MAY ORDER THE INMATE TO FURNISH THE BLOOD SAMPLE OR BUCCAL (CHEEK) SWAB IF:

(I) THE CORRECTIONAL EMPLOYEE INVOLVED IN THE EXPOSURE OR THE CORRECTIONAL EMPLOYEE'S REPRESENTATIVE REQUESTS THE TESTING IN WRITING TO THE STATE'S ATTORNEY IN THE COUNTY WHERE THE EXPOSURE OCCURRED; AND

(II) THE COURT FINDS PROBABLE CAUSE TO BELIEVE THAT THE EXPOSURE OCCURRED.

(2) BEFORE ORDERING A TEST UNDER PARAGRAPH (1) OF THIS SUBSECTION AND SUBJECT TO THE PROVISIONS OF PARAGRAPH (6) OF THIS SUBSECTION, THE COURT SHALL HOLD A HEARING AT WHICH THE CORRECTIONAL EMPLOYEE OR THE CORRECTIONAL EMPLOYEE'S REPRESENTATIVE AND THE INMATE OR THE INMATE'S REPRESENTATIVE HAVE THE RIGHT TO BE PRESENT.

(3) THE CORRECTIONAL EMPLOYEE OR THE CORRECTIONAL EMPLOYEE'S REPRESENTATIVE AND THE INMATE OR THE INMATE'S REPRESENTATIVE SHALL BE NOTIFIED OF:

(I) THE DATE, TIME, AND LOCATION OF THE HEARING; AND

(II) THEIR RIGHT TO BE PRESENT AT THE HEARING.

(4) DURING THE HEARING, THE COURT MAY ADMIT INTO EVIDENCE ONLY AFFIDAVITS, COUNTER-AFFIDAVITS, AND MEDICAL RECORDS THAT:

(I) RELATE TO THE MATERIAL FACTS OF THE CASE; AND

(II) SUPPORT OR REBUT A FINDING OF PROBABLE CAUSE TO ISSUE A COURT ORDER.

(5) THE WRITTEN REQUEST OF THE CORRECTIONAL EMPLOYEE OR THE CORRECTIONAL EMPLOYEE'S REPRESENTATIVE SHALL BE:

(I) FILED BY THE STATE'S ATTORNEY WITH THE COURT;
AND

(II) SEALED BY THE COURT.

(6) EXCEPT FOR GOOD CAUSE, THE COURT SHALL:

(I) HOLD THE HEARING WITHIN ~~30~~ 15 DAYS AFTER THE STATE'S ATTORNEY'S PRESENTMENT TO THE COURT OF THE WRITTEN REQUEST OF THE CORRECTIONAL EMPLOYEE OR THE CORRECTIONAL EMPLOYEE'S REPRESENTATIVE; AND

(II) ISSUE AN ORDER GRANTING OR DENYING THE REQUEST WITHIN 3 DAYS AFTER THE CONCLUSION OF THE HEARING.

[(d)] (E) The correctional employee shall be notified of the results of the test for the presence of human immunodeficiency virus (HIV) conducted under the provisions of this section.

[(e)] (F) The notification required under subsection **[(d)] (E)** of this section shall:

(1) Be made within 48 hours of confirmation of the inmate's diagnosis;

(2) Include subsequent written confirmation of the possible exposure to human immunodeficiency virus (HIV); and

(3) To the extent possible, be made in a manner that will protect the confidentiality of the correctional employee and the inmate.

[(f)] (G) If the results of the blood sample test are positive for the presence of human immunodeficiency virus (HIV), then the correctional employee and the inmate shall be provided appropriate counseling.

[(g)] (H) All correctional institutions shall develop written procedures to carry out the provisions of this section.

[(h)] (I) A health care provider acting in good faith to provide notification in accordance with this section may not be held liable in any cause of action related to a breach of patient confidentiality.

[(i)] (J) A health care provider acting in good faith to provide notification in accordance with this section may not be held liable in any cause of action for:

(1) The failure to give the required notice, if the correctional employee fails to properly initiate the notification procedures developed by the correctional institution under subsection **[(g)] (H)** of this section; or

(2) The failure of the managing official of the correctional institution within which the correctional employee is employed to subsequently notify the correctional employee of the possible exposure to human immunodeficiency virus (HIV).

[(j)] (K) A health care provider may not be held liable in any cause of action related to obtaining a blood sample or performing and interpreting an approved HIV test without the inmate's informed consent.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 667

(House Bill 511)

AN ACT concerning

State Board of Environmental Health Specialists – Transfer of Responsibilities

FOR the purpose of renaming the State Board of Environmental Sanitarians to be the State Board of Environmental Health Specialists; transferring the Board and certain functions, powers, duties, assets, liabilities, and records from the Department of the Environment to the Department of Health and Mental Hygiene; renaming environmental sanitarians to be environmental health specialists; altering the length of terms for certain Board members; altering a

certain date relating to the staggering of the terms of Board members; altering the number of terms certain Board members may serve; requiring the Board to notify certain environmental health specialists of certain vacancies on the Board and provide the Secretary of Health and Mental Hygiene with a list of a certain number of candidates for each vacancy; requiring the Board to determine the duties of certain officers; clarifying certain quorum requirements; authorizing the Board to employ certain staff in accordance with the budget of the Board; authorizing the Board to sue to enforce certain provisions by injunction and issue certain subpoenas, summon certain witnesses, administer certain oaths, take certain affidavits, and take certain testimony; establishing a State Board of Environmental Health Specialists Fund as a continuing, nonlapsing fund that is not subject to certain provisions of law; authorizing the Board to set certain fees for certain purposes; requiring certain fees to be set so as to approximate the cost of maintaining the Board; requiring certain funds to be generated by certain fees; requiring the Board to remit certain fees to the Comptroller; requiring the Comptroller to distribute certain fees to the Fund; requiring the Fund to be used to cover certain costs; prohibiting the transfer or reversion of certain unspent portions of the Fund to the General Fund; prohibiting other State money to be used to support the Fund; requiring a designee of the Board to administer the Fund; requiring the legislative auditor to audit certain accounts and transactions of the Fund in accordance with certain provisions of law; altering the list of persons employed in certain job classifications that are not required to be licensed under this Act; requiring that certain applicants be of good moral character and at least a certain age; authorizing the Board to waive certain education and training requirements for an applicant to qualify to take the licensing examination under certain conditions; authorizing the Board to send certain notices by electronic means; requiring the Board to maintain certain records and a certain database regarding disciplinary matters; establishing a certain violation for failing to cooperate with certain investigations; prohibiting certain persons from using certain titles and initials; altering certain penalties; extending the termination date of the Board; requiring that the Department of Legislative Services evaluate the Board by a certain date; providing that certain Board members may continue to serve for a certain term and that certain provisions will apply to certain vacancies on the Board; providing measures for continuity for certain license and certificate holders during a certain transition period; ~~expressing the intent of the General Assembly that the Department of the Environment and the Department of Health and Mental Hygiene cooperate to ensure adequate funding is available to support the Board during a certain fiscal year~~ requiring the Department of Health and Mental Hygiene to ensure adequate funding for the Board during a certain fiscal year; authorizing the Department of Health and Mental Hygiene to transfer certain funds to the Board from certain other boards under certain circumstances; expressing the intent of the General Assembly that the Board implement certain measures; requiring the Board to adopt certain regulations; repealing laws inconsistent with this Act; requiring the Board to repeal certain regulations; requiring the publishers of the Annotated Code of Maryland, in consultation with the Department of

Legislative Services, to automatically make certain corrections in a certain manner; repealing certain obsolete provisions; making certain technical, conforming, and stylistic changes; defining certain terms; and generally relating to the State Board of Environmental Health Specialists.

BY transferring

Article – Environment

Section 11–101 through 11–502, respectively, and the title “Title 11. Environmental Sanitarians”

Annotated Code of Maryland

(2007 Replacement Volume and 2011 Supplement)

to be

Article – Health Occupations

Section 21–101 through 21–502, respectively, and the title “Title 21. Environmental Sanitarians”

Annotated Code of Maryland

(2009 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,

Article – Environment

Section 1–406

Annotated Code of Maryland

(2007 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,

Article – Health Occupations

Section 21–101; 21–201 through ~~21–205~~ 21–206 to be under the amended subtitle “Subtitle 2. State Board of Environmental Health Specialists”; 21–301 through 21–310, 21–312 through 21–315, 21–401, 21–402, 21–501, and 21–502 to be under the amended title “Title 21. Environmental Health Specialists”

Annotated Code of Maryland

(2009 Replacement Volume and 2011 Supplement)

(As enacted by Section 1 of this Act)

BY repealing and reenacting, without amendments,

Article – Health Occupations

Section 21–102, ~~21–206~~, 21–207, and 21–311

Annotated Code of Maryland

(2009 Replacement Volume and 2011 Supplement)

(As enacted by Section 1 of this Act)

BY repealing and reenacting, with amendments,

Article – State Government

Section 8–403(b)(22)

Annotated Code of Maryland

(2009 Replacement Volume and 2011 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 11–101 through 11–502, respectively, and the title “Title 11. Environmental Sanitarians” of Article – Environment of the Annotated Code of Maryland be transferred to be Section(s) 21–101 through 21–502, respectively, and the title “Title 21. Environmental Sanitarians” of Article – Health Occupations of the Annotated Code of Maryland.

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

Article – Environment

1–406.

The following units, among other units, are included in the Department:

- (1) Air Quality Control Advisory Council;
- (2) Environmental Noise Advisory Council;
- (3) Hazardous Substances Advisory Council;
- (4) Radiation Control Advisory Board;
- (5) Science and Health Advisory Group;
- (6) [Board of Environmental Sanitarians;
- (7) Board of Waterworks and Waste System Operators;
- ~~[(8)]~~ (7) Board of Well Drillers; and
- ~~[(9)]~~ (8) Hazardous Waste Facilities Siting Board.

Article – Health Occupations

Title 21. Environmental [Sanitarians] **HEALTH SPECIALISTS.**

Subtitle 1. General Provisions.

21–101.

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

(b) “Board” means the State Board of Environmental [Sanitarians] **HEALTH SPECIALISTS**.

(c) “**ENVIRONMENTAL HEALTH SPECIALIST**” MEANS AN INDIVIDUAL WHO PRACTICES AS AN ENVIRONMENTAL HEALTH SPECIALIST.

(d) “**ENVIRONMENTAL HEALTH SPECIALIST-IN-TRAINING**” MEANS AN INDIVIDUAL WHO MEETS THE EDUCATIONAL QUALIFICATIONS REQUIRED UNDER THIS TITLE BUT HAS NOT YET COMPLETED THE ENVIRONMENTAL HEALTH SPECIALIST-IN-TRAINING PROGRAM REQUIRED UNDER § 21-305 OF THIS TITLE.

(e) “**ENVIRONMENTAL HEALTH SPECIALIST-IN-TRAINING PROGRAM**” MEANS A PROGRAM OF TRAINING AND EXPERIENCE UNDER THE SUPERVISION OF A LICENSED ENVIRONMENTAL HEALTH SPECIALIST OR OTHER INDIVIDUAL ACCEPTABLE TO THE BOARD.

[(c)](f) “Hours of approved training” means the value given to participation in continuing education or experience as approved by the Board.

[(d)](g) “License” means, unless the context requires otherwise, a license issued by the Board to practice as an environmental [sanitarian] **HEALTH SPECIALIST**.

(h) “**LICENSED ENVIRONMENTAL HEALTH SPECIALIST**” MEANS AN INDIVIDUAL LICENSED BY THE BOARD TO PRACTICE AS AN ENVIRONMENTAL HEALTH SPECIALIST.

[(e)](i) “Practice as an environmental [sanitarian] **HEALTH SPECIALIST**” means, as a major component of employment, to apply academic principles, methods and procedures of the environmental, physical, biological, and health sciences to the inspections and investigations necessary to collect and analyze data and to make decisions necessary to secure compliance with federal, State, and local health and environmental laws and regulations specifically relating to control of the public health aspects of the environment including:

- (1) The manufacture, preparation, handling, distribution, or sale of food and milk;
- (2) Water supply and treatment;
- (3) Wastewater treatment and disposal;
- (4) Solid waste management and disposal;

- (5) Vector control;
- (6) Insect and rodent control;
- (7) Air quality;
- (8) Noise control;
- (9) Product safety;
- (10) Recreational sanitation; and
- (11) Institutional and residential sanitation.

[(f) “Registered environmental sanitarian” means an individual who is licensed by the Board to practice as an environmental sanitarian.

(g) “Sanitarian-in-training” means an individual who meets the educational qualifications required under this title but has not yet completed the sanitarian-in-training program required under § 11-305 of this title.

(h) “Sanitarian-in-training program” means a program of training and experience under the supervision of a registered environmental sanitarian or other individual acceptable to the Board.]

21-102.

This title does not prohibit an individual from practicing any other profession or occupation that the individual is authorized to practice under the laws of the State.

Subtitle 2. State Board of Environmental [Sanitarians] **HEALTH SPECIALISTS.**

21-201.

There is a State Board of Environmental [Sanitarians] **HEALTH SPECIALISTS** in the Department.

21-202.

(a) (1) The Board consists of 9 members appointed by the Governor with the advice of the Secretary, and with the advice and consent of the Senate.

(2) Of the 9 Board members:

(i) 7 shall be [registered] **LICENSED** environmental [sanitarians] **HEALTH SPECIALISTS** appointed as follows:

1. 1 shall be employed by private industry;
 2. 1 shall be employed by the Department of the Environment;
 3. 1 shall be employed by the Department [of Health and Mental Hygiene];
 4. 1 shall be employed by a local health department and be employed under the State Personnel Management System;
 5. 1 shall be employed by a local government and not be employed under the State Personnel Management System; and
 6. 2 shall be appointed at large[. Their selection shall balance the Board as to geographical distribution throughout the State and may not include a second selection from any jurisdiction already represented]; and
 - (ii) 2 shall be consumer members.
- (3) All Board members shall be residents of the State.

(B) THE MEMBERS APPOINTED AT LARGE SHALL REASONABLY REFLECT THE GEOGRAPHIC DIVERSITY OF THE STATE.

- [(b)] (C) (1) The consumer members of the Board:**
- [(1)] (I) Shall be members of the general public;**
 - [(2)] (II) May not be [registered] LICENSED environmental [sanitarians] HEALTH SPECIALISTS;**
 - [(3)] (III) May not have a household member who is a [registered] LICENSED environmental [sanitarian] HEALTH SPECIALIST;**
 - [(4)] (IV) May not participate or ever have participated in a related commercial or professional field;**
 - [(5)] (V) May not have a household member who participates in a related commercial or professional field; and**
 - [(6)] (VI) May not have had within 2 years before appointment a substantial financial interest in a person regulated by the Board.**

[(c)] (2) While a member of the Board, a consumer member may not have a substantial financial interest in a person regulated by the Board.

(d) Before taking office, each appointee to the Board shall take the oath required by Article I, § 9 of the Maryland Constitution.

(e) (1) The term of a member is **[5] 4** years.

(2) The terms of members are staggered as required by the terms provided for members of the Board on **[July 1, 1981] JULY 1, 2012**.

(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) **[After July 1, 1984, a] A** member may not serve more than **[1] 2** consecutive **[5-year term] TERMS**.

(F) FOR EACH VACANCY OF A LICENSED ENVIRONMENTAL HEALTH SPECIALIST MEMBER, THE BOARD SHALL:

(1) SOLICIT NOMINATIONS BY NOTIFYING ALL LICENSED ENVIRONMENTAL HEALTH SPECIALISTS OF THE VACANCY; AND

(2) SUBMIT TO THE SECRETARY A LIST OF AT LEAST THREE CANDIDATES FOR EACH VACANCY.

[(f)] (G) [The] ON THE RECOMMENDATION OF THE SECRETARY, THE Governor may remove a member for incompetence, misconduct, neglect of duty, or other sufficient cause.

21-203.

(a) From among its members, the Board annually shall elect a chairman, a vice chairman, and a secretary.

(b) **[The manner of election of officers shall be as the Board determines.]**
THE BOARD SHALL DETERMINE:

(1) THE MANNER OF ELECTION OF OFFICERS; AND

(2) THE DUTIES OF EACH OFFICER.

21-204.

- (a) [Five members] **A MAJORITY** of the Board [are] **IS** a quorum.
- (b) [(1)] The Board shall meet at least twice a year, at the times and places that the Board determines.
- [(2)] Special meetings of the Board shall be called by the Board secretary at:
- (i) The written request of 2 Board members or 5 registered environmental sanitarians; or
- (ii) The direction of the Secretary of the Environment.]
- (c) A member of the Board:
- (1) May receive compensation as provided in the State budget; and
- (2) Is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.
- (d) The Board may employ a staff in accordance with the [State] budget **OF THE BOARD.**
- 21–205.
- (a) In addition to the powers set forth elsewhere in this title, the Board may [adopt]:
- (1) **ADOPT** rules, regulations, and bylaws [as may be necessary] to carry out the provisions of this title;
- (2) **SUE TO ENFORCE ANY PROVISION OF THIS TITLE BY INJUNCTION; AND**
- (3) **ISSUE SUBPOENAS, SUMMON WITNESSES, ADMINISTER OATHS, TAKE AFFIDAVITS, AND TAKE TESTIMONY ABOUT MATTERS THAT RELATE TO THE JURISDICTION OF THE BOARD.**
- (b) In addition to the duties set forth elsewhere in this title, the Board shall:
- (1) Keep a current record of all [registered] **LICENSED** environmental [sanitarians] **HEALTH SPECIALISTS;**
- (2) Collect and account for fees provided under this title;

- (3) Pay all necessary expenses of the Board in accordance with the State budget;
- (4) Keep a complete record of its proceedings;
- (5) File an annual report of its activities, including a financial statement, with the Governor and the Secretary; and
- (6) Adopt an official seal.

21-206.

(A) IN THIS SECTION, "FUND" MEANS THE STATE BOARD OF ENVIRONMENTAL HEALTH SPECIALISTS FUND.

(B) THERE IS A STATE BOARD OF ENVIRONMENTAL HEALTH SPECIALISTS FUND.

~~(a)~~ **(C) (1) Except for the fees specifically set by this title, the THE** Board may set reasonable fees for the issuance and renewal of licenses and its other services.

(2) THE FEES CHARGED SHALL BE SET SO AS TO APPROXIMATE THE COST OF MAINTAINING THE BOARD.

(3) FUNDS TO COVER THE COMPENSATION AND EXPENSES OF THE BOARD MEMBERS SHALL BE GENERATED BY FEES SET UNDER THIS SECTION.

~~(b) The Board shall pay all funds collected under this title into the General Fund of this State.~~

(D) (1) THE BOARD SHALL REMIT ALL FEES COLLECTED UNDER THIS TITLE TO THE COMPTROLLER.

(2) THE COMPTROLLER SHALL DISTRIBUTE THE FEES TO THE FUND.

(E) (1) THE FUND SHALL BE USED TO COVER THE ACTUAL DOCUMENTED DIRECT AND INDIRECT COSTS OF FULFILLING THE STATUTORY AND REGULATORY DUTIES OF THE BOARD AS PROVIDED UNDER THIS ARTICLE.

(2) THE FUND IS A CONTINUING, NONLAPSING FUND AND IS NOT SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(3) ANY UNSPENT PORTIONS OF THE FUND MAY NOT BE TRANSFERRED OR REVERT TO THE GENERAL FUND OF THE STATE, BUT SHALL REMAIN IN THE FUND TO BE USED FOR THE PURPOSES SPECIFIED IN THIS ARTICLE.

(4) NO OTHER STATE MONEY MAY BE USED TO SUPPORT THE FUND.

(F) (1) A DESIGNEE OF THE BOARD SHALL ADMINISTER THE FUND.

(2) MONEY IN THE FUND MAY BE EXPENDED ONLY FOR ANY LAWFUL PURPOSE AUTHORIZED UNDER THIS ARTICLE.

(G) THE LEGISLATIVE AUDITOR SHALL AUDIT THE ACCOUNTS AND TRANSACTIONS OF THE FUND AS PROVIDED IN § 2-1220 OF THE STATE GOVERNMENT ARTICLE.

21-207.

A person shall have the immunity from liability described under § 5-702 of the Courts and Judicial Proceedings Article for giving information to the Board or otherwise participating in its activities.

Subtitle 3. Licensing.

21-301.

(a) Except as otherwise provided in this title, an individual shall be licensed by the Board before the individual may practice as an environmental [sanitarian] **HEALTH SPECIALIST** in this State.

(b) This section does not apply to:

(1) [A sanitarian-in-training] **AN ENVIRONMENTAL HEALTH SPECIALIST-IN-TRAINING AS PROVIDED FOR UNDER § 21-305 OF THIS SUBTITLE;**

(2) A student participating in a field experience as part of an educational program; **AND**

(3) [An applicant for licensure in accordance with § 11-304(b)(5) of this subtitle; and

(4)] A qualified individual in any of the following job classifications:

- (i) Industrial hygienists as defined by the American Industrial Hygiene Association;
- (ii) Certified industrial hygienists and industrial hygienists in training as defined by the American Board of Industrial Hygiene;
- (iii) Health planners or natural resource planners;
- (iv) Building and housing inspectors;
- (v) Geologists;
- (vi) Chemists;
- (vii) Meteorologists;
- (viii) Laboratory scientists;
- (ix) Professional engineers who are licensed in this State under Title 14 of the Business Occupations and Professions Article and whose **NORMAL** professional activities are [normally included] **AMONG THE ACTIVITIES SPECIFIED** in [§ 11–101(e)] **§ 21–101(I)** of this title;
- (x) Public health engineers and water resources engineers employed by the State or a local subdivision;
- (xi) Hydrographers and hydrographic engineers;
- (xii) Natural resources managers;
- (xiii) Natural resources biologists;
- (xiv) Program administrators, administration directors, administrators, administrative officers, and administrative specialists;
- (xv) Paraprofessional personnel, aides, and technicians whose routine duties include monitoring, sampling, and recording of data;
- (xvi) Persons employed by the Department of Natural Resources or related county departments who perform duties and responsibilities under the Natural Resources Article;
- (xvii) Persons employed by the Department of the Environment or related county departments who perform duties and responsibilities for ~~erosion~~;

1. EROSION and sediment control, stormwater management, or oil pollution control under Title 4 of [this article] **THE ENVIRONMENT ARTICLE**;

~~(xviii) Persons employed by the Department of the Environment or related county departments who perform duties and responsibilities for ambient air monitoring under Title 2 of [this article] **THE ENVIRONMENT ARTICLE** or for motor~~

2. MOTOR vehicle pollution control under Title 2 of [this article] **THE ENVIRONMENT ARTICLE** or Title 23 of the Transportation Article; **OR**

3. SEWAGE SLUDGE, WATER POLLUTION CONTROL, OR DRINKING WATER UNDER TITLE 9 OF THE ENVIRONMENT ARTICLE;

(XVIII) PERSONS EMPLOYED BY THE DEPARTMENT OF THE ENVIRONMENT AND CLASSIFIED AS EITHER:

1. A REGULATORY AND COMPLIANCE ENGINEER OR ARCHITECT; OR

2. AN ENVIRONMENTAL COMPLIANCE SPECIALIST;

(xix) Persons employed by the Division of Labor and Industry of the Department of Labor, Licensing, and Regulation who perform duties and responsibilities under the Maryland Occupational Safety and Health Act;

(xx) Occupational safety and health technologists as defined by the American Board of Industrial Hygiene and the Board of Certified Safety Professionals;

(xxi) Safety professionals as defined by the American Society of Safety Engineers;

(xxii) Certified safety professionals and associate safety professionals as defined by the Board of Certified Safety Professionals;

(xxiii) Persons employed by industrial operations whose environmental services are performed solely for their employer; and

(xxiv) State milk safety inspectors performing duties under the National Conference on Interstate Milk Shipments and employed by the Department [of Health and Mental Hygiene].

To apply for licensure AS AN ENVIRONMENTAL HEALTH SPECIALIST, an applicant shall:

(1) Submit an application to the Board on the form that the Board requires;

(2) (i) Submit verification from the applicant's employer or supervisor on forms required by the Board that the applicant has successfully completed [a sanitarian-in-training] AN ENVIRONMENTAL HEALTH SPECIALIST-IN-TRAINING program; or

(ii) Provide independent written verification from the applicant's employer or any prior work experience in the field of environmental health used by the applicant to satisfy the [sanitarian-in-training] ENVIRONMENTAL HEALTH SPECIALIST-IN-TRAINING requirement of this title; and

(3) Pay to the Board the required [application and examination fee] FEES set by the Board.

21-303.

(a) To qualify for licensure under this title, an applicant shall meet the requirements of this section.

(B) THE APPLICANT MUST BE OF GOOD MORAL CHARACTER.

(C) THE APPLICANT MUST BE AT LEAST 18 YEARS OLD.

[(b)] (D) An applicant shall be licensed by the Board if the applicant:

(1) Qualifies for the examination required under [§ 11-304] § 21-304 of this subtitle; and

(2) Takes and attains a passing score on the examination.

[(c)] An applicant employed as an environmental sanitarian on or before June 30, 1985 may be licensed without taking the examination required under this section if the applicant meets the educational and training requirements set forth in § 11-304 of this subtitle and the applicant applied for licensure to the Board before July 1, 1994.

[(d)] (E) The Board may waive any examination requirement under this section if the Board considers the applicant to be recognized as outstanding in the field of environmental health.

21-304.

(a) An applicant who otherwise qualifies for licensure is entitled to be examined as provided in this section.

(b) An applicant qualifies to take the examination if the applicant:

(1) (i) Has graduated from an accredited college or university with a baccalaureate degree in environmental science or environmental health; and

(ii) Has obtained 12 months of experience in [a sanitarian-in-training] **AN ENVIRONMENTAL HEALTH SPECIALIST-IN-TRAINING** program approved by the Board; [or]

(2) (i) Has graduated from an accredited college or university with a baccalaureate degree in the physical, biological, or environmental sciences including:

1. A minimum of 60 semester credit hours or the equivalent quarter credit hours of physical, biological, and environmental sciences acceptable to the Board which includes at least [1] **ONE** laboratory course in [2] **TWO** of the following fields: [chemistry, physics, and biology]

A. **CHEMISTRY;**

B. **PHYSICS; AND**

C. **BIOLOGY; and**

2. A course in mathematics; and

(ii) Has obtained 12 months of experience in [a sanitarian-in-training] **AN ENVIRONMENTAL HEALTH SPECIALIST-IN-TRAINING** program approved by the Board; [or]

(3) (i) Has graduated from an accredited college or university with a baccalaureate degree that includes:

1. 30 semester credit hours or the equivalent [in] quarter [units] **CREDIT HOURS** in the physical, biological, and environmental sciences acceptable to the Board, which includes at least [1] **ONE** laboratory course in [2] **TWO** of the following fields: [chemistry, physics, and biology]

A. **CHEMISTRY;**

B. **PHYSICS; AND**

C. **BIOLOGY; and**

2. A course in mathematics; and

(ii) Has obtained 24 months of experience in [a sanitarian-in-training] **AN ENVIRONMENTAL HEALTH SPECIALIST-IN-TRAINING** program approved by the Board; or

(4) Has graduated from an accredited college or university with a master's degree in public or environmental health science that includes:

(i) 30 semester [units] **CREDIT HOURS** or 45 quarter [units] **CREDIT HOURS** of physical, biological, or environmental sciences acceptable to the Board, which includes at least [1] **ONE** laboratory course in [2] **TWO** of the following fields: [biology, chemistry, and physics]

1. **CHEMISTRY;**

2. **PHYSICS; AND**

3. **BIOLOGY;**

(ii) A course in mathematics; and

(iii) 3 months of internship approved by the Board if not previously completed]; or

(5) (i) Has obtained at least 10 years of experience in the field of environmental health acceptable to the Board and the applicant applied for licensure to the Board before July 1, 1995; and

(ii) Takes and passes the examination within 2 years of application for licensure].

(c) **(1) THIS SUBSECTION DOES NOT ALTER THE REQUIREMENT THAT AN APPLICANT DEMONSTRATE COMPLETION OF A BACCALAUREATE OR MASTER'S DEGREE TO QUALIFY FOR EXAMINATION.**

(2) THE BOARD MAY WAIVE ANY OF THE SPECIFIC COURSE REQUIREMENTS FOR AN APPLICANT TO QUALIFY FOR EXAMINATION IN SUBSECTION (B) OF THIS SECTION IF THE BOARD DETERMINES THAT AN APPLICANT:

(I) HAS OBTAINED AN EQUIVALENT NUMBER OF CREDIT HOURS IN A COURSE RELEVANT TO PRACTICE AS AN ENVIRONMENTAL HEALTH SPECIALIST; OR

(II) HAS WORK EXPERIENCE THAT IS AN ACCEPTABLE SUBSTITUTE FOR A COURSE REQUIRED IN SUBSECTION (B) OF THIS SECTION.

(3) THE BOARD MAY WAIVE THE EXPERIENCE REQUIREMENT IN SUBSECTION (B)(3)(II) OF THIS SECTION IF THE BOARD DETERMINES THAT AN APPLICANT:

(I) HAS OBTAINED AT LEAST 12 MONTHS OF EXPERIENCE IN AN ENVIRONMENTAL HEALTH SPECIALIST-IN-TRAINING PROGRAM; AND

(II) HAS THE WRITTEN SUPPORT OF THE APPLICANT'S EMPLOYER.

(D) The examination shall include a written examination in the physical, biological, and environmental sciences that relates to practices and principles of environmental health.

[(d)] (E) The Board shall give examinations to applicants at least once a year, at the times and places that the Board determines.

[(e)] (F) The Board shall notify each qualified applicant of the time and place of examination.

[(f)] (G) (1) Except as otherwise provided in this subtitle, the Board shall determine the subjects, scope, form, and passing score for examinations given under this subtitle.

(2) The Board shall use professional examinations prepared by recognized examination agencies.

(3) Examination papers shall identify the applicant only by a number assigned by the Board secretary.

[(g)] (H) Examination papers shall be filed with the Board secretary and kept at least 1 year.

[(h)] (I) (1) An applicant who fails an examination may retake the examination as provided in the rules and regulations adopted by the Board.

(2) An applicant for reexamination shall:

(i) Submit to the Board an application on the form the Board requires; and

(ii) Pay to the Board a reexamination fee set by the Board.

[(i)] (J) Unless authorized by the Board, the consumer **[member]** **MEMBERS** of the Board may not participate in any activity related to examinations under this subtitle.

21-305.

The Board shall adopt regulations that include:

(1) The establishment of **[a sanitarian-in-training]** **AN ENVIRONMENTAL HEALTH SPECIALIST-IN-TRAINING** program for applicants to obtain the necessary experience to qualify to take the examination; and

(2) A condition that a person may not participate in **[a sanitarian-in-training]** **AN ENVIRONMENTAL HEALTH SPECIALIST-IN-TRAINING** program for more than 3 years, unless **[approved]** **GRANTED AN EXTENSION** by the Board.

21-306.

(a) Subject to the provisions of this section, the Board may make a reciprocal agreement with any other state to waive any examination requirement of this title for an applicant who is licensed as **[a registered]** **AN environmental [sanitarian] HEALTH SPECIALIST** or its equivalent in that state.

(b) An agreement made under this section may allow the Board to grant a waiver only if the applicant:

(1) Pays the application fee required by **[\§ 11-302] § 21-302** of this subtitle; and

(2) Provides adequate evidence that the applicant:

(i) Meets the qualifications otherwise required by this title; and

(ii) Became licensed in the other state after passing in that or any other state an examination that is similar to the examination for which the applicant is seeking the waiver.

(c) An agreement may be made with another state under this section only if, under the agreement, the other state waives the examination of **[registered]** **LICENSED environmental [sanitarians] HEALTH SPECIALISTS** of this State to a similar extent as this State waives the examination requirements for individuals licensed in that state.

21-307.

(a) The Board shall license and issue the appropriate licensure to any applicant who meets the requirements of this title.

(b) The Board shall include on each license that it issues:

(1) The designation [“registered environmental sanitarian”] **“LICENSED ENVIRONMENTAL HEALTH SPECIALIST”**;

(2) The name of the license holder;

(3) The date of issue and serial number of the license;

(4) The Board seal; and

(5) The signature of the Board’s representative.

(c) The Board shall issue a new license to replace a lost, destroyed, or mutilated license if the license holder pays a fee that is set by the Board.

21–308.

Licensure authorizes an individual to practice as an environmental [sanitarian] **HEALTH SPECIALIST** while the license is in effect.

21–309.

(a) A license expires on the date specified on the license, unless it is renewed for a 2–year term as provided in this section.

(b) At least 1 month before the license expires, the Board shall send to the licensee, by first–class mail **OR ELECTRONIC MEANS** to the last known address **OR ELECTRONIC MAIL ADDRESS** of the licensee, a renewal notice that states:

(1) The date on which the current license expires;

(2) The date by which the renewal application must be received by the Board for the renewal to be issued and mailed before the license expires;

(3) The amount of the renewal fee; and

(4) The hours of approved training required for renewal of licensure.

(c) Before the license expires, the licensee may renew it for an additional 2–year term, if the licensee:

- (1) Otherwise is entitled to be licensed;
- (2) Pays to the Board the renewal fee set by the Board;
- (3) Submits to the Board a renewal application on the form that the Board requires; and
- (4) Submits to the Board proof that during the previous 2-year period, the licensee has acquired 20 hours of approved training in environmental health or other equivalent education as approved by the Board.

(d) The renewal license shall bear the same serial number assigned to the licensee at the time of the original registration or licensure.

21-310.

The Board shall reinstate the license of a [registered] **LICENSED** environmental [sanitarian] **HEALTH SPECIALIST** who has failed to renew the license for any reason if the [registered] **LICENSED** environmental [sanitarian] **HEALTH SPECIALIST**:

- (1) Pays the Board all lapsed renewal fees and demonstrates that training as required by the Board has been completed;
- (2) Reapplies and meets the qualifications and requirements for licensure; and
- (3) Pays to the Board a reinstatement fee set by the Board.

21-311.

- (a) The Board shall keep a current record of each application for licensure.
- (b) The record shall include:
 - (1) The name, residence address, and age of each applicant;
 - (2) The name and address of the applicant's employer;
 - (3) The date of the application;
 - (4) Complete information on the education and experience qualifications of each applicant;
 - (5) The date the Board reviewed and acted on the application;
 - (6) The action taken by the Board on the application;

- (7) The serial number of any registration or license issued to the applicant; and
- (8) Any other information that the Board considers necessary.

21–312.

(a) The Board shall adopt a code of ethics designed to protect the public's interest.

(b) Subject to the hearing provisions of [§ 11–313] **§ 21–313** of this subtitle, the Board, on the affirmative vote of a majority of its full authorized membership, may deny any applicant licensure, reprimand any licensee, or place any individual who is licensed on probation, or suspend or revoke a license, if the applicant or licensee:

(1) Fraudulently or deceptively obtains or attempts to obtain a license for the applicant or license holder or another;

(2) Fraudulently or deceptively uses a license;

(3) Knowingly violates any provision of this title, or any rule or regulation adopted under this title;

(4) Commits any gross negligence, incompetence, or misconduct while performing the duties of an environmental [sanitarian] **HEALTH SPECIALIST**;

(5) Is convicted of or pleads guilty or nolo contendere to a felony or to a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside;

(6) Provides professional services while:

(i) Under the influence of alcohol; or

(ii) Using any narcotic or controlled dangerous substance, as defined in § 5–101 of the Criminal Law Article, or other drug that is in excess of therapeutic amounts or without valid medical indication;

(7) Is disciplined by a licensing or disciplinary authority of any other state or country or convicted or disciplined by a court of any state or country for an act that would be grounds for disciplinary action under the Board's disciplinary statutes;

(8) Willfully makes or files a false report or record while performing the duties of an environmental [sanitarian] **HEALTH SPECIALIST**;

(9) Willfully fails to file or record any report as required by law, willfully impedes or obstructs the filing or recording of the report, or induces another to fail to file or record the report;

(10) Submits a false statement to collect a fee;

(11) Promotes the sale of land, devices, appliances, or goods provided for a person in such a manner as to exploit the person for financial gain of the [registered] LICENSED environmental [sanitarian] HEALTH SPECIALIST;

(12) Willfully alters a sample, specimen, or any test procedure to cause the results upon analysis to represent a false finding;

(13) Violates any rule or regulation adopted by the Board;

(14) Uses or promotes or causes the use of any misleading, deceiving, or untruthful advertising matter, promotional literature, or testimonial; [or]

(15) Is professionally, physically, or mentally incompetent; OR

(16) FAILS TO COOPERATE WITH A LAWFUL INVESTIGATION CONDUCTED BY THE BOARD.

(c) Except as provided in subsection (d) of this section, any person, including a Board employee, may make a written, specific charge of a violation under this section, if the person:

(1) Swears to the charge; and

(2) Files the charge with the Board secretary.

(d) (1) If a [registered] LICENSED environmental [sanitarian] HEALTH SPECIALIST knows of an action or condition that might be grounds for action under subsection (b) of this section, the [registered] LICENSED environmental [sanitarian] HEALTH SPECIALIST shall report the action or condition to the Board; and

(2) An individual shall have the immunity from liability described under § 5–702 of the Courts and Judicial Proceedings Article for making a report as required by this subsection.

21–313.

(a) (1) Except as otherwise provided in the Administrative Procedure Act, before the Board takes any action under [§ 11–312] § 21–312 of this subtitle, it shall give the individual against whom this action is contemplated an opportunity for a hearing before the Board.

(2) A hearing shall be held within a reasonable time not to exceed 6 months after charges have been brought.

(b) The Board shall give notice and hold the hearing in accordance with the Administrative Procedure Act.

(c) [At least 30 days before the hearing, the hearing notice to be given to the individual shall be served in accordance with § 1–204 of this article.

(d)] The individual may be represented at the hearing by counsel.

[(e)](D) Over the signature of an officer or the administrator of the Board, the Board may issue subpoenas and administer oaths in connection with any investigation under this title and any hearings or proceedings before it.

[(f)](E) If, without lawful excuse, a person disobeys a subpoena from the Board or an order by the Board to take an oath or to testify or answer a question, then, on petition of the Board, a court of competent jurisdiction may punish the person as for contempt of court.

[(g)](F) If, after due notice, the individual against whom the action is contemplated fails or refuses to appear, the Board may hear and determine the matter.

(G) (1) THE BOARD SHALL MAINTAIN A RECORD OF ALL DISCIPLINARY MATTERS THAT INCLUDES:

(I) THE DATE THE MATTER WAS REFERRED TO THE BOARD;

(II) A DETAILED DESCRIPTION OF THE SPECIFIC ALLEGATIONS;

(III) A COPY OF ANY WRITTEN EVIDENCE REVIEWED BY THE BOARD IN EVALUATING THE MATTER; AND

(IV) A WRITTEN SUMMARY OF THE FINAL ACTION OF THE BOARD INCLUDING THE DATE OF THE ACTION AND THE BASIS FOR THE ACTION.

(2) THE BOARD SHALL MAINTAIN AN ELECTRONIC DATABASE OF ALL DISCIPLINARY MATTERS CONSIDERED BY THE BOARD THAT IS SEARCHABLE, AT A MINIMUM, BY:

(I) THE DATE OF THE BOARD'S FINAL ACTION;

(II) THE NAME OF THE AFFECTED LICENSEE; AND

(III) THE TYPE OF FINAL ACTION TAKEN BY THE BOARD, INCLUDING NO ACTION.

21-314.

Except as provided in this section for an action under [§ 11-312] § 21-312 of this subtitle, any person aggrieved by a final decision of the Board in a contested case, as defined in § 10-202 of the State Government Article, may take an appeal as allowed in §§ 10-222 and 10-223 of the State Government Article.

21-315.

The Board, on the affirmative vote of a majority of its full [authorized] APPOINTED membership, may reinstate the license of an individual whose license has been revoked.

Subtitle 4. Prohibited Acts; Penalties.

21-401.

(a) Except as otherwise provided in this title, unless a person is licensed under this title, the person may not practice as an environmental [sanitarian] HEALTH SPECIALIST.

(b) Unless a person is licensed under this title, the person may not use the title ["registered environmental sanitarian"] "ENVIRONMENTAL HEALTH SPECIALIST" OR "LICENSED ENVIRONMENTAL HEALTH SPECIALIST" or the initials ["R.S."] "E.H.S." OR "L.E.H.S." after the name of the person or any other title with the intent to represent that the person is licensed to practice as an environmental [sanitarian] HEALTH SPECIALIST.

21-402.

A person who violates any provision of [§ 11-301] § 21-301 of this title or [§ 11-401] § 21-401 of this subtitle is guilty of a misdemeanor and on conviction is subject to a fine not exceeding [\$100] \$5,000 or imprisonment not exceeding [60 days] 2 YEARS or both.

Subtitle 5. Short Title; Termination of Title.

21-501.

This title may be cited as the “Maryland Environmental [Sanitarian] **HEALTH SPECIALISTS Act**”.

21–502.

Subject to the evaluation and reestablishment provisions of the Program Evaluation Act, the provisions of this title and of any rule or regulation adopted under this title shall terminate and be of no effect after [July 1, 2013] **JULY 1, 2017**.

Article – State Government

8–403.

(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:

(22) Environmental [Sanitarians] **HEALTH SPECIALISTS**, State Board of ([§ 11–201] **§ 21–201** of the [Environment] **HEALTH OCCUPATIONS** Article: July 1, [2012] **2016**);

SECTION 3. AND BE IT FURTHER ENACTED, That a member of the State Board of Environmental Sanitarians who is serving on the Board before July 1, 2012, shall continue to serve on the State Board of Environmental Health Specialists for the remainder of the member’s term and that the provisions of § 21–202 of the Health Occupations Article, as enacted by Section 2 of this Act, shall apply to any vacancy on the Board on or after July 1, 2012.

SECTION 4. AND BE IT FURTHER ENACTED, That, on July 1, 2012, all the functions, powers, duties, assets, liabilities, and records of the State Board of Environmental Sanitarians shall be transferred to the State Board of Environmental Health Specialists.

SECTION 5. AND BE IT FURTHER ENACTED, That, on July 1, 2012, an individual who holds a license to practice as an environmental sanitarian issued by the State Board of Environmental Sanitarians in all respects shall be considered licensed by the State Board of Environmental Health Specialists and, subject to the provisions of this Act, for the remainder of the term of the individual’s license. On expiration of the individual’s license, the individual may qualify for renewal of a license under § 21–309 of the Health Occupations Article, as enacted by Section 2 of this Act.

SECTION 6. AND BE IT FURTHER ENACTED, That, if on or after July 1, 2012, an individual holds a license issued by the State Board of Environmental Sanitarians and the individual fails to timely renew the license, the individual may

qualify for reinstatement of the license under § 21–310 of the Health Occupations Article, as enacted by Section 2 of this Act.

SECTION 7. AND BE IT FURTHER ENACTED, That each certificate of eligibility and sanitarian-in-training certificate issued by the State Board of Environmental Sanitarians prior to July 1, 2012, in all respects, shall be considered issued by the State Board of Environmental Health Specialists and, subject to the provisions of this Act, remain valid for the remainder of the term of the certificate. On expiration of the certificate, the certificate holder may qualify for renewal of the certificate as provided in regulations adopted by the State Board of Environmental Health Specialists, as enacted by this Act.

SECTION 8. AND BE IT FURTHER ENACTED, That ~~it is the intent of the General Assembly that the Department of the Environment and the Department of Health and Mental Hygiene cooperate to ensure adequate funding for the State Board of Environmental Health Specialists during fiscal 2013, including a supplemental budget request if necessary, notwithstanding the provisions of § 21–206(d)(4) of the Health Occupations Article, as enacted by Section 2 of this Act, the Department of Health and Mental Hygiene shall ensure adequate funding for the State Board of Environmental Health Specialists during fiscal year 2013, and may transfer funds to the Board from another board with adequate reserve funds as determined by and at the discretion of the Secretary of Health and Mental Hygiene, to be repaid in full during fiscal year 2014.~~

SECTION 9. AND BE IT FURTHER ENACTED, That:

(a) To ensure that individuals performing similar duties related to protecting public health are regulated uniformly, the State Board of Environmental Health Specialists, in consultation with the Maryland Association of County Health Officers and the Maryland Conference of Local Environmental Health Directors, shall develop recommendations about revising existing statutory exemptions from the requirement to be licensed to practice as an environmental sanitarian based on job duties.

(b) On or before October 1, 2013, the State Board of Environmental Health Specialists shall report its recommendations under subsection (a) of this section to the General Assembly.

SECTION 10. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that the State Board of Environmental Health Specialists implement the measures outlined by the Department of Legislative Services in Chapter 5 of the November 2011 publication “Sunset Review: Evaluation of the State Board of Environmental Sanitarians” relating to the transfer of the Board of Environmental Sanitarians to the Department of Health and Mental Hygiene.

SECTION 11. AND BE IT FURTHER ENACTED, That the State Board of Environmental Health Specialists shall adopt regulations to:

(a) Align the minimum score required to pass the qualifying examination offered by the National Environmental Health Association with the passing score that is set by the National Environmental Health Association;

(b) Repeal the requirement for applicants for licensure to submit a study plan after three attempts to pass the qualifying examination; and

(c) Set forth the Board's requirements related to continuing education.

SECTION 12. AND BE IT FURTHER ENACTED, That:

(a) The provisions of § 8–404 of the State Government Article requiring a preliminary evaluation do not apply to the State Board of Environmental Health Specialists before the evaluation required on or before July 1, 2016.

(b) As part of the evaluation of the Board to be conducted on or before July 1, 2016, the Department of Legislative Services shall examine the potential to institute a mandatory reporting requirement for employers that complements the Board's disciplinary policy.

SECTION 13. AND BE IT FURTHER ENACTED, That:

(a) All laws or parts of laws, public general or public local, inconsistent with this Act are repealed to the extent of the inconsistency.

(b) The State Board of Environmental Health Specialists shall repeal the regulations of the State Board of Environmental Sanitarians that are inconsistent with this Act.

SECTION 14. 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 correct, with no further action required by the General Assembly, cross-references and terminology rendered incorrect by this Act or any other Act of the General Assembly of 2012 that affects provisions enacted by this Act. The publishers shall adequately describe any such correction in an editor's note following the section affected.

SECTION 15. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 668

(House Bill 568)

AN ACT concerning

Sustainable Communities Tax Credit Program – Credit Allocation

FOR the purpose of authorizing the allocation of the Sustainable Communities tax credit in a certain manner; providing for the application of this Act; and generally relating to the Sustainable Communities Tax Credit Program.

BY adding to

Article – State Finance and Procurement

Section 5A–303(c)(5)

Annotated Code of Maryland

(2009 Replacement Volume and 2011 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.

(c) **(5) THE STATE CREDIT ALLOWED UNDER THIS SECTION MAY BE ALLOCATED AMONG THE PARTNERS, MEMBERS, OR SHAREHOLDERS OF AN ENTITY IN ANY MANNER AGREED TO BY THOSE PERSONS IN WRITING.**

SECTION 2. AND BE IT FURTHER ENACTED, That § 5A–303(c)(5) of the State Finance and Procurement Article, as enacted by this Act, shall be construed to apply ~~retroactively~~ only prospectively and ~~shall~~ may not be applied to and interpreted to affect any commercial rehabilitation project for which an application of a plan of proposed rehabilitation is approved by the Director of the Maryland Historical Trust ~~on or after January 1, 2005~~ before the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 669

(House Bill 641)

AN ACT concerning

Hepatitis B and Hepatitis C Viruses – Public Awareness, Treatment, and Outreach

FOR the purpose of requiring the Department of Health and Mental Hygiene, as funds are available, to conduct a certain needs assessment, initiate a certain statewide public awareness campaign, solicit certain funding, and review and recommend certain initiatives related to the hepatitis B virus; requiring the Department, as funds are available, to coordinate with the Maryland Office of Minority Health and Health Disparities to ~~activate~~ develop certain hepatitis B virus and hepatitis C virus plans; requiring the Department, as funds are available, to develop a certain plan and certain recommendations and to collaborate with the Maryland Insurance Administration to make certain recommendations regarding certain insurance coverage; requiring the Maryland Health Care Commission to examine certain research findings and make a certain report to the Governor and certain committees of the General Assembly on or before a certain date; repealing the termination date for provisions of law that require the Department to conduct certain outreach and public awareness campaigns and make certain reports regarding the hepatitis C virus; and generally relating to public awareness, treatment, and outreach relating to the hepatitis B and hepatitis C viruses.

BY repealing and reenacting, with amendments,
Article – Health – General
Section 18–1001
Annotated Code of Maryland
(2009 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, without amendments,
Article – Health – General
Section 18–1002
Annotated Code of Maryland
(2009 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,
Chapter 457 of the Acts of the General Assembly of 2006, as amended by
Chapter 125 of the Acts of the General Assembly of 2009
Section 4

Preamble

WHEREAS, There are approximately 5,300,000 individuals with hepatitis B, hepatitis C, or both living in the United States; and

WHEREAS, Hepatitis B and hepatitis C are viral infections that attack the liver and can cause both acute and chronic disease; and

WHEREAS, One in 20 Americans has been infected with hepatitis B; and

WHEREAS, The Centers for Disease Control has recognized hepatitis B as the deadliest vaccine-preventable disease; and

WHEREAS, Hepatitis C is three to four times more prevalent than human immunodeficiency virus (HIV) and is much more infectious than HIV; and

WHEREAS, Hepatitis B and hepatitis C disproportionately affect minority populations, including African Americans, Hispanics, American Indian/Native Americans as well as Asian and Pacific Islanders; and

WHEREAS, The annual health care costs attributable to hepatitis B are estimated to be approximately \$2,000 per infected individual and the annual health care costs attributable to treating hepatitis C with protease inhibitors are approximately \$30,000 per infected individual; and

WHEREAS, Direct antibodies treatment of hepatitis C, a newer treatment, is associated with a 91% to 94% cure rate; and

WHEREAS, Hepatitis B and hepatitis C patients who progress to end-stage liver disease may require treatments costing between \$30,980 and \$110,576 per hospital admission, and hepatitis B and hepatitis C patients who are diagnosed too late may require a liver transplant costing at least \$314,000; and

WHEREAS, The Centers for Disease Control has revised its vaccine recommendations to include vaccination at birth, vaccination of all previously unvaccinated children and adolescents, and vaccination of previously unvaccinated adults at risk for hepatitis B infection in an effort to eliminate hepatitis B from the United States; and

WHEREAS, There is no vaccination for hepatitis C; and

WHEREAS, According to the Institute of Medicine, hepatitis B and hepatitis C infections cause substantial morbidity and mortality despite being preventable and treatable; now, therefore,

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

Article – Health – General

18-1001.

As funds are available, the Department shall:

(1) Conduct a needs assessment to determine the incidence of the **HEPATITIS B VIRUS AND** hepatitis C virus in the State;

(2) Initiate a statewide public awareness campaign targeting vulnerable populations and health care providers in the State to urge **HEPATITIS B VIRUS AND** hepatitis C virus education and testing;

(3) Coordinate with other units of State government, including the Department of Public Safety and Correctional Services and the Veterans' Administration, to activate a hepatitis C virus plan for the education, testing, and treatment of the populations within the jurisdiction of the units;

(4) Solicit funding from the private sector and units of federal, state, and local government for **HEPATITIS B VIRUS AND** hepatitis C virus outreach;

(5) Provide funding for hepatitis C virus pilot programs, which may include programs in methadone clinics or programs for the Department of Correctional Services population;

(6) Review and recommend initiatives to promote advocacy, education, physician outreach, and awareness of the **HEPATITIS B VIRUS AND** hepatitis C virus;

(7) Assess the feasibility of creating a Hepatitis C Virus Administration in the Department and examine methods to maximize existing resources to raise awareness of the hepatitis virus; [and]

(8) Implement the 2005 Report of the Hepatitis C Advisory Council;

(9) **COORDINATE WITH THE MARYLAND OFFICE OF MINORITY HEALTH AND HEALTH DISPARITIES TO DEVELOP ~~AND ACTIVATE~~ A HEPATITIS B VIRUS PLAN AND A HEPATITIS C VIRUS PLAN FOR THE EDUCATION, TESTING, AND TREATMENT OF HIGH RISK POPULATIONS AND ETHNIC AND RACIAL POPULATIONS WHO ARE AFFECTED DISPROPORTIONATELY BY THE HEPATITIS B AND HEPATITIS C VIRUSES, INCLUDING THE ASIAN POPULATION AND AFRICAN IMMIGRANTS;**

(10) **DEVELOP A PLAN TO INCREASE THE AVAILABILITY ~~AND PROVISION~~ OF HEPATITIS B VIRUS VACCINATIONS IN THE STATE, IN ACCORDANCE WITH RECOMMENDATIONS FROM THE CENTERS FOR DISEASE CONTROL AND PREVENTION;**

(11) **DEVELOP RECOMMENDATIONS TO IMPROVE THE AWARENESS AND THE AFFORDABILITY OF MEDICATIONS FOR TREATING THE HEPATITIS C VIRUS; AND**

(12) **COLLABORATE WITH THE MARYLAND INSURANCE ADMINISTRATION TO MAKE RECOMMENDATIONS REGARDING INSURANCE**

**COVERAGE FOR ~~COMPLICATIONS ASSOCIATED WITH MEDICATIONS USED FOR~~
THE TREATMENT OF THE HEPATITIS C VIRUS.**

18-1002.

On or before December 1, 2006, and annually thereafter, the Department shall report to the Governor and, in accordance with § 2-1246 of the State Government Article, to the Senate Education, Health, and Environmental Affairs Committee and the House Health and Government Operations Committee on the activities of the Department in implementing § 18-1001 of this subtitle.

**Chapter 457 of the Acts of 2006, as amended by Chapter 125 of the Acts of
2009**

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2006. [Section 2 of this Act shall remain effective for a period of 7 years and, at the end of June 30, 2013, with no further action required by the General Assembly, Section 2 of this Act shall be abrogated and of no further force and effect.]

SECTION 2. AND BE IT FURTHER ENACTED, That the Maryland Health Care Commission shall:

(1) examine existing research findings related to health disparities in the effectiveness of medical treatment of African Americans with hepatitis C and ~~make recommendations for~~ collect recommended protocols for treating African Americans who have hepatitis C from experts in the field; and

(2) on or before December 1, 2012, report its findings ~~and recommendations~~ to the Governor and, in accordance with § 2-1246 of the State Government Article, to the Senate Education, Health, and Environmental Affairs Committee and the House Health and Government Operations Committee.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 670

(House Bill 651)

AN ACT concerning

**Child Support – Incarcerated Obligor – Suspension of Payments and
Accrual of Arrearages**

FOR the purpose of establishing that child support payments are not past due and arrearages may not accrue during any period when the obligor is incarcerated and for a certain period after the obligor's release from confinement under certain circumstances; authorizing the Child Support Enforcement Administration to adjust an incarcerated obligor's payment account in certain cases to reflect the suspension of the accrual of arrearages under this Act; requiring the Administration to send a certain notice to the obligee before making an adjustment; defining certain terms; and generally relating to the child support obligations of incarcerated obligors.

BY adding to

Article – Family Law

Section 12-104.1

Annotated Code of Maryland

(2006 Replacement Volume and 2011 Supplement)

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

Article – Family Law

12-104.1.

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

(2) “ADMINISTRATION” HAS THE MEANING STATED IN § 10-101 OF THIS ARTICLE.

(3) “OBLIGEE” HAS THE MEANING STATED IN § 10-101 OF THIS ARTICLE.

(4) “OBLIGOR” HAS THE MEANING STATED IN § 10-101 OF THIS ARTICLE.

(B) A CHILD SUPPORT PAYMENT IS NOT PAST DUE AND ARREARAGES MAY NOT ACCRUE DURING ANY PERIOD WHEN THE OBLIGOR IS INCARCERATED, AND CONTINUING FOR 60 DAYS AFTER THE OBLIGOR'S RELEASE FROM CONFINEMENT, IF:

(1) THE OBLIGOR WAS SENTENCED TO A TERM OF IMPRISONMENT OF 18 CONSECUTIVE MONTHS OR MORE;

(2) THE OBLIGOR IS NOT ON WORK RELEASE AND HAS INSUFFICIENT RESOURCES WITH WHICH TO MAKE PAYMENT; AND

(3) THE OBLIGOR DID NOT COMMIT THE CRIME WITH THE INTENT OF BEING INCARCERATED OR OTHERWISE BECOMING IMPOVERISHED.

(C) (1) IN ANY CASE IN WHICH THE ADMINISTRATION IS PROVIDING CHILD SUPPORT SERVICES UNDER TITLE IV, PART D OF THE SOCIAL SECURITY ACT, THE ADMINISTRATION MAY, WITHOUT THE NECESSITY OF ANY MOTION BEING FILED WITH THE COURT, ADJUST AN INCARCERATED OBLIGOR'S PAYMENT ACCOUNT TO REFLECT THE SUSPENSION OF THE ACCRUAL OF ARREARAGES UNDER SUBSECTION (B) OF THIS SECTION.

(2) BEFORE MAKING AN ADJUSTMENT UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE ADMINISTRATION SHALL SEND WRITTEN NOTICE OF THE PROPOSED ACTION TO THE OBLIGEE, INCLUDING THE OBLIGEE'S RIGHT TO OBJECT TO THE PROPOSED ACTION AND AN EXPLANATION OF THE PROCEDURES FOR FILING AN OBJECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 671

(House Bill 679)

AN ACT concerning

Cultural Competency and Health Literacy – Education

FOR the purpose of requiring the Maryland Office of Minority Health and Health Disparities to work collaboratively with certain universities and colleges of social work, public health, and allied health to develop certain courses; changing the name of the Cultural and Linguistic Health Care Provider Competency Program to be the Cultural and Linguistic Health Care Professional Competency Program; altering the purpose of the Program; including a certain association and certain entities among the groups that are encouraged to identify, develop, or collaborate in the development of certain training programs; altering the requirements for certain training programs; altering certain definitions; requiring a certain report from certain universities, colleges,

and higher education programs to certain committees of the General Assembly and the Maryland Office of Minority Health and Health Disparities on or before a certain date; and generally relating to cultural and linguistic competency and health literacy.

BY repealing and reenacting, without amendments,
Article – Health – General
Section 20–1001(a) and (d)
Annotated Code of Maryland
(2009 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,
Article – Health – General
Section 20–1004(15) and 20–1301 through 20–1304
Annotated Code of Maryland
(2009 Replacement Volume and 2011 Supplement)

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

Article – Health – General

20–1001.

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

(d) “Office” means the Maryland Office of Minority Health and Health Disparities established under § 20–1002 of this subtitle.

20–1004.

The Office shall:

(15) Work collaboratively with universities and colleges of medicine, nursing, pharmacy, [and] dentistry, **SOCIAL WORK, PUBLIC HEALTH, AND ALLIED HEALTH** in this State and other health care professional training programs to develop courses with cultural competency, sensitivity, and health literacy, that are designed to address the problem of racial and ethnic disparities in health care access, utilization, treatment decisions, quality, and outcomes;

20–1301.

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

(b) “Cultural and linguistic competency” means cultural and linguistic abilities that can be incorporated into therapeutic and medical evaluation and treatment, including:

- (1) Direct communication in the patient's primary language;
 - (2) Understanding and applying the roles that culture, ethnicity, and race play in diagnosis, treatment, and clinical care; and
 - (3) Awareness of how the attitudes, values, and beliefs of health care providers and patients influence and impact professional and patient relations.
- (c) "Health care [provider] **PROFESSIONAL**" includes a physician, nurse, dentist, social worker, psychologist, **PHARMACIST, HEALTH EDUCATOR**, or other allied health professional.

(d) "Program" means the Cultural and Linguistic Health Care [Provider] **PROFESSIONAL** Competency Program.

20-1302.

(a) There is a Cultural and Linguistic Health Care [Provider] **PROFESSIONAL** Competency Program.

(b) The purpose of the Program is to provide for a voluntary program in which educational classes are offered to health care [providers] **PROFESSIONALS** to teach health care [providers] **PROFESSIONALS**:

- (1) Methods to improve the health care [provider's] **PROFESSIONALS'** cultural and linguistic competency to communicate with non-English speaking patients and patients from other cultures who are English speaking;
- (2) Cultural beliefs and practices that may impact patient health care practices and allow health care [providers] **PROFESSIONALS** to incorporate the knowledge of the beliefs and practices in the diagnosis and treatment of patients; and
- (3) Methods to enable health care [providers] **PROFESSIONALS** to increase the health literacy of their patients to improve the patient's ability to obtain, process, and understand basic health information and services to make appropriate health care decisions.

20-1303.

The Medical and Chirurgical Faculty of Maryland, the State Medical Society, the Maryland Nurses Association, the Maryland State Dental Association, the National Association of Social Workers – Maryland Chapter, the ~~Maryland Society for Clinical Social Work~~ Maryland Clinical Social Work Coalition, the Maryland Psychological Association, **THE MARYLAND PHARMACISTS ASSOCIATION**, or any other health professional association **OR PUBLIC HEALTH ENTITY** in the State is

encouraged to identify training programs, or, if feasible, to develop or collaborate in the development of training programs, that:

- (1) Address ethnic language or racial groups of interest to the health care [provider] **PROFESSIONAL** members;
- (2) Are based on the established knowledge of health care [providers] **PROFESSIONALS** serving target populations;
- (3) Are developed in collaboration with the Office of Minority Health and Health Disparities; and
- (4) Include standards that identify the degree of competency for participants to qualify for completion of a program.

20–1304.

The Department of Health and Mental Hygiene shall develop a method through which the appropriate professional licensing board recognizes the training received by health care [providers] **PROFESSIONALS** under this subtitle, either through continuing education credits or otherwise.

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before December 1, 2012, universities, colleges, and higher education programs of medicine, nursing, pharmacy, dentistry, social work, public health, and allied health in the State shall report, in accordance with § 2–1246 of the State Government Article, to the Senate Education, Health, and Environmental Affairs Committee, the House Health and Government Operations Committee, and the Office of Minority Health and Health Disparities on the courses that have been developed independently by the colleges, universities, and higher education programs or through a collaboration with the Office of Minority Health and Health Disparities under § 20–1004(15) of the Health – General Article, as enacted by Section 1 of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 672

(House Bill 680)

AN ACT concerning

Education – Development of Guidelines to Incorporate Task Force to Explore Including Sustainable Incorporating the Subject of Agricultural Education Agriculture in Existing Curricular Areas

FOR the purpose of requiring the State Board of Education and the University of Maryland Extension, after consultation with local boards of education, the Maryland Agricultural Education Foundation, and certain other entities, to ~~jointly develop guidelines to incorporate education about~~ create a task force to explore options for incorporating the subject of agriculture, including sustainable agriculture into science curricula and other agricultural issues, in all existing curricular areas; providing for the termination of this Act; and generally relating to the ~~development of guidelines to incorporate education about~~ creation of a task force to include sustainable incorporate the subject of agriculture into science curricula in existing curricular areas.

BY adding to

Article – Education

Section 4–111.1

Annotated Code of Maryland

(2008 Replacement Volume and 2011 Supplement)

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

Article – Education

4–111.1.

ON OR BEFORE DECEMBER 31, ~~2013~~ 2014, THE STATE BOARD AND THE UNIVERSITY OF MARYLAND EXTENSION, AFTER CONSULTATION WITH LOCAL BOARDS OF EDUCATION, THE MARYLAND AGRICULTURAL EDUCATION FOUNDATION, THE MARYLAND FARM BUREAU, THE MARYLAND GRAIN PRODUCERS ASSOCIATION, DELMARVA POULTRY INDUSTRY, INC., THE MARYLAND ASSOCIATION OF SOIL CONSERVATION DISTRICTS, THE MARYLAND PORK PRODUCERS ASSOCIATION, THE MARYLAND DAIRY INDUSTRY, INC., AND OTHER ORGANIZATIONS THAT PROMOTE EDUCATION ABOUT ~~SUSTAINABLE~~ AGRICULTURE, ~~JOINTLY SHALL DEVELOP GUIDELINES TO~~ CREATE A TASK FORCE TO EXPLORE OPTIONS FOR INCORPORATING THE SUBJECT OF AGRICULTURE, INCLUDING INCORPORATE EDUCATION ABOUT SUSTAINABLE AGRICULTURE ~~INTO THE~~ AND OTHER AGRICULTURAL ISSUES, IN ALL EXISTING SCIENCE CURRICULA CURRICULAR AREAS.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2012. It shall remain effective for a period of ~~2~~ 3 years and, at the end of May 31, ~~2014~~ 2015, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 22, 2012.

Chapter 673

(House Bill 700)

AN ACT concerning

Commercial Law – Uniform Commercial Code – Revisions to Title 1

FOR the purpose of revising, updating, reorganizing, and clarifying Title 1 of the Maryland Uniform Commercial Code (MUCC) relating to general provisions applicable to the MUCC; establishing a certain short title; clarifying the transactions to which Title 1 of the MUCC applies; providing for the effect of Title 1 of the MUCC on a certain federal law; authorizing the subordination of an obligation or a right to performance under certain circumstances; providing that subordination does not create a certain security interest; making certain stylistic changes; defining certain terms; altering and repealing certain definitions; making conforming changes to certain provisions of the MUCC; and generally relating to the Maryland Uniform Commercial Code.

BY repealing

Article – Commercial Law

Section 1–101 through 1–208 and the title “Title 1. General Provisions”; and
2–208 and 2A–207

Annotated Code of Maryland

(2002 Replacement Volume and 2011 Supplement)

BY adding to

Article – Commercial Law

Section 1–101 through 1–108 to be under the new subtitle “Subtitle 1. General Provisions”; 1–201 through 1–206 to be under the new subtitle “Subtitle 2. General Definitions and Principles of Interpretation”; and 1–301 through 1–310 to be under the new subtitle “Subtitle 3. Territorial Applicability and Applicable Law”; and the new title “Title 1. General Provisions”

Annotated Code of Maryland

(2002 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,

Article – Commercial Law

Section 2–103(1), 2–202, 2A–103(3), 2A–501(4), 2A–518(2), 2A–519(1),
2A–527(2), 2A–528(1), 3–103(a)(4) and (10), 4–104(c), 4A–105(a)(6) and
(7), 4A–106(a)(1), 4A–204(b), 5–103(c), 8–102(a)(10), and 9–102(a)(43)

Annotated Code of Maryland
(2002 Replacement Volume and 2011 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 1–101 through 1–208 and the title “Title 1. General Provisions” of Article – Commercial Law of the Annotated Code of Maryland be repealed.

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

Article – Commercial Law

TITLE 1. GENERAL PROVISIONS.

SUBTITLE 1. GENERAL PROVISIONS.

1–101. SHORT TITLES.

(A) TITLES 1 THROUGH 10 OF THIS ARTICLE MAY BE CITED AS THE MARYLAND UNIFORM COMMERCIAL CODE.

(B) THIS TITLE MAY BE CITED AS MARYLAND UNIFORM COMMERCIAL CODE – GENERAL PROVISIONS.

1–102. SCOPE OF TITLE.

THIS TITLE APPLIES TO A TRANSACTION TO THE EXTENT THAT IT IS GOVERNED BY ANOTHER TITLE OF THE MARYLAND UNIFORM COMMERCIAL CODE.

1–103. CONSTRUCTION OF MARYLAND UNIFORM COMMERCIAL CODE; APPLICABILITY OF SUPPLEMENTAL PRINCIPLES OF LAW.

(A) THE MARYLAND UNIFORM COMMERCIAL CODE SHALL BE LIBERALLY CONSTRUED AND APPLIED TO PROMOTE ITS UNDERLYING PURPOSES AND POLICIES.

(B) THE UNDERLYING PURPOSES AND POLICIES OF THE MARYLAND UNIFORM COMMERCIAL CODE ARE:

(1) TO SIMPLIFY, CLARIFY, AND MODERNIZE THE LAW GOVERNING COMMERCIAL TRANSACTIONS;

(2) TO PERMIT THE CONTINUED EXPANSION OF COMMERCIAL PRACTICES THROUGH CUSTOM, USAGE, AND AGREEMENT OF THE PARTIES; AND

(3) TO MAKE UNIFORM THE LAW AMONG THE VARIOUS JURISDICTIONS.

(C) UNLESS DISPLACED BY THE PARTICULAR PROVISIONS OF THE MARYLAND UNIFORM COMMERCIAL CODE, THE PRINCIPLES OF LAW AND EQUITY, INCLUDING THE LAW MERCHANT AND THE LAW RELATIVE TO CAPACITY TO CONTRACT, PRINCIPAL AND AGENT, ESTOPPEL, FRAUD, MISREPRESENTATION, DURESS, COERCION, MISTAKE, BANKRUPTCY, OR OTHER VALIDATING OR INVALIDATING CAUSE SHALL SUPPLEMENT ITS PROVISIONS, EXCEPT THAT:

(1) THE AGE OF MAJORITY AS IT PERTAINS TO THE CAPACITY TO CONTRACT IS 18 YEARS OF AGE; AND

(2) NO PERSON WHO IS AT LEAST 18 YEARS OLD SHALL BE CONSIDERED TO BE WITHOUT CAPACITY BY REASON OF AGE.

1-104. CONSTRUCTION AGAINST IMPLIED REPEAL.

THE MARYLAND UNIFORM COMMERCIAL CODE BEING A GENERAL ACT INTENDED AS A UNIFIED COVERAGE OF ITS SUBJECT MATTER, NO PART OF IT SHALL BE DEEMED TO BE IMPLIEDLY REPEALED BY SUBSEQUENT LEGISLATION IF SUCH CONSTRUCTION CAN REASONABLY BE AVOIDED.

1-105. SEVERABILITY.

IF ANY PROVISION OR CLAUSE OF THE MARYLAND UNIFORM COMMERCIAL CODE OR ITS APPLICATION TO ANY PERSON OR CIRCUMSTANCES IS HELD INVALID, THE INVALIDITY DOES NOT AFFECT OTHER PROVISIONS OR APPLICATIONS OF THE MARYLAND UNIFORM COMMERCIAL CODE THAT CAN BE GIVEN EFFECT WITHOUT THE INVALID PROVISION OR APPLICATION, AND TO THIS END THE PROVISIONS OF THE MARYLAND UNIFORM COMMERCIAL CODE ARE SEVERABLE.

1-106. USE OF SINGULAR AND PLURAL; GENDER.

IN THE MARYLAND UNIFORM COMMERCIAL CODE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) WORDS IN THE SINGULAR NUMBER INCLUDE THE PLURAL, AND THOSE IN THE PLURAL INCLUDE THE SINGULAR; AND

(2) WORDS OF ANY GENDER ALSO REFER TO ANY OTHER GENDER.

1-107. SECTION CAPTIONS.

SECTION CAPTIONS ARE PART OF THE MARYLAND UNIFORM COMMERCIAL CODE.

1-108. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT.

THIS TITLE MODIFIES, LIMITS, AND SUPERSEDES THE FEDERAL ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT, 15 U.S.C. § 7001 ET SEQ., EXCEPT THAT NOTHING IN THIS TITLE MODIFIES, LIMITS, OR SUPERSEDES § 7001(C) OF THAT ACT OR AUTHORIZES ELECTRONIC DELIVERY OF ANY OF THE NOTICES DESCRIBED IN § 7003(B) OF THAT ACT.

SUBTITLE 2. GENERAL DEFINITIONS AND PRINCIPLES OF INTERPRETATION.

1-201. GENERAL DEFINITIONS.

(A) UNLESS THE CONTEXT OTHERWISE REQUIRES, WORDS OR PHRASES DEFINED IN THIS SECTION, OR IN THE ADDITIONAL DEFINITIONS CONTAINED IN OTHER TITLES OF THE MARYLAND UNIFORM COMMERCIAL CODE THAT APPLY TO PARTICULAR TITLES OR PARTS OF TITLES OF THE MARYLAND UNIFORM COMMERCIAL CODE, HAVE THE MEANINGS STATED.

(B) SUBJECT TO DEFINITIONS CONTAINED IN OTHER ARTICLES OF THE MARYLAND UNIFORM COMMERCIAL CODE THAT APPLY TO PARTICULAR TITLES OR PARTS OF TITLES OF THE MARYLAND UNIFORM COMMERCIAL CODE:

(1) "ACTION", IN THE SENSE OF A JUDICIAL PROCEEDING, INCLUDES RECOUPMENT, COUNTERCLAIM, SET-OFF, SUIT IN EQUITY, AND ANY OTHER PROCEEDING IN WHICH RIGHTS ARE DETERMINED.

(2) "AGGRIEVED PARTY" MEANS A PARTY ENTITLED TO PURSUE A REMEDY.

(3) "AGREEMENT", AS DISTINGUISHED FROM "CONTRACT", MEANS THE BARGAIN OF THE PARTIES IN FACT, AS FOUND IN THEIR LANGUAGE OR INFERRED FROM OTHER CIRCUMSTANCES, INCLUDING COURSE OF PERFORMANCE, COURSE OF DEALING, OR USAGE OF TRADE AS PROVIDED IN § 1-303 OF THIS TITLE.

(4) “BANK” MEANS A PERSON ENGAGED IN THE BUSINESS OF BANKING AND INCLUDES A SAVINGS BANK, SAVINGS AND LOAN ASSOCIATION, CREDIT UNION, AND TRUST COMPANY.

(5) “BEARER” MEANS A PERSON IN POSSESSION OF A NEGOTIABLE INSTRUMENT, DOCUMENT OF TITLE, OR CERTIFICATED SECURITY THAT IS PAYABLE TO BEARER OR ENDORSED IN BLANK.

(6) “BILL OF LADING” MEANS A DOCUMENT EVIDENCING THE RECEIPT OF GOODS FOR SHIPMENT ISSUED BY A PERSON ENGAGED IN THE BUSINESS OF TRANSPORTING OR FORWARDING GOODS.

(7) “BRANCH” INCLUDES A SEPARATELY INCORPORATED FOREIGN BRANCH OF A BANK.

(8) “BURDEN OF ESTABLISHING” A FACT MEANS THE BURDEN OF PERSUADING THE TRIER OF FACT THAT THE EXISTENCE OF THE FACT IS MORE PROBABLE THAN ITS NONEXISTENCE.

(9) “BUYER IN ORDINARY COURSE OF BUSINESS” MEANS A PERSON THAT BUYS GOODS IN GOOD FAITH, WITHOUT KNOWLEDGE THAT THE SALE VIOLATES THE RIGHTS OF ANOTHER PERSON IN THE GOODS, AND IN THE ORDINARY COURSE FROM A PERSON, OTHER THAN A PAWNBROKER, IN THE BUSINESS OF SELLING GOODS OF THAT KIND. A PERSON BUYS GOODS IN THE ORDINARY COURSE IF THE SALE TO THE PERSON COMPORTS WITH THE USUAL OR CUSTOMARY PRACTICES IN THE KIND OF BUSINESS IN WHICH THE SELLER IS ENGAGED OR WITH THE SELLER’S OWN USUAL OR CUSTOMARY PRACTICES. A PERSON THAT SELLS OIL, GAS, OR OTHER MINERALS AT THE WELLHEAD OR MINEHEAD IS A PERSON IN THE BUSINESS OF SELLING GOODS OF THAT KIND. A BUYER IN ORDINARY COURSE OF BUSINESS MAY BUY FOR CASH, BY EXCHANGE OF OTHER PROPERTY, OR ON SECURED OR UNSECURED CREDIT, AND MAY ACQUIRE GOODS OR DOCUMENTS OF TITLE UNDER A PREEXISTING CONTRACT FOR SALE. ONLY A BUYER THAT TAKES POSSESSION OF THE GOODS OR HAS A RIGHT TO RECOVER THE GOODS FROM THE SELLER UNDER TITLE 2 OF THIS ARTICLE MAY BE A BUYER IN ORDINARY COURSE OF BUSINESS. “BUYER IN ORDINARY COURSE OF BUSINESS” DOES NOT INCLUDE A PERSON THAT ACQUIRES GOODS IN A TRANSFER IN BULK OR AS SECURITY FOR OR IN TOTAL OR PARTIAL SATISFACTION OF A MONEY DEBT.

(10) “CONSPICUOUS”, WITH REFERENCE TO A TERM, MEANS SO WRITTEN, DISPLAYED, OR PRESENTED THAT A REASONABLE PERSON AGAINST WHICH IT IS TO OPERATE OUGHT TO HAVE NOTICED IT. WHETHER A TERM IS “CONSPICUOUS” OR NOT IS A DECISION FOR THE COURT. CONSPICUOUS TERMS INCLUDE THE FOLLOWING:

(I) A HEADING IN CAPITALS EQUAL TO OR GREATER IN SIZE THAN THE SURROUNDING TEXT, OR IN CONTRASTING TYPE, FONT, OR COLOR TO THE SURROUNDING TEXT OF THE SAME OR LESSER SIZE; AND

(II) LANGUAGE IN THE BODY OF A RECORD OR DISPLAY IN LARGER TYPE THAN THE SURROUNDING TEXT, OR IN CONTRASTING TYPE, FONT, OR COLOR TO THE SURROUNDING TEXT OF THE SAME SIZE, OR SET OFF FROM SURROUNDING TEXT OF THE SAME SIZE BY SYMBOLS OR OTHER MARKS THAT CALL ATTENTION TO THE LANGUAGE.

(11) "CONSUMER" MEANS AN INDIVIDUAL WHO ENTERS INTO A TRANSACTION PRIMARILY FOR PERSONAL, FAMILY, OR HOUSEHOLD PURPOSES.

(12) "CONTRACT", AS DISTINGUISHED FROM "AGREEMENT", MEANS THE TOTAL LEGAL OBLIGATION THAT RESULTS FROM THE PARTIES' AGREEMENT AS DETERMINED BY THE MARYLAND UNIFORM COMMERCIAL CODE AS SUPPLEMENTED BY ANY OTHER APPLICABLE LAWS.

(13) "CREDITOR" INCLUDES A GENERAL CREDITOR, A SECURED CREDITOR, A LIEN CREDITOR, AND ANY REPRESENTATIVE OF CREDITORS, INCLUDING AN ASSIGNEE FOR THE BENEFIT OF CREDITORS, A TRUSTEE IN BANKRUPTCY, A RECEIVER IN EQUITY, AND AN EXECUTOR OR ADMINISTRATOR OF AN INSOLVENT DEBTOR'S OR ASSIGNOR'S ESTATE.

(14) "DEFENDANT" INCLUDES A PERSON IN THE POSITION OF DEFENDANT IN A COUNTERCLAIM, CROSS-CLAIM, OR THIRD-PARTY CLAIM.

(15) "DELIVERY", WITH RESPECT TO AN INSTRUMENT, DOCUMENT OF TITLE, OR CHATTEL PAPER, MEANS VOLUNTARY TRANSFER OF POSSESSION.

(16) "DOCUMENT OF TITLE" INCLUDES A BILL OF LADING, DOCK WARRANT, DOCK RECEIPT, WAREHOUSE RECEIPT OR ORDER FOR THE DELIVERY OF GOODS, AND ALSO ANY OTHER DOCUMENT WHICH IN THE REGULAR COURSE OF BUSINESS OR FINANCING IS TREATED AS ADEQUATELY EVIDENCING THAT THE PERSON IN POSSESSION OF THE DOCUMENT IS ENTITLED TO RECEIVE, HOLD, AND DISPOSE OF THE DOCUMENT AND THE GOODS IT COVERS. TO BE A DOCUMENT OF TITLE, A DOCUMENT MUST PURPORT TO BE ISSUED BY OR ADDRESSED TO A BAILEE AND PURPORT TO COVER GOODS IN THE BAILEE'S POSSESSION WHICH ARE EITHER IDENTIFIED OR ARE FUNGIBLE PORTIONS OF AN IDENTIFIED MASS.

(17) "FAULT" MEANS A DEFAULT, BREACH, OR WRONGFUL ACT OR OMISSION.

(18) “FUNGIBLE GOODS” MEANS:

(I) GOODS OF WHICH ANY UNIT, BY NATURE OR USAGE OF TRADE, IS THE EQUIVALENT OF ANY OTHER LIKE UNIT; OR

(II) GOODS THAT BY AGREEMENT ARE TREATED AS EQUIVALENT.

(19) “GENUINE” MEANS FREE OF FORGERY OR COUNTERFEITING.

(20) “GOOD FAITH”, ~~EXCEPT AS OTHERWISE PROVIDED IN TITLE 5 OF THIS ARTICLE,~~ MEANS HONESTY IN FACT ~~AND THE OBSERVANCE OF REASONABLE COMMERCIAL STANDARDS OF FAIR DEALING~~ IN THE CONDUCT OR TRANSACTION CONCERNED.

(21) “HOLDER” MEANS:

(I) THE PERSON IN POSSESSION OF A NEGOTIABLE INSTRUMENT THAT IS PAYABLE EITHER TO BEARER OR TO AN IDENTIFIED PERSON THAT IS THE PERSON IN POSSESSION; OR

(II) THE PERSON IN POSSESSION OF A DOCUMENT OF TITLE IF THE GOODS ARE DELIVERABLE EITHER TO BEARER OR TO THE ORDER OF THE PERSON IN POSSESSION.

(22) “INSOLVENCY PROCEEDING” INCLUDES AN ASSIGNMENT FOR THE BENEFIT OF CREDITORS OR OTHER PROCEEDING INTENDED TO LIQUIDATE OR REHABILITATE THE ESTATE OF THE PERSON INVOLVED.

(23) “INSOLVENT” MEANS:

(I) HAVING GENERALLY CEASED TO PAY DEBTS IN THE ORDINARY COURSE OF BUSINESS OTHER THAN AS A RESULT OF BONA FIDE DISPUTE;

(II) BEING UNABLE TO PAY DEBTS AS THEY BECOME DUE;
OR

(III) BEING INSOLVENT WITHIN THE MEANING OF FEDERAL BANKRUPTCY LAW.

(24) “MONEY” MEANS A MEDIUM OF EXCHANGE CURRENTLY AUTHORIZED OR ADOPTED BY A DOMESTIC OR FOREIGN GOVERNMENT. THE

TERM INCLUDES A MONETARY UNIT OF ACCOUNT ESTABLISHED BY AN INTERGOVERNMENTAL ORGANIZATION OR BY AGREEMENT BETWEEN TWO OR MORE COUNTRIES.

(25) "ORGANIZATION" MEANS A PERSON OTHER THAN AN INDIVIDUAL.

(26) "PARTY", AS DISTINGUISHED FROM "THIRD PARTY", MEANS A PERSON THAT HAS ENGAGED IN A TRANSACTION OR MADE AN AGREEMENT SUBJECT TO THE MARYLAND UNIFORM COMMERCIAL CODE.

(27) "PERSON" MEANS AN INDIVIDUAL, CORPORATION, BUSINESS TRUST, ESTATE, TRUST, PARTNERSHIP, LIMITED LIABILITY COMPANY, ASSOCIATION, JOINT VENTURE, GOVERNMENT, GOVERNMENTAL SUBDIVISION, AGENCY, OR INSTRUMENTALITY, PUBLIC CORPORATION, OR ANY OTHER LEGAL OR COMMERCIAL ENTITY.

(28) "PRESENT VALUE" MEANS THE AMOUNT AS OF A DATE CERTAIN OF ONE OR MORE SUMS PAYABLE IN THE FUTURE, DISCOUNTED TO THE DATE CERTAIN BY USE OF EITHER AN INTEREST RATE SPECIFIED BY THE PARTIES IF THAT RATE IS NOT MANIFESTLY UNREASONABLE AT THE TIME THE TRANSACTION IS ENTERED INTO OR, IF AN INTEREST RATE IS NOT SO SPECIFIED, A COMMERCIALY REASONABLE RATE THAT TAKES INTO ACCOUNT THE FACTS AND CIRCUMSTANCES AT THE TIME THE TRANSACTION IS ENTERED INTO.

(29) "PURCHASE" MEANS TAKING BY SALE, LEASE, DISCOUNT, NEGOTIATION, MORTGAGE, PLEDGE, LIEN, SECURITY INTEREST, ISSUE OR REISSUE, GIFT, OR ANY OTHER VOLUNTARY TRANSACTION CREATING AN INTEREST IN PROPERTY.

(30) "PURCHASER" MEANS A PERSON THAT TAKES BY PURCHASE.

(31) "RECORD" MEANS INFORMATION THAT IS INSCRIBED ON A TANGIBLE MEDIUM OR THAT IS STORED IN AN ELECTRONIC OR OTHER MEDIUM AND IS RETRIEVABLE IN PERCEIVABLE FORM.

(32) "REMEDY" MEANS ANY REMEDIAL RIGHT TO WHICH AN AGGRIEVED PARTY IS ENTITLED WITH OR WITHOUT RESORT TO A TRIBUNAL.

(33) "REPRESENTATIVE" MEANS A PERSON EMPOWERED TO ACT FOR ANOTHER, INCLUDING AN AGENT, AN OFFICER OF A CORPORATION OR ASSOCIATION, AND A TRUSTEE, EXECUTOR, OR ADMINISTRATOR OF AN ESTATE.

(34) “RIGHT” INCLUDES REMEDY.

(35) “SECURITY INTEREST” MEANS AN INTEREST IN PERSONAL PROPERTY OR FIXTURES THAT SECURES PAYMENT OR PERFORMANCE OF AN OBLIGATION. “SECURITY INTEREST” INCLUDES ANY INTEREST OF A CONSIGNOR AND A BUYER OF ACCOUNTS, CHATTEL PAPER, A PAYMENT INTANGIBLE, OR A PROMISSORY NOTE IN A TRANSACTION THAT IS SUBJECT TO TITLE 9 OF THIS ARTICLE. “SECURITY INTEREST” DOES NOT INCLUDE THE SPECIAL PROPERTY INTEREST OF A BUYER OF GOODS ON IDENTIFICATION OF THOSE GOODS TO A CONTRACT FOR SALE UNDER § 2-401 OF THIS ARTICLE, BUT A BUYER MAY ALSO ACQUIRE A “SECURITY INTEREST” BY COMPLYING WITH TITLE 9 OF THIS ARTICLE. EXCEPT AS OTHERWISE PROVIDED IN § 2-505 OF THIS ARTICLE, THE RIGHT OF A SELLER OR LESSOR OF GOODS UNDER TITLE 2 OR TITLE 2A OF THIS ARTICLE TO RETAIN OR ACQUIRE POSSESSION OF THE GOODS IS NOT A “SECURITY INTEREST”, BUT A SELLER OR LESSOR MAY ALSO ACQUIRE A “SECURITY INTEREST” BY COMPLYING WITH TITLE 9 OF THIS ARTICLE. THE RETENTION OR RESERVATION OF TITLE BY A SELLER OF GOODS NOTWITHSTANDING SHIPMENT OR DELIVERY TO THE BUYER UNDER § 2-401 OF THIS ARTICLE IS LIMITED IN EFFECT TO A RESERVATION OF A “SECURITY INTEREST”. WHETHER A TRANSACTION IN THE FORM OF A LEASE CREATES A “SECURITY INTEREST” IS DETERMINED PURSUANT TO § 1-203 OF THIS SUBTITLE.

(36) “SEND” IN CONNECTION WITH A WRITING, RECORD, OR NOTICE MEANS:

(I) TO DEPOSIT IN THE MAIL OR DELIVER FOR TRANSMISSION BY ANY OTHER USUAL MEANS OF COMMUNICATION WITH POSTAGE OR COST OF TRANSMISSION PROVIDED FOR AND PROPERLY ADDRESSED AND, IN THE CASE OF AN INSTRUMENT, TO AN ADDRESS SPECIFIED THEREON OR OTHERWISE AGREED OR, IF THERE BE NONE, TO ANY ADDRESS REASONABLE UNDER THE CIRCUMSTANCES; OR

(II) IN ANY OTHER WAY TO CAUSE TO BE RECEIVED ANY RECORD OR NOTICE WITHIN THE TIME IT WOULD HAVE ARRIVED IF PROPERLY SENT.

(37) “SIGNED” INCLUDES USING ANY SYMBOL EXECUTED OR ADOPTED WITH PRESENT INTENTION TO ADOPT OR ACCEPT A WRITING.

(38) “STATE” MEANS A STATE OF THE UNITED STATES, THE DISTRICT OF COLUMBIA, PUERTO RICO, THE UNITED STATES VIRGIN ISLANDS, OR ANY TERRITORY OR INSULAR POSSESSION SUBJECT TO THE JURISDICTION OF THE UNITED STATES.

(39) "SURETY" INCLUDES A GUARANTOR OR OTHER SECONDARY OBLIGOR.

(40) "TERM" MEANS A PORTION OF AN AGREEMENT THAT RELATES TO A PARTICULAR MATTER.

(41) "UNAUTHORIZED SIGNATURE" MEANS A SIGNATURE MADE WITHOUT ACTUAL, IMPLIED, OR APPARENT AUTHORITY. THE TERM INCLUDES A FORGERY.

(42) "WAREHOUSE RECEIPT" MEANS A RECEIPT ISSUED BY A PERSON ENGAGED IN THE BUSINESS OF STORING GOODS FOR HIRE.

(43) "WRITING" INCLUDES PRINTING, TYPEWRITING, OR ANY OTHER INTENTIONAL REDUCTION TO TANGIBLE FORM. "WRITTEN" HAS A CORRESPONDING MEANING.

1-202. NOTICE; KNOWLEDGE.

(A) SUBJECT TO SUBSECTION (F) OF THIS SECTION, A PERSON HAS "NOTICE" OF A FACT IF THE PERSON:

(1) HAS ACTUAL KNOWLEDGE OF IT;

(2) HAS RECEIVED A NOTICE OR NOTIFICATION OF IT; OR

(3) FROM ALL THE FACTS AND CIRCUMSTANCES KNOWN TO THE PERSON AT THE TIME IN QUESTION, HAS REASON TO KNOW THAT IT EXISTS.

(B) "KNOWLEDGE" MEANS ACTUAL KNOWLEDGE. "KNOWS" HAS A CORRESPONDING MEANING.

(C) "DISCOVER", "LEARN", OR WORDS OF SIMILAR IMPORT REFER TO KNOWLEDGE RATHER THAN TO REASON TO KNOW.

(D) A PERSON "NOTIFIES" OR "GIVES" A NOTICE OR NOTIFICATION TO ANOTHER PERSON BY TAKING SUCH STEPS AS MAY BE REASONABLY REQUIRED TO INFORM THE OTHER PERSON IN ORDINARY COURSE, WHETHER OR NOT THE OTHER PERSON ACTUALLY COMES TO KNOW OF IT.

(E) SUBJECT TO SUBSECTION (F) OF THIS SECTION, A PERSON "RECEIVES" A NOTICE OR NOTIFICATION WHEN:

(1) IT COMES TO THAT PERSON'S ATTENTION; OR

(2) IT IS DULY DELIVERED IN A FORM REASONABLE UNDER THE CIRCUMSTANCES AT THE PLACE OF BUSINESS THROUGH WHICH THE CONTRACT WAS MADE OR AT ANOTHER LOCATION HELD OUT BY THAT PERSON AS THE PLACE FOR RECEIPT OF SUCH COMMUNICATIONS.

(F) NOTICE, KNOWLEDGE, OR A NOTICE OR NOTIFICATION RECEIVED BY AN ORGANIZATION IS EFFECTIVE FOR A PARTICULAR TRANSACTION FROM THE TIME THE TRANSACTION IS BROUGHT TO THE ATTENTION OF THE INDIVIDUAL CONDUCTING THAT TRANSACTION AND, IN ANY EVENT, FROM THE TIME THE TRANSACTION WOULD HAVE BEEN BROUGHT TO THE INDIVIDUAL'S ATTENTION IF THE ORGANIZATION HAD EXERCISED DUE DILIGENCE. AN ORGANIZATION EXERCISES DUE DILIGENCE IF THE ORGANIZATION MAINTAINS REASONABLE ROUTINES FOR COMMUNICATING SIGNIFICANT INFORMATION TO THE PERSON CONDUCTING THE TRANSACTION AND THERE IS REASONABLE COMPLIANCE WITH THE ROUTINES. DUE DILIGENCE DOES NOT REQUIRE AN INDIVIDUAL ACTING FOR THE ORGANIZATION TO COMMUNICATE INFORMATION UNLESS THE COMMUNICATION IS PART OF THE INDIVIDUAL'S REGULAR DUTIES OR THE INDIVIDUAL HAS REASON TO KNOW OF THE TRANSACTION AND THAT THE TRANSACTION WOULD BE MATERIALLY AFFECTED BY THE INFORMATION.

1-203. LEASE DISTINGUISHED FROM SECURITY INTEREST.

(A) WHETHER A TRANSACTION IN THE FORM OF A LEASE CREATES A LEASE OR SECURITY INTEREST IS DETERMINED BY THE FACTS OF EACH CASE.

(B) A TRANSACTION IN THE FORM OF A LEASE CREATES A SECURITY INTEREST IF THE CONSIDERATION THAT THE LESSEE IS TO PAY THE LESSOR FOR THE RIGHT TO POSSESSION AND USE OF THE GOODS IS AN OBLIGATION FOR THE TERM OF THE LEASE AND IS NOT SUBJECT TO TERMINATION BY THE LESSEE; AND

(1) THE ORIGINAL TERM OF THE LEASE IS EQUAL TO OR GREATER THAN THE REMAINING ECONOMIC LIFE OF THE GOODS;

(2) THE LESSEE IS BOUND TO RENEW THE LEASE FOR THE REMAINING ECONOMIC LIFE OF THE GOODS OR IS BOUND TO BECOME THE OWNER OF THE GOODS;

(3) THE LESSEE HAS AN OPTION TO RENEW THE LEASE FOR THE REMAINING ECONOMIC LIFE OF THE GOODS FOR NO ADDITIONAL CONSIDERATION OR FOR NOMINAL ADDITIONAL CONSIDERATION UPON COMPLIANCE WITH THE LEASE AGREEMENT; OR

(4) THE LESSEE HAS AN OPTION TO BECOME THE OWNER OF THE GOODS FOR NO ADDITIONAL CONSIDERATION OR FOR NOMINAL ADDITIONAL CONSIDERATION UPON COMPLIANCE WITH THE LEASE AGREEMENT.

(C) A TRANSACTION IN THE FORM OF A LEASE DOES NOT CREATE A SECURITY INTEREST MERELY BECAUSE:

(1) THE PRESENT VALUE OF THE CONSIDERATION THE LESSEE IS OBLIGATED TO PAY THE LESSOR FOR THE RIGHT TO POSSESSION AND USE OF THE GOODS IS SUBSTANTIALLY EQUAL TO OR IS GREATER THAN THE FAIR MARKET VALUE OF THE GOODS AT THE TIME THE LEASE IS ENTERED INTO;

(2) THE LESSEE ASSUMES RISK OF LOSS OF THE GOODS;

(3) THE LESSEE AGREES TO PAY, WITH RESPECT TO THE GOODS, TAXES, INSURANCE, FILING, RECORDING, OR REGISTRATION FEES, OR SERVICE OR MAINTENANCE COSTS;

(4) THE LESSEE HAS AN OPTION TO RENEW THE LEASE OR TO BECOME THE OWNER OF THE GOODS;

(5) THE LESSEE HAS AN OPTION TO RENEW THE LEASE FOR A FIXED RENT THAT IS EQUAL TO OR GREATER THAN THE REASONABLY PREDICTABLE FAIR MARKET RENT FOR THE USE OF THE GOODS FOR THE TERM OF THE RENEWAL AT THE TIME THE OPTION IS TO BE PERFORMED; OR

(6) THE LESSEE HAS AN OPTION TO BECOME THE OWNER OF THE GOODS FOR A FIXED PRICE THAT IS EQUAL TO OR GREATER THAN THE REASONABLY PREDICTABLE FAIR MARKET VALUE OF THE GOODS AT THE TIME THE OPTION IS TO BE PERFORMED.

(D) ADDITIONAL CONSIDERATION IS NOMINAL IF IT IS LESS THAN THE LESSEE'S REASONABLY PREDICTABLE COST OF PERFORMING UNDER THE LEASE AGREEMENT IF THE OPTION IS NOT EXERCISED. ADDITIONAL CONSIDERATION IS NOT NOMINAL IF:

(1) WHEN THE OPTION TO RENEW THE LEASE IS GRANTED TO THE LESSEE, THE RENT IS STATED TO BE THE FAIR MARKET RENT FOR THE USE OF THE GOODS FOR THE TERM OF THE RENEWAL DETERMINED AT THE TIME THE OPTION IS TO BE PERFORMED; OR

(2) WHEN THE OPTION TO BECOME THE OWNER OF THE GOODS IS GRANTED TO THE LESSEE, THE PRICE IS STATED TO BE THE FAIR MARKET

VALUE OF THE GOODS DETERMINED AT THE TIME THE OPTION IS TO BE PERFORMED.

(E) THE “REMAINING ECONOMIC LIFE OF THE GOODS” AND “REASONABLY PREDICTABLE” FAIR MARKET RENT, FAIR MARKET VALUE, OR COST OF PERFORMING UNDER THE LEASE AGREEMENT MUST BE DETERMINED WITH REFERENCE TO THE FACTS AND CIRCUMSTANCES AT THE TIME THE TRANSACTION IS ENTERED INTO.

1-204. VALUE.

EXCEPT AS OTHERWISE PROVIDED IN §§ 3-303, 4-208, AND 4-209 OF THIS ARTICLE, A PERSON GIVES VALUE FOR RIGHTS IF THE PERSON ACQUIRES THEM:

(1) IN RETURN FOR A BINDING COMMITMENT TO EXTEND CREDIT OR FOR THE EXTENSION OF IMMEDIATELY AVAILABLE CREDIT, WHETHER OR NOT DRAWN UPON AND WHETHER OR NOT A CHARGE-BACK IS PROVIDED FOR IN THE EVENT OF DIFFICULTIES IN COLLECTION;

(2) AS SECURITY FOR, OR IN TOTAL OR PARTIAL SATISFACTION OF, A PREEXISTING CLAIM;

(3) BY ACCEPTING DELIVERY UNDER A PREEXISTING CONTRACT FOR PURCHASE; OR

(4) IN RETURN FOR ANY CONSIDERATION SUFFICIENT TO SUPPORT A SIMPLE CONTRACT.

1-205. REASONABLE TIME; SEASONABLENESS.

(A) WHETHER A TIME FOR TAKING AN ACTION REQUIRED BY THE MARYLAND UNIFORM COMMERCIAL CODE IS REASONABLE DEPENDS ON THE NATURE, PURPOSE, AND CIRCUMSTANCES OF THE ACTION.

(B) AN ACTION IS TAKEN SEASONABLY IF IT IS TAKEN AT OR WITHIN THE TIME AGREED OR, IF NO TIME IS AGREED, AT OR WITHIN A REASONABLE TIME.

1-206. PRESUMPTIONS.

WHENEVER THE MARYLAND UNIFORM COMMERCIAL CODE CREATES A “PRESUMPTION” WITH RESPECT TO A FACT OR PROVIDES THAT A FACT IS “PRESUMED” THE TRIER OF FACT MUST FIND THE EXISTENCE OF THE FACT

UNLESS AND UNTIL EVIDENCE IS INTRODUCED THAT SUPPORTS A FINDING OF ITS NONEXISTENCE.

SUBTITLE 3. TERRITORIAL APPLICABILITY AND APPLICABLE LAW.

1-301. TERRITORIAL APPLICABILITY; PARTIES' POWER TO CHOOSE APPLICABLE LAW.

(A) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, WHEN A TRANSACTION BEARS A REASONABLE RELATION TO THIS STATE AND ALSO TO ANOTHER STATE OR NATION, THE PARTIES MAY AGREE THAT THE LAW EITHER OF THIS STATE OR OF SUCH OTHER STATE OR NATION SHALL GOVERN THEIR RIGHTS AND DUTIES.

(B) IN THE ABSENCE OF AN AGREEMENT EFFECTIVE UNDER SUBSECTION (A) OF THIS SECTION, AND EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, THE MARYLAND UNIFORM COMMERCIAL CODE APPLIES TO TRANSACTIONS BEARING AN APPROPRIATE RELATION TO THIS STATE.

(C) IF ONE OF THE FOLLOWING PROVISIONS OF THE MARYLAND UNIFORM COMMERCIAL CODE SPECIFIES THE APPLICABLE LAW, THAT PROVISION GOVERNS AND A CONTRARY AGREEMENT IS EFFECTIVE ONLY TO THE EXTENT PERMITTED BY THE LAW (INCLUDING THE CONFLICT OF LAWS RULES) SO SPECIFIED:

- (1) SECTION 2-402;
- (2) SECTIONS 2A-105 AND 2A-106;
- (3) SECTION 4-102;
- (4) SECTION 4A-507;
- (5) SECTION 5-116;
- (6) SECTION 6-103;
- (7) SECTION 8-110; OR
- (8) SECTIONS 9-301 THROUGH 9-307.

1-302. VARIATION BY AGREEMENT.

(A) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (B) OF THIS SECTION OR ELSEWHERE IN THE MARYLAND UNIFORM COMMERCIAL CODE, THE EFFECT OF PROVISIONS OF THE MARYLAND UNIFORM COMMERCIAL CODE MAY BE VARIED BY AGREEMENT.

(B) THE OBLIGATIONS OF GOOD FAITH, DILIGENCE, REASONABLENESS, AND CARE PRESCRIBED BY THE MARYLAND UNIFORM COMMERCIAL CODE MAY NOT BE DISCLAIMED BY AGREEMENT. THE PARTIES, BY AGREEMENT, MAY DETERMINE THE STANDARDS BY WHICH THE PERFORMANCE OF THOSE OBLIGATIONS IS TO BE MEASURED IF THOSE STANDARDS ARE NOT MANIFESTLY UNREASONABLE. WHENEVER THE MARYLAND UNIFORM COMMERCIAL CODE REQUIRES AN ACTION TO BE TAKEN WITHIN A REASONABLE TIME, A TIME THAT IS NOT MANIFESTLY UNREASONABLE MAY BE FIXED BY AGREEMENT.

(C) THE PRESENCE IN CERTAIN PROVISIONS OF THE MARYLAND UNIFORM COMMERCIAL CODE OF THE PHRASE “UNLESS OTHERWISE AGREED”, OR WORDS OF SIMILAR IMPORT, DOES NOT IMPLY THAT THE EFFECT OF OTHER PROVISIONS MAY NOT BE VARIED BY AGREEMENT UNDER THIS SECTION.

1-303. COURSE OF PERFORMANCE, COURSE OF DEALING, AND USAGE OF TRADE.

(A) A “COURSE OF PERFORMANCE” IS A SEQUENCE OF CONDUCT BETWEEN THE PARTIES TO A PARTICULAR TRANSACTION THAT EXISTS IF:

(1) THE AGREEMENT OF THE PARTIES WITH RESPECT TO THE TRANSACTION INVOLVES REPEATED OCCASIONS FOR PERFORMANCE BY A PARTY; AND

(2) THE OTHER PARTY, WITH KNOWLEDGE OF THE NATURE OF THE PERFORMANCE AND OPPORTUNITY FOR OBJECTION TO IT, ACCEPTS THE PERFORMANCE OR ACQUIESCES IN IT WITHOUT OBJECTION.

(B) A “COURSE OF DEALING” IS A SEQUENCE OF CONDUCT CONCERNING PREVIOUS TRANSACTIONS BETWEEN THE PARTIES TO A PARTICULAR TRANSACTION THAT IS FAIRLY TO BE REGARDED AS ESTABLISHING A COMMON BASIS OF UNDERSTANDING FOR INTERPRETING THEIR EXPRESSIONS AND OTHER CONDUCT.

(C) A “USAGE OF TRADE” IS ANY PRACTICE OR METHOD OF DEALING HAVING SUCH REGULARITY OF OBSERVANCE IN A PLACE, VOCATION, OR TRADE AS TO JUSTIFY AN EXPECTATION THAT IT WILL BE OBSERVED WITH RESPECT TO THE TRANSACTION IN QUESTION. THE EXISTENCE AND SCOPE OF SUCH A USAGE MUST BE PROVED AS FACTS. IF IT IS ESTABLISHED THAT SUCH A USAGE IS

EMBODIED IN A TRADE CODE OR SIMILAR RECORD, THE INTERPRETATION OF THE RECORD IS A QUESTION OF LAW.

(D) A COURSE OF PERFORMANCE OR COURSE OF DEALING BETWEEN THE PARTIES OR USAGE OF TRADE IN THE VOCATION OR TRADE IN WHICH THEY ARE ENGAGED OR OF WHICH THEY ARE OR SHOULD BE AWARE IS RELEVANT IN ASCERTAINING THE MEANING OF THE PARTIES' AGREEMENT, MAY GIVE PARTICULAR MEANING TO SPECIFIC TERMS OF THE AGREEMENT, AND MAY SUPPLEMENT OR QUALIFY THE TERMS OF THE AGREEMENT. A USAGE OF TRADE APPLICABLE IN THE PLACE IN WHICH PART OF THE PERFORMANCE UNDER THE AGREEMENT IS TO OCCUR MAY BE SO UTILIZED AS TO THAT PART OF THE PERFORMANCE.

(E) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (F) OF THIS SECTION, THE EXPRESS TERMS OF AN AGREEMENT AND ANY APPLICABLE COURSE OF PERFORMANCE, COURSE OF DEALING, OR USAGE OF TRADE SHALL BE CONSTRUED WHENEVER REASONABLE AS CONSISTENT WITH EACH OTHER. IF SUCH A CONSTRUCTION IS UNREASONABLE:

(1) EXPRESS TERMS PREVAIL OVER COURSE OF PERFORMANCE, COURSE OF DEALING, AND USAGE OF TRADE;

(2) COURSE OF PERFORMANCE PREVAILS OVER COURSE OF DEALING AND USAGE OF TRADE; AND

(3) COURSE OF DEALING PREVAILS OVER USAGE OF TRADE.

(F) SUBJECT TO § 2-209 OF THIS ARTICLE, A COURSE OF PERFORMANCE IS RELEVANT TO SHOW A WAIVER OR MODIFICATION OF ANY TERM INCONSISTENT WITH THE COURSE OF PERFORMANCE.

(G) EVIDENCE OF A RELEVANT USAGE OF TRADE OFFERED BY ONE PARTY IS NOT ADMISSIBLE UNLESS THAT PARTY HAS GIVEN THE OTHER PARTY NOTICE THAT THE COURT FINDS SUFFICIENT TO PREVENT UNFAIR SURPRISE TO THE OTHER PARTY.

1-304. OBLIGATION OF GOOD FAITH.

EVERY CONTRACT OR DUTY WITHIN THE MARYLAND UNIFORM COMMERCIAL CODE IMPOSES AN OBLIGATION OF GOOD FAITH IN ITS PERFORMANCE AND ENFORCEMENT.

1-305. REMEDIES TO BE LIBERALLY ADMINISTERED.

(A) THE REMEDIES PROVIDED BY THE MARYLAND UNIFORM COMMERCIAL CODE SHALL BE LIBERALLY ADMINISTERED TO THE END THAT THE AGGRIEVED PARTY MAY BE PUT IN AS GOOD A POSITION AS IF THE OTHER PARTY HAD FULLY PERFORMED, BUT NEITHER CONSEQUENTIAL OR SPECIAL DAMAGES NOR PENAL DAMAGES MAY BE HAD EXCEPT AS SPECIFICALLY PROVIDED IN THE MARYLAND UNIFORM COMMERCIAL CODE OR BY OTHER RULE OF LAW.

(B) ANY RIGHT OR OBLIGATION DECLARED BY THE MARYLAND UNIFORM COMMERCIAL CODE IS ENFORCEABLE BY ACTION UNLESS THE PROVISION DECLARING THE RIGHT OR OBLIGATION SPECIFIES A DIFFERENT AND LIMITED EFFECT.

1-306. WAIVER OR RENUNCIATION OF CLAIM OR RIGHT AFTER BREACH.

A CLAIM OR RIGHT ARISING OUT OF AN ALLEGED BREACH MAY BE DISCHARGED IN WHOLE OR IN PART WITHOUT CONSIDERATION BY AGREEMENT OF THE AGGRIEVED PARTY IN AN AUTHENTICATED RECORD.

1-307. PRIMA FACIE EVIDENCE BY THIRD PARTY.

A DOCUMENT IN DUE FORM PURPORTING TO BE A BILL OF LADING, POLICY OR CERTIFICATE OF INSURANCE, OFFICIAL WEIGHER'S OR INSPECTOR'S CERTIFICATE, CONSULAR INVOICE, OR ANY OTHER DOCUMENT AUTHORIZED OR REQUIRED BY THE CONTRACT TO BE ISSUED BY A THIRD PARTY IS PRIMA FACIE EVIDENCE OF ITS OWN AUTHENTICITY AND GENUINENESS AND OF THE FACTS STATED IN THE DOCUMENT BY THE THIRD PARTY.

1-308. PERFORMANCE OR ACCEPTANCE UNDER RESERVATION OF RIGHTS.

(A) A PARTY THAT WITH EXPLICIT RESERVATION OF RIGHTS PERFORMS OR PROMISES PERFORMANCE OR ASSENTS TO PERFORMANCE IN A MANNER DEMANDED OR OFFERED BY THE OTHER PARTY DOES NOT THEREBY PREJUDICE THE RIGHTS RESERVED. SUCH WORDS AS "WITHOUT PREJUDICE", "UNDER PROTEST", OR THE LIKE ARE SUFFICIENT.

(B) SUBSECTION (A) OF THIS SECTION DOES NOT APPLY TO AN ACCORD AND SATISFACTION.

1-309. OPTION TO ACCELERATE AT WILL.

(A) A TERM PROVIDING THAT ONE PARTY OR THAT PARTY'S SUCCESSOR IN INTEREST MAY ACCELERATE PAYMENT OR PERFORMANCE OR REQUIRE COLLATERAL OR ADDITIONAL COLLATERAL "AT WILL" OR WHEN THE PARTY

“DEEMS ITSELF INSECURE”, OR WORDS OF SIMILAR IMPORT, MEANS THAT THE PARTY HAS POWER TO DO SO ONLY IF THAT PARTY IN GOOD FAITH BELIEVES THAT THE PROSPECT OF PAYMENT OR PERFORMANCE IS IMPAIRED.

(B) THE BURDEN OF ESTABLISHING LACK OF GOOD FAITH IS ON THE PARTY AGAINST WHICH THE POWER HAS BEEN EXERCISED.

1-310. SUBORDINATED OBLIGATIONS.

(A) AN OBLIGATION MAY BE ISSUED AS SUBORDINATED TO PERFORMANCE OF ANOTHER OBLIGATION OF THE PERSON OBLIGATED, OR A CREDITOR MAY SUBORDINATE ITS RIGHT TO PERFORMANCE OF AN OBLIGATION BY AGREEMENT WITH EITHER THE PERSON OBLIGATED OR ANOTHER CREDITOR OF THE PERSON OBLIGATED.

(B) SUBORDINATION DOES NOT CREATE A SECURITY INTEREST AS AGAINST EITHER THE COMMON DEBTOR OR A SUBORDINATED CREDITOR.

2-103.

(1) In this title unless the context otherwise requires

(a) “Buyer” means a person who buys or contracts to buy goods.

(b) [“Good faith” in the case of a merchant means honesty in fact and the observance of reasonable commercial standards of fair dealing in the trade.]
RESERVED.

(c) “Receipt” of goods means taking physical possession of them.

(d) “Seller” means a person who sells or contracts to sell goods.

2-202.

Terms with respect to which the confirmatory memoranda of the parties agree or which are otherwise set forth in a writing intended by the parties as a final expression of their agreement with respect to such terms as are included therein may not be contradicted by evidence of any prior agreement or of a contemporaneous oral agreement but may be explained or supplemented

(a) By **COURSE OF PERFORMANCE**, course of dealing, or usage of trade [(§ 1-205)] **(§ 1-303)** [or by course of performance (§ 2-208)]; and

(b) By evidence of consistent additional terms unless the court finds the writing to have been intended also as a complete and exclusive statement of the terms of the agreement.

[2–208.

(1) Where the contract for sale involves repeated occasions for performance by either party with knowledge of the nature of the performance and opportunity for objection to it by the other, any course of performance accepted or acquiesced in without objection shall be relevant to determine the meaning of the agreement.

(2) The express terms of the agreement and any such course of performance, as well as any course of dealing and usage of trade, shall be construed whenever reasonable as consistent with each other; but when such construction is unreasonable, express terms shall control course of performance and course of performance shall control both course of dealing and usage of trade (§ 1–205).

(3) Subject to the provisions of the next section on modification and waiver, such course of performance shall be relevant to show a waiver or modification of any term inconsistent with such course of performance.]

2A–103.

(3) The following definitions in other titles apply to this title:

“Between merchants.” § 2–104(3).

“Buyer.” § 2–103(1)(a).

“Consumer goods.” § 9–102(a)(23).

“Entrusting.” § 2–403(3).

[“Good faith.” § 2–103(1)(b).]

“Merchant.” § 2–104(1).

“Receipt.” § 2–103(1)(c).

“Sale.” § 2–106(1).

“Sale on approval.” § 2–326.

“Sale or return.” § 2–326.

“Seller.” § 2–103(1)(d).

[2A-207.

(1) If a lease contract involves repeated occasions for performance by either party with knowledge of the nature of the performance and opportunity for objection to it by the other, any course of performance accepted or acquiesced in without objection is relevant to determine the meaning of the lease agreement.

(2) The express terms of a lease agreement, any course of performance, as well as any course of dealing and usage of trade, must be construed whenever reasonable as consistent with each other; but if that construction is unreasonable, express terms control course of performance, course of performance controls both course of dealing and usage of trade, and course of dealing controls usage of trade.

(3) Subject to the provisions of § 2A-208 on modification and waiver, course of performance is relevant to show a waiver or modification of any term inconsistent with the course of performance.]

2A-501.

(4) Except as otherwise provided in [§ 1-106(1)] **§ 1-305(A)** of this [title] **ARTICLE** or the lease agreement, the rights and remedies referred to in subsections (2) and (3) are cumulative.

2A-518.

(2) Except as otherwise provided with respect to damages liquidated in the lease agreement (§ 2A-504) or otherwise determined pursuant to agreement of the parties [(§ 1-102(3) and § 2A-503)] (**§§ 1-302 AND 2A-503**), if a lessee's cover is by a lease agreement substantially similar to the original lease agreement and the new lease agreement is made in good faith and in a commercially reasonable manner, the lessee may recover from the lessor as damages (i) the present value, as of the date of the commencement of the term of the new lease agreement, of the rent under the new lease agreement and applicable to that period of the new lease term which is comparable to the original lease agreement minus the present value as of the same date of the total rent for the then remaining lease term of the original lease agreement, and (ii) any incidental or consequential damages, less expenses saved in consequence of the lessor's default.

2A-519.

(1) Except as otherwise provided with respect to damages liquidated in the lease agreement (§ 2A-504) or otherwise determined pursuant to agreement of the parties [(§ 1-102(3) and § 2A-503)] (**§§ 1-302 AND 2A-503**), if a lessee elects not to cover or a lessee elects to cover and the cover is by lease agreement that for any reason does not qualify for treatment under § 2A-518(2), or is by purchase or otherwise the measure of damages for nondelivery or repudiation by the lessor or for rejection or

revocation of acceptance by the lessee is the present value as of the date of the default of the then market rent minus the present value as of the same date of the original rent, computed for the remaining lease term of the original lease agreement, together with incidental and consequential damages, less expenses saved in consequence of the lessor's default.

2A-527.

(2) Except as otherwise provided with respect to damages liquidated in the lease agreement (§ 2A-504) or otherwise determined pursuant to agreement of the parties [(§ 1-102(3) and § 2A-503)] (**§§ 1-302 AND 2A-503**), if the disposition is by lease agreement substantially similar to the original lease agreement and the new lease agreement is made in good faith and in a commercially reasonable manner, the lessor may recover from the lessee as damages (i) accrued and unpaid rent as of the date of the commencement of the term of the new lease agreement, (ii) the present value, as of the same date, of the total rent for the then remaining lease term of the original lease agreement minus the present value, as of the same date, of the rent under the new lease agreement applicable to that period of the new lease term which is comparable to the then remaining term of the original lease agreement, and (iii) any incidental damages allowed under § 2A-530, less expenses saved in consequence of the lessee's default.

2A-528.

(1) Except as otherwise provided with respect to damages liquidated in the lease agreement (§ 2A-504) or otherwise determined pursuant to agreement of the parties [(§§ 1-102(3)] (**§§ 1-302 and 2A-503**), if a lessor elects to retain the goods or a lessor elects to dispose of the goods and the disposition is by lease agreement that for any reason does not qualify for treatment under § 2A-527(2), or is by sale or otherwise, the lessor may recover from the lessee as damages for a default of the type described in § 2A-523(1) or § 2A-523(3)(a), or, if agreed, for other default of the lessee (i) accrued and unpaid rent as of the date of default if the lessee has never taken possession of the goods, or, if the lessee has taken possession of the goods, as of the date the lessor repossesses the goods or an earlier date on which the lessee makes a tender of the goods to the lessor, (ii) the present value as of the date determined under clause (i) of the total rent for the then remaining lease term of the original lease agreement minus the present value as of the same date of the market rent at the place where the goods are located computed for the same lease term, and (iii) any incidental damages allowed under § 2A-530, less expenses saved in consequence of the lessee's default.

3-103.

(a) In this title:

(4) ["Good faith" means honesty in fact and the observance of reasonable commercial standards of fair dealing.] **RESERVED.**

(10) "Prove" with respect to a fact means to meet the burden of establishing the fact [(§ 1-201(8))] **(§ 1-201(B)(8))**.

4-104.

(c) ["Control" as provided in § 7-106 and the] **THE** following definitions in other titles apply to this title:

"Acceptance." § 3-409.

"Alteration." § 3-407.

"Cashier's check." § 3-104.

"Certificate of deposit." § 3-104.

"Certified check." § 3-409.

"Check." § 3-104.

"CONTROL." § 7-106.

"Draft." § 3-104.

["Good faith." § 3-103.]

"Holder in due course." § 3-302.

"Instrument." § 3-104.

"Notice of dishonor." § 3-503.

"Order." § 3-103.

"Ordinary care." § 3-103.

"Person entitled to enforce." § 3-301.

"Presentment." § 3-501.

"Promise." § 3-103.

"Prove." § 3-103.

"Teller's check." § 3-104.

“Unauthorized signature.” § 3–403.

4A–105.

(a) In this title:

(6) [“Good faith” means honesty in fact and the observance of reasonable commercial standards of fair dealing.] **RESERVED.**

(7) “Prove” with respect to a fact means to meet the burden of establishing the fact [under § 1–201(8) of this article] (**§ 1–208(B)(8)**).

4A–106.

(a) (1) The time of receipt of a payment order or communication cancelling or amending a payment order is determined by the rules applicable to receipt of a notice stated in [§ 1–201(27)] **§ 1–202** of this article.

4A–204.

(b) Reasonable time under subsection (a) of this section may be fixed by agreement as stated in [§ 1–204(1)] **§ 1–302(B)** of this article, but the obligation of a receiving bank to refund payment as stated in subsection (a) of this section may not otherwise be varied by agreement.

5–103.

(c) With the exception of this subsection, subsections (a) and (d) of this section, §§ 5–102(a)(9) and (10), 5–106(d), and 5–114(d) of this title, and except to the extent prohibited in [§§ 1–102(3)] **§§ 1–302** and 5–117(d) of this article, the effect of this title may be varied by agreement or by a provision stated or incorporated by reference in an undertaking. A term in an agreement or undertaking generally excusing liability or generally limiting remedies for failure to perform obligations is not sufficient to vary obligations prescribed by this title.

8–102.

(a) In this title:

(10) [“Good faith”, for purposes of the obligation of good faith in the performance or enforcement of contracts or duties within this title, means honesty in fact and the observance of reasonable commercial standards of fair dealing.] **RESERVED.**

9–102.

(a) In this title:

(43) ["Good faith" means honesty in fact and the observance of reasonable commercial standards of fair dealing.] **RESERVED.**

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 674

(House Bill 713)

AN ACT concerning

Commercial Law – Uniform Commercial Code – Secured Transactions – Revision

FOR the purpose of altering the circumstances under which a secured party has control of electronic chattel paper; authorizing a certain registered organization and a branch or agency of a certain bank to designate its state of location in a certain manner; establishing certain rules applicable to collateral to which a security interest attaches within a certain period of time; establishing certain rules applicable to a financing statement naming an original debtor that is filed pursuant to the law of a certain jurisdiction; altering the circumstances under which a certain licensee or buyer of certain collateral takes free of a security interest; altering the circumstances under which a security interest created by a new debtor is perfected; altering the applicability of certain provisions of law governing terms in certain agreements or promissory notes; altering and clarifying certain provisions of law that establish when a financing statement sufficiently provides the name of the debtor and when the name of the debtor becomes insufficient; altering the circumstances under which a filing does not occur with respect to certain records; authorizing a person to file an information statement with respect to a certain record under certain circumstances; specifying the contents of an information statement; providing that the filing of an information statement does not affect the effectiveness of a certain financing statement or record; altering the circumstances under which a filing office that accepts written records is prohibited from refusing to accept certain documents; establishing certain transition provisions; altering certain definitions; defining certain terms; making certain stylistic, conforming, and clarifying changes; providing for a delayed effective date; and generally relating to secured transactions.

BY renumbering

Article – Commercial Law

Section 9–102(a)(69) and (70) and (72) through (81), respectively to be Section 9–102(a)(70) and (71) and (73) through (82), respectively
Annotated Code of Maryland
(2002 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,

Article – Commercial Law

Section 9–102(a)(7), (10), (50), and (71), 9–105, 9–307(f), 9–311(a), 9–317(b) and (d), 9–326, 9–406(e), 9–408(b), 9–502(c), 9–503(a) and (b), 9–507, 9–515(f), 9–516, 9–518, 9–521, and 9–607(b)
Annotated Code of Maryland
(2002 Replacement Volume and 2011 Supplement)

BY adding to

Article – Commercial Law

Section 9–102(a)(69), 9–316(h) and (i), and 9–503(f), (g), and (h); and 9–801 through 9–810 to be under the new subtitle “Subtitle 8. Transition Provisions for 2012 Amendments”
Annotated Code of Maryland
(2002 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, without amendments,

Article – Commercial Law

Section 9–406(d), 9–408(a), and 9–607(a)(3)
Annotated Code of Maryland
(2002 Replacement Volume and 2011 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 9–102(a)(69) and (70) and (72) through (81), respectively, of Article – Commercial Law of the Annotated Code be renumbered to be Section(s) 9–102(a)(70) and (71) and (73) through (82), respectively.

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

Article – Commercial Law

9–102.

(a) In this title:

(7) “Authenticate” means:

(A) To sign; or

(B) [To execute or otherwise adopt a symbol, or encrypt or similarly process a record in whole or in part, with the present intent of the authenticating person to identify the person and adopt or accept a record] **WITH PRESENT INTENT TO ADOPT OR ACCEPT A RECORD, TO ATTACH TO OR LOGICALLY ASSOCIATE WITH THE RECORD AN ELECTRONIC SOUND, SYMBOL, OR PROCESS.**

(10) "Certificate of title" means a certificate of title with respect to which a statute provides for the security interest in question to be indicated on the certificate as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the collateral. **THE TERM INCLUDES ANOTHER RECORD MAINTAINED AS AN ALTERNATIVE TO A CERTIFICATE OF TITLE BY THE GOVERNMENTAL UNIT THAT ISSUES CERTIFICATES OF TITLE IF A STATUTE PERMITS THE SECURITY INTEREST IN QUESTION TO BE INDICATED ON THE RECORD AS A CONDITION OR RESULT OF THE SECURITY INTEREST'S OBTAINING PRIORITY OVER THE RIGHTS OF A LIEN CREDITOR WITH RESPECT TO THE COLLATERAL.**

(50) "Jurisdiction of organization", with respect to a registered organization, means the jurisdiction under whose law the organization is **FORMED OR** organized.

(69) "PUBLIC ORGANIC RECORD" MEANS A RECORD THAT IS AVAILABLE TO THE PUBLIC FOR INSPECTION AND IS:

(A) A RECORD CONSISTING OF THE RECORD INITIALLY FILED WITH OR ISSUED BY A STATE OR THE UNITED STATES TO FORM OR ORGANIZE AN ORGANIZATION AND ANY RECORD FILED WITH OR ISSUED BY THE STATE OR THE UNITED STATES WHICH AMENDS OR RESTATES THE INITIAL RECORD;

(B) AN ORGANIC RECORD OF A BUSINESS TRUST CONSISTING OF THE RECORD INITIALLY FILED WITH A STATE AND ANY RECORD FILED WITH THE STATE WHICH AMENDS OR RESTATES THE INITIAL RECORD, IF A STATUTE OF THE STATE GOVERNING BUSINESS TRUSTS REQUIRES THAT THE RECORD BE FILED WITH THE STATE; OR

(C) A RECORD CONSISTING OF LEGISLATION ENACTED BY THE LEGISLATURE OF A STATE OR THE CONGRESS OF THE UNITED STATES WHICH FORMS OR ORGANIZES AN ORGANIZATION, ANY RECORD AMENDING THE LEGISLATION, AND ANY RECORD FILED WITH OR ISSUED BY THE STATE OR THE UNITED STATES WHICH AMENDS OR RESTATES THE NAME OF THE ORGANIZATION.

[(71)] (72) “Registered organization” means an organization **FORMED OR** organized solely under the law of a single state or the United States [and as to which the state or the United States must maintain a public record showing the organization to have been organized] **BY THE FILING OF A PUBLIC ORGANIC RECORD WITH, THE ISSUANCE OF A PUBLIC ORGANIC RECORD BY, OR THE ENACTMENT OF LEGISLATION BY THE STATE OR THE UNITED STATES. THE TERM INCLUDES A BUSINESS TRUST THAT IS FORMED OR ORGANIZED UNDER THE LAW OF A SINGLE STATE IF A STATUTE OF THE STATE GOVERNING BUSINESS TRUSTS REQUIRES THAT THE BUSINESS TRUST’S ORGANIC RECORD BE FILED WITH THE STATE.**

9–105.

(A) A secured party has control of electronic chattel paper if **A SYSTEM EMPLOYED FOR EVIDENCING THE TRANSFER OF INTERESTS IN THE CHATTEL PAPER RELIABLY ESTABLISHES THE SECURED PARTY AS THE PERSON TO WHICH THE CHATTEL PAPER WAS ASSIGNED.**

(B) **A SYSTEM SATISFIES SUBSECTION (A) IF** the record or records comprising the chattel paper are created, stored, and assigned in such a manner that:

(1) A single authoritative copy of the record or records exists which is unique, identifiable and, except as otherwise provided in paragraphs (4), (5), and (6) of this section, unalterable;

(2) The authoritative copy identifies the secured party as the assignee of the record or records;

(3) The authoritative copy is communicated to and maintained by the secured party or its designated custodian;

(4) Copies or [revisions] **AMENDMENTS** that add or change an identified assignee of the authoritative copy can be made only with the [participation] **CONSENT** of the secured party;

(5) Each copy of the authoritative copy and any copy of a copy is readily identifiable as a copy that is not the authoritative copy; and

(6) Any [revision] **AMENDMENT** of the authoritative copy is readily identifiable as [an] authorized or unauthorized [revision].

9–307.

(f) Except as otherwise provided in subsection (i), a registered organization that is organized under the law of the United States and a branch or agency of a bank that is not organized under the law of the United States or a state are located:

(1) In the state that the law of the United States designates, if the law designates a state of location;

(2) In the state that the registered organization, branch, or agency designates, if the law of the United States authorizes the registered organization, branch, or agency to designate its state of location, **INCLUDING BY DESIGNATING ITS MAIN OFFICE, HOME OFFICE, OR OTHER COMPARABLE OFFICE**; or

(3) In the District of Columbia, if neither paragraph (1) nor paragraph (2) applies.

9-311.

(a) Except as otherwise provided in subsection (d), the filing of a financing statement is not necessary or effective to perfect a security interest in property subject to:

(1) A statute, regulation, or treaty of the United States whose requirements for a security interest's obtaining priority over the rights of a lien creditor with respect to the property preempt § 9-310(a);

(2) Any [~~certificate-of-title~~] statute of this State which provides for a security interest to be indicated on [the] A certificate **OF TITLE** as a condition or result of perfection; or

(3) A [~~certificate-of-title~~] statute of another jurisdiction which provides for a security interest to be indicated on [the] A certificate **OF TITLE** as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the property.

9-316.

(H) THE FOLLOWING RULES APPLY TO COLLATERAL TO WHICH A SECURITY INTEREST ATTACHES WITHIN FOUR MONTHS AFTER THE DEBTOR CHANGES ITS LOCATION TO ANOTHER JURISDICTION:

(1) A FINANCING STATEMENT FILED BEFORE THE CHANGE PURSUANT TO THE LAW OF THE JURISDICTION DESIGNATED IN § 9-301(1) OR § 9-305(C) IS EFFECTIVE TO PERFECT A SECURITY INTEREST IN THE COLLATERAL IF THE FINANCING STATEMENT WOULD HAVE BEEN EFFECTIVE TO PERFECT A SECURITY INTEREST IN THE COLLATERAL HAD THE DEBTOR NOT CHANGED ITS LOCATION;

(2) IF A SECURITY INTEREST PERFECTED BY A FINANCING STATEMENT THAT IS EFFECTIVE UNDER PARAGRAPH (1) BECOMES PERFECTED UNDER THE LAW OF THE OTHER JURISDICTION BEFORE THE EARLIER OF THE TIME THE FINANCING STATEMENT WOULD HAVE BECOME INEFFECTIVE UNDER THE LAW OF THE JURISDICTION DESIGNATED IN § 9-301(1) OR § 9-305(C) OR THE EXPIRATION OF THE FOUR-MONTH PERIOD, IT REMAINS PERFECTED THEREAFTER; AND

(3) IF THE SECURITY INTEREST DOES NOT BECOME PERFECTED UNDER THE LAW OF THE OTHER JURISDICTION BEFORE THE EARLIER TIME OR EVENT, IT BECOMES UNPERFECTED AND IS DEEMED NEVER TO HAVE BEEN PERFECTED AS AGAINST A PURCHASER OF THE COLLATERAL FOR VALUE.

(I) IF A FINANCING STATEMENT NAMING AN ORIGINAL DEBTOR IS FILED PURSUANT TO THE LAW OF THE JURISDICTION DESIGNATED IN § 9-301(1) OR § 9-305(C) AND THE NEW DEBTOR IS LOCATED IN ANOTHER JURISDICTION, THE FOLLOWING RULES APPLY:

(1) THE FINANCING STATEMENT IS EFFECTIVE TO PERFECT A SECURITY INTEREST IN COLLATERAL ACQUIRED BY THE NEW DEBTOR BEFORE, AND WITHIN FOUR MONTHS AFTER, THE NEW DEBTOR BECOMES BOUND UNDER § 9-203(D), IF THE FINANCING STATEMENT WOULD HAVE BEEN EFFECTIVE TO PERFECT A SECURITY INTEREST IN THE COLLATERAL HAD THE COLLATERAL BEEN ACQUIRED BY THE ORIGINAL DEBTOR;

(2) A SECURITY INTEREST PERFECTED BY THE FINANCING STATEMENT AND WHICH BECOMES PERFECTED UNDER THE LAW OF THE OTHER JURISDICTION BEFORE THE EARLIER OF THE TIME THE FINANCING STATEMENT WOULD HAVE BECOME INEFFECTIVE UNDER THE LAW OF THE JURISDICTION DESIGNATED IN § 9-301(1) OR § 9-305(C) OR THE EXPIRATION OF THE FOUR-MONTH PERIOD REMAINS PERFECTED THEREAFTER; AND

(3) A SECURITY INTEREST THAT IS PERFECTED BY THE FINANCING STATEMENT BUT WHICH DOES NOT BECOME PERFECTED UNDER THE LAW OF THE OTHER JURISDICTION BEFORE THE EARLIER TIME OR EVENT BECOMES UNPERFECTED AND IS DEEMED NEVER TO HAVE BEEN PERFECTED AS AGAINST A PURCHASER OF THE COLLATERAL FOR VALUE.

9-317.

(b) Except as otherwise provided in subsection (e), a buyer, other than a secured party, of tangible chattel paper, tangible documents, goods, instruments, or a [security certificate] **CERTIFICATED SECURITY** takes free of a security interest or

agricultural lien if the buyer gives value and receives delivery of the collateral without knowledge of the security interest or agricultural lien and before it is perfected.

(d) A licensee of a general intangible or a buyer, other than a secured party, of [accounts, electronic chattel paper, electronic documents, general intangibles, or investment property] **COLLATERAL** other than **TANGIBLE CHATTEL PAPER, TANGIBLE DOCUMENTS, GOODS, INSTRUMENTS, OR** a certificated security takes free of a security interest if the licensee or buyer gives value without knowledge of the security interest and before it is perfected.

9-326.

(a) Subject to subsection (b), a security interest **THAT IS** created by a new debtor [which is] **IN COLLATERAL IN WHICH THE NEW DEBTOR HAS OR ACQUIRES RIGHTS AND IS** perfected **SOLELY** by a filed financing statement that [is effective solely under § 9-508 in collateral in which a new debtor has or acquires rights] **WOULD BE INEFFECTIVE TO PERFECT THE SECURITY INTEREST BUT FOR THE APPLICATION OF § 9-316(I)(1) OR § 9-508** is subordinate to a security interest in the same collateral which is perfected other than by **SUCH** a filed financing statement [that is effective solely under § 9-508 of this title].

(b) The other provisions of this subtitle determine the priority among conflicting security interests in the same collateral perfected by filed financing statements [that are effective solely under § 9-508 of this title] **DESCRIBED IN SUBSECTION (A)**. However, if the security agreements to which a new debtor became bound as debtor were not entered into by the same original debtor, the conflicting security interests rank according to priority in time of the new debtor's having become bound.

9-406.

(d) Except as otherwise provided in subsection (e) and §§ 2A-303 of this article and 9-407, and subject to subsection (h), a term in an agreement between an account debtor and an assignor or in a promissory note is ineffective to the extent that it:

(1) Prohibits, restricts, or requires the consent of the account debtor or person obligated on the promissory note to the assignment or transfer of, or the creation, attachment, perfection, or enforcement of a security interest in, the account, chattel paper, payment intangible, or promissory note; or

(2) Provides that the assignment or transfer or the creation, attachment, perfection, or enforcement of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the account, chattel paper, payment intangible, or promissory note.

(e) Subsection (d) does not apply to the sale of a payment intangible or promissory note, **OTHER THAN A SALE PURSUANT TO A DISPOSITION UNDER § 9-610 OR AN ACCEPTANCE OF COLLATERAL UNDER § 9-620.**

9-408.

(a) Except as otherwise provided in subsection (b), a term in a promissory note or in an agreement between an account debtor and a debtor which relates to a health-care-insurance receivable or a general intangible, including a contract, permit, license, or franchise, and which term prohibits, restricts, or requires the consent of the person obligated on the promissory note or the account debtor to, the assignment or transfer of, or creation, attachment, or perfection of a security interest in, the promissory note, health-care-insurance receivable, or general intangible, is ineffective to the extent that the term:

(1) Would impair the creation, attachment, or perfection of a security interest; or

(2) Provides that the assignment or transfer or the creation, attachment, or perfection of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the promissory note, health-care-insurance receivable, or general intangible.

(b) Subsection (a) applies to a security interest in a payment intangible or promissory note only if the security interest arises out of a sale of the payment intangible or promissory note, **OTHER THAN A SALE PURSUANT TO A DISPOSITION UNDER § 9-610 OR AN ACCEPTANCE OF COLLATERAL UNDER § 9-620.**

9-502.

(c) A record of a mortgage is effective, from the date of recording, as a financing statement filed as a fixture filing or as a financing statement covering as-extracted collateral or timber to be cut only if:

(1) The record indicates the goods or accounts that it covers;

(2) The goods are or are to become fixtures related to the real property described in the record or the collateral is related to the real property described in the record and is as-extracted collateral or timber to be cut;

(3) The record satisfies the requirements for a financing statement in this section [other than an indication], BUT:

(I) THE RECORD NEED NOT INDICATE that it is to be recorded in the land records; and

(II) THE RECORD SUFFICIENTLY PROVIDES THE NAME OF A DEBTOR WHO IS AN INDIVIDUAL IF IT PROVIDES THE INDIVIDUAL NAME OF THE DEBTOR OR THE SURNAME AND FIRST PERSONAL NAME OF THE DEBTOR, EVEN IF THE DEBTOR IS AN INDIVIDUAL TO WHOM § 9-503(A)(4) APPLIES; AND

(4) The record is recorded.

9-503.

(a) A financing statement sufficiently provides the name of the debtor:

(1) **[If] EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH (3), IF** the debtor is a registered organization **OR THE COLLATERAL IS HELD IN A TRUST THAT IS A REGISTERED ORGANIZATION**, only if the financing statement provides the name **[of the debtor indicated] THAT IS STATED TO BE THE REGISTERED ORGANIZATION'S NAME** on the public **ORGANIC** record **[of] MOST RECENTLY FILED WITH OR ISSUED OR ENACTED BY** the **[debtor's] REGISTERED ORGANIZATION'S** jurisdiction of organization which **[shows the debtor to have been organized] PURPORTS TO STATE, AMEND, OR RESTATE THE REGISTERED ORGANIZATION'S NAME;**

(2) **[If] SUBJECT TO SUBSECTION (F), IF** the **[debtor is a decedent's estate] COLLATERAL IS BEING ADMINISTERED BY THE PERSONAL REPRESENTATIVE OF A DECEDENT**, only if the financing statement provides, **AS THE NAME OF THE DEBTOR**, the name of the decedent and, **IN A SEPARATE PART OF THE FINANCING STATEMENT**, indicates that the **[debtor is an estate] COLLATERAL IS BEING ADMINISTERED BY A PERSONAL REPRESENTATIVE;**

(3) If the **[debtor is a trust or a trustee acting with respect to property held in trust**, only if the financing statement:

(A) Provides the name specified for the trust in its organic documents or, if no name is specified, provides the name of the settlor and additional information sufficient to distinguish the debtor from other trusts having one or more of the same settlors; and

(B) Indicates, in the debtor's name or otherwise, that the debtor is a trust or is a trustee acting with respect to property held in trust; and] **COLLATERAL IS HELD IN A TRUST THAT IS NOT A REGISTERED ORGANIZATION, ONLY IF THE FINANCING STATEMENT:**

(A) PROVIDES, AS THE NAME OF THE DEBTOR:

(I) IF THE ORGANIC RECORD OF THE TRUST SPECIFIES A NAME FOR THE TRUST, THE NAME SO SPECIFIED; OR

(II) IF THE ORGANIC RECORD OF THE TRUST DOES NOT SPECIFY A NAME FOR THE TRUST, THE NAME OF THE SETTLOR OR TESTATOR; AND

(B) IN A SEPARATE PART OF THE FINANCING STATEMENT:

(I) IF THE NAME IS PROVIDED IN ACCORDANCE WITH SUBPARAGRAPH (A)(I), INDICATES THAT THE COLLATERAL IS HELD IN A TRUST; OR

(II) IF THE NAME IS PROVIDED IN ACCORDANCE WITH SUBPARAGRAPH (A)(II), PROVIDES ADDITIONAL INFORMATION SUFFICIENT TO DISTINGUISH THE TRUST FROM OTHER TRUSTS HAVING ONE OR MORE OF THE SAME SETTLORS OR THE SAME TESTATOR AND INDICATES THAT THE COLLATERAL IS HELD IN A TRUST, UNLESS THE ADDITIONAL INFORMATION SO INDICATES;

~~(4) IF THE DEBTOR IS AN INDIVIDUAL, ONLY IF THE FINANCING STATEMENT:~~

~~(A) PROVIDES THE INDIVIDUAL NAME OF THE DEBTOR;~~

~~(B) PROVIDES THE SURNAME AND FIRST PERSONAL NAME OF THE DEBTOR; OR~~

~~(C) SUBJECT TO SUBSECTION (G), PROVIDES THE NAME OF THE INDIVIDUAL WHICH IS INDICATED ON A DRIVER'S LICENSE OR IDENTIFICATION CARD THAT THIS STATE HAS ISSUED TO THE INDIVIDUAL AND WHICH HAS NOT EXPIRED; AND~~

(4) SUBJECT TO SUBSECTION (G), IF THE DEBTOR IS AN INDIVIDUAL TO WHOM THIS STATE HAS ISSUED A DRIVER'S LICENSE OR AN IDENTIFICATION CARD THAT HAS NOT EXPIRED, ONLY IF IT PROVIDES THE NAME OF THE INDIVIDUAL WHICH IS INDICATED ON THE DRIVER'S LICENSE OR IDENTIFICATION CARD;

(5) IF THE DEBTOR IS AN INDIVIDUAL TO WHOM PARAGRAPH (4) DOES NOT APPLY, ONLY IF IT PROVIDES THE INDIVIDUAL NAME OF THE DEBTOR OR THE SURNAME AND FIRST PERSONAL NAME OF THE DEBTOR; AND

[(4)] ~~(5)~~ (6) In other cases:

(A) If the debtor has a name, only if ~~[it]~~ ~~THE FINANCING STATEMENT~~ provides the [individual or] organizational name of the debtor; and

(B) If the debtor does not have a name, only if ~~[it]~~ ~~THE FINANCING STATEMENT~~ provides the names of the partners, members, associates, or other persons comprising the debtor, **IN A MANNER THAT EACH NAME PROVIDED WOULD BE SUFFICIENT IF THE PERSON NAMED WERE THE DEBTOR.**

(b) A financing statement that provides the name of the debtor in accordance with subsection (a) of this section is not rendered ineffective by the absence of:

(1) A trade name or other name of the debtor; or

(2) Unless required under subsection [(a)(4)(B)] **(A)(5)(B)**, names of partners, members, associates, or other persons comprising the debtor.

(F) THE NAME OF THE DECEDENT INDICATED ON THE ORDER APPOINTING THE PERSONAL REPRESENTATIVE OF THE DECEDENT ISSUED BY THE COURT HAVING JURISDICTION OVER THE COLLATERAL IS SUFFICIENT AS THE “NAME OF THE DECEDENT” UNDER SUBSECTION (A)(2).

(G) IF THIS STATE HAS ISSUED TO AN INDIVIDUAL MORE THAN ONE DRIVER’S LICENSE OR IDENTIFICATION CARD OF A KIND DESCRIBED IN SUBSECTION ~~(A)(4)(C)~~ (A)(4), THE ONE THAT WAS ISSUED MOST RECENTLY IS THE ONE TO WHICH SUBSECTION ~~(A)(4)(C)~~ (A)(4) REFERS.

(H) IN THIS SECTION, THE “NAME OF THE SETTLOR OR TESTATOR” MEANS:

(1) IF THE SETTLOR IS A REGISTERED ORGANIZATION, THE NAME THAT IS STATED TO BE THE SETTLOR’S NAME ON THE PUBLIC ORGANIC RECORD MOST RECENTLY FILED WITH OR ISSUED OR ENACTED BY THE SETTLOR’S JURISDICTION OF ORGANIZATION WHICH PURPORTS TO STATE, AMEND, OR RESTATE THE SETTLOR’S NAME; OR

(2) IN OTHER CASES, THE NAME OF THE SETTLOR OR TESTATOR INDICATED IN THE TRUST’S ORGANIC RECORD.

9-507.

(a) A filed financing statement remains effective with respect to collateral that is sold, exchanged, leased, licensed, or otherwise disposed of and in which a security interest or agricultural lien continues, even if the secured party knows of or consents to the disposition.

(b) Except as otherwise provided in subsection (c) and § 9–508, a financing statement is not rendered ineffective if, after the financing statement is filed, the information provided in the financing statement becomes seriously misleading under § 9–506.

(c) If [a debtor so changes its] **THE** name that a filed financing statement **PROVIDES FOR A DEBTOR** becomes **INSUFFICIENT AS THE NAME OF THE DEBTOR UNDER § 9–503(A) SO THAT THE FINANCING STATEMENT BECOMES** seriously misleading under § 9–506:

(1) The financing statement is effective to perfect a security interest in collateral acquired by the debtor before, or within four months after, the [change] **FILED FINANCING STATEMENT BECOMES SERIOUSLY MISLEADING**; and

(2) The financing statement is not effective to perfect a security interest in collateral acquired by the debtor more than four months after the [change] **FILED FINANCING STATEMENT BECOMES SERIOUSLY MISLEADING**, unless an amendment to the financing statement which renders the financing statement not seriously misleading is filed within four months after the [change] **FINANCING STATEMENT BECAME SERIOUSLY MISLEADING**.

9–515.

(f) If a debtor is a transmitting utility and a filed **INITIAL** financing statement so indicates, the financing statement is effective until a termination statement is filed.

9–516.

(a) Except as otherwise provided in subsection (b), communication of a record to a filing office and tender of the filing fee or acceptance of the record by the filing office constitutes filing.

(b) Filing does not occur with respect to a record that a filing office refuses to accept because:

(1) The record is not communicated by a method or medium of communication authorized by the filing office;

(2) An amount equal to or greater than the applicable filing fee is not tendered;

(3) The filing office is unable to index the record because:

(A) In the case of an initial financing statement, the record does not provide a name for the debtor;

(B) In the case of an amendment or [correction] **INFORMATION** statement, the record:

(i) Does not identify the initial financing statement as required by § 9–512 or § 9–518, as applicable; or

(ii) Identifies an initial financing statement whose effectiveness has lapsed under § 9–515;

(C) In the case of an initial financing statement that provides the name of a debtor identified as an individual or an amendment that provides a name of a debtor identified as an individual which was not previously provided in the financing statement to which the record relates, the record does not identify the debtor's [last name] **SURNAME**; or

(D) In the case of a record filed or recorded in the filing office described in § 9–501(a)(1), the record does not provide a sufficient description of the real property to which it relates;

(4) In the case of an initial financing statement or an amendment that adds a secured party of record, the record does not provide a name and mailing address for the secured party of record;

(5) In the case of an initial financing statement or an amendment that provides a name of a debtor which was not previously provided in the financing statement to which the amendment relates, the record does not:

(A) Provide a mailing address for the debtor; **OR**

(B) Indicate whether the **NAME PROVIDED AS THE NAME OF THE** debtor is **THE NAME OF** an individual or an organization; [or

(C) If the financing statement indicates that the debtor is an organization, provide:

(i) A type of organization for the debtor;

(ii) A jurisdiction of organization for the debtor; or

(iii) An organizational identification number for the debtor or indicate that the debtor has none;]

(6) In the case of an assignment reflected in an initial financing statement under § 9–514(a) or an amendment filed under § 9–514(b), the record does not provide a name and mailing address for the assignee;

(7) In the case of a continuation statement, the record is not filed within the six-month period prescribed by § 9–515(d); or

(8) The information required by § 9–502(e) is not provided or recordation tax payable is not tendered with the financing statement.

(c) For purposes of subsection (b):

(1) A record does not provide information if the filing office is unable to read or decipher the information; and

(2) A record that does not indicate that it is an amendment or identify an initial financing statement to which it relates, as required by § 9–512, § 9–514, or § 9–518, is an initial financing statement.

(d) A record that is communicated to the filing office with tender of the filing fee, but which the filing office refuses to accept for a reason other than one set forth in subsection (b), is effective as a filed record except as against a purchaser of the collateral which gives value in reasonable reliance upon the absence of the record from the files.

9–518.

(a) A person may file in the filing office [a correction] **AN INFORMATION** statement with respect to a record indexed there under the person's name if the person believes that the record is inaccurate or was wrongfully filed.

(b) [A correction] **AN INFORMATION** statement **UNDER SUBSECTION (A)** must:

(1) Identify the record to which it relates by:

(A) The file number assigned to the initial financing statement to which the record relates; and

(B) If the [correction] **INFORMATION** statement relates to a record recorded in a filing office described in § 9–501(a)(1), the date and time that the initial financing statement was recorded and the information specified in § 9–502(b);

(2) Indicate that it is [a correction] **AN INFORMATION** statement; and

(3) Provide the basis for the person's belief that the record is inaccurate and indicate the manner in which the person believes the record should be amended to cure any inaccuracy or provide the basis for the person's belief that the record was wrongfully filed.

(C) A PERSON MAY FILE IN THE FILING OFFICE AN INFORMATION STATEMENT WITH RESPECT TO A RECORD FILED THERE IF THE PERSON IS A SECURED PARTY OF RECORD WITH RESPECT TO THE FINANCING STATEMENT TO WHICH THE RECORD RELATES AND BELIEVES THAT THE PERSON THAT FILED THE RECORD WAS NOT ENTITLED TO DO SO UNDER § 9-509(D).

(D) AN INFORMATION STATEMENT UNDER SUBSECTION (C) SHALL:

(1) IDENTIFY THE RECORD TO WHICH IT RELATES BY:

(A) THE FILE NUMBER ASSIGNED TO THE INITIAL FINANCING STATEMENT TO WHICH THE RECORD RELATES; AND

(B) IF THE INFORMATION STATEMENT RELATES TO A RECORD RECORDED IN A FILING OFFICE DESCRIBED IN § 9-501(A)(1), THE DATE AND TIME THAT THE INITIAL FINANCING STATEMENT WAS RECORDED AND THE INFORMATION SPECIFIED IN § 9-502(B);

(2) INDICATE THAT IT IS AN INFORMATION STATEMENT; AND

(3) PROVIDE THE BASIS FOR THE PERSON'S BELIEF THAT THE PERSON THAT FILED THE RECORD WAS NOT ENTITLED TO DO SO UNDER § 9-509(D).

[(c)] (E) The filing of [a correction] AN INFORMATION statement does not affect the effectiveness of an initial financing statement or other filed record.

9-521.

A filing office that accepts written records may not refuse to accept a written initial financing statement, [financing statement] addendum, [financing statement] OR amendment[, and financing statement amendment addendum,] in the form and format [as produced for national use by the National Conference of Commissioners on Uniform State Laws] SET FORTH IN THE OFFICIAL TEXT OF THE 2010 AMENDMENTS TO ARTICLE 9 OF THE UNIFORM COMMERCIAL CODE PROMULGATED BY THE AMERICAN LAW INSTITUTE AND THE UNIFORM LAW COMMISSION, except for a reason set forth in § 9-516(b).

9-607.

(a) If so agreed, and in any event after default, a secured party:

(3) May enforce the obligations of an account debtor or other person obligated on collateral and exercise the rights of the debtor with respect to the obligation of the account debtor or other person obligated on collateral to make

payment or otherwise render performance to the debtor, and with respect to any property that secures the obligations of the account debtor or other person obligated on the collateral;

(b) If necessary to enable a secured party to exercise under subsection (a)(3) the right of a debtor to enforce a mortgage nonjudicially, the secured party may record in the office in which a record of the mortgage is recorded:

(1) A copy of the security agreement that creates or provides for a security interest in the obligation secured by the mortgage; and

(2) The secured party's sworn affidavit in recordable form stating that:

(A) A default has occurred **WITH RESPECT TO THE OBLIGATION SECURED BY THE MORTGAGE**; and

(B) The secured party is entitled to enforce the mortgage nonjudicially.

SUBTITLE 8. TRANSITION PROVISIONS FOR 2012 AMENDMENTS.

9-801. DEFINED TERMS.

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

(B) **“ACT” MEANS CHAPTER 674 (S.B.____/H.B. 713) (2LR1169/2LR1648) OF THE ACTS OF THE GENERAL ASSEMBLY OF 2012.**

(C) **“PRE-EFFECTIVE-DATE FINANCING STATEMENT” MEANS A FINANCING STATEMENT FILED BEFORE THE EFFECTIVE DATE OF THE ACT.**

9-802. EFFECTIVE DATE.

THE ACT TAKES EFFECT ON JULY 1, 2013.

9-803. SAVINGS CLAUSE.

(A) **EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, THE ACT APPLIES TO A TRANSACTION OR LIEN WITHIN ITS SCOPE, EVEN IF THE TRANSACTION OR LIEN WAS ENTERED INTO OR CREATED BEFORE THE ACT TAKES EFFECT.**

(B) **THE ACT DOES NOT AFFECT AN ACTION, CASE, OR PROCEEDING COMMENCED BEFORE THE ACT TAKES EFFECT.**

9-804. SECURITY INTEREST PERFECTED BEFORE EFFECTIVE DATE.

(A) A SECURITY INTEREST THAT IS A PERFECTED SECURITY INTEREST IMMEDIATELY BEFORE THE ACT TAKES EFFECT IS A PERFECTED SECURITY INTEREST UNDER THIS TITLE, AS AMENDED BY THE ACT, IF, WHEN THE ACT TAKES EFFECT, THE APPLICABLE REQUIREMENTS FOR ATTACHMENT AND PERFECTION UNDER THIS TITLE, AS AMENDED BY THE ACT, ARE SATISFIED WITHOUT FURTHER ACTION.

(B) EXCEPT AS OTHERWISE PROVIDED IN § 9-806, IF, IMMEDIATELY BEFORE THE ACT TAKES EFFECT, A SECURITY INTEREST IS A PERFECTED SECURITY INTEREST, BUT THE APPLICABLE REQUIREMENTS FOR PERFECTION UNDER THIS TITLE, AS AMENDED BY THE ACT, ARE NOT SATISFIED WHEN THE ACT TAKES EFFECT, THE SECURITY INTEREST REMAINS PERFECTED THEREAFTER ONLY IF THE APPLICABLE REQUIREMENTS FOR PERFECTION UNDER THIS TITLE, AS AMENDED BY THE ACT, ARE SATISFIED WITHIN ONE YEAR AFTER THE ACT TAKES EFFECT.

9-805. SECURITY INTEREST UNPERFECTED BEFORE EFFECTIVE DATE.

A SECURITY INTEREST THAT IS AN UNPERFECTED SECURITY INTEREST IMMEDIATELY BEFORE THE ACT TAKES EFFECT BECOMES A PERFECTED SECURITY INTEREST:

(1) WITHOUT FURTHER ACTION, WHEN THE ACT TAKES EFFECT IF THE APPLICABLE REQUIREMENTS FOR PERFECTION UNDER THIS TITLE, AS AMENDED BY THE ACT, ARE SATISFIED BEFORE OR AT THAT TIME; OR

(2) WHEN THE APPLICABLE REQUIREMENTS FOR PERFECTION ARE SATISFIED IF THE REQUIREMENTS ARE SATISFIED AFTER THAT TIME.

9-806. EFFECTIVENESS OF ACTION TAKEN BEFORE EFFECTIVE DATE.

(A) THE FILING OF A FINANCING STATEMENT BEFORE THE ACT TAKES EFFECT IS EFFECTIVE TO PERFECT A SECURITY INTEREST TO THE EXTENT THE FILING WOULD SATISFY THE APPLICABLE REQUIREMENTS FOR PERFECTION UNDER THIS TITLE, AS AMENDED BY THE ACT.

(B) THE ACT DOES NOT RENDER INEFFECTIVE AN EFFECTIVE FINANCING STATEMENT THAT, BEFORE THE ACT TAKES EFFECT, IS FILED AND SATISFIES THE APPLICABLE REQUIREMENTS FOR PERFECTION UNDER THE LAW OF THE JURISDICTION GOVERNING PERFECTION AS PROVIDED IN THIS TITLE AS IT EXISTED BEFORE THE EFFECTIVE DATE OF THE ACT. HOWEVER, EXCEPT AS

OTHERWISE PROVIDED IN SUBSECTIONS (C) AND (D) AND § 9–807, THE FINANCING STATEMENT CEASES TO BE EFFECTIVE:

(1) IF THE FINANCING STATEMENT IS FILED IN THIS STATE, AT THE TIME THE FINANCING STATEMENT WOULD HAVE CEASED TO BE EFFECTIVE HAD THE ACT NOT TAKEN EFFECT; OR

(2) IF THE FINANCING STATEMENT IS FILED IN ANOTHER JURISDICTION, AT THE EARLIER OF:

(A) THE TIME THE FINANCING STATEMENT WOULD HAVE CEASED TO BE EFFECTIVE UNDER THE LAW OF THAT JURISDICTION; OR

(B) JUNE 30, 2018.

(C) THE FILING OF A CONTINUATION STATEMENT AFTER THE ACT TAKES EFFECT DOES NOT CONTINUE THE EFFECTIVENESS OF A FINANCING STATEMENT FILED BEFORE THE ACT TAKES EFFECT. HOWEVER, ON THE TIMELY FILING OF A CONTINUATION STATEMENT AFTER THE ACT TAKES EFFECT AND IN ACCORDANCE WITH THE LAW OF THE JURISDICTION GOVERNING PERFECTION AS PROVIDED IN THIS TITLE, AS AMENDED BY THE ACT, THE EFFECTIVENESS OF A FINANCING STATEMENT FILED IN THE SAME OFFICE IN THAT JURISDICTION BEFORE THE ACT TAKES EFFECT CONTINUES FOR THE PERIOD PROVIDED BY THE LAW OF THAT JURISDICTION.

(D) SUBSECTION (B)(2)(B) APPLIES TO A FINANCING STATEMENT THAT, BEFORE THE ACT TAKES EFFECT, IS FILED AGAINST A TRANSMITTING UTILITY AND SATISFIES THE APPLICABLE REQUIREMENTS FOR PERFECTION UNDER THE LAW OF THE JURISDICTION GOVERNING PERFECTION AS PROVIDED IN THIS TITLE AS IT EXISTED BEFORE THE EFFECTIVE DATE OF THE ACT, ONLY TO THE EXTENT THAT THIS TITLE, AS AMENDED BY THE ACT, PROVIDES THAT THE LAW OF A JURISDICTION OTHER THAN THE JURISDICTION IN WHICH THE FINANCING STATEMENT IS FILED GOVERNS PERFECTION OF A SECURITY INTEREST IN COLLATERAL COVERED BY THE FINANCING STATEMENT.

(E) A FINANCING STATEMENT THAT INCLUDES A FINANCING STATEMENT FILED BEFORE THE ACT TAKES EFFECT AND A CONTINUATION STATEMENT FILED AFTER THE ACT TAKES EFFECT IS EFFECTIVE ONLY TO THE EXTENT THAT IT SATISFIES THE REQUIREMENTS OF SUBTITLE 5, AS AMENDED BY THE ACT, FOR AN INITIAL FINANCING STATEMENT. A FINANCING STATEMENT THAT INDICATES THAT THE DEBTOR IS A DECEDENT'S ESTATE INDICATES THAT THE COLLATERAL IS BEING ADMINISTERED BY A PERSONAL REPRESENTATIVE WITHIN THE MEANING OF § 9–503(A)(2), AS AMENDED BY THE ACT. A FINANCING STATEMENT THAT INDICATES THAT THE DEBTOR IS A TRUST OR IS A

TRUSTEE ACTING WITH RESPECT TO PROPERTY HELD IN TRUST INDICATES THAT THE COLLATERAL IS HELD IN A TRUST WITHIN THE MEANING OF § 9-503(A)(3), AS AMENDED BY THE ACT.

9-807. WHEN INITIAL FINANCING STATEMENT SUFFICES TO CONTINUE EFFECTIVENESS OF FINANCING STATEMENT.

(A) THE FILING OF AN INITIAL FINANCING STATEMENT IN THE OFFICE SPECIFIED IN § 9-501 CONTINUES THE EFFECTIVENESS OF A PRE-EFFECTIVE-DATE FINANCING STATEMENT IF:

(1) THE FILING OF AN INITIAL FINANCING STATEMENT IN THAT OFFICE WOULD BE EFFECTIVE TO PERFECT A SECURITY INTEREST UNDER THIS TITLE, AS AMENDED BY THE ACT;

(2) THE PRE-EFFECTIVE-DATE FINANCING STATEMENT WAS FILED IN AN OFFICE IN ANOTHER STATE; AND

(3) THE INITIAL FINANCING STATEMENT SATISFIES SUBSECTION (C).

(B) THE FILING OF AN INITIAL FINANCING STATEMENT UNDER SUBSECTION (A) CONTINUES THE EFFECTIVENESS OF THE PRE-EFFECTIVE-DATE FINANCING STATEMENT:

(1) IF THE INITIAL FINANCING STATEMENT IS FILED BEFORE THE ACT TAKES EFFECT, FOR THE PERIOD PROVIDED IN § 9-515, AS IT EXISTED BEFORE THE ACT TAKES EFFECT, WITH RESPECT TO AN INITIAL FINANCING STATEMENT; AND

(2) IF THE INITIAL FINANCING STATEMENT IS FILED AFTER THE ACT TAKES EFFECT, FOR THE PERIOD PROVIDED IN § 9-515, AS AMENDED BY THE ACT, WITH RESPECT TO AN INITIAL FINANCING STATEMENT.

(C) TO BE EFFECTIVE FOR PURPOSES OF SUBSECTION (A), AN INITIAL FINANCING STATEMENT MUST:

(1) SATISFY THE REQUIREMENTS OF SUBTITLE 5, AS AMENDED BY THE ACT, FOR AN INITIAL FINANCING STATEMENT;

(2) IDENTIFY THE PRE-EFFECTIVE-DATE FINANCING STATEMENT BY INDICATING THE OFFICE IN WHICH THE FINANCING STATEMENT WAS FILED AND PROVIDING THE DATES OF FILING AND FILE NUMBERS, IF ANY, OF THE

FINANCING STATEMENT AND OF THE MOST RECENT CONTINUATION STATEMENT FILED WITH RESPECT TO THE FINANCING STATEMENT; AND

(3) INDICATE THAT THE PRE-EFFECTIVE-DATE FINANCING STATEMENT REMAINS EFFECTIVE.

9-808. AMENDMENT OF PRE-EFFECTIVE-DATE FINANCING STATEMENT.

(A) AFTER THE ACT TAKES EFFECT, A PERSON MAY ADD OR DELETE COLLATERAL COVERED BY, CONTINUE OR TERMINATE THE EFFECTIVENESS OF, OR OTHERWISE AMEND THE INFORMATION PROVIDED IN, A PRE-EFFECTIVE-DATE FINANCING STATEMENT ONLY IN ACCORDANCE WITH THE LAW OF THE JURISDICTION GOVERNING PERFECTION AS PROVIDED IN THIS TITLE, AS AMENDED BY THE ACT. HOWEVER, THE EFFECTIVENESS OF A PRE-EFFECTIVE-DATE FINANCING STATEMENT ALSO MAY BE TERMINATED IN ACCORDANCE WITH THE LAW OF THE JURISDICTION IN WHICH THE FINANCING STATEMENT IS FILED.

(B) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (C), IF THE LAW OF THIS STATE GOVERNS PERFECTION OF A SECURITY INTEREST, THE INFORMATION IN A PRE-EFFECTIVE-DATE FINANCING STATEMENT MAY BE AMENDED AFTER THE ACT TAKES EFFECT ONLY IF:

(1) THE PRE-EFFECTIVE-DATE FINANCING STATEMENT AND AN AMENDMENT ARE FILED IN THE OFFICE SPECIFIED IN § 9-501;

(2) AN AMENDMENT IS FILED IN THE OFFICE SPECIFIED IN § 9-501 CONCURRENTLY WITH, OR AFTER THE FILING IN THAT OFFICE OF, AN INITIAL FINANCING STATEMENT THAT SATISFIES § 9-807(C); OR

(3) AN INITIAL FINANCING STATEMENT THAT PROVIDES THE INFORMATION AS AMENDED AND SATISFIES § 9-807(C) IS FILED IN THE OFFICE SPECIFIED IN § 9-501.

(C) IF THE LAW OF THIS STATE GOVERNS PERFECTION OF A SECURITY INTEREST, THE EFFECTIVENESS OF A PRE-EFFECTIVE-DATE FINANCING STATEMENT MAY BE CONTINUED ONLY UNDER § 9-806(C) AND (E) OR § 9-807.

(D) WHETHER OR NOT THE LAW OF THIS STATE GOVERNS PERFECTION OF A SECURITY INTEREST, THE EFFECTIVENESS OF A PRE-EFFECTIVE-DATE FINANCING STATEMENT FILED IN THIS STATE MAY BE TERMINATED AFTER THE ACT TAKES EFFECT BY FILING A TERMINATION STATEMENT IN THE OFFICE IN WHICH THE PRE-EFFECTIVE-DATE FINANCING STATEMENT IS FILED, UNLESS AN INITIAL FINANCING STATEMENT THAT SATISFIES § 9-807(C) HAS BEEN FILED

IN THE OFFICE SPECIFIED BY THE LAW OF THE JURISDICTION GOVERNING PERFECTION AS PROVIDED IN THIS TITLE, AS AMENDED BY THE ACT, AS THE OFFICE IN WHICH TO FILE A FINANCING STATEMENT.

9-809. PERSON ENTITLED TO FILE INITIAL FINANCING STATEMENT OR CONTINUATION STATEMENT.

A PERSON MAY FILE AN INITIAL FINANCING STATEMENT OR A CONTINUATION STATEMENT UNDER THIS SUBTITLE IF:

(1) THE SECURED PARTY OF RECORD AUTHORIZES THE FILING;
AND

(2) THE FILING IS NECESSARY UNDER THIS SUBTITLE:

(A) TO CONTINUE THE EFFECTIVENESS OF A FINANCING STATEMENT FILED BEFORE THE ACT TAKES EFFECT; OR

(B) TO PERFECT OR CONTINUE THE PERFECTION OF A SECURITY INTEREST.

9-810. PRIORITY.

THE ACT DETERMINES THE PRIORITY OF CONFLICTING CLAIMS TO COLLATERAL. HOWEVER, IF THE RELATIVE PRIORITIES OF THE CLAIMS WERE ESTABLISHED BEFORE THE ACT TAKES EFFECT, THIS TITLE, AS IT EXISTED BEFORE THE ACT TAKES EFFECT, DETERMINES PRIORITY.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013.

Approved by the Governor, May 22, 2012.

Chapter 675

(House Bill 723)

AN ACT concerning

**Montgomery County – On-Site Sewage Disposal System and Well Easements
– Rural Zones**

FOR the purpose of providing that, with certain exceptions, in Montgomery County an on-site sewage disposal system or well located in a certain rural zone may serve a certain property under certain easements under certain circumstances; establishing certain exceptions; defining a certain term; and generally relating to on-site sewage disposal system and well easements in Montgomery County.

BY adding to

Article – Environment

Section 9–1110

Annotated Code of Maryland

(2007 Replacement Volume and 2011 Supplement)

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

Article – Environment

9–1110.

(A) IN THIS SECTION, “RURAL ZONE” MEANS AN AREA OF MONTGOMERY COUNTY DESIGNATED AS A RURAL ZONE, RURAL CLUSTER ZONE, RURAL DENSITY TRANSFER ZONE, RURAL NEIGHBORHOOD CLUSTER ZONE, OR RURAL SERVICE ZONE AS DESCRIBED IN THE MONTGOMERY COUNTY CODE ZONING ORDINANCE.

(B) (1) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, IN MONTGOMERY COUNTY, AN ON-SITE SEWAGE DISPOSAL SYSTEM OR WELL LOCATED IN A RURAL ZONE MAY ONLY SERVE ONE ADDITIONAL LOT OR PARCEL THAT HAS BEEN SUBDIVIDED FROM A SINGLE PROPERTY ON WHICH THE ON-SITE SEWAGE DISPOSAL SYSTEM OR WELL IS LOCATED UNDER AN ON-SITE SEWAGE DISPOSAL SYSTEM EASEMENT OR WELL EASEMENT, RESPECTIVELY, PROVIDED THAT:

(I) THE PROPERTY ON WHICH THE ON-SITE SEWAGE DISPOSAL SYSTEM OR WELL IS LOCATED DOES NOT HAVE AN EXISTING ON-SITE SEWAGE DISPOSAL SYSTEM EASEMENT OR WELL EASEMENT;

(II) THE SUBDIVISION OF THE PROPERTY WAS MADE IN ACCORDANCE WITH A STATE OR COUNTY AGRICULTURAL LAND CONSERVATION PROGRAM IF THE PROPERTY IS SUBJECT TO AN AGRICULTURAL LAND CONSERVATION EASEMENT; AND

(III) ONLY ONE ON-SITE SEWAGE DISPOSAL SYSTEM EASEMENT MAY SERVE ONLY ONE SUBDIVIDED LOT OR PARCEL.

(2) AN EASEMENT FOR AN ON-SITE SEWAGE DISPOSAL SYSTEM OR WELL UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY BE ~~A LOT TO LOT OR PARCEL TO PARCEL EASEMENT SO LONG AS BOTH LOTS OR PARCELS ORIGINATE FROM THE SAME PROPERTY~~ GRANTED FROM THE ORIGINAL PARCEL TO A NEW LOT OR PARCEL BEING CREATED AND THE EASEMENT MUST NOT BE GRANTED TO ANY LOT OR PARCEL THAT DID NOT ORIGINATE FROM THE SAME ORIGINAL PARCEL.

(C) AN ON-SITE SEWAGE DISPOSAL SYSTEM OR WELL UNDER SUBSECTION (B)(1) OF THIS SECTION MAY NOT:

(1) SERVE LAND THAT IS DESIGNATED BY THE STATE OR THE GOVERNING BODY OF MONTGOMERY COUNTY AS A SPECIAL PROTECTION AREA ~~OR GREEN INFRASTRUCTURE~~; OR

(2) DECREASE THE LAND AVAILABLE FOR AGRICULTURAL PRODUCTION BY MORE THAN 4,000 SQUARE FEET.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 676

(House Bill 724)

AN ACT concerning

State Department of Education – School Guidance Counselors and Pupil Personnel Workers – Reporting

FOR the purpose of requiring local school systems to report certain information on school guidance counselors and pupil personnel workers to the State Department of Education on or before a certain date; requiring the State Department of Education to report certain information to the General Assembly on or before a certain date; providing for the termination of this Act; and generally relating to reporting of information on school guidance counselors and pupil personnel workers.

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

(a) On or before December 31, 2012, each local school system shall submit to the State Department of Education:

(1) A description of the local school system's school guidance counselor program, including:

(i) Data relating to the number of school guidance counselors employed by the local school system;

(ii) The general duties and responsibilities of the school guidance counselors; ~~and~~

(iii) The activities of the school guidance counselors that are designed to promote the college readiness of students in grades 6 through 12; and

(iv) The number of students each school guidance counselor is responsible for at the school;

(2) A description of the local school system's pupil personnel worker program, including:

(i) Data relating to the number of pupil personnel workers employed by the local school system;

(ii) The general duties and responsibilities of the pupil personnel workers; and

(iii) The number of students each pupil personnel worker is responsible for at the school; and

~~(2)~~ (3) Any other information requested by the State Department of Education for purposes of subsection (b) of this section.

(b) On or before December 31, 2013, the State Department of Education shall submit a report to the General Assembly, in accordance with § 2-1246 of the State Government Article, on:

(1) The data collected and information compiled under subsection (a) of this section; and

(2) The feasibility of and costs associated with the establishment of a college readiness program implemented through school guidance counselors that targets students in grades 6 through 12.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012. It shall remain effective for a period 2 years and, at the end of June 30,

2014, 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, May 22, 2012.

Chapter 677

(House Bill 725)

AN ACT concerning

Montgomery County – County Council Special Elections – Voting by Mail

MC 5–12

FOR the purpose of ~~requiring~~ authorizing the Montgomery County Council to direct that voting by mail be utilized in certain special elections for the Montgomery County Council; specifying the application of certain provisions of law to a special election for the Montgomery County Council; requiring the local board of elections to mail a vote-by-mail ballot to each ~~active~~ registered voter who is eligible to vote in a ~~certain~~ special election conducted by mail unless the voter has requested that the ballot be transmitted by other means; specifying that a voter is not required to submit an application to receive a vote-by-mail ballot; requiring the local board to send a vote-by-mail ballot to each eligible voter at least a certain number of days before the day of a special election; requiring that a postage-paid envelope be provided in which a voter may return a vote-by-mail ballot to the local board; requiring that vote-by-mail ballots be mailed to the address on file in the statewide voter registration list for each eligible voter except in certain circumstances; requiring the local board to issue a replacement vote-by-mail ballot to a voter under certain circumstances; ~~requiring the Montgomery County Council to establish the date of a special election; specifying certain deadlines for candidate filing, ballot certification, and mailing of vote-by-mail ballots to voters~~; requiring the local board to establish ~~at least one polling place~~ a certain number of voting centers for the use of any eligible voter who chooses to cast a ballot in person in a special election; specifying certain requirements for a ~~polling place~~ voting center established by the local board; authorizing the local board to establish a ~~polling place~~ voting center during a certain time period; providing that a certain process for applying in person for an absentee ballot at the office of a local board does not apply to a special election conducted by mail; providing that certain provisions of law relating to voting at a polling place on election day also apply to voting at a voting center established under this Act; requiring a voter to return a vote-by-mail ballot by certain methods; authorizing a voter to designate an agent to return a vote-by-mail ballot to the local board; requiring that a vote-by-mail ballot be returned to the local board by certain deadlines

~~and meet certain requirements to be considered timely and be counted; providing for the application of this Act; requiring~~ authorizing the State Board of Elections to adopt regulations as necessary to implement this Act; and generally relating to voting by mail in special elections for the Montgomery County Council.

BY adding to

Article – Election Law

Section 9–501 through ~~9–507~~ 9–506 to be under the new subtitle “Subtitle 5. Montgomery County Voting by Mail”

Annotated Code of Maryland

(2010 Replacement Volume and 2011 Supplement)

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

Article – Election Law

SUBTITLE 5. MONTGOMERY COUNTY VOTING BY MAIL.

9–501.

(A) THIS SUBTITLE APPLIES ONLY TO A SPECIAL ELECTION FOR THE MONTGOMERY COUNTY COUNCIL THAT IS NOT HELD CONCURRENTLY WITH A REGULARLY SCHEDULED PRIMARY OR GENERAL ELECTION.

(B) VOTING BY MAIL ~~SHALL~~ MAY BE UTILIZED IN A SPECIAL ELECTION FOR THE MONTGOMERY COUNTY COUNCIL IN ACCORDANCE WITH THIS SUBTITLE.

(C) A SPECIAL ELECTION TO FILL A VACANCY IN THE MONTGOMERY COUNTY COUNCIL SHALL BE CONDUCTED BY MAIL IF THE RESOLUTION OF THE MONTGOMERY COUNTY COUNCIL ESTABLISHING THE DATE OF THE SPECIAL ELECTION DIRECTS THAT THE ELECTION BE CONDUCTED BY MAIL.

~~(D)~~ (D) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE:

(1) PROVISIONS OF THIS ARTICLE RELATING TO ABSENTEE VOTING APPLY TO VOTING BY MAIL; AND

(2) COUNTY LAWS RELATING TO THE CONDUCT OF A COUNTY COUNCIL SPECIAL ELECTION APPLY TO A SPECIAL ELECTION CONDUCTED UNDER THIS SUBTITLE.

~~(D)~~ (E) PROVISIONS OF THIS ARTICLE RELATING TO THE CONDUCT OF ELECTIONS APPLY TO A SPECIAL ELECTION CONDUCTED UNDER THIS SUBTITLE, UNLESS A LAW SPECIFICALLY RELEVANT TO A SPECIAL ELECTION APPLIES.

9-502.

(A) (1) ~~THE~~ EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE LOCAL BOARD SHALL MAIL BY NONFORWARDABLE MAIL A VOTE-BY-MAIL BALLOT TO EACH ~~ACTIVE~~ REGISTERED VOTER WHO IS ELIGIBLE TO VOTE IN A SPECIAL ELECTION FOR THE MONTGOMERY COUNTY COUNCIL.

(2) THE LOCAL BOARD IS NOT REQUIRED TO MAIL A VOTE-BY-MAIL BALLOT TO A VOTER IF THE VOTER HAS REQUESTED THAT THE BALLOT BE SENT BY OTHER MEANS.

(B) A VOTER IS NOT REQUIRED TO SUBMIT AN APPLICATION TO RECEIVE A VOTE-BY-MAIL BALLOT.

(C) (1) EACH VOTE-BY-MAIL BALLOT SHALL BE ACCOMPANIED BY A POSTAGE-PAID ENVELOPE IN WHICH A VOTER MAY RETURN THE VOTED BALLOT TO THE LOCAL BOARD.

(2) THE LOCAL BOARD SHALL PAY THE COST OF POSTAGE-PAID ENVELOPES PROVIDED UNDER THIS SUBSECTION.

(D) THE LOCAL BOARD SHALL SEND A VOTE-BY-MAIL BALLOT TO EACH ELIGIBLE VOTER AT LEAST 14 DAYS BEFORE THE DAY OF A SPECIAL ELECTION.

(E) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A VOTE-BY-MAIL BALLOT SHALL BE MAILED TO THE ADDRESS THAT IS ON FILE IN THE STATEWIDE VOTER REGISTRATION LIST FOR EACH ELIGIBLE VOTER.

(2) A REGISTERED VOTER MAY REQUEST TO RECEIVE A VOTE-BY-MAIL BALLOT AT AN ADDRESS OTHER THAN THE ADDRESS THAT IS ON FILE IN THE STATEWIDE VOTER REGISTRATION LIST BY:

(I) SUBMITTING AN ABSENTEE BALLOT APPLICATION IN ACCORDANCE WITH § 9-305(A) OF THIS TITLE NOT LATER THAN THE TUESDAY PRECEDING THE DAY OF A SPECIAL ELECTION, IF THE VOTER IS TEMPORARILY ABSENT FROM THE ADDRESS THAT IS ON FILE IN THE STATEWIDE VOTER REGISTRATION LIST; OR

(II) NOTIFYING A LOCAL BOARD OF A CHANGE OF ADDRESS NOT LATER THAN THE TUESDAY PRECEDING THE DAY OF A SPECIAL ELECTION, IF THE VOTER'S RESIDENCE HAS CHANGED FROM THE ADDRESS THAT IS ON FILE IN THE STATEWIDE VOTER REGISTRATION LIST TO ANOTHER LOCATION WITHIN THE STATE.

~~(D)~~ (F) THE LOCAL BOARD SHALL ISSUE A REPLACEMENT VOTE-BY-MAIL BALLOT TO A VOTER IF THE ELECTION DIRECTOR OF THE LOCAL BOARD HAS REASONABLE GROUNDS TO BELIEVE THAT THE VOTE-BY-MAIL BALLOT PREVIOUSLY ISSUED TO THE VOTER HAS BEEN LOST, DESTROYED, OR SPOILED.

~~9-503.~~

~~(A) (1) THE MONTGOMERY COUNTY COUNCIL SHALL ESTABLISH THE DATE OF A SPECIAL ELECTION.~~

~~(2) THE DATE OF A SPECIAL ELECTION SHALL BE THE LAST DAY ON WHICH A VOTER MAY MAIL A VOTE-BY-MAIL BALLOT TO THE LOCAL BOARD FOR THE BALLOT TO BE CONSIDERED TIMELY.~~

~~(B) (1) THE DEADLINE FOR CANDIDATE FILING SHALL BE 75 DAYS BEFORE THE DAY OF A SPECIAL PRIMARY ELECTION.~~

~~(2) VOTE-BY-MAIL BALLOTS SHALL BE CERTIFIED 60 DAYS BEFORE THE DAY OF A SPECIAL ELECTION.~~

~~(3) THE LOCAL BOARD SHALL MAIL A VOTE-BY-MAIL BALLOT TO EACH ELIGIBLE ABSENT UNIFORMED SERVICES VOTER OR OVERSEAS VOTER AS DEFINED IN THE FEDERAL UNIFORMED AND OVERSEAS CITIZENS ABSENTEE VOTING ACT 45 DAYS BEFORE THE DAY OF A SPECIAL ELECTION.~~

~~(4) THE LOCAL BOARD SHALL MAIL A VOTE-BY-MAIL BALLOT TO EACH ELIGIBLE VOTER NOT INCLUDED IN PARAGRAPH (3) OF THIS SUBSECTION 20 DAYS BEFORE THE DAY OF A SPECIAL ELECTION.~~

~~9-504. 9-503.~~

(A) THE LOCAL BOARD SHALL ESTABLISH AT LEAST ONE POLLING PLACE VOTING CENTERS FOR THE USE OF ANY ELIGIBLE VOTER WHO CHOOSES TO CAST A BALLOT IN PERSON IN A SPECIAL ELECTION IN ACCORDANCE WITH THIS SECTION.

(B) (1) IN A SPECIAL ELECTION HELD IN A SINGLE COUNTY COUNCIL DISTRICT, AT LEAST ~~THREE VOTING CENTERS~~ ONE VOTING CENTER SHALL BE ESTABLISHED IN THE COUNTY COUNCIL DISTRICT WHERE THE SPECIAL ELECTION IS BEING HELD.

(2) IN A COUNTYWIDE SPECIAL ELECTION, AT LEAST ~~THREE VOTING CENTERS~~ ONE VOTING CENTER SHALL BE ESTABLISHED IN EACH COUNTY COUNCIL DISTRICT.

~~(B)~~ (C) A POLLING PLACE VOTING CENTER ESTABLISHED UNDER THIS SECTION SHALL:

(1) ~~BE LOCATED AT THE LOCAL BOARD OFFICE OR ANOTHER LOCATION WITHIN THE COUNCIL DISTRICT WHERE THE SPECIAL ELECTION IS BEING HELD;~~

(2) PROVIDE ACCESS TO A VOTING SYSTEM THAT IS ACCESSIBLE TO VOTERS WITH DISABILITIES IN ACCORDANCE WITH THE FEDERAL AMERICANS WITH DISABILITIES ACT AND THE FEDERAL HELP AMERICA VOTE ACT; ~~AND~~

(2) PROVIDE FOR PROVISIONAL VOTING IN ACCORDANCE WITH SUBTITLE 4 OF THIS TITLE;

(3) SATISFY THE REQUIREMENTS OF § 10-101 OF THIS ARTICLE;
AND

(3) (4) BE OPEN FOR VOTING ~~BEGINNING THE DAY THAT THE VOTE BY MAIL BALLOTS ARE MAILED TO VOTERS UNTIL 8 P.M. ON THE DAY OF A SPECIAL ELECTION~~ DURING THE DAYS AND FOR THE HOURS THAT THE COUNTY COUNCIL DIRECTS IN THE RESOLUTION UNDER § 9-501(C) OF THIS SUBTITLE.

(C) IF NECESSARY TO EXPEDITE THE CONDUCT OF A SPECIAL ELECTION AND SUBJECT TO THE APPROVAL OF THE STATE BOARD, THE LOCAL BOARD MAY ESTABLISH A POLLING PLACE UNDER THIS SECTION DURING A PERIOD WHEN A CHANGE IN POLLING PLACES IS PROHIBITED UNDER § 2-303 OF THIS ARTICLE.

(D) THE PROCESS FOR APPLYING IN PERSON FOR AN ABSENTEE BALLOT AT THE OFFICE OF A LOCAL BOARD UNDER § 9-305(C) OF THIS TITLE DOES NOT APPLY TO A SPECIAL ELECTION CONDUCTED BY MAIL.

(E) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, ANY PROVISION OF THIS ARTICLE THAT APPLIES TO VOTING AT A POLLING PLACE ON

ELECTION DAY ALSO APPLIES TO VOTING AT A VOTING CENTER ESTABLISHED UNDER THIS SECTION.

~~9-505.~~ 9-504.

(A) A VOTER MAY RETURN A VOTE-BY-MAIL BALLOT TO THE LOCAL BOARD:

- (1) BY MAIL;
- (2) IN PERSON DURING REGULAR OFFICE HOURS; OR
- (3) THROUGH A DULY AUTHORIZED AGENT IN ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION.

(B) (1) A VOTER MAY DESIGNATE A DULY AUTHORIZED AGENT IN ACCORDANCE WITH § 9-307 OF THIS TITLE TO RETURN A VOTE-BY-MAIL BALLOT TO THE LOCAL BOARD DURING REGULAR OFFICE HOURS.

(2) NOTWITHSTANDING § 9-307(B)(4)(I) OF THIS TITLE, AN AGENT IS REQUIRED ONLY TO:

- (I) WITNESS THE VOTER MARK THE BALLOT AND PLACE IT IN AN ENVELOPE; AND
- (II) RETURN THE BALLOT TO THE LOCAL BOARD.

~~9-506.~~

~~(A) A VOTE BY MAIL BALLOT THAT IS POSTMARKED BY 8 P.M. ON THE DAY OF A SPECIAL ELECTION AND RECEIVED BY THE LOCAL BOARD NO LATER THAN 5 P.M. ON THE THURSDAY AFTER A SPECIAL ELECTION SHALL BE CONSIDERED TIMELY AND MAY BE COUNTED.~~

~~(B) A VOTE BY MAIL BALLOT THAT IS RETURNED IN PERSON TO THE OFFICE OF THE LOCAL BOARD BY THE VOTER OR THE VOTER'S DULY AUTHORIZED AGENT NO LATER THAN 8 P.M. ON THE DAY OF A SPECIAL ELECTION SHALL BE CONSIDERED TIMELY AND MAY BE COUNTED.~~

~~(C) A VOTE BY MAIL BALLOT THAT DOES NOT MEET THE REQUIREMENTS OF SUBSECTION (A) OR (B) OF THIS SECTION IS NOT TIMELY AND MAY NOT BE COUNTED.~~

~~9-507.~~

9-505.

(A) A VOTE-BY-MAIL BALLOT IS CONSIDERED TIMELY AND MAY BE COUNTED IF THE BALLOT:

(1) IS RETURNED IN PERSON TO THE OFFICE OF THE LOCAL BOARD BY THE VOTER OR THE VOTER'S DULY AUTHORIZED AGENT NO LATER THAN 8 P.M. ON THE DAY OF A SPECIAL ELECTION; OR

(2) (I) IS RECEIVED BY MAIL BY THE LOCAL BOARD NO LATER THAN 10 A.M. ON THE SECOND FRIDAY AFTER A SPECIAL ELECTION; AND

(II) WAS MAILED ON OR BEFORE ELECTION DAY, AS VERIFIED:

1. BY A POSTMARK; OR

2. IF THE RETURN ENVELOPE DOES NOT CONTAIN A POSTMARK OR THE POSTMARK IS ILLEGIBLE, BY THE VOTER'S AFFIDAVIT THAT THE BALLOT WAS MAILED ON OR BEFORE ELECTION DAY.

(B) A VOTE-BY-MAIL BALLOT THAT DOES NOT MEET THE REQUIREMENTS OF SUBSECTION (A) OF THIS SECTION IS NOT TIMELY AND MAY NOT BE COUNTED.

9-506.

THE STATE BOARD ~~SHALL~~ MAY ADOPT REGULATIONS AS NECESSARY TO IMPLEMENT THIS SUBTITLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 678

(House Bill 766)

AN ACT concerning

State Government – Commemorative Days – Crime Victims and Advocates

FOR the purpose of requiring the Governor annually to proclaim a certain day in April as Crime Victim and Advocate Commemorative Day to honor certain crime victims and advocates in the State; requiring the Governor annually to take certain steps to publicize Crime Victim and Advocate Commemorative Day; and generally relating to the commemoration of crime victims and the advocates who serve those victims.

BY adding to

Article – State Government

Section 13–410

Annotated Code of Maryland

(2009 Replacement Volume and 2011 Supplement)

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

Article – State Government

13–410.

THE GOVERNOR ANNUALLY SHALL:

(1) PROCLAIM APRIL 3 AS CRIME VICTIM AND ADVOCATE COMMEMORATIVE DAY TO HONOR THE INDIVIDUALS IN THE STATE WHO HAVE BECOME CRIME VICTIMS AND THE ADVOCATES WHO SERVE THOSE VICTIMS; AND

(2) TAKE APPROPRIATE STEPS TO PUBLICIZE CRIME VICTIM AND ADVOCATE COMMEMORATIVE DAY.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 679

(House Bill 770)

AN ACT concerning

Public Service Commission – Electric Companies – New Generation Facilities and Customer Credits *and the Electric Universal Service Program*

FOR the purpose of ~~providing that the Public Service Commission may not require a certain electric company to construct, acquire, or lease, and operate, its own generating facilities and certain transmission facilities;~~ providing that if a certain party to a merger or acquisition of an electric company or an affiliate of an electric company is required to distribute a credit to certain customers under an agreement with the *Public Service* Commission, the ~~party or electric company may not pay the credit directly to the customers but shall deposit the amount of the credit in the electric universal service program fund to be disbursed in a certain manner~~ *Commission shall consider the adequacy of the current funding of the electric universal service program in providing certain assistance; providing that certain funds deposited into the electric universal service fund are in addition to, and may not substitute for, certain funds;* ~~providing for the application of certain provisions of this Act; making this Act an emergency measure;~~ and generally relating to new electric generating facilities and electric customer credits *and the Electric Universal Service Program.*

~~BY repealing and reenacting, with amendments,
Article – Public Utilities
Section 7-510(e)(6)
Annotated Code of Maryland
(2010 Replacement Volume and 2011 Supplement)~~

BY repealing and reenacting, without amendments,
Article – Public Utilities
Section 7-512.1(e) and (f)
Annotated Code of Maryland
(2010 Replacement Volume and 2011 Supplement)

BY adding to
Article – Public Utilities
Section 7-512.1(g)
Annotated Code of Maryland
(2010 Replacement Volume and 2011 Supplement)

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

~~Article – Public Utilities~~

~~7-510.~~

~~(e) (6) In order to meet long-term, anticipated demand in the State for standard offer service and other electricity supply, the Commission may [require or] allow an investor-owned electric company to construct, acquire, or lease, and operate, its own generating facilities, and transmission facilities necessary to interconnect the generating facilities with the electric grid, subject to appropriate cost recovery.~~

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

Article – Public Utilities

7-512.1.

(e) The total amount of funds to be collected for the electric universal service program each year shall be \$37 million, allocated in the following manner:

(1) \$27.4 million shall be collected from the industrial and commercial classes; and

(2) \$9.6 million shall be collected from the residential class.

(f) (1) In this subsection, “fund” means the electric universal service program fund.

(2) There is an electric universal service program fund.

(3) (i) 1. The Comptroller shall collect the revenue collected by electric companies under subsection (b) of this section and place the revenue into the fund.

2. The General Assembly may appropriate funds supplemental to the funds collected under subparagraph 1 of this subparagraph.

(ii) The fund is a continuing, nonlapsing fund that is not subject to § 7-302 of the State Finance and Procurement Article.

(iii) The purpose of the fund is to assist electric customers as provided in subsection (a)(1) of this section.

(4) The Department of Human Resources, with oversight by the Commission, shall disburse the bill assistance and arrearage retirement funds in accordance with the provisions of this section.

(5) The Comptroller annually shall disburse up to \$1,000,000 of low-income residential weatherization funds to the Department of Housing and Community Development, as provided in the State budget.

(6) (i) At the end of a given fiscal year, any unexpended bill assistance and arrearage retirement funds that were collected for that fiscal year shall be retained in the fund and shall be made available for disbursement through the first 6 months of the next fiscal year to customers who:

- fiscal year;
1. qualify for assistance from the fund during the given fiscal year;
 2. apply for assistance from the fund before the end of the given fiscal year; and
 3. remain eligible for assistance at the time services are provided.

(ii) If the Commission determines that an extension is needed, the Commission may extend up to an additional 3 months the period in which unexpended bill assistance and arrearage retirement funds may be made available for disbursement under subparagraph (i) of this paragraph.

(iii) Any bill assistance and arrearage retirement funds collected for a given fiscal year that are retained under subparagraph (i) of this paragraph and that remain unexpended at the end of the period allowed under subparagraphs (i) and (ii) of this paragraph shall be returned to each customer class in the proportion that the customer class contributed charges to the fund for the given fiscal year in the form of a credit toward the charge assessed in the following fiscal year.

(G) (1) IF A PARTY TO A MERGER OR ACQUISITION OF AN ELECTRIC COMPANY OR AN AFFILIATE OF AN ELECTRIC COMPANY IS REQUIRED TO DISTRIBUTE A CREDIT TO THE CUSTOMERS IN THE ELECTRIC COMPANY'S SERVICE TERRITORY UNDER AN AGREEMENT WITH THE COMMISSION IN CONNECTION WITH THE MERGER OR ACQUISITION, THE ~~PARTY OR THE ELECTRIC COMPANY MAY NOT PAY THE CREDIT DIRECTLY TO THE CUSTOMERS BUT SHALL DEPOSIT THE ENTIRE AMOUNT OF THE CREDIT IN THE ELECTRIC UNIVERSAL SERVICE PROGRAM FUND TO BE DISBURSED IN A MANNER APPROVED BY THE COMMISSION. COMMISSION SHALL CONSIDER THE ADEQUACY OF THE CURRENT FUNDING OF THE ELECTRIC UNIVERSAL SERVICE PROGRAM IN PROVIDING ASSISTANCE TO CUSTOMERS WHO QUALIFY UNDER THIS SECTION.~~

(2) ~~THE ANY FUNDS DEPOSITED INTO THE ELECTRIC UNIVERSAL SERVICE PROGRAM FUND UNDER THIS SECTION AS A RESULT OF AN AGREEMENT WITH THE COMMISSION IN CONNECTION WITH A MERGER OR ACQUISITION OF AN ELECTRIC COMPANY OR AN AFFILIATE OF AN ELECTRIC COMPANY ARE IN ADDITION TO, AND MAY NOT SUBSTITUTE FOR, FUNDS COLLECTED UNDER SUBSECTION (E) OF THIS SECTION.~~

~~SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall be construed to apply retroactively and shall be applied to and interpreted to affect the distribution of any credit required under an agreement with the Public Service~~

~~Commission and a party to a merger or acquisition of an electric company or an affiliate of an electric company that occurs on or after January 1, 2011.~~

~~SECTION 4. 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 shall take effect June 1, 2012.~~

Approved by the Governor, May 22, 2012.

Chapter 680

(House Bill 807)

AN ACT concerning

State Retirement and Pension System – Contribution Rates and Reinvestment of Savings – Technical Clarifications

FOR the purpose of clarifying how certain contribution rates for the employees' and teachers' retirement and pension systems are calculated to reflect legislative changes that result in a change to normal cost or accrued liabilities; repealing a certain requirement that the Board of Trustees for the State Retirement and Pension System certify a calculation of the difference between certain contributions, resulting from certain legislative changes; altering the method for determining a certain amount of reinvested savings required to be included in the annual budget bill; altering certain definitions; defining certain terms; and generally relating to technical clarifications in connection with the determination of certain pension contribution rates and certain requirements to reinvest savings into the State Retirement and Pension System.

BY repealing and reenacting, with amendments,
Article – State Personnel and Pensions
Section 21–304(a), (e), and (f) and 21–308(a)
Annotated Code of Maryland
(2009 Replacement Volume and 2011 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

21–304.

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

(2) **["Preliminary] "FULL funding rate"** means the sum of:

(i) the aggregate normal rate that is based on the normal contribution rate calculated under subsection (c) of this section **AND ADJUSTED TO INCORPORATE LEGISLATIVE CHANGES IN BENEFITS TO REFLECT CHANGES TO THE NORMAL COST**; and

(ii) the aggregate unfunded accrued liability contribution rate that is based on the unfunded accrued liability contribution rate under subsection **[(d)(1)(i) and (ii)1 and 2] (D)(1) and (2)** of this section.

(3) **"Funding ratio for the employees' systems"** means the actuarial value of assets for the employees' systems divided by the actuarial accrued liability for the employees' systems.

(4) **"Funding ratio for the teachers' systems"** means the actuarial value of assets for the teachers' systems divided by the actuarial accrued liability for the teachers' systems.

(5) "NEW LEGISLATIVE CHANGE" MEANS A LEGISLATIVE CHANGE THAT RESULTS IN AN ADJUSTMENT TO THE NORMAL COST OR ACCRUED LIABILITIES THAT HAS NOT PREVIOUSLY BEEN RECOGNIZED IN AN ACTUARIAL VALUATION UNDER § 21-125(B) OF THIS TITLE.

(6) "PRELIMINARY FUNDING RATE" MEANS THE FULL FUNDING RATE WITHOUT ANY ADJUSTMENT TO THE NORMAL COST OR ACCRUED LIABILITIES FOR A NEW LEGISLATIVE CHANGE.

[(5)] (7) **"State member"** does not include a member on whose behalf a participating governmental unit is required to make an employer contribution under § 21-305 or § 21-306 of this subtitle.

(e) (1) When the funding ratio for the employees' systems is between 90% and 110%, inclusive, the employees' system contribution rate is the rate for the previous fiscal year, adjusted to reflect legislative changes that result in changes in normal cost and to amortize over 25 years any actuarial liabilities of the employees' systems.

(2) Subject to paragraph (4) of this subsection, when the funding ratio for the employees' systems is below 90%, the employees' system contribution rate shall be the sum of:

(i) the employees' system contribution rate for the previous fiscal year; and

(ii) 1. 20% of the difference between the [preliminary] FULL funding rate for the current fiscal year and the employees' system contribution rate for the previous fiscal year; OR

2. FOR A FISCAL YEAR FOR WHICH AN ADJUSTMENT TO NORMAL COST OR ACCRUED LIABILITIES FOR A NEW LEGISLATIVE CHANGE IS FIRST DETERMINED AS A RESULT OF AN ACTUARIAL VALUATION UNDER § 21-125(B) OF THIS TITLE, 20% OF THE DIFFERENCE BETWEEN THE PRELIMINARY FUNDING RATE FOR THE CURRENT FISCAL YEAR AND THE EMPLOYEES' SYSTEM CONTRIBUTION RATE FOR THE PREVIOUS FISCAL YEAR.

(3) Subject to paragraph (4) of this subsection, when the funding ratio for the employees' systems is above 110%, the employees' system contribution rate shall be the difference between:

(i) the employees' system contribution rate for the previous fiscal year; and

(ii) 1. 20% of the difference between the employees' system contribution rate for the previous fiscal year and the [preliminary] FULL funding rate for the current fiscal year; OR

2. FOR A FISCAL YEAR FOR WHICH AN ADJUSTMENT TO NORMAL COST OR ACCRUED LIABILITIES FOR A NEW LEGISLATIVE CHANGE IS FIRST DETERMINED AS A RESULT OF AN ACTUARIAL VALUATION UNDER § 21-125(B) OF THIS TITLE, 20% OF THE DIFFERENCE BETWEEN THE EMPLOYEES' SYSTEM CONTRIBUTION RATE FOR THE PREVIOUS FISCAL YEAR AND THE PRELIMINARY FUNDING RATE FOR THE CURRENT FISCAL YEAR.

(4) [The] FOR A FISCAL YEAR FOR WHICH AN ADJUSTMENT TO NORMAL COST OR ACCRUED LIABILITIES FOR A NEW LEGISLATIVE CHANGE IS DETERMINED AS A RESULT OF AN ACTUARIAL VALUATION UNDER § 21-125(B) OF THIS TITLE, THE contribution rate for the employees' systems under paragraph (2) or (3) of this subsection shall be adjusted to FULLY reflect the cost or savings of THE NEW legislative changes that result in changes in normal contributions or accrued liabilities and to amortize over 25 years any changes in accrued liabilities of the employees' systems.

(f) (1) When the funding ratio for the teachers' systems is between 90% and 110%, the teachers' system contribution rate is the rate for the previous fiscal year, adjusted to reflect legislative changes that result in changes in normal cost and to amortize over 25 years any actuarial liabilities of the teachers' systems.

(2) Subject to paragraph (4) of this subsection, when the funding ratio for the teachers' systems is below 90%, the teachers' system contribution rate shall be the sum of:

(i) the teachers' system contribution rate for the previous fiscal year; and

(ii) 1. 20% of the difference between the [preliminary] FULL funding rate for the current fiscal year and the teachers' system contribution rate for the previous fiscal year; OR

2. FOR A FISCAL YEAR FOR WHICH AN ADJUSTMENT TO NORMAL COST OR ACCRUED LIABILITIES FOR A NEW LEGISLATIVE CHANGE IS FIRST DETERMINED AS A RESULT OF AN ACTUARIAL VALUATION UNDER § 21-125(B) OF THIS TITLE, 20% OF THE DIFFERENCE BETWEEN THE PRELIMINARY FUNDING RATE FOR THE CURRENT FISCAL YEAR AND THE TEACHERS' SYSTEM CONTRIBUTION RATE FOR THE PREVIOUS FISCAL YEAR.

(3) Subject to paragraph (4) of this subsection, when the funding ratio for the teachers' systems is above 110%, the teachers' system contribution rate shall be the difference between:

(i) the teachers' system contribution rate for the previous fiscal year; and

(ii) 1. 20% of the difference between the teachers' system contribution rate for the previous fiscal year and the [preliminary] FULL funding rate for the current fiscal year; OR

2. FOR A FISCAL YEAR FOR WHICH AN ADJUSTMENT TO NORMAL COST OR ACCRUED LIABILITIES FOR A NEW LEGISLATIVE CHANGE IS FIRST DETERMINED AS A RESULT OF AN ACTUARIAL VALUATION UNDER § 21-125(B) OF THIS TITLE, 20% OF THE DIFFERENCE BETWEEN THE TEACHERS' SYSTEM CONTRIBUTION RATE FOR THE PREVIOUS FISCAL YEAR AND THE PRELIMINARY FUNDING RATE FOR THE CURRENT FISCAL YEAR.

(4) [The] FOR A FISCAL YEAR FOR WHICH AN ADJUSTMENT TO NORMAL COST OR ACCRUED LIABILITIES FOR A NEW LEGISLATIVE CHANGE IS DETERMINED AS A RESULT OF AN ACTUARIAL VALUATION UNDER § 21-125(B) OF THIS TITLE, THE contribution rate for the teachers' systems under paragraph (2) or (3) of this subsection shall be adjusted to FULLY reflect the cost or savings of THE NEW legislative changes that result in changes in normal contributions or accrued liabilities and to amortize over 25 years any changes in accrued liabilities of the teachers' systems.

21–308.

- (a) (1) On or before December 1 of each year, the Board of Trustees shall:
- (i) certify to the Governor and the Secretary of Budget and Management the rates to be used to determine the amounts to be paid by the State to the accumulation fund of each of the several systems during the next fiscal year; and
 - (ii) provide to the Secretary of Budget and Management a statement of the total amount to be paid to the Teachers' Retirement System and the Teachers' Pension System expressed as a percentage of the payroll of all members of those State systems.
- (2) The Governor shall include in the budget bill:
- (i) the total amount of the State's contribution to each State system as ascertained based on the rates certified by the Board of Trustees under paragraph (1) of this subsection;
 - (ii) the additional amounts as ascertained under subsection (d) of this section for the State's payment to the professional and clerical employees of the Department of Public Libraries of Montgomery County who are members of the Employees' Retirement System of Montgomery County and are excluded from membership in the Teachers' Retirement System or the Teachers' Pension System; and
 - (iii) any additional amount required to be in the budget bill under § 3–501(c)(2)(ii) of this article.
- (3) The amounts that the Governor is required to include in the budget bill under paragraph (2) of this subsection shall be reduced by the amount of administrative and operational expenses for the Board of Trustees and the State Retirement Agency that are to be paid by local employers under § 21–316 of this subtitle other than participating governmental units or employers who are required to make contributions under § 21–307 of this subtitle.
- (4) [(i) On or before December 1, 2012, and each December 1 thereafter, the Board of Trustees shall certify to the Governor and the Secretary of Budget and Management the amount of the difference between the total amount of the State's contribution required under paragraph (2) of this subsection and the amount that the Board determines would have been required had legislation increasing employee contributions to, and reducing the liabilities of, the State Retirement and Pension System not been enacted in 2011.

(ii)] For fiscal year 2014 and each fiscal year thereafter, in addition to the amounts required under paragraph (2) of this subsection, the Governor shall include in the budget bill [the lesser of:

- 1.] \$300,000,000[; and
2. the amount certified under subparagraph (i) of this paragraph].

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 681

(House Bill 824)

AN ACT concerning

State Board of Physicians and Allied Health Advisory Committees – Sunset Extension and Program Evaluation Appointment and Term of Chair

FOR the purpose of ~~continuing~~ requiring the Governor to appoint the chair of the State Board of Physicians; establishing the term of the office of the chair; and generally relating to appointment and term of the chair of the State Board of Physicians. ~~and certain allied health advisory committees 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 and the committees; altering to a certain date the termination provision related to the Perfusion Advisory Committee; prohibiting an individual from being appointed to the Board or an allied health advisory committee under certain circumstances; repealing a certain provision of law regarding entry onto private premises for a certain purpose; authorizing the Board's executive director to apply for a certain search warrant under certain circumstances; specifying that the application for the warrant must meet certain requirements; authorizing a judge who receives a certain search warrant application to issue a warrant under certain circumstances; specifying that a certain search warrant must include certain information and be executed and returned to a certain person within a certain period of time; authorizing the Board to waive, under certain circumstances, certain training required for licensure; codifying the requirement that the Board provide certain individuals an opportunity to appear before the Board under certain circumstances; requiring the Board to disclose the filing of charges and initial denials of licensure on the Board's Web site; requiring that physician license profiles~~

~~include a summary of charges filed against the physician and a copy of the charging document under certain circumstances; requiring that license profiles include a certain disclaimer; requiring the Board to include certain information on a license profile within a certain time period; specifying that a certain report that certain entities are required to file with the Board include certain information; authorizing the Board to impose a certain civil penalty on an alternative health system that fails to file a certain report; requiring the Board to remit a certain penalty to the General Fund of the State; repealing the requirement that a circuit court of the State impose a civil penalty on an alternative health system that fails to file a certain report; specifying that a certain court reporting requirement is to be enforced by the imposition of a certain fine by a circuit court of the State; requiring the chairs of certain committees to serve in an advisory capacity to the Board, report to the Board a certain number of times a year, and present to the Board certain annual reports; requiring certain committees to submit an annual report to the Board; requiring the Board to consider all recommendations of certain committees, provide a certain explanation to the committees under certain circumstances, and provide a certain report to the committees a certain number of times each year; requiring the Board to create and maintain a certain profile on certain licensees; requiring the profiles to contain certain information; requiring the Board to forward a written copy of certain profiles to a person under certain circumstances; requiring the Board to maintain certain profiles on the Board's Web site; requiring the Board to provide a mechanism for correcting errors in certain profiles; requiring the Polysomnography Professional Standards Committee to elect a chair every certain number of years; defining certain terms related to the practice of athletic training in the State; altering a certain definition related to the practice of athletic training in the State; authorizing an athletic trainer to accept an outside referral from certain individuals under certain circumstances; repealing the requirement that the Board assess a certain fee under certain circumstances; requiring the Board and the Department of Health and Mental Hygiene to develop and implement a certain strategy on or before a certain date; requiring the Board to assess certain practices and submit a certain long-term fiscal plan to the Department of Legislative Services on or before a certain date; requiring the Board to develop and implement a certain recruitment plan on or before a certain date; requiring the Board to amend the Board's regulations to reflect the procedures of the Board on or before a certain date; requiring certain entities to determine the appropriate entity to investigate and enforce certain provisions of law on or before a certain date; requiring the Board, in consultation with certain persons, to adopt certain regulations on or before a certain date; requiring the Board to issue a license to an individual under a certain provision of law under certain circumstances; requiring the Board to submit a certain report to the Department of Legislative Services on or before a certain date; requiring the Department of Legislative Services to make certain recommendations to certain committees of the General Assembly on or before a certain date; providing for the effective date of certain provisions of this Act; and generally relating to the State Board of Physicians and the related allied health advisory committees.~~

~~BY adding to~~

~~Article – Health Occupations~~

~~Section 14-202(d), 14-206.1, 14-401(d), 14-416, 14-5A-06(e), 14-5A-18.1,
14-5B-05(f), 14-5B-15.1, 14-5C-06(d) and (e), 14-5C-18.1,
14-5D-05(f), 14-5D-16.1, 15-202(f), and 15-316.1~~

~~Annotated Code of Maryland~~

~~(2009 Replacement Volume and 2011 Supplement)~~

BY repealing and reenacting, with amendments,

Article – Health Occupations

Section ~~14-206(d)(1), 14-307(d) and (g), 14-411(i), 14-411.1(b), (e)(2), and (f),
14-413, 14-414, 14-5A-06(d), 14-5A-07, 14-5A-25, 14-5B-05(e),
14-5B-06, 14-5B-21, 14-5C-07, 14-5C-25, 14-5D-01, 14-5D-05(e),
14-5D-06, 14-5D-11, 14-5D-20, 14-702, 15-202(e), 15-205, and 15-502~~
14-203

Annotated Code of Maryland

(2009 Replacement Volume and 2011 Supplement)

~~BY repealing~~

~~Article – Health Occupations~~

~~Section 15-310(e)~~

~~Annotated Code of Maryland~~

~~(2009 Replacement Volume and 2011 Supplement)~~

~~BY repealing and reenacting, with amendments,~~

~~Article – Health Occupations~~

~~Section 14-5E-06(d), 14-5E-07, and 14-5E-25~~

~~Annotated Code of Maryland~~

~~(2009 Replacement Volume and 2011 Supplement)~~

~~(As enacted by Chapter 588 of the Acts of the General Assembly of 2011)~~

~~BY adding to~~

~~Article – Health Occupations~~

~~Section 14-5E-06(e) and 14-5E-18.1~~

~~Annotated Code of Maryland~~

~~(2009 Replacement Volume and 2011 Supplement)~~

~~(As enacted by Chapter 588 of the Acts of the General Assembly of 2011)~~

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

Article – Health Occupations

14-203.

(A) (1) THE GOVERNOR SHALL APPOINT THE CHAIR OF THE BOARD.

(2) THE TERM OF OFFICE OF THE CHAIR IS 2 YEARS.

~~[(a)]~~ **(B)** From among its members, the Board shall elect [a chair and] any [other] officers, OTHER THAN THE CHAIR, that it considers necessary.

~~[(b)]~~ **(C)** The Board shall determine:

- (1) The manner of election of officers;
- (2) The term of office of each officer; and
- (3) The duties of each officer.

~~14-202.~~

~~**(L) AN INDIVIDUAL MAY NOT BE APPOINTED TO THE BOARD IF THE INDIVIDUAL IS PROVIDING OR HAS PROVIDED SERVICES TO THE BOARD FOR REMUNERATION.**~~

~~14-206.~~

~~(d) (1) If the entry is necessary to carry out a duty under this title, the Board's executive director or other duly authorized agent or investigator of the Board may enter at any reasonable hour:~~

~~(i) A place of business of a licensed physician; OR~~

~~(ii) [Private premises where the Board suspects that a person who is not licensed by the Board is practicing, attempting to practice, or offering to practice medicine, based on a formal complaint; or~~

~~(iii)] Public premises.~~

~~14-206.1.~~

~~**(A) THE BOARD'S EXECUTIVE DIRECTOR MAY APPLY TO A JUDGE OF THE DISTRICT COURT OR A CIRCUIT COURT FOR A SEARCH WARRANT TO ENTER PRIVATE PREMISES WHERE THE BOARD SUSPECTS THAT A PERSON WHO IS NOT LICENSED BY THE BOARD IS PRACTICING, ATTEMPTING TO PRACTICE, OR OFFERING TO PRACTICE MEDICINE, BASED ON A COMPLAINT RECEIVED BY THE BOARD.**~~

~~**(B) AN APPLICATION FOR A SEARCH WARRANT SHALL:**~~

~~(1) BE IN WRITING;~~

~~(2) BE VERIFIED BY THE APPLICANT; AND~~

~~(3) DESCRIBE THE PREMISES TO BE SEARCHED AND THE NATURE, SCOPE, AND PURPOSE OF THE SEARCH.~~

~~(c) A JUDGE WHO RECEIVES AN APPLICATION FOR A SEARCH WARRANT MAY ISSUE A WARRANT ON A FINDING THAT:~~

~~(1) THE SCOPE OF THE PROPOSED SEARCH IS REASONABLE;~~

~~(2) THE REQUEST FOR A SEARCH WARRANT IS BASED ON A COMPLAINT RECEIVED BY THE BOARD; AND~~

~~(3) OBTAINING CONSENT TO ENTER THE PREMISES MAY JEOPARDIZE THE ATTEMPT TO DETERMINE WHETHER A PERSON WHO IS NOT LICENSED BY THE BOARD IS PRACTICING, ATTEMPTING TO PRACTICE, OR OFFERING TO PRACTICE MEDICINE.~~

~~(d) (1) A SEARCH WARRANT ISSUED UNDER THIS SECTION SHALL SPECIFY THE LOCATION OF THE PREMISES TO BE SEARCHED.~~

~~(2) A SEARCH CONDUCTED IN ACCORDANCE WITH A SEARCH WARRANT ISSUED UNDER THIS SECTION MAY NOT EXCEED THE LIMITS SPECIFIED IN THE WARRANT.~~

~~(e) A SEARCH WARRANT ISSUED UNDER THIS SECTION SHALL BE EXECUTED AND RETURNED TO THE ISSUING JUDGE:~~

~~(1) WITHIN THE PERIOD SPECIFIED IN THE WARRANT, WHICH MAY NOT EXCEED 30 DAYS FROM THE DATE OF ISSUANCE; OR~~

~~(2) WITHIN 15 DAYS AFTER THE WARRANT IS ISSUED, IF NO PERIOD IS SPECIFIED IN THE WARRANT.~~

~~14-307.~~

~~(d) (1) Except as provided in § 14-308 of this subtitle AND PARAGRAPH (2) OF THIS SUBSECTION, the applicant shall:~~

~~[(1)] (i) 1. Have a degree of doctor of medicine from a medical school that is accredited by an accrediting organization that the Board recognizes in its regulations; and~~

~~[(ii)] 2. Submit evidence acceptable to the Board of successful completion of 1 year of training in a postgraduate medical training program that is accredited by an accrediting organization that the Board recognizes in its regulations;~~
~~or~~

~~[(2)] [(i)] (H) 1. Have a degree of doctor of osteopathy from a school of osteopathy in the United States, its territories or possessions, Puerto Rico, or Canada that has standards for graduation equivalent to those established by the American Osteopathic Association; and~~

~~[(ii)] 2. Submit evidence acceptable to the Board of successful completion of 1 year of training in a postgraduate medical training program accredited by an accrediting organization that the Board recognizes in its regulations.~~

~~(2) THE BOARD MAY WAIVE THE POSTGRADUATE MEDICAL TRAINING REQUIREMENT IF THE APPLICANT HAS:~~

~~(i) TAUGHT FULL TIME IN A MEDICAL SCHOOL IN THE UNITED STATES THAT IS ACCREDITED BY AN ACCREDITING ORGANIZATION THAT THE BOARD RECOGNIZES IN ITS REGULATIONS; OR~~

~~(ii) PRACTICED CLINICAL MEDICINE IN ANOTHER STATE OF THE UNITED STATES OR CANADA.~~

~~(g) (1) [An] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, AN applicant who has failed the examination or any part of the examination 3 or more times shall submit evidence of having completed 1 year of additional clinical training in an approved postgraduate training program following the latest failure.~~

~~(2) THE BOARD MAY WAIVE THE ADDITIONAL CLINICAL TRAINING REQUIREMENT IF THE APPLICANT CAN DEMONSTRATE THAT:~~

~~(i) THE FAILURES RESULTED FROM A PHYSICAL, EMOTIONAL, OR MENTAL CONDITION OR LEARNING DISABILITY;~~

~~(ii) THE INDIVIDUAL HAS PRACTICED CLINICAL MEDICINE IN ANOTHER STATE OF THE UNITED STATES OR CANADA; OR~~

~~(iii) THE INDIVIDUAL IS CERTIFIED BY A CERTIFYING ORGANIZATION THAT THE BOARD RECOGNIZES IN ITS REGULATIONS.~~

~~(L) THE BOARD, IN CONDUCTING A CASE RESOLUTION CONFERENCE, OR ITS SUCCESSOR, UNDER COMAR 10.32.02.03 SHALL PROVIDE AN OPPORTUNITY TO APPEAR BEFORE THE BOARD TO BOTH THE LICENSEE WHO HAS BEEN CHARGED AND THE INDIVIDUAL WHO HAS FILED THE COMPLAINT AGAINST THE LICENSEE GIVING RISE TO THE CHARGE.~~

~~14-411.~~

~~(i) Following the filing of charges or notice of initial denial of license application, the Board shall disclose the filing to the public ON THE BOARD'S WEB SITE.~~

~~14-411.1.~~

~~(b) The Board shall create and maintain a public individual profile on each licensee that includes the following information:~~

~~(1) A SUMMARY OF CHARGES FILED AGAINST THE LICENSEE THAT INCLUDES A COPY OF THE CHARGING DOCUMENT, UNTIL THE BOARD HAS TAKEN ACTION UNDER § 14-404 OF THIS SUBTITLE BASED ON THE CHARGES OR HAS RESCINDED THE CHARGES.~~

~~(2) A description of any disciplinary action taken by the Board against the licensee within the most recent 10-year period that includes a copy of the public order;~~

~~[(2)] (3) A description in summary form of any final disciplinary action taken by a licensing board in any other state or jurisdiction against the licensee within the most recent 10-year period;~~

~~[(3)] (4) The number of medical malpractice final court judgments and arbitration awards against the licensee within the most recent 10-year period for which all appeals have been exhausted as reported to the Board;~~

~~[(4)] (5) A description of a conviction or entry of a plea of guilty or nolo contendere by the licensee for a crime involving moral turpitude reported to the Board under § 14-413(b) of this subtitle; and~~

~~[(5)] (6) Medical education and practice information about the licensee including:~~

~~(i) The name of any medical school that the licensee attended and the date on which the licensee graduated from the school;~~

~~(ii) A description of any internship and residency training;~~

~~(iii) A description of any specialty board certification by a recognized board of the American Board of Medical Specialties or the American Osteopathic Association;~~

~~(iv) The name of any hospital where the licensee has medical privileges as reported to the Board under § 14-413 of this subtitle;~~

~~(v) The location of the licensee's primary practice setting; and~~

~~(vi) Whether the licensee participates in the Maryland Medical Assistance Program.~~

~~(e) In addition to the requirements of subsection (b) of this section, the Board shall:~~

~~(2) Include a statement on each licensee's profile of information to be taken into consideration by a consumer when viewing a licensee's profile, including factors to consider when evaluating a licensee's malpractice data AND A DISCLAIMER STATING THAT A CHARGING DOCUMENT DOES NOT INDICATE A FINAL FINDING OF GUILT BY THE BOARD; and~~

~~(f) The Board shall include information relating to CHARGES FILED AGAINST A LICENSEE BY THE BOARD AND a final disciplinary action taken by the Board against a licensee in the licensee's profile within 10 days after THE CHARGES ARE FILED OR the action becomes final.~~

~~14-413.~~

~~(a) (1) Every 6 months, each hospital and related institution shall file with the Board a report that:~~

~~(i) Contains the name of each licensed physician who, during the 6 months preceding the report:~~

~~1. Is employed by the hospital or related institution;~~

~~2. Has privileges with the hospital or related institution;~~

~~and~~

~~3. Has applied for privileges with the hospital or related institution; [and]~~

~~(ii) States whether, as to each licensed physician, during the 6 months preceding the report:~~

~~1. The hospital or related institution denied the application of a physician for staff privileges or limited, reduced, otherwise changed, or terminated the staff privileges of a physician, or the physician resigned whether or not under formal accusation, if the denial, limitation, reduction, change, termination, or resignation is for reasons that might be grounds for disciplinary action under § 14-404 of this subtitle;~~

~~2. The hospital or related institution took any disciplinary action against a salaried, licensed physician without staff privileges, including termination of employment, suspension, or probation, for reasons that might be grounds for disciplinary action under § 14-404 of this subtitle;~~

~~3. The hospital or related institution took any disciplinary action against an individual in a postgraduate medical training program, including removal from the training program, suspension, or probation for reasons that might be grounds for disciplinary action under § 14-404 of this subtitle;~~

~~4. A licensed physician or an individual in a postgraduate training program voluntarily resigned from the staff, employ, or training program of the hospital or related institution for reasons that might be grounds for disciplinary action under § 14-404 of this subtitle; or~~

~~5. The hospital or related institution placed any other restrictions or conditions on any of the licensed physicians as listed in items 1 through 4 of this subparagraph for any reasons that might be grounds for disciplinary action under § 14-404 of this subtitle; AND~~

~~(III) STATES THAT NO ACTION WAS TAKEN AGAINST THE LICENSED PHYSICIAN IF THE HOSPITAL OR RELATED INSTITUTION DID NOT TAKE ACTION AGAINST THE LICENSED PHYSICIAN DURING THE PERIOD COVERED BY THE REPORT.~~

~~(2) The hospital or related institution shall:~~

~~(i) Submit the report within 10 days of any action described in paragraph (1)(ii) of this subsection; and~~

~~(ii) State in the report the reasons for its action or the nature of the formal accusation pending when the physician resigned.~~

~~(3) The Board may extend the reporting time under this subsection for good cause shown.~~

~~(4) The minutes or notes taken in the course of determining the denial, limitation, reduction, or termination of the staff privileges of any physician in a hospital or related institution are not subject to review or discovery by any person.~~

~~[(b) (1) Each court shall report to the Board each conviction of or entry of a plea of guilty or nolo contendere by a physician for any crime involving moral turpitude.~~

~~(2) The court shall submit the report within 10 days of the conviction or entry of the plea.]~~

~~[(c) (B) The Board may enforce this section by subpoena.~~

~~[(d) (C) Any person shall have the immunity from liability described under § 5-715(d) of the Courts and Judicial Proceedings Article for giving any of the information required by this section.~~

~~[(e) (D) A report made under this section is not subject to subpoena or discovery in any civil action other than a proceeding arising out of a hearing and decision of the Board under this title.~~

~~[(f) (E) (1) The Board may impose a civil penalty of up to \$5,000 for failure to report under this section.~~

~~(2) The Board shall remit any penalty collected under this subsection into the General Fund of the State.~~

~~14-414.~~

~~(a) (1) Every 6 months, each alternative health system as defined in § 1-401 of this article shall file with the Board a report that:~~

~~(i) Contains the name of each licensed physician who, during the 6 months preceding the report:~~

~~1. Is employed by the alternative health system;~~

~~2. Is under contract with the alternative health system;~~

~~and~~

~~3. Has completed a formal application process to become under contract with the alternative health system; [and]~~

~~(ii) States whether, as to each licensed physician, during the 6 months preceding the report:~~

~~1. The alternative health system denied the formal application of a physician to contract with the alternative health system or limited, reduced, otherwise changed, or terminated the contract of a physician, or the~~

~~physician resigned whether or not under formal accusation, if the denial, limitation, reduction, change, termination, or resignation is for reasons that might be grounds for disciplinary action under § 14-404 of this subtitle; or~~

~~2. The alternative health system placed any other restrictions or conditions on any licensed physician for any reasons that might be grounds for disciplinary action under § 14-404 of this subtitle; AND~~

~~(H) STATES THAT NO ACTION WAS TAKEN AGAINST THE LICENSED PHYSICIAN IF THE ALTERNATIVE HEALTH SYSTEM DID NOT TAKE ACTION AGAINST THE LICENSED PHYSICIAN DURING THE PERIOD COVERED BY THE REPORT.~~

~~(2) The alternative health system shall:~~

~~(i) Submit the report within 10 days of any action described in paragraph (1)(ii) of this subsection; and~~

~~(ii) State in the report the reasons for its action or the nature of the formal accusation pending when the physician resigned.~~

~~(3) The Board may extend the reporting time under this subsection for good cause shown.~~

~~(4) The minutes or notes taken in the course of determining the denial, limitation, reduction, or termination of the employment contract of any physician in an alternative health system are not subject to review or discovery by any person.~~

~~[(b) (1) Each court shall report to the Board each conviction of or entry of a plea of guilty or nolo contendere by a physician for any crime involving moral turpitude.~~

~~(2) The court shall submit the report within 10 days of the conviction or entry of the plea.]~~

~~[(c) (B) The Board may enforce this section by subpoena.~~

~~[(d) (C) Any person shall have the immunity from liability described under § 5-715(d) of the Courts and Judicial Proceedings Article for giving any of the information required by this section.~~

~~[(e) (D) A report made under this section is not subject to subpoena or discovery in any civil action other than a proceeding arising out of a hearing and decision of the Board under this title.~~

~~[(f)] (E) (1) [Failure to report pursuant to the requirements of this section shall result in imposition of a civil penalty of up to \$5,000 by a circuit court of this State] THE BOARD MAY IMPOSE A CIVIL PENALTY OF UP TO \$5,000 FOR FAILURE TO REPORT UNDER THIS SECTION.~~

~~(2) THE BOARD SHALL REMIT ANY PENALTY COLLECTED UNDER THIS SUBSECTION INTO THE GENERAL FUND OF THE STATE.~~

~~14-416.~~

~~(A) (1) EACH COURT SHALL REPORT TO THE BOARD EACH CONVICTION OF OR ENTRY OF A PLEA OF GUILTY OR NOLO CONTENDERE BY A PHYSICIAN FOR ANY CRIME INVOLVING MORAL TURPITUDE.~~

~~(2) THE COURT SHALL SUBMIT THE REPORT WITHIN 10 DAYS OF THE CONVICTION OR ENTRY OF THE PLEA.~~

~~(B) FAILURE TO REPORT PURSUANT TO THE REQUIREMENTS OF THIS SECTION SHALL RESULT IN IMPOSITION OF A CIVIL PENALTY OF UP TO \$5,000 BY A CIRCUIT COURT OF THE STATE.~~

~~14-5A-06.~~

~~(d) (1) From among its members, the Committee shall elect a chair once every 2 years.~~

~~(2) THE CHAIR SHALL:~~

~~(i) SERVE IN AN ADVISORY CAPACITY TO THE BOARD AS A REPRESENTATIVE OF THE COMMITTEE;~~

~~(ii) REPORT TO THE BOARD TWICE A YEAR ON THE ACTIVITIES OF THE COMMITTEE; AND~~

~~(iii) PRESENT TO THE BOARD THE COMMITTEE'S ANNUAL REPORT.~~

~~(E) AN INDIVIDUAL MAY NOT BE APPOINTED TO THE COMMITTEE IF THE INDIVIDUAL IS PROVIDING OR HAS PROVIDED SERVICES TO THE BOARD FOR REMUNERATION.~~

~~14-5A-07.~~

~~(A) In addition to the powers set forth elsewhere in this subtitle, the Committee shall:~~

~~(1) Develop and recommend to the Board regulations to carry out the provisions of this subtitle;~~

~~(2) Develop and recommend to the Board a code of ethics for the practice of respiratory care for adoption by the Board;~~

~~(3) If requested, develop and recommend to the Board standards of care for the practice of respiratory care;~~

~~(4) Develop and recommend to the Board the requirements for licensure as a respiratory care practitioner;~~

~~(5) Evaluate the credentials of applicants as necessary and recommend licensure of applicants who fulfill the requirements for a license to practice respiratory care;~~

~~(6) Develop and recommend to the Board continuing education requirements for license renewal;~~

~~(7) Provide the Board with recommendations concerning the practice of respiratory care;~~

~~(8) Develop and recommend to the Board criteria related to the practice of respiratory care in the home setting; [and]~~

~~(9) Keep a record of its proceedings; AND~~

~~(10) SUBMIT AN ANNUAL REPORT TO THE BOARD.~~

~~(B) THE BOARD SHALL:~~

~~(1) CONSIDER ALL RECOMMENDATIONS OF THE COMMITTEE AND PROVIDE A WRITTEN EXPLANATION OF THE BOARD'S REASONS FOR REJECTING OR MODIFYING THE COMMITTEE'S RECOMMENDATIONS; AND~~

~~(2) PROVIDE TO THE COMMITTEE TWICE A YEAR A REPORT ON THE DISCIPLINARY MATTERS INVOLVING LICENSEES.~~

~~14-5A-18.1.~~

~~(A) FOLLOWING THE FILING OF CHARGES OR NOTICE OF INITIAL DENIAL OF A LICENSE APPLICATION, THE BOARD SHALL DISCLOSE THE FILING TO THE PUBLIC ON THE BOARD'S WEB SITE.~~

~~(B) THE BOARD SHALL CREATE AND MAINTAIN A PUBLIC INDIVIDUAL PROFILE ON EACH LICENSEE THAT INCLUDES THE FOLLOWING INFORMATION:~~

~~(1) A SUMMARY OF CHARGES FILED AGAINST THE LICENSEE THAT INCLUDES A COPY OF THE CHARGING DOCUMENT UNTIL THE BOARD HAS TAKEN ACTION UNDER § 14-5A-17 OF THIS SUBTITLE BASED ON THE CHARGES OR HAS RESCINDED THE CHARGES;~~

~~(2) A DESCRIPTION OF ANY DISCIPLINARY ACTION TAKEN BY THE BOARD AGAINST THE LICENSEE WITHIN THE MOST RECENT 10-YEAR PERIOD THAT INCLUDES A COPY OF THE PUBLIC ORDER;~~

~~(3) A DESCRIPTION IN SUMMARY FORM OF ANY FINAL DISCIPLINARY ACTION TAKEN BY A LICENSING BOARD IN ANY OTHER STATE OR JURISDICTION AGAINST THE LICENSEE WITHIN THE MOST RECENT 10-YEAR PERIOD;~~

~~(4) A DESCRIPTION OF A CONVICTION OR ENTRY OF A PLEA OF GUILTY OR NOLO CONTENDERE BY THE LICENSEE FOR A CRIME INVOLVING MORAL TURPITUDE REPORTED TO THE BOARD UNDER § 14-5A-17(C) OF THIS SUBTITLE; AND~~

~~(5) THE PUBLIC ADDRESS OF THE LICENSEE.~~

~~(C) IN ADDITION TO THE REQUIREMENTS OF SUBSECTION (B) OF THIS SECTION, THE BOARD SHALL INCLUDE A STATEMENT ON EACH LICENSEE'S PROFILE OF INFORMATION TO BE TAKEN INTO CONSIDERATION BY A CONSUMER WHEN VIEWING A LICENSEE'S PROFILE, INCLUDING A DISCLAIMER STATING THAT A CHARGING DOCUMENT DOES NOT INDICATE A FINAL FINDING OF GUILT BY THE BOARD.~~

~~(D) THE BOARD:~~

~~(1) ON RECEIPT OF A WRITTEN REQUEST FOR A LICENSEE'S PROFILE FROM ANY PERSON, SHALL FORWARD A WRITTEN COPY OF THE PROFILE TO THE PERSON; AND~~

~~(2) SHALL MAINTAIN A WEB SITE THAT SERVES AS A SINGLE POINT OF ENTRY WHERE ALL LICENSEE PROFILE INFORMATION IS AVAILABLE TO THE PUBLIC ON THE INTERNET.~~

~~(E) THE BOARD SHALL PROVIDE A MECHANISM FOR THE NOTIFICATION AND PROMPT CORRECTION OF ANY FACTUAL INACCURACIES IN A LICENSEE'S PROFILE.~~

~~(F) THE BOARD SHALL INCLUDE INFORMATION RELATING TO CHARGES FILED AGAINST A LICENSEE BY THE BOARD AND A FINAL DISCIPLINARY ACTION TAKEN BY THE BOARD AGAINST A LICENSEE IN THE LICENSEE'S PROFILE WITHIN 10 DAYS AFTER THE CHARGES ARE FILED OR THE ACTION BECOMES FINAL.~~

~~14-5A-25.~~

~~Subject to the evaluation and reestablishment provisions of the Maryland Program Evaluation Act and subject to the termination of this title under § 14-702 of this title, this subtitle and all rules and regulations adopted under this subtitle shall terminate and be of no effect after July 1, [2013] 2014.~~

~~14-5B-05.~~

~~(e) (1) From among its members, the Committee shall elect a chair once every 2 years.~~

~~(2) THE CHAIR SHALL:~~

~~(i) SERVE IN AN ADVISORY CAPACITY TO THE BOARD AS A REPRESENTATIVE OF THE COMMITTEE;~~

~~(ii) REPORT TO THE BOARD TWICE A YEAR ON THE ACTIVITIES OF THE COMMITTEE; AND~~

~~(iii) PRESENT TO THE BOARD THE COMMITTEE'S ANNUAL REPORT.~~

~~(F) AN INDIVIDUAL MAY NOT BE APPOINTED TO THE COMMITTEE IF THE INDIVIDUAL IS PROVIDING OR HAS PROVIDED SERVICES TO THE BOARD FOR REMUNERATION.~~

~~14-5B-06.~~

~~(A) In addition to the powers set forth elsewhere in this subtitle, the Committee shall:~~

~~(1) Make recommendations to the Board on regulations necessary to carry out the provisions of this subtitle;~~

~~(2) Make recommendations to the Board on a code of ethics for the practice of radiation therapy, the practice of radiography, the practice of nuclear~~

~~medicine technology, and the practice of radiology assistance for adoption by the Board;~~

~~(3) On request, make recommendations to the Board on standards of care for the practice of radiation therapy, the practice of radiography, the practice of nuclear medicine technology, and the practice of radiology assistance;~~

~~(4) Make recommendations to the Board on the requirements for licensure as a radiation therapist, radiographer, nuclear medicine technologist, or radiologist assistant;~~

~~(5) On request, review applications for licensure as a radiation therapist, radiographer, nuclear medicine technologist, or radiologist assistant and make recommendations to the Board;~~

~~(6) Develop and recommend to the Board continuing education requirements for license renewal;~~

~~(7) Advise the Board on matters related to the practice of radiation therapy, the practice of radiography, the practice of nuclear medicine technology, and the practice of radiology assistance; [and]~~

~~(8) Keep a record of its proceedings; AND~~

~~(9) SUBMIT AN ANNUAL REPORT TO THE BOARD.~~

~~(B) THE BOARD SHALL:~~

~~(1) CONSIDER ALL RECOMMENDATIONS OF THE COMMITTEE AND PROVIDE A WRITTEN EXPLANATION OF THE BOARD'S REASONS FOR REJECTING OR MODIFYING THE COMMITTEE'S RECOMMENDATIONS; AND~~

~~(2) PROVIDE TO THE COMMITTEE TWICE A YEAR A REPORT ON THE DISCIPLINARY MATTERS INVOLVING LICENSEES.~~

~~14-5B-15.1.~~

~~(A) FOLLOWING THE FILING OF CHARGES OR NOTICE OF INITIAL DENIAL OF LICENSE APPLICATION, THE BOARD SHALL DISCLOSE THE FILING TO THE PUBLIC ON THE BOARD'S WEB SITE.~~

~~(B) THE BOARD SHALL CREATE AND MAINTAIN A PUBLIC INDIVIDUAL PROFILE ON EACH LICENSEE THAT INCLUDES THE FOLLOWING INFORMATION:~~

~~(1) A SUMMARY OF CHARGES FILED AGAINST THE LICENSEE THAT INCLUDES A COPY OF THE CHARGING DOCUMENT UNTIL THE BOARD HAS TAKEN ACTION UNDER § 14-5B-14 OF THIS SUBTITLE BASED ON THE CHARGES OR HAS RESCINDED THE CHARGES;~~

~~(2) A DESCRIPTION OF ANY DISCIPLINARY ACTION TAKEN BY THE BOARD AGAINST THE LICENSEE WITHIN THE MOST RECENT 10-YEAR PERIOD THAT INCLUDES A COPY OF THE PUBLIC ORDER;~~

~~(3) A DESCRIPTION IN SUMMARY FORM OF ANY FINAL DISCIPLINARY ACTION TAKEN BY A LICENSING BOARD IN ANY OTHER STATE OR JURISDICTION AGAINST THE LICENSEE WITHIN THE MOST RECENT 10-YEAR PERIOD;~~

~~(4) A DESCRIPTION OF A CONVICTION OR ENTRY OF A PLEA OF GUILTY OR NOLO CONTENDERE BY THE LICENSEE FOR A CRIME INVOLVING MORAL TURPITUDE REPORTED TO THE BOARD UNDER § 14-5B-14(C) OF THIS SUBTITLE; AND~~

~~(5) THE PUBLIC ADDRESS OF THE LICENSEE.~~

~~(C) IN ADDITION TO THE REQUIREMENTS OF SUBSECTION (B) OF THIS SECTION, THE BOARD SHALL INCLUDE A STATEMENT ON EACH LICENSEE'S PROFILE OF INFORMATION TO BE TAKEN INTO CONSIDERATION BY A CONSUMER WHEN VIEWING A LICENSEE'S PROFILE, INCLUDING A DISCLAIMER STATING THAT A CHARGING DOCUMENT DOES NOT INDICATE A FINAL FINDING OF GUILT BY THE BOARD.~~

~~(D) THE BOARD:~~

~~(1) ON RECEIPT OF A WRITTEN REQUEST FOR A LICENSEE'S PROFILE FROM ANY PERSON, SHALL FORWARD A WRITTEN COPY OF THE PROFILE TO THE PERSON; AND~~

~~(2) SHALL MAINTAIN A WEB SITE THAT SERVES AS A SINGLE POINT OF ENTRY WHERE ALL LICENSEE PROFILE INFORMATION IS AVAILABLE TO THE PUBLIC ON THE INTERNET.~~

~~(E) THE BOARD SHALL PROVIDE A MECHANISM FOR THE NOTIFICATION AND PROMPT CORRECTION OF ANY FACTUAL INACCURACIES IN A LICENSEE'S PROFILE.~~

~~(F) THE BOARD SHALL INCLUDE INFORMATION RELATING TO CHARGES FILED AGAINST A LICENSEE BY THE BOARD AND A FINAL DISCIPLINARY ACTION~~

~~TAKEN BY THE BOARD AGAINST A LICENSEE IN THE LICENSEE'S PROFILE WITHIN 10 DAYS AFTER THE CHARGES ARE FILED OR THE ACTION BECOMES FINAL.~~

~~14-5B-21.~~

~~Subject to the evaluation and reestablishment provisions of the Maryland Program Evaluation Act, and subject to the termination of this title under § 14-702 of this title, this subtitle and all rules and regulations adopted under this subtitle shall terminate and be of no effect after July 1, [2013] 2014.~~

~~14-5C-06.~~

~~(D) (1) FROM AMONG ITS MEMBERS, THE COMMITTEE SHALL ELECT A CHAIR ONCE EVERY 2 YEARS.~~

~~(2) THE CHAIR SHALL:~~

~~(I) SERVE IN AN ADVISORY CAPACITY TO THE BOARD AS A REPRESENTATIVE OF THE COMMITTEE;~~

~~(II) REPORT TO THE BOARD TWICE A YEAR ON THE ACTIVITIES OF THE COMMITTEE; AND~~

~~(III) PRESENT TO THE BOARD THE COMMITTEE'S ANNUAL REPORT.~~

~~(E) AN INDIVIDUAL MAY NOT BE APPOINTED TO THE COMMITTEE IF THE INDIVIDUAL IS PROVIDING OR HAS PROVIDED SERVICES TO THE BOARD FOR REMUNERATION.~~

~~14-5C-07.~~

~~(A) In addition to the powers set forth elsewhere in this subtitle, the Committee shall:~~

~~(1) Develop and recommend to the Board regulations to carry out the provisions of this subtitle;~~

~~(2) Develop and recommend to the Board a code of ethics for the practice of polysomnography for adoption by the Board;~~

~~(3) Develop and recommend to the Board standards of care for the practice of polysomnography;~~

~~(4) Develop and recommend to the Board the requirements for licensure as a polysomnographic technologist, including:~~

~~(i) Criteria for the educational and clinical training of licensed polysomnographic technologists; and~~

~~(ii) Criteria for a professional competency examination and testing of applicants for a license to practice polysomnography;~~

~~(5) Develop and recommend to the Board criteria for licensed polysomnographic technologists who are licensed in other states to practice in this State;~~

~~(6) Evaluate the accreditation status of education programs in polysomnography for approval by the Board;~~

~~(7) Evaluate the credentials of applicants and recommend licensure of applicants who fulfill the requirements for a license to practice polysomnography;~~

~~(8) Develop and recommend to the Board continuing education requirements for license renewal;~~

~~(9) Provide the Board with recommendations concerning the practice of polysomnography;~~

~~(10) Develop and recommend to the Board criteria for the direction of students in clinical education programs by licensed polysomnographic technologists and licensed physicians;~~

~~(11) Keep a record of its proceedings; and~~

~~(12) Submit an annual report to the Board.~~

~~(B) THE BOARD SHALL:~~

~~(1) CONSIDER ALL RECOMMENDATIONS OF THE COMMITTEE AND PROVIDE A WRITTEN EXPLANATION OF THE BOARD'S REASONS FOR REJECTING OR MODIFYING THE COMMITTEE'S RECOMMENDATIONS; AND~~

~~(2) PROVIDE TO THE COMMITTEE TWICE A YEAR A REPORT ON THE DISCIPLINARY MATTERS INVOLVING LICENSEES.~~

~~(A) FOLLOWING THE FILING OF CHARGES OR NOTICE OF INITIAL DENIAL OF LICENSE APPLICATION, THE BOARD SHALL DISCLOSE THE FILING TO THE PUBLIC ON THE BOARD'S WEB SITE.~~

~~(B) THE BOARD SHALL CREATE AND MAINTAIN A PUBLIC INDIVIDUAL PROFILE ON EACH LICENSEE THAT INCLUDES THE FOLLOWING INFORMATION:~~

~~(1) A SUMMARY OF CHARGES FILED AGAINST THE LICENSEE THAT INCLUDES A COPY OF THE CHARGING DOCUMENT UNTIL THE BOARD HAS TAKEN ACTION UNDER § 14-5C-17 OF THIS SUBTITLE BASED ON THE CHARGES OR HAS RESCINDED THE CHARGES;~~

~~(2) A DESCRIPTION OF ANY DISCIPLINARY ACTION TAKEN BY THE BOARD AGAINST THE LICENSEE WITHIN THE MOST RECENT 10-YEAR PERIOD THAT INCLUDES A COPY OF THE PUBLIC ORDER;~~

~~(3) A DESCRIPTION IN SUMMARY FORM OF ANY FINAL DISCIPLINARY ACTION TAKEN BY A LICENSING BOARD IN ANY OTHER STATE OR JURISDICTION AGAINST THE LICENSEE WITHIN THE MOST RECENT 10-YEAR PERIOD;~~

~~(4) A DESCRIPTION OF A CONVICTION OR ENTRY OF A PLEA OF GUILTY OR NOLO CONTENDERE BY THE LICENSEE FOR A CRIME INVOLVING MORAL TURPITUDE REPORTED TO THE BOARD UNDER § 14-5C-17(C) OF THIS SUBTITLE; AND~~

~~(5) THE PUBLIC ADDRESS OF THE LICENSEE.~~

~~(C) IN ADDITION TO THE REQUIREMENTS OF SUBSECTION (B) OF THIS SECTION, THE BOARD SHALL INCLUDE A STATEMENT ON EACH LICENSEE'S PROFILE OF INFORMATION TO BE TAKEN INTO CONSIDERATION BY A CONSUMER WHEN VIEWING A LICENSEE'S PROFILE, INCLUDING A DISCLAIMER STATING THAT A CHARGING DOCUMENT DOES NOT INDICATE A FINAL FINDING OF GUILT BY THE BOARD.~~

~~(D) THE BOARD:~~

~~(1) ON RECEIPT OF A WRITTEN REQUEST FOR A LICENSEE'S PROFILE FROM ANY PERSON, SHALL FORWARD A WRITTEN COPY OF THE PROFILE TO THE PERSON; AND~~

~~(2) SHALL MAINTAIN A WEB SITE THAT SERVES AS A SINGLE POINT OF ENTRY WHERE ALL LICENSEE PROFILE INFORMATION IS AVAILABLE TO THE PUBLIC ON THE INTERNET.~~

~~(E) THE BOARD SHALL PROVIDE A MECHANISM FOR THE NOTIFICATION AND PROMPT CORRECTION OF ANY FACTUAL INACCURACIES IN A LICENSEE'S PROFILE.~~

~~(F) THE BOARD SHALL INCLUDE INFORMATION RELATING TO CHARGES FILED AGAINST A LICENSEE BY THE BOARD AND A FINAL DISCIPLINARY ACTION TAKEN BY THE BOARD AGAINST A LICENSEE IN THE LICENSEE'S PROFILE WITHIN 10 DAYS AFTER THE CHARGES ARE FILED OR THE ACTION BECOMES FINAL.~~

~~14-5C-25.~~

~~Subject to the evaluation and reestablishment provisions of the Maryland Program Evaluation Act and subject to the termination of this title under § 14-702 of this title, this subtitle and all regulations adopted under this subtitle shall terminate and be of no effect after July 1, [2013] 2014.~~

~~14-5D-01.~~

- ~~(a) In this subtitle the following words have the meanings indicated.~~
- ~~(b) "Athlete" means an individual who participates in an athletic activity.~~
- ~~(c) "Athletic activity" means exercise, recreation, sport, competition, or game that:~~
- ~~(1) Requires physical strength, range of motion, flexibility, control, speed, stamina, or agility; and~~
 - ~~(2) Is associated with an educational institution or a professional, amateur, or recreational sports club or athletic organization.~~
- ~~(d) "Athletic injury" means an injury that affects an athlete's participation or performance in an athletic activity.~~
- ~~(e) "Board" means the State Board of Physicians.~~
- ~~(f) "Committee" means the Athletic Trainer Advisory Committee established under § 14-5D-04 of this subtitle.~~
- ~~(g) "Educational institution" includes:~~
- ~~(1) The schools in the public elementary and secondary education system of the State;~~

~~(2) A noncollegiate educational institution governed under § 2-206 of the Education Article; and~~

~~(3) An institution of higher education as defined in § 10-101 of the Education Article.~~

~~(h) “Evaluation and treatment protocol” means a document that is executed by a physician and an athletic trainer that meets the requirements of § 14-5D-11 of this subtitle.~~

~~(i) “License” means a license issued by the Board to practice athletic training.~~

~~(j) “Licensed athletic trainer” means an individual who is licensed by the Board to practice athletic training.~~

~~(k) “LICENSED HEALTH CARE PRACTITIONER” MEANS:~~

~~(1) A CHIROPRACTOR LICENSED UNDER TITLE 3 OF THIS ARTICLE;~~

~~(2) A NURSE PRACTITIONER CERTIFIED UNDER TITLE 8 OF THIS ARTICLE;~~

~~(3) A PHYSICAL THERAPIST LICENSED UNDER TITLE 13 OF THIS ARTICLE; OR~~

~~(4) A PHYSICIAN ASSISTANT LICENSED UNDER TITLE 15 OF THIS ARTICLE.~~

~~[(k)] (L) “National certifying board” means the National Athletic Trainers’ Association Board of Certification, Inc., or its successor organization.~~

~~(M) “NONSUPERVISING PHYSICIAN” MEANS A PHYSICIAN LICENSED BY THE BOARD WHO IS NOT THE SUPERVISING PHYSICIAN OF THE LICENSED ATHLETIC TRAINER.~~

~~(N) “OUTSIDE REFERRAL” MEANS A REQUEST FOR TREATMENT FROM A NONSUPERVISING PHYSICIAN OR LICENSED HEALTH CARE PRACTITIONER.~~

~~[(l)] (O) (1) “Practice athletic training” means application of the following principles and methods for managing athletic injuries for athletes in good overall health under the supervision of a licensed physician:~~

~~(i) Prevention;~~

~~(ii) Clinical evaluation and assessment;~~

~~(iii) Immediate care; and~~

~~(iv) Treatment, rehabilitation, and reconditioning.~~

~~(2) "Practice athletic training" includes:~~

~~(i) Organization and administration of an athletic training program; and~~

~~(ii) Instruction to coaches, athletes, parents, medical personnel, and community members regarding the care and prevention of athletic injuries.~~

~~(3) "Practice athletic training" does not include:~~

~~(i) The practice of:~~

~~1. Chiropractic, including adjustments, manipulation, or high velocity mobilizations of the spine or extremities;~~

~~2. Massage therapy;~~

~~3. Medicine;~~

~~4. Occupational therapy; or~~

~~5. Physical therapy;~~

~~(ii) The reconditioning of systemic neurologic injuries, conditions, or disease; or~~

~~(iii) Except for the conditioning of an athlete under the supervision of a treating physician, the treatment, rehabilitation, or reconditioning of nonathletic injuries or disease.~~

~~[(m)] (P) "Setting" means a:~~

~~(1) Location where an athletic activity, as defined in subsection (c) of this section, is being held;~~

~~(2) Health or fitness club;~~

~~(3) Clinic or hospital;~~

~~(4) Corporation; or~~

~~(5) Government agency.~~

~~[(n)] (Q) “Supervision” means the responsibility of a physician to provide ongoing and immediately available instruction, IN PERSON, BY TELEPHONE, OR BY OTHER ELECTRONIC MEANS, that is adequate to ensure the safety and welfare of a patient and is appropriate to the setting.~~

~~14-5D-05.~~

~~(e) (1) From among its members, the Committee shall elect a chair every 2 years.~~

~~(2) THE CHAIR SHALL:~~

~~(i) SERVE IN AN ADVISORY CAPACITY TO THE BOARD AS A REPRESENTATIVE OF THE COMMITTEE;~~

~~(ii) REPORT TO THE BOARD TWICE A YEAR ON THE ACTIVITIES OF THE COMMITTEE; AND~~

~~(iii) PRESENT TO THE BOARD THE COMMITTEE’S ANNUAL REPORT.~~

~~(f) AN INDIVIDUAL MAY NOT BE APPOINTED TO THE COMMITTEE IF THE INDIVIDUAL IS PROVIDING OR HAS PROVIDED SERVICES TO THE BOARD FOR REMUNERATION.~~

~~14-5D-06.~~

~~(A) In addition to the powers set forth elsewhere in this subtitle, the Committee shall:~~

~~(1) Develop and recommend to the Board regulations to carry out this subtitle;~~

~~(2) Develop and recommend to the Board continuing education requirements for license renewal;~~

~~(3) Provide the Board with recommendations concerning the practice of athletic training;~~

~~(4) Develop and recommend to the Board an evaluation and treatment protocol for use by an athletic trainer and the physician with whom the athletic trainer practices;~~

~~(5) Provide advice and recommendations to the Board on individual evaluation and treatment protocols when requested; [and]~~

~~(6) Keep a record of its proceedings; AND~~

~~(7) SUBMIT AN ANNUAL REPORT TO THE BOARD.~~

~~(B) THE BOARD SHALL:~~

~~(1) CONSIDER ALL RECOMMENDATIONS OF THE COMMITTEE AND PROVIDE A WRITTEN EXPLANATION OF THE BOARD'S REASONS FOR REJECTING OR MODIFYING THE COMMITTEE'S RECOMMENDATIONS; AND~~

~~(2) PROVIDE TO THE COMMITTEE TWICE A YEAR A REPORT ON THE DISCIPLINARY MATTERS INVOLVING LICENSEES.~~

~~14-5D-11.~~

~~(a) Nothing in this title may be construed to authorize an athletic trainer to practice except under the supervision of a licensed physician and in an approved setting OR AS PROVIDED IN SUBSECTION (D) OF THIS SECTION.~~

~~(b) Before an athletic trainer may practice athletic training, the athletic trainer shall:~~

~~(1) Obtain a license under this subtitle;~~

~~(2) Enter into a written evaluation and treatment protocol with a licensed physician; and~~

~~(3) Obtain Board approval of the evaluation and treatment protocol.~~

~~(c) An evaluation and treatment protocol shall:~~

~~(1) Describe the qualifications of the licensed physician and licensed athletic trainer;~~

~~(2) Describe the settings where the athletic trainer may practice;~~

~~(3) Describe the physician supervision mechanisms that the physician will use to give direction to the athletic trainer; and~~

~~(4) Specify the treatment procedures the athletic trainer may perform.~~

~~(D) AN ATHLETIC TRAINER MAY ACCEPT AN OUTSIDE REFERRAL FROM A NONSUPERVISING PHYSICIAN OR LICENSED HEALTH CARE PRACTITIONER IF:~~

~~(1) THE SUPERVISING PHYSICIAN SPECIFIES IN THE EVALUATION AND TREATMENT PROTOCOL THAT THE ATHLETIC TRAINER MAY ACCEPT REFERRALS FROM A NONSUPERVISING PHYSICIAN OR LICENSED HEALTH CARE PRACTITIONER;~~

~~(2) THE NONSUPERVISING PHYSICIAN OR LICENSED HEALTH CARE PRACTITIONER HAS SEEN THE ATHLETE AND HAS WRITTEN AN ORDER FOR THE CARE OF THE ATHLETE; AND~~

~~(3) THE TREATMENT PROCEDURES TO BE USED BY THE ATHLETIC TRAINER ARE:~~

~~(i) WITHIN THE SCOPE OF PRACTICE OF AN ATHLETIC TRAINER; AND~~

~~(ii) INCLUDED IN THE EVALUATION AND TREATMENT PROTOCOL THAT THE ATHLETIC TRAINER HAS ENTERED INTO WITH THE SUPERVISING PHYSICIAN.~~

~~14-5D-16.1.~~

~~(A) FOLLOWING THE FILING OF CHARGES OR NOTICE OF INITIAL DENIAL OF LICENSE APPLICATION, THE BOARD SHALL DISCLOSE THE FILING TO THE PUBLIC ON THE BOARD'S WEB SITE.~~

~~(B) THE BOARD SHALL CREATE AND MAINTAIN A PUBLIC INDIVIDUAL PROFILE ON EACH LICENSEE THAT INCLUDES THE FOLLOWING INFORMATION:~~

~~(1) A SUMMARY OF CHARGES FILED AGAINST THE LICENSEE THAT INCLUDES A COPY OF THE CHARGING DOCUMENT UNTIL THE BOARD HAS TAKEN ACTION UNDER § 14-5D-14 OF THIS SUBTITLE BASED ON THE CHARGES OR HAS RESCINDED THE CHARGES;~~

~~(2) A DESCRIPTION OF ANY DISCIPLINARY ACTION TAKEN BY THE BOARD AGAINST THE LICENSEE WITHIN THE MOST RECENT 10-YEAR PERIOD THAT INCLUDES A COPY OF THE PUBLIC ORDER;~~

~~(3) A DESCRIPTION IN SUMMARY FORM OF ANY FINAL DISCIPLINARY ACTION TAKEN BY A LICENSING BOARD IN ANY OTHER STATE OR JURISDICTION AGAINST THE LICENSEE WITHIN THE MOST RECENT 10-YEAR PERIOD;~~

~~(4) A DESCRIPTION OF A CONVICTION OR ENTRY OF A PLEA OF GUILTY OR NOLO CONTENDERE BY THE LICENSEE FOR A CRIME INVOLVING MORAL TURPITUDE REPORTED TO THE BOARD UNDER § 14-5D-14(B) OF THIS SUBTITLE; AND~~

~~(5) THE PUBLIC ADDRESS OF THE LICENSEE.~~

~~(C) IN ADDITION TO THE REQUIREMENTS OF SUBSECTION (B) OF THIS SECTION, THE BOARD SHALL INCLUDE A STATEMENT ON EACH LICENSEE'S PROFILE OF INFORMATION TO BE TAKEN INTO CONSIDERATION BY A CONSUMER WHEN VIEWING A LICENSEE'S PROFILE, INCLUDING A DISCLAIMER STATING THAT A CHARGING DOCUMENT DOES NOT INDICATE A FINAL FINDING OF GUILT BY THE BOARD.~~

~~(D) THE BOARD:~~

~~(1) ON RECEIPT OF A WRITTEN REQUEST FOR A LICENSEE'S PROFILE FROM ANY PERSON, SHALL FORWARD A WRITTEN COPY OF THE PROFILE TO THE PERSON; AND~~

~~(2) SHALL MAINTAIN A WEB SITE THAT SERVES AS A SINGLE POINT OF ENTRY WHERE ALL LICENSEE PROFILE INFORMATION IS AVAILABLE TO THE PUBLIC ON THE INTERNET.~~

~~(E) THE BOARD SHALL PROVIDE A MECHANISM FOR THE NOTIFICATION AND PROMPT CORRECTION OF ANY FACTUAL INACCURACIES IN A LICENSEE'S PROFILE.~~

~~(F) THE BOARD SHALL INCLUDE INFORMATION RELATING TO CHARGES FILED AGAINST A LICENSEE BY THE BOARD AND A FINAL DISCIPLINARY ACTION TAKEN BY THE BOARD AGAINST A LICENSEE IN THE LICENSEE'S PROFILE WITHIN 10 DAYS AFTER THE CHARGES ARE FILED OR THE ACTION BECOMES FINAL.~~

~~14-5D-20.~~

~~Subject to the evaluation and reestablishment provisions of the Maryland Program Evaluation Act and subject to the termination of this title under § 14-702 of this title, this subtitle and all rules and regulations adopted under this subtitle shall terminate and be of no effect after July 1, [2013] 2014.~~

~~14-702.~~

~~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] 2014.~~

~~15-202.~~

~~(e) The chairperson shall:~~

~~(1) [serve] SERVE in an advisory capacity to the Board as a representative of the Committee;~~

~~(2) REPORT TO THE BOARD TWICE A YEAR ON THE ACTIVITIES OF THE COMMITTEE; AND~~

~~(3) PRESENT TO THE BOARD THE COMMITTEE'S ANNUAL REPORT.~~

~~(F) AN INDIVIDUAL MAY NOT BE APPOINTED TO THE COMMITTEE IF THE INDIVIDUAL IS PROVIDING OR HAS PROVIDED SERVICES TO THE BOARD FOR REMUNERATION.~~

~~15-205.~~

~~(a) In addition to the powers set forth elsewhere in this title, the Committee, on its initiative or on the Board's request, may:~~

~~(1) Recommend to the Board regulations for carrying out the provisions of this title;~~

~~(2) Recommend to the Board approval, modification, or disapproval of an application for licensure or a delegation agreement;~~

~~(3) Report to the Board any conduct of a supervising physician or a physician assistant that may be cause for disciplinary action under this title or under § 14-404 of this article; and~~

~~(4) Report to the Board any alleged unauthorized practice of a physician assistant.~~

~~(B) THE COMMITTEE SHALL SUBMIT AN ANNUAL REPORT TO THE BOARD.~~

~~[(b)](C) (1) In addition to the duties set forth elsewhere in this title, the Board shall adopt regulations to carry out the provisions of this title.~~

~~(2) The Board shall:~~

~~(i) Consider all recommendations of the Committee; [and]~~

~~(ii) Provide a written explanation of the Board's reasons for rejecting or modifying the Committee's recommendations; AND~~

~~(III) PROVIDE TO THE COMMITTEE TWICE A YEAR A REPORT ON THE DISCIPLINARY MATTERS INVOLVING LICENSEES.~~

~~(3) The Board may:~~

~~(i) Investigate any alleged unauthorized practice of a physician assistant;~~

~~(ii) Investigate any conduct that may be cause for disciplinary action under this title; and~~

~~(iii) On receipt of a written and signed complaint, including a referral from the Commissioner of Labor and Industry, conduct an unannounced inspection of the office of a physician assistant, other than an office of a physician assistant in a hospital, related institution, freestanding medical facility, or freestanding birthing center, to determine compliance at that office with the Centers for Disease Control and Prevention's guidelines on universal precautions.~~

~~(4) If the entry is necessary to carry out a duty under this subtitle, including an investigation or determination of compliance as provided under paragraph (3) of this subsection and an audit to determine compliance with the Board's requirements with respect to physician assistant practice, the Executive Director of the Board or other duly authorized agent or investigator may enter at any reasonable hour a place of business of a licensed physician or a licensed physician assistant or public premises.~~

~~(5) (i) A person may not deny or interfere with an entry under this subsection.~~

~~(ii) A person who violates any provision of this subsection is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$100.~~

~~15-310.~~

~~[(c) The Board shall assess each applicant for a license or the renewal of a license to practice as a physician assistant, a fee set by the Board sufficient to fund the activities of the Board's rehabilitation program under § 14-401(g) of this article in conducting a physician assistant rehabilitation program.]~~

~~15-316.1.~~

~~(A) FOLLOWING THE FILING OF CHARGES OR NOTICE OF INITIAL DENIAL OF LICENSE APPLICATION, THE BOARD SHALL DISCLOSE THE FILING TO THE PUBLIC ON THE BOARD'S WEB SITE.~~

~~(B) THE BOARD SHALL CREATE AND MAINTAIN A PUBLIC INDIVIDUAL PROFILE ON EACH LICENSEE THAT INCLUDES THE FOLLOWING INFORMATION:~~

~~(1) A SUMMARY OF CHARGES FILED AGAINST THE LICENSEE THAT INCLUDES A COPY OF THE CHARGING DOCUMENT UNTIL THE BOARD HAS TAKEN ACTION UNDER § 15-314 OF THIS SUBTITLE BASED ON THE CHARGES OR HAS RESCINDED THE CHARGES;~~

~~(2) A DESCRIPTION OF ANY DISCIPLINARY ACTION TAKEN BY THE BOARD AGAINST THE LICENSEE WITHIN THE MOST RECENT 10-YEAR PERIOD THAT INCLUDES A COPY OF THE PUBLIC ORDER;~~

~~(3) A DESCRIPTION IN SUMMARY FORM OF ANY FINAL DISCIPLINARY ACTION TAKEN BY A LICENSING BOARD IN ANY OTHER STATE OR JURISDICTION AGAINST THE LICENSEE WITHIN THE MOST RECENT 10-YEAR PERIOD;~~

~~(4) A DESCRIPTION OF A CONVICTION OR ENTRY OF A PLEA OF GUILTY OR NOLO CONTENDERE BY THE LICENSEE FOR A CRIME INVOLVING MORAL TURPITUDE REPORTED TO THE BOARD UNDER § 15-314(B) OF THIS SUBTITLE; AND~~

~~(5) THE PUBLIC ADDRESS OF THE LICENSEE.~~

~~(C) IN ADDITION TO THE REQUIREMENTS OF SUBSECTION (B) OF THIS SECTION, THE BOARD SHALL INCLUDE A STATEMENT ON EACH LICENSEE'S PROFILE OF INFORMATION TO BE TAKEN INTO CONSIDERATION BY A CONSUMER WHEN VIEWING A LICENSEE'S PROFILE, INCLUDING A DISCLAIMER STATING THAT A CHARGING DOCUMENT DOES NOT INDICATE A FINAL FINDING OF GUILT BY THE BOARD.~~

~~(D) THE BOARD:~~

~~(1) ON RECEIPT OF A WRITTEN REQUEST FOR A LICENSEE'S PROFILE FROM ANY PERSON, SHALL FORWARD A WRITTEN COPY OF THE PROFILE TO THE PERSON; AND~~

~~(2) SHALL MAINTAIN A WEB SITE THAT SERVES AS A SINGLE POINT OF ENTRY WHERE ALL LICENSEE PROFILE INFORMATION IS AVAILABLE TO THE PUBLIC ON THE INTERNET.~~

~~(E) THE BOARD SHALL PROVIDE A MECHANISM FOR THE NOTIFICATION AND PROMPT CORRECTION OF ANY FACTUAL INACCURACIES IN A LICENSEE'S PROFILE.~~

~~(F) THE BOARD SHALL INCLUDE INFORMATION RELATING TO CHARGES FILED AGAINST A LICENSEE BY THE BOARD AND A FINAL DISCIPLINARY ACTION TAKEN BY THE BOARD AGAINST A LICENSEE IN THE LICENSEE'S PROFILE WITHIN 10 DAYS AFTER THE CHARGES ARE FILED OR THE ACTION BECOMES FINAL.~~

~~15-502.~~

~~Subject to the evaluation and reestablishment provisions of the Maryland Program Evaluation Act, this title and all regulations adopted under this title shall terminate and be of no effect after July 1, [2013] 2014.~~

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

~~Article — Health Occupations~~

~~14-5E-06.~~

~~(d) (1) From among its members, the Committee shall elect a chair every 2 years.~~

~~(2) THE CHAIR SHALL:~~

~~(i) SERVE IN AN ADVISORY CAPACITY TO THE BOARD AS A REPRESENTATIVE OF THE COMMITTEE;~~

~~(ii) REPORT TO THE BOARD TWICE A YEAR ON THE ACTIVITIES OF THE COMMITTEE; AND~~

~~(iii) PRESENT TO THE BOARD THE COMMITTEE'S ANNUAL REPORT.~~

~~(E) AN INDIVIDUAL MAY NOT BE APPOINTED TO THE COMMITTEE IF THE INDIVIDUAL IS PROVIDING OR HAS PROVIDED SERVICES TO THE BOARD FOR REMUNERATION.~~

~~14-5E-07.~~

~~(A) In addition to the powers set forth elsewhere in this subtitle, the Committee shall:~~

- ~~(1) Develop and recommend to the Board:
 - ~~(i) Regulations to carry out the provisions of this subtitle;~~
 - ~~(ii) A code of ethics for the practice of perfusion for adoption by the Board;~~
 - ~~(iii) Recommendations concerning the practice of perfusion, including standards of care for the practice of perfusion; and~~
 - ~~(iv) Continuing education requirements for license renewal;~~~~
- ~~{and}~~

~~(2) Keep a record of its proceedings; AND~~

~~(3) SUBMIT AN ANNUAL REPORT TO THE BOARD.~~

~~(B) THE BOARD SHALL:~~

~~(1) CONSIDER ALL RECOMMENDATIONS OF THE COMMITTEE AND PROVIDE A WRITTEN EXPLANATION OF THE BOARD'S REASONS FOR REJECTING OR MODIFYING THE COMMITTEE'S RECOMMENDATIONS; AND~~

~~(2) PROVIDE TO THE COMMITTEE TWICE A YEAR A REPORT ON THE DISCIPLINARY MATTERS INVOLVING LICENSEES.~~

~~14-5E-18.1.~~

~~(A) FOLLOWING THE FILING OF CHARGES OR NOTICE OF INITIAL DENIAL OF LICENSE APPLICATION, THE BOARD SHALL DISCLOSE THE FILING TO THE PUBLIC ON THE BOARD'S WEB SITE.~~

~~(B) THE BOARD SHALL CREATE AND MAINTAIN A PUBLIC INDIVIDUAL PROFILE ON EACH LICENSEE THAT INCLUDES THE FOLLOWING INFORMATION:~~

~~(1) A SUMMARY OF CHARGES FILED AGAINST THE LICENSEE THAT INCLUDES A COPY OF THE CHARGING DOCUMENT UNTIL THE BOARD HAS TAKEN ACTION UNDER § 14-5E-16 OF THIS SUBTITLE BASED ON THE CHARGES OR HAS RESCINDED THE CHARGES;~~

~~(2) A DESCRIPTION OF ANY DISCIPLINARY ACTION TAKEN BY THE BOARD AGAINST THE LICENSEE WITHIN THE MOST RECENT 10 YEAR PERIOD THAT INCLUDES A COPY OF THE PUBLIC ORDER;~~

~~(3) A DESCRIPTION IN SUMMARY FORM OF ANY FINAL DISCIPLINARY ACTION TAKEN BY A LICENSING BOARD IN ANY OTHER STATE OR JURISDICTION AGAINST THE LICENSEE WITHIN THE MOST RECENT 10 YEAR PERIOD;~~

~~(4) A DESCRIPTION OF A CONVICTION OR ENTRY OF A PLEA OF GUILTY OR NOLO CONTENDERE BY THE LICENSEE FOR A CRIME INVOLVING MORAL TURPITUDE REPORTED TO THE BOARD UNDER § 14-5E-16(C) OF THIS SUBTITLE; AND~~

~~(5) THE PUBLIC ADDRESS OF THE LICENSEE.~~

~~(C) IN ADDITION TO THE REQUIREMENTS OF SUBSECTION (B) OF THIS SECTION, THE BOARD SHALL INCLUDE A STATEMENT ON EACH LICENSEE'S PROFILE OF INFORMATION TO BE TAKEN INTO CONSIDERATION BY A CONSUMER WHEN VIEWING A LICENSEE'S PROFILE, INCLUDING A DISCLAIMER STATING THAT A CHARGING DOCUMENT DOES NOT INDICATE A FINAL FINDING OF GUILT BY THE BOARD.~~

~~(D) THE BOARD:~~

~~(1) ON RECEIPT OF A WRITTEN REQUEST FOR A LICENSEE'S PROFILE FROM ANY PERSON, SHALL FORWARD A WRITTEN COPY OF THE PROFILE TO THE PERSON; AND~~

~~(2) SHALL MAINTAIN A WEBSITE THAT SERVES AS A SINGLE POINT OF ENTRY WHERE ALL LICENSEE PROFILE INFORMATION IS AVAILABLE TO THE PUBLIC ON THE INTERNET.~~

~~(E) THE BOARD SHALL PROVIDE A MECHANISM FOR THE NOTIFICATION AND PROMPT CORRECTION OF ANY FACTUAL INACCURACIES IN A LICENSEE'S PROFILE.~~

~~(F) THE BOARD SHALL INCLUDE INFORMATION RELATING TO CHARGES FILED AGAINST A LICENSEE BY THE BOARD AND A FINAL DISCIPLINARY ACTION TAKEN BY THE BOARD AGAINST A LICENSEE IN THE LICENSEE'S PROFILE WITHIN 10 DAYS AFTER THE CHARGES ARE FILED OR THE ACTION BECOMES FINAL.~~

~~Subject to the evaluation and reestablishment provisions of the Maryland Program Evaluation Act and subject to the termination of this title under § 14-702 of this title, this subtitle and all regulations adopted under this subtitle shall terminate and be of no effect after July 1, [2022] 2014.~~

~~SECTION 3. AND BE IT FURTHER ENACTED, That, on or before December 31, 2012, the State Board of Physicians and the Department of Health and Mental Hygiene jointly shall develop and implement a strategy for reducing the backlog of complaint cases.~~

~~SECTION 4. AND BE IT FURTHER ENACTED, That, on or before December 31, 2012, the State Board of Physicians shall assess its fee charging practices and submit to the Department of Legislative Services a long term fiscal plan that includes:~~

- ~~(1) a description of the method the Board uses to determine the amount of licensing fees that the Board will charge licensees;~~
- ~~(2) the adequacy of the Board's fund balance, including the Board's projected fund balance based on fee levels specified in regulations; and~~
- ~~(3) the sufficiency of physician fee levels, including whether current fee levels need to be adjusted to reflect costs associated with peer review and physician rehabilitation activities.~~

~~SECTION 5. AND BE IT FURTHER ENACTED, That, on or before December 31, 2012, the State Board of Physicians shall develop and implement a plan to improve the recruitment of allied health advisory committee members.~~

~~SECTION 6. AND BE IT FURTHER ENACTED, That, on or before December 31, 2012, the State Board of Physicians shall amend its regulations to reflect the procedures of the Board.~~

~~SECTION 7. AND BE IT FURTHER ENACTED, That, on or before December 31, 2012, the State Board of Physicians, the Maryland Insurance Administration, the Office of the Attorney General, and the Department of Health and Mental Hygiene's Office of the Inspector General shall jointly determine the appropriate entity for investigating and enforcing Title 1, Subtitle 3 of the Health Occupations Article.~~

~~SECTION 8. AND BE IT FURTHER ENACTED, That, on or before December 31, 2012, the State Board of Physicians, in consultation with the Physician Assistant Advisory Committee and physician assistants and supervising physicians from a variety of practice settings, shall adopt regulations for determining:~~

- ~~(1) what constitutes an advanced duty; and~~

~~(2) how many successful procedures a physician assistant must perform to be deemed able to safely perform a medical act.~~

~~SECTION 9. AND BE IT FURTHER ENACTED, That the State Board of Physicians shall issue a license to an individual under § 14-5B-10 of the Health Occupations Article if the individual:~~

~~(1) was enrolled in an unaccredited radiation therapy, radiography, or nuclear medicine technology program on October 1, 2010, and graduates by June 30, 2014; and~~

~~(2) meets all other requirements for licensure.~~

~~SECTION 10. AND BE IT FURTHER ENACTED, That, on or before June 1, 2013, the State Board of Physicians shall submit a report to the Department of Legislative Services. The report shall address the status of the implementation of the recommendations made by the Department of Legislative Services in the November 2011 publication "Sunset Review: Evaluation of the State Board of Physicians and the Related Allied Health Advisory Committees". The report shall include:~~

~~(1) recommendations for measures to increase the involvement of allied health advisory committees in complaint resolution and licensee discipline, including the feasibility and efficacy of:~~

~~(i) allied health advisory committees handling all allied health complaint resolution functions currently handled by the Board; or~~

~~(ii) having allied health committee members perform certain complaint resolution functions, including whether allied health committee members should serve on any panel established by the Board to review disciplinary cases involving allied health licensees;~~

~~(2) with respect to the allied health advisory committees, measures the Board is taking to:~~

~~(i) fill vacancies;~~

~~(ii) solicit, identify, and appoint new members before a member's term expires;~~

~~(iii) promptly reappoint members eligible and nominated to serve for an additional term; and~~

~~(iv) ensure that committee chairs are elected in a timely manner and preside over committee meetings;~~

- ~~(3) whether board members should sit on allied health advisory committees;~~
- ~~(4) whether the number of licensees should be considered when determining the size of an allied health advisory committee;~~
- ~~(5) whether the size and composition of the allied health advisory committees should be altered through statutory amendment to effectively carry out the committees' oversight functions, including whether the membership of allied health advisory committees should be reduced after the initial regulations governing the allied health profession have been adopted by the Board;~~
- ~~(6) the findings regarding the appropriate entity for investigating and enforcing Title 1, Subtitle 3 of the Health Occupations Article; and~~
- ~~(7) the strategy implemented by the Board as required by Section 3 of this Act and the effect of the strategy on the backlog of complaints and complaint resolution time.~~

~~SECTION 11. AND BE IT FURTHER ENACTED, That, on or before October 1, 2013, the Department of Legislative Services shall make recommendations to the Senate Education, Health, and Environmental Affairs Committee and the House Health and Government Operations Committee regarding further extension of the termination dates of the State Board of Physicians and the related allied health advisory committees and any related changes to § 8-403 of the State Government Article that would be required.~~

~~SECTION 12. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take effect October 1, 2012, the effective date of Chapter 588 of the Acts of the General Assembly of 2011. If the effective date of Chapter 588 is amended, Section 2 of this Act shall take effect on the taking effect of Chapter 588.~~

~~SECTION 13. 2. AND BE IT FURTHER ENACTED, That, except as provided in Section 12 of this Act, this Act shall take effect June 1, 2012.~~

Approved by the Governor, May 22, 2012.

Chapter 682

(House Bill 827)

AN ACT concerning

Polysomnographic Technologists – Education and Examination Requirements

FOR the purpose of ~~altering the examination requirements for a license to practice polysomnography to require a certain examination approved by the Board of Physicians to be accredited by a certain accrediting organization;~~ altering the education requirements for a license to practice polysomnography; requiring the State Board of Physicians to waive certain education requirements for a license to practice polysomnography if, in addition to meeting certain other requirements, an applicant has a passed a certain examination on or before a certain date; and generally relating to education and examination requirements for polysomnographic technologists.

BY repealing and reenacting, with amendments,
 Article – Health Occupations
 Section 14–5C–09 and 14–5C–10
 Annotated Code of Maryland
 (2009 Replacement Volume and 2011 Supplement)

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

Article – Health Occupations

14–5C–09.

(a) To qualify for a license, an applicant shall be an individual who meets the requirements of this section.

(b) The applicant shall:

- (1) Be of good moral character; and
- (2) Be at least 18 years old.

(c) An applicant for a polysomnographic technologist license shall:

(1) Have passed the national certifying examination given by the Board of Registered Polysomnographic Technologists or another examination ~~ACCREDITED BY THE NATIONAL COMMISSION OF CERTIFYING AGENCIES AND~~ approved by the Board;

(2) Submit to the Board proof of certification as a registered polysomnographic technologist or other national certification approved by the Board;

(3) (i) **1.** Have graduated from a polysomnographic educational program that is accredited by the Commission on Accreditation of Allied Health Education Programs; **OR**

2. ~~HAVE GRADUATED FROM SUCCESSFULLY COMPLETED A:~~

A. ~~A~~ HAVE GRADUATED FROM A SLEEP TECHNOLOGIST EDUCATIONAL PROGRAM THAT IS ACCREDITED BY THE AMERICAN ACADEMY OF SLEEP MEDICINE; AND

B. ~~A PROGRAM DESIGNATED AS A SLEEP TECHNOLOGIST APPROVED RESOURCE BY THE BOARD OF REGISTERED POLYSOMNOGRAPHIC TECHNOLOGISTS; OR~~

C. ~~A PROGRAM RECOMMENDED~~ HAVE COMPLETED A CLINICAL COMPONENT OF AN EDUCATIONAL PROGRAM AS ESTABLISHED BY THE COMMITTEE AND APPROVED BY THE BOARD;

(ii) 1. Have graduated from a respiratory care educational program that is accredited by the Commission on Accreditation of Allied Health Education Programs; and

2. Have completed the Committee on Accreditation for Respiratory Care's curriculum for a polysomnography certificate that is accredited by the Commission on Accreditation of Allied Health Education Programs; or

(iii) 1. Have graduated from an electroneuro-diagnostic educational program that is accredited by the Commission on Accreditation of Allied Health Education Programs; and

2. Have completed additional units, modules, and courses of instruction focused on polysomnographic technology that are accredited by the Commission on Accreditation of Allied Health Education Programs; and

(4) Meet any other educational or clinical requirements established by the Committee and approved by the Board.

14-5C-10.

(a) The Board shall waive the education requirement under § 14-5C-09(c)(3) of this subtitle if on or before September 30, 2013, an individual:

(1) Has passed the national certifying examination by the Board of Registered Polysomnographic Technologists ~~OR ANOTHER EXAMINATION ACCREDITED BY THE NATIONAL COMMISSION OF CERTIFYING AGENCIES AND APPROVED BY THE BOARD;~~

(2) Is certified by the Board of Registered Polysomnographic Technologists as a registered polysomnographic technologist;

(3) Has submitted an application for licensure to the Board; and

(4) Meets all of the requirements under § 14-5C-09(b) and (c)(1) and (2) of this subtitle.

(b) (1) If an individual has not satisfied the requirements under subsection (a) of this section on or before September 30, 2013, the individual may petition the Board for an extension.

(2) The Board shall determine whether to grant an extension under this subsection on a case-by-case basis.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 683

(House Bill 866)

AN ACT concerning

Title Insurance – Closing or Settlement Protection Practices – Study

FOR the purpose of requiring ~~certain domestic title insurers to establish and maintain a certain reserve for certain losses arising from closing or settlement protection; authorizing the amount in reserve to be released in certain amounts under certain circumstances; authorizing a domestic title insurer to withdraw the entire reserve under certain circumstances; requiring a certain notice to include certain information about certain closing or settlement protection; authorizing a method to cure a certain failure to obtain a certain notice; requiring a title insurer to provide certain closing or settlement protection to a certain protected party in a certain transaction; requiring the closing or settlement protection to indemnify certain persons against certain actions and failures in connection with certain transactions; limiting the extent of a certain indemnification; prohibiting the indemnification from being provided for certain losses or impairments; requiring certain title insurers to file for approval by the Maryland Insurance Commissioner of a certain premium; establishing a minimum amount of the premium; providing that the premium may not be subject to a certain agreement; authorizing a title insurer to provide a certain statement of coverage; prohibiting a title insurer from providing certain other coverage for a certain indemnification; requiring certain title insurers to file a certain initial premium on or before a certain date; providing for the application~~

~~of this Act; providing for the effective dates of this Act; the Maryland Insurance Commissioner to study closing or settlement protection practices of the title insurance industry and to make certain recommendations; requiring the Commissioner to consider certain matters in conducting the study; authorizing the Commissioner to consult with certain persons and entities in conducting the study; requiring the Commissioner to report certain findings and recommendations to certain committees of the General Assembly on or before a certain date; and generally relating to title insurance protection a study of closing and settlement protection practices of the title insurance industry.~~

~~BY adding to~~

~~Article Insurance
Section 5-207 and 22-104
Annotated Code of Maryland
(2011 Replacement Volume)~~

~~BY repealing and reenacting, with amendments,~~

~~Article Insurance
Section 22-102
Annotated Code of Maryland
(2011 Replacement Volume)~~

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

(a) The Maryland Insurance Commissioner shall:

(1) study closing or settlement protection practices of the title insurance industry, including mechanisms for, and associated costs of, compensating consumers, title insurers, mortgage lenders, and other parties for monetary losses that result from the theft, misappropriation, or misuse of funds held in escrow by a title insurance producer in connection with a real estate transaction; and

(2) make recommendations for changes to the closing and settlement protection practices of the title insurance industry in the State.

(b) In conducting the study, the Commissioner shall consider:

(1) title insurance producer defalcations reported to the Maryland Insurance Administration by title insurers;

(2) title insurance producer defalcations discovered by the Administration as a result of a complaint received by the Administration;

(3) the extent to which any regulations relating to the on-site review by title insurers of their appointed title insurance producers have addressed the problem of title insurance producer defalcations;

(4) the availability and affordability of fidelity bonds, escrow bonds, reinsurance, or other coverage to protect title insurers against the theft, misappropriation, or misuse of closing or settlement funds by its appointed title insurance producers, other agents, or employees;

(5) the manner in which closing or settlement protection is being addressed by other states, the National Association of Insurance Commissioners, and the National Coalition of Insurance Legislators; and

(6) any other relevant matter, as determined by the Commissioner.

(c) In conducting the study, the Commissioner may consult with any person or entity that the Commissioner determines appropriate, including representatives of:

(1) the title insurance industry;

(2) title insurance producers;

(3) mortgage lenders;

(4) the Division of Consumer Protection of the Office of the Attorney General;

(5) the real estate industry; and

(6) the Maryland Real Estate Commission.

(d) On or before December 1, 2012, the Commissioner shall report to the Senate Finance Committee and the House Economic Matters Committee, in accordance with § 2-1246 of the State Government Article, on the findings and recommendations of the study conducted by the Commissioner under this section.

Article — Insurance

5-207.

~~(A) (1) IN ADDITION TO THE RESERVES REQUIRED UNDER § 5-206 OF THIS SUBTITLE, A DOMESTIC TITLE INSURER SHALL SET ASIDE, AS A RESERVE FOR LOSSES ARISING FROM CLOSING AND SETTLEMENT PROTECTION UNDER § 22-104 OF THIS ARTICLE, ONE HALF OF ALL PREMIUMS AND FEES FOR PROVIDING THAT PROTECTION IN THE STATE OR ANY OTHER JURISDICTION UNTIL THE RESERVE HAS A MINIMUM BALANCE OF:~~

~~(I) \$6,000,000 IF THE TITLE INSURER, AS OF THE PRECEDING DECEMBER 31, HAD SURPLUS AS REGARDS POLICYHOLDERS OF LESS THAN \$5,000,000;~~

~~(II) \$4,000,000 IF THE TITLE INSURER, AS OF THE PRECEDING DECEMBER 31, HAD SURPLUS AS REGARDS POLICYHOLDERS OF AT LEAST \$5,000,000 AND LESS THAN \$10,000,000; OR~~

~~(III) \$2,000,000 IF THE TITLE INSURER, AS OF THE PRECEDING DECEMBER 31, HAD SURPLUS AS REGARDS POLICYHOLDERS OF AT LEAST \$10,000,000 AND LESS THAN \$15,000,000.~~

~~(2) A DOMESTIC TITLE INSURER WITH SURPLUS AS REGARDS POLICYHOLDERS OF AT LEAST \$15,000,000 MAY NOT BE REQUIRED TO ESTABLISH A RESERVE UNDER THIS SECTION.~~

~~(B) THE AMOUNT SET ASIDE IN RESERVE SHALL BE RELEASED AS FOLLOWS:~~

~~(1) IMMEDIATELY ON THE OCCURRENCE OF A LOSS ARISING UNDER § 22-104 OF THIS ARTICLE IN AN AMOUNT NOT TO EXCEED THE AMOUNT OF THE LOSS; OR~~

~~(2) OVER A 4 YEAR PERIOD, 25% OF THE AGGREGATE AMOUNT OF THE RESERVE DEPOSITED IN THE RESERVE IN EACH OF THE 4 YEARS PRECEDING THE RELEASE AS OF JULY 1 OF THE RELEASE YEAR, LESS ANY AMOUNT NEEDED TO MAINTAIN THE MINIMUM REQUIRED BALANCE.~~

~~(C) A DOMESTIC TITLE INSURER THAT HAS PLACED FUNDS IN RESERVE MAY WITHDRAW THE ENTIRE RESERVE UNDER SUBSECTION (B)(2) OF THIS SECTION IF:~~

~~(1) THE TITLE INSURER MAINTAINS A SURPLUS AS REGARDS POLICYHOLDERS OF AT LEAST \$15,000,000;~~

~~(2) A FINAL ORDER OF LIQUIDATION OF THE TITLE INSURER IS ENTERED; OR~~

~~(3) THE TITLE INSURER VOLUNTARILY RELINQUISHES, OR COMPLIES WITH A FINAL ORDER OF SURRENDER OF, ITS CERTIFICATE OF AUTHORITY TO CONDUCT BUSINESS IN THE STATE.~~

~~(a) Except as provided in subsection [(d)] (E) of this section, when, in connection with a real estate transaction that involves a purchase money mortgage or deed of trust on land in the State, a title insurer accepts a premium for a policy that insures the title to the property or the title insurer, its agent, or employee accepts a premium for mortgagee title insurance, the person first accepting the premium:~~

~~(1) shall insert the name of each insured in the binder for the title insurance or the title report; and~~

~~(2) immediately on receipt of the premium, shall deliver to the buyer or agent or attorney of the buyer written notice:~~

~~(i) of the name of each insured under the policy;~~

~~(ii) of the face amount of the policy;~~

~~(iii) of the buyer's right and opportunity to obtain simultaneous title insurance in the buyer's favor;~~

~~(iv) of the additional premium that will be required for purchase of simultaneous title insurance in the buyer's favor;~~

~~(v) that the buyer's title insurance will be subject only to the contingencies and conditions contained in the binder, title report, and policy;~~

~~(vi) of the buyer's right to review a sample of the form of policy in which the contingencies and conditions will be inserted; [and]~~

~~(vii) that contains a clear statement of the contingencies that must be satisfied to make the buyer's policy effective, if the buyer's policy is not effective on payment of the premium; AND~~

~~(VIII) 1. THAT CLOSING OR SETTLEMENT PROTECTION SHALL BE PROVIDED AGAINST THEFT OR MISUSE OF FUNDS BY THE TITLE INSURER OR ITS AGENT OR EMPLOYEE UNDER § 22-104 OF THIS SUBTITLE; AND~~

~~2. OF THE PREMIUM THAT WILL BE CHARGED FOR THIS COVERAGE.~~

~~(b) Before disbursing any funds, the person required to give notice under subsection (a) of this section shall obtain from the buyer, at the time the person delivers the notice, a statement in writing that the buyer has received the notice described in subsection (a) of this section and that the buyer wants or does not want owner's title insurance.~~

~~(e) (1) The person required to give notice under subsection (a) of this section shall retain the original signed statement of receipt required by subsection (b) of this section and a copy of the notice required by subsection (a) of this section for 3 years.~~

~~(2) The statement of receipt and notice shall be available for inspection by the Commissioner on request.~~

~~(d) IF THE PERSON FIRST ACCEPTING THE PREMIUM FAILS TO OBTAIN FROM THE PARTY TO THE CLOSING OR SETTLEMENT THE STATEMENT REQUIRED BY SUBSECTION (B) OF THIS SECTION AT OR BEFORE THE CLOSING OR SETTLEMENT AND DISBURSEMENT OF ANY FUNDS, THE FAILURE TO OBTAIN THE STATEMENT MAY BE CURED AT ANY TIME AFTER THE CLOSING OR SETTLEMENT AND BEFORE ACTUAL OR CONSTRUCTIVE NOTICE OF A POSSIBLE CLAIM THAT WOULD HAVE BEEN COVERED BY CLOSING OR SETTLEMENT PROTECTION UNDER § 22-104 OF THIS SUBTITLE BY SENDING A CERTIFIED LETTER, RETURN RECEIPT REQUESTED, TO THE PARTY AT THE PARTY'S LAST KNOWN ADDRESS.~~

~~(E) This section does not apply to a real estate transaction involving a mortgage or deed of trust securing an extension of credit made:~~

~~(1) solely to acquire an interest in or to carry on a business or commercial enterprise; or~~

~~(2) to any business or commercial organization.~~

~~22-104.~~

~~(A) IN THIS SECTION, "PROTECTED PARTY" MEANS A LENDER, BORROWER, SELLER, OR BUYER WHO IS A PARTY TO A TRANSACTION IN WHICH A TITLE INSURANCE POLICY WILL BE ISSUED.~~

~~(B) A TITLE INSURER SHALL PROVIDE CLOSING OR SETTLEMENT PROTECTION TO A PROTECTED PARTY IN ACCORDANCE WITH THIS SECTION.~~

~~(C) (1) THE CLOSING OR SETTLEMENT PROTECTION SHALL INDEMNIFY A PROTECTED PARTY AGAINST ONLY THE LOSS OF CLOSING OR SETTLEMENT FUNDS BECAUSE OF:~~

~~(i) THEFT OR MISAPPROPRIATION OF SETTLEMENT FUNDS IN CONNECTION WITH A TRANSACTION IN WHICH A TITLE INSURANCE POLICY WILL BE ISSUED BY OR ON BEHALF OF THE TITLE INSURER; OR~~

~~(H) FAILURE TO COMPLY WITH THE WRITTEN CLOSING INSTRUCTIONS IF AGREED TO BY THE TITLE INSURER OR THE TITLE INSURER'S APPOINTED PRODUCER.~~

~~(2) THE INDEMNIFICATION UNDER PARAGRAPH (1) OF THIS SECTION IS ONLY TO THE EXTENT THAT THE ACTION OR FAILURE RELATES TO THE STATUS OF THE TITLE TO:~~

~~(I) THAT INTEREST IN LAND; OR~~

~~(II) THE VALIDITY, ENFORCEABILITY, AND PRIORITY OF THE LIEN ON THE MORTGAGE OR DEED OF TRUST ON THAT INTEREST IN LAND.~~

~~(D) INDEMNIFICATION UNDER THIS SECTION MAY NOT BE PROVIDED FOR:~~

~~(1) LOSS OR IMPAIRMENT OF TRUST MONEY IN THE COURSE OF COLLECTION OR WHILE ON DEPOSIT WITH A FINANCIAL INSTITUTION DUE TO FAILURE, INSOLVENCY, BANKRUPTCY, OR SUSPENSION OF THE FINANCIAL INSTITUTION;~~

~~(2) LOSS TO A PROTECTED PARTY ARISING FROM FRAUD BY THAT PROTECTED PARTY OR AN EMPLOYEE OR AGENT OF THE PROTECTED PARTY; OR~~

~~(3) LOSS THAT EXCEEDS THE ACTUAL AMOUNT OF FUNDS STOLEN OR MISAPPROPRIATED FROM THE PROTECTED PARTY DEPOSITED WITH THE TITLE INSURER OR PRODUCER IN CONNECTION WITH THE CLOSING.~~

~~(E) (1) EACH TITLE INSURER SHALL FILE FOR APPROVAL BY THE COMMISSIONER A PREMIUM TO BE COLLECTED FOR EACH TRANSACTION AT WHICH CLOSING OR SETTLEMENT PROTECTION IS PROVIDED.~~

~~(2) REGARDLESS OF THE NUMBER OF PROTECTED PARTIES IN THE TRANSACTION, THE PREMIUM SHALL BE AT LEAST \$50.~~

~~(3) THE PREMIUM MAY NOT BE SUBJECT TO AN AGREEMENT REQUIRING A DIVISION OF FEES OR PREMIUMS COLLECTED ON BEHALF OF THE TITLE INSURER.~~

~~(F) A TITLE INSURER OR PRODUCER MAY PROVIDE TO A PROTECTED PARTY A STATEMENT OF COVERAGE THAT IS CONSISTENT WITH THIS SECTION.~~

~~(C) A TITLE INSURER MAY NOT PROVIDE ANY OTHER COVERAGE TO INDEMNIFY AGAINST IMPROPER ACTS OR OMISSIONS OF A PERSON WITH REGARD TO CLOSING OR SETTLEMENT SERVICES.~~

~~SECTION 2. AND BE IT FURTHER ENACTED, That on or before August 1, 2012, each domestic title insurer shall file its initial premium for approval by the Maryland Insurance Commissioner under § 22-104(c) of the Insurance Article, as enacted by this Act.~~

~~SECTION 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall take effect October 1, 2012, and shall affect all title insurance policies, closings, and settlements in the State on or after October 1, 2012.~~

~~SECTION 4. 2. AND BE IT FURTHER ENACTED, That, except as provided in Section 3 of this Act, this Act shall take effect July 1, 2012.~~

Approved by the Governor, May 22, 2012.

Chapter 684

(House Bill 884)

AN ACT concerning

Electric, Gas, Sewer, and Water Service – Default Notice to Condominium Unit Owners and Residents

FOR the purpose of requiring certain persons that directly bill the governing body of a condominium or a person designated by the governing body for the water, sewer, electric, or gas service to post notice ~~at certain affected condominium units conspicuously at or near the entry to the common area and mail notice to the last known address of the owners of certain affected condominium units~~ when a certain charge is in default for a certain time period; authorizing certain persons to enter onto the common area of certain condominium property at certain times to post a certain notice ~~on~~ at or near the entry ~~of certain units to the common area~~; providing for the application of certain provisions of this Act; and generally relating to the provision of default notice for electric, gas, sewer, and water service to condominium property.

BY repealing and reenacting, without amendments,
Article – Environment
Section 9–662(l) and 9–724(c)
Annotated Code of Maryland
(2007 Replacement Volume and 2011 Supplement)

BY adding to

Article – Environment
Section 9–662(o) and 9–724(d)
Annotated Code of Maryland
(2007 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,

Article – Environment
Section 9–726.1
Annotated Code of Maryland
(2007 Replacement Volume and 2011 Supplement)

BY adding to

Article – Public Utilities
Section 7–307.2
Annotated Code of Maryland
(2010 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,

Article – Public Utilities
Section 25–504
Annotated Code of Maryland
(2010 Replacement Volume and 2011 Supplement)

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

Article – Environment

9–662.

(l) If a water bill is unpaid for 30 days after being sent, and after written notice is left on the premises or mailed to the last known address of the owner, the sanitary commission may:

(1) Disconnect water service to the property; and

(2) Require, before reconnecting water service, payment of the entire water bill plus a reconnection charge reasonably related to the cost of reconnection, as established by ordinance of the governing body of the county or municipal corporation in which the water service is provided.

(o) (1) THIS SUBSECTION APPLIES ONLY TO PROPERTY SUBJECT TO A CONDOMINIUM REGIME ESTABLISHED UNDER TITLE 11 OF THE REAL PROPERTY ARTICLE.

(2) NOTWITHSTANDING ANY OTHER LAW, IF THE SANITARY COMMISSION DIRECTLY BILLS THE GOVERNING BODY OF A CONDOMINIUM OR A PERSON DESIGNATED BY THE GOVERNING BODY OF A CONDOMINIUM FOR WATER OR SEWER USAGE CHARGES FOR ALL OR A PORTION OF THE UNITS IN A CONDOMINIUM PROPERTY, AND A CHARGE IS IN DEFAULT FOR AT LEAST 60 DAYS, THE SANITARY COMMISSION SHALL:

~~(I) POST POST NOTICE AT EACH AFFECTED UNIT CONSPICUOUSLY AT OR NEAR THE ENTRY TO THE COMMON AREA OF THE CONDOMINIUM; AND.~~

~~(II) MAIL NOTICE TO THE LAST KNOWN ADDRESS OF THE OWNER OF EACH AFFECTED UNIT.~~

(3) THE SANITARY COMMISSION MAY ENTER ONTO THE COMMON AREA OF A CONDOMINIUM PROPERTY AT A REASONABLE TIME TO POST THE NOTICE REQUIRED UNDER THIS SUBSECTION ~~AT OR NEAR THE ENTRY OF EACH AFFECTED UNIT.~~

9-724.

(c) (1) The political subdivision shall send bills for water service to the property, the property owner, or the property owner's designee for each property served on a monthly, quarterly, or semiannual basis.

(2) The bills are payable at the office of the political subdivision on receipt.

(3) If any bill remains unpaid after 30 days from the date the bill is sent, the political subdivision shall:

(i) Notify the owner of the property served, in writing, that the bill is in arrears and that water service will be discontinued;

(ii) Leave the notice on the owner's property or mail the notice to the last known address of the owner; and

(iii) Discontinue water service to the property until the owner pays the bill and a reconnection charge reasonably related to the cost of reconnection, as established by ordinance of the governing body of the county or municipal corporation in which the water service is provided.

(4) If any bill remains unpaid after 60 days from the date of sending the notice:

(i) The bill and the penalty imposed under paragraph (3)(iii) of this subsection shall be collectible from the property owner in the same manner and subject to the same interest as taxes are collectible in the county in which the water or sewerage system lies; and

(ii) The water service charges and all penalties shall be a first lien on the property.

(D) (1) THIS SUBSECTION APPLIES ONLY TO PROPERTY SUBJECT TO A CONDOMINIUM REGIME ESTABLISHED UNDER TITLE 11 OF THE REAL PROPERTY ARTICLE.

(2) NOTWITHSTANDING ANY OTHER LAW, IF THE POLITICAL SUBDIVISION DIRECTLY BILLS THE GOVERNING BODY OF A CONDOMINIUM OR A PERSON DESIGNATED BY THE GOVERNING BODY OF A CONDOMINIUM FOR WATER OR SEWER USAGE CHARGES FOR ALL OR A PORTION OF THE UNITS IN A CONDOMINIUM PROPERTY, AND A CHARGE IS IN DEFAULT FOR AT LEAST 60 DAYS, THE POLITICAL SUBDIVISION SHALL:

~~(i) POST POST NOTICE AT EACH AFFECTED UNIT CONSPICUOUSLY AT OR NEAR THE ENTRY TO THE COMMON AREA OF THE CONDOMINIUM; AND~~

~~(ii) MAIL NOTICE TO THE LAST KNOWN ADDRESS OF THE OWNER OF EACH AFFECTED UNIT.~~

(3) THE POLITICAL SUBDIVISION MAY ENTER ONTO THE COMMON AREA OF A CONDOMINIUM PROPERTY AT A REASONABLE TIME TO POST THE NOTICE REQUIRED UNDER THIS SUBSECTION ~~ON OR NEAR THE ENTRY OF EACH AFFECTED UNIT.~~

9-726.1.

(a) If a bill for sewerage service is unpaid for 45 days after being sent, a political subdivision may disconnect water service to the property.

(b) Before disconnecting water service under this section, the political subdivision shall provide notice:

(1) By mail sent to the last known address of the owner of the property; or

(2) By posting the notice on the premises of the property served.

(c) (1) This subsection applies if a political subdivision:

(i) Provides sewerage service to a property; but

(ii) Does not provide water service to the property and water service is provided to the property by another political subdivision or by a private water company.

(2) If a political subdivision advises another political subdivision or a private water company that a bill for sewerage service is unpaid for 45 days after being sent, subject to the notice provisions under subsection (b) of this section, the political subdivision or private water company informed of the unpaid bill may disconnect water service to the property.

(d) (1) Before reconnecting water service, a political subdivision may require full payment of the sewerage bill plus a reconnection charge reasonably related to the cost of reconnection, as established by regulation of the political subdivision.

(2) A private water company may apply a reasonable reconnection charge, in accordance with the ratemaking requirements of Title 4 of the Public Utilities Article, when it reconnects water service.

(e) This subsection does not preclude the use of any other procedure available to a political subdivision to collect unpaid sewerage charges.

(F) (1) THIS SUBSECTION APPLIES ONLY TO PROPERTY SUBJECT TO A CONDOMINIUM REGIME ESTABLISHED UNDER TITLE 11 OF THE REAL PROPERTY ARTICLE.

(2) NOTWITHSTANDING ANY OTHER LAW, IF THE POLITICAL SUBDIVISION DIRECTLY BILLS THE GOVERNING BODY OF A CONDOMINIUM OR A PERSON DESIGNATED BY THE GOVERNING BODY OF A CONDOMINIUM FOR WATER OR SEWER USAGE CHARGES FOR ALL OR A PORTION OF THE UNITS IN A CONDOMINIUM PROPERTY, AND A CHARGE IS IN DEFAULT FOR AT LEAST 60 DAYS, THE POLITICAL SUBDIVISION OR PRIVATE WATER COMPANY INFORMED OF THE UNPAID BILL SHALL:

~~(i) POST POST NOTICE AT EACH AFFECTED UNIT CONSPICUOUSLY AT OR NEAR THE ENTRY TO THE COMMON AREA OF THE CONDOMINIUM; AND~~

~~(ii) MAIL NOTICE TO THE LAST KNOWN ADDRESS OF THE OWNER OF EACH AFFECTED UNIT.~~

(3) THE POLITICAL SUBDIVISION MAY ENTER ONTO THE COMMON AREA OF A CONDOMINIUM PROPERTY AT A REASONABLE TIME TO POST THE NOTICE REQUIRED UNDER THIS SUBSECTION ~~ON OR NEAR THE ENTRY OF EACH AFFECTED UNIT.~~

Article – Public Utilities

7-307.2.

(A) THIS SECTION APPLIES ONLY TO PROPERTY SUBJECT TO A CONDOMINIUM REGIME ESTABLISHED UNDER TITLE 11 OF THE REAL PROPERTY ARTICLE.

(B) NOTWITHSTANDING ANY OTHER LAW, IF A PUBLIC SERVICE COMPANY BILLS THE GOVERNING BODY OF A CONDOMINIUM OR A PERSON DESIGNATED BY THE GOVERNING BODY OF A CONDOMINIUM FOR ELECTRIC, GAS, OR WATER SERVICE FOR ALL OR A PORTION OF THE UNITS IN A CONDOMINIUM PROPERTY, AND THE CHARGE FOR SERVICE IS IN ARREARS FOR AT LEAST 60 DAYS, THE PUBLIC SERVICE COMPANY SHALL:

~~(1) POST NOTICE AT EACH AFFECTED UNIT CONSPICUOUSLY AT OR NEAR THE ENTRY TO THE COMMON AREA OF THE CONDOMINIUM; OR~~

~~(2) MAIL NOTICE TO THE LAST KNOWN ADDRESS OF THE OWNER OF EACH AFFECTED UNIT.~~

(C) THE PUBLIC SERVICE COMPANY MAY ENTER ONTO THE COMMON AREA OF A CONDOMINIUM PROPERTY AT A REASONABLE TIME TO POST THE NOTICE REQUIRED UNDER THIS SECTION ~~ON OR NEAR THE ENTRY OF EACH AFFECTED UNIT.~~

25-504.

(a) The Commission:

(1) may provide for the billing and collection of the water and sewer usage charges on an estimated basis for periods of 6 months or less, based on the historical daily average consumption calculated from actual previous usage;

(2) shall read the meter at least once every 6 months; and

(3) (i) shall base the final bill for the 6-month period on the actual consumption adjusted by previous estimates, if the meter had not been read because it was inaccessible;

(ii) shall base the final bill for the 6-month period on the historical daily average consumption, calculated from actual previous usage, if a final reading cannot be made because:

1. the meter malfunctioned;
2. the meter had been taken out of service for repairs, maintenance, or water system relining purposes; or
3. there was theft of service;

(iii) may modify the historical daily average consumption calculation based on appropriate evidence submitted by the owner; and

(iv) may not base a final bill on estimated usage for two consecutive 6-month periods.

(b) (1) The Commission shall bill for the amount of water and sewer usage charges to each property served monthly, four times a year, or twice a year, as the Commission determines.

(2) On receipt each bill is payable to the Commission.

(c) (1) A late payment charge of 5% of the unpaid charges shall be added and collected as part of the bill if:

(i) the Commission sends out a bill for water and sewer usage charges in the regular course of business;

(ii) for a service period of less than 3 months, the bill is not paid 20 days from the date of sending; or

(iii) for a service period of 3 months or more, the bill is not paid 30 days from the date of sending.

(2) The late payment charge is in addition to and not in substitution for or derogation of any other right or remedy granted to the Commission by any other law.

(d) (1) If a bill is not paid within 30 days after the date of sending, after leaving written notice on the premises or mailing notice to the owner's last known address, the Commission shall turn off the water to the property.

(2) The water may not be turned on again until the bill, any late payment penalty charges as authorized by law, and the cost incurred in shutting off and restoring the water supply are paid.

(e) If a bill is not paid within 60 days after the date of sending, the bill shall be collected against the owner of the property served in the same manner as other debts are collected in Montgomery County and Prince George's County.

(f) **(1) THIS SUBSECTION APPLIES ONLY TO PROPERTY SUBJECT TO A CONDOMINIUM REGIME ESTABLISHED UNDER TITLE 11 OF THE REAL PROPERTY ARTICLE.**

(2) NOTWITHSTANDING ANY OTHER LAW, IF THE COMMISSION DIRECTLY BILLS THE GOVERNING BODY OF A CONDOMINIUM OR A PERSON DESIGNATED BY THE GOVERNING BODY OF A CONDOMINIUM FOR WATER OR SEWER USAGE CHARGES FOR ALL OR A PORTION OF THE UNITS IN A CONDOMINIUM PROPERTY, AND A CHARGE IS IN DEFAULT FOR AT LEAST 60 DAYS, THE COMMISSION SHALL:

~~**(I) POST NOTICE AT EACH AFFECTED UNIT CONSPICUOUSLY AT OR NEAR THE ENTRY TO THE COMMON AREA OF THE CONDOMINIUM, OR**~~

~~**(II) MAIL NOTICE TO THE LAST KNOWN ADDRESS OF THE OWNER OF EACH AFFECTED UNIT.**~~

(3) THE COMMISSION MAY ENTER ONTO THE COMMON AREA OF A CONDOMINIUM PROPERTY AT A REASONABLE TIME TO POST THE NOTICE REQUIRED UNDER THIS SUBSECTION ~~ON OR NEAR THE ENTRY OF EACH AFFECTED UNIT.~~

(G) The provisions of subsections (b), (d), [and] (e), **AND (F)** of this section that relate solely to sewer usage charges may not be construed to invalidate an existing contract between the Commission and a municipality located in the sanitary district without the consent of the municipality.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 685

(House Bill 896)

AN ACT concerning

**The Washington Suburban Sanitary ~~Commission~~ District Transparency and
Rate Relief Act of 2012**

PG/MC 107-12

FOR the purpose of ~~altering the terms of Washington Suburban Sanitary District bonds and refunding bonds that may be issued by the Washington Suburban Sanitary Commission to decrease the number of years that a bond may mature from the date of issuance; requiring the Commission to reduce a certain sum owed for the extinguishment or redemption of a front foot benefit charge by a certain amount under certain circumstances; requiring, beginning on a certain date, certain information regarding the number of payments of a front foot benefit charge to be printed on property tax bills in Prince George's County; prohibiting the Commission from assessing a benefit charge against certain real property for longer than a certain number of years under certain circumstances; prohibiting the Commission from recalculating or increasing any benefit charge assessed against property because of a reduction of the revenues collected by the Commission as a result of this Act; prohibiting the Commission from assessing a benefit charge for longer than a certain number of years against any new residential real property constructed in Prince George's County or Montgomery County on or after a certain date; requiring the Commission to use money in a certain bond fund to offset any reduction in revenues collected by the Commission as a result of this Act; providing that a property owner against whose property a benefit charge has been assessed by the Commission for a certain number of immediately preceding years shall be deemed as having paid the benefit charges in full; prohibiting the Commission from assessing a front foot benefit charge against certain property during a certain fiscal year; prohibiting the Commission from raising a certain service rate for water or sewer usage by more than a certain amount in a certain fiscal year; establishing a Task Force to Study the Effect of Changes to Rates and Charges of in the Washington Suburban Sanitary ~~Commission~~ District; establishing the membership and staffing of the Task Force; providing for the election of the chair of the Task Force; providing that the members of the Task Force may not receive certain compensation but are entitled to certain reimbursement; requiring the Washington Suburban Sanitary Commission to provide certain records and documents to the Task Force; specifying the duties of the Task Force; requiring the Task Force to report certain findings and recommendations to the Governor and the Montgomery County and Prince George's County delegations to the General Assembly on or before a certain date; providing for the termination of a certain provision of this Act; and generally relating to water and sewer usage service rates of and bonds issued and benefit charges assessed and collected by in the Washington Suburban Sanitary ~~Commission~~ District.~~

BY repealing and reenacting, with amendments,
Article – Public Utilities
Section ~~22-102, 22-114, 25-211, and 25-214~~

Annotated Code of Maryland
(2010 Replacement Volume and 2011 Supplement)

~~BY adding to~~

~~Article – Public Utilities~~

~~Section 25-215~~

~~Annotated Code of Maryland~~

~~(2010 Replacement Volume and 2011 Supplement)~~

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

Article – Public Utilities

~~22-102.~~

~~(a) The Commission may issue bonds of the sanitary district in amounts necessary to carry on its work, including for:~~

~~(1) acquisition, design, construction, reconstruction, establishment, extension, enlargement, or condemnation of the water and sewer systems in the sanitary district or in an area where extension of the systems may be authorized by law;~~

~~(2) acquisition of land or equipment for, or construction, remodeling, enlargement, or replacement of any office or operating building necessary to administer or operate the systems; or~~

~~(3) design and construction of trunk sewers and sewers or portions of sewer lines required to relieve septic tank failures and for which no front foot benefit charges can be collected as determined by the Commission, and sewage pumping stations and sewage disposal facilities, including reimbursement to the District of Columbia or other federal authorities for any construction within the District of Columbia.~~

~~(b) (1) The Commission may issue bonds of the sanitary district for the acquisition of capital equipment in amounts necessary to carry on its work, including:~~

~~(i) computer equipment;~~

~~(ii) laboratory equipment;~~

~~(iii) maintenance field and yard equipment;~~

~~(iv) office equipment;~~

~~(v) telecommunication equipment; and~~

- ~~(vi) trucks and fleet vehicles.~~
- ~~(2) The bonds may be issued only to finance the acquisition of equipment:~~
- ~~(i) with a useful life of 4 to 7 years;~~
- ~~(ii) that the Commission expects to finance over a period of 4 years or less; and~~
- ~~(iii) for which the Commission budgets accordingly.~~
- ~~(3) The principal of the bonds issued under this subsection shall be payable annually beginning not more than 1 year after the date of issue.~~
- ~~(4) The bonds issued under this subsection shall mature not more than 4 years after the date of issue.~~
- ~~(5) The aggregate amount of bonds issued under this subsection outstanding at any time may not exceed \$15,000,000, subject to annual upward adjustment in accordance with the Consumer Price Index – All Urban Consumers (CPI-U), for the Washington, DC MD VA metropolitan area, over the base year 1997.~~
- ~~(e) Except as otherwise provided in this section, bonds issued under this section shall be issued as serial bonds with the principal payable annually, beginning no later than 3 years from the date of issue.~~
- ~~(d) (1) The bonds shall:~~
- ~~(i) be issued in denominations determined by the Commission;~~
- ~~(ii) bear interest annually at rates the Commission determines to be advantageous to the sanitary district and in the public interest; and~~
- ~~(iii) mature no later than [40] 23 years from the date of issue.~~
- ~~(2) The bonds may be:~~
- ~~(i) registered or coupon bonds; or~~
- ~~(ii) registrable as to principal with interest represented by coupons.~~
- ~~(3) The interest on the bonds shall be payable semiannually.~~

~~(c) (1) Notwithstanding any other provision of law, the Commission may issue bonds that have a maturity of more than 1 year as fully registered bonds without coupons.~~

~~(2) The Commission may determine the form of the bonds issued under paragraph (1) of this subsection for the purposes of:~~

~~(i) qualifying the interest on the bonds for exemption from federal income tax; and~~

~~(ii) conforming to standards and practices for the registration and transfer of bonds generally followed by banks and trust companies acting as registrars and transfer agents of bonds, including:~~

~~1. signing of bonds by facsimile signatures of Commission officers;~~

~~2. authentication of bonds by the manual signature of an officer of a bank or trust company signing as the registrar or transfer agent;~~

~~3. maintenance by registrars or transfer agents of records of owners of bonds;~~

~~4. complying with the standard record date system for payment of interest;~~

~~5. issuing bonds on the basis of book entries and certificates; and~~

~~6. complying with requirements for the form of bond that is acceptable to central depositories used in the marketing and trading of municipal bond issues.~~

~~(f) The bonds of the sanitary district or of the Commission are forever exempt from taxation by the State and counties and municipalities in the State.~~

~~(g) The bonds may be made redeemable before maturity at the option of the Commission at the prices and under terms and conditions that the Commission sets before the bonds are issued.~~

~~22-114.~~

~~(a) The Commission may borrow money and issue refunding bonds to refund bonds issued and outstanding by the Commission if:~~

~~(1) the county executives and county councils of Montgomery County and Prince George's County approve the plan for the issuance of refunding bonds; and~~

~~(2) the Commission determines that issuing refunding bonds will result in total savings in debt service costs, directly or through any debt restructuring.~~

~~(b) The Commission shall authorize the issuance of refunding bonds by resolution that may include:~~

- ~~(1) the date of the refunding bonds;~~
- ~~(2) the maturity dates of the refunding bonds, which may not exceed [40] 23 years from the date of issue;~~
- ~~(3) the interest rates on the refunding bonds, which may not exceed 10% annually;~~
- ~~(4) the denominations of the refunding bonds;~~
- ~~(5) the form of the refunding bonds, which may be coupon or registered;~~
- ~~(6) registration or conversion privileges;~~
- ~~(7) the manner of executing the refunding bonds;~~
- ~~(8) the manner of payment at places in or outside of the State;~~
- ~~(9) terms for redemption before maturity;~~
- ~~(10) terms for replacement of mutilated, destroyed, stolen, or lost bonds; and~~
- ~~(11) any other terms, conditions, or covenants.~~

~~(e) Refunding bonds issued to refund outstanding bonds for which front foot benefit charges have been imposed shall mature on or before 1 year after the date set for the payment of the final installment of the front foot benefit charge.~~

- ~~(d) (1) Refunding bonds may be:~~
- ~~(i) exchanged for bonds being refunded;~~
 - ~~(ii) sold at public sale; or~~
 - ~~(iii) subject to paragraph (2) of this subsection, sold at a negotiated sale in an open meeting.~~

~~(2) Refunding bonds may be sold at a negotiated sale if the Commission determines:~~

~~(i) that a public sale would be impracticable to effectuate the purpose of the refunding bonds; and~~

~~(ii) the price, terms, and conditions are in the best interest of the Commission.~~

~~(e) (1) At least 45 days before the sale or exchange of any refunding bonds, the Commission shall deliver its plan on the issuance of the refunding bonds to the county executives and county councils of Montgomery County and Prince George's County.~~

~~(2) Except as provided in paragraph (3) of this subsection, the Commission may not sell or exchange the refunding bonds unless the plan under paragraph (1) of this subsection is approved by the county executives and county councils of Montgomery County and Prince George's County.~~

~~(3) (i) On or before 30 days after the delivery of the plan, the county executives and county councils of Montgomery County and Prince George's County shall approve or disapprove of the plan.~~

~~(ii) Failure of a county executive or county council of Montgomery County or Prince George's County to act within 30 days is deemed as approval of the plan by that county.~~

~~(4) The county executives and county councils of Montgomery County and Prince George's County may waive the time period requirements under this subsection.~~

~~(f) If an officer whose signature or facsimile signature appears on a refunding bond or coupon ceases to be an officer before the delivery of the refunding bond, the signature or facsimile is valid and sufficient as if the officer remained in office until delivery.~~

~~(g) Refunding bonds issued to refund bonds guaranteed as to payment of principal and interest by Montgomery County or Prince George's County may be guaranteed in the same manner and form as under § 22-104 of this subtitle.~~

~~(h) Refunding bonds authorized under this section are:~~

~~(1) in addition to any other bonds authorized under this subtitle; and~~

~~(2) included in computing the amount of bonds that may be issued under the 7% limitation under § 22-103 of this subtitle.~~

~~(i) Refunding bonds authorized under this section are forever exempt from taxation by the State and counties and municipalities in the State.~~

~~(j) The powers granted under this section are not subject to the provisions of any other law in conflict with the powers.~~

~~25-211.~~

~~(a) (1) For purposes of this section, the annual benefit charge for a property shall be calculated at a sum:~~

~~(i) equal to the base rate applied to the classification for the property as it is used, disregarding any allowance for excess; but~~

~~(ii) not less than the base rate applied to property in the residential subdivision classification.~~

~~(2) At any time, a benefit charge may be extinguished or redeemed by payment to the Commission of a sum equal to:~~

~~(i) the annual benefit charge multiplied by the number of years yet to run on the bonds that financed the construction of the water main or sewer on which the benefit charge was based; and~~

~~(ii) less the interest calculated at the rate of interest on the bonds that financed the construction of the water main or sewer on which the benefit charge is based.~~

~~(b) Notwithstanding subsection (a) of this section, if a benefit charge is paid and redeemed because the property is acquired by the State, a county, or other governmental unit under any law that requires redemption, the payment to the Commission:~~

~~(1) shall be the capitalized amount of the actual benefit charge; but~~

~~(2) may not be less than an amount calculated as if the property were in the small acreage classification, with the redemption amount calculated as provided in this section.~~

~~(c) NOTWITHSTANDING SUBSECTIONS (A) AND (B) OF THIS SECTION, WHEN A FRONT FOOT BENEFIT CHARGE IS EXTINGUISHED OR REDEEMED THE COMMISSION SHALL REDUCE THE SUM OWED FOR THE EXTINGUISHMENT OR REDEMPTION OF THE FRONT FOOT BENEFIT CHARGE BY AN AMOUNT EQUAL TO 3%.~~

~~(D) (1) On receiving a sum from the extinguishment or redemption of one or more front foot benefit charges, the Commission:~~

~~(i) shall purchase and cancel one or more bonds from the series of bonds issued for the construction that was the basis of the front foot benefit charge; or~~

~~(ii) may invest or use the sum to:~~

~~1. construct other water mains and sewers for which benefit charges are imposed; or~~

~~2. amortize bonds issued for the construction of water mains and sewers for which front foot benefit charges are imposed under this subtitle.~~

~~(2) The Commission may make up a deficiency in the purchase of a bond or pay a premium from any available surplus funds.~~

~~(3) The extinguishment or redemption of a benefit charge is conditional until the last year of maturity of the bonds from which proceeds the water mains or sewers were constructed.~~

~~(4) If, after extinguishment or redemption, the use of the property changes to another classification that would yield a greater benefit charge than that used to calculate the sum to extinguish or redeem the benefit charge, the Commission may:~~

~~(i) reclassify the property;~~

~~(ii) calculate a benefit charge to give credit for the sum paid for the extinguishment or redemption; and~~

~~(iii) reimpose the benefit charge for the remaining number of years until the bonds mature.~~

25-214.

(a) This section applies to the collection of benefit charges for the Commission by the directors of finance of Prince George's County and Montgomery County or by other tax collecting authorities in those counties.

(b) Each year, for 30 days before the collection of taxes begins in Montgomery County and Prince George's County, the Commission shall have access to the records of the treasury division in each county's department or office of finance to inform each county:

(1) regarding which properties or property owners are subject to a benefit charge and the annual benefit charge imposed on the property;

(2) regarding each property on which the Commission has imposed a benefit charge that was not subject to State or county taxes; and

(3) of the total benefit charge imposed for all properties in the county.

(c) (1) (i) All laws relating to the collection of county taxes apply to the collection of a benefit charge.

(ii) A benefit charge:

1. for purposes of collection, shall be treated as a county tax;

2. shall bear the same interest and penalties as a county tax; and

3. shall be advertised with, and in the same manner as, a county tax.

(2) The director of finance shall collect a benefit charge in accordance with this section.

(3) The director of finance:

(i) shall refer a protest, objection, or complaint concerning a benefit charge to the Commission; and

(ii) may not refund, change, or amend a benefit charge.

(4) A property redeemed from a county tax sale or a property sold by the county council of Montgomery County or Prince George's County after a final tax sale may not be redeemed or sold except on payment of the benefit charge due on the property.

(5) A property subject to a delinquent benefit charge shall be sold for the delinquent benefit charge at the same time and in the same manner as property sold for delinquent county taxes.

(d) (1) The director of finance shall:

(i) print on the tax bill:

“To Sanitary Commission benefit charge \$...”;

- (ii) provide a space on the tax bill for the interest or penalty;
- (iii) make the proper entries on each tax bill mailed; and
- (iv) collect the amount specified on the bill for the benefit charge with the State and county taxes.

(2) In Montgomery County, each property tax bill shall list separately any deferred water main or sewer connection benefit charges applicable to an assessed property.

(3) ~~IN BEGINNING JUNE 1, 2013, IN PRINCE GEORGE'S COUNTY, EACH PROPERTY TAX BILL SHALL CONTAIN A NOTICE OF THE NUMBER OF ANNUAL PAYMENTS REMAINING ON THE ASSESSED PROPERTY FOR THE FRONT FOOT BENEFIT CHARGE.~~

(e) (1) On or before the 10th day of each month, the director of finance shall pay the Commission the amount of the benefit charges collected by the director of finance through the last day of the preceding month.

(2) If the director of finance does not pay the amount due the Commission as provided in paragraph (1) of this subsection, the amount due shall bear a penalty of 1% per month.

(3) The director of finance is personally liable for failure to pay the amount due to the Commission.

(4) The county councils of Montgomery County and Prince George's County shall require the bonds of its respective director of finance to be conditioned on payment to the Commission of the amount collected under this section.

(f) (1) By December 1 of each year, the Commission shall pay Montgomery County and Prince George's County a reasonable amount for the services of its respective director of finance.

(2) The payment provided for in paragraph (1) of this subsection shall be included as an item in the Commission's operating budget.

~~25-215.~~

~~NOTWITHSTANDING ANY OTHER PROVISION OF LAW:~~

~~(1) FOR A PROPERTY AGAINST WHICH A FRONT FOOT BENEFIT CHARGE THAT WAS ASSESSED BEFORE JUNE 1, 2012, IF THE CHARGE HAS BEEN ASSESSED FOR LESS THAN 23 YEARS, THE COMMISSION MAY NOT ASSESS THAT~~

~~BENEFIT CHARGE FOR LONGER THAN 23 YEARS FROM THE YEAR THAT THE BENEFIT CHARGE WAS INITIALLY ASSESSED AGAINST THE PROPERTY;~~

~~(2) THE COMMISSION MAY NOT RECALCULATE OR INCREASE A FRONT FOOT BENEFIT CHARGE BECAUSE OF A REDUCTION IN REVENUES COLLECTED BY THE COMMISSION AS A RESULT OF THIS SECTION;~~

~~(3) FOR RESIDENTIAL REAL PROPERTY CONSTRUCTED IN MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY ON OR AFTER JUNE 1, 2012, A FRONT FOOT BENEFIT CHARGE MAY NOT BE ASSESSED BY THE COMMISSION AGAINST THE PROPERTY FOR MORE THAN 23 YEARS; AND~~

~~(4) THE COMMISSION SHALL USE THE MONEY IN THE CURRENT BOND FUND UNDER § 22-107 OF THIS DIVISION II TO OFFSET ANY REDUCTION IN REVENUES COLLECTED BY THE COMMISSION AS A RESULT OF THIS SECTION.~~

SECTION 2. AND BE IT FURTHER ENACTED, That, ~~notwithstanding any other provision of law, on or before June 1, 2012, for a property owner against whose property a front foot benefit charge has been assessed by the Washington Suburban Sanitary Commission for the immediately preceding 23 years, the front foot benefit charge shall be deemed as having been paid in full. The Commission shall promptly take the necessary steps to implement this section;~~

(a) There is a Task Force to Study Rates and Charges in the Washington Suburban Sanitary District.

(b) The Task Force consists of the following members:

(1) one member from the delegation to the Senate of Maryland from Montgomery County, selected by the chair of the delegation;

(2) one member from the delegation to the Senate of Maryland from Prince George's County, selected by the chair of the delegation;

(3) one member from the delegation to the House of Delegates from Montgomery County, appointed by the chair of the delegation;

(4) one member from the delegation to the House of Delegates from Prince George's County, appointed by the chair of the delegation;

(5) one member who has experience in finance designated by the County Executive of Montgomery County;

(6) one member who has experience in finance designated by the County Executive of Prince George's County;

(7) one member who has experience in finance designated by the Montgomery County Council;

(8) one member who has experience in finance designated by the Prince George's County Council;

(9) the chair of the Washington Suburban Sanitary Commission, or the chair's designee; and

(10) the following members appointed by the Governor:

(i) one representative of the Maryland–National Capital Building Industry Association;

(ii) one representative of a land developer in the Washington Suburban Sanitary District in Prince George's County; and

(iii) one representative of a land developer in the Washington Suburban Sanitary District in Montgomery County.

(c) The Task Force shall elect one of its members as chair of the Task Force.

(d) The Washington Suburban Sanitary Commission shall provide staff for the Task Force.

(e) A member of the Task Force:

(1) may not receive compensation as a member of the Task Force; but

(2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(f) The Washington Suburban Sanitary Commission shall provide any information and documents to the Task Force that the Task Force requires to carry out the duties of the Task Force under subsection (g) of this section.

(g) The Task Force shall:

(1) determine if there are water and sewer public utilities in other states that have a cap on the percentage that the public utility may increase water and sewer usage rates in a single year;

(2) complete a comparison of the water and sewer usage rates and rate increases charged by the Washington Suburban Sanitary Commission with the rates charged by water and sewer public utilities in other states;

(3) determine what the effect on the Washington Suburban Sanitary Commission would be if the General Assembly:

(i) implemented a cap on the percentage that the Washington Suburban Sanitary Commission may increase water and sewer usage rates in a single year; and

(ii) required the Washington Suburban Sanitary Commission to give a prepayment discount to a customer who extinguished or redeemed a front foot benefit charge before the final payment was due;

(4) study the process developers follow in charging property owners for the cost of constructing water and sewer facilities and connecting the property to the water and sewer facilities; and

(5) make recommendations regarding:

(i) standards for developers to follow when charging property owners for the cost of constructing water and sewer facilities and connecting property to the water and sewer facilities; and

(ii) improving the transparency of the practice of developers charging property owners for the cost of constructing water and sewer facilities and connecting the property to the water and sewer facilities.

(h) On or before December 31, 2012, the Task Force shall report its findings and recommendations to the Governor and, in accordance with § 2-1246 of the State Government Article, the Montgomery County and Prince George's County delegations to the General Assembly.

~~SECTION 3. AND BE IT FURTHER ENACTED, That, notwithstanding any other provision of law, the Washington Suburban Sanitary Commission may not assess a front foot benefit charge against any property during the 2013 fiscal year. The Commission may not recalculate or increase a front foot benefit charge because of a reduction in revenues collected by the Commission as a result of this section.~~

~~SECTION 4. AND BE IT FURTHER ENACTED, That, notwithstanding any other law, the Washington Suburban Sanitary Commission may not raise the service rate for water or sewer usage by more than 5% for fiscal year 2013.~~

SECTION 5. 3. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2012. Section 2 of this Act shall remain effective for a period of 1 year and, at the end of May 31, 2013, with no further action required by the General Assembly, Section 2 of this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 22, 2012.

Chapter 686**(House Bill 900)**

AN ACT concerning

**Prince George's County – Proposed Subdivisions – ~~Escrow Funds~~
Development Impact Fees for Traffic Mitigation****PG/MC 109-12**

FOR the purpose of ~~authorizing the Prince George's County Planning Board, if it makes certain findings, to allow a developer of a proposed subdivision that would increase traffic in a certain roadway or intersection beyond a certain level to pay a certain fee into a certain escrow fund instead of making certain necessary improvements to the roadway or intersection; requiring the Prince George's County Department of Public Works and Transportation to maintain an escrow fund established under this Act; specifying the permissible uses for an escrow fund established under this Act; providing for the calculation of the fee to be paid into an escrow fund by a developer of a subdivision; authorizing the Board to require a subdivision to construct certain improvements under certain circumstances; providing for a certain fee deduction or reimbursement if certain improvements are made; providing that this Act applies only in certain areas; defining certain terms~~ repealing a limitation on a certain impact fee; altering the requirement that the Prince George's County Council provide credit in lieu of payment of development impact fees to include certain payments made regarding certain permanent or interim public transportation projects; requiring the County Council to provide credit in lieu of payment of certain development impact fees for certain payments related to subdivision approval; authorizing that a certain local law may allow the Prince George's County Planning Board to impose a certain development impact fee in lieu of certain mandatory transportation improvements if certain requirements are met; repealing the requirement that certain impact fees be retained in a separate account; requiring that certain impact fees be retained in a certain escrow account; altering the permissible uses for certain impact fees; requiring that a certain escrow account be budgeted, maintained, and accounted for in a certain manner by the Prince George's County Department of Finance; authorizing that a certain account be expended only for certain purposes; requiring certain development impact fees collected and maintained by Prince George's County before a certain date be aggregated into a certain escrow account and be expended for certain purposes; making certain conforming changes; and generally relating to proposed subdivisions and ~~escrow funds~~ development impact fees for traffic mitigation in Prince George's County.

~~BY adding to~~~~Article 28 – Maryland National Capital Park and Planning Commission~~

~~Section 7-115.1~~

~~Annotated Code of Maryland~~

~~(2010 Replacement Volume and 2011 Supplement)~~

BY repealing and reenacting, with amendments,

The Public Local Laws of Prince George's County

Section 10-265

Article 17 – Public Local Laws of Maryland

(2007 Edition and 2008/2009 Supplement, as amended)

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~~

~~7-115.1.~~

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

~~(2) “BOARD” MEANS THE PRINCE GEORGE’S COUNTY PLANNING BOARD.~~

~~(3) “GUIDELINES” MEANS THE GUIDELINES FOR THE ANALYSIS OF THE TRAFFIC IMPACT OF DEVELOPMENT PROPOSALS GUIDELINES FOR THE ANALYSIS OF THE TRAFFIC IMPACT OF DEVELOPMENT PROPOSALS OF THE PRINCE GEORGE’S COUNTY PLANNING DEPARTMENT.~~

~~(B) THIS SECTION APPLIES ONLY IN CORRIDORS AND CENTERS DESIGNATED IN THE MOST CURRENT VERSION OF THE PRINCE GEORGE’S COUNTY GENERAL PLAN.~~

~~(C) NOTWITHSTANDING ANY OTHER PROVISION OF LAW AND SUBJECT TO SUBSECTION (A) OF THIS SECTION, IF A PROPOSED SUBDIVISION WOULD INCREASE TRAFFIC VOLUME IN A ROADWAY OR INTERSECTION TO A LEVEL THAT EXCEEDS THE ACCEPTABLE PEAK HOUR SERVICE LEVEL AS DEFINED IN THE GUIDELINES, THE BOARD MAY, INSTEAD OF REQUIRING THE DEVELOPER OF THE SUBDIVISION TO MAKE THE ROAD IMPROVEMENTS NECESSARY TO ACCOMMODATE THE INCREASED TRAFFIC VOLUME, REQUIRE THE DEVELOPER TO PAY A FEE INTO AN ESCROW FUND ESTABLISHED FOR THE ROADWAY OR INTERSECTION IN ACCORDANCE WITH THIS SECTION.~~

~~(D) THE BOARD MAY AUTHORIZE A DEVELOPER OF A SUBDIVISION TO PAY A FEE INTO AN ESCROW FUND IN ACCORDANCE WITH THIS SECTION ONLY IF THE BOARD FINDS THAT IT WOULD NOT BE EQUITABLE OR ECONOMICALLY~~

~~REASONABLE TO IMPOSE ON THE DEVELOPER THE ENTIRE COST OF ROAD IMPROVEMENTS NECESSARY TO ACHIEVE AN ACCEPTABLE PEAK HOUR SERVICE LEVEL UNDER THE GUIDELINES.~~

~~(E) AN ESCROW FUND ESTABLISHED UNDER THIS SECTION SHALL BE MAINTAINED BY THE PRINCE GEORGE'S COUNTY DEPARTMENT OF PUBLIC WORKS AND TRANSPORTATION AND HELD AS A DEDICATED FUND TO BE USED ONLY TO:~~

~~(1) PAY FOR DESIGN AND CONSTRUCTION OF IMPROVEMENTS FOR THE PARTICULAR ROADWAY OR INTERSECTION FOR WHICH THE FUND IS ESTABLISHED; AND~~

~~(2) OFFSET THE IMPACT OF THE INCREASE IN TRAFFIC CAUSED BY A SUBDIVISION DEVELOPED BY A DEVELOPER THAT PAYS INTO THE FUND.~~

~~(F) (1) THE FEE PAYABLE BY A DEVELOPER INTO THE ESCROW FUND SHALL BE CALCULATED ON A PER UNIT BASIS FOR RESIDENTIAL DEVELOPMENT AND A PER SQUARE FOOT BASIS FOR COMMERCIAL DEVELOPMENT.~~

~~(2) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, THE FEE SHALL REPRESENT AN EQUITABLE ALLOCATION OF THE ESTIMATED COST OF REQUIRED ROAD IMPROVEMENTS AND SHALL BE CALCULATED BASED ON 150% OF THE SUBDIVISION'S PRO RATA TRAFFIC IMPACT ON THE ROADWAY OR INTERSECTION.~~

~~(3) A PORTION OF THE COST OF THE REQUIRED IMPROVEMENTS SHALL BE ATTRIBUTED TO EXISTING FLOW THROUGH TRAFFIC ON A PRO RATA BASIS AND SHALL BE SUBTRACTED FROM THE TOTAL COST OF REQUIRED IMPROVEMENTS FOR PURPOSES OF DETERMINING THE FEE TO BE PAID BY A PROPOSED SUBDIVISION.~~

~~(G) (1) THE BOARD MAY REQUIRE THE DEVELOPER OF A SUBDIVISION TO CONSTRUCT INTERIM IMPROVEMENTS IF THE BOARD FINDS THAT THE IMPROVEMENTS WOULD MATERIALLY IMPROVE THE EXISTING TRAFFIC CONDITIONS IN THE ROADWAY OR INTERSECTION.~~

~~(2) THE COST OF AN INTERIM IMPROVEMENT MADE UNDER THIS SUBSECTION SHALL BE DEDUCTED FROM THE FEE OTHERWISE OWED BY THE DEVELOPER UNDER THIS SECTION OR SHALL ENTITLE THE DEVELOPER TO A REIMBURSEMENT FROM THE ESCROW FUND IF THE FEE HAS BEEN PAID.~~

10-265.

(a) Subject to the provisions of [Subsection (b) of] this Section, the County Council may, by [ordinance] LOCAL LAW, impose and provide for the collection of development impact fees for financing up to 50% of the capital costs of additional or expanded transportation projects required to accommodate new construction or development.

(b) (1) Any impact fees imposed under this Section shall be adopted in accordance with a general statement of public policy adopted by the County Council to impose impact fees in areas of the County in which the level of new construction or development is creating a need for additional or expanded transportation projects.

(2) [The impact fee imposed under this Section for single-family residences may not exceed \$1,000 per unit.

(3) The County Council shall:

(A) Adopt a method for determining the timing and location of the areas in which an impact fee is to be imposed; and

(B) In lieu of payment of development impact fees **IMPOSED UNDER THIS SECTION**, provide credit for:

(i) [payments] **PAYMENTS** made for the construction of, or improvements to, **PERMANENT OR INTERIM** public transportation projects [included among the transportation projects subject to impact fee funding within the impact fee area] **AUTHORIZED FOR IMPACT FEE FUNDING AS PROVIDED IN THIS SECTION; AND**

(ii) **PAYMENTS RELATED TO SUBDIVISION APPROVAL AS PROVIDED IN SUBSECTION (C) OF THIS SECTION.**

(c) **A LOCAL LAW ENACTED IN ACCORDANCE WITH THIS SECTION MAY AUTHORIZE THE PLANNING BOARD TO IMPOSE A DEVELOPMENT IMPACT FEE IN LIEU OF MANDATORY TRANSPORTATION IMPROVEMENTS OTHERWISE REQUIRED TO ACHIEVE TRANSPORTATION ADEQUACY AT THE TIME OF SUBDIVISION APPROVAL IF:**

(1) **THE PROPOSED DEVELOPMENT IS LOCATED WITHIN AN AREA OF THE COUNTY IN WHICH IMPACT FEES ARE AUTHORIZED BY THE COUNTY COUNCIL UNDER THIS SECTION;**

(2) TRANSPORTATION ADEQUACY IS DETERMINED BY THE PLANNING BOARD ACCORDING TO THE GUIDELINES FOR THE ANALYSIS OF THE TRAFFIC IMPACT OF DEVELOPMENT PROPOSALS IN PRINCE GEORGE'S COUNTY;

(3) THE LOCAL LAW PROVIDES STANDARDS FOR AND THE PLANNING BOARD FINDS THAT IT WOULD NOT BE EQUITABLE OR ECONOMICALLY REASONABLE TO REQUIRE THE APPLICANT DEVELOPER TO FUND THE ENTIRE COST OF ROAD IMPROVEMENTS NECESSARY TO ACHIEVE AN ACCEPTABLE PEAK HOUR SERVICE LEVEL UNDER THE GUIDELINES;

(4) THE IMPACT FEE IN LIEU OF MANDATORY TRANSPORTATION IMPROVEMENTS OTHERWISE REQUIRED IS ONLY IMPOSED WITH THE CONSENT OF THE OWNER OF THE PROPERTY SUBJECT TO THE SUBDIVISION APPROVAL;

(5) PAYMENT OF THE IMPACT FEE IS AN EXPRESS CONDITION OF THE SUBDIVISION'S APPROVAL AND NOTED ON THE FINAL PLAT BEFORE RECORDING THE PLAT IN THE LAND RECORDS;

(6) THE COUNTY DEPARTMENT OF PUBLIC WORKS AND TRANSPORTATION HAS APPROVED THE ESTIMATED COST OF REQUIRED TRANSPORTATION IMPROVEMENTS;

(7) THE LOCAL LAW PROVIDES STANDARDS FOR THE PLANNING BOARD TO DETERMINE THE IMPACT FEE ALLOCABLE TO THE PROPOSED SUBDIVISION SUBJECT TO THE FOLLOWING:

(A) THE IMPACT FEE PAYABLE SHALL BE CALCULATED ON THE BASIS OF DAILY VEHICLE TRIPS FOR ALL DEVELOPMENTS TO BE SERVED BY THE TRANSPORTATION FACILITIES INVOLVED;

(B) EXCEPT AS PROVIDED IN ITEM (C) OF THIS ITEM, THE IMPACT FEE SHALL REPRESENT A REASONABLE ALLOCATION OF THE TOTAL ESTIMATED COST OF REQUIRED TRANSPORTATION IMPROVEMENTS AND SHALL BE CALCULATED BASED ON 150% OF THE SUBDIVISION'S PRO RATA SHARE OF THE TOTAL TRIPS FOR THE TRAFFIC FACILITIES INVOLVED; AND

(C) THE LOCAL LAW MAY PROVIDE FOR AN ADJUSTMENT IN CALCULATING THE SUBDIVISION'S SHARE OF TRIPS BY REDUCTION TO ACCOUNT FOR PREEXISTING TRIPS THAT DO NOT ORIGINATE OR TERMINATE WITHIN PRINCE GEORGE'S COUNTY; AND

(8) THE LOCAL LAW PROVIDES STANDARDS FOR THE PLANNING BOARD TO REQUIRE THE APPLICANT OR OWNER TO CONSTRUCT INTERIM IMPROVEMENTS IF THE PLANNING BOARD FINDS THAT THE IMPROVEMENTS

WOULD MATERIALLY IMPROVE THE EXISTING TRAFFIC CONDITIONS IN THE ROADWAY OR INTERSECTION.

[(c)] (D) Any impact fees collected by the County:

(1) Shall be retained in [a separate account] THE ESCROW ACCOUNT MAINTAINED IN ACCORDANCE WITH SUBSECTION (E) OF THIS SECTION;

(2) May be used AT THE DISCRETION OF THE COUNTY DEPARTMENT OF PUBLIC WORKS AND TRANSPORTATION only for the capital costs of additional or expanded transportation projects within the [area] AREAS OF THE COUNTY in which the IMPACT fees are [imposed] AUTHORIZED BY THE COUNTY COUNCIL UNDER THIS SECTION; and

(3) May not be transferred to any other account.

(E) THE ESCROW ACCOUNT REQUIRED BY SUBSECTION (D) OF THIS SECTION SHALL BE BUDGETED, MAINTAINED, AND ACCOUNTED FOR ON AN AGGREGATE BASIS AS A RESTRICTED FUND BY THE COUNTY DEPARTMENT OF FINANCE AND MAY BE EXPENDED ONLY FOR THE PURPOSES SET FORTH IN THIS SECTION IN ANY AREA OF THE COUNTY IN WHICH IMPACT FEES ARE AUTHORIZED BY THE COUNTY COUNCIL UNDER THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That any development impact fees collected and maintained by the County before October 1, 2012, shall be aggregated into the escrow account established in accordance with this Act and expended thereafter for the purposes authorized by this Act.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 687

(House Bill 903)

AN ACT concerning

Prince George's County – Adults with Developmental Disabilities Citizen's Advisory Committee

FOR the purpose of establishing the Adults with Developmental Disabilities Citizen's Advisory Committee in Prince George's County; providing for the purposes, membership, and duties of the Advisory Committee; requiring the Advisory Committee to elect officers from among its members; requiring a certain office in the Developmental Disabilities Administration to provide certain assistance to the Advisory Committee; providing that a member of the Advisory Committee may not receive certain compensation; requiring the Advisory Committee to meet at least once each month; requiring representatives from the Advisory Committee to meet with certain individuals on a certain basis; defining a certain term; providing for the termination of this Act; and generally relating to the establishment of the Adults with Developmental Disabilities Citizen's Advisory Committee in Prince George's County.

BY renumbering

Article – Health – General

Section 7–1201 and the subtitle “Subtitle 12. Short Title”

to be Section 7–1301 and the subtitle “Subtitle 13. Short Title”

Annotated Code of Maryland

(2009 Replacement Volume and 2011 Supplement)

BY adding to

Article – Health – General

Section 7–1201 to be under the new subtitle “Subtitle 12. Prince George's County – Adults with Developmental Disabilities Citizen's Advisory Committee”

Annotated Code of Maryland

(2009 Replacement Volume and 2011 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 7–1201 and the subtitle “Subtitle 12. Short Title” of Article – Health – General of the Annotated Code of Maryland be renumbered to be Section(s) 7–1301 and the subtitle “Subtitle 13. Short Title”.

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

Article – Health – General

SUBTITLE 12. PRINCE GEORGE'S COUNTY – ADULTS WITH DEVELOPMENTAL DISABILITIES CITIZEN'S ADVISORY COMMITTEE.

7–1201.

(A) IN THIS SECTION, “ADVISORY COMMITTEE” MEANS THE ADULTS WITH DEVELOPMENTAL DISABILITIES CITIZEN'S ADVISORY COMMITTEE.

(B) THERE IS AN ADULTS WITH DEVELOPMENTAL DISABILITIES CITIZEN'S ADVISORY COMMITTEE IN PRINCE GEORGE'S COUNTY.

(C) THE PURPOSES OF THE ADVISORY COMMITTEE ARE TO:

(1) PROVIDE THE SECRETARY, THE DIRECTOR, THE DIRECTOR OF THE SOUTHERN MARYLAND REGIONAL ADMINISTRATION, THE DIRECTOR OF THE SOUTHERN MARYLAND REGIONAL DIVISION OF REHABILITATION SERVICES, AND GROUPS IN THE LOCAL COMMUNITY WITH INFORMATION REGARDING THE NEEDS OF ADULTS WITH DEVELOPMENTAL DISABILITIES WHO RESIDE IN PRINCE GEORGE'S COUNTY;

(2) ADVOCATE FOR POSITIVE SYSTEMS CHANGE RELATED TO THE SERVICES PROVIDED TO ADULTS WITH DEVELOPMENTAL DISABILITIES;

(3) ADVOCATE FOR A FAMILY-FRIENDLY RELATIONSHIP WITH THE ADMINISTRATION, THE MARYLAND STATE DEPARTMENT OF EDUCATION DIVISION OF REHABILITATION SERVICES, AND OTHER STATE AND LOCAL ORGANIZATIONS;

(4) PROVIDE A FORUM FOR INFORMATION SHARING AND SUPPORT AMONG ADULTS WITH DEVELOPMENTAL DISABILITIES AND THEIR FAMILIES;

(5) ADVOCATE FOR BEST PRACTICES IN PROVIDING SERVICES TO ADULTS WITH DEVELOPMENTAL DISABILITIES; AND

(6) SEEK INPUT FROM INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES, ADVOCATES, FAMILY MEMBERS, COMMUNITY PARTNERS, SERVICE PROVIDERS, EDUCATORS, AND ADMINISTRATORS ON LOCAL ISSUES RELATED TO:

(I) EMPLOYMENT, SERVICES, AND CONTINUING EDUCATION FOR ADULTS WITH DEVELOPMENTAL DISABILITIES; AND

(II) THE INCLUSION OF ADULTS WITH DEVELOPMENTAL DISABILITIES IN THE COMMUNITY.

(D) THE ADVISORY COMMITTEE CONSISTS OF THE FOLLOWING MEMBERS:

(1) THE DIRECTOR OF THE SOUTHERN MARYLAND REGIONAL ADMINISTRATION;

(2) THE DIRECTOR OF THE SOUTHERN MARYLAND REGIONAL DIVISION OF REHABILITATION SERVICES;

(3) ONE REPRESENTATIVE FROM THE PRINCE GEORGE'S COUNTY DEPARTMENT OF FAMILY SERVICES;

(4) PARENTS AND FAMILY MEMBERS OF INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES;

(5) INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES;

(6) REPRESENTATIVES FROM ADMINISTRATION SERVICE PROVIDERS; AND

(7) REPRESENTATIVES FROM OTHER INTERESTED GROUPS, INCLUDING LOCAL COLLEGES, DISABILITY ADVOCATES, TRANSPORTATION PROVIDERS, LITERACY ORGANIZATIONS, AND RECREATION GROUPS.

(E) THE ADVISORY COMMITTEE SHALL ELECT OFFICERS FROM AMONG ITS MEMBERS.

(F) THE REGIONAL ADMINISTRATION OFFICE SHALL ASSIST THE ADVISORY COMMITTEE IN NOTIFYING PROVIDERS AND CONSUMERS OF ADMINISTRATION SERVICES OF MEETINGS OF THE ADVISORY COMMITTEE.

(G) A MEMBER OF THE ADVISORY COMMITTEE MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE ADVISORY COMMITTEE.

(H) (1) THE ADVISORY COMMITTEE SHALL MEET AT LEAST ONCE EACH MONTH.

(2) REPRESENTATIVES FROM THE ADVISORY COMMITTEE SHALL MEET WITH:

(I) THE DIRECTOR OF THE SOUTHERN MARYLAND REGIONAL ADMINISTRATION AND THE DIRECTOR OF THE SOUTHERN MARYLAND REGIONAL DIVISION OF REHABILITATION SERVICES AT LEAST FOUR TIMES A YEAR; AND

(II) THE SECRETARY AND THE DIRECTOR ANNUALLY.

(I) THE ADVISORY COMMITTEE SHALL:

(1) PROVIDE ADVICE AND MAKE RECOMMENDATIONS TO THE DIRECTOR OF THE SOUTHERN MARYLAND REGIONAL ADMINISTRATION, THE DIRECTOR OF THE SOUTHERN MARYLAND REGIONAL DIVISION OF REHABILITATION SERVICES, AND GROUPS IN THE LOCAL COMMUNITY ON THE NEEDS OF ADULTS WITH DEVELOPMENTAL DISABILITIES IN PRINCE GEORGE'S COUNTY;

(2) PROVIDE A FORUM FOR INPUT FROM THE RESIDENTS OF PRINCE GEORGE'S COUNTY ON ISSUES RELATED TO ADULTS WITH DEVELOPMENTAL DISABILITIES; AND

(3) PERFORM ANY OTHER DUTY CONSIDERED APPROPRIATE BY THE ADVISORY COMMITTEE.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012. It shall remain effective for a period of 2 years and, at the end of September 30, 2014, 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, May 22, 2012.

Chapter 688

(House Bill 906)

AN ACT concerning

**Prince George's County – Common Ownership Communities – Fee for
~~Mandatory~~ Administrative Hearing Services**

PG 401-12

FOR the purpose of authorizing Prince George's County, by ordinance, to impose and collect a fee for the provision of ~~mandatory~~ administrative hearing services for the resolution of disputes involving a common ownership community located in the county; authorizing Prince George's County to include certain provisions in a certain ordinance; defining a certain term; and generally relating to the authority of Prince George's County to impose and collect a fee for the provision of ~~mandatory~~ administrative hearing services for common ownership communities.

BY adding to

Article 24 – Political Subdivisions – Miscellaneous Provisions

Section 9-1601 to be under the new subtitle "Subtitle 16. Prince George's County ~~Mandatory~~ Administrative Hearing Services"
 Annotated Code of Maryland
 (2011 Replacement Volume)

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

SUBTITLE 16. PRINCE GEORGE'S COUNTY ~~MANDATORY~~ ADMINISTRATIVE HEARING SERVICES.

9-1601.

(A) IN THIS SECTION, "COMMON OWNERSHIP COMMUNITY" MEANS:

(1) A CONDOMINIUM ORGANIZED UNDER TITLE 11 OF THE REAL PROPERTY ARTICLE;

(2) A HOMEOWNERS ASSOCIATION ORGANIZED UNDER TITLE 11B OF THE REAL PROPERTY ARTICLE; OR

(3) A COOPERATIVE HOUSING CORPORATION ORGANIZED UNDER TITLE 5, SUBTITLE 6B OF THE CORPORATIONS AND ASSOCIATIONS ARTICLE.

(B) BY ORDINANCE, PRINCE GEORGE'S COUNTY MAY IMPOSE AND COLLECT A FEE FOR THE PROVISION OF ~~MANDATORY~~ ADMINISTRATIVE HEARING SERVICES FOR THE RESOLUTION OF DISPUTES INVOLVING A COMMON OWNERSHIP COMMUNITY LOCATED IN THE COUNTY.

(C) PRINCE GEORGE'S COUNTY MAY SPECIFY IN THE ORDINANCE:

(1) WHICH REMEDIES MUST BE EXHAUSTED BEFORE ~~MANDATORY~~ ADMINISTRATIVE HEARING SERVICES MAY BE UTILIZED; AND

(2) THE PROCESS INVOLVED IN THE ~~MANDATORY~~ ADMINISTRATIVE HEARING SERVICES.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 689**(House Bill 910)**

AN ACT concerning

Frederick County – Budgetary Processes

FOR the purpose of renaming certain balances in the general fund of Frederick County; requiring that if a certain committed general fund balance is appropriated and expended by the County Commissioners of Frederick County, the County Commissioners shall replenish the committed general fund balance by the end of a certain fiscal year; and generally relating to the budgetary processes of Frederick County.

BY repealing and reenacting, with amendments,
The Public Local Laws of Frederick County
Section 2-7-1, 2-7-4(a), and 2-7-11
Article 11 – Public Local Laws of Maryland
(2004 Edition and July 2011 Supplement, as amended)

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

Article 11 – Frederick County

2-7-1.

(a) (1) On or before June 1 and in accordance with law, the county commissioners shall levy upon all of the taxable property of the county and upon all property subject to taxation in it the aggregate amount of the estimates, less any revenue certain to be paid the county during the ensuing fiscal year from sources other than the levy and property to be appropriated toward the estimates and less any actual or estimated [undesigned] **UNASSIGNED** general fund balance available for appropriation, as otherwise provided in this Code.

(2) To protect the financial integrity of county government and to provide sufficient liquidity required for daily operations, the county commissioners shall maintain [an unappropriated undesigned] **A COMMITTED** general fund balance. The amount shall be 5 percent of the general fund expenditures and transfers to the board of education and the Frederick Community College for the prior fiscal year. Any amount that exceeds 5 percent of the general fund expenditures and transfers to the Board of Education and the Frederick Community College for the prior fiscal year shall be included as funds available for appropriation in the current fiscal year.

(b) In addition thereto, the county commissioners may levy not more than five hundred thousand dollars (\$500,000.00) which shall be added to the total of estimates and included in their levy. No other sums of money shall be levied. Taxes levied shall become due and payable and shall be collected in the manner and at the times fixed by law. The additional five hundred thousand dollars (\$500,000.00) or so much of this sum as may be levied shall be a contingency fund and shall be dedicated and appropriated to meet any unexpected demand which may arise after tax levy has been made.

2-7-4.

(a) It is expected that the contingency fund established under § 2-7-1(b) of this article will seldom be needed or used, but is provided as a safeguard or protection in event a contingency should arise. It shall be dedicated and appropriated to meet any unexpected demand which arises after the tax levy has been made, the occurrence of which could not reasonably have been foreseen. The unexpended balance should be a part of the [undesigned] UNASSIGNED fund balance.

2-7-11.

(a) Subject to subsection (b) of this section, the board of county commissioners may increase appropriations and expend the increased appropriations.

(b) Prior to increasing appropriations and expending the increased appropriations, the board of county commissioners shall:

(1) Establish, by ordinance, criteria for increasing appropriations and expending the increased appropriations; and

(2) Require the increase in appropriations to be derived from:

(i) The [unappropriated undesigned] COMMITTED general fund balance required under § 2-7-1(a)(2) of this article; or

(ii) The bond rating enhancement reserve established under § 2-7-10 of this article.

(C) IF THE COMMITTED GENERAL FUND BALANCE REQUIRED BY § 2-7-1(A)(2) IS APPROPRIATED AND EXPENDED BY THE COUNTY COMMISSIONERS, THE COMMITTED FUND BALANCE SHALL BE REPLENISHED BY THE END OF THE THIRD FISCAL YEAR AFTER APPROPRIATION TO MEET THE 5 PERCENT REQUIREMENT OF THIS COMMITTED FUND BALANCE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 690

(House Bill 919)

AN ACT concerning

**Prince George's County – Issuance, Transfer, and Renewal of Alcoholic
Beverages Licenses – Payment of Taxes**

PG 302–12

FOR the purpose of prohibiting the Board of License Commissioners for Prince George's County from issuing or renewing a license unless the Board is provided verification that certain undisputed taxes have been paid or that payment has been provided for; authorizing the Board to condition the issuance of a license for which a transfer has been approved on verification that certain undisputed taxes have been paid or that payment has been provided for; specifying that certain requirements concerning verification of undisputed taxes apply to the principals or owners of certain entities ~~and the immediate relatives of the principals and owners~~; and generally relating to alcoholic beverages licenses in Prince George's County.

BY adding to

Article 2B – Alcoholic Beverages
Section 10–202(i–1) and 10–301(f–1)
Annotated Code of Maryland
(2011 Replacement Volume)

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

Article 2B – Alcoholic Beverages

10–202.

(i–1) (1) THIS SUBSECTION APPLIES ONLY IN PRINCE GEORGE'S COUNTY.

(2) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, THE BOARD OF LICENSE COMMISSIONERS MAY NOT ISSUE A LICENSE TO AN APPLICANT UNLESS THE BOARD IS PROVIDED VERIFICATION FROM THE COMPTROLLER AND PRINCE GEORGE'S COUNTY THAT THE APPLICANT HAS:

(I) PAID ALL UNDISPUTED TAXES PAYABLE TO THE COMPTROLLER AND PRINCE GEORGE'S COUNTY; OR

(II) PROVIDED FOR PAYMENT OF THE TAXES DESCRIBED IN ITEM (I) OF THIS PARAGRAPH IN A MANNER SATISFACTORY TO THE GOVERNMENTAL UNIT RESPONSIBLE FOR COLLECTION.

(3) IF AN APPLICATION FOR THE ISSUANCE OF A LICENSE IS MADE ON BEHALF OF A CORPORATION, CLUB, OR OTHER ENTITY, THE VERIFICATION REQUIREMENTS SPECIFIED IN PARAGRAPH (2) OF THIS SUBSECTION APPLY TO UNDISPUTED TAXES PAYABLE BY EACH:

~~(I) OWNER OR PRINCIPAL OF THE ENTITY; AND~~

~~(II) IMMEDIATE RELATIVE OF THE OWNER OR PRINCIPAL.~~

(4) SUBJECT TO PARAGRAPH (5) OF THIS SUBSECTION, IF A TRANSFER AND ISSUANCE OF A LICENSE IS SOUGHT, THE BOARD OF LICENSE COMMISSIONERS MAY APPROVE THE TRANSFER, BUT CONDITION THE ACTUAL ISSUANCE OF THE LICENSE TO THE TRANSFEREE ON VERIFICATION:

(I) OF PAYMENT OF ALL UNDISPUTED TAXES PAYABLE BY THE TRANSFEROR TO THE COMPTROLLER OR PRINCE GEORGE'S COUNTY; OR

(II) THAT PAYMENT OF THE TAXES DESCRIBED IN ITEM (I) OF THIS PARAGRAPH HAS BEEN PROVIDED FOR IN A MANNER SATISFACTORY TO THE GOVERNMENTAL UNIT RESPONSIBLE FOR COLLECTION.

(5) IF THE LICENSE OF THE TRANSFEROR WAS ISSUED ON BEHALF OF A CORPORATION, CLUB, OR OTHER ENTITY, THE VERIFICATION REQUIREMENTS SPECIFIED IN PARAGRAPH (4) OF THIS SUBSECTION APPLY TO UNDISPUTED TAXES PAYABLE BY EACH:

~~(I) OWNER OR PRINCIPAL OF THE ENTITY; AND~~

~~(II) IMMEDIATE RELATIVE OF THE OWNER OR PRINCIPAL.~~

10-301.

(F-1) (1) THIS SUBSECTION APPLIES ONLY IN PRINCE GEORGE'S COUNTY.

(2) SUBJECT TO PARAGRAPH (4) OF THIS SUBSECTION, BEFORE A LICENSE MAY BE RENEWED, THE BOARD OF LICENSE COMMISSIONERS SHALL VERIFY:

(I) 1. THROUGH THE OFFICE OF THE COMPTROLLER, THAT THE CURRENT LICENSE HOLDER HAS PAID ALL UNDISPUTED TAXES PAYABLE TO THE COMPTROLLER; AND

2. THROUGH PRINCE GEORGE'S COUNTY, THAT THE CURRENT LICENSE HOLDER HAS PAID ALL UNDISPUTED TAXES PAYABLE TO PRINCE GEORGE'S COUNTY; OR

(II) THAT THE CURRENT LICENSE HOLDER HAS PROVIDED FOR PAYMENT OF THE TAXES DESCRIBED IN ITEM (I) OF THIS PARAGRAPH IN A MANNER SATISFACTORY TO THE GOVERNMENTAL UNIT RESPONSIBLE FOR THE COLLECTION.

(3) IF THE INFORMATION PROVIDED TO THE BOARD OF LICENSE COMMISSIONERS STATES THAT THE CURRENT LICENSE HOLDER OWES UNDISPUTED TAXES AND HAS NOT PROVIDED FOR PAYMENT IN A MANNER SATISFACTORY TO THE GOVERNMENTAL UNIT RESPONSIBLE FOR COLLECTION, THE BOARD OF LICENSE COMMISSIONERS MAY NOT RENEW THE LICENSE.

(4) IF THE LICENSE WAS ISSUED ON BEHALF OF A CORPORATION, CLUB, OR OTHER ENTITY, THE VERIFICATION REQUIREMENTS SPECIFIED IN PARAGRAPH (2) OF THIS SUBSECTION APPLY TO UNDISPUTED TAXES PAYABLE BY EACH:

~~(I) OWNER OR PRINCIPAL OF THE ENTITY; AND~~

~~(II) IMMEDIATE RELATIVE OF THE OWNER OR PRINCIPAL.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 691

(House Bill 920)

AN ACT concerning

Maryland Uniform Athlete Agents Act – Definitions and Prohibitions

FOR the purpose of altering the definition of “agency contract” to include a certain agreement in which a student–athlete authorizes a person to assess and plan for the financial benefits that may arise out of the student–athlete’s professional sports career; altering the definition of “athlete agent” to include an individual who facilitates or encourages a connection between a student–athlete and another athlete agent; prohibiting an athlete–agent with certain intent from soliciting another individual to commit an act on behalf of the athlete agent that is a violation of the Maryland Uniform Athlete Agents Act; and generally relating to the Maryland Uniform Athletes Agents Act.

BY repealing and reenacting, without amendments,
Article – Business Regulation
Section 4–401(a) and 4–414
Annotated Code of Maryland
(2010 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,
Article – Business Regulation
Section 4–401(b) and (c) and 4–413
Annotated Code of Maryland
(2010 Replacement Volume and 2011 Supplement)

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

Article – Business Regulation

4–401.

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

(b) **(1)** “Agency contract” means an agreement in which a student–athlete authorizes a person to negotiate or solicit on behalf of the student–athlete a professional–sports–services contract or an endorsement contract.

(2) “AGENCY CONTRACT” INCLUDES A WRITTEN AGREEMENT FOR CURRENT OR FUTURE REPRESENTATION IN WHICH A STUDENT–ATHLETE AUTHORIZES A PERSON TO ASSESS AND PLAN FOR THE FINANCIAL BENEFITS THAT MAY ARISE OUT OF THE STUDENT–ATHLETE’S PROFESSIONAL SPORTS CAREER.

(c) **(1)** “Athlete agent” means an individual who enters into an agency contract with a student–athlete or, directly or indirectly, recruits or solicits a student–athlete to enter into an agency contract.

(2) “Athlete agent” includes an individual who:

(I) represents to the public that the individual is an athlete agent; OR

(II) FACILITATES OR ENCOURAGES A CONNECTION BETWEEN A STUDENT-ATHLETE AND ANOTHER ATHLETE AGENT.

(3) “Athlete agent” does not include a spouse, parent, sibling, grandparent, or guardian of the student-athlete, or an individual acting solely on behalf of a professional sports team or professional sports organization.

4-413.

(a) An athlete agent, with the intent to induce a student-athlete to enter into an agency contract, may not:

(1) give any materially false or misleading information or make a materially false promise or representation;

(2) furnish anything of value to a student-athlete before the student-athlete enters into the agency contract; [or]

(3) furnish anything of value to any individual other than the student-athlete or another licensed athlete agent; OR

(4) SOLICIT ANOTHER INDIVIDUAL WHO IS NOT AN ATHLETE AGENT TO COMMIT AN ACT ON BEHALF OF THE ATHLETE AGENT THAT IS A VIOLATION OF THIS SUBTITLE.

(b) An athlete agent may not intentionally:

(1) initiate contact with a student-athlete unless licensed under this subtitle;

(2) refuse or fail to retain or permit inspection of the records required to be retained by § 4-412 of this subtitle;

(3) fail to obtain a license when required by § 4-403 of this subtitle;

(4) provide materially false or misleading information in an application for a license or renewal of a license;

(5) predate or postdate an agency contract; or

(6) fail to notify a student–athlete before the student–athlete signs or otherwise authenticates an agency contract for a particular sport that the signing or authentication may make the student–athlete ineligible to participate as a student–athlete in that sport.

(c) An athlete agent may not split a fee with or receive compensation from:

- (1) a professional sports league;
- (2) a professional sports franchise;
- (3) a representative or employee of a professional sports league or franchise; or
- (4) an employee of an educational institution in the State.

4–414.

An athlete agent who violates § 4–413 of this subtitle is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$10,000 or imprisonment not exceeding 1 year or both.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 692

(House Bill 929)

AN ACT concerning

Environment – Recycling Rates and Waste Diversion – Statewide Goals

FOR the purpose of altering certain dates by which certain counties must include and implement certain recycling and waste diversion goals in certain plans; increasing certain recycling and waste diversion goals that must be included in certain plans; establishing certain waste diversion and recycling goals; authorizing certain goals to be met through cooperative efforts of certain parties; authorizing a certain county to combine its recycling rate with the recycling rates of certain adjacent counties in a certain manner and under certain circumstances; requiring the Secretary of the Environment to calculate a certain recycling rate for certain counties under certain circumstances; authorizing a certain county that has met or exceeded a certain percentage

reduction of its solid waste stream through recycling in a certain year to submit a letter containing certain certifications to the Secretary by a certain date instead of revising a certain county recycling plan; repealing certain obsolete language; and generally relating to recycling and waste diversion goals in county water and sewerage plans.

BY repealing and reenacting, with amendments,

Article – Environment

Section 9–505(a)(18) and (19) and (c), 9–1704, and 9–1706

Annotated Code of Maryland

(2007 Replacement Volume and 2011 Supplement)

BY adding to

Article – Environment

Section 9–1706.1

Annotated Code of Maryland

(2007 Replacement Volume and 2011 Supplement)

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

Article – Environment

9–505.

(a) In addition to the other requirements of this subtitle, each county plan shall:

(18) For a county with a population greater than 150,000 according to the latest Department of Planning projections, include a recycling plan by [July 1, 1990] **JULY 1, 2013 2014** that:

(i) Provides for a reduction through recycling of at least [20 percent] **35%** of the county's solid waste stream by weight or submits adequate justification, including economic and other specific factors, as to why the [20 percent] **35%** reduction cannot be met;

(ii) Provides for recycling of the solid waste stream to the extent practical and economically feasible, but in no event may less than a [10 percent] **15%** reduction be submitted; and

(iii) Requires full implementation of the recycling plan by [January 1, 1994] **JULY 1, 2015 DECEMBER 31, 2015**; and

(19) For a county with a population less than 150,000 according to the latest Department of Planning projections, include a recycling plan by [July 1, 1990] **JULY 1, ~~2013~~ 2014** that:

(i) Provides for a reduction through recycling of at least [15 percent] **20%** of the county's solid waste stream or submit adequate justification, including economic and other specific factors, as to why the [15 percent] **20%** reduction cannot be met;

(ii) Provides for recycling of the solid waste stream to the extent practical and economically feasible, but in no event may less than a [5 percent] **10%** reduction be submitted; and

(iii) Requires full implementation of the recycling plan by [January 1, 1994] **JULY 1, 2015** **DECEMBER 31, 2015**.

(c) The recycling reductions of [20 percent] **35%** and [15 percent] **20%** provided in subsection (a)(18) and (19) of this section are not intended to be the maximum percentage that a county can achieve. A county that can practically and economically achieve a higher rate of recycling is encouraged to submit a recycling plan for a higher percentage.

9-1704.

(a) (1) If a county with a population greater than 150,000 determines it cannot achieve a reduction of [20 percent] **35%** of its solid waste stream under § 9-505 of this title, the county shall:

(i) Conduct a public hearing on the proposed reduction that may be conducted jointly with other public hearings or meetings; and

(ii) Publish notice of the time and place of the public hearing, together with a summary of the justification for the proposed reduction, in a newspaper of general circulation in the county once a week for 2 consecutive weeks before the hearing in the county.

(2) The Secretary shall review a county plan that does not meet the [20 percent] **35%** recycling goal to determine whether the county's maximum goal, as stated in the plan, can be demonstrated to have a reasonable basis.

(3) The Secretary shall require revision of a county plan if, pursuant to a review under paragraph (2) of this subsection, the county's determination of its maximum goal is found to be unsupported by competent, material, and substantial evidence in light of the entire plan as submitted.

(b) (1) If a county with a population less than 150,000 determines it cannot achieve a reduction of [15 percent] **20%** of its solid waste stream under § 9–505 of this title, the county shall:

(i) Conduct a public hearing on the proposed reduction that may be conducted jointly with other public hearings or meetings; and

(ii) Publish notice of the time and place of the public hearing, together with a summary of the justification for the proposed reduction in a newspaper of general circulation in the county once a week for 2 consecutive weeks before the hearing in the county.

(2) The Secretary shall review a county plan that does not meet the [15 percent] **20%** recycling goal to determine whether the county's maximum goal, as stated in the plan, can be demonstrated to have a reasonable basis.

(3) The Secretary shall require revision of a county plan if, pursuant to a review under paragraph (2) of this subsection, the county's determination of its maximum goal is found to be unsupported by competent, material, and substantial evidence in light of the entire plan as submitted.

(4) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, WHEN CALCULATING A COUNTY'S RECYCLING RATE FOR THE PURPOSES OF THIS SUBSECTION, A COUNTY WITH A POPULATION OF LESS THAN 100,000 MAY COMBINE ITS RECYCLING RATE WITH THE RECYCLING RATES OF ONE OR MORE ADJACENT COUNTIES.

(II) A COUNTY MAY NOT USE THE RECYCLING RATE CALCULATION IN THIS PARAGRAPH FOR MORE THAN 5 CONSECUTIVE YEARS.

(III) SUBJECT TO SUBPARAGRAPH (IV) OF THIS PARAGRAPH, EACH COUNTY THAT ELECTS TO USE THE RECYCLING RATE CALCULATION IN THIS PARAGRAPH SHALL SUBMIT A LETTER OF CONCURRENCE FROM THE HIGHEST ELECTED OFFICIAL OF THE COUNTY TO THE SECRETARY:

1. THAT STATES THE COUNTY'S AGREEMENT TO COMBINE ITS RECYCLING RATE CALCULATION WITH THE RECYCLING RATE CALCULATION OF AN ADJACENT COUNTY; AND

2. AT THE SAME TIME THE ANNUAL REPORT REQUIRED UNDER § 9–1705(B) OF THIS SUBTITLE IS SUBMITTED.

(IV) THE ANNUAL REPORT REQUIRED UNDER § 9–1705(B) OF THIS SUBTITLE SHALL BE SUBMITTED AS ONE REPORT FOR THE COUNTIES THAT ELECT TO USE THE RECYCLING RATE CALCULATION UNDER THIS PARAGRAPH.

(V) THE SECRETARY SHALL CALCULATE ONE RECYCLING RATE FOR THE COUNTIES THAT ELECT TO USE THE RECYCLING RATE CALCULATION IN ACCORDANCE WITH THIS PARAGRAPH.

9-1706.

(a) The Office of Recycling, in cooperation with the Department of General Services and other State agencies, shall develop a recycling plan that reduces by recycling the amount of the solid waste stream generated for disposal by the State government by at least [20 percent] **30%** or to an amount that is determined practical and economically feasible, but in no case may the amount to be recycled be less than [10 percent] **15%**.

(b) [By July 1, 2010, the] **A** recycling plan under subsection (a) of this section shall include a system for recycling aluminum, glass, paper, and plastic generated for disposal by the State government, including the placement of collection bins in State-owned or State-operated office buildings in locations in the State where it is determined to be practical and economically feasible.

(c) By [January 1, 2012] **JULY 1, 2014**, each State agency and unit of State government shall implement the recycling plan required under this section.

9-1706.1.

(A) THERE IS A VOLUNTARY STATEWIDE WASTE DIVERSION GOAL OF 60% BY THE YEAR 2020.

(B) THERE IS A VOLUNTARY STATEWIDE RECYCLING GOAL OF 55% BY THE YEAR 2020.

(C) THE GOALS IN SUBSECTIONS (A) AND (B) OF THIS SECTION MAY BE ACCOMPLISHED THROUGH THE COOPERATIVE EFFORTS OF WASTE GENERATORS, STATE AGENCIES, LOCAL GOVERNMENTS, THE WASTE INDUSTRY, THE RECYCLING INDUSTRY, ENVIRONMENTAL GROUPS, BOARDS OF EDUCATION, AND OTHER INTERESTED PARTIES.

SECTION 2. AND BE IT FURTHER ENACTED, That, for a county with a population greater than 150,000 that has met or exceeded a 35% reduction of the county's solid waste stream through recycling in calendar year 2010, the requirement to revise the county recycling plan in § 9-505(a)(18) of the Environment Article, as enacted by Section 1 of this Act, may be satisfied by the submission of a letter on or before December 31, 2013, from the highest elected county official to the Secretary of the Environment certifying that:

(1) the required 35% county recycling rate will continue to be met or exceeded in each calendar year through 2015; and

(2) details regarding the increased recycling rates and methods for achieving the rates will be included in the county's next regular 3-year review of its 10-year county solid waste management plan under § 9-503(b) of the Environment Article.

SECTION 3. AND BE IT FURTHER ENACTED, That, for a county with a population less than 150,000 that has met or exceeded a 20% reduction of the county's solid waste stream through recycling in calendar year 2010, the requirement to revise the county recycling plan in § 9-505(a)(19) of the Environment Article, as enacted by Section 1 of this Act, may be satisfied by the submission of a letter on or before December 31, 2013, from the highest elected county official to the Secretary of the Environment certifying that:

(1) the required 20% county recycling rate will continue to be met or exceeded in each calendar year through 2015; and

(2) details regarding the increased recycling rates and methods for achieving the rates will be included in the county's next regular 3-year review of its 10-year county solid waste management plan under § 9-503(b) of the Environment Article.

SECTION ~~2~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 693

(House Bill 975)

AN ACT concerning

Income Tax – Subtraction Modification – Forest Conservation and Management Program Expenses

FOR the purpose of allowing a subtraction modification under the Maryland income tax for certain amounts paid by individuals for certain expenses incurred with land preservation under the Forest Conservation and Management Program within the Department of Natural Resources under certain circumstances; defining certain terms; providing for the application of this Act; and generally relating to a Maryland income tax subtraction modification for certain amounts paid for certain conservation program-related expenses.

BY repealing and reenacting, without amendments,
Article – Tax – General
Section 10–208(a)
Annotated Code of Maryland
(2010 Replacement Volume and 2011 Supplement)

BY adding to
Article – Tax – General
Section 10–208(r)
Annotated Code of Maryland
(2010 Replacement Volume and 2011 Supplement)

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

Article – Tax – General

10–208.

(a) In addition to the modification under § 10–207 of this subtitle, the amounts under this section are subtracted from the federal adjusted gross income of a resident to determine Maryland adjusted gross income.

(R) (1) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) (I) “QUALIFIED CONSERVATION PROGRAM EXPENSES” MEANS AMOUNTS EXPENDED BY AN INDIVIDUAL DURING THE TAXABLE YEAR RELATED TO AN APPLICATION FOR THE FOREST CONSERVATION AND MANAGEMENT PROGRAM WITHIN THE DEPARTMENT OF NATURAL RESOURCES.

(II) “QUALIFIED CONSERVATION PROGRAM EXPENSES” INCLUDES THE COSTS ASSOCIATED WITH HIRING A PROFESSIONAL LAND SURVEYOR AND THE PREPARATION OF A LAND MANAGEMENT PROGRAM FOR THE CONSERVED PROPERTY.

(3) THE SUBTRACTION ALLOWED UNDER SUBSECTION (A) OF THIS SECTION INCLUDES UP TO \$500 OF QUALIFIED CONSERVATION PROGRAM EXPENSES PAID BY AN INDIVIDUAL WHO APPLIES TO ENTER INTO A FOREST CONSERVATION AND MANAGEMENT PLAN WITH THE DEPARTMENT OF NATURAL RESOURCES, IF THE APPLICATION IS APPROVED BY THE DEPARTMENT.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012, and shall be applicable to all taxable years beginning after December 31, 2011.

Approved by the Governor, May 22, 2012.

Chapter 694

(House Bill 979)

AN ACT concerning

Calvert County – Annual Financial Report – Filing Date

FOR the purpose of altering the date by which Calvert County may file its annual financial report for the fiscal year with the Department of Legislative Services; and generally relating to the annual financial report of Calvert County.

BY repealing and reenacting, with amendments,
Article 19 – Comptroller
Section 37
Annotated Code of Maryland
(2011 Replacement Volume)

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

Article 19 – Comptroller

37.

(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) **CALVERT 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) 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)] (V) 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)] (VI) 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)] (VII) 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.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 695

(House Bill 991)

AN ACT concerning

Task Force to Study the Renovation and Repair Needs of Senior Homeowners

FOR the purpose of requiring the Department of Housing and Community Development, with the assistance of the Department of Aging, the Department of Health and Mental Hygiene, and the Department of Human Resources, to

create a task force to study methods for identifying and understanding the renovation and repair needs of low-income and limited-income senior homeowners and identifying resources to assist senior homeowners; requiring the task force to consult with and enlist the participation of certain stakeholders; requiring the Department of Housing and Community Development to report on the findings of the task force to the Governor and the General Assembly on or before a certain date; providing for the termination of this Act; and generally relating to the creation of a task force to study the renovation and repair needs of low-income and limited-income senior homeowners.

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

(a) The Department of Housing and Community Development, with the assistance of the Department of Aging, the Department of Health and Mental Hygiene, and the Department of Human Resources, shall create a task force to study methods for:

(1) identifying, on a statewide basis, seniors of limited income who own and occupy single-family homes;

(2) identifying census tracts with high concentrations of senior homeowners;

(3) understanding the needs of low-income seniors living in their own homes regarding:

(i) home repairs;

(ii) safety; and

(iii) energy savings;

(4) addressing the impact of high concentrations of low-income senior homeowners on neighborhood stability and preservation;

(5) identifying existing and new public resources on the federal, State, and local levels to assist low-income and limited-income senior homeowners with home renovation and repairs; and

(6) identifying the challenges for low-income and limited-income senior homeowners in accessing public resources.

(b) The task force shall consult with and enlist the participation of a wide range of stakeholders, including representatives of:

- (1) local housing agencies;
- (2) nonprofit organizations that address housing issues for seniors;
- (3) organizations that assist seniors with financial literacy;
- (4) financial institutions;
- (5) contractors; and
- (6) architects.

(c) On or before December 31, 2012, the Department of Housing and Community Development shall report on the findings of the task force to the Governor and, in accordance with § 2-1246 of the State Government Article, the General Assembly.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2012. It shall remain effective for a period of 1 year and, at the end of May 31, 2013, 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, May 22, 2012.

Chapter 696

(House Bill 1009)

AN ACT concerning

State Board of Professional Counselors and Therapists – Alcohol and Drug Counselor Trainees – Registry and Code of Ethics Requirements

FOR the purpose of requiring the State Board of Professional Counselors and Therapists to maintain a certain registry of certain trainees; requiring the Board to adopt a certain code of ethics for certain trainees; and generally relating to maintaining a registry of and adopting a code of ethics for individuals working as trainees under the supervision of approved alcohol and drug counselor supervisors.

BY repealing and reenacting, with amendments,
Article – Health Occupations
Section 17-205(b)(1) and (3)
Annotated Code of Maryland
(2009 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, without amendments,
Article – Health Occupations
Section 17–406(b)
Annotated Code of Maryland
(2009 Replacement Volume and 2011 Supplement)

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

Article – Health Occupations

17–205.

(b) In addition to the duties set forth elsewhere in this title, the Board shall:

(1) Maintain a registry of all counselors or therapists currently licensed or certified by the Board **AND ALL INDIVIDUALS CURRENTLY WORKING AS TRAINEES IN ACCORDANCE WITH § 17–406(B) OF THIS TITLE;**

(3) Adopt a code of ethics that the Board considers to be appropriate and applicable to the counselors or therapists currently certified or licensed by the Board **AND THE INDIVIDUALS CURRENTLY WORKING AS TRAINEES IN ACCORDANCE WITH § 17–406(B) OF THIS TITLE;**

17–406.

(b) (1) An individual may practice clinical alcohol and drug counseling without a license for a limited period of time, as determined by the Board, if the individual is working as a trainee under the supervision of an approved alcohol and drug supervisor while fulfilling the experiential or course of study requirements under § 17–302 of this title or § 17–402, § 17–403, or § 17–404 of this subtitle.

(2) An individual may practice alcohol and drug counseling without certification for a limited period of time, as determined by the Board, if the individual is working as a trainee under the supervision of an approved alcohol and drug supervisor while fulfilling the experiential or course of study requirements under § 17–302 of this title or § 17–402, § 17–403, or § 17–404 of this subtitle.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 697**(House Bill 1050)**

AN ACT concerning

Alcoholic Beverages Licensees – Adult Entertainment – Exception

FOR the purpose of providing that certain prohibitions in certain jurisdictions against alcoholic beverages licensees allowing certain types of adult entertainment do not apply to licensees who are operators of theaters, art centers, or similar establishments that present performances expressing matters of serious literary, artistic, scientific, or political value; altering a prohibition relating to certain adult entertainment activity to remove certain references to touching; altering certain cross-references to clarify that certain references to certain adult entertainment activity; terminating an exemption for certain license holders from a prohibition against certain adult entertainment activity in Prince George's County; and generally relating to alcoholic beverages licensees and adult entertainment.

BY repealing and reenacting, with amendments,

Article 2B – Alcoholic Beverages

Section 10–405, 11–304(e)(3)(i), 12–203, 12–204(d), 20–103.1(a)(2),
20–105.1(a)(3), 20–107(b)(2), 20–107.1(a)(2), 20–108.1(a)(3),
20–108.2(a)(2), 20–110(a)(2), 20–111(a)(2), 20–112(a)(2), and 20–113(a)(2)

Annotated Code of Maryland
(2011 Replacement Volume)

BY repealing and reenacting, without amendments,

Article 2B – Alcoholic Beverages

Section 12–204(a)

Annotated Code of Maryland
(2011 Replacement Volume)

BY repealing

Chapter 262 of the Acts of the General Assembly of 2005
Section 2

BY repealing and reenacting, with amendments,

Chapter 262 of the Acts of the General Assembly of 2005
Section 3

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

Article 2B – Alcoholic Beverages

10–405.

(a) The provisions of this section apply only in:

- (1) Allegany County;
- (2) Anne Arundel County;
- (3) Calvert County;
- (4) Caroline County;
- (5) Carroll County;
- (6) Cecil County;
- (7) Charles County;
- (8) Dorchester County;
- (9) Frederick County;
- (10) Garrett County;
- (11) Harford County;
- (12) Kent County;
- (13) Prince George’s County;
- (14) Queen Anne’s County;
- (15) St. Mary’s County;
- (16) Except as provided in subsection (i) of this section, Washington County;
- (17) Wicomico County; and
- (18) Worcester County.

(b) **(1)** [Any] **EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,** A license issued under the provisions of this article shall be revoked if, after hearing as provided in § 10–403 of this subtitle, any of the activities listed in this section are found to occur on any premises or location for which the license was issued.

(2) THE LICENSE OF A PERSON MAY NOT BE REVOKED UNDER PARAGRAPH (1) OF THIS SUBSECTION IF:

(I) THE PERSON OPERATES A THEATER, CONCERT HALL, ART CENTER, MUSEUM, OR SIMILAR ESTABLISHMENT THAT IS PRIMARILY DEVOTED TO THE ARTS OR THEATRICAL PERFORMANCES; AND

(II) THE PERFORMANCES EXPRESS MATTERS OF SERIOUS LITERARY, ARTISTIC, SCIENTIFIC, OR POLITICAL VALUE.

(c) With respect to attire and conduct, a person may not:

(1) Be employed or used in the sale or service of alcoholic beverages in or upon the licensed premises while the person is unclothed or in attire, costume or clothing so as to expose to view any portion of the female breast below the top of the areola or of any portion of the pubic hair, anus, cleft of the buttocks, vulva or genitals;

(2) Be employed or act as a hostess or act in a similar-type capacity to mingle with the patrons while the hostess or person acting in a similar-type capacity is unclothed or in attire, costume or clothing as described in paragraph (1) of this subsection;

(3) Encourage or permit any person on the licensed premises to ~~touch~~ caress or fondle the breasts, buttocks, anus or genitals of any other person; or

(4) Permit any employee or person to wear or use any device or covering exposed to view, which simulates the breast, genitals, anus, pubic hair or any portion of it.

(d) With respect to entertainment provided, a person may not:

(1) Permit any person to perform acts of or acts which simulate:

(i) The act of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law;

(ii) The [touching,] caressing or fondling of the breast, buttocks, anus or genitals; or

(iii) The display of the pubic hair, anus, vulva or genitals;

(2) Permit any entertainer whose breasts or buttocks are exposed (subject to the restrictions of paragraph (1) of this subsection) to perform closer than six feet from the nearest patron; or

(3) Permit any person to use artificial devices or inanimate objects to depict, perform or simulate any activity prohibited by paragraph (1) of this subsection.

(e) A person may not exhibit or show any motion picture film, still picture, electronic reproduction or other visual reproduction depicting:

(1) Acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law;

(2) Any person being [touched,] caressed or fondled on the breast, buttocks, anus or genitals;

(3) Scenes where a person displays the vulva or anus or the genitals;
or

(4) Scenes where artificial devices or inanimate objects are employed to depict, or drawings are employed to portray, any of the prohibited activities described above.

(f) A person may not permit any person to remain in or upon the licensed premises who exposes to public view any portion of his genitals or anus.

(g) The provisions of this section do not permit any conduct or form of attire prohibited by any other provision of statute, ordinance, rule or regulation.

(h) In Cecil County, in addition to the penalty provided in subsection (b) of this section, if any of the activities listed in subsections (c), (d), (e), and (f) of this section are found to occur on the premises for which the license was issued, the holder of the license, or any employee, entertainer, or patron who performs any of the listed activities is guilty of a misdemeanor and shall be fined or imprisoned according to the penalty set forth in § 16–503 of this article.

(i) In Washington County, this section does not apply to:

(1) The Washington County Playhouse; or

(2) A theater holding a Class B beer, wine and liquor on-sale license under § 6–201(w) of this article.

(j) (1) This subsection applies only in Caroline County.

(2) After a finding that the activities enumerated in this section have occurred, the Board of License Commissioners may decide whether or not to revoke a license, notwithstanding the mandatory provisions of subsection (b) of this section.

(e) (3) (i) Alcoholic beverages may not be brought onto any premises and consumed or transferred if the premises constitute a place of public entertainment and the entertainment is of the type [listed under § 10–405(c) through (f)] **PROHIBITED UNDER § 10–405** of this article.

12–203.

(a) In this section, “adult entertainment” means:

(1) With respect to attire and conduct:

(i) Employment or use of any person in the sale or service of alcoholic beverages in or upon the licensed premises while the person is unclothed or in attire, costume, or clothing so as to expose to view any portion of the female breast below the top of the areola or of any portion of the pubic hair, anus, cleft of the buttocks, vulva, or genitals.

(ii) Employment or use of the services of any hostess or other person to mingle with the patrons while the hostess or other person is unclothed or in attire, costume, or clothing as described in subparagraph (i) of this paragraph.

(iii) Encouragement of or permitting any person on the licensed premises to [touch, caress,] **CARESS** or fondle the breasts, buttocks, anus, or genitals of any other person.

(iv) Permitting any employee or person to wear or use any device or covering exposed to view, which simulates the breast, genitals, anus, pubic hair, or any portion of it.

(2) With respect to entertainment provided:

(i) Permitting any person to perform acts of or acts which simulate:

1. Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any sexual acts which are prohibited by law.

2. The [touching, caressing,] **CARESSING** or fondling of the breast, buttocks, anus, or genitals.

3. The displaying of the pubic hair, anus, vulva, or genitals.

(ii) Permitting any entertainer whose breasts and/or buttocks are exposed (subject to the restrictions of subparagraph (i) of this paragraph) to perform closer than 6 feet from the nearest patron.

(iii) Permitting any person to use artificial devices or inanimate objects to depict, perform, or simulate any activity prohibited by subparagraph (i) of this paragraph.

(3) Exhibiting or showing any motion picture film, still picture, electronic reproduction, or other visual reproduction depicting:

(i) Acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any sexual acts which are prohibited by law.

(ii) Any person being [touched, caressed,] **CARESSED** or fondled on the breast, buttocks, anus, or genitals.

(iii) Scenes where a person displays the vulva, or anus, or the genitals.

(iv) Scenes where artificial devices or inanimate objects are employed to depict, or drawings are employed to portray, any of the prohibited activities described above.

(b) In Baltimore City, the Board of License Commissioners may not authorize nor may the holder of any class of alcoholic beverages license permit adult entertainment on the licensed premises or on adjacent property over which the licensee has ownership or control.

(c) Upon a finding by the Board of License Commissioners that a violation of this section has occurred, the Board shall impose a suspension or revocation of the license, fine, or both.

(d) This section does not apply to [any]:

(1) ANY licensee that offers adult entertainment as of May 31, 1993 or the transferee of the license for the same premises if the transferee continues to offer adult entertainment; AND

(2) A LICENSEE WHO OPERATES A THEATER, A CONCERT HALL, AN ART CENTER, A MUSEUM, OR A SIMILAR ESTABLISHMENT THAT IS PRIMARILY DEVOTED TO THE ARTS OR THEATRICAL PERFORMANCES, WHEN THE PERFORMANCES PRESENTED EXPRESS MATTERS OF SERIOUS LITERARY, ARTISTIC, SCIENTIFIC, OR POLITICAL VALUE.

12-204.

(a) This section applies only in Baltimore County.

(d) (1) (i) In this subsection, “adult entertainment” means performances at licensed premises that are commonly called “go-go dancing”, “male revues”, “female revues”, and “exotic dancing”.

(ii) “Adult entertainment” includes performances by individuals who perform in any manner while in a state of dress in which clothing covers no more than the genitals, pubic region, and areola of the female breast, as well as portions of the body covered by supporting straps and devices.

(2) The holder of any class of alcoholic beverages license may not permit adult entertainment on licensed premises or on property adjacent to the licensed premises over which the holder has ownership or control.

(3) If the Board finds that a violation of this subsection has occurred, the Board shall suspend or revoke the license for the premises where the violation occurred, impose a fine on the holder of the license for the premises where the violation occurred, or both.

(4) The provisions of this subsection do not apply to:

(i) The holder of an alcoholic beverages license that offered adult entertainment on licensed premises for at least 5 calendar days between March 8, 1996 and April 8, 1996; [or]

(ii) A transferee of an alcoholic beverages license from a holder described in item (i) of this paragraph as long as the transferee continues to offer adult entertainment on the same licensed premises; **OR**

(III) THE HOLDER OF AN ALCOHOLIC BEVERAGES LICENSE WHO OPERATES A THEATER, A CONCERT HALL, AN ART CENTER, A MUSEUM, OR A SIMILAR ESTABLISHMENT THAT IS PRIMARILY DEVOTED TO THE ARTS OR THEATRICAL PERFORMANCES, WHEN THE PERFORMANCES EXPRESS MATTERS OF SERIOUS LITERARY, ARTISTIC, SCIENTIFIC, OR POLITICAL VALUE.

20-103.1.

(a) (2) “Place of public entertainment” means a business establishment that does not hold a license under this article and that allows on its premises any form of attire or sexual display [listed under § 10-405(c) through (f)] **PROHIBITED UNDER § 10-405** of this article.

20-105.1.

(a) (3) “Place of public entertainment” means a business establishment that does not hold a license under this article and that allows on its premises any form

of attire or sexual display [listed under § 10–405(c) through (f)] **PROHIBITED UNDER § 10–405** of this article.

20–107.

(b) (2) “Place of public entertainment” means a business establishment that:

(i) Does not have a license to sell alcoholic beverages but to which patrons bring alcoholic beverages the patrons have purchased elsewhere; and

(ii) Allows on its premises any activity [listed in § 10–405(c) through (f)] **PROHIBITED UNDER § 10–405** of this article.

20–107.1.

(a) (2) “Place of public entertainment” means a business establishment that does not hold a license under this article and that allows on its premises any form of attire or sexual display [listed under § 10–405(c) through (f)] **PROHIBITED UNDER § 10–405** of this article.

20–108.1.

(a) (3) “Place of public entertainment” means a business establishment that does not hold a license under this article and that allows on its premises any form of attire or sexual display [listed under § 10–405(c) through (f)] **PROHIBITED UNDER § 10–405** of this article.

20–108.2.

(a) (2) “Place of public entertainment” means a business establishment that does not hold a license under this article and that allows on its premises any form of attire or sexual display [listed under § 10–405(c) through (f)] **PROHIBITED UNDER § 10–405** of this article.

20–110.

(a) (2) “Place of public entertainment” means a business establishment that does not hold a license under this article and that allows on its premises any form of attire or sexual display [listed under § 10–405(c) through (f)] **PROHIBITED UNDER § 10–405** of this article.

20–111.

(a) (2) “Place of public entertainment” means a business establishment that does not hold a license under this article and that allows on its premises any form

of attire or sexual display [listed under § 10–405(c) through (f)] **PROHIBITED UNDER § 10–405** of this article.

20–112.

(a) (2) “Place of public entertainment” means a business establishment that does not hold a license under this article and that allows on its premises any form of attire or sexual display [listed under § 10–405(c) through (f)] **PROHIBITED UNDER § 10–405** of this article.

20–113.

(a) (2) “Place of public entertainment” means a business establishment that does not hold a license under this article and that allows on its premises any form of attire or sexual display [listed under § 10–405(c) through (f)] **PROHIBITED UNDER § 10–405** of this article.

Chapter 262 of the Acts of 2005

[SECTION 2. AND BE IT FURTHER ENACTED, That the Prince George’s County Board of License Commissioners of Prince George’s County shall exempt from this Act a current alcoholic beverages license holder that currently conducts an activity that is made unlawful by this Act only if the license holder:

(a) received approval from the Board to conduct the activity on or before August 15, 1981; and

(b) has owned the licensed premises continuously since September 1, 1981.]

SECTION [3.] 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2005.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 698

(House Bill 1052)

AN ACT concerning

~~Natural Resources – Suspension of Hunting Licenses and Privileges~~
Wildlife Poaching Prevention Act

FOR the purpose of ~~authorizing the Department of Natural Resources to suspend for certain periods of time the hunting license or privileges of a person who is convicted of a State or federal hunting violation; requiring the Department to suspend for a certain time period the hunting license or privileges of a person who receives within a certain time period a second conviction for certain hunting violations; authorizing the Department to order that certain persons not obtain a hunting license for a certain time period; repealing certain provisions of law authorizing the Department to impose a certain fine and certain hunting license suspensions for a conviction for certain hunting violations; authorizing a court to suspend the hunting license of a person convicted of a federal hunting violation and the hunting privileges of a person convicted of a State or federal hunting violation; prohibiting a person whose hunting license is suspended from hunting or performing certain hunting activities anywhere in the State; prohibiting a person whose hunting privileges are suspended from hunting, or performing certain activities related to hunting, in the State; authorizing the Department to adopt regulations to implement this Act; clarifying certain language; defining a certain term~~ repealing certain provisions of law that authorize a court to suspend the hunting license or, under certain circumstances, privileges of a person who has been convicted of certain hunting offenses; repealing certain corresponding standards and prohibited acts related to the suspension of a hunting license or hunting privileges; authorizing the Department of Natural Resources or the court, in addition to certain other applicable penalties, to suspend for up to a certain period of time the hunting license or privileges of a person who is convicted of a State or federal hunting violation; requiring the Department to adopt certain regulations, including regulations that list the criteria for the suspension of a hunting license or the hunting privileges of a person; clarifying that a prohibition against hunting during a period of suspension applies to trapping and pursuing game; establishing certain grounds for the immediate suspension of a hunting license; establishing certain timing and hearing requirements before the suspension of a hunting license or hunting privileges; repealing certain provisions of law authorizing the Department to impose a certain fine and certain hunting license suspensions for a conviction for certain hunting violations; stating the intent of the General Assembly; and generally relating to the suspension of hunting licenses and privileges in the State.

BY repealing and reenacting, with amendments,
Article – Natural Resources
Section 10–205, 10–423, ~~and 10–1101, and 10–1108~~
Annotated Code of Maryland
(2007 Replacement Volume and 2011 Supplement)

BY repealing
Article – Natural Resources

Section 10–1108
Annotated Code of Maryland
(2007 Replacement Volume and 2011 Supplement)

BY adding to

Article – Natural Resources
Section 10–1108
Annotated Code of Maryland
(2007 Replacement Volume and 2011 Supplement)

Preamble

WHEREAS, The vast majority of sportsmen are conscientious and conservation-minded, and strictly abide by the wildlife laws of Maryland; and

WHEREAS, There are always the insular few sportsmen who blatantly violate these laws through reckless and selfish poaching; and

WHEREAS, The Public Trust Doctrine recognizes that the State has an affirmative duty to administer, protect, manage, and conserve wildlife; and

WHEREAS, The recent slowdown in State revenue has resulted in insufficient funds being available for the enforcement of Maryland's wildlife laws, thus perpetuating wildlife violations on the presumption that apprehension is unlikely to occur; and

WHEREAS, The Wildlife Poaching Prevention Act will strengthen compliance with Maryland's wildlife laws through the imposition of penalties intended to deter those who repeatedly commit wildlife violations and who willfully violate the spirit of the Public Trust Doctrine; now, therefore,

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

Article – Natural Resources

10–205.

(a) Having a due regard for the distribution, abundance, economic value, and breeding habits of wildlife, the Secretary may adopt regulations to enlarge, extend, restrict, or prohibit hunting, possessing, selling, purchasing, shipping, carrying, transporting, or exporting wildlife.

(b) [In addition to any other penalty provided in this title, any person convicted of violating any regulation adopted by the Department shall be fined \$5 for each bird, mammal, amphibian, or reptile illegally hunted or possessed. However, this additional penalty does not apply to game birds and mammals. If a person is convicted

a second or subsequent time within the same 12 month period for a violation of the regulations the Department adopts, the person:

- (1) Shall have the person's hunter's license suspended; and
- (2) May not procure a hunter's license the following calendar year.

(c) Notwithstanding any other provision of law, the Department may use a lottery-based system to issue hunting licenses, permits, or stamps.

10-423.

(a) Any penalty imposed under this section does not apply to an individual who kills or wounds a black bear in defense of the individual's own life, the lives of other individuals, or the lives of animals on the individual's property.

(b) If the Secretary adopts any regulation, including an emergency regulation, under § 10-205 of this title or § 10-405 of this subtitle to prohibit the hunting, possessing, selling, purchasing, shipping, carrying, transporting, or exporting of black bears, a person who violates the regulation is subject to the following penalties:

(1) For a first offense, a fine not exceeding \$1,500, imprisonment not exceeding 6 months, or both [and suspension of the person's hunting license and right to hunt any bird or game animal for a period of time not exceeding 2 years]; and

(2) For a second or subsequent offense, a fine not exceeding \$2,000, imprisonment not exceeding 1 year, or both [and suspension of the person's hunting license and right to hunt any bird or game animal for a period of time not exceeding 4 years].

10-1101.

(a) For the purpose of this title, each game bird or mammal taken illegally, purchased, offered for purchase, sold, bartered, or exchanged in excess of the bag limit or possessed illegally constitutes a separate offense.

(b) Any person who violates any provision of this title is guilty of a misdemeanor. Unless another penalty is specifically provided elsewhere in this title, the person, upon conviction, is subject to a fine not exceeding \$1,500, with costs imposed in the discretion of the court.

(c) (1) Unless another penalty is specifically provided elsewhere in this title any person found guilty of a second or subsequent violation of any provision of this title, is subject to a fine not exceeding \$4,000, or imprisonment not exceeding 1 year, or both, with costs imposed in the discretion of the court.

(2) [In addition, the license under which the person operated in the commission of the violation shall be suspended for 12 months from the date of the second conviction.

(3)] For the purpose of this subsection, a second or subsequent violation is a violation which has occurred within 2 years of any prior violation of this title and which arises out of a separate set of circumstances.

(d) In addition to any administrative penalty provided in this title, violation of any regulation adopted by any unit within the Department pursuant to the provisions of this title is a misdemeanor and is punishable as provided in subsections (b) and (c) of this section.

(e) This section does not apply to a violation of § 10-424(2) of this title.

~~10-1108.~~

~~(a) IN THIS SECTION, "CONVICTION" MEANS:~~

~~(1) A PLEA OR VERDICT OF GUILTY; OR~~

~~(2) AN ACCEPTED PLEA OF NOLO CONTENDERE.~~

~~(b) (1) In addition to any other penalty, a court OR THE DEPARTMENT may suspend FOR A PERIOD NOT EXCEEDING 5 YEARS the hunting license OR HUNTING PRIVILEGES of any person who is convicted of violating IN THE STATE any provision of this title [or], any regulation adopted under this title, [for a period not exceeding 5 years] OR ANY COMPARABLE PROVISION OF FEDERAL LAW.~~

~~(2) (i) A court OR THE DEPARTMENT may suspend for not more than 1 year the hunting license OR HUNTING PRIVILEGES of a person who is convicted of violating THE TRESPASS PROVISIONS OF § 6-402 of the Criminal Law Article while carrying a firearm or bow and arrow for the purpose of hunting.~~

~~(ii) When a person not holding a hunting license is convicted of violating THE TRESPASS PROVISIONS OF § 6-402 of the Criminal Law Article while carrying a firearm or bow and arrow for the purpose of hunting, the court OR THE DEPARTMENT may order that the person not obtain a hunting license for a period of not more than 1 year.~~

~~(3) (i) FOR THE PURPOSES OF THIS SUBSECTION, A SECOND CONVICTION IS A CONVICTION FOR A VIOLATION THAT ARISES OUT OF A SEPARATE SET OF CIRCUMSTANCES.~~

~~(H) THE DEPARTMENT SHALL SUSPEND FOR A MINIMUM OF 1 YEAR AND A MAXIMUM OF 5 YEARS THE HUNTING LICENSE AND HUNTING PRIVILEGES OF A PERSON WHO, IN ANY 12 MONTH PERIOD, RECEIVES A SECOND CONVICTION FOR VIOLATIONS OF STATE OR FEDERAL LAW DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION THAT ARE NOT ADMINISTRATIVE OR MINOR IN NATURE AS DETERMINED BY THE DEPARTMENT.~~

~~[(b)] (C) If a person whose hunting license is suspended under this section passes another hunting safety course after the suspension has expired, the person may reapply for and be issued a hunting license.~~

~~[(e)] (D) A person whose hunting license [is] OR HUNTING PRIVILEGES ARE suspended under this section may not:~~

~~(1) Hunt [on any lands where a hunting license is required], TRAP, PURSUE GAME, OR CHASE FOX OR OTHER FURBEARERS ANYWHERE IN THE STATE; or~~

~~(2) Purchase or attempt to purchase another hunting license during the period of suspension.~~

~~(E) THE DEPARTMENT MAY ADOPT REGULATIONS TO IMPLEMENT THIS SECTION.~~

[10-1108.

(a) (1) In addition to any other penalty, a court may suspend the hunting license of any person who is convicted of violating any provision of this title or any regulation adopted under this title, for a period not exceeding 5 years.

(2) (i) A court may suspend for not more than 1 year the hunting license of a person who is convicted of violating § 6-402 of the Criminal Law Article while carrying a firearm or bow and arrow for the purpose of hunting.

(ii) When a person not holding a hunting license is convicted of violating § 6-402 of the Criminal Law Article while carrying a firearm or bow and arrow for the purpose of hunting, the court may order that the person not obtain a hunting license for a period of not more than 1 year.

(b) If a person whose hunting license is suspended under this section passes another hunting safety course after the suspension has expired, the person may reapply for and be issued a hunting license.

(c) A person whose hunting license is suspended under this section may not:

(1) Hunt on any lands where a hunting license is required; or

(2) Purchase or attempt to purchase another hunting license during the period of suspension.]

10-1108.

(A) IN ADDITION TO ANY OTHER PENALTY PROVIDED BY THIS TITLE, THE DEPARTMENT OR THE COURT MAY SUSPEND FOR A PERIOD NOT EXCEEDING 5 YEARS THE HUNTING LICENSE OR HUNTING PRIVILEGES OF A PERSON WHO IS CONVICTED OF A STATE OR FEDERAL HUNTING VIOLATION.

(B) THE DEPARTMENT SHALL ADOPT REGULATIONS:

(1) TO IMPLEMENT THIS SECTION; AND

(2) THAT LIST THE CRITERIA FOR THE SUSPENSION OF A HUNTING LICENSE OR THE HUNTING PRIVILEGES OF A PERSON.

(C) (1) DURING A PERIOD OF SUSPENSION OF A HUNTING LICENSE OR THE HUNTING PRIVILEGES OF A PERSON IMPOSED BY THE DEPARTMENT OR THE COURT, THE PERSON MAY NOT:

(i) HUNT, TRAP, OR PURSUE GAME IN THE STATE; OR

(ii) PURCHASE OR ATTEMPT TO PURCHASE ANOTHER HUNTING LICENSE.

(2) THE FOLLOWING ARE GROUNDS FOR AN IMMEDIATE SUSPENSION OF A HUNTING LICENSE OR HUNTING PRIVILEGES:

(i) KNOWINGLY MAKING A FALSE STATEMENT IN A LICENSE APPLICATION;

(ii) A SECOND CONVICTION FOR VIOLATIONS OCCURRING ON SEPARATE DAYS WITHIN ANY 12-MONTH PERIOD FOR VIOLATIONS OF STATE OR FEDERAL HUNTING LAW THAT ARE NOT ADMINISTRATIVE OR MINOR IN NATURE AS DETERMINED BY THE DEPARTMENT;

(iii) FAILURE TO SUBMIT A REPORT OR REPORT TO A CHECKING STATION AS REQUIRED UNDER THIS TITLE OR BY REGULATION; OR

(iv) FAILURE OF A NONRESIDENT OF THE STATE TO APPEAR IN COURT IN ACCORDANCE WITH A CITATION ISSUED BY A NATURAL

RESOURCES POLICE OFFICER, OR TO ANY OTHER PROCESS ISSUED BY ANY COURT OF MARYLAND, FOR A VIOLATION OF THIS TITLE.

(3) A SUSPENSION IMPOSED IN ACCORDANCE WITH THIS SECTION IS IN ADDITION TO ANY OTHER PENALTY AUTHORIZED UNDER THIS TITLE.

(4) THE DEPARTMENT SHALL INITIATE ANY PROCEEDING TO SUSPEND A HUNTING LICENSE OR HUNTING PRIVILEGES UNDER PARAGRAPH (2)(II) OF THIS SUBSECTION IMMEDIATELY AFTER THE TIME FOR FILING AN APPEAL OF THE SECOND CONVICTION HAS PASSED.

(5) (I) BEFORE THE SUSPENSION OF A HUNTING LICENSE OR HUNTING PRIVILEGES UNDER THIS SECTION, THE DEPARTMENT SHALL NOTIFY THE LICENSEE OR PERSON IN WRITING OF THE LICENSEE'S OR PERSON'S RIGHT TO A HEARING ON REQUEST.

(II) IF A LICENSEE OR PERSON SUBMITS A WRITTEN REQUEST FOR A HEARING TO THE DEPARTMENT WITHIN 30 DAYS AFTER THE DATE THAT THE NOTICE REQUIRED UNDER THIS PARAGRAPH IS MAILED, THE DEPARTMENT SHALL:

1. HOLD A HEARING AFTER PROVIDING AT LEAST 10 DAYS' NOTICE TO THE LICENSEE OR PERSON; AND

2. CONDUCT THE HEARING IN ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

(III) THE DEPARTMENT MAY SUSPEND A HUNTING LICENSE OR HUNTING PRIVILEGES WITHOUT A HEARING IF:

1. THE LICENSEE OR PERSON DOES NOT SUBMIT A WRITTEN REQUEST FOR A HEARING; OR

2. THE LICENSEE OR PERSON FAILS TO APPEAR FOR A SCHEDULED HEARING FOR WHICH THE DEPARTMENT PROVIDED NOTICE.

SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly to recognize and commend the Maryland landowners and managers who provide and support native wildlife habitat, especially the landowners who embrace the principles of quality deer management and manage their land accordingly. The Department of Natural Resources is encouraged to augment the deer management efforts of these landowners by vigorously enforcing the wildlife laws against poachers who violate the public trust, thus helping ensure that the citizens of Maryland who recognize the value of sustainable native wildlife populations will be able to enjoy these resources now and in the future.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 699

(House Bill 1068)

AN ACT concerning

Homeowner's Insurance – Limitation on Number of Claims Made – Notice

FOR the purpose of requiring certain insurers that issue policies of homeowner's insurance in the State to provide applicants and insureds with a notice that states ~~the number of claims that may be made under a policy of homeowner's insurance before the insurer cancels or refuses~~ certain claim-related grounds under which the insurer may cancel or refuse to renew the policy; requiring insurers to provide the notice at certain times and in a certain manner; ~~providing that insurers are deemed to be in compliance with the notice requirement under certain circumstances; authorizing a notice required to be sent by certificate of mailing to be sent with a certain other required notice and statement;~~ providing for the application of this Act; and generally relating to notice of the limitation on the number of claims that may be made under policies of homeowner's insurance.

BY adding to

Article – Insurance
Section 19–214
Annotated Code of Maryland
(2011 Replacement Volume)

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

Article – Insurance

19–214.

~~(A) (1) IF AN INSURER THAT ISSUES POLICIES OF HOMEOWNER'S INSURANCE IN THE STATE CONSIDERS CLAIMS HISTORY FOR THE PURPOSE OF CANCELLING OR REFUSING TO RENEW COVERAGE, THE INSURER SHALL PROVIDE AN APPLICANT OR INSURED WITH A WRITTEN NOTICE THAT STATES~~

~~THE NUMBER OF CLAIMS THAT MAY BE MADE UNDER A POLICY OF HOMEOWNER'S INSURANCE BEFORE THE INSURER CANCELS OR REFUSES TO RENEW THE POLICY.~~

~~(2) THE INSURER SHALL PROVIDE THE NOTICE REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION:~~

~~(I) AT THE TIME OF APPLICATION FOR HOMEOWNER'S INSURANCE; AND~~

~~(II) WITH EACH RENEWAL OF THE POLICY OF HOMEOWNER'S INSURANCE.~~

~~(B) (1) IF AN APPLICATION FOR HOMEOWNER'S INSURANCE IS MADE BY TELEPHONE, THE INSURER IS DEEMED TO BE IN COMPLIANCE WITH SUBSECTION (A)(2)(I) OF THIS SECTION IF, WITHIN 7 CALENDAR DAYS AFTER THE DATE OF APPLICATION, THE INSURER SENDS BY CERTIFICATE OF MAILING THE NOTICE TO THE APPLICANT.~~

~~(2) IF AN APPLICATION FOR HOMEOWNER'S INSURANCE IS MADE USING THE INTERNET, THE INSURER IS DEEMED TO BE IN COMPLIANCE WITH SUBSECTION (A)(2)(I) OF THIS SECTION IF THE INSURER PROVIDES THE NOTICE TO THE APPLICANT PRIOR TO THE SUBMISSION OF THE APPLICATION.~~

~~(C) A NOTICE REQUIRED TO BE SENT BY CERTIFICATE OF MAILING UNDER SUBSECTION (B)(1) OF THIS SECTION MAY BE SENT WITH THE NOTICE REQUIRED UNDER § 19-206 OF THIS SUBTITLE AND THE STATEMENT REQUIRED UNDER § 19-207 OF THIS SUBTITLE.~~

(A) AN INSURER THAT OFFERS HOMEOWNER'S INSURANCE IN THE STATE SHALL PROVIDE A WRITTEN NOTICE TO THE INSURED AT THE TIME OF APPLICATION OR ISSUANCE AND AT EACH RENEWAL OF THE POLICY THAT STATES, IN SUBSTANTIALLY SIMILAR LANGUAGE, THAT, IN ADDITION TO THE OTHER ALLOWABLE REASONS FOR CANCELLATION OR REFUSAL TO RENEW UNDER MARYLAND LAW:

(1) THE INSURER MAY CANCEL OR REFUSE TO RENEW COVERAGE ON THE BASIS OF THE NUMBER OF CLAIMS MADE BY THE POLICYHOLDER WITHIN THE PRECEDING 3-YEAR PERIOD; AND

(2) THE INSURER MAY CANCEL OR REFUSE TO RENEW COVERAGE ON THE BASIS OF:

(I) THREE OR MORE WEATHER-RELATED CLAIMS MADE WITHIN THE PRECEDING 3-YEAR PERIOD;

(II) ONE OR MORE WEATHER-RELATED CLAIMS MADE WITHIN THE PRECEDING 3-YEAR PERIOD IF THE INSURER HAS PROVIDED WRITTEN NOTICE TO THE INSURED FOR REASONABLE OR CUSTOMARY REPAIRS OR REPLACEMENT SPECIFIC TO THE INSURED'S PREMISES OR DWELLING THAT:

1. THE INSURED FAILED TO MAKE; AND
2. IF MADE, WOULD HAVE PREVENTED THE LOSS FOR WHICH A CLAIM WAS MADE; AND

(III) A CHANGE IN THE PHYSICAL CONDITION OR CONTENTS OF THE PREMISES THAT:

1. INCREASES THE HAZARD INSURED AGAINST; AND
2. IF PRESENT AND KNOWN TO THE INSURER BEFORE THE ISSUANCE OF THE POLICY, WOULD HAVE CAUSED THE INSURER TO REFUSE TO ISSUE THE POLICY.

(B) IN ORDER TO SUPPORT CANCELLATION OR REFUSAL TO RENEW UNDER SUBSECTION (A)(2)~~(III)~~ (II) OF THIS SECTION, THE WRITTEN NOTICE:

- (1) MUST REFER TO SPECIFIC CONDITIONS KNOWN TO THE INSURER CONCERNING THE INSURED'S SPECIFIC PREMISES OR DWELLING; AND
- (2) MAY NOT BE A GENERAL NOTIFICATION OF REPAIRS OR REPLACEMENTS COMMON TO THAT TYPE OF PREMISES OR DWELLING.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to all policies and contracts of homeowner's insurance issued, delivered, or renewed in the State on or after October 1, 2012.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 22, 2012.

AN ACT concerning

Education – Student Athletes – Heat Acclimatization Guidelines

FOR the purpose of requiring the State Department of Education, in collaboration with certain organizations and health care providers, to develop a model policy for preseason–practice heat acclimatization guidelines for student athletes; requiring local boards of education to adopt preseason–practice heat acclimatization guidelines for student athletes; requiring certain guidelines to include requirements for the duration of a practice time, a walk–through, and a recovery period during preseason practice; defining certain terms; and generally relating to requiring the adoption of preseason–practice heat acclimatization guidelines for student athletes.

BY adding to

Article – Education

Section 7–434

Annotated Code of Maryland

(2008 Replacement Volume and 2011 Supplement)

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

Article – Education

7–434.

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

(2) “HEAT ACCLIMATIZATION” MEANS ENHANCING AN INDIVIDUAL’S EXERCISE HEAT TOLERANCE AND ABILITY TO EXERCISE SAFELY AND EFFECTIVELY IN WARM TO HOT CONDITIONS.

(3) “PRACTICE” MEANS A PERIOD OF TIME A STUDENT ATHLETE ENGAGES IN PHYSICAL ACTIVITY DURING A COACH–SUPERVISED, SCHOOL–APPROVED SPORTS– OR CONDITIONING–RELATED ACTIVITY, INCLUDING WARM–UP, STRETCHING, WEIGHT TRAINING, AND COOL–DOWN PERIODS.

(4) “PRESEASON PRACTICE” MEANS THE INITIAL 14 DAYS OF PRACTICE FOR A STUDENT ATHLETE ~~BEFORE THE FIRST DATE OF PRACTICE DURING THE REGULAR SEASON.~~

(5) "RECOVERY PERIOD" MEANS THE TIME BETWEEN THE END OF ONE PRACTICE OR WALK-THROUGH AND THE BEGINNING OF THE NEXT PRACTICE OR WALK-THROUGH.

(6) "STUDENT ATHLETE" MEANS A STUDENT WHO PARTICIPATES IN AN ATHLETIC PROGRAM FOR HIGH SCHOOL STUDENTS IN A STATE SECONDARY SCHOOL THAT IS A MEMBER OF THE MARYLAND PUBLIC SECONDARY SCHOOLS ATHLETIC ASSOCIATION.

(7) (I) "WALK-THROUGH" MEANS A TEACHING OPPORTUNITY WHEN AN ATHLETE IS NOT WEARING PROTECTIVE EQUIPMENT, INCLUDING HELMETS, SHOULDER PADS, CATCHER'S GEAR, OR SHIN GUARDS, OR USING OTHER SPORTS-RELATED EQUIPMENT.

(II) "WALK-THROUGH" DOES NOT INCLUDE ANY PART OF A PRACTICE PERIOD.

(B) (1) THE DEPARTMENT, IN COLLABORATION WITH THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE, EACH COUNTY BOARD, THE MARYLAND PUBLIC SECONDARY SCHOOLS ATHLETIC ASSOCIATION, THE MARYLAND ATHLETIC TRAINERS' ASSOCIATION, AND REPRESENTATIVES OF LICENSED HEALTH CARE PROVIDERS WHO TREAT STUDENT ATHLETES, SHALL DEVELOP A MODEL POLICY FOR PRESEASON-PRACTICE HEAT ACCLIMATIZATION GUIDELINES FOR STUDENT ATHLETES.

(2) EACH LOCAL BOARD SHALL ADOPT PRESEASON-PRACTICE HEAT ACCLIMATIZATION GUIDELINES FOR STUDENT ATHLETES.

(C) THE PRESEASON-PRACTICE HEAT ACCLIMATIZATION GUIDELINES SHALL INCLUDE REQUIREMENTS FOR THE DURATION OF A PRACTICE TIME, A WALK-THROUGH, AND A RECOVERY PERIOD DURING PRESEASON PRACTICE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 701

(House Bill 1081)

AN ACT concerning

Homestead Property Tax Credit Reform Act of 2012

FOR the purpose of providing that a person who has been granted a homestead property tax credit and is subsequently found to ~~be ineligible~~ *not qualify* for the credit ~~is liable for~~ *shall be assessed* certain property taxes otherwise due ~~and~~; ~~requiring that a person be assessed, under certain circumstances, a penalty equal to a certain amount; requiring a certain penalty to be included~~ *separately itemized* on the person's tax bill; establishing that a certain penalty constitutes a lien on the property until ~~paid in full~~ *certain actions are taken*; allowing a person to appeal a certain determination in accordance with certain policies and procedures; ~~requiring a licensed real estate broker, associate broker, salesperson acting as an agent for a seller of residential real property, or the owner of the property under certain circumstances to provide to a certain purchaser or agent assisting the purchaser a written estimate of certain property taxes; requiring the property tax estimate to be based on certain rates and include certain information; requiring the estimate to be updated at certain times; requiring the State Real Estate Commission to adopt certain regulations; establishing certain liability limits for a seller, the seller's agent, or an owner in connection with the sale of residential real property under certain circumstances;~~ providing for the application of this Act; and generally relating to property taxes and residential real property.

BY repealing and reenacting, without amendments,
Article – Tax – Property
Section 9–105(a)(1) and (5)(i) and (d)(1) through (3)
Annotated Code of Maryland
(2007 Replacement Volume and 2011 Supplement)

BY adding to
Article – Tax – Property
Section 9–105(n)
Annotated Code of Maryland
(2007 Replacement Volume and 2011 Supplement)

~~BY adding to
Article – Business Occupations and Professions
Section 17–531.1
Annotated Code of Maryland
(2010 Replacement Volume and 2011 Supplement)~~

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

Article – Tax – Property

9–105.

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

(5) (i) "Dwelling" means:

1. a house that is:

A. used as the principal residence of the homeowner; and

B. actually occupied or expected to be actually occupied by the homeowner for more than 6 months of a 12-month period beginning with the date of finality for the taxable year for which the property tax credit under this section is sought; and

2. the lot or curtilage on which the house is erected.

(d) (1) Subject to the provisions of paragraph (6) of this subsection, the Department shall authorize and the State, a county, or a municipal corporation shall grant a property tax credit under this section for a taxable year unless during the previous taxable year:

(i) the dwelling was transferred for consideration to new ownership;

(ii) the value of the dwelling was increased due to a change in the zoning classification of the dwelling initiated or requested by the homeowner or anyone having an interest in the property;

(iii) the use of the dwelling was changed substantially; or

(iv) the assessment of the dwelling was clearly erroneous due to an error in calculation or measurement of improvements on the real property.

(2) A homeowner must actually reside in the dwelling by July 1 of the taxable year for which the property tax credit under this section is to be allowed.

(3) A homeowner may claim a property tax credit under this section for only 1 dwelling.

(N) (1) A PERSON WHO HAS BEEN GRANTED A PROPERTY TAX CREDIT UNDER THIS SECTION AND IS SUBSEQUENTLY FOUND TO ~~BE INELIGIBLE~~ NOT QUALIFY FOR THE CREDIT BY THE DEPARTMENT ~~IS LIABLE FOR:~~

~~(1)~~ SHALL BE ASSESSED ALL STATE, COUNTY, AND MUNICIPAL CORPORATION PROPERTY TAX OTHERWISE DUE FOR EACH TAXABLE YEAR THE PERSON ~~IMPROPERLY RECEIVED~~ DID NOT QUALIFY TO RECEIVE THE CREDIT; ~~AND.~~

~~(H)~~ (2) (I) IF A PERSON IS FOUND BY THE DEPARTMENT TO HAVE WILLFULLY MISREPRESENTED FACTS REGARDING QUALIFICATION FOR THE PROPERTY TAX CREDIT UNDER THIS SECTION, THE PERSON SHALL BE ASSESSED A PENALTY EQUAL TO 25% OF THE AMOUNT OF THE PROPERTY TAX CREDIT IMPROPERLY RECEIVED DURING EACH TAXABLE YEAR FOR WHICH THE PERSON DID NOT QUALIFY.

~~(2)~~ (II) THE AMOUNT OF THE PENALTY SHALL BE INCLUDED SEPARATELY ITEMIZED ON THE PERSON'S PROPERTY TAX BILL AND CONSTITUTES A LIEN ON THE PROPERTY UNTIL PAID IN FULL:

1. PAYMENT OF THE PENALTY IN FULL; OR

2. IF THE PROPERTY IS SOLD IN AN ACTION TO FORECLOSE ON A MORTGAGE OR DEED OF TRUST:

A. A COPY OF THE COURT ORDER RATIFYING THE FORECLOSURE SALE IS PROVIDED TO THE SUPERVISOR OF ASSESSMENTS FOR THE COUNTY IN WHICH THE RESIDENTIAL PROPERTY IS LOCATED; OR

B. AN INSTRUMENT OF WRITING TRANSFERRING THE PROPERTY IS RECORDED IN THE LAND RECORDS OF THE COUNTY IN WHICH THE PROPERTY IS LOCATED.

(3) IF A LIEN IS RELEASED UNDER PARAGRAPH (2)(II)2 OF THIS SUBSECTION, ANY UNPAID PENALTY AMOUNT SHALL REMAIN THE PERSONAL LIABILITY OF THE PERSON AGAINST WHOM THE PENALTY WAS ASSESSED.

~~(3)~~ (4) A PERSON MAY APPEAL A DETERMINATION MADE UNDER THIS SUBSECTION IN ACCORDANCE WITH THE POLICIES AND PROCEDURES SET FORTH IN § 14-506 OF THIS ARTICLE.

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

~~Article Business Occupations and Professions~~

~~17-531.1.~~

~~(A) A LICENSED BROKER, AN ASSOCIATE BROKER, A SALESPERSON ACTING AS A LISTING AGENT FOR A SELLER OF RESIDENTIAL REAL PROPERTY, OR THE OWNER OF RESIDENTIAL REAL PROPERTY WHEN THE OWNER IS SELLING DIRECTLY TO A PURCHASER SHALL PROVIDE A PROSPECTIVE~~

~~PURCHASER OR THE SELLING OR COOPERATING AGENT ASSISTING THE PURCHASER WITH A WRITTEN ESTIMATE OF THE FULL YEAR PROPERTY TAX THAT THE PURCHASER WOULD BE OBLIGATED TO PAY IN THE NEXT FULL TAXABLE YEAR AFTER THE PROPERTY IS TRANSFERRED.~~

~~(B) (1) THE FULL YEAR PROPERTY TAX ESTIMATE REQUIRED UNDER THIS SECTION SHALL BE BASED ON ALL APPLICABLE TAX RATES IN FORCE WHEN THE ESTIMATE IS PRODUCED AND INCLUDE:~~

~~(I) ALL APPLICABLE STATE, COUNTY, AND MUNICIPAL PROPERTY TAXES; AND~~

~~(II) ANY NONTAX FEES OR CHARGES INCLUDED ON THE CONSOLIDATED REAL PROPERTY TAX BILL.~~

~~(2) THE FULL YEAR PROPERTY TAX ESTIMATE MUST BE UPDATED:~~

~~(I) BY JULY 1 OF EACH YEAR TO REFLECT ANY CHANGES IN THE RATES OF TAXES, FEES, AND OTHER CHARGES; AND~~

~~(II) BY JANUARY 31 IF THE CURRENT FISCAL YEAR IS THE THIRD YEAR OF THE PROPERTY'S 3-YEAR ASSESSMENT CYCLE TO REFLECT THE ASSESSED VALUE OF THE PROPERTY AS DETERMINED BY THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION.~~

~~(C) A LISTING AGENT OR OWNER SELLING DIRECTLY TO A PURCHASER SHALL PROVIDE THE FULL YEAR PROPERTY TAX ESTIMATE REQUIRED UNDER THIS SECTION IN WRITING TO THE PROSPECTIVE PURCHASER OR TO THE SELLING OR COOPERATING AGENT ASSISTING THE PURCHASER AT THE TIME THE LISTING AGENT OR OWNER RECEIVES A WRITTEN OFFER FOR THE PROPERTY.~~

~~(D) THE COMMISSION SHALL ADOPT, BY REGULATION, AN APPROVED METHOD TO CALCULATE THE FULL YEAR PROPERTY TAX ESTIMATE REQUIRED UNDER THIS SECTION.~~

~~(E) A LICENSED BROKER, ASSOCIATE BROKER, SALESPERSON ACTING AS LISTING AGENT FOR A SELLER OF RESIDENTIAL REAL PROPERTY, OR THE OWNER OF RESIDENTIAL REAL PROPERTY WHEN THE OWNER IS SELLING DIRECTLY TO A PURCHASER IS NOT LIABLE FOR ANY INCORRECT INFORMATION DISCLOSED UNDER THIS SECTION IF THE BROKER, SALESPERSON, AGENT, OR OWNER RELIED IN GOOD FAITH ON THE METHOD ADOPTED BY THE COMMISSION UNDER SUBSECTION (D) OF THIS SECTION.~~

SECTION ~~3~~ 2. AND BE IT FURTHER ENACTED, That ~~Section 1~~ of this Act shall take effect June 1, 2012, and shall be applicable to all taxable years beginning after June 30, 2012.

~~SECTION 4. AND BE IT FURTHER ENACTED, That, this Act shall take effect July 1, 2012.~~

Approved by the Governor, May 22, 2012.

Chapter 702

(House Bill 1117)

AN ACT concerning

Zoning, Construction, and Stormwater – Permits and Variances – Solar Panels

FOR the purpose of providing that, for the purposes of issuing a permit or a variance relating to zoning, construction, or stormwater for a project to install a solar panel, any calculation relating to the impervious surface of the project required by certain State or local governing authorities may include only ~~a certain portion of~~ the foundation or base supporting the solar panel; establishing a certain exception; defining a certain term; providing for the effective date of this Act; and generally relating to the calculation of impervious surfaces for the purposes of issuing a permit or a variance relating to zoning, construction, or stormwater.

BY repealing and reenacting, with amendments,

Article – Land Use

Section 1–401 and 10–103

Annotated Code of Maryland

(As enacted by Chapter 426 (H.B. ___)(2lr0396) of the Acts of the General Assembly of 2012)

BY adding to

Article – Land Use

Section 4–210

Annotated Code of Maryland

(As enacted by Chapter 426 (H.B. ___)(2lr0396) of the Acts of the General Assembly of 2012)

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

Article – Land Use

1–401.

(a) Except as provided in this section, this division does not apply to charter counties.

(b) The following provisions of this division apply to a charter county:

(1) this subtitle, including Parts II and III (Charter county – Comprehensive plans);

(2) § 1–101(o) (Definitions – “Sensitive area”);

(3) § 1–201 (Visions);

(4) § 1–206 (Required education);

(5) § 1–207 (Annual report – In general);

(6) § 1–208 (Annual report – Measures and indicators);

(7) Title 1, Subtitle 3 (Consistency);

(8) § 4–104(b) (Limitations – Bicycle parking);

(9) § 4–208 (Exceptions – Maryland Accessibility Code);

(10) **§ 4–210 (PERMITS AND VARIANCES – SOLAR PANELS);**

(11) § 5–102(d) (Subdivision regulations – Burial sites);

~~[(11)]~~ **(12)** Title 7, Subtitle 1 (Development Mechanisms);

~~[(12)]~~ **(13)** Title 7, Subtitle 2 (Transfer of Development Rights);

~~[(13)]~~ **(14)** Except in Montgomery County or Prince George’s County, Title 7, Subtitle 3 (Development Rights and Responsibilities Agreements);

~~[(14)]~~ **(15)** Title 7, Subtitle 4 (Inclusionary Zoning);

~~[(15)]~~ **(16)** § 8–401 (Conversion of overhead facilities);

~~[(16)]~~ **(17)** For Baltimore County only, Title 9, Subtitle 3 (Single–County Provisions – Baltimore County);

~~[(17)]~~ **(18)** For Howard County only, Title 9, Subtitle 13 (Single-County Provisions – Howard County); and

~~[(18)]~~ **(19)** Title 11, Subtitle 2 (Civil Penalty).

(c) This section supersedes any inconsistent provision of Division II of this article.

4-210.

(A) IN THIS SECTION, “CRITICAL AREA” INCLUDES THE AREAS DESIGNATED AS THE CHESAPEAKE BAY CRITICAL AREA AND THE ATLANTIC COASTAL BAYS CRITICAL AREA UNDER § 8-1807 OF THE NATURAL RESOURCES ARTICLE.

(B) THIS SECTION DOES NOT APPLY IN THE CRITICAL AREA.

(C) FOR THE PURPOSES OF ISSUING A PERMIT OR VARIANCE RELATING TO ZONING, CONSTRUCTION, OR STORMWATER FOR A PROJECT TO INSTALL A SOLAR PANEL, ANY CALCULATION RELATING TO THE IMPERVIOUS SURFACE OF THE PROJECT REQUIRED BY THE STATE OR LOCAL GOVERNING AUTHORITY ISSUING THE PERMIT OR VARIANCE MAY INCLUDE ONLY ~~THE BASE OF THE~~ FOUNDATION OR BASE SUPPORTING THE SOLAR PANEL.

10-103.

(a) Except as provided in this section, this division does not apply to Baltimore City.

(b) The following provisions of this division apply to Baltimore City:

- (1) this title;
- (2) § 1-101(m) (Definitions – “Priority funding area”);
- (3) § 1-101(o) (Definitions – “Sensitive area”);
- (4) § 1-201 (Visions);
- (5) § 1-206 (Required education);
- (6) § 1-207 (Annual report – In general);
- (7) § 1-208 (Annual report – Measures and indicators);

- (8) Title 1, Subtitle 3 (Consistency);
- (9) Title 1, Subtitle 4, Parts II and III (Home Rule Counties – Comprehensive Plans; Implementation);
- (10) § 4–104(b) (Limitations – Bicycle parking);
- (11) § 4–205 (Administrative adjustments);
- (12) § 4–207 (Exceptions – Maryland Accessibility Code);
- (13) **§ 4–210 (PERMITS AND VARIANCES – SOLAR PANELS);**
- (14) § 5–201(d) (Subdivision regulations – Burial sites);**
- [(14)] **(15)** Title 7, Subtitle 1 (Development Mechanisms);
- [(15)] **(16)** Title 7, Subtitle 2 (Transfer of Development Rights);
- [(16)] **(17)** Title 7, Subtitle 3 (Development Rights and Responsibilities Agreements);
- [(17)] **(18)** Title 7, Subtitle 4 (Inclusionary Zoning); and
- [(18)] **(19)** Title 11, Subtitle 2 (Civil Penalty).

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012, the effective date of Chapter 426 (H.B. ____)(2lr0396) of the Acts of the General Assembly of 2012. If the effective date of Chapter 426 is amended, this Act shall take effect on the taking effect of Chapter 426.

Approved by the Governor, May 22, 2012.

Chapter 703

(House Bill 1123)

AN ACT concerning

**Environment – Presumptive Impact Areas – ~~Damage~~ Contamination Caused
by Gas Wells in Deep Shale Deposits**

FOR the purpose of establishing for certain gas well permits a certain presumptive impact area around the gas well; establishing limits on the area and the time

period in which a presumptive impact area shall be in effect; requiring the Department of the Environment to consider certain factors in making certain determinations; requiring a permittee to replace a certain water supply ~~and repair certain damage or pay monetary compensation to a certain property owner in a presumptive impact area~~ under certain circumstances; establishing certain conditions under which a certain water supply within a presumptive impact area shall be considered to be replaced adequately by the permittee; ~~establishing a certain condition under which certain property damage within a presumptive impact area shall be considered to be repaired adequately by the permittee; requiring a permittee to pay certain compensation to a certain property owner under certain circumstances;~~ authorizing the permittee to avoid restoration under certain circumstances; prohibiting the Department from requiring a permittee to replace a water supply ~~or repair~~ or compensate an owner ~~for other damage~~ under certain circumstances; ~~requiring~~ authorizing the Department to adopt certain regulations; establishing that a certain presumption of causation does not apply under certain circumstances; providing that a certain presumption of causation applies in certain civil actions; providing that the presumption may be rebutted by ~~clear and convincing~~ a preponderance of the evidence; ~~stating certain legislative findings and intent;~~ defining a certain term; providing for the construction of this Act; and generally relating to ~~damage~~ contamination caused by certain activities of gas exploration or production.

BY adding to

Article – Environment

Section 14-110.1 ~~and 14-110.2~~

Annotated Code of Maryland

(2007 Replacement Volume and 2011 Supplement)

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

Article – Environment

14-110.1.

~~(A) THE GENERAL ASSEMBLY FINDS THAT:~~

~~(1) IN CERTAIN REGIONS OF THE STATE ACTIVITIES RELATING TO EXPLORATION FOR OR PRODUCTION OF GAS FROM DEEP SHALE DEPOSITS HAVE THE POTENTIAL TO CONTAMINATE WATER SUPPLY WELLS SOURCES AND TO RESULT IN OTHER DAMAGE TO LANDOWNERS IN THE VICINITY OF A GAS WELL; AND~~

~~(2) IT IS REASONABLE TO PRESUME THAT ACTIVITIES OF GAS EXPLORATION AND PRODUCTION ARE THE CAUSE OF CONTAMINATION OF A~~

~~WATER SUPPLY WELL SOURCE WITH METHANE OR OTHER POLLUTANTS AND OTHER DAMAGE IF:~~

~~(I) THE WATER SUPPLY WELL SOURCE IS WITHIN 2,640 2,500 FEET OF THE VERTICAL WELLBORE; AND~~

~~(II) THE CONTAMINATION OCCURS WITHIN 365 DAYS OF THE LAST EVENT OF WELL DRILLING, COMPLETION, OR HYDRAULIC FRACTURING.~~

~~(B) IT IS THE INTENT OF THE GENERAL ASSEMBLY TO PROTECT AFFECTED PROPERTY OWNERS IN AREAS OF THE STATE WHERE DEEP SHALE DEPOSITS, INCLUDING THE MARCELLUS SHALE AND THE UTICA SHALE, ARE FOUND BY ESTABLISHING PRESUMPTIVE IMPACT AREAS AROUND GAS WELLS AND REQUIRING THE DEPARTMENT TO ADMINISTER A PROGRAM REQUIRING PERMITTEES TO REPAIR DAMAGE REPLACE CONTAMINATED WATER SUPPLIES SUPPLY SOURCES OR COMPENSATE AFFECTED PROPERTY OWNERS IN THOSE AREAS.~~

~~14-110.2.~~

~~(A) IN THIS SECTION, "WATER SUPPLY SOURCE" MEANS A WELL, SPRING, SPRING FED POND, RESERVOIR, STREAM, OR ANY OTHER SOURCE OF WATER USED FOR DRINKING OR FOR LIVESTOCK SOURCE OF WATER USED FOR DRINKING OR OTHER DOMESTIC PURPOSE OR FOR AGRICULTURE, INCLUDING LIVESTOCK.~~

~~(B) FOR EACH PERMIT THE DEPARTMENT ISSUES UNDER THIS SUBTITLE TO DRILL A WELL FOR THE EXPLORATION OR PRODUCTION OF GAS IN DEEP SHALE DEPOSITS, THERE IS A PRESUMPTIVE IMPACT AREA AROUND THE GAS WELL IN WHICH IT IS PRESUMED THAT CONTAMINATION OF A WATER SUPPLY WELL SOURCE AND OTHER DAMAGE TO REAL OR PERSONAL PROPERTY WERE WAS CAUSED BY THE ACTIVITIES OF GAS EXPLORATION OR PRODUCTION.~~

~~(B)~~ (C) THE PRESUMPTIVE IMPACT AREA SHALL BE IN EFFECT:

(1) WITHIN A RADIUS OF ~~2,640~~ 2,500 FEET FROM THE VERTICAL WELLBORE; AND

(2) FOR 365 DAYS AFTER THE LAST EVENT OF WELL DRILLING, COMPLETION, OR HYDRAULIC FRACTURING.

~~(C)~~ (D) WITHIN A PRESUMPTIVE IMPACT AREA ESTABLISHED UNDER SUBSECTIONS ~~(A)~~ (B) AND ~~(B)~~ (C) OF THIS SECTION, THE PERMITTEE SHALL:

~~(1) REPLACE REPLACE, AT NO EXPENSE TO AN OWNER OF REAL PROPERTY IN THE PRESUMPTIVE IMPACT AREA, A WATER SUPPLY THAT IS DAMAGED CONTAMINATED AS A RESULT OF THE PERMITTEE'S DRILLING OR OPERATION OF THE GAS WELL; AND~~

~~(2) ON A DETERMINATION BY THE DEPARTMENT OF PROXIMATE CAUSE AFTER THE PERMITTEE HAS RECEIVED NOTICE AND AN OPPORTUNITY TO RESPOND AND PROVIDE INFORMATION, PAY MONETARY COMPENSATION TO AN AFFECTED PROPERTY OWNER, OR REPAIR ANY PROPERTY DAMAGE CAUSED AS A RESULT OF THE DRILLING OR OPERATION OF THE PERMITTEE'S GAS WELL.~~

~~(D)~~ (E) A WATER SUPPLY WITHIN A PRESUMPTIVE IMPACT AREA THAT NO LONGER YIELDS POTABLE WATER AS A RESULT OF THE DRILLING OR OPERATION OF A GAS WELL SHALL BE CONSIDERED TO BE REPLACED ADEQUATELY BY A PERMITTEE IF THE PERMITTEE PROVIDES FOR THE AFFECTED PROPERTY OWNER A NEW OR RETROFITTED WELL OR OTHER ALTERNATIVE WATER SUPPLY THAT IS CAPABLE OF YIELDING POTABLE WATER EQUAL TO THE VOLUME USED OR NEEDED BY THE PROPERTY OWNER BEFORE THE ~~DAMAGE TO~~ CONTAMINATION OF THE WATER SUPPLY.

~~(E)~~ (F) (1) ~~REAL OR PERSONAL PROPERTY WITHIN A PRESUMPTIVE IMPACT AREA FOUND BY THE DEPARTMENT TO HAVE BEEN DAMAGED AS A RESULT OF THE DRILLING OR OPERATION OF A GAS WELL SHALL BE CONSIDERED TO BE REPAIRED ADEQUATELY BY A PERMITTEE IF THE PERMITTEE RETURNS THE DAMAGED PROPERTY TO ITS CONDITION BEFORE THE DAMAGE.~~

~~(2) IF THE DAMAGED REAL OR PERSONAL PROPERTY IS NOT CAPABLE OF BEING RESTORED TO ITS CONDITION BEFORE THE DAMAGE, THE PERMITTEE SHALL COMPENSATE THE OWNER OF THE REAL OR PERSONAL PROPERTY MONETARILY BY THE DIFFERENCE BETWEEN THE FAIR MARKET VALUE OF THE PROPERTY AS THE PROPERTY WOULD EXIST BUT FOR THE DAMAGE AND THE FAIR MARKET VALUE OF THE PROPERTY AS A RESULT OF THE DAMAGE.~~

~~(3) NOTWITHSTANDING THE OTHER PROVISIONS OF THIS SUBSECTION, THE~~ THE PERMITTEE AND THE PROPERTY OWNER MAY AGREE ON MONETARY COMPENSATION OR OTHER MITIGATION INSTEAD OF RESTORATION.

~~(F)~~ (G) THE DEPARTMENT MAY NOT REQUIRE A PERMITTEE TO REPLACE A WATER SUPPLY ~~OR REPAIR~~ OR COMPENSATE ~~AN~~ A PROPERTY OWNER ~~FOR OTHER DAMAGE~~, AS PROVIDED IN THIS SECTION, IF THE PERMITTEE

DEMONSTRATES TO THE DEPARTMENT BY ~~CLEAR AND CONVINCING~~ A PREPONDERANCE OF THE EVIDENCE THAT:

(1) ~~THE PROXIMATE CAUSE OF THE DAMAGE~~ CONTAMINATION IS NOT THE RESULT OF ACTIVITIES RELATING TO THE GAS WELL; OR

(2) ~~THE CONTAMINATION OR DAMAGE~~ EXISTED BEFORE THE COMMENCEMENT OF ACTIVITIES ALLOWED BY THE PERMIT AND WAS NOT WORSENERD BY THOSE ACTIVITIES.

~~(G)~~ (H) THE DEPARTMENT ~~SHALL~~ MAY ADOPT REGULATIONS TO IMPLEMENT THIS SECTION.

~~(H)~~ (I) THE PRESUMPTION OF CAUSATION ESTABLISHED UNDER THIS SECTION DOES NOT APPLY TO CONTAMINATION OF A WATER SUPPLY ~~WELL SOURCE~~ SOURCE IF:

(1) THE PERMIT APPLICANT REQUESTS THE PERMISSION OF THE ~~LANDOWNER~~ PROPERTY OWNER TO SAMPLE AND TEST THE WATER SUPPLY ~~WELL SOURCE~~ BEFORE COMMENCEMENT OF ACTIVITIES AND TO PROVIDE THE ~~LANDOWNER~~ PROPERTY OWNER WITH A COMPLETE COPY OF THE TEST RESULTS; AND

(2) THE ~~LANDOWNER~~ PROPERTY OWNER REFUSES PERMISSION.

~~(I)~~ (J) THIS SECTION MAY NOT BE CONSTRUED TO AFFECT ANY COMMON LAW REMEDIES AVAILABLE TO A PROPERTY OWNER.

~~(J)~~ (K) (1) THE PRESUMPTION OF CAUSATION ESTABLISHED UNDER THIS SECTION SHALL APPLY IN:

(I) A PROCEEDING FOR JUDICIAL REVIEW UNDER § 14-117 OF THIS SUBTITLE;

(II) AN ACTION FOR AN INJUNCTION UNDER § 14-118 OF THIS SUBTITLE; OR

(III) A CIVIL ACTION FOR DAMAGES OR EQUITABLE RELIEF BROUGHT BY A PROPERTY OWNER AGAINST A PERMITTEE.

(2) THE PRESUMPTION MAY BE REBUTTED BY ~~CLEAR AND CONVINCING~~ A PREPONDERANCE OF THE EVIDENCE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ July 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 704

(House Bill 1124)

AN ACT concerning

St. Mary's County Metropolitan Commission – Revisions and Corrections

FOR the purpose of repealing a requirement that each sanitary district in St. Mary's County be a separate taxing district; repealing a prohibition against a certain adverse effect as a result of a change of sanitary district lines; altering the notice requirements for certain water supply and sewerage system studies and plans; repealing a requirement that the County Commissioners of St. Mary's County make a certain decision; repealing a provision making the Mattapanoy District exempt from certain provisions of law; repealing a requirement that certain sums be repaid out of certain bonds issued for a particular sanitary district; altering the calculation of the total amount of certain bonds that the St. Mary's County Metropolitan Commission may issue; altering the procedures for retiring and paying the interest on certain bonds; altering the required procedures for bids for construction; altering the amount the Commission may expend on certain goods, materials, or services without advertising and receiving competitive bids; making it discretionary rather than mandatory that the Commission impose and collect a reasonable collection fee under certain circumstances; requiring a certain charge to apply uniformly to certain types of properties; authorizing the Commission to create additional uniform rates for certain other property classifications; repealing certain due dates for certain charges; authorizing certain services rates to include State or federally mandated fees or charges; repealing a requirement that the cost of a certain meter be at the sole expense of the Commission; renaming a certain benefit assessment to be a System Improvement Charge; establishing a right of entry to certain locations under certain circumstances; altering a certain exemption from a certain charge applied to church property; altering the properties for which the Commission is required to impose and collect a certain per equivalent dwelling unit (EDU) system improvement charge; requiring the Commission to impose and collect a certain per EDU system improvement charge at the same time the EDU is allocated; repealing a certain recordkeeping requirement; requiring a certain charge to be paid in perpetuity under certain circumstances when a property is acquired in a certain manner; requiring a certain court order to provide for payment for certain charges in a certain manner; altering the conditions under which a certain condemning authority is required to pay

certain charges; making stylistic and technical changes; 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 113-1 A., 113-3 B., 113-4, 113-5, 113-6 A., 113-7 A., 113-8, 113-12,
 113-14 A. and C., 113-16 B., 113-19, 113-22, 113-26, 113-27 B. and C.,
 and 113-29
 Article 19 – Public Local Laws of Maryland
 (2007 Edition and January 2011 Supplement, as amended)

BY repealing and reenacting, without amendments,
 The Public Local Laws of St. Mary's County
 Section 113-14 B.
 Article 19 – Public Local Laws of Maryland
 (2007 Edition and January 2011 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.

A. For the purpose of carrying out the provisions of this chapter, the sanitary districts created are under the jurisdiction of the Commission of seven (7) voting members and one (1) nonvoting member. Each voting member of the Commission shall be appointed by the Board of County Commissioners of St. Mary's County as follows: one (1) member from each of the first, third, sixth, seventh and eighth districts, one (1) member from the second and ninth election districts and one (1) member from the fourth and fifth election districts. Each voting member shall reside in the election district he represents, be a resident taxpayer of the county and be a qualified voter. The voting members of the Commission shall be appointed [for a] **AND SHALL SERVE AT LEAST ONE (1)** three-year term and shall serve until their successors are appointed and have qualified. The nonvoting member of the commission shall be the commanding officer of the Patuxent River Naval Air Station or a designated representative of the commanding officer. The nonvoting member shall represent the interests of the United States Navy with respect to the water and sewer services provided by the Commission to the Patuxent River Naval Air Station and the Webster Field Annex. The nonvoting member shall serve until the succeeding commanding officer is appointed. If the commanding officer designates a representative, the representative shall serve at the pleasure of the commanding officer and may be replaced at any time. Those persons serving as members of the Commission immediately prior to June 1, 1976, shall continue to serve in their respective positions until the expiration of their terms. As the term of each voting member expires, his successor shall be appointed by the Board of County Commissioners of St. Mary's County. Except for a nonvoting member, any vacancy in

the membership of the Commission shall be filled by appointment by the Board of County Commissioners of St. Mary's County for the unexpired term.

113-3.

B. The creation of the sanitary districts is adopted, approved, ratified and confirmed. The sanitary districts are designated and constituted for the purpose of this chapter to be separate sanitary districts[,] AND are subject to all of the provisions of this chapter [and are separate taxing districts for the purposes of this chapter].

113-4.

The sanitary district boundary lines of any sanitary district may be changed by the adoption by the Commission of a resolution which shall refer to a plat of St. Mary's County upon which the revised sanitary district lines are shown clearly and which sets forth findings that the change in the boundary lines of any sanitary district is necessary or desirable for the public health, safety and welfare of the residents within the revised sanitary districts and the revised sanitary districts are feasible from an engineering and financial standpoint. [However, outstanding bonds or other obligations may not in any manner be adversely affected by any change of sanitary district lines.] The resolution is not legally effective until it is approved by the County Commissioners of St. Mary's County after public hearing held following not less than ten (10) days' notice in one (1) or more newspapers having a general circulation in St. Mary's County and until a copy of the resolution and plat is recorded among the land records of St. Mary's County. Upon approval by the County Commissioners of St. Mary's County and filing of the plat and resolution as provided in this subsection, the revised sanitary districts are designated and constituted for the purpose of this chapter to be separate sanitary districts, are subject to all the provisions of this chapter [and are separate taxing districts]. The filing of the plat and resolution constitutes legal notice to the public of the action of the Commission and the County Commissioners.

113-5.

A. The Commission shall cause studies, plans and estimates to be made for water supply and sewerage systems in those portions of St. Mary's County in which the Commission determines that the facilities are necessary and may divide each sanitary district into water and sewerage districts in such a way as shall, in its judgment, best serve the needs of the various communities and shall promote convenience and economy of installation and operation. Whenever, and as, the studies and plans are completed, the Commission shall give notice by publication in one (1) newspaper published within the county for three (3) weeks [and by handbills posted and circulated in the localities where improvements are contemplated]. The Commission shall state in the notice the probable cost of the contemplated improvements and shall further state in it that plans of the improvements may be inspected at the Commission's office and that any person interested in the

improvements will be heard by the Commission at a time to be specified in the notice, but not less than ten (10) days after first publication of it. If ten (10) residents and landowners in the sanitary district in which the improvements are contemplated, within ten (10) days after the last of the publications of the notice, file a petition with the Commission protesting against the proposed improvements, the Commission shall grant them a hearing within fifteen (15) days after the petition is filed in the office of the Commission and after not less than five (5) days' notice of the time and place of the hearing by advertisement published in one (1) newspaper published within the county and by personal notices addressed to any one (1) or more persons whose names are signed to the petition. After due hearing, the Commission shall decide upon the reasonableness of the objections stated in the petition and shall dispose of them by written order concurred in by a majority of the Commissioners. The order shall be published in the same manner as notices are required to be published, and a copy of which shall be mailed to any one (1) or more of the petitioners. If the petitioners are not satisfied with the Commission's decision, they have the right to take and enter, within ten (10) days after the last publication of the order, an appeal to the County Commissioners of St. Mary's County, who shall review the Commission's decision and decide on the necessity and propriety of the improvements contemplated [and whether the district can stand the cost of them]. The decision of the County Commissioners is final.

[B. The foregoing provisions of this section are not applicable to the proposed sewer system, including necessary modifications and changes, for the Mattapan Sanitary District shown on the plats of the sanitary district recorded among the land records of St. Mary's County in Liber M.R.F. 1, Folios 2 to 5, inclusive, in a plat book indexed "St. Mary's County Metropolitan Commission," such proposed sewer system having been approved by the Commission and by the County Commissioners of St. Mary's County. The Commission, without further public hearing, may, in its discretion, proceed with the financing and construction of the sewer system.]

[C.]B. For the purpose of providing for the studies, plans, organization and any other expenses or costs of any water or sewerage facilities [in any sanitary district], the County Commissioners may furnish the Commission from time to time any sum that the County Commissioners deem proper, all of which shall be repaid out of the next bond issue, if any[, for the particular sanitary district]. If the County Commissioners do not expect bonds to be issued [for the particular sanitary district] within two (2) years of the date on which the sum is furnished to the Commission, the County Commissioners may waive repayment of the advances. The authority for advances granted by this subsection is in addition to other advances authorized by this chapter.

[D.]C. (1) For the purposes of carrying out the provisions of Subsection A of this section, after bona fide efforts to notify the owner and occupant, an agent or employee of the Commission may enter on any private land to make test borings and soil tests and obtain information related to the tests for the purpose of determining

soil characteristics and suitability of the surface and subsurface of the land for the installation of public water supply or sewerage systems.

(2) If an agent or employee is refused permission to enter or remain on private land for the purposes authorized by subsection D(1), the Commission may apply to the St. Mary's County Circuit Court for an order directing that its agent or employee be permitted to enter and remain on the land to the extent necessary to carry out the purposes authorized by this subsection. The court may require that the Commission post a bond in an amount sufficient to reimburse any person for damages reasonably estimated to be caused by test borings, soil tests and related activities.

(3) If any person enters on any private land under the authority of this subsection or of any court order passed pursuant to it and damages or destroys any land or personal property on it, the owner of the property has a cause of action for damages against the Commission.

(4) Any person who knows of an order issued under this subsection and who obstructs any agent or employee acting under the authority of the order may be punished for contempt of court.

113-6.

A. For the purpose of providing funds for the design, construction, establishment, purchase or condemnation of water supply and sewerage systems in any of the sanitary districts, the Commission, upon the approval of the County Commissioners of St. Mary's County, is authorized and empowered to issue bonds, from time to time, upon the full faith and credit of St. Mary's County, in such amounts as it may deem to be necessary to carry on its work, but at no time shall the total issue of bonds [in any sanitary district] for all purposes under this chapter exceed twenty-five (25) percent of the total value of the property assessed for county taxation purposes within **ALL OF** the sanitary [district] **DISTRICTS IN WHICH PUBLIC WATER OR SEWER FACILITIES ARE LOCATED**. Subject to the conditions contained herein, the form, tenor, manner of selling and all other matters relating to the issuance of bonds under this chapter shall be prescribed in a resolution to be adopted by the St. Mary's County Metropolitan Commission prior to sale of the bonds. The issuance of such bonds may not be subject to any limitations or conditions contained in any other law, and the Commission may sell such bonds in such manner, either at public or private sale, and for such price, as it may determine to be for the best interests of the Commission and the County Commissioners of St. Mary's County. The bonds shall be serial bonds issued upon the serial maturing plan and in such denominations as shall be determined by the Commission. The bonds may be redeemable before maturity at the option of the Commission at such price and under such terms and conditions as may be fixed by the Commission prior to the issuance of the bonds, shall bear interest at such rate or rates payable semiannually, as shall be determined by a resolution of the St. Mary's County Metropolitan Commission adopted prior to the delivery of the bonds, and shall mature in not more than thirty (30) years after date of issue and shall be forever exempt from state, city and county taxation as hereinafter provided. They

shall be issued under the signature and seal of the Commission and shall be unconditionally guaranteed as to payment of both principal and interest by the County Commissioners of St. Mary's County, a political subdivision of the State of Maryland, which guaranty shall be endorsed on each of the bonds in the following language: "The payment of interest when due and the principal at maturity is guaranteed by the County Commissioners of St. Mary's County, Maryland." Such endorsement shall be signed on each of the bonds by the President and by the Clerk of the Board of County Commissioners of the county, or another person lawfully assigned to the functions of the Clerk, within ten (10) days after the bonds are presented by the Commission to them for endorsement.

113-7.

A. For the purpose of retiring the bonds authorized to be issued by this chapter and of paying the interest thereon, the Commission, **BY AND THROUGH THE COUNTY COMMISSIONERS OF ST. MARY'S COUNTY**, shall cause to be levied, against all assessable property within the sanitary districts [for which the bonds have been issued, by the County Commissioners of St. Mary's County, annually] **IN WHICH PUBLIC WATER OR SEWER FACILITIES ARE LOCATED**, so long as any of the bonds are outstanding and not paid, [a] **AN ANNUAL** tax sufficient to provide the sum which the Commission may deem sufficient and necessary, in conjunction with any amounts as the Commission may estimate that it will be able to collect out of the [benefit assessments] **SYSTEM IMPROVEMENT CHARGES, CAPITAL CONTRIBUTION CHARGES**, and charges levied by it but not yet paid and any further funds then available for the purpose, to meet the interest on the bonds as it becomes due and to pay the principal thereof as the bonds mature. The tax shall be determined, levied, collected and paid over in the manner following, that is to say, at least seventy-five (75) days before July 1 of each year, the County Commissioners shall certify to the Commission the whole valuation of the assessable property within [each sanitary district] **THE SANITARY DISTRICTS IN WHICH PUBLIC WATER OR SEWER FACILITIES ARE LOCATED**. The Commission shall then determine in the manner above prescribed the amount which it deems necessary to be raised during the ensuing year for the payment of interest on outstanding bonds and principal of all serial bonds maturing in the year, and after deducting all amounts in hand, or in contemplation, applicable to payments of the principal of and interest on the bonds as hereinbefore and hereinafter in the chapter provided, it shall determine the number of cents per one hundred dollars (\$100.00) necessary to raise the amount [for each such sanitary district] **NEEDED** and shall certify same to the Board of County Commissioners at least sixty (60) days before July 1 of each year. The County Commissioners in their next annual levy shall levy the tax on all land and improvements and all other property assessed for county tax purposes within the [respective sanitary district,] **SANITARY DISTRICTS IN WHICH PUBLIC WATER OR SEWER FACILITIES ARE LOCATED**, which tax shall be levied and collected and have the same priority rights, bear the same interest and penalties and in every respect be treated the same as county taxes. The tax so levied for the ensuing year shall be collected by the tax

collecting authorities, and every one hundred twenty (120) days they shall remit the whole amount of the tax so collected to the Commission. From the money so received, together with the amount in hand to the credit of fund or funds for the payment of the principal of and interest on the bonds, the Commission shall first pay all of the principal of and interest on the bonds as it becomes due and shall then deposit the residue of the moneys in some bank or banks in the county to the joint credit of the County Commissioners and the Commission. The Commission is authorized to pay the interest on any bonds it may issue out of the proceeds of the sale of the bonds, but not more than two (2) years' interest may be expended. Nothing contained in this section or in this chapter shall be construed as in any manner relieving the County Commissioners of St. Mary's County of its unconditional pledge of its full faith and credit and unlimited taxing power to the payment of principal of and interest on any bonds issued by the Commission pursuant to Section 161.

113–8.

Whenever the studies and plans for water supply or sewerage systems for any sanitary district shall have been completed and the Commission shall have decided, after opportunity for a hearing has been given, to proceed with the construction thereof, it shall advertise, by notice in one (1) newspaper published in St. Mary's County and such newspapers and technical press as it may deem proper, for bids for the construction of said system or systems, in part or as a whole, as in its judgment may appear advisable. The contract shall be let to the lowest responsible bidder or the Commission may reject any and all bids, and if, in its discretion, the prices quoted are unreasonable or unbalanced, it may readvertise the work or any part of it, or may do **OR CAUSE TO BE DONE** any part or all of the work by [day labor, provided that at any time] **the COMPETITIVE PROCUREMENT OF GOODS, MATERIALS, OR SERVICES.** **THE** Commission [may, in its discretion,] **MAY NOT** expend [for day labor for construction work] **ON THE GOODS, MATERIALS, OR SERVICES** an amount [not] exceeding [five] **TEN** thousand dollars [(\$5,000.00)] **(\$10,000)** without **HAVING PROCURED THOSE GOODS, MATERIALS, OR SERVICES BY** advertising [or] **AND** receiving **COMPETITIVE** bids. All such contracts shall be protected by such bonds, penalties and conditions as the Commission may require, all of which shall be enforced in any court having jurisdiction.

113–12.

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

(2) **CAPITAL CONTRIBUTION CHARGE** means an amount based on capital costs that is imposed and collected on a new **EDU** connection to a water supply or sewerage system under this Chapter.

(3) **CONNECTION CHARGE** means a [capital contribution charge] **CAPITAL CONTRIBUTION CHARGE** or connection fee.

(4) CONNECTION FEE means an amount based on the cost of connection that is imposed on a new connection to a water supply or sewerage system under this Chapter.

(5) EDU means an equivalent dwelling unit.

(6) PUBLICATION means notice to all persons having any interest in the property.

B. (1) For every new water or sewer connection made under this Chapter, the Commission [shall] **MAY, IN ITS SOLE DISCRETION**, impose and collect a reasonable connection fee, that is not less than the actual cost of connection.

(2) The connection fee shall be uniform throughout a designated service area for connections of those sizes and classes for which average costs reasonably may be ascertainable, and for all other connections, the connection fee shall be an amount not less than the actual cost of the connection.

(3) The Commission may revise the connection fee annually.

(4) Connection fees collected by the Commission shall be applied to paying the actual cost of the connections.

(5) The connection fee shall be due and payable to the Commission at the time the property owner makes an application or is otherwise required to connect to a water main or sewer.

(6) If the property owner fails to make the connection by the time required by the Commission as set forth in § 113–10 of this Chapter, the connection fee shall become due and payable on the connection deadline date, shall be assessed immediately, and shall be subject to the rules of collection provided in subsection D of this section.

C. (1) In addition to the connection fee, the commission shall impose and collect a [capital contribution charge] **CAPITAL CONTRIBUTION CHARGE** for each new EDU connected to a water supply or sewerage system under this Chapter.

(2) The [capital contribution charges] **CAPITAL CONTRIBUTION CHARGES** collected shall be used by the Commission to pay:

(A) The capital costs of construction new water supply or sewer collection systems, to the extent that the projects are identified in the Commission's six-year capital improvement plan;

(B) The capital cost of central treatment facility capacity expansion, as the projects are identified in the Commission's six-year capital improvement plan;

(C) Existing bonds issued as of October 1, 2007, to fund the costs of central treatment facility capacity expansions, but limited to that portion of existing debt corresponding to any unallocated capacity that exists on October 1, 2007; and

(D) Existing bonds issued as of October 1, 2007, to fund the costs of constructing water supply or sewer collection systems, but limited that portion of existing debt corresponding to any unallocated capacity that exists on October 1, 2007.

(3) (A) The [capital contribution charge] **CAPITAL CONTRIBUTION CHARGE** shall be assessed on a per EDU basis and shall be a uniform charge assessed equally to **PROPERTIES OF SIMILAR CLASSIFICATION THROUGHOUT** all sanitary districts. **THERE SHALL BE A UNIFORM RATE APPLICABLE TO RESIDENTIAL PROPERTIES AND A UNIFORM RATE APPLICABLE TO COMMERCIAL PROPERTIES. THE COMMISSION MAY CREATE ADDITIONAL UNIFORM RATES FOR OTHER PROPERTY CLASSIFICATIONS THAT THE COMMISSION CONSIDERS NECESSARY AND APPROPRIATE.**

(B) The Commission may revise the [capital contribution charge] **CAPITAL CONTRIBUTION CHARGE** annually.

(C) The [capital contribution charge] **CAPITAL CONTRIBUTION CHARGE** shall be due and payable to the Commission at the time a property owner makes an application or otherwise is required to connect to a water main or sewer.

(D) If the property owner fails to make the connection by the date required by the Commission as set forth in § 113–10 of this Chapter, the [capital contribution charge] **CAPITAL CONTRIBUTION CHARGE** shall:

(I) Become due and payable on the connection deadline date;

(II) Be assessed immediately; and

(III) Be subject to the same rules of collection provided in subsection D of this section.

(4) For purposes of determining the [capital contribution charge] **CAPITAL CONTRIBUTION CHARGE**, the capital costs referred to in paragraphs (2)(A) and (B) of this subsection shall include the principal of, interest on, and any redemption premium or other costs with respect to any bonds of the Commission issued after October 1, 2007.

(5) (A) When bonds have not been issued at the time the [capital contribution charge] **CAPITAL CONTRIBUTION CHARGE** is calculated, the Commission may, in calculating the [capital contribution charge] **CAPITAL CONTRIBUTION CHARGE**, establish a schedule for the principal of, interest on, and other costs of bonds the Commission plans to issue.

(B) The schedule and related [capital contribution charge] **CAPITAL CONTRIBUTION CHARGE** provided in subparagraph (A) of this paragraph may be adjusted by the Commission when planned future bonds are issued.

D. (1) The connection charges set forth in subsections B. and C. of this section shall be payable at the Office of the Commission at a time that is determined by the Commission.

(2) If any connection charges remain unpaid for a period of thirty (30) days after the payment is due, in addition to any other charges, the Commission may impose a late charge not to exceed one and one-half (1 1/2) percent per month until all delinquent charges are paid.

(3) If all or any part of a connection charge remains unpaid after thirty (30) days after the due date of payment, the entire unpaid connection charge shall be overdue and in default, at which time the Commission may proceed to enforce payment.

(4) Any statute of limitations to the contrary notwithstanding, and subject only to prior State and County taxes, the connection charge shall be a first lien on the property against which it is assessed until paid.

(5) For purposes of collection:

(A) The connection charges shall be treated as County taxes and be advertised in the same manner as and with County taxes;

(B) All property subject to the connection charges shall be sold for the connection charges at the same time and in the same manner as the properties are sold for County taxes; and

(C) Applicable laws relating to the collection of County taxes shall relate to the collection of the connection charges.

(6) Property redeemed from a County tax sale and property sold by the County Commissioners after a final tax sale may not be redeemed or sold until the connection charges due on it are paid.

(7) To give notice to the general public of existing liens and charges against any property within any sanitary district abutting on any water or sewer

main, the Commission shall keep a public record of all names of owners of property, locations of the property, lot numbers when of record, and the amount of the connection charges or other charges that may become liens.

(8) The records shall be kept in the land records of St. Mary's County, and the Clerk of the Circuit Court for the County shall furnish space necessary to keep and preserve the records, that, when recorded in the public record, are legal notice of all existing liens within any sanitary district.

(9) If any liens, connection charges, or other charges remain unpaid for thirty (30) days after becoming overdue, they may be collected by an action to enforce the liens, and any judgment or decree obtained shall have the force and effect of a judgment in personam.

(10) The Commission may file an action to enforce the liens against the owner of record at the time the levy was made, or the owner of record at the time the suit is filed, or any owner of record between these dates.

E. [(1)] For property owners who elect to defer connection under section 113–10B of this Chapter, the connection charges described in this section shall include an additional cost reflecting the delay in connection.

[(2)] The connection fee and the capital contribution charge are due when the property owner applies, or as otherwise required, to connect to a water main or sewer.

(3) For new development, the applicable charges will become due at the same time the public works agreement becomes executed.]

113–14.

A. For the purpose of providing funds for maintaining, repairing and operating its water supply and sewerage systems, for line extensions of them, for its administrative and other expenses, including proper depreciation allowances, if any, and for interest on and the retirement of bonds as specified in this chapter, the Commission may make service rates, as it deems necessary, on water lines and sewers chargeable against all properties having a connection with any water pipe or sewer pipe under its supervision or ownership. **THE SERVICE RATES MAY INCLUDE ANY STATE OR FEDERALLY MANDATED FEES OR CHARGES.** The rate for both water and sewer service shall be uniform throughout a sanitary district, subject to changes that the Commission considers necessary. Beginning on July 1, 1993, the rate for both water and sewer service shall be uniform throughout all sanitary districts, subject to changes that the Commission considers necessary. However, where the Commission provides service to property in an area in which it is economically not feasible to provide service at the uniform rate because of the distance of the area from the principal facilities of the Commission, the Commission may classify the property as a

remote area and may impose an additional service charge to meet the additional cost of providing service to the property. The Commission may collect a reasonable deposit in advance of furnishing water or sewerage service. The Commission shall begin the assessment of water and sewer service rates either at the time of the connection of all spigots or hydrants, toilets, and waste drains to a water main or sewer or on the expiration of the deadline for connection as required by the Commission in accordance with § 113–10 of this Article, whichever occurs first.

B. The sewer service rates shall be reasonable and shall be charged to all properties being served in a given sanitary district.

C. The water service charge shall consist of a minimum or ready-to-serve charge, which shall be based upon the size of the meter on the water connection leading to the property, and of a charge for water used, which shall be based upon the amount of water passing through the meter in excess of any water included in the minimum or ready-to-serve charge during the period between the last two (2) readings. The meter shall be placed on water connections as determined by [and at the sole expense of] the Commission. If the Commission at any time determines not to have meters installed in all the properties in a given sanitary district that are connected to the system, then a reasonable flat rate, as determined by the Commission, shall be charged to all properties in which meters have not been installed. This rate shall be uniform within a sanitary district.

113–16.

B. From and after payment to the proper parties of the agreed purchase price, or other amounts found to be due by the Commission, the Commission may take possession of, maintain and operate the system, whether private or municipal, as part of its general system. From the date of the payment, all properties along the line of any water main or sewer of the system as acquired shall stand in the same relation, bear the same [benefit assessment] **SYSTEM IMPROVEMENT CHARGE** and be subject to the same regulations and penalties as though the system so acquired had been constructed and put into operation by the Commission under the provisions of this chapter. However, a building or premises actually connected in an adequate manner with the acquired system at the time of its purchase may not be required to pay any connection charge.

113–19.

A. Any employee or agent of the Commission shall have the right of entry, at all reasonable hours, upon any private premises and into any building in any sanitary district while in pursuit of his official duties, upon first presenting proper credentials from the Commission.

B. WHILE IN PURSUIT OF OFFICIAL DUTIES, ANY EMPLOYEE OR AGENT OF THE COMMISSION SHALL HAVE A RIGHT OF ENTRY INCLUDING REASONABLE

VEHICULAR INGRESS TO AND EGRESS FROM ANY COMMISSION PUMPING STATION, ELEVATED WATER STORAGE TANK, WELL, OR OTHER RELATED OR APPURTENANT EQUIPMENT.

C. Any restraint or hindrance offered to the entry, **ACCESS, INGRESS, OR EGRESS** by any owner or tenant **OF ANY AFFECTED PROPERTY**, or agent of the owner or tenant, or any other person is a misdemeanor punishable under Section 176.

113–22.

Any land owned by a church and constituting the premises occupied by a church or its parsonage and used exclusively for public worship or for other religious or customary purposes of a church or parsonage and not for investment, gain or other secular purposes shall be exempt from the [benefit assessments] **EQUIVALENT OF THREE (3) EDUS OF SYSTEM IMPROVEMENT CHARGES** provided for by this chapter [in respect of a frontage of not exceeding one hundred fifty (150) feet]. The Commission, in its discretion to be exercised in each individual case, may grant or withhold a further exemption [of the land so owned and used in respect of any frontage thereof in excess of one hundred fifty (150) feet hereinbefore provided for].

113–26.

For any services rendered by the Commission to sanitary districts in which it neither owns nor operates a water or sewerage system at the request of or with the approval of the County Commissioners, the Commission shall render a bill to the County Commissioners for the cost of the services. For any other services rendered by the Commission to the County at the request of or with the approval of the County Commissioners, the Commission shall render a bill to the County Commissioners for the cost of the services, less one-tenth (1/10) of those costs for each sanitary district in which the Commission owns and operates a water or sewerage system. The County Commissioners shall make provision for the payment of those bills [by the Treasurer of St. Mary's County] upon proper verification of the costs incurred.

113–27.

B. Nothing contained in any amendment to this chapter effective June 1, 1976, shall be construed as impairing the validity of any proceedings or action taken under the provisions of this chapter prior to that date. All such proceedings taken under this chapter, including without limitation the creation and enlargement of any sanitary districts and the establishment and imposition of [benefit assessments] **SYSTEM IMPROVEMENT CHARGES** and charges (whether pursuant to this chapter alone or pursuant to Article 43 of the Annotated Code of Maryland as authorized by § 427A of Article 43) are ratified, validated and confirmed. The authorization, sale and issuance of all bonds and bond anticipation notes issued prior to that date by the St. Mary's County Metropolitan Commission are ratified and confirmed, and all such

bonds and bond anticipation notes are validated as being validly authorized, sold and issued.

C. The determination and imposition of [benefit assessments] **SYSTEM IMPROVEMENT CHARGES** and other charges by the St. Mary's County Metropolitan Commission since its creation are expressly ratified, validated and confirmed, including without limitation those schedules of [benefit assessments] **SYSTEM IMPROVEMENT CHARGES** and charges determined, imposed and placed in effect on the following dates:

- (1) Mattapany Sanitary District: January 9, 1969; October 1, 1970; July 1, 1971.
- (2) Pine Hill Run Sanitary District No. 8: October 1, 1973; July 1, 1975.
- (3) Leonardtown Sanitary District No. 3: July 1, 1975.
- (4) Indian Creek Sanitary District No. 10: July 1, 1975.
- (5) Luckland Run Sanitary District No. 1: January 1, 1976.

113–29.

- A. (1) In this section, the following words have the meanings indicated:
- (2) EDU means an equivalent dwelling unit.
 - (3) PUBLICATION means notice to all persons having any interest in the property.

B. (1) For every property, whether improved or unimproved, [binding on a street, road, lane, alley, right-of-way or easement in which a Commission water distribution system or sewerage system has been built,] **TO WHICH AN EDU HAS BEEN ALLOCATED FOR PUBLIC WATER OR SEWER SERVICE BY THE ST. MARY'S COUNTY OFFICE OF LAND USE AND GROWTH MANAGEMENT**, the Commission shall impose and collect **ON** a per EDU [system improvement charge for every EDU allocated by the St. Mary's County Office of Land Use and Growth Management] **BASIS, A SYSTEM IMPROVEMENT CHARGE.**

- (2) System [improvement charges] **IMPROVEMENT CHARGES** shall:
 - (A) Be assessed and payable on a monthly basis; and
 - (B) Be uniform and apply to every EDU equally.

(3) System [improvement charges] **IMPROVEMENT CHARGES** shall be used by the Commission to pay the costs associated with:

(A) The capital costs of central treatment facility performance upgrades, if the projects are identified in the Commission's six-year capital improvement plan;

(B) The capital costs of the repair and replacement of existing water supply and/or sewer collection systems, if the projects are identified in the Commission's six-year capital improvement plan; and

(C) That portion of existing bonds, as of October 1, 2007, that was issued to fund the costs of repair, replacement and, where appropriate, construction of existing water supply or sewer collection systems and bonds issued to fund the costs of capital treatment facility capacity allocated to existing system users as of October 1, 2007.

(4) In determining the [system improvement charge] **SYSTEM IMPROVEMENT CHARGE**, the capital costs referred to in subsection B.(3) of this section shall include the principal of, interest on, and any redemption premium or other costs with respect to any bonds of the Commission issued after October 1, 2007.

(5) (A) When bonds have not been issued at the time the [capital contribution charge] **SYSTEM IMPROVEMENT CHARGE** is calculated, in calculating the [capital contribution charge] **SYSTEM IMPROVEMENT CHARGE**, the Commission may establish a schedule for the principal of, interest on, and other costs of bonds the Commission plans to issue in accordance with paragraph (4) of subsection H. of this section.

(B) The Commission may adjust the schedule and related [system improvement charge] **SYSTEM IMPROVEMENT CHARGE** provided in subparagraph (A) of this paragraph when planned future bonds are issued.

C. (1) When collected, the [system improvement charges] **SYSTEM IMPROVEMENT CHARGES** shall be placed, by the Commission, into an interest-bearing account containing all of the [system improvement charges] **SYSTEM IMPROVEMENT CHARGES** collected, notwithstanding the sanitary district from which the [charge] **CHARGE** was collected.

(2) The [system improvement charges] **SYSTEM IMPROVEMENT CHARGES**, together with any interest accrued on the charges, shall remain in the general account, to be assessed and used by the Commission on an as-needed basis to fund the costs of any extensive system repair and replacement and central facility upgrade, as described in subsection B. of this section, in any sanitary district within which a system repair or replacement may be needed.

D. (1) When the Commission determines the appropriate [system improvement charge] **SYSTEM IMPROVEMENT CHARGE** for a given property, the Commission shall classify each property into one (1) of the following seven (7) classes:

- (A) Agricultural;
- (B) Small acreage;
- (C) Industrial or business;
- (D) Subdivision residential;
- (E) Multi-unit residential;
- (F) Multi-unit business; or
- (G) Institutional.

(2) The Commission may subdivide each of the classes in any manner it considers to be in the public interest.

(3) Immediately after an [ESU] **EDU** is allocated for water or sewer service, the Commission shall initiate collection of the [system improvement charge] **SYSTEM IMPROVEMENT CHARGE** in accordance with the property classification.

(4) The Commission shall notify, in writing, all owners of the properties as to:

- (A) Under which class their respective properties fall;
- (B) The amount of the [system improvement charge] **SYSTEM IMPROVEMENT CHARGE** imposed on the property; and
- (C) A time and place for a public hearing on the classification.

(5) The notice shall:

- (A) Be mailed to the last known address of the owner;
- (B) Be served in person on any adult occupying the premises; or
- (C) In the case of vacant or unimproved property, be posted on the premises.

(6) The classification of any property made by the Commission is final, and may only be changed:

(A) At the public hearing held in accordance with this subsection; or

(B) If the use of the property changes.

(7) The [system improvement charge] **SYSTEM IMPROVEMENT CHARGE** shall be imposed for both water supply and sewerage facilities, whether constructed, purchased, established or otherwise acquired, and shall be [assesses] **ASSESSED** as a uniform per [ESU] **EDU** charge for each class of property.

E. (1) Whenever, through error, inadvertence or oversight or by reason of any judgment or decree, any property subject to a [system improvement charge] **SYSTEM IMPROVEMENT CHARGE** under this chapter has not had the [system improvement charge] **SYSTEM IMPROVEMENT CHARGE** imposed against it, or where it has been imposed by an erroneous description or in the wrong name, or where service on the owner has not [be] **BEEN** had, or where it has been set aside by judgment or decree, the Commission, on the discovery of the error, inadvertence or oversight, or within a reasonable time after the rendition of the judgment or decree, the Commission, may impose and collect the [system improvement charge] **SYSTEM IMPROVEMENT CHARGE** at the uniform rate and in the applicable property classification.

(2) The subsection applies to all errors, omissions, or mistakes made previously by the Commission or to any judgment or decree rendered previously.

(3) Appropriate adjustments for any payments shall be made in respect to that property.

F. (1) When there is more than one (1) contiguous lot in the same block under one (1) ownership appurtenant to a single residence, the Commission shall impose the [system improvement charge] **SYSTEM IMPROVEMENT CHARGE** based on the number of [EDU's] **EDUS** assigned to each property in accordance with all applicable zoning and land use regulations.

(2) (A) Land classified as agricultural by the Commission, when in actual use for farming or trucking purposes, may not be subject to the [system improvement charge] **SYSTEM IMPROVEMENT CHARGE** when the agricultural land has constructed through it or in front of it a sewer or water main, **IF** a water or sewer connection is **NOT** made.

(B) When a water or sewer connection is made and is for every **EDU** connected the land shall become subjected to the [system improvement charge] **SYSTEM IMPROVEMENT CHARGE**.

(3) Public parks or playgrounds owned by a municipal corporation and any property or building owned by either a regularly organized volunteer fire department or a volunteer rescue squad are exempt from the imposition of a [system improvement charge] **SYSTEM IMPROVEMENT CHARGE** while used for public purposes.

(4) If property in the sanitary district is, at the time of construction of a Commission water line or sanitary sewer line, connected to a public water system or public sewer system operated either by a municipal corporation or by a water or sewer company subject to the requirements of the State Department of Health and Mental Hygiene, or if following construction of the Commission line the property is connected to the other specified public system in accordance with the Commission, the property is exempt from the imposition and collection of a [system improvement charge] **SYSTEM IMPROVEMENT CHARGE** until it is served by or connected to the Commission's water supply or sanitary sewerage system, as the case may be.

(5) When a property that has been exempted from a [system improvement charge] **SYSTEM IMPROVEMENT CHARGE** under this subsection is no longer exempted from the charge, the property shall be classified in its then current class and become subject to the [system improvement charge] **SYSTEM IMPROVEMENT CHARGE**.

G. (1) Except as otherwise provided, [system improvement charges] **SYSTEM IMPROVEMENT CHARGES** for water supply and sewer construction and acquisition shall be uniform for each EDU within each class of property throughout the County for any one (1) year.

(2) The Commission shall determine the amount of the [system improvement charge] **SYSTEM IMPROVEMENT CHARGE** per EDU within each class of property for both water and sewer service as costs and conditions require, but a [system improvement charge] **SYSTEM IMPROVEMENT CHARGE** for any class of property for any given year once levied by the Commission may not be increased.

H. (1) The rate of the [system improvement charge] **SYSTEM IMPROVEMENT CHARGE** shall be based on the Commission's six-year capital improvement plan, as revised annually.

(2) The capital improvement plan shall identify those capital projects which will be undertaken by the Commission during the most immediate six-year period, including any comprehensive improvement or replacement of existing water or wastewater systems and central treatment and processing facility expansions and upgrades.

(3) To calculate the [system improvement charge] **SYSTEM IMPROVEMENT CHARGE**, the total of all debt service on bonds and the total of

amortized costs of all projects in the capital improvement budget for the given year, both totals excluding any costs included in the capital improvement charge under § 113–12 of this Chapter, shall be combined and divided by the total of the number of allocated EDUs and the number of EDUs expected to be allocated by the St. Mary's Office of Land Use and Growth Management for a given year.

(4) Where amortized costs are included in the calculation of the charge, the Commission shall establish the period of amortization and the interest rate.

(5) The [system improvement charge] **SYSTEM IMPROVEMENT CHARGE** may not be revised more than once each year, together with the annual revision to the capital improvement plan.

I. (1) (A) In this subsection the following words have the meaning indicated:

(B) **DWELLING** means a principal residence of a homeowner and includes the lot on which the house is situated.

(C) **HOMEOWNER** means a person who:

(I) Resides in a dwelling; and

(II) Has an ownership interest in the dwelling, including a life estate, joint tenancy, tenancy in common, tenancy by the entirety, or fee simple interest.

(D) **PRINCIPAL RESIDENCE** means a house that is occupied by a homeowner:

(I) For more [that] **THAN** six (6) months of a consecutive 12-month period that includes the date of application for a deferral of a [capital contribution charge] **SYSTEM IMPROVEMENT CHARGE**; or

(II) For less than six (6) months of a consecutive 12-month period that includes the date of application for a deferral of a [capital contribution charge] **SYSTEM IMPROVEMENT CHARGE** due to illness or the need of special care, if the homeowner is otherwise qualified under the provisions of this subsection.

(2) The Commission may establish financial criteria to determine the eligibility of a homeowner whose dwelling is subject to a [system improvement charge] **SYSTEM IMPROVEMENT CHARGE** under this section for a deferral of the monthly payment of that charge.

(3) The Commission may defer the monthly payment of a [system improvement charge] **SYSTEM IMPROVEMENT CHARGE** on the dwelling of a homeowner who:

(A) Files an application with the Commission; and

(B) Meets the financial eligibility criteria that the Commission establishes.

(4) A homeowner who applies for a deferral [or] **OF** payment of a monthly [system improvement charge] **SYSTEM IMPROVEMENT CHARGE** levied on a dwelling shall submit to the Commission an application of the form that the Commission provides.

(5) A homeowner may apply for deferral on only one (1) dwelling.

(6) A homeowner who applies for deferral of payment of a [system improvement charge] **SYSTEM IMPROVEMENT CHARGE** shall apply at the time of payment of monthly service charges.

(7) Subject to paragraph (3) of this subsection, the Commission shall terminate the deferral of payment of a monthly [system improvement charge] **SYSTEM IMPROVEMENT CHARGE** if a homeowner dies, sells, or alienates the dwelling subject to the deferral.

(8) The Commission may defer the monthly payment of a [system improvement charge] **SYSTEM IMPROVEMENT CHARGE** by an unmarried, surviving spouse on the death of a homeowner or the unmarried, former spouse on the divorce of a homeowner if the succeeding spouse qualifies under the provisions of paragraph (3) of this subsection.

(9) When the Commission terminates the deferral of payment of a monthly [system improvement charge] **SYSTEM IMPROVEMENT CHARGE** under the provisions of paragraph (7) of this subsection:

(A) All deferred charges, with interest calculated on the cumulative annual payments for the deferral period, shall become [use] **DUE** and payable immediately; and

(B) The annual levy of [system improvement charge] **SYSTEM IMPROVEMENT CHARGES** shall resume.

(10) (A) A deferred [system improvement charge] **SYSTEM IMPROVEMENT CHARGE** that is due and payable on termination of a deferral by the Commission is a lien against the dwelling in accordance with subsection L. of this section.

(B) After the Commission terminates the deferral of payment of a [system improvement charge] **SYSTEM IMPROVEMENT CHARGE** under paragraph (7) of this subsection, the provisions of this subsection do not impair in any way the ability of the Commission to collect [a system improvement charge] **A SYSTEM IMPROVEMENT CHARGE** that is overdue and in default from a homeowner in accordance with subsection L. of this section.

(11) The Commission may require a homeowner who qualifies for deferral under this section to requalify at times and under circumstances that the Commission determines are reasonable and necessary.

(12) (A) The Commission may only implement the provisions of this subsection by adoption of a resolution of the Commission.

(B) The Commission shall hold a public hearing at least ten (10) days prior to any action on the proposed resolution under this paragraph.

(C) The Commission shall publish notice of the public hearing, together with a synopsis of the proposed resolution, in at least one (1) newspaper of general circulation in St. Mary's County once each week for two (2) successive weeks prior to the public hearing.

J. (1) On the allocation of an EDU, the Commission may permit a connection with a water main or sewer by a property owner whose property does not abut on the water main or sewer and who has not previously paid a [system improvement charge] **SYSTEM IMPROVEMENT CHARGE** for the construction of the water main or sewer.

(2) If the Commission permits a connection with a water main or sewer under this subsection, the Commission shall classify the property and determine the [system improvement charge] **SYSTEM IMPROVEMENT CHARGE** to be paid by the property owner.

(3) If a connection is made under this subsection, the property owner and property, for all charges, rates and benefits, shall stand in every respect in the same position as if the property abutted on a water main or sewer.

K. (1) When an applicant applies for water or sewer lines in an area in which the Commission determines that it is economically not feasible to serve unless the applicant makes a substantial contribution to the cost of construction of the water and sewer lines, including the cost of connecting them with the Commission's system, the Commission may classify the applicant's property, together with other adjacent or adjoining properties that could be readily served from the construction required by the applicant, as a "remote area."

(2) If the Commission approves an application for water and sewer lines and the applicant makes a contribution to the cost of construction in accordance with this subsection, the Commission may construct the water or sewer lines required by the applicant.

(3) If the Commission constructs the water or sewer lines, it shall impose a [system improvement charge] **SYSTEM IMPROVEMENT CHARGE** in accordance with this section.

L. When the Commission improves a water system or sanitary sewerage system by replacing, augmenting, ungrading, or expanding it in order to provide increased or improved water or sewer service and the necessity for the improvement arises from changes, whether individually or cumulatively, in use or zoning category of the property, those properties shall derive a benefit from the improved facility and the Commission shall impose [system improvement charges] **A SYSTEM IMPROVEMENT CHARGE** on the benefited property for the construction as part of the water or sewer system services.

M. (1) The [system improvement charge] **SYSTEM IMPROVEMENT CHARGE** shall be payable at the Office of the Commission at a time that the Commission determines.

(2) If any charges remain unpaid for a period of thirty (30) days after the payment is due, in addition to any other charges, the Commission may impose a late charge not to exceed one and one-half (1 1/2) percent per month until all delinquent charges are paid.

(3) The entire unpaid [system improvement charge] **SYSTEM IMPROVEMENT CHARGE** shall be overdue and in default after thirty (30) days after the payment is due for all or any part of the [system improvement charge] **SYSTEM IMPROVEMENT CHARGE** required by the Commission, at which time the Commission may proceed to enforce payment.

(4) Any statute of limitations to the contrary notwithstanding and subject only to prior State and County taxes, the [system improvement charge] **SYSTEM IMPROVEMENT CHARGE** shall be a first lien on the property against which it is assessed until paid.

(5) For purposes of collection:

(A) The [system improvement charge] **SYSTEM IMPROVEMENT CHARGE** shall be treated as County taxes and be advertised in the same manner as and with County taxes;

(B) All property subject to the [system improvement charges] **SYSTEM IMPROVEMENT CHARGE** shall be sold for system improvement charges at

the same time and in the same manner as the properties are sold for County taxes; and

(C) Applicable laws relating to the collection of County taxes shall relate to the collection of the [system improvement charges] **SYSTEM IMPROVEMENT CHARGES**.

(6) Property redeemed from a County tax sale and property sold by the County Commissioners after a final tax sale may not be redeemed or sold until the [system improvement charges] **SYSTEM IMPROVEMENT CHARGES** are paid.

(7) To give notice to the general public of existing liens and charges against any property within any sanitary district abutting on any water or sewer main, the Commission shall keep a public record of all names of owners or property, locations of the property, lot numbers when of record, and the amount of the [system improvement charges] **SYSTEM IMPROVEMENT CHARGE**, water service charges, or that may become liens.

[(8) The records shall be kept in the Land Records of St. Mary's County, and the Clerk of the Circuit Court for the County shall furnish space necessary to keep and preserve the records, which, when recorded in the public record, is legal notice of all existing liens within any sanitary district.]

[(9) (8) If any liens, [system improvement charges] **SYSTEM IMPROVEMENT CHARGES** or other charges remain unpaid for thirty (30) days after becoming overdue, they may be collected by an action to enforce the liens, and any judgment or decree obtained shall have the force and effect of a judgment in personam.

[(10) (9) The Commission may file an action to enforce the liens against the owner of record at the time the levy was made, or the owner of record at the time the suit is filed, or any owner of record between these dates.

N. (1) All [system improvement charges] **SYSTEM IMPROVEMENT CHARGES** collected by the Commission shall be set aside in a separate fund to be known and designated [at] **AS** the "Metropolitan District Account."

(2) In order to determine the amount which it considers necessary to be imposed under § 113–7 of this Chapter, the Commission shall deduct the amount it estimates that it will be able to collect from the [system improvement charges] **SYSTEM IMPROVEMENT CHARGES** and other charges previously imposed by it, but not yet paid and to be set aside for the interest and principal payments and the amount of funds then available for the purpose of paying the principal of and interest on outstanding bonds, from the whole amount necessary to be raised in any one (1) year for interest and principal payments on outstanding bonds.

(3) The balance then remaining to be raised shall be the amount to be certified to the County Commissioners of St. Mary's County for collection by taxation as provided by § 113-7 of this Chapter.

O. (1) If the State, County, or any municipal corporation, commission, board, or agency of the State or County acquires for public use property that is subject to a [system improvement charge] **SYSTEM IMPROVEMENT CHARGE** levied by the St. Mary's Metropolitan Commission, the [system improvement charge] **SYSTEM IMPROVEMENT CHARGE** shall **CONTINUE TO** be paid [through the date of acquisition and extinguished thereafter] **IN PERPETUITY**.

(2) If [the] **ANY** property **SUBJECT TO A SYSTEM IMPROVEMENT CHARGE** is acquired as provided in this section without eminent domain proceedings, the [amount necessary to pay the system improvement charge through the date of acquisition shall be paid to the Commission before the deed evidencing the transfer may be recorded among the Land Records of St. Mary's County] **SYSTEM IMPROVEMENT CHARGE SHALL CONTINUE TO BE PAID IN PERPETUITY**.

(3) If [the] **ANY** property **SUBJECT TO A SYSTEM IMPROVEMENT CHARGE** is acquired through eminent domain proceedings, the Commission shall be named a party to the proceeding [the Jury shall make a separate award in favor of the Commission for the sum required to pay the system improvement charge through the date of acquisition] **IF NECESSARY, AND THE FINAL ORDER SHALL REQUIRE THAT THE SYSTEM IMPROVEMENT CHARGE BE PAID CURRENT THROUGH THE DATE OF CONVEYANCE AND SHALL REQUIRE THE CONTINUED PAYMENT OF THE SYSTEM IMPROVEMENT CHARGE IN PERPETUITY**.

(4) If, by oversight or mistake, the Commission is not named a party to the eminent domain proceedings, [or if no separate award for the sum necessary to pay the system improvement charge through the date of conveyance,] the condemning authority shall pay to the Commission the amount required to pay the [system improvement charge] **SYSTEM IMPROVEMENT CHARGE** through the date of conveyance at the same time the condemning authority pays the amount awarded to the property owner in the proceedings.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 22, 2012.

Chapter 705

(House Bill 1148)

AN ACT concerning

Courts – Victims of Crime – Interpreters

FOR the purpose of altering certain requirements relating to the use of an interpreter in court to include the appointment of an interpreter for a victim or victim's representative who is deaf or cannot readily understand or communicate the spoken English language; authorizing a victim or victim's representative to apply for appointment of a certain interpreter; making conforming changes; making a certain technical correction; and generally relating to interpreters in court proceedings.

BY repealing and reenacting, with amendments,
Article – Courts and Judicial Proceedings
Section 9–114(a)
Annotated Code of Maryland
(2006 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,
Article – Criminal Procedure
Section 1–202 and 3–103
Annotated Code of Maryland
(2008 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, without amendments,
Article – Criminal Procedure
Section 11–104(a)
Annotated Code of Maryland
(2008 Replacement Volume and 2011 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

9–114.

(a) **(1)** If a party [or], A witness, **OR A VICTIM OR VICTIM'S REPRESENTATIVE, AS DEFINED IN § 11–104(A) OF THE CRIMINAL PROCEDURE ARTICLE,** is deaf or cannot readily understand or communicate the spoken English language, any party **OR A VICTIM OR VICTIM'S REPRESENTATIVE** may apply to the court for the appointment of a qualified interpreter to assist that person.

(2) [Upon the application of any party or witness who is deaf] **ON RECEIVING THE APPLICATION UNDER PARAGRAPH (1) OF THIS SUBSECTION**, the court shall appoint a qualified interpreter to assist that person.

(3) The court shall maintain a directory of interpreters for manual communication [and/or] **OR** oral interpretation to assist deaf persons **OR PERSONS WHO CANNOT READILY UNDERSTAND OR COMMUNICATE THE SPOKEN ENGLISH LANGUAGE**.

Article – Criminal Procedure

1–202.

(a) **(1)** The court shall appoint a qualified interpreter to help a defendant in a criminal proceeding throughout any criminal proceeding when the defendant [is]:

[(1)] (I) IS deaf; or

[(2)] (II) cannot readily understand or communicate the English language and cannot understand a charge made against the defendant or help present the defense.

(2) **ON APPLICATION OF A VICTIM OR VICTIM’S REPRESENTATIVE, AS DEFINED IN § 11–104(A) OF THIS ARTICLE, THE COURT SHALL APPOINT A QUALIFIED INTERPRETER TO HELP THE VICTIM OR THE VICTIM’S REPRESENTATIVE THROUGHOUT ANY CRIMINAL PROCEEDING WHEN THE VICTIM OR THE VICTIM’S REPRESENTATIVE:**

(I) **IS DEAF; OR**

(II) **CANNOT READILY UNDERSTAND OR COMMUNICATE THE ENGLISH LANGUAGE.**

(b) The court shall give an interpreter appointed under this section:

(1) compensation for services in an amount equal to that provided for interpreters of languages other than English; and

(2) reimbursement for actual and necessary expenses incurred in the performance of services.

3–103.

(a) **(1)** The court shall appoint a qualified interpreter to help a defendant throughout any court proceedings under this title when the defendant [is]:

[(1)] (I) IS deaf; or

[(2)] (II) cannot readily understand or communicate the English language and cannot understand a charge made against the defendant or help present the defense.

(2) ON APPLICATION OF A VICTIM OR VICTIM’S REPRESENTATIVE, AS DEFINED IN § 11-104(A) OF THIS ARTICLE, THE COURT SHALL APPOINT A QUALIFIED INTERPRETER TO HELP THE VICTIM OR THE VICTIM’S REPRESENTATIVE THROUGHOUT ANY COURT PROCEEDING WHEN THE VICTIM OR THE VICTIM’S REPRESENTATIVE:

(I) IS DEAF; OR

(II) CANNOT READILY UNDERSTAND OR COMMUNICATE THE ENGLISH LANGUAGE.

(b) The court shall give an interpreter appointed under this section:

(1) compensation for services in an amount equal to that provided for interpreters of languages other than English; and

(2) reimbursement for actual and necessary expenses incurred in the performance of services.

11-104.

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

(2) “Victim” means a person who suffers actual or threatened physical, emotional, or financial harm as a direct result of a crime or delinquent act.

(3) “Victim’s representative” includes a family member or guardian of a victim who is:

(i) a minor;

(ii) deceased; or

(iii) disabled.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 22, 2012.